

AN ACT concerning regulation.

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

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

(5 ILCS 80/4.23)

Sec. 4.23. Acts and Sections repealed on January 1, 2013. The following Acts and Sections of Acts are repealed on January 1, 2013:

The Dietetic and Nutrition Services Practice Act.

The Elevator Safety and Regulation Act.

The Fire Equipment Distributor and Employee Regulation Act of 2011.

The Funeral Directors and Embalmers Licensing Code.

The Naprapathic Practice Act.

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

The Wholesale Drug Distribution Licensing Act.

Section 2.5 of the Illinois Plumbing License Law.

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

(5 ILCS 80/4.33 new)

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 Act repealed on January 1, 2023.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

Act is repealed on January 1, 2023:

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

Section 5. The Professional Counselor and Clinical Professional Counselor Licensing Act is amended by changing Sections 1, 5, 10, 15, 20, 21, 25, 30, 45, 50, 60, 65, 75, 80, 85, 90, 95, 100, 105, 110, 115, 120, 125, 130, 135, 145, 155, 160, and 165 and by adding Sections 18 and 93 as follows:

(225 ILCS 107/1)

(Section scheduled to be repealed on January 1, 2013)

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

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

(225 ILCS 107/5)

(Section scheduled to be repealed on January 1, 2013)

Sec. 5. Declaration of public policy. The practice of professional counseling and clinical professional counseling is hereby declared to affect the public health, safety and welfare, and to be subject to regulation in the public interest. The purpose of the Act is to protect and benefit the public by setting standards of qualifications, education, training, and experience for those who seek to engage in the

independent practice of clinical professional counseling and in the practice of professional counseling in the State of Illinois and to obtain a license and hold the title of professional counselor, to promote high standards of professional performance for those licensed to practice professional counseling and clinical professional counseling in the State of Illinois, and to protect the public from unprofessional conduct by persons licensed to practice professional counseling and the independent practice of clinical professional counseling.

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

(225 ILCS 107/10)

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

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

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file as maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address and those changes must be made either through the Department's website or by contacting the Department.

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

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

"Board" means the Professional Counselor Licensing and

Disciplinary Board as appointed by the Secretary ~~Director~~.

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

"Professional counseling" means the provision of services to individuals, couples, groups, families, and organizations in any one or more of the fields of professional counseling.

"Professional counseling" includes the therapeutic process of: (i) conducting assessments and diagnosing for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.

~~Professional counseling includes, but is not limited to:~~

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

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

~~(3) research.~~

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

"Clinical professional counseling" means the provision of

professional counseling and mental health services, which includes, but is not limited to, the application of clinical counseling theory and techniques to prevent and alleviate mental and emotional disorders and psychopathology and to promote optimal mental health, rehabilitation, treatment, testing, assessment, and evaluation. "Clinical professional counseling" may include the practice of professional counseling as defined in this Act. It also includes clinical counseling and psychotherapy in a professional relationship to assist individuals, couples, families, groups, and organizations to alleviate emotional disorders, to understand conscious and unconscious motivation, to resolve emotional, relationship, and attitudinal conflicts, and to modify behaviors that interfere with effective emotional, social, adaptive, and intellectual functioning.

"Licensed professional counselor" and "professional counselor" means a person who holds a license authorizing the practice of professional counseling as defined in this Act.

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

"Independent private practice of clinical professional counseling" means the application of clinical professional counseling knowledge and skills by a licensed clinical professional counselor who ~~(i)~~ regulates and is responsible for

~~her or his own practice or treatment procedures and (ii) is self-employed or works in a group practice or setting not qualified under Internal Revenue Service regulations as a not-for-profit business.~~

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

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

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

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

"Volunteer" means a person performing services without compensation for a nonprofit organization, a nonprofit corporation, a hospital, a governmental entity, or a private business, other than reimbursement for actual expenses incurred. "Volunteer" includes a person serving as a director, officer, trustee, or direct service volunteer.

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

(225 ILCS 107/15)

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

Sec. 15. Exemptions.

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

(b) Nothing in this Act shall be construed to limit the activities and services of a student, intern, or resident in professional counseling or clinical professional counseling seeking to fulfill educational requirements in order to qualify for a license under this Act if (i) these activities and services constitute a part of the student's supervised course of study, (ii) ~~or an individual seeking to fulfill the post degree experience requirements in order to qualify for licensing under this Act, as long as~~ the activities and

services are not conducted in an independent practice, as defined in this Act, (iii) ~~if~~ the activities and services are supervised as specified in this Act, and (iv) ~~that~~ the student, intern, or resident is designated by a title "intern" or "resident" or other designation of trainee status. Nothing contained in this Section shall be construed to permit students, interns, or residents to offer their services as professional counselors or clinical professional counselors to any other person, ~~and to accept remuneration for such professional counseling or clinical professional counseling services~~ other than as specifically excepted in this Section, unless they have been licensed under this Act.

