



Sen. Kwame Raoul

**Filed: 5/6/2016**

09900HB5973sam001

LRB099 19442 SMS 48414 a

1 AMENDMENT TO HOUSE BILL 5973

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5973 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Funeral Directors and Embalmers Licensing  
5 Code is amended by changing Section 15-75 and by adding Section  
6 15-72 as follows:

7 (225 ILCS 41/15-72 new)

8 Sec. 15-72. Applicant convictions.

9 (a) When reviewing a conviction by plea of guilty or nolo  
10 contendere, finding of guilt, jury verdict, or entry of  
11 judgment or by sentencing of an initial applicant, the  
12 Department may only deny a license based upon consideration of  
13 mitigating factors provided in subsection (c) of this Section  
14 for a felony directly related to the practice of funeral  
15 directing and embalming.

16 (b) The following crimes or similar offenses in any other

1 jurisdiction are hereby deemed directly related to the practice  
2 of funeral directing and embalming:

3 (1) first degree murder;

4 (2) second degree murder;

5 (3) drug induced homicide;

6 (4) unlawful restraint;

7 (5) aggravated unlawful restraint;

8 (6) forcible detention;

9 (7) involuntary servitude;

10 (8) involuntary sexual servitude of a minor;

11 (9) predatory criminal sexual assault of a child;

12 (10) aggravated criminal sexual assault;

13 (11) criminal sexual assault;

14 (12) criminal sexual abuse;

15 (13) aggravated kidnaping;

16 (14) aggravated robbery;

17 (15) armed robbery;

18 (16) kidnaping;

19 (17) aggravated battery;

20 (18) aggravated vehicular hijacking;

21 (19) terrorism;

22 (20) causing a catastrophe;

23 (21) possession of a deadly substance;

24 (22) making a terrorist threat;

25 (23) material support for terrorism;

26 (24) hindering prosecution of terrorism;

1           (25) armed violence;

2           (26) any felony based on consumer fraud or deceptive  
3           business practices under the Consumer Fraud and Deceptive  
4           Business Practices Act;

5           (27) any felony requiring registration as a sex  
6           offender under the Sex Offender Registration Act;

7           (28) attempt of any the offenses set forth in  
8           paragraphs (1) through (27) of this subsection (b); and

9           (29) convictions set forth in Section 15-75 of this  
10          Code.

11          (c) The Department shall consider any mitigating factors  
12          contained in the record, when determining the appropriate  
13          disciplinary sanction, if any, to be imposed. In addition to  
14          those set forth in Section 2105-130 of the Department of  
15          Professional Regulation Law of the Civil Administrative Code of  
16          Illinois, mitigating factors shall include the following:

17           (1) the bearing, if any, the criminal offense or  
18           offenses for which the person was previously convicted will  
19           have on his or her fitness or ability to perform one or  
20           more such duties and responsibilities;

21           (2) the time that has elapsed since the criminal  
22           conviction; and

23           (3) the age of the person at the time of the criminal  
24           conviction.

25          (d) The Department shall issue an annual report by January  
26          31, 2018 and by January 31 each year thereafter, indicating the

1 following:

2 (1) the number of initial applicants for a license  
3 under this Code within the preceding calendar year;

4 (2) the number of initial applicants for a license  
5 under this Code within the previous calendar year who had a  
6 conviction;

7 (3) the number of applicants with a conviction who were  
8 granted a license under this Code within the previous year;

9 (4) the number of applicants denied a license under  
10 this Code within the preceding calendar year; and

11 (5) the number of applicants denied a license under  
12 this Code solely on the basis of a conviction within the  
13 preceding calendar year.

14 (e) Nothing in this Section shall prevent the Department  
15 taking disciplinary or non-disciplinary action against a  
16 license as set forth in paragraph (2) of subsection (b) of  
17 Section 15-175 of this Code.

18 (225 ILCS 41/15-75)

19 (Section scheduled to be repealed on January 1, 2023)

20 Sec. 15-75. Violations; grounds for discipline; penalties.

21 (a) Each of the following acts is a Class A misdemeanor for  
22 the first offense, and a Class 4 felony for each subsequent  
23 offense. These penalties shall also apply to unlicensed owners  
24 of funeral homes.

25 (1) Practicing the profession of funeral directing and

1           embalming or funeral directing, or attempting to practice  
2           the profession of funeral directing and embalming or  
3           funeral directing without a license as a funeral director  
4           and embalmer or funeral director.

5           (2) Serving or attempting to serve as an intern under a  
6           licensed funeral director and embalmer without a license as  
7           a licensed funeral director and embalmer intern.

8           (3) Obtaining or attempting to obtain a license,  
9           practice or business, or any other thing of value, by fraud  
10          or misrepresentation.

11          (4) Permitting any person in one's employ, under one's  
12          control or in or under one's service to serve as a funeral  
13          director and embalmer, funeral director, or funeral  
14          director and embalmer intern when the person does not have  
15          the appropriate license.

16          (5) Failing to display a license as required by this  
17          Code.

18          (6) Giving false information or making a false oath or  
19          affidavit required by this Code.

