



Sen. Iris Y. Martinez

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LRB100 05735 SMS 26715 a

1 AMENDMENT TO HOUSE BILL 3450

2 AMENDMENT NO. _____. Amend House Bill 3450 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Regulatory Sunset Act is amended by
5 changing Section 4.28 and by adding Section 4.38 as follows:

6 (5 ILCS 80/4.28)

7 Sec. 4.28. Acts repealed on January 1, 2018. The following
8 Acts are repealed on January 1, 2018:

9 The Illinois Petroleum Education and Marketing Act.

10 ~~The Podiatric Medical Practice Act of 1987.~~

11 The Acupuncture Practice Act.

12 The Illinois Speech-Language Pathology and Audiology
13 Practice Act.

14 The Interpreter for the Deaf Licensure Act of 2007.

15 The Nurse Practice Act.

16 The Clinical Social Work and Social Work Practice Act.

1 The Pharmacy Practice Act.

2 ~~The Home Medical Equipment and Services Provider License~~
3 ~~Act.~~

4 The Marriage and Family Therapy Licensing Act.

5 The Nursing Home Administrators Licensing and Disciplinary
6 Act.

7 The Physician Assistant Practice Act of 1987.

8 (Source: P.A. 95-187, eff. 8-16-07; 95-235, eff. 8-17-07;
9 95-450, eff. 8-27-07; 95-465, eff. 8-27-07; 95-617, eff.
10 9-12-07; 95-639, eff. 10-5-07; 95-687, eff. 10-23-07; 95-689,
11 eff. 10-29-07; 95-703, eff. 12-31-07; 95-876, eff. 8-21-08;
12 96-328, eff. 8-11-09.)

13 (5 ILCS 80/4.38 new)

14 Sec. 4.38. Acts repealed on January 1, 2028. The following
15 Acts are repealed on January 1, 2028:

16 The Home Medical Equipment and Services Provider License
17 Act.

18 The Podiatric Medical Practice Act of 1987.

19 Section 10. The Home Medical Equipment and Services
20 Provider License Act is amended by changing Sections 10, 15,
21 20, 25, 30, 75, 95, 100, 110, 115, 125, 135, 150, and 165 and by
22 adding Sections 13 and 185 as follows:

23 (225 ILCS 51/10)

1 (Section scheduled to be repealed on January 1, 2018)

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

3 (1) "Department" means the Department of Financial and
4 Professional Regulation.

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

7 (3) "Board" means the Home Medical Equipment and
8 Services Board.

9 (4) "Home medical equipment and services provider" or
10 "provider" means a legal entity, as defined by State law,
11 engaged in the business of providing home medical equipment
12 and services, whether directly or through a contractual
13 arrangement, to an unrelated sick individual or an
14 unrelated individual with a disability where that
15 individual resides.

16 (5) "Home medical equipment and services" means the
17 delivery, installation, maintenance, replacement, or
18 instruction in the use of medical equipment used by a sick
19 individual or an individual with a disability to allow the
20 individual to be maintained in his or her residence.

21 (6) "Home medical equipment" means technologically
22 sophisticated medical devices, apparatuses, machines, or
23 other similar articles bearing a label that states
24 "Caution: federal law requires dispensing by or on the
25 order of a physician.", which are usable in a home care
26 setting, including but not limited to:

- 1 (A) oxygen and oxygen delivery systems;
2 (B) ventilators;
3 (C) respiratory disease management devices,
4 excluding compressor driven nebulizers;
5 (D) wheelchair seating systems;
6 (E) apnea monitors;
7 (F) transcutaneous electrical nerve stimulator
8 (TENS) units;
9 (G) low air-loss cutaneous pressure management
10 devices;
11 (H) sequential compression devices;
12 (I) neonatal home phototherapy devices;
13 (J) enteral feeding pumps; and
14 (K) other similar equipment as defined by the
15 Board.

16 "Home medical equipment" also includes hospital beds
17 and electronic and computer-driven wheelchairs, excluding
18 scooters.

19 (7) "Address of record" means the designated address
20 recorded by the Department in the applicant's or licensee's
21 application file or license file maintained by the
22 Department's licensure maintenance unit. ~~It is the duty of~~
23 ~~the applicant or licensee to inform the Department of any~~
24 ~~change of address, and such changes must be made either~~
25 ~~through the Department's website or by contacting the~~
26 ~~Department's licensure maintenance unit.~~

1 (8) "Email address of record" means the designated
2 email address recorded by the Department in the applicant's
3 application file or the licensee's license file, as
4 maintained by the Department's licensure maintenance unit.

5 (Source: P.A. 99-143, eff. 7-27-15.)

6 (225 ILCS 51/13 new)

7 Sec. 13. Address of record; email address of record. All
8 applicants and licensees shall:

9 (1) provide a valid address and email address to the
10 Department, which shall serve as the address of record and
11 email address of record, respectively, at the time of
12 application for licensure or renewal of a license; and

13 (2) inform the Department of any change of address of
14 record or email address of record within 14 days after such
15 change either through the Department's website or by
16 contacting the Department's licensure maintenance unit.

17 (225 ILCS 51/15)

18 (Section scheduled to be repealed on January 1, 2018)

19 Sec. 15. Licensure requirement; exempt activities.

20 (a) No entity shall provide or hold itself out as providing
21 home medical equipment and services, or use the title "home
22 medical equipment and services provider" in connection with his
23 or her profession or business, without a license issued by the
24 Department under this Act.