(b-5) Nothing in this Act shall be construed to limit the activities and services of individuals seeking to fulfill post-degree experience requirements in order to qualify for licensing as a clinical professional counselor under this Act, so long as the individual is not engaged in the independent private practice of clinical professional counseling as defined in this Act, and is in compliance with all applicable regulations regarding supervision including, but not limited to, the requirement that the supervised experience must be under the order, control, and full professional responsibility of their supervisor. The Department may, by rule, adopt further limitations on individuals practicing under this subsection.

(c) Corporations, partnerships, and associations may employ practicum students, interns, or post-degree candidates

seeking to fulfill educational requirements or the professional experience requirements needed to qualify for a license under this Act if their activities and services constitute a part of the student's supervised course of study or post-degree professional experience requirements. Nothing in this paragraph shall prohibit a corporation, partnership, or association from contracting with a licensed health care professional to provide services that they are licensed to provide.

(d) Nothing in this Act shall prevent the employment, by a professional counselor or clinical professional counselor, person, association, partnership, or a corporation furnishing professional counseling or clinical professional counseling services for remuneration, of persons not licensed as professional counselors or clinical professional counselors under this Act to perform services in various capacities as needed if these persons are not in any manner held out to the public or do not hold themselves out to the public by any title or designation stating or implying that they are professional counselors or clinical professional counselors.

(e) Nothing in this Act shall be construed to limit the services of a person, not licensed under the provisions of this Act, in the employ of a federal, State, county, or municipal agency or other political subdivision or not-for-profit corporation providing human services if (1) the services are a part of the duties in his or her salaried position, (2) the

services are performed solely on behalf of his or her employer, and (3) that person does not in any manner represent himself or herself as or use the title of "professional counselor", "licensed professional counselor", "clinical professional counselor", or "licensed clinical professional counselor".

(f) Duly recognized members of any religious organization shall not be restricted from functioning in their ministerial capacity provided they do not represent themselves as being professional counselors or clinical professional counselors, or as providing "professional counseling" or "clinical professional counseling". This Act shall not apply or be construed so as to apply to the employees or agents of a church or religious organization or an organization owned, controlled, or affiliated with a church or religious organization, unless the church, religious organization, or owned, controlled, or affiliated organization designates or holds these employees or agents out to the public as professional counselors or clinical professional counselors or holds out their services as being "professional counseling" or "clinical professional counseling".

(g) Nothing in this Act shall prohibit individuals not licensed under the provisions of this Act who work in self-help groups or programs or not-for-profit organizations from providing services in those groups, programs, or organizations, as long as those persons are not in any manner held out to the public as practicing professional counseling or

clinical professional counseling, or do not hold themselves out to the public by any title or designation stating or implying that they are professional counselors or clinical professional counselors.

(h) Nothing in this Act shall be construed to limit the activities and use of the official title of "professional counselor" or "clinical professional counselor" on the part of a person not licensed under this Act who is an academic employee of a duly chartered institution of higher education and who holds educational and professional qualifications equivalent to those required for licensing under this Act, insofar as such activities are performed in the person's role as an academic employee, or insofar as such person engages in public speaking with or without remuneration.

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

(j) Nothing in this Act shall be construed to require any hospital, clinic, home health agency, hospice, or other entity that provides health care to employ or to contract with a

person licensed under this Act to provide professional counseling or clinical professional counseling services. These persons may not hold themselves out or represent themselves to the public as being licensed under this Act.

(k) Nothing in this Act shall be construed to require licensure under this Act or limit the services of a person employed by a private elementary or secondary school who provides counseling within the scope of his or her employment as long as that person is not in any manner held out to the public as a "professional counselor" or "clinical professional counselor" or does not hold out his or her services as being "professional counseling" or "clinical professional counseling".

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

(m) Nothing in this Act shall be construed to prevent any licensed social worker, licensed clinical social worker, or licensed clinical psychologist from practicing professional counseling as long as that person is not in any manner held out

to the public as a "professional counselor" or "clinical professional counselor" or does not hold out his or her services as being "professional counseling" or "clinical professional counseling".

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

(o) Nothing in this Act shall be construed to require licensure under this Act or limit the services of a domestic violence counselor who is an employee or volunteer of a domestic violence program as defined in Section 227 of the Illinois Domestic Violence Act of 1986.

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

(225 ILCS 107/18 new)

Sec. 18. Provision of clinical services by licensed professional counselors; scope of practice.

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

(b) In an independent private practice, a licensed professional counselor must practice at all times under the order, control, and full professional responsibility of a

licensed clinical professional counselor, a licensed clinical social worker, a licensed clinical psychologist, or a psychiatrist as defined in Section 1-121 of the Mental Health and Developmental Disabilities Code.