20          (b) The Department may refuse to issue or renew, revoke,  
21          suspend, place on probation or administrative supervision,  
22          reprimand, or take other disciplinary or non-disciplinary  
23          action as the Department may deem appropriate, including  
24          imposing fines not to exceed \$10,000 for each violation, with  
25          regard to any license under the Code for any one or combination  
26          of the following:

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

4 (2) For licenses, conviction ~~Conviction~~ by plea of  
5 guilty or nolo contendere, finding of guilt, jury verdict,  
6 or entry of judgment or by sentencing of any crime,  
7 including, but not limited to, convictions, preceding  
8 sentences of supervision, conditional discharge, or first  
9 offender probation, under the laws of any jurisdiction of  
10 the United States: (i) that is a felony or (ii) that is a  
11 misdemeanor, an essential element of which is dishonesty,  
12 or that is directly related to the practice of the  
13 profession and, for initial applicants, convictions set  
14 forth in Section 15-72 of this Act.

15 (3) Violation of the laws of this State relating to the  
16 funeral, burial or disposition of deceased human bodies or  
17 of the rules and regulations of the Department, or the  
18 Department of Public Health.

19 (4) Directly or indirectly paying or causing to be paid  
20 any sum of money or other valuable consideration for the  
21 securing of business or for obtaining authority to dispose  
22 of any deceased human body.

23 (5) Professional incompetence, gross negligence,  
24 malpractice, or untrustworthiness in the practice of  
25 funeral directing and embalming or funeral directing.

26 (6) (Blank).

1           (7) Engaging in, promoting, selling, or issuing burial  
2 contracts, burial certificates, or burial insurance  
3 policies in connection with the profession as a funeral  
4 director and embalmer, funeral director, or funeral  
5 director and embalmer intern in violation of any laws of  
6 the State of Illinois.

7           (8) Refusing, without cause, to surrender the custody  
8 of a deceased human body upon the proper request of the  
9 person or persons lawfully entitled to the custody of the  
10 body.

11           (9) Taking undue advantage of a client or clients as to  
12 amount to the perpetration of fraud.

13           (10) Engaging in funeral directing and embalming or  
14 funeral directing without a license.

15           (11) Encouraging, requesting, or suggesting by a  
16 licensee or some person working on his behalf and with his  
17 consent for compensation that a person utilize the services  
18 of a certain funeral director and embalmer, funeral  
19 director, or funeral establishment unless that information  
20 has been expressly requested by the person. This does not  
21 prohibit general advertising or pre-need solicitation.

22           (12) Making or causing to be made any false or  
23 misleading statements about the laws concerning the  
24 disposition of human remains, including, but not limited  
25 to, the need to embalm, the need for a casket for cremation  
26 or the need for an outer burial container.

1 (13) (Blank).

2 (14) Embalming or attempting to embalm a deceased human  
3 body without express prior authorization of the person  
4 responsible for making the funeral arrangements for the  
5 body. This does not apply to cases where embalming is  
6 directed by local authorities who have jurisdiction or when  
7 embalming is required by State or local law. A licensee may  
8 embalm without express prior authorization if a good faith  
9 effort has been made to contact family members and has been  
10 unsuccessful and the licensee has no reason to believe the  
11 family opposes embalming.

12 (15) Making a false statement on a Certificate of Death  
13 where the person making the statement knew or should have  
14 known that the statement was false.

15 (16) Soliciting human bodies after death or while death  
16 is imminent.

17 (17) Performing any act or practice that is a violation  
18 of this Code, the rules for the administration of this  
19 Code, or any federal, State or local laws, rules, or  
20 regulations governing the practice of funeral directing or  
21 embalming.

22 (18) Performing any act or practice that is a violation  
23 of Section 2 of the Consumer Fraud and Deceptive Business  
24 Practices Act.

25 (19) Engaging in dishonorable, unethical, or  
26 unprofessional conduct of a character likely to deceive,



1 defraud or harm the public.

2 (20) Taking possession of a dead human body without  
3 having first obtained express permission from the person  
4 holding the right to control the disposition in accordance  
5 with Section 5 of the Disposition of Remains Act or a  
6 public agency legally authorized to direct, control or  
7 permit the removal of deceased human bodies.

8 (21) Advertising in a false or misleading manner or  
9 advertising using the name of an unlicensed person in  
10 connection with any service being rendered in the practice  
11 of funeral directing or funeral directing and embalming.  
12 The use of any name of an unlicensed or unregistered person  
13 in an advertisement so as to imply that the person will  
14 perform services is considered misleading advertising.  
15 Nothing in this paragraph shall prevent including the name  
16 of any owner, officer or corporate director of a funeral  
17 home, who is not a licensee, in any advertisement used by a  
18 funeral home with which the individual is affiliated, if  
19 the advertisement specifies the individual's affiliation  
20 with the funeral home.

21 (22) Charging for professional services not rendered,  
22 including filing false statements for the collection of  
23 fees for which services are not rendered.

24 (23) Failing to account for or remit any monies,  
25 documents, or personal property that belongs to others that  
26 comes into a licensee's possession.

1           (24) Treating any person differently to his detriment  
2 because of race, color, creed, gender, religion, or  
3 national origin.

4           (25) Knowingly making any false statements, oral or  
5 otherwise, of a character likely to influence, persuade or  
6 induce others in the course of performing professional  
7 services or activities.

8           (26) Willfully making or filing false records or  
9 reports in the practice of funeral directing and embalming,  
10 including, but not limited to, false records filed with  
11 State agencies or departments.

12           (27) Failing to acquire continuing education required  
13 under this Code.

14           (28) (Blank).