1 (b) Nothing in this Act shall be construed as preventing or
2 restricting the practices, services, or activities of the
3 following, unless those practices, services, or activities
4 include providing home medical equipment and services through a
5 separate legal entity:

6 (1) a person licensed or registered in this State by
7 any other law engaging in the profession or occupation for
8 which he or she is licensed or registered;

9 (2) a home medical services provider entity that is
10 accredited under home care standards by a recognized
11 accrediting body;

12 (3) home health agencies that do not have a Part B
13 Medicare supplier number or that do not engage in the
14 provision of home medical equipment and services;

15 (4) hospitals, excluding hospital-owned and
16 hospital-related providers of home medical equipment and
17 services;

18 (5) manufacturers and wholesale distributors of home
19 medical equipment who do not sell directly to a patient;

20 (6) health care practitioners who lawfully prescribe
21 or order home medical equipment and services, or who use
22 home medical equipment and services to treat their
23 patients, including but not limited to physicians, nurses,
24 physical therapists, respiratory therapists, occupational
25 therapists, speech-language pathologists, optometrists,
26 chiropractors, and podiatric physicians;

1 (7) pharmacists, pharmacies, and home infusion
2 pharmacies that are not engaged in the sale or rental of
3 home medical equipment and services;

4 (8) hospice programs that do not involve the sale or
5 rental of home medical equipment and services;

6 (9) nursing homes;

7 (10) veterinarians;

8 (11) dentists; and

9 (12) emergency medical service providers.

10 (Source: P.A. 98-214, eff. 8-9-13.)

11 (225 ILCS 51/20)

12 (Section scheduled to be repealed on January 1, 2018)

13 Sec. 20. Powers and duties of the Department.

14 (a) The Department shall exercise the powers and duties
15 prescribed by the Civil Administrative Code of Illinois for the
16 administration of licensure Acts and shall exercise other
17 powers and duties necessary for effectuating the purposes of
18 this Act.

19 (b) The Department may adopt rules to administer and
20 enforce this Act, including but not limited to fees for
21 original licensure and renewal and restoration of licenses, and
22 may prescribe forms to be issued to implement this Act. At a
23 minimum, the rules adopted by the Department shall include
24 standards and criteria for licensure and for professional
25 conduct and discipline. The Department may ~~shall~~ consult with

1 the Board in adopting rules. ~~Notice of proposed rulemaking~~
2 ~~shall be transmitted to the Board, and the Department shall~~
3 ~~review the Board's response and any recommendations made in the~~
4 ~~response. The Department shall notify the Board in writing with~~
5 ~~proper explanation of deviations from the Board's~~
6 ~~recommendations and response.~~

7 (c) The Department may at any time seek the advice and
8 expert knowledge of the Board on any matter relating to the
9 administration of this Act.

10 (d) (Blank).

11 (Source: P.A. 95-703, eff. 12-31-07.)

12 (225 ILCS 51/25)

13 (Section scheduled to be repealed on January 1, 2018)

14 Sec. 25. Home Medical Equipment and Services Board. The
15 Secretary shall appoint a Home Medical Equipment and Services
16 Board, in consultation with a state association representing
17 the home medical equipment and services industry, to serve in
18 an advisory capacity to the Secretary. The Board shall consist
19 of 7 members. Four members shall be home medical equipment and
20 services provider representatives, at least one of whom shall
21 be a pharmacy-based provider. The 3 remaining members shall
22 include one home care clinical specialist, one respiratory care
23 practitioner, and one public member. The public member shall
24 not be engaged in any way, directly or indirectly, as a
25 provider of health care.

1 Members shall serve 4-year ~~4-year~~ terms and until their
2 successors are appointed and qualified. No member shall be
3 reappointed to the Board for a term that would cause continuous
4 service on the Board to exceed 8 years. Appointments to fill
5 vacancies shall be made in the same manner as original
6 appointments, for the unexpired portion of the vacated term.

7 The home medical equipment and services provider
8 representatives appointed to the Board shall have engaged in
9 the provision of home medical equipment and services or related
10 home care services for at least 3 years prior to their
11 appointment, shall be currently engaged in providing home
12 medical equipment and services in the State of Illinois, and
13 must have no record of convictions related to fraud or abuse
14 under either State or federal law.

15 The membership of the Board should reasonably reflect
16 representation from the geographic areas in this State.

17 The Board shall annually elect one of its members as
18 chairperson and vice chairperson.

19 Each Board member shall be paid his or her necessary
20 expenses while engaged in the performance of his or her duties.

21 ~~Members of the Board shall receive as compensation a reasonable~~
22 ~~sum as determined by the Secretary for each day actually~~
23 ~~engaged in the duties of the office, and shall be reimbursed~~
24 ~~for authorized expenses incurred in performing the duties of~~
25 ~~the office.~~

26 The Secretary may terminate the appointment of any member

1 for cause which in the opinion of the Secretary reasonably
2 justifies the termination. The Secretary shall be the sole
3 arbiter of whether the cause reasonably justifies termination.

4 Members of the Board shall be immune from suit in an action
5 based upon any disciplinary proceedings or other activities
6 performed in good faith as members of the Board.

7 A majority of Board members currently appointed shall
8 constitute a quorum. A vacancy in the membership of the Board
9 shall not impair the rights of a quorum to exercise the rights
10 and perform all of the duties of the Board.

11 (Source: P.A. 95-703, eff. 12-31-07.)

12 (225 ILCS 51/30)

13 (Section scheduled to be repealed on January 1, 2018)

14 Sec. 30. Application for original licensure. Applications
15 for original licensure shall be made to the Department in
16 writing or electronically and signed by the applicant on forms
17 prescribed by the Department or by electronic form and shall be
18 accompanied by a nonrefundable fee set by rule of the
19 Department. The Department may require from an applicant
20 information that, in its judgment, will enable the Department
21 to pass on the qualifications of the applicant for licensure.