(c) When providing clinical professional counseling as set forth in this Act, a licensed professional counselor may not represent himself or herself as a sole or independent practitioner and may not use the title "clinical professional counselor" or "licensed clinical professional counselor". A licensed professional counselor providing clinical professional counseling shall always operate and represent himself or herself as providing services through or as a part of a group practice or through a clinical supervisor's practice, and the licensed professional counselor shall have no ownership interest in either type of practice. Licensed professional counselors providing clinical services shall provide the name and contact information of the licensed professional counselor's supervisor to all clients.

(d) Nothing in this Act shall be construed to limit licensed professional counselors from owning or engaging in sole or other type of practice or from using the title "licensed professional counselor" or "professional counselor" when providing social services that do not fall within the definition of professional counseling or clinical professional counseling as set forth in this Act.

(e) The Department may adopt rules necessary to implement

this Section.

(225 ILCS 107/20)

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

Sec. 20. Restrictions and limitations.

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

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

(c) (Blank). ~~Licensed professional counselors may not engage in independent private practice as defined in this Act without a clinical professional counseling license. In an independent private practice, a licensed professional counselor must practice at all times under the order, control,~~

~~and full professional responsibility of a licensed clinical professional counselor, a licensed clinical social worker, a licensed clinical psychologist, or a psychiatrist, as defined in Section 1-121 of the Mental Health and Developmental Disabilities Code.~~

(d) No association, limited liability company, or partnership shall practice clinical professional counseling or professional counseling unless every member, partner, and employee of the association or partnership who practices professional counseling or clinical professional counseling, or who renders professional counseling or clinical professional counseling services, holds a currently valid license issued under this Act. No license shall be issued to a corporation, the stated purpose of which includes or which practices or which holds itself out as available to practice professional counseling or clinical professional counseling unless it is organized under the Professional Service Corporation Act.

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

(f) When, in the course of providing professional counseling or clinical professional counseling services to any person, a professional counselor or clinical professional

counselor licensed under this Act finds indication of a disease or condition that in his or her professional judgment requires professional service outside the scope of practice as defined in this Act, he or she shall refer that person to a physician licensed to practice medicine in all of its branches or another appropriate health care practitioner.

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

(225 ILCS 107/21)

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

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

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

(b) The Department may investigate any actual, alleged, or suspected unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The

order shall constitute a final judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

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

(225 ILCS 107/25)

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

Sec. 25. Powers and duties of the Department. Subject to the provisions of this Act, the Department may:

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

(b) Conduct hearings on proceedings to refuse to issue or renew or to revoke licenses or suspend, place on probation, censure, or reprimand or take any other disciplinary or non-disciplinary action with regard to a person ~~persons licensed under this Act, and to refuse to issue or renew or to revoke licenses, or suspend, place on probation, censure, or reprimand persons licensed under this Act.~~

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

(d) Maintain rosters of the names and addresses of all licensees, and all persons whose licenses have been suspended, revoked, or denied renewal for cause within the previous calendar year. These rosters shall be available upon written

request and payment of the required fee.

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

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

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

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

Sec. 30. Professional Counselor Examining and Disciplinary Board.

(a) The Secretary ~~Director~~ shall appoint a Board which shall serve in an advisory capacity to the Secretary ~~Director~~. The Board shall consist of 7 persons, 2 of whom are licensed solely as professional counselors, 3 of whom are licensed solely as clinical professional counselors, one full-time faculty member of an accredited college or university that is engaged in training professional counselors or clinical professional counselors who possesses the qualifications substantially equivalent to the education and experience requirements for a professional counselor or clinical professional counselor, and one member of the public who is not a licensed health care provider. In appointing members of the

Board, the Secretary ~~Director~~ shall give due consideration to the adequate representation of the various fields of counseling. In appointing members of the Board, the Secretary ~~Director~~ shall give due consideration to recommendations by members of the professions of professional counseling and clinical professional counseling, the Statewide organizations representing the interests of professional counselors and clinical professional counselors, organizations representing the interests of academic programs, rehabilitation counseling programs, and approved counseling programs in the State of Illinois.

(b) Members shall be appointed for and shall serve 4 year terms and until their successors are appointed and qualified. No member of the Board shall serve more than 2 full consecutive terms, ~~except that of the initial appointments 2 members shall be appointed to serve for 2 years, 2 shall be appointed to serve for 3 years, and the remaining shall be appointed to serve for 4 years and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause continuous service on the Board to be longer than 8 years.~~ Any appointment to fill a vacancy shall be for the unexpired portion of the term.

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

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

(e) The Secretary shall have the authority to ~~Director may~~ remove or suspend any member for cause at any time prior to the expiration of his or her term. The Secretary shall be the sole arbiter of cause.

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

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

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

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

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

(k) Four members ~~A majority~~ of the Board ~~members currently appointed~~ shall constitute a quorum. A quorum is required for all Board decisions. ~~A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.~~

(1) Members of the Board shall have no criminal, civil, or professional liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Board, except for willful or wanton misconduct.

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

(225 ILCS 107/45)

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

Sec. 45. Qualifications for a license.