15           (29) Aiding or assisting another person in violating  
16 any provision of this Code or rules adopted pursuant to  
17 this Code.

18           (30) Failing within 10 days, to provide information in  
19 response to a written request made by the Department.

20           (31) Discipline by another state, District of  
21 Columbia, territory, foreign nation, or governmental  
22 agency, if at least one of the grounds for the discipline  
23 is the same or substantially equivalent to those set forth  
24 in this Section.

25           (32) (Blank).

26           (33) Mental illness or disability which results in the

1 inability to practice the profession with reasonable  
2 judgment, skill, or safety.

3 (34) Gross, willful, or continued overcharging for  
4 professional services, including filing false statements  
5 for collection of fees for which services are not rendered.

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

10 (36) Failing to comply with any of the following  
11 required activities:

12 (A) When reasonably possible, a funeral director  
13 licensee or funeral director and embalmer licensee or  
14 anyone acting on his or her behalf shall obtain the  
15 express authorization of the person or persons  
16 responsible for making the funeral arrangements for a  
17 deceased human body prior to removing a body from the  
18 place of death or any place it may be or embalming or  
19 attempting to embalm a deceased human body, unless  
20 required by State or local law. This requirement is  
21 waived whenever removal or embalming is directed by  
22 local authorities who have jurisdiction. If the  
23 responsibility for the handling of the remains  
24 lawfully falls under the jurisdiction of a public  
25 agency, then the regulations of the public agency shall  
26 prevail.

1           (B) A licensee shall clearly mark the price of any  
2 casket offered for sale or the price of any service  
3 using the casket on or in the casket if the casket is  
4 displayed at the funeral establishment. If the casket  
5 is displayed at any other location, regardless of  
6 whether the licensee is in control of that location,  
7 the casket shall be clearly marked and the registrant  
8 shall use books, catalogues, brochures, or other  
9 printed display aids to show the price of each casket  
10 or service.

11           (C) At the time funeral arrangements are made and  
12 prior to rendering the funeral services, a licensee  
13 shall furnish a written statement of services to be  
14 retained by the person or persons making the funeral  
15 arrangements, signed by both parties, that shall  
16 contain: (i) the name, address and telephone number of  
17 the funeral establishment and the date on which the  
18 arrangements were made; (ii) the price of the service  
19 selected and the services and merchandise included for  
20 that price; (iii) a clear disclosure that the person or  
21 persons making the arrangement may decline and receive  
22 credit for any service or merchandise not desired and  
23 not required by law or the funeral director or the  
24 funeral director and embalmer; (iv) the supplemental  
25 items of service and merchandise requested and the  
26 price of each item; (v) the terms or method of payment

1           agreed upon; and (vi) a statement as to any monetary  
2           advances made by the registrant on behalf of the  
3           family. The licensee shall maintain a copy of the  
4           written statement of services in its permanent  
5           records. All written statements of services are  
6           subject to inspection by the Department.

7           (D) In all instances where the place of final  
8           disposition of a deceased human body or the cremated  
9           remains of a deceased human body is a cemetery, the  
10          licensed funeral director and embalmer, or licensed  
11          funeral director, who has been engaged to provide  
12          funeral or embalming services shall remain at the  
13          cemetery and personally witness the placement of the  
14          human remains in their designated grave or the sealing  
15          of the above ground depository, crypt, or urn. The  
16          licensed funeral director or licensed funeral director  
17          and embalmer may designate a licensed funeral director  
18          and embalmer intern or representative of the funeral  
19          home to be his or her witness to the placement of the  
20          remains. If the cemetery authority, cemetery manager,  
21          or any other agent of the cemetery takes any action  
22          that prevents compliance with this paragraph (D), then  
23          the funeral director and embalmer or funeral director  
24          shall provide written notice to the Department within 5  
25          business days after failing to comply. If the  
26          Department receives this notice, then the Department

1 shall not take any disciplinary action against the  
2 funeral director and embalmer or funeral director for a  
3 violation of this paragraph (D) unless the Department  
4 finds that the cemetery authority, manager, or any  
5 other agent of the cemetery did not prevent the funeral  
6 director and embalmer or funeral director from  
7 complying with this paragraph (D) as claimed in the  
8 written notice.

9 (E) A funeral director or funeral director and  
10 embalmer shall fully complete the portion of the  
11 Certificate of Death under the responsibility of the  
12 funeral director or funeral director and embalmer and  
13 provide all required information. In the event that any  
14 reported information subsequently changes or proves  
15 incorrect, a funeral director or funeral director and  
16 embalmer shall immediately upon learning the correct  
17 information correct the Certificate of Death.

18 (37) A finding by the Department that the license,  
19 after having his or her license placed on probationary  
20 status or subjected to conditions or restrictions,  
21 violated the terms of the probation or failed to comply  
22 with such terms or conditions.

23 (38) (Blank).

24 (39) Being named as a perpetrator in an indicated  
25 report by the Department of Children and Family Services  
26 pursuant to the Abused and Neglected Child Reporting Act

1 and, upon proof by clear and convincing evidence, being  
2 found to have caused a child to be an abused child or  
3 neglected child as defined in the Abused and Neglected  
4 Child Reporting Act.

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

9 (41) Practicing under a false or, except as provided by  
10 law, an assumed name.

11 (42) Cheating on or attempting to subvert the licensing  
12 examination administered under this Code.