22 An applicant has 3 years from the date of application to
23 complete the application process. If the process has not been
24 completed in 3 years, the application shall be denied, the fee
25 shall be forfeited, and the applicant must reapply and meet the

1 requirements in effect at the time of reapplication.

2 (Source: P.A. 90-532, eff. 11-14-97.)

3 (225 ILCS 51/75)

4 (Section scheduled to be repealed on January 1, 2018)

5 Sec. 75. Refused issuance, suspension, ~~or~~ revocation, or
6 other discipline of license.

7 (a) The Department may refuse to issue, renew, or restore a
8 license, or may revoke, suspend, place on probation, reprimand,
9 impose a fine not to exceed \$10,000 for each violation, or take
10 other disciplinary or non-disciplinary action as the
11 Department may deem proper with regard to a licensee for any
12 one or combination of the following reasons:

13 (1) Making a material misstatement in furnishing
14 information to the Department.

15 (2) Violation of this Act or its rules.

16 (3) Conviction of the licensee or any owner or officer
17 of the licensee by plea of guilty or nolo contendere,
18 finding of guilt, jury verdict, or entry of judgment or by
19 sentencing for any crime, including, but not limited to,
20 convictions, preceding sentences of supervision,
21 conditional discharge, or first offender probation, under
22 the laws of any jurisdiction of the United States that (i)
23 is a felony under the laws of this State or (ii) is a
24 misdemeanor, an essential element of which is dishonesty,
25 or that is directly related to the home medical and

1 ~~equipment services. Conviction of or entry of a plea of~~
2 ~~guilty or nolo contendere to any crime that is a felony~~
3 ~~under the laws of the United States or any state or~~
4 ~~territory thereof or a misdemeanor, an essential element of~~
5 ~~which is dishonesty or that is directly related to the~~
6 ~~practice of the profession.~~

7 (4) Making a misrepresentation to obtain licensure or
8 to violate a provision of this Act.

9 (5) Gross negligence in practice under this Act.

10 (6) Engaging in a pattern of practice or other behavior
11 that demonstrates incapacity or incompetence to practice
12 under this Act.

13 (7) Aiding, assisting, or willingly permitting another
14 person in violating any provision of this Act or its rules.

15 (8) Failing, within 30 days, to provide information in
16 response to a written request made by the Department.

17 (9) Engaging in dishonorable, unethical, or
18 unprofessional conduct of a character likely to deceive,
19 defraud, or harm the public.

20 (10) Adverse action taken ~~Discipline~~ by another state,
21 District of Columbia, territory, or foreign nation, if at
22 least one of the grounds for the discipline is the same or
23 substantially equivalent to one set forth in this Act.

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

1 for any services not actually or personally rendered.

2 (12) A finding that the licensee, after having its
3 license placed on probationary status, has violated the
4 terms of probation.

5 (13) Willfully making or filing false records or
6 reports in the course of providing home medical equipment
7 and services, including but not limited to false records or
8 reports filed with State agencies or departments.

9 (14) Solicitation of business services, other than
10 according to permitted advertising.

11 (15) The use of any words, abbreviations, figures, or
12 letters with the intention of indicating practice as a home
13 medical equipment and services provider without a license
14 issued under this Act.

15 (16) Failure to file a return, or to pay the tax,
16 penalty, or interest shown in a filed return, or to pay any
17 final assessment of tax, penalty, or interest, as required
18 by any tax Act administered by the Department of Revenue,
19 until such time as the requirements of any such tax Act are
20 satisfied.

21 (17) Failure to comply with federal or State laws and
22 regulations concerning home medical equipment and services
23 providers.

24 (18) Solicitation of professional services using false
25 or misleading advertising.

26 (19) Failure to display a license in accordance with

1 Section 45.

2 (20) Habitual or excessive use or addiction to alcohol,
3 narcotics, stimulants, or any other chemical agent or drug
4 that results in the inability to practice with reasonable
5 judgment, skill, or safety by an owner or officer of the
6 licensee.

7 (21) Physical illness, mental illness, or disability,
8 including without limitation deterioration through the
9 aging process and loss of motor skill, that results in the
10 inability to practice the profession with reasonable
11 judgment, skill, or safety by an owner or officer of the
12 licensee.

13 All fines imposed under this Section shall be paid within
14 60 days after the effective date of the order imposing the fine
15 or in accordance with the terms set forth in the order imposing
16 the fine.

17 (Source: P.A. 95-703, eff. 12-31-07.)

18 (225 ILCS 51/95)

19 (Section scheduled to be repealed on January 1, 2018)

20 Sec. 95. Investigations; notice and hearing.

21 (a) The Department may investigate the actions of an
22 applicant or of an entity holding or claiming to hold a
23 license.

24 (b) The Department shall, before refusing to issue or renew
25 a license or disciplining a licensee, at least 30 days prior to

1 the date set for the hearing, notify in writing the applicant
2 or licensee of the nature of the charges and that a hearing
3 will be held on the date designated. The Department shall
4 direct the applicant or licensee to file a written answer to
5 the Board under oath within 20 days after the service of the
6 notice and inform the applicant or licensee that failure to
7 file an answer will result in default being taken against the
8 applicant or licensee and that the license may be suspended,
9 revoked, placed on probationary status, or other disciplinary
10 action may be taken, including limiting the scope, nature, or
11 extent of business, as the Secretary may deem proper. Written
12 notice may be served by personal delivery, ~~or certified or~~
13 ~~registered~~ mail to the applicant or licensee at his or her
14 address of record, or email to the applicant or licensee's
15 email address of record. If the entity fails to file an answer
16 after receiving notice, the entity's license may, in the
17 discretion of the Department, be suspended, revoked, or placed
18 on probationary status, or the Department may take whatever
19 disciplinary or non-disciplinary action it deems proper,
20 including limiting the scope, nature, or extent of the entity's
21 business, or imposing a fine, without a hearing, if the act or
22 acts charged constitute sufficient grounds for such action
23 under this Act. At the time and place fixed in the notice, the
24 Board shall proceed to hear the charges, and the parties or
25 their counsel shall be accorded ample opportunity to present
26 such statements, testimony, evidence, and argument as may be

1 pertinent to the charges or to their defense. The Board may
2 continue a hearing from time to time.