(a) Professional counselor. A person is qualified to be licensed as a licensed professional counselor, and the Department shall issue a license authorizing the practice of professional counseling to an applicant who:

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

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

(3) is a graduate of:

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

(B) in the case of an applicant who applied ~~applies~~ for licensure before the effective date of this amendatory Act of the 96th General Assembly, an

approved baccalaureate program in human services or similar degree program approved by the Department and can document the equivalent of 5 years of full-time satisfactory supervised experience, as established by rule, under a qualified supervisor;

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

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

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

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

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

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

(3) is a graduate of:

(A) a master's level program in the field of counseling, rehabilitation counseling, psychology, or

similar degree program approved by the Department and has completed the equivalent of 2 years full-time satisfactory supervised employment or experience working as a clinical counselor under the direction of a qualified supervisor subsequent to the degree; or

(B) a doctoral program in the field of counseling, rehabilitation counseling, psychology, or similar program approved by the Department and has completed the equivalent of 2 years full-time satisfactory supervised employment or experience working as a clinical counselor under the direction of a qualified supervisor, at least one year of which is subsequent to the degree;

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

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

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

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

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

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

(225 ILCS 107/50)

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

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

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule. As a condition for renewal of a license, the licensee shall be required to complete continuing education in accordance with rules established by the Department ~~The licensee may renew a license during the 30 day period preceding its expiration date by paying the required fee and demonstrating compliance with any continuing education requirements.~~

(b) Any person who has permitted a license to expire or who has a license on inactive status may have it restored by submitting an application to the Department and filing proof of fitness acceptable to the Department, ~~as defined by rule~~, to have the license restored, including, if appropriate, evidence which is satisfactory to the Department certifying the active practice of professional counseling or clinical professional

counseling in another jurisdiction and by paying the required fee.

(c) If the person has not maintained an active practice in another jurisdiction which is satisfactory to the Department, the Department shall determine, by an evaluation program established by rule, the person's fitness to resume active status and shall establish procedures and requirements for restoration. ~~The Department may also require the person to complete a specific period of evaluated professional counseling or clinical professional counseling work experience and may require successful completion of an examination.~~

(d) However, any person whose license expired while he or she was (i) in federal service on active duty with the armed forces of the United States or ~~, while called into service or training with~~ the State Militia or (ii) in training or education under the supervision of the United States government prior to induction into the military service may have his or her license restored without paying any lapsed renewal fees if, within 2 years after the honorable termination of such service, training, or education, ~~except under conditions other than honorable,~~ the Department is furnished with satisfactory evidence that the person has been so engaged and that such service, training, or education has been so terminated.

(e) A license to practice shall not be denied any applicant because of the applicant's race, religion, creed, national origin, political beliefs or activities, age, sex, sexual

orientation, or physical impairment.

(f) Any person requesting restoration from inactive status shall (i) be required to pay the current renewal fee, (ii) meet continuing education requirements, and (iii) be required to restore his or her license as provided in this Act.

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

(225 ILCS 107/60)

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

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

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

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

(225 ILCS 107/65)

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

Sec. 65. Payments; penalty for insufficient funds ~~Checks or orders dishonored.~~ Any person who issues or delivers a check or

other order to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act prohibiting unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or certification or deny the application, without hearing. If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the Department for restoration or issuance of the license or certificate and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all costs and expenses of processing of this application. The Secretary ~~Director~~ may waive the fines due under this Section in individual cases where the Secretary ~~Director~~ finds that the fines would be unnecessarily burdensome.

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

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

Sec. 75. Privileged communications and exceptions.

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

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

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

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

(4) When a communication reveals the intended commission of a crime or harmful act and such disclosure is judged necessary by the licensed professional counselor or licensed clinical professional counselor to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety; or

(5) When the person waives the privilege by bringing

any public charges against the licensee.

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

(c) Any person having access to records or anyone who participates in providing professional counseling or clinical professional counseling services, or, in providing any human services, is supervised by a licensed professional counselor or licensed clinical professional counselor, is similarly bound to regard all information and communications as privileged in accord with this Section.

(d) Nothing in this Act shall be construed to prohibit a licensed professional counselor or licensed clinical professional counselor from voluntarily testifying in court

hearings concerning matters of adoption, child abuse, child neglect or other matters pertaining to children, except as provided under the Abused and Neglected Child Reporting Act and matters pertaining to elders as set forth in the Elder Abuse and Neglect Act.

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

(f) Licensed professional counselors and licensed clinical professional counselors when performing professional counseling services or clinical professional counseling services shall comply with counselor licensure rules and laws contained in this Section and Section 80 of this Act regardless of their employment or work setting.

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

(225 ILCS 107/80)

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

Sec. 80. Grounds for discipline.

(a) The Department may refuse to issue, renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department

deems appropriate, including the issuance of fines not to exceed \$10,000 ~~\$1000~~ for each violation, with regard to any license for any one or more of the following:

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

(2) Violations or negligent or intentional disregard of this Act, ~~or any of its~~ rules adopted under this Act.