13 (c) The Department may refuse to issue or renew or may  
14 suspend without a hearing, as provided for in the Department of  
15 Professional Regulation Law of the Civil Administrative Code of  
16 Illinois, the license of any person who fails to file a return,  
17 to pay the tax, penalty or interest shown in a filed return, or  
18 to pay any final assessment of tax, penalty or interest as  
19 required by any tax Act administered by the Illinois Department  
20 of Revenue, until the time as the requirements of the tax Act  
21 are satisfied in accordance with subsection (g) of Section  
22 2105-15 of the Department of Professional Regulation Law of the  
23 Civil Administrative Code of Illinois.

24 (d) No action may be taken under this Code against a person  
25 licensed under this Code unless the action is commenced within  
26 5 years after the occurrence of the alleged violations. A

1 continuing violation shall be deemed to have occurred on the  
2 date when the circumstances last existed that give rise to the  
3 alleged violation.

4 (e) Nothing in this Section shall be construed or enforced  
5 to give a funeral director and embalmer, or his or her  
6 designees, authority over the operation of a cemetery or over  
7 cemetery employees. Nothing in this Section shall be construed  
8 or enforced to impose duties or penalties on cemeteries with  
9 respect to the timing of the placement of human remains in  
10 their designated grave or the sealing of the above ground  
11 depository, crypt, or urn due to patron safety, the allocation  
12 of cemetery staffing, liability insurance, a collective  
13 bargaining agreement, or other such reasons.

14 (f) All fines imposed under this Section shall be paid 60  
15 days after the effective date of the order imposing the fine.

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

23 (h) In cases where the Department of Healthcare and Family  
24 Services has previously determined a licensee or a potential  
25 licensee is more than 30 days delinquent in the payment of  
26 child support and has subsequently certified the delinquency to



1 the Department, the Department may refuse to issue or renew or  
2 may revoke or suspend that person's license or may take other  
3 disciplinary action against that person based solely upon the  
4 certification of delinquency made by the Department of  
5 Healthcare and Family Services in accordance with item (5) of  
6 subsection (a) of Section 2105-15 of the Department of  
7 Professional Regulation Law of the Civil Administrative Code of  
8 Illinois.

9 (i) A person not licensed under this Code who is an owner  
10 of a funeral establishment or funeral business shall not aid,  
11 abet, assist, procure, advise, employ, or contract with any  
12 unlicensed person to offer funeral services or aid, abet,  
13 assist, or direct any licensed person contrary to or in  
14 violation of any rules or provisions of this Code. A person  
15 violating this subsection shall be treated as a licensee for  
16 the purposes of disciplinary action under this Section and  
17 shall be subject to cease and desist orders as provided in this  
18 Code, the imposition of a fine up to \$10,000 for each violation  
19 and any other penalty provided by law.

20 (j) The determination by a circuit court that a licensee is  
21 subject to involuntary admission or judicial admission as  
22 provided in the Mental Health and Developmental Disabilities  
23 Code, as amended, operates as an automatic suspension. The  
24 suspension may end only upon a finding by a court that the  
25 licensee is no longer subject to the involuntary admission or  
26 judicial admission and issues an order so finding and

1 discharging the licensee, and upon the recommendation of the  
2 Board to the Secretary that the licensee be allowed to resume  
3 his or her practice.

4 (k) In enforcing this Code, the Department, upon a showing  
5 of a possible violation, may compel an individual licensed to  
6 practice under this Code, or who has applied for licensure  
7 under this Code, to submit to a mental or physical examination,  
8 or both, as required by and at the expense of the Department.  
9 The Department may order the examining physician to present  
10 testimony concerning the mental or physical examination of the  
11 licensee or applicant. No information shall be excluded by  
12 reason of any common law or statutory privilege relating to  
13 communications between the licensee or applicant and the  
14 examining physician. The examining physician shall be  
15 specifically designated by the Department. The individual to be  
16 examined may have, at his or her own expense, another physician  
17 of his or her choice present during all aspects of this  
18 examination. The examination shall be performed by a physician  
19 licensed to practice medicine in all its branches. Failure of  
20 an individual to submit to a mental or physical examination,  
21 when directed, shall result in an automatic suspension without  
22 hearing.

23 A person holding a license under this Code or who has  
24 applied for a license under this Code who, because of a  
25 physical or mental illness or disability, including, but not  
26 limited to, deterioration through the aging process or loss of

1 motor skill, is unable to practice the profession with  
2 reasonable judgment, skill, or safety, may be required by the  
3 Department to submit to care, counseling, or treatment by  
4 physicians approved or designated by the Department as a  
5 condition, term, or restriction for continued, reinstated, or  
6 renewed licensure to practice. Submission to care, counseling,  
7 or treatment as required by the Department shall not be  
8 considered discipline of a license. If the licensee refuses to  
9 enter into a care, counseling, or treatment agreement or fails  
10 to abide by the terms of the agreement, the Department may file  
11 a complaint to revoke, suspend, or otherwise discipline the  
12 license of the individual. The Secretary may order the license  
13 suspended immediately, pending a hearing by the Department.  
14 Fines shall not be assessed in disciplinary actions involving  
15 physical or mental illness or impairment.