3 (c) An individual or organization acting in good faith, and
4 not in a willful and wanton manner, by participating in
5 proceedings of the Board, or by serving as a member of the
6 Board, shall not, as a result of such actions, be subject to
7 criminal prosecution or civil damages.

8 (d) Members of the Board shall be indemnified by the State
9 for any actions occurring within the scope of services on the
10 Board, done in good faith and not willful and wanton in nature.
11 The Attorney General shall defend all such actions unless he or
12 she determines either that there would be a conflict of
13 interest in such representation or that the actions complained
14 of were not in good faith or were willful and wanton.

15 If the Attorney General declines representation, the
16 member has the right to employ counsel of his or her choice,
17 whose fees shall be provided by the State, after approval by
18 the Attorney General, unless there is a determination by a
19 court that the member's actions were not in good faith or were
20 willful and wanton.

21 The member must notify the Attorney General within 7 days
22 after receipt of notice of the initiation of any action
23 involving services of the Board. Failure to so notify the
24 Attorney General shall constitute an absolute waiver of the
25 right to a defense and indemnification.

26 The Attorney General shall determine, within 7 days after

1 receiving such notice, whether he or she will undertake to
2 represent the member.

3 (Source: P.A. 95-703, eff. 12-31-07.)

4 (225 ILCS 51/100)

5 (Section scheduled to be repealed on January 1, 2018)

6 Sec. 100. Shorthand reporter ~~Stenographer~~; transcript. The
7 Department, at its expense, shall provide a shorthand reporter
8 to take down the testimony and preserve a record of all
9 proceedings at the formal hearing of any case involving the
10 refusal to issue or renew a license or the discipline of a
11 licensee. The notice of hearing, complaint, and all other
12 documents in the nature of pleadings, written motions filed in
13 the proceedings, the transcript of testimony, the report of the
14 Board, and the order of the Department shall be the record of
15 the proceeding.

16 (Source: P.A. 90-532, eff. 11-14-97.)

17 (225 ILCS 51/110)

18 (Section scheduled to be repealed on January 1, 2018)

19 Sec. 110. Findings and recommendations. At the conclusion
20 of the hearing the Board shall present to the Secretary a
21 written report of its findings and recommendations. The report
22 shall contain a finding of whether or not the accused entity
23 violated this Act or failed to comply with the conditions
24 required in this Act. The Board shall specify the nature of the

1 violation or failure to comply, and shall make its
2 recommendations to the Secretary.

3 The report of findings of fact, conclusions of law, and
4 recommendation of the Board shall be the basis for the
5 Department's order for refusing to issue, restore, or renew a
6 license, or otherwise disciplining a licensee, or for the
7 granting of a license. If the Secretary disagrees with the
8 report, findings of fact, conclusions of law, and
9 recommendations of the Board, the Secretary may issue an order
10 in contravention of the Board's recommendations. ~~The report of~~
11 ~~findings and recommendations of the Board may be the basis for~~
12 ~~the Department's order of refusal or for the granting of~~
13 ~~licensure unless the Secretary shall determine that the Board's~~
14 ~~report is contrary to the manifest weight of the evidence, in~~
15 ~~which case the Secretary may issue an order in contravention of~~
16 ~~the Board's report.~~ The finding is not admissible in evidence
17 against the entity in a criminal prosecution brought for the
18 violation of this Act, but the hearing and finding are not a
19 bar to a criminal prosecution brought for the violation of this
20 Act.

21 (Source: P.A. 95-703, eff. 12-31-07.)

22 (225 ILCS 51/115)

23 (Section scheduled to be repealed on January 1, 2018)

24 Sec. 115. Rehearing on motion. In a case involving the
25 refusal to issue or renew a license or the discipline of a

1 licensee, a copy of the Board's report shall be served upon the
2 respondent by the Department, either personally or as provided
3 in this Act for the service of the notice of hearing. Within 20
4 days after such service, the respondent may present to the
5 Department a motion in writing for a rehearing, which shall
6 specify the particular grounds for the rehearing. If no motion
7 for rehearing is filed, then upon the expiration of the time
8 specified for filing the motion, or if a motion for rehearing
9 is denied, then upon such denial the Secretary may enter an
10 order in accordance with recommendations of the Board except as
11 provided in Sections 110 and Section 120 of this Act.

12 (Source: P.A. 95-703, eff. 12-31-07.)