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession ~~Conviction of any crime under the laws of the United States or any state or territory thereof that is a felony, or that is a misdemeanor, an essential element of which is dishonesty, or of any crime which is directly related to the practice of the profession.~~

(4) Fraud or Making any misrepresentation in applying for or procuring a license under this Act or in connection with applying for renewal of a license under this Act ~~for the purpose of obtaining a license, or violating any provision of this Act or its rules.~~

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

(6) Malpractice.

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

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

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

(10) Habitual or excessive use or abuse of drugs as defined in law as controlled substances, alcohol, addiction to alcohol, narcotics, stimulants, or any other substance ~~chemical agent or drug~~ which results in inability to practice with reasonable skill, judgment, or safety.

(11) Discipline by another jurisdiction, the District of Columbia, territory, county, or governmental agency, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(12) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate or other form of compensation for any professional service not actually rendered.

Nothing in this paragraph (12) affects any bona fide independent contractor or employment arrangements among health care professionals, health facilities, health care providers, or other entities, except as otherwise prohibited by law. Any employment arrangements may include provisions for compensation, health insurance, pension, or other employment benefits for the provision of services within the scope of the licensee's practice under this Act. Nothing in this paragraph (12) shall be construed to require an employment arrangement to receive professional fees for services rendered.

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

(14) Abandonment of a client.

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

(16) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act and in matters pertaining to elders or suspected elder abuse as set forth in the Elder Abuse and Neglect Act.

(17) Being named as a perpetrator in an indicated report by the Department of Children and Family Services

pursuant to the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(18) Physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of abilities and skills which results in the inability to practice the profession with reasonable judgment, skill, or safety.

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

(20) Allowing one's license under this Act to be used by an unlicensed person in violation of this Act ~~Failure to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue or any successor agency or the Internal Revenue Service or any successor agency.~~

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

(22) Practicing under a false or, except as provided by law, an assumed name ~~or attempting to practice under a name other than the full name as shown on the license or any other legally authorized name.~~

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

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

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

All fines imposed under this Section shall be paid within 60 days after the effective date of the order imposing the fine.

(b) The Department shall deny, without hearing, any application or renewal for a license under this Act to any person who has defaulted on an educational loan guaranteed by the Illinois State Assistance Commission or any governmental agency of this State in accordance with item (5) of subsection (a) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois, ~~however, the Department may issue a license or renewal if the person in default has established a satisfactory repayment record as determined by the Illinois Student Assistance Commission.~~

(b-5) The Department may refuse to issue or may suspend without hearing, as provided for in the Code of Civil Procedure, the license of any person who fails to file a return, pay the tax, penalty, or interest shown in a filed

return, or pay any final assessment of the tax, penalty, or interest as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

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

(c) The determination by a court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code will result in an automatic suspension of his or her license. The suspension will end upon a finding by a court that the licensee is no longer subject to involuntary admission or judicial admission, the issuance of an order so finding and discharging

the patient, and the recommendation of the Board to the Secretary ~~Director~~ that the licensee be allowed to resume professional practice.

(c-5) In enforcing this Act, the Department, upon a showing of a possible violation, may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine in all its branches. Failure of an individual to submit to a mental or physical examination, when directed, shall result in an automatic suspension without hearing.

A person holding a license under this Act or who has applied for a license under this Act who, because of a physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of motor skill,

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

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

An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to

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

(d) (Blank). ~~In enforcing this Section, the Board, upon a showing of a possible violation, may compel a licensee or applicant to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physicians or clinical psychologists shall be those specifically designated by the Board. The Board or the Department may order (i) the examining physician to present testimony concerning the mental or physical examination of a licensee or applicant or (ii) the examining clinical psychologist to present testimony concerning the mental examination of a licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between a licensee or applicant and the examining physician or clinical psychologist. An individual to be examined may have, at his or her own expense, another physician or clinical psychologist of his or her choice present during all aspects of the examination. Failure of an individual to submit to a mental or physical examination, when directed, is grounds for suspension of his or her license. The license must remain suspended until the person submits to the examination or the Board finds, after notice and hearing, that the refusal to submit to the examination was with reasonable cause.~~

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

~~Any individual whose license was granted, continued, reinstated, or renewed subject to conditions, terms, or restrictions, as provided for in this Section, or any individual who was disciplined or placed on supervision pursuant to this Section must be referred to the Director for a determination as to whether the person shall have his or her license suspended immediately, pending a hearing by the Board.~~

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

(225 ILCS 107/85)

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

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

(a) If any person violates the provisions of this Act, the Secretary ~~Director~~ may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois or the State's Attorney of the county in which the

violation is alleged to have occurred, petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section are in addition to all other remedies and penalties provided by this Act.