16 In instances in which the Secretary immediately suspends a  
17 person's license under this Section, a hearing on that person's  
18 license must be convened by the Department within 15 days after  
19 the suspension and completed without appreciable delay. The  
20 Department shall have the authority to review the subject  
21 individual's record of treatment and counseling regarding the  
22 impairment to the extent permitted by applicable federal  
23 statutes and regulations safeguarding the confidentiality of  
24 medical records.

25 An individual licensed under this Code and affected under  
26 this Section shall be afforded an opportunity to demonstrate to

1 the Department that he or she can resume practice in compliance  
2 with acceptable and prevailing standards under the provisions  
3 of his or her license.

4 (Source: P.A. 97-1130, eff. 8-28-12; 98-756, eff. 7-16-14.)

5 Section 10. The Illinois Roofing Industry Licensing Act is  
6 amended by changing Section 9.1 and by adding Section 7.1 as  
7 follows:

8 (225 ILCS 335/7.1 new)

9 Sec. 7.1. Applicant convictions.

10 (a) When reviewing a conviction by plea of guilty or nolo  
11 contendere, finding of guilt, jury verdict, or entry of  
12 judgment or by sentencing of an initial applicant, the  
13 Department may only deny a license based upon consideration of  
14 mitigating factors provided in subsection (c) of this Section  
15 for a felony directly related to the practice of roofing  
16 contracting.

17 (b) The following crimes or similar offenses in any other  
18 jurisdiction are hereby deemed directly related to the practice  
19 of roofing contracting:

20 (1) first degree murder;

21 (2) second degree murder;

22 (3) drug induced homicide;

23 (4) unlawful restraint;

24 (5) aggravated unlawful restraint;

- 1           (6) forcible detention;
- 2           (7) involuntary servitude;
- 3           (8) involuntary sexual servitude of a minor;
- 4           (9) predatory criminal sexual assault of a child;
- 5           (10) aggravated criminal sexual assault;
- 6           (11) criminal sexual assault;
- 7           (12) criminal sexual abuse;
- 8           (13) aggravated kidnaping;
- 9           (14) aggravated robbery;
- 10          (15) armed robbery;
- 11          (16) kidnapping;
- 12          (17) aggravated battery;
- 13          (18) aggravated vehicular hijacking;
- 14          (19) home invasion;
- 15          (20) terrorism;
- 16          (21) causing a catastrophe;
- 17          (22) possession of a deadly substance;
- 18          (23) making a terrorist threat;
- 19          (24) material support for terrorism;
- 20          (25) hindering prosecution of terrorism;
- 21          (26) armed violence;
- 22          (27) any felony based on consumer fraud or deceptive
- 23          business practices under the Consumer Fraud and Deceptive
- 24          Business Practices Act;
- 25          (28) any felony requiring registration as a sex
- 26          offender under the Sex Offender Registration Act;

1           (29) attempt of any the offenses set forth in  
2           paragraphs (1) through (28) of this subsection (b); and

3           (30) convictions set forth in subsection (e) of Section  
4           5 or Section 9.8 of this Act.

5           (c) The Department shall consider any mitigating factors  
6           contained in the record, when determining the appropriate  
7           disciplinary sanction, if any, to be imposed. In addition to  
8           those set forth in Section 2105-130 of the Department of  
9           Professional Regulation Law of the Civil Administrative Code of  
10           Illinois, mitigating factors shall include the following:

11           (1) the bearing, if any, the criminal offense or  
12           offenses for which the person was previously convicted will  
13           have on his or her fitness or ability to perform one or  
14           more such duties and responsibilities;

15           (2) the time that has elapsed since the criminal  
16           conviction; and

17           (3) the age of the person at the time of the criminal  
18           conviction.

19           (d) The Department shall issue an annual report by January  
20           31, 2018 and by January 31 each year thereafter, indicating the  
21           following:

22           (1) the number of initial applicants for a license  
23           under this Act within the preceding calendar year;

24           (2) the number of initial applicants for a license  
25           under this Act within the previous calendar year who had a  
26           conviction;

1           (3) the number of applicants with a conviction who were  
2           granted a license under this Act within the previous year;

3           (4) the number of applicants denied a license under  
4           this Act within the preceding calendar year; and

5           (5) the number of applicants denied a license under  
6           this Act solely on the basis of a conviction within the  
7           preceding calendar year.

8           (e) Nothing in this Section shall prevent the Department  
9           taking disciplinary or non-disciplinary action against a  
10           license as set forth in Section 9.1 of this Act.

11           (225 ILCS 335/9.1) (from Ch. 111, par. 7509.1)

12           (Section scheduled to be repealed on January 1, 2026)

13           Sec. 9.1. Grounds for disciplinary action.

14           (1) The Department may refuse to issue or to renew, or may  
15           revoke, suspend, place on probation, reprimand or take other  
16           disciplinary or non-disciplinary action as the Department may  
17           deem proper, including fines not to exceed \$10,000 for each  
18           violation, with regard to any license for any one or  
19           combination of the following:

20           (a) violation of this Act or its rules;

21           (b) for licensees, conviction or plea of guilty or nolo  
22           contendere, finding of guilt, jury verdict, or entry of  
23           judgment or sentencing of any crime, including, but not  
24           limited to, convictions, preceding sentences of  
25           supervision, conditional discharge, or first offender

1           probation, under the laws of any jurisdiction of the United  
2           States that is (i) a felony or (ii) a misdemeanor, an  
3           essential element of which is dishonesty or that is  
4           directly related to the practice of the profession and, for  
5           initial applicants, convictions set forth in Section 15-72  
6           of this Act;

