



Rep. Camille Y. Lilly

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LRB099 03947 SMS 46219 a

1 AMENDMENT TO SENATE BILL 42

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 42, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

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

8 (20 ILCS 2105/2105-165)

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

11 (a) When a licensed health care worker, as defined in the  
12 Health Care Worker Self-Referral Act, (1) has been convicted of  
13 a criminal act that requires registration under the Sex  
14 Offender Registration Act; (1.5) has been convicted of  
15 involuntary sexual servitude of a minor under subsection (c) of  
16 Section 10-9 or subsection (b) of Section 10A-10 of the

1 Criminal Code of 1961 or the Criminal Code of 2012; (2) has  
2 been convicted of a criminal battery against any patient in the  
3 course of patient care or treatment, including any offense  
4 based on sexual conduct or sexual penetration; (3) has been  
5 convicted of a forcible felony; or (4) is required as a part of  
6 a criminal sentence to register under the Sex Offender  
7 Registration Act, then, notwithstanding any other provision of  
8 law to the contrary, except as provided in this Section, the  
9 license of the health care worker shall by operation of law be  
10 permanently revoked without a hearing.

11 (a-1) If a licensed health care worker has been convicted  
12 of a forcible felony, other than a forcible felony requiring  
13 registration under the Sex Offender Registration Act or  
14 involuntary sexual servitude of a minor that is a forcible  
15 felony, and the health care worker has had his or her license  
16 revoked, the health care worker may petition the Department to  
17 restore his or her license if more than 5 years have passed  
18 since the conviction or more than 3 years have passed since the  
19 health care worker's release from confinement for that  
20 conviction, whichever is later. In determining whether a  
21 license shall be restored, the Department shall consider, but  
22 is not limited to, the following factors:

23 (1) the seriousness of the offense;

24 (2) the presence of multiple offenses;

25 (3) prior disciplinary history, including, but not  
26 limited to, actions taken by other agencies in this State

1       or by other states or jurisdictions, hospitals, health care  
2       facilities, residency programs, employers, insurance  
3       providers, or any of the armed forces of the United States  
4       or any state;

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

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

9           (6) the motive for the offense;

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

11          (8) the lack of cooperation with the Department or  
12       other investigative authorities;

13          (9) the lack of prior disciplinary action, including,  
14       but not limited to, action by the Department or by other  
15       agencies in this State or by other states or jurisdictions,  
16       hospitals, health care facilities, residency programs,  
17       employers, insurance providers, or any of the armed forces  
18       of the United States or any state;

19          (10) contrition for the offense;

20          (11) cooperation with the Department or other  
21       investigative authorities;

22          (12) restitution to injured parties;

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

24          (14) any voluntary remedial actions taken or other  
25       evidence of rehabilitation; and

26          (15) the date of conviction.

1 (b) No person who has been convicted of any offense listed  
2 in subsection (a) or required to register as a sex offender may  
3 receive a license as a health care worker in Illinois. The  
4 process for petition and review by the Department provided in  
5 subsection (a-1) shall also apply to a person whose application  
6 for licensure is denied under this Section for a conviction of  
7 a forcible felony, other than a forcible felony requiring  
8 registration under the Sex Offender Registration Act or  
9 involuntary sexual servitude of a minor that is a forcible  
10 felony.

11 (c) Immediately after a licensed health care worker, as  
12 defined in the Health Care Worker Self-Referral Act, has been  
13 charged with any offense for which the sentence includes  
14 registration as a sex offender; involuntary sexual servitude of  
15 a minor; a criminal battery against a patient, including any  
16 offense based on sexual conduct or sexual penetration, in the  
17 course of patient care or treatment; or a forcible felony; then  
18 the prosecuting attorney shall provide notice to the Department  
19 of the health care worker's name, address, practice address,  
20 and license number and the patient's name and a copy of the  
21 criminal charges filed. Within 5 business days after receiving  
22 notice from the prosecuting attorney of the filing of criminal  
23 charges against the health care worker, the Secretary shall  
24 issue an administrative order that the health care worker shall  
25 immediately practice only with a chaperone during all patient  
26 encounters pending the outcome of the criminal proceedings. The

1 chaperone must be a licensed health care worker. The chaperone  
2 shall provide written notice to all of the health care worker's  
3 patients explaining the Department's order to use a chaperone.  
4 Each patient shall sign an acknowledgement that they received  
5 the notice. The notice to the patient of criminal charges shall  
6 include, in 14-point font, the following statement: "The health  
7 care worker is presumed innocent until proven guilty of the  
8 charges.". The licensed health care worker shall provide a  
9 written plan of compliance with the administrative order that  
10 is acceptable to the Department within 5 days after receipt of  
11 the administrative order. Failure to comply with the  
12 administrative order, failure to file a compliance plan, or  
13 failure to follow the compliance plan shall subject the health  
14 care worker to temporary suspension of his or her professional  
15 license until the completion of the criminal proceedings.

16 (d) Nothing contained in this Section shall act in any way  
17 to waive or modify the confidentiality of information provided  
18 by the prosecuting attorney to the extent provided by law. Any  
19 information reported or disclosed shall be kept for the  
20 confidential use of the Secretary, Department attorneys, the  
21 investigative staff, and authorized clerical staff and shall be  
22 afforded the same status as is provided information under Part  
23 21 of Article VIII of the Code of Civil Procedure, except that  
24 the Department may disclose information and documents to (1) a  
25 federal, State, or local law enforcement agency pursuant to a  
26 subpoena in an ongoing criminal investigation or (2) an

1 appropriate licensing authority of another state or  
2 jurisdiction pursuant to an official request made by that  
3 authority. Any information and documents disclosed to a  
4 federal, State, or local law enforcement agency may be used by  
5 that agency only for the investigation and prosecution of a  
6 criminal offense. Any information or documents disclosed by the  
7 Department to a professional licensing authority of another  
8 state or jurisdiction may only be used by that authority for  
9 investigations and disciplinary proceedings with regards to a  
10 professional license.

11 (e) Any licensee whose license was revoked or who received  
12 an administrative order under this Section shall have the  
13 revocation or administrative order vacated and completely  
14 removed from the licensee's records and public view and the  
15 revocation or administrative order shall be afforded the same  
16 status as is provided information under Part 21 of Article VIII  
17 of the Code of Civil Procedure if (1) the charges upon which  
18 the revocation or administrative order is based are dropped;  
19 (2) the licensee is not convicted of the charges upon which the  
20 revocation or administrative order is based; or (3) any  
21 conviction for charges upon which the revocation or  
22 administrative order was based have been vacated, overturned,  
23 or reversed.

24 (f) Nothing contained in this Section shall prohibit the  
25 Department from initiating or maintaining a disciplinary  
26 action against a licensee independent from any criminal

1 charges, conviction, or sex offender registration.

2 (g) The Department may adopt rules necessary to implement  
3 this Section.

4 (Source: P.A. 97-156, eff. 8-20-11; 97-484, eff. 9-21-11;  
5 97-873, eff. 7-31-12.)".