(b) If any person holds himself or herself out as being a licensed professional counselor or licensed clinical professional counselor under this Act and is not licensed to do so, then any licensed professional counselor, licensed clinical professional counselor, interested party, or any person injured thereby may petition for relief as provided in subsection (a) of this Section.

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

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

(225 ILCS 107/90)

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

Sec. 90. Investigations; notice and hearing. The Department may investigate the actions of any applicant or any person holding or claiming to hold a license. The Department shall, before refusing to issue or renew a license or disciplining a licensee ~~revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action~~ under Section 80 of this Act, at least 30 days prior to the date set for the hearing, (i) notify the accused, in writing, of any charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Board under oath within 20 days after the service ~~on him or her~~ of the notice, and (iii) inform the applicant or licensee ~~accused~~ that failure, if he or she fails to file an answer shall result in, default ~~being~~ will be taken against the applicant or licensee. At the time and place fixed in the notice, the Department shall proceed to hear the charges, and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to answer, his or her license, may, in the discretion of the Department, be revoked,

suspended, placed on probationary status, or the Department may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under the Act. The written notice and any notice in the subsequent proceeding may be served by registered or certified mail to the licensee's address of record. ~~him or her or that his or her license or certificate may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license or certificate, including limiting the scope, nature, or extent of his or her practice, as the Department may deem proper. In case the person, after receiving notice, fails to file an answer, his or her license may, in the discretion of the Department, be suspended, revoked, placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. The written notice may be served by personal delivery or certified mail to the address specified by the accused in his or her last notification to the Department.~~

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

Sec. 93. Confidentiality. All information collected by the Department in the course of an examination or investigation of a licensee or applicant, including, but not limited to, any complaint against a licensee filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.

(225 ILCS 107/95)

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

Sec. 95. Record of proceedings; transcript. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. The notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcript of testimony, the report of the Board and orders of

the Department shall be in the record of such proceeding. ~~The Department shall furnish a transcript of the record to any person interested in the hearing upon payment of the fee required under Section 2105-115 of the Department of Professional Regulation Law (20 ILCS 2105/2105-115).~~

(Source: P.A. 91-239, eff. 1-1-00.)

(225 ILCS 107/100)

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

Sec. 100. Subpoenas; ~~depositions;~~ oaths. The Department has the power to subpoena and ~~to~~ bring before it any person ~~and~~ to take the oral or written testimony or compel the production of any books, papers, records, or any other documents that the Secretary or his or her designee deems relevant or material to any investigation or hearing conducted by the Department either ~~orally or by deposition, or both,~~ with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State.

The Secretary ~~Director,~~ the designated hearing officer, any and every member of the Board, or a certified shorthand court reporter may ~~has the power to~~ administer oaths ~~to witnesses~~ at any hearing which the Department conducts ~~is authorized to conduct,~~ and any other oaths authorized in any Act administered by the Department. Notwithstanding any other statute or Department rules to the contrary, all requests for testimony, production of documents, or records shall be in

accordance with this Act.

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

(225 ILCS 107/105)

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

Sec. 105. Compelling testimony. Any circuit court, upon application of the Department, ~~designated hearing officer,~~ or the ~~applicant or licensee against whom proceedings under Section 80 of this Act are pending,~~ may enter an order requiring the attendance of witnesses and their testimony and the production of relevant documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

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

(225 ILCS 107/110)

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

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

The report of findings of fact, conclusions of law, and recommendation of the Board shall be the basis for the Department's order for refusing to issue, restore, or renew a license, or otherwise discipline a licensee ~~refusal or for the granting of the license~~. If the Secretary ~~Director~~ disagrees with the recommendations of the Board, the Secretary ~~Director~~ may issue an order in contravention of the Board recommendations. ~~The Director shall provide a written report to the Board on any disagreement and shall specify the reasons for the action in the final order.~~ The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and findings are not a bar to a criminal prosecution brought for the violation of this Act.

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

(225 ILCS 107/115)

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

Sec. 115. Motion for Board, rehearing. In any hearing involving the refusal to issue or renew a license, or the discipline of a licensee ~~At the conclusion of the hearing,~~ a copy of the Board's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after such service, the applicant or licensee may present to the Department a motion in writing for a rehearing which

shall specify the particular grounds for rehearing. If no motion for a rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial, the Secretary ~~Director~~ may enter an order in accordance with recommendations of the Board, except as provided in Section 120 of this Act. If the applicant or licensee requests and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

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

(225 ILCS 107/120)

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

Sec. 120. Order for ~~Director,~~ rehearing. Whenever the Secretary is not satisfied that substantial ~~Director believes~~ justice has ~~not~~ been done in the revocation, suspension or refusal to issue or renew a license or the discipline of a licensee, the Secretary ~~he or she~~ may order a rehearing by the same or other hearing officers.