7           (c) fraud or any misrepresentation in applying for or  
8           procuring a license under this Act, or in connection with  
9           applying for renewal of a license under this Act;

10          (d) professional incompetence or gross negligence in  
11          the practice of roofing contracting, prima facie evidence  
12          of which may be a conviction or judgment in any court of  
13          competent jurisdiction against an applicant or licensee  
14          relating to the practice of roofing contracting or the  
15          construction of a roof or repair thereof that results in  
16          leakage within 90 days after the completion of such work;

17          (e) (blank);

18          (f) aiding or assisting another person in violating any  
19          provision of this Act or rules;

20          (g) failing, within 60 days, to provide information in  
21          response to a written request made by the Department;

22          (h) engaging in dishonorable, unethical, or  
23          unprofessional conduct of a character likely to deceive,  
24          defraud, or harm the public;

25          (i) habitual or excessive use or abuse of controlled  
26          substances, as defined by the Illinois Controlled



1 Substances Act, alcohol, or any other substance that  
2 results in the inability to practice with reasonable  
3 judgment, skill, or safety;

4 (j) discipline by another state, unit of government, or  
5 government agency, the District of Columbia, a territory,  
6 or a foreign nation, if at least one of the grounds for the  
7 discipline is the same or substantially equivalent to those  
8 set forth in this Section;

9 (k) directly or indirectly giving to or receiving from  
10 any person, firm, corporation, partnership, or association  
11 any fee, commission, rebate, or other form of compensation  
12 for any professional services not actually or personally  
13 rendered;

14 (l) a finding by the Department that the licensee,  
15 after having his or her license disciplined, has violated  
16 the terms of the discipline;

17 (m) a finding by any court of competent jurisdiction,  
18 either within or without this State, of any violation of  
19 any law governing the practice of roofing contracting, if  
20 the Department determines, after investigation, that such  
21 person has not been sufficiently rehabilitated to warrant  
22 the public trust;

23 (n) willfully making or filing false records or reports  
24 in the practice of roofing contracting, including, but not  
25 limited to, false records filed with the State agencies or  
26 departments;

1           (o) practicing, attempting to practice, or advertising  
2           under a name other than the full name as shown on the  
3           license or any other legally authorized name;

4           (p) gross and willful overcharging for professional  
5           services including filing false statements for collection  
6           of fees or monies for which services are not rendered;

7           (q) (blank);

8           (r) (blank);

9           (s) failure to continue to meet the requirements of  
10          this Act shall be deemed a violation;

11          (t) physical or mental disability, including  
12          deterioration through the aging process or loss of  
13          abilities and skills that result in an inability to  
14          practice the profession with reasonable judgment, skill,  
15          or safety;

16          (u) material misstatement in furnishing information to  
17          the Department or to any other State agency;

18          (v) (blank);

19          (w) advertising in any manner that is false,  
20          misleading, or deceptive;

21          (x) taking undue advantage of a customer, which results  
22          in the perpetration of a fraud;

23          (y) performing any act or practice that is a violation  
24          of the Consumer Fraud and Deceptive Business Practices Act;

25          (z) engaging in the practice of roofing contracting, as  
26          defined in this Act, with a suspended, revoked, or

1 cancelled license;

2 (aa) treating any person differently to the person's  
3 detriment because of race, color, creed, gender, age,  
4 religion, or national origin;

5 (bb) knowingly making any false statement, oral,  
6 written, or otherwise, of a character likely to influence,  
7 persuade, or induce others in the course of obtaining or  
8 performing roofing contracting services;

9 (cc) violation of any final administrative action of  
10 the Secretary;

11 (dd) allowing the use of his or her roofing license by  
12 an unlicensed roofing contractor for the purposes of  
13 providing roofing or waterproofing services; or

14 (ee) (blank);

15 (ff) cheating or attempting to subvert a licensing  
16 examination administered under this Act; or

17 (gg) use of a license to permit or enable an unlicensed  
18 person to provide roofing contractor services.

19 (2) The determination by a circuit court that a license  
20 holder is subject to involuntary admission or judicial  
21 admission, as provided in the Mental Health and Developmental  
22 Disabilities Code, operates as an automatic suspension. Such  
23 suspension will end only upon a finding by a court that the  
24 patient is no longer subject to involuntary admission or  
25 judicial admission, an order by the court so finding and  
26 discharging the patient, and the recommendation of the Board to

1 the Director that the license holder be allowed to resume his  
2 or her practice.

3 (3) The Department may refuse to issue or take disciplinary  
4 action concerning the license of any person who fails to file a  
5 return, to pay the tax, penalty, or interest shown in a filed  
6 return, or to pay any final assessment of tax, penalty, or  
7 interest as required by any tax Act administered by the  
8 Department of Revenue, until such time as the requirements of  
9 any such tax Act are satisfied as determined by the Department  
10 of Revenue.

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

1 other professional and administrative staff. Any examining  
2 physician or member of the multidisciplinary team may require  
3 any person ordered to submit to an examination and evaluation  
4 pursuant to this Section to submit to any additional  
5 supplemental testing deemed necessary to complete any  
6 examination or evaluation process, including, but not limited  
7 to, blood testing, urinalysis, psychological testing, or  
8 neuropsychological testing.