13 (225 ILCS 51/125)

14 (Section scheduled to be repealed on January 1, 2018)

15 Sec. 125. Hearing officer. The Secretary has the authority
16 to appoint an attorney duly licensed to practice law in the
17 State of Illinois to serve as the hearing officer in an action
18 for refusal to issue or renew a license, or for the discipline
19 of a licensee. ~~The Secretary shall notify the Board of an~~
20 ~~appointment.~~ The hearing officer shall have full authority to
21 conduct the hearing. The hearing officer shall report his or
22 her findings and recommendations to the Board and the
23 Secretary. The Board shall have 60 days from receipt of the
24 report to review the report of the hearing officer and present
25 its findings of fact, conclusions of law and recommendation to

1 the Secretary. If the Board fails to present its report within
2 the 60-day ~~60 day~~ period, the respondent may request in writing
3 a direct appeal to the Secretary, in which case the Secretary
4 ~~may shall, within 7 calendar days after the request, issue an~~
5 ~~order directing the Board to issue its findings of fact,~~
6 ~~conclusions of law, and recommendations to the Secretary within~~
7 ~~30 calendar days after such order. If the Board fails to issue~~
8 ~~its findings of fact, conclusions of law, and recommendations~~
9 ~~within that time frame to the Secretary after the entry of such~~
10 ~~order, the Secretary shall, within 30 calendar days thereafter,~~
11 issue an order based upon the report of the hearing officer and
12 the record of the proceedings or issue an order remanding the
13 matter back to the hearing officer for additional proceedings
14 in accordance with the order. ~~If (i) a direct appeal is~~
15 ~~requested, (ii) the Board fails to issue its findings of fact,~~
16 ~~conclusions of law, and recommendations within the 30 day~~
17 ~~mandate from the Secretary or the Secretary fails to order the~~
18 ~~Board to do so, and (iii) the Secretary fails to issue an order~~
19 ~~within 30 calendar days thereafter, then the hearing officer's~~
20 ~~report is deemed accepted and a final decision of the~~
21 ~~Secretary.~~ Notwithstanding any other provision of this
22 Section, if the Secretary, upon review, determines that
23 substantial justice has not been done in the revocation,
24 suspension, or refusal to issue or renew a license or other
25 disciplinary action taken as the result of the entry of the
26 hearing officer's or Board's report, the Secretary may order a

1 rehearing by the same or other examiners. If the Secretary
2 disagrees in any regard with the report of the Board, the
3 Secretary may issue an order in contravention thereof. ~~If the~~
4 ~~Secretary determines that the Board's report is contrary to the~~
5 ~~manifest weight of the evidence, he or she may issue an order~~
6 ~~in contravention of the Board's report.~~

7 (Source: P.A. 95-703, eff. 12-31-07.)

8 (225 ILCS 51/135)

9 (Section scheduled to be repealed on January 1, 2018)

10 Sec. 135. Restoration of license. At any time after the
11 successful completion of a term of probation, suspension, or
12 revocation of a license, the Department may restore the license
13 to the accused entity upon the written recommendation of the
14 Board unless, after an investigation and a hearing, the Board
15 determines that restoration is not in the public interest.
16 Restoration under this Section requires the filing of all
17 applications and payment of all fees required by the
18 Department.

19 (Source: P.A. 95-703, eff. 12-31-07.)

20 (225 ILCS 51/150)

21 (Section scheduled to be repealed on January 1, 2018)

22 Sec. 150. Administrative Review Law. All final
23 administrative decisions of the Department are subject to
24 judicial review pursuant to the provisions of the

1 Administrative Review Law, ~~as now or hereafter amended, and all~~
2 ~~rules adopted pursuant to that Law.~~ The term "administrative
3 decision" is defined as in Section 3-101 of the Code of Civil
4 Procedure.

5 Proceedings for judicial review shall be commenced in the
6 circuit court of the county in which the party applying for
7 relief resides, but if the party is not a resident of this
8 State, the venue shall be in Sangamon County.

9 The Department shall not be required to certify any record
10 to the court or file any answer in court or otherwise appear in
11 any court in a judicial review proceeding, unless and until the
12 Department has received from the plaintiff payment of the costs
13 of furnishing and certifying the record, which costs shall be
14 determined by the Department. Exhibits shall be certified
15 without cost. Failure on the part of the plaintiff to file a
16 receipt in court shall be grounds for dismissal of the action.
17 During the pendency and hearing of any and all judicial
18 proceedings incident to a disciplinary action, any sanctions
19 imposed upon the respondent by the Department because of acts
20 or omissions related to the delivery of direct patient care as
21 specified in the Department's final administrative decision
22 shall, as a matter of public policy, remain in full force and
23 effect in order to protect the public pending final resolution
24 of any of the proceedings.

25 (Source: P.A. 90-532, eff. 11-14-97.)

1 (225 ILCS 51/165)

2 (Section scheduled to be repealed on January 1, 2018)

3 Sec. 165. Illinois Administrative Procedure Act. The
4 Illinois Administrative Procedure Act is hereby expressly
5 adopted and incorporated in this Act as if all of the
6 provisions of that Act were included in this Act, except that
7 the provision of subsection (d) of Section 10-65 of the
8 Illinois Administrative Procedure Act, which provides that at
9 hearings the license holder has the right to show compliance
10 with all lawful requirements for retention, continuation, or
11 renewal of a license, is specifically excluded. For the
12 purposes of this Act, the notice required under Section 10-25
13 of the Illinois Administrative Procedure Act is deemed
14 sufficient when served personally upon, mailed to the ~~last~~
15 ~~known~~ address of record of, or emailed to the email address of
16 record of a party.

17 (Source: P.A. 90-532, eff. 11-14-97.)

18 (225 ILCS 51/185 new)

19 Sec. 185. Confidentiality. All information collected by
20 the Department in the course of an examination or investigation
21 of a licensee or applicant, including, but not limited to, any
22 complaint against a licensee filed with the Department and
23 information collected to investigate any such complaint, shall
24 be maintained for the confidential use of the Department and
25 shall not be disclosed. The Department may not disclose the

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

11 Section 15. The Podiatric Medical Practice Act of 1987 is
12 amended by changing Sections 3, 5, 7, 12, 14, 15, 19, 24, 26,
13 27, 34, 36, 40, and 42 and by adding Sections 5.5 and 46 as
14 follows:

15 (225 ILCS 100/3) (from Ch. 111, par. 4803)

16 (Section scheduled to be repealed on January 1, 2018)

17 Sec. 3. Exceptions. This Act does not prohibit:

18 (A) Any person licensed in this State under the Medical
19 Practice Act of 1987 from engaging in the practice for
20 which he or she is licensed.