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

(225 ILCS 107/125)

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

Sec. 125. Appointment of a hearing officer. The Secretary

~~Director~~ has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew a license or permit or to discipline a licensee. The hearing officer has full authority to conduct the hearing. ~~At least one member of the Board shall attend each hearing.~~ The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board and to the Secretary ~~Director~~. The Board shall have 60 calendar days from receipt of the report to review it and to present its findings of fact, conclusions of law and recommendation to the Secretary ~~Director~~. If the Board does not present its report within the 60 day period, the Secretary ~~Director~~ may issue an order based on the report of the hearing officer. If the Secretary ~~Director~~ disagrees with the recommendation of the Board or of the hearing officer, the Secretary ~~Director~~ may issue an order in contravention of the recommendation. ~~The Director shall promptly provide a written explanation to the Board on any such disagreement.~~

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

(225 ILCS 107/130)

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

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

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

(b) the Secretary ~~The Director~~ is duly appointed and qualified. ~~;~~ and

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

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

(225 ILCS 107/135)

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

Sec. 135. Restoration of ~~suspended or revoked~~ license from discipline. At any time after the successful completion of a term of indefinite probation, suspension, or revocation of a license, the Department may restore the license to the licensee, unless, after an investigation and a hearing, the Secretary determines that restoration is not in the public interest or that the licensee has not been sufficiently rehabilitated to warrant the public trust. No person or entity whose license, certificate, or authority has been revoked as authorized in this Act may apply for restoration of that license, certification, or authority until such time as provided for in Article 2105 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois ~~suspension or revocation of any license, the Department may restore it to the licensee upon the written recommendation of the Board, unless after an investigation and hearing the Board determines that restoration is not in the public interest.~~

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

(225 ILCS 107/145)

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

Sec. 145. Summary suspension of license. The Secretary ~~Director~~ may summarily suspend the license of a professional counselor or a clinical professional counselor without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 90 of this Act, if the Secretary ~~Director~~ finds that the evidence ~~in the possession of the Director~~ indicates that the continuation of practice by the professional counselor or clinical professional counselor would constitute an imminent danger to the public. In the event that the Secretary ~~Director~~ summarily suspends the license of an individual without a hearing, a hearing must be commenced ~~held~~ within 30 days after the suspension has occurred and shall be concluded as expeditiously as possible.

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

(225 ILCS 107/155)

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

Sec. 155. Certification of record; costs. The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding, unless and until the Department has received from the plaintiff ~~there is filed in the court,~~

~~with the complaint, a receipt from the Department acknowledging~~
payment of the costs of furnishing and certifying the record,
which costs shall be determined by the Department. Exhibits
shall be certified without cost. Failure on the part of the
plaintiff to file the receipt in court is grounds for dismissal
of the action.

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

(225 ILCS 107/160)

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

Sec. 160. Violations.

(a) Unless otherwise specified, any person found to have
violated any Section provision of this Act other than this
Section is guilty of a Class A misdemeanor for the first
offense.

(b) Each of the following acts is a Class A misdemeanor for
the first offense and a Class 4 felony for a second or
subsequent offense:

(1) the making of any willfully false oath or
affirmation in any matter or proceeding where an oath or
affirmation is required by this Act;

(2) using or attempting to use an inactive, suspended,
or revoked license or the license of another, impersonating
another licensee, or practicing clinical professional
counseling or professional counseling as defined by this
Act, or using the title "clinical professional counselor"

or "professional counselor" while one's license is inactive, suspended, or revoked;

(3) the practice, attempt to practice, or offer to practice clinical professional counseling or professional counseling as defined by this Act, without the appropriate license; each day of practicing or attempting to practice, and each instance of offering to practice, without the appropriate license constitutes a separate offense;

(4) advertising or displaying any sign or card or other device that might indicate to the public that the person or entity is entitled to practice as a licensed professional counselor or licensed clinical professional counselor, unless that person holds an active license as a licensed professional counselor or licensed clinical professional counselor; and

(5) obtaining or attempting to obtain a license by fraud.

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

(225 ILCS 107/165)

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

Sec. 165. Administrative Procedure Act; application. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated in this Act as if all of the provisions of such Act were included in this Act, except that the provisions of subsection (d) of Section 10-65 of the

Illinois Administrative Procedure Act that provides that at hearings the clinical professional counselor or professional counselor has the right to show compliance with all lawful requirements for retention, continuation, or renewal of the license is specifically excluded. For the purposes of this Act the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed to the last known address of record of a party.

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

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

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

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

(a) "Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources.

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

Nothing in this Act shall be construed to mean that an

eligible adult is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

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

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

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

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

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

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

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

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

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

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

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

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

(6) (Blank);

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

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

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

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

(f) "Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or

physical, mental or sexual injury and the provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk.

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

(1) a professional or professional's delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietetic and Nutrition Services Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nurse Practice Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and

the Illinois Public Accounting Act;

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

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

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

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

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

(7) any employee of the State of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical

or rehabilitation services and all other persons having direct contact with eligible adults;

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

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

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

(h) "Provider agency" means any public or nonprofit agency in a planning and service area appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation.