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

1 information, reports, records, or other documents or to provide  
2 any testimony regarding the examination and evaluation. The  
3 individual to be examined may have, at his or her own expense,  
4 another physician of his or her choice present during all  
5 aspects of the examination.

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

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

23 (8) Licensees affected under this Section shall be afforded  
24 an opportunity to demonstrate to the Department that they can  
25 resume practice in compliance with acceptable and prevailing  
26 standards under the provisions of their license.

1           (9) The Department shall deny a license or renewal  
2 authorized by this Act to a person who has defaulted on an  
3 educational loan or scholarship provided or guaranteed by the  
4 Illinois Student Assistance Commission or any governmental  
5 agency of this State in accordance with paragraph (5) of  
6 subsection (a) of Section 2105-15 of the Department of  
7 Professional Regulation Law of the Civil Administrative Code of  
8 Illinois.

9           (10) In cases where the Department of Healthcare and Family  
10 Services has previously determined a licensee or a potential  
11 licensee is more than 30 days delinquent in the payment of  
12 child support and has subsequently certified the delinquency to  
13 the Department, the Department may refuse to issue or renew or  
14 may revoke or suspend that person's license or may take other  
15 disciplinary action against that person based solely upon the  
16 certification of delinquency made by the Department of  
17 Healthcare and Family Services in accordance with paragraph (5)  
18 of subsection (a) of Section 2105-15 of the Department of  
19 Professional Regulation Law of the Civil Administrative Code of  
20 Illinois.

21           The changes to this Act made by this amendatory Act of 1997  
22 apply only to disciplinary actions relating to events occurring  
23 after the effective date of this amendatory Act of 1997.

24           (Source: P.A. 99-469, eff. 8-26-15.)

25           Section 15. The Barber, Cosmetology, Esthetics, Hair

1 Braiding, and Nail Technology Act of 1985 is amended by  
2 changing Section 4-7 and by adding Section 4-6.1 as follows:

3 (225 ILCS 410/4-6.1 new)

4 Sec. 4-6.1. Applicant convictions.

5 (a) When reviewing a conviction by plea of guilty or nolo  
6 contendere, finding of guilt, jury verdict, or entry of  
7 judgment or by sentencing of an initial applicant, the  
8 Department may only deny a license based upon consideration of  
9 mitigating factors provided in subsection (c) of this Section  
10 for a felony directly related to the practice of cosmetology,  
11 esthetics, hair braiding, nail technology, and barbering.

12 (b) The following crimes or similar offenses in any other  
13 jurisdiction are hereby deemed directly related to the practice  
14 of cosmetology, esthetics, hair braiding, nail technology, and  
15 barbering:

16 (1) first degree murder;

17 (2) second degree murder;

18 (3) drug induced homicide;

19 (4) unlawful restraint;

20 (5) aggravated unlawful restraint;

21 (6) forcible detention;

22 (7) involuntary servitude;

23 (8) involuntary sexual servitude of a minor;

24 (9) predatory criminal sexual assault of a child;

25 (10) aggravated criminal sexual assault;



1           (11) criminal sexual assault;

2           (12) criminal sexual abuse;

3           (13) aggravated kidnaping;

4           (14) aggravated robbery;

5           (15) armed robbery;

6           (16) kidnapping;

7           (17) aggravated battery;

8           (18) aggravated vehicular hijacking;

9           (19) terrorism;

10          (20) causing a catastrophe;

11          (21) possession of a deadly substance;

12          (22) making a terrorist threat;

13          (23) material support for terrorism;

14          (24) hindering prosecution of terrorism;

15          (25) armed violence;

16          (26) any felony based on consumer fraud or deceptive  
17 business practices under the Consumer Fraud and Deceptive  
18 Business Practices Act;

19          (27) any felony requiring registration as a sex  
20 offender under the Sex Offender Registration Act;

21          (28) attempt of any the offenses set forth in  
22 paragraphs (1) through (27) of this subsection (b); and

23          (29) convictions set forth in Section 4-20 of this Act.

24          (c) The Department shall consider any mitigating factors  
25 contained in the record, when determining the appropriate  
26 disciplinary sanction, if any, to be imposed. In addition to

1 those set forth in Section 2105-130 of the Department of  
2 Professional Regulation Law of the Civil Administrative Code of  
3 Illinois, mitigating factors shall include the following:

4 (1) the bearing, if any, the criminal offense or  
5 offenses for which the person was previously convicted will  
6 have on his or her fitness or ability to perform one or  
7 more such duties and responsibilities;

8 (2) the time that has elapsed since the criminal  
9 conviction; and

10 (3) the age of the person at the time of the criminal  
11 conviction.

12 (d) The Department shall issue an annual report by January  
13 31, 2018 and by January 31 each year thereafter, indicating the  
14 following:

15 (1) the number of initial applicants for a license  
16 under this Act within the preceding calendar year;

17 (2) the number of initial applicants for a license  
18 under this Act within the previous calendar year who had a  
19 conviction;

20 (3) the number of applicants with a conviction who were  
21 granted a license under this Act within the previous year;

22 (4) the number of applicants denied a license under  
23 this Act within the preceding calendar year; and

24 (5) the number of applicants denied a license under  
25 this Act solely on the basis of a conviction within the  
26 preceding calendar year.

1       (e) Nothing in this Section shall prevent the Department  
2 taking disciplinary or non-disciplinary action against a  
3 license as set forth in paragraph (2) of subsection (1) of  
4 Section 4-7 of this Act.

