



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB0042

Introduced 1/15/2015, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

20 ILCS 2105/2105-165

Amends the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Adds involuntary sexual servitude of a minor to the offenses for which a health care worker license can be revoked. Provides that if a licensed health care worker has been convicted of a forcible felony, other than a forcible felony requiring registration under the Sex Offender Registration Act or involuntary sexual servitude of a minor that is a forcible felony, and the health care worker has had his or her license revoked, the health care worker may petition the Department of Financial and Professional Regulation to restore his or her license. Establishes factors that the Department shall consider in determining whether a license shall be restored. Further provides that this process for petition and review by the Department shall apply to a person whose licensed is denied under these provisions.

LRB099 03947 HAF 23964 b

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 5. The Department of Professional Regulation Law of
5 the Civil Administrative Code of Illinois is amended by
6 changing Section 2105-165 as follows:

7 (20 ILCS 2105/2105-165)

8 Sec. 2105-165. Health care worker licensure actions; sex
9 crimes.

10 (a) When a licensed health care worker, as defined in the
11 Health Care Worker Self-Referral Act, (1) has been convicted of
12 a criminal act that requires registration under the Sex
13 Offender Registration Act; (1.5) has been convicted of
14 involuntary sexual servitude of a minor under subsection (c) of
15 Section 10-9 or subsection (b) of Section 10A-10 of the
16 Criminal Code of 1961 or the Criminal Code of 2012; (2) has
17 been convicted of a criminal battery against any patient in the
18 course of patient care or treatment, including any offense
19 based on sexual conduct or sexual penetration; (3) has been
20 convicted of a forcible felony; or (4) is required as a part of
21 a criminal sentence to register under the Sex Offender
22 Registration Act, then, notwithstanding any other provision of
23 law to the contrary, except as provided in this Section, the

1 license of the health care worker shall by operation of law be
2 permanently revoked without a hearing.

3 (a-1) If a licensed health care worker has been convicted
4 of a forcible felony, other than a forcible felony requiring
5 registration under the Sex Offender Registration Act or
6 involuntary sexual servitude of a minor that is a forcible
7 felony, and the health care worker has had his or her license
8 revoked, the health care worker may petition the Department to
9 restore his or her license. In determining whether a license
10 shall be restored, the Department shall consider, but is not
11 limited to, the following factors:

12 (1) the seriousness of the offense;

13 (2) the presence of multiple offenses;

14 (3) prior disciplinary history, including actions
15 taken by other agencies in this State or by other states or
16 jurisdictions, hospitals, health care facilities,
17 residency programs, employers, insurance providers, or any
18 of the armed forces of the United States or any state;

19 (4) the impact of the offense on any injured party;

20 (5) the vulnerability of any injured party, including,
21 but not limited to, consideration of the injured party's
22 age, disability, or mental illness;

23 (6) the motive for the offense;

24 (7) the lack of contrition for the offense;

25 (8) the lack of cooperation with the Department or
26 other investigative authorities;

1 (9) the lack of prior disciplinary action by the
2 Department or by other agencies in this State or by other
3 states or jurisdictions, hospitals, health care
4 facilities, residency programs, employers, insurance
5 providers, or any of the armed forces of the United States
6 or any state;

7 (10) contrition for the offense;

8 (11) cooperation with the Department or other
9 investigative authorities;

10 (12) restitution to injured parties;

11 (13) whether the misconduct was self-reported;

12 (14) any voluntary remedial actions taken; and

13 (15) the date of conviction.

14 (b) No person who has been convicted of any offense listed
15 in subsection (a) or required to register as a sex offender may
16 receive a license as a health care worker in Illinois. The
17 process for petition and review by the Department provided in
18 subsection (a-1) shall also apply to a person whose application
19 for licensure is denied under this Section for a conviction of
20 a forcible felony, other than a forcible felony requiring
21 registration under the Sex Offender Registration Act or
22 involuntary sexual servitude of a minor that is a forcible
23 felony.

24 (c) Immediately after a licensed health care worker, as
25 defined in the Health Care Worker Self-Referral Act, has been
26 charged with any offense for which the sentence includes

1 registration as a sex offender; involuntary sexual servitude of
2 a minor; a criminal battery against a patient, including any
3 offense based on sexual conduct or sexual penetration, in the
4 course of patient care or treatment; or a forcible felony; then
5 the prosecuting attorney shall provide notice to the Department
6 of the health care worker's name, address, practice address,
7 and license number and the patient's name and a copy of the
8 criminal charges filed. Within 5 business days after receiving
9 notice from the prosecuting attorney of the filing of criminal
10 charges against the health care worker, the Secretary shall
11 issue an administrative order that the health care worker shall
12 immediately practice only with a chaperone during all patient
13 encounters pending the outcome of the criminal proceedings. The
14 chaperone must be a licensed health care worker. The chaperone
15 shall provide written notice to all of the health care worker's
16 patients explaining the Department's order to use a chaperone.
17 Each patient shall sign an acknowledgement that they received
18 the notice. The notice to the patient of criminal charges shall
19 include, in 14-point font, the following statement: "The health
20 care worker is presumed innocent until proven guilty of the
21 charges.". The licensed health care worker shall provide a
22 written plan of compliance with the administrative order that
23 is acceptable to the Department within 5 days after receipt of
24 the administrative order. Failure to comply with the
25 administrative order, failure to file a compliance plan, or
26 failure to follow the compliance plan shall subject the health

1 care worker to temporary suspension of his or her professional
2 license until the completion of the criminal proceedings.

3 (d) Nothing contained in this Section shall act in any way
4 to waive or modify the confidentiality of information provided
5 by the prosecuting attorney to the extent provided by law. Any
6 information reported or disclosed shall be kept for the
7 confidential use of the Secretary, Department attorneys, the
8 investigative staff, and authorized clerical staff and shall be
9 afforded the same status as is provided information under Part
10 21 of Article VIII of the Code of Civil Procedure, except that
11 the Department may disclose information and documents to (1) a
12 federal, State, or local law enforcement agency pursuant to a
13 subpoena in an ongoing criminal investigation or (2) an
14 appropriate licensing authority of another state or
15 jurisdiction pursuant to an official request made by that
16 authority. Any information and documents disclosed to a
17 federal, State, or local law enforcement agency may be used by
18 that agency only for the investigation and prosecution of a
19 criminal offense. Any information or documents disclosed by the
20 Department to a professional licensing authority of another
21 state or jurisdiction may only be used by that authority for
22 investigations and disciplinary proceedings with regards to a
23 professional license.

24 (e) Any licensee whose license was revoked or who received
25 an administrative order under this Section shall have the
26 revocation or administrative order vacated and completely

1 removed from the licensee's records and public view and the
2 revocation or administrative order shall be afforded the same
3 status as is provided information under Part 21 of Article VIII
4 of the Code of Civil Procedure if (1) the charges upon which
5 the revocation or administrative order is based are dropped;
6 (2) the licensee is not convicted of the charges upon which the
7 revocation or administrative order is based; or (3) any
8 conviction for charges upon which the revocation or
9 administrative order was based have been vacated, overturned,
10 or reversed.

11 (f) Nothing contained in this Section shall prohibit the
12 Department from initiating or maintaining a disciplinary
13 action against a licensee independent from any criminal
14 charges, conviction, or sex offender registration.

15 (g) The Department may adopt rules necessary to implement
16 this Section.

17 (Source: P.A. 97-156, eff. 8-20-11; 97-484, eff. 9-21-11;
18 97-873, eff. 7-31-12.).