(i) "Regional administrative agency" means any public or nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency on Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service

area where another agency is not so designated.

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

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

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

Section 15. The Unified Code of Corrections is amended by changing Section 5-5-5 as follows:

(730 ILCS 5/5-5-5) (from Ch. 38, par. 1005-5-5)

Sec. 5-5-5. Loss and Restoration of Rights.

(a) Conviction and disposition shall not entail the loss by the defendant of any civil rights, except under this Section and Sections 29-6 and 29-10 of The Election Code, as now or hereafter amended.

(b) A person convicted of a felony shall be ineligible to hold an office created by the Constitution of this State until the completion of his sentence.

(c) A person sentenced to imprisonment shall lose his right to vote until released from imprisonment.

(d) On completion of sentence of imprisonment or upon discharge from probation, conditional discharge or periodic imprisonment, or at any time thereafter, all license rights and privileges granted under the authority of this State which have been revoked or suspended because of conviction of an offense shall be restored unless the authority having jurisdiction of such license rights finds after investigation and hearing that restoration is not in the public interest. This paragraph (d) shall not apply to the suspension or revocation of a license to operate a motor vehicle under the Illinois Vehicle Code.

(e) Upon a person's discharge from incarceration or parole, or upon a person's discharge from probation or at any time thereafter, the committing court may enter an order certifying that the sentence has been satisfactorily completed when the court believes it would assist in the rehabilitation of the

person and be consistent with the public welfare. Such order may be entered upon the motion of the defendant or the State or upon the court's own motion.

(f) Upon entry of the order, the court shall issue to the person in whose favor the order has been entered a certificate stating that his behavior after conviction has warranted the issuance of the order.

(g) This Section shall not affect the right of a defendant to collaterally attack his conviction or to rely on it in bar of subsequent proceedings for the same offense.

(h) No application for any license specified in subsection (i) of this Section granted under the authority of this State shall be denied by reason of an eligible offender who has obtained a certificate of relief from disabilities, as defined in Article 5.5 of this Chapter, having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when the finding is based upon the fact that the applicant has previously been convicted of one or more criminal offenses, unless:

(1) there is a direct relationship between one or more of the previous criminal offenses and the specific license sought; or

(2) the issuance of the license would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

In making such a determination, the licensing agency shall

consider the following factors:

(1) the public policy of this State, as expressed in Article 5.5 of this Chapter, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses;

(2) the specific duties and responsibilities necessarily related to the license being sought;

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

(4) the time which has elapsed since the occurrence of the criminal offense or offenses;

(5) the age of the person at the time of occurrence of the criminal offense or offenses;

(6) the seriousness of the offense or offenses;

(7) any information produced by the person or produced on his or her behalf in regard to his or her rehabilitation and good conduct, including a certificate of relief from disabilities issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified in the certificate; and

(8) the legitimate interest of the licensing agency in protecting property, and the safety and welfare of specific individuals or the general public.

(i) A certificate of relief from disabilities shall be

issued only for a license or certification issued under the following Acts:

(1) the Animal Welfare Act; except that a certificate of relief from disabilities may not be granted to provide for the issuance or restoration of a license under the Animal Welfare Act for any person convicted of violating Section 3, 3.01, 3.02, 3.03, 3.03-1, or 4.01 of the Humane Care for Animals Act or Section 26-5 of the Criminal Code of 1961;

(2) the Illinois Athletic Trainers Practice Act;

(3) the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985;

(4) the Boiler and Pressure Vessel Repairer Regulation Act;

(5) the Boxing and Full-contact Martial Arts Act;

(6) the Illinois Certified Shorthand Reporters Act of 1984;

(7) the Illinois Farm Labor Contractor Certification Act;

(8) the Interior Design Title Act;

(9) the Illinois Professional Land Surveyor Act of 1989;

(10) the Illinois Landscape Architecture Act of 1989;

(11) the Marriage and Family Therapy Licensing Act;

(12) the Private Employment Agency Act;

(13) the Professional Counselor and Clinical

Professional Counselor Licensing and Practice Act;

(14) the Real Estate License Act of 2000;

(15) the Illinois Roofing Industry Licensing Act;

(16) the Professional Engineering Practice Act of 1989;

(17) the Water Well and Pump Installation Contractor's License Act;

(18) the Electrologist Licensing Act;

(19) the Auction License Act;

(20) the Illinois Architecture Practice Act of 1989;

(21) the Dietetic and Nutrition Services Practice Act;

(22) the Environmental Health Practitioner Licensing Act;

(23) the Funeral Directors and Embalmers Licensing Code;

(24) the Land Sales Registration Act of 1999;

(25) the Professional Geologist Licensing Act;

(26) the Illinois Public Accounting Act; and

(27) the Structural Engineering Practice Act of 1989.

(Source: P.A. 96-1246, eff. 1-1-11; 97-119, eff. 7-14-11.)

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