21 (B) The practice of podiatric medicine by a person who
22 is employed by the United States government or any bureau,
23 division or agency thereof while in the discharge of the
24 employee's official duties.

1 (C) The practice of podiatric medicine that is included
2 in their program of study by students enrolled in any
3 approved college of podiatric medicine or in refresher
4 courses approved by the Department.

5 (D) The practice of podiatric medicine by one who has
6 applied in writing or electronically to the Department, in
7 form and substance satisfactory to the Department, for a
8 license as a podiatric physician and has complied with all
9 the provisions under Section 10 of this Act, except the
10 passing of an examination to be eligible to receive such
11 license, until the decision of the Department that the
12 applicant has failed to pass the next available examination
13 authorized by the Department or has failed to take the next
14 available examination authorized by the Department, or the
15 withdrawal of the application.

16 (E) The practice of podiatric medicine by one who is a
17 podiatric physician under the laws of another state,
18 territory of the United States or country as described in
19 Section 18 of this Act, and has applied in writing or
20 electronically to the Department, in form and substance
21 satisfactory to the Department, for a license as a
22 podiatric physician and who is qualified to receive such
23 license under Section 13 or Section 9, until:

24 (1) the expiration of 6 months after the filing of
25 such written application,

26 (2) the withdrawal of such application, or

1 (3) the denial of such application by the
2 Department.

3 (F) The provision of emergency care without fee by a
4 podiatric physician assisting in an emergency as provided
5 in Section 4.

6 An applicant for a license to practice podiatric medicine,
7 practicing under the exceptions set forth in paragraphs (D) or
8 (E), may use the title podiatric physician, podiatrist, doctor
9 of podiatric medicine, or chiropodist as set forth in Section 5
10 of this Act.

11 (Source: P.A. 95-235, eff. 8-17-07; 95-738, eff. 1-1-09.)

12 (225 ILCS 100/5) (from Ch. 111, par. 4805)

13 (Section scheduled to be repealed on January 1, 2018)

14 Sec. 5. Definitions. As used in this Act:

15 (A) "Department" means the Department of Financial and
16 Professional Regulation.

17 (B) "Secretary" means the Secretary of Financial and
18 Professional Regulation.

19 (C) "Board" means the Podiatric Medical Licensing Board
20 appointed by the Secretary.

21 (D) "Podiatric medicine" or "podiatry" means the
22 diagnosis, medical, physical, or surgical treatment of the
23 ailments of the human foot, including amputations as defined in
24 this Section. "Podiatric medicine" or "podiatry" includes the
25 provision of topical and local anesthesia and moderate and deep

1 sedation, as defined by Department rule adopted under the
2 Medical Practice Act of 1987. For the purposes of this Act, the
3 terms podiatric medicine, podiatry and chiropody have the same
4 definition.

5 (E) "Human foot" means the ankle and soft tissue which
6 insert into the foot as well as the foot.

7 (F) "Podiatric physician" means a physician licensed to
8 practice podiatric medicine.

9 (G) "Postgraduate training" means a minimum one-year ~~one~~
10 ~~year~~ postdoctoral structured and supervised educational
11 experience approved by the Council on Podiatric Medical
12 Education of the American Podiatric Medical Association which
13 includes residencies and preceptorships.

14 (H) "Amputations" means amputations of the human foot, in
15 whole or in part, that are limited to 10 centimeters proximal
16 to the tibial talar articulation.

17 (I) "Email address of record" means the designated email
18 address recorded by the Department in the applicant's
19 application file or the licensee's license file, as maintained
20 by the Department's licensure maintenance unit.

21 (J) "Address of record" means the designated address
22 recorded by the Department in the applicant's or licensee's
23 application file or license file as maintained by the
24 Department's licensure maintenance unit.

25 (Source: P.A. 99-635, eff. 1-1-17.)

1 (225 ILCS 100/5.5 new)

2 Sec. 5.5. Address of record; email address of record. All
3 applicants and licensees shall:

4 (1) provide a valid address and email address to the
5 Department, which shall serve as the address of record and
6 email address of record, respectively, at the time of
7 application for licensure or renewal of a license; and

8 (2) inform the Department of any change of address of
9 record or email address of record within 14 days after such
10 change either through the Department's website or by
11 contacting the Department's licensure maintenance unit.

12 (225 ILCS 100/7) (from Ch. 111, par. 4807)

13 (Section scheduled to be repealed on January 1, 2018)

14 Sec. 7. Creation of the Board. The Secretary shall appoint
15 a Podiatric Medical Licensing Board as follows: 5 members must
16 be actively engaged in the practice of podiatric medicine in
17 this State for a minimum of 3 years and one member must be a
18 member of the general public who is not licensed under this Act
19 or a similar Act of another jurisdiction.

20 Members shall serve 3 year terms and serve until their
21 successors are appointed and qualified. No member shall be
22 reappointed to the Board for a term that would cause his or her
23 continuous service on the Board to be longer than 8 successive
24 years.

25 A majority of Board members currently appointed shall

1 constitute a quorum. A vacancy in the membership of the Board
2 shall not impair the right of a quorum to exercise the rights
3 and perform all of the duties of the Board.

4 In making appointments to the Board the Secretary shall
5 give due consideration to recommendations by the Illinois
6 Podiatric Medical Association and shall promptly give due
7 notice to the Illinois Podiatric Medical Association of any
8 vacancy in the membership of the Board.