5           (225 ILCS 410/4-7) (from Ch. 111, par. 1704-7)

6           (Section scheduled to be repealed on January 1, 2026)

7           Sec. 4-7. Refusal, suspension and revocation of licenses;  
8 causes; disciplinary action.

9           (1) The Department may refuse to issue or renew, and may  
10 suspend, revoke, place on probation, reprimand or take any  
11 other disciplinary or non-disciplinary action as the  
12 Department may deem proper, including civil penalties not to  
13 exceed \$500 for each violation, with regard to any license for  
14 any one, or any combination, of the following causes:

15           a. For licensees, conviction ~~Conviction~~ of any crime  
16 under the laws of the United States or any state or  
17 territory thereof that is (i) a felony, (ii) a misdemeanor,  
18 an essential element of which is dishonesty, or (iii) a  
19 crime which is related to the practice of the profession  
20 and, for initial applicants, convictions set forth in  
21 Section 15-72 of this Act.

22           b. Conviction of any of the violations listed in  
23 Section 4-20.

24           c. Material misstatement in furnishing information to  
25 the Department.

1           d. Making any misrepresentation for the purpose of  
2 obtaining a license or violating any provision of this Act  
3 or its rules.

4           e. Aiding or assisting another person in violating any  
5 provision of this Act or its rules.

6           f. Failing, within 60 days, to provide information in  
7 response to a written request made by the Department.

8           g. Discipline by another state, territory, or country  
9 if at least one of the grounds for the discipline is the  
10 same as or substantially equivalent to those set forth in  
11 this Act.

12           h. Practice in the barber, nail technology, esthetics,  
13 hair braiding, or cosmetology profession, or an attempt to  
14 practice in those professions, by fraudulent  
15 misrepresentation.

16           i. Gross malpractice or gross incompetency.

17           j. Continued practice by a person knowingly having an  
18 infectious or contagious disease.

19           k. Solicitation of professional services by using  
20 false or misleading advertising.

21           l. A finding by the Department that the licensee, after  
22 having his or her license placed on probationary status,  
23 has violated the terms of probation.

24           m. Directly or indirectly giving to or receiving from  
25 any person, firm, corporation, partnership or association  
26 any fee, commission, rebate, or other form of compensation

1 for any professional services not actually or personally  
2 rendered.

3 n. Violating any of the provisions of this Act or rules  
4 adopted pursuant to this Act.

5 o. Willfully making or filing false records or reports  
6 relating to a licensee's practice, including but not  
7 limited to, false records filed with State agencies or  
8 departments.

9 p. Habitual or excessive use or addiction to alcohol,  
10 narcotics, stimulants, or any other chemical agent or drug  
11 that results in the inability to practice with reasonable  
12 judgment, skill or safety.

13 q. Engaging in dishonorable, unethical or  
14 unprofessional conduct of a character likely to deceive,  
15 defraud, or harm the public as may be defined by rules of  
16 the Department, or violating the rules of professional  
17 conduct which may be adopted by the Department.

18 r. Permitting any person to use for any unlawful or  
19 fraudulent purpose one's diploma or license or certificate  
20 of registration as a cosmetologist, nail technician,  
21 esthetician, hair braider, or barber or cosmetology, nail  
22 technology, esthetics, hair braiding, or barber teacher or  
23 salon or shop or cosmetology clinic teacher.

24 s. Being named as a perpetrator in an indicated report  
25 by the Department of Children and Family Services under the  
26 Abused and Neglected Child Reporting Act and upon proof by

1 clear and convincing evidence that the licensee has caused  
2 a child to be an abused child or neglected child as defined  
3 in the Abused and Neglected Child Reporting Act.

4 t. Operating a salon or shop without a valid  
5 registration.

6 u. Failure to complete required continuing education  
7 hours.

8 (2) In rendering an order, the Secretary shall take into  
9 consideration the facts and circumstances involving the type of  
10 acts or omissions in paragraph (1) of this Section including,  
11 but not limited to:

12 (a) the extent to which public confidence in the  
13 cosmetology, nail technology, esthetics, hair braiding, or  
14 barbering profession was, might have been, or may be,  
15 injured;

16 (b) the degree of trust and dependence among the  
17 involved parties;

18 (c) the character and degree of harm which did result  
19 or might have resulted;

20 (d) the intent or mental state of the licensee at the  
21 time of the acts or omissions.

22 (3) The Department may reissue the license or registration  
23 upon certification by the Board that the disciplined licensee  
24 or registrant has complied with all of the terms and conditions  
25 set forth in the final order or has been sufficiently  
26 rehabilitated to warrant the public trust.

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

9           (5) The Department shall deny without hearing any  
10 application for a license or renewal of a license under this  
11 Act by a person who has defaulted on an educational loan  
12 guaranteed by the Illinois Student Assistance Commission;  
13 however, the Department may issue or renew a license if the  
14 person in default has established a satisfactory repayment  
15 record as determined by the Illinois Student Assistance  
16 Commission.

17           (6) All fines imposed under this Section shall be paid  
18 within 60 days after the effective date of the order imposing  
19 the fine or in accordance with the terms set forth in the order  
20 imposing the fine.

21           (Source: P.A. 98-911, eff. 1-1-15; 99-427, eff. 8-21-15.)

22           Section 99. Effective date. This Act takes effect January  
23 1, 2017."