9 Appointments to fill vacancies shall be made in the same
10 manner as original appointments, for the unexpired portion of
11 the vacated term.

12 The Board shall annually elect a chairperson and
13 vice-chairperson.

14 The membership of the Board should reasonably reflect
15 representation from the geographic areas in this State.

16 Members of the Board shall have no liability ~~be immune from~~
17 ~~suit~~ in any action based upon any disciplinary proceedings or
18 other activity ~~activities~~ performed in good faith as members of
19 the Board.

20 The members of the Board may receive as compensation a
21 reasonable sum as determined by the Secretary for each day
22 actually engaged in the duties of the office, and all
23 legitimate and necessary expenses incurred in attending the
24 meetings of the Board.

25 The Secretary may terminate the appointment of any member
26 for cause that in the opinion of the Secretary reasonably

1 justifies such termination.

2 The Secretary shall consider the recommendations of the
3 Board on questions involving standards of professional
4 conduct, discipline, and qualifications of candidates and
5 licensees under this Act.

6 Notice of proposed rulemaking shall be transmitted to the
7 Board and the Department shall review the response of the Board
8 and any recommendations made in the response. The Department
9 may, at any time, seek the expert advice and knowledge of the
10 Board on any matter relating to the administration or
11 enforcement of this Act.

12 (Source: P.A. 95-235, eff. 8-17-07.)

13 (225 ILCS 100/12) (from Ch. 111, par. 4812)

14 (Section scheduled to be repealed on January 1, 2018)

15 Sec. 12. Temporary license; qualifications and terms.

16 (A) Podiatric physicians otherwise qualified for
17 licensure, with the exception of completion of their
18 postgraduate training and the exception of the successful
19 completion of the written practical examination required under
20 Section 10, may be granted a 3-year temporary license to
21 practice podiatric medicine provided that the applicant can
22 demonstrate that he or she has been accepted and is enrolled in
23 a recognized postgraduate training program during the period
24 for which the temporary license is sought. Such temporary
25 licenses shall be valid for the duration of the program, not to

1 exceed 3 years, provided that the applicant continues in the
2 approved program and is in good standing at the practice site.
3 Such applicants shall apply in writing or electronically on
4 those forms prescribed by the Department and shall submit with
5 the application the required application fee. Other
6 examination fees that may be required under Section 8 must also
7 be paid by temporary licensees.

8 (B) Application for visiting professor permits shall be
9 made to the Department in writing or electronically on forms
10 prescribed by the Department and be accompanied by the required
11 fee. Requirements for a visiting professor permit issued under
12 this Section shall be determined by the Department by rule.
13 Visiting professor permits shall be valid for one year from the
14 date of issuance or until such time as the faculty appointment
15 is terminated, whichever occurs first, and may be renewed once.
16 (Source: P.A. 99-225, eff. 1-1-16.)

17 (225 ILCS 100/14) (from Ch. 111, par. 4814)

18 (Section scheduled to be repealed on January 1, 2018)

19 Sec. 14. Continuing education requirement. Podiatric
20 physicians licensed to practice in Illinois shall, as a
21 requirement for renewal of license, complete continuing
22 education at the rate of at least 50 hours per year. Such hours
23 shall be earned (1) from courses offered by sponsors validated
24 by the Illinois Podiatric Medical Association Continuing
25 Education Committee and approved by the ~~Podiatric Medical~~

1 ~~Licensing~~ Board; or (2) by continuing education activities as
2 defined in the rules of the Department. Podiatric physicians
3 shall, at the request of the Department, provide proof of
4 having met the requirements of continuing education under this
5 Section. The Department shall by rule provide an orderly
6 process for the restoration ~~reinstatement~~ of licenses which
7 have not been renewed due to the licensee's failure to meet
8 requirements of this Section. The requirements of continuing
9 education may be waived by the Secretary, upon recommendation
10 by the Board, in whole or in part for such good cause,
11 including but not limited to illness or hardship, as defined by
12 the rules of the Department.

13 The Department shall establish by rule a means for the
14 verification of completion of the continuing education
15 required by this Section. This verification may be accomplished
16 through audits of records maintained by registrants; by
17 requiring the filing of continuing education certificates with
18 the Department; or by other means established by the
19 Department.

20 (Source: P.A. 95-235, eff. 8-17-07.)

21 (225 ILCS 100/15) (from Ch. 111, par. 4815)

22 (Section scheduled to be repealed on January 1, 2018)

23 Sec. 15. Licenses; renewal; restoration; military service.

24 (A) The expiration date and renewal period for each license
25 issued under this Act shall be set by rule.

1 (B) Any podiatric physician who has permitted his or her
2 license to expire or who has had his license on inactive status
3 may have the license restored by making application to the
4 Department, providing proof of continuing education, and
5 filing proof acceptable to the Department of his or her fitness
6 to have the license restored, which may include evidence of
7 active lawful practice in another jurisdiction satisfactory to
8 the Department and by paying the required restoration fee.

9 (C) If the podiatric physician has not maintained an active
10 practice in another jurisdiction satisfactory to the
11 Department, the ~~Podiatric Medical Licensing~~ Board shall
12 determine, by an evaluation program established by rule his or
13 her fitness to resume active status and may require the
14 podiatric physician to complete an established period of
15 evaluated clinical experience and may require successful
16 completion of the practical examination, as provided by rule.

17 (D) However, any podiatric physician whose license expired
18 while he or she was (1) in Federal Service on active duty with
19 the Armed Forces of the United States or the Veterans
20 Administration or the State Militia called into service or
21 training, or (2) in training or education under the supervision
22 of the United States preliminary to induction into the military
23 service, may have the license renewed or restored without
24 paying any lapsed renewal fees if within 2 years after
25 honorable termination of such service, training or education,
26 except under conditions other than honorable, he or she

1 furnished the Department with satisfactory evidence to the
2 effect that he or she has been so engaged and that his or her
3 service, training or education has been so terminated.

4 (Source: P.A. 90-76, eff. 12-30-97.)

5 (225 ILCS 100/19) (from Ch. 111, par. 4819)

6 (Section scheduled to be repealed on January 1, 2018)

7 Sec. 19. Disciplinary Fund. All fees and fines received by
8 the Department under this Act shall be deposited in the
9 Illinois State Podiatric Disciplinary Fund, a special fund
10 created hereunder in the State Treasury. Of the moneys
11 deposited into the Illinois State Podiatric Disciplinary Fund,
12 during each 2-year renewal period, \$200,000 of the money
13 received from the payment of renewal fees shall be used for
14 podiatric scholarships and residency programs under the
15 Podiatric Scholarship and Residency Act and the remainder shall
16 be appropriated to the Department for expenses of the
17 Department and of the ~~Podiatric Medical Licensing~~ Board and for
18 podiatric scholarships and residency programs under the
19 Podiatric Scholarship and Residency Act.

20 Moneys in the Illinois State Podiatric Disciplinary Fund
21 may be invested and reinvested in investments authorized for
22 the investment of funds of the State Employees' Retirement
23 System of Illinois.

24 All earnings received from such investments shall be
25 deposited in the Illinois State Podiatric Disciplinary Fund and

1 may be used for the same purposes as fees deposited in such
2 fund.

3 Moneys in the Fund may be transferred to the Professions
4 Indirect Cost Fund as authorized under Section 2105-300 of the
5 Department of Professional Regulation Law (20 ILCS
6 2105/2105-300).

7 Moneys set aside for podiatric scholarships and residency
8 programs under the Podiatric Scholarship and Residency Act, as
9 provided for in this Section, may not be transferred under
10 Section 8h of the State Finance Act.

11 Upon the completion of any audit of the Department as
12 prescribed by the Illinois State Auditing Act which includes an
13 audit of the Illinois State Podiatric Disciplinary Fund, the
14 Department shall make the audit open to inspection by any
15 interested person.

16 (Source: P.A. 94-726, eff. 1-20-06.)

17 (225 ILCS 100/24) (from Ch. 111, par. 4824)

18 (Section scheduled to be repealed on January 1, 2018)

19 Sec. 24. Grounds for disciplinary action. The Department
20 may refuse to issue, may refuse to renew, may refuse to
21 restore, may suspend, or may revoke any license, or may place
22 on probation, reprimand or take other disciplinary or
23 non-disciplinary action as the Department may deem proper,
24 including fines not to exceed \$10,000 for each violation upon
25 anyone licensed under this Act for any of the following

1 reasons:

2 (1) Making a material misstatement in furnishing
3 information to the Department.

4 (2) Violations of this Act, or of the rules adopted
5 under this Act ~~or regulations promulgated hereunder.~~

6 (3) Conviction by plea of guilty or nolo contendere,
7 finding of guilt, jury verdict, or entry of judgment or
8 sentencing, including, but not limited to, convictions,
9 preceding sentences of supervision, conditional discharge,
10 or first offender probation, under the laws of any
11 jurisdiction of the United States that is (i) a felony or
12 (ii) a misdemeanor, an essential element of which is
13 dishonesty, or that is directly related to the practice of
14 the profession. ~~Conviction of or entry of a plea of guilty~~
15 ~~or nolo contendere to any crime that is a felony under the~~
16 ~~laws of the United States or any state or territory of the~~
17 ~~United States that is a misdemeanor, of which an essential~~
18 ~~element is dishonesty, or of any crime that is directly~~
19 ~~related to the practice of the profession.~~

20 (4) Making any misrepresentation for the purpose of
21 obtaining licenses, or violating any provision of this Act
22 or the rules promulgated thereunder pertaining to
23 advertising.

24 (5) Professional incompetence.

25 (6) Gross or repeated malpractice or negligence.

26 (7) Aiding or assisting another person in violating any

1 provision of this Act or rules.

2 (8) Failing, within 30 days, to provide information in
3 response to a written request made by the Department.

4 (9) Engaging in dishonorable, unethical or
5 unprofessional conduct of a character likely to deceive,
6 defraud or harm the public.

7 (10) Habitual or excessive use of alcohol, narcotics,
8 stimulants or other chemical agent or drug that results in
9 the inability to practice podiatric medicine with
10 reasonable judgment, skill or safety.

11 (11) Discipline by another United States jurisdiction
12 if at least one of the grounds for the discipline is the
13 same or substantially equivalent to those set forth in this
14 Section.

15 (12) Violation of the prohibition against fee
16 splitting in Section 24.2 of this Act.

17 (13) A finding by the ~~Podiatric Medical Licensing~~ Board
18 that the licensee, after having his or her license placed
19 on probationary status, has violated the terms of
20 probation.

21 (14) Abandonment of a patient.

22 (15) Willfully making or filing false records or
23 reports in his or her practice, including but not limited
24 to false records filed with state agencies or departments.

25 (16) Willfully failing to report an instance of
26 suspected child abuse or neglect as required by the Abused

1 and Neglected Child Report Act.

2 (17) Physical illness, mental illness, or other
3 impairment, including, but not limited to, deterioration
4 through the aging process, or loss of motor skill that
5 results in the inability to practice the profession with
6 reasonable judgment, skill or safety.

7 (18) Solicitation of professional services other than
8 permitted advertising.

9 (19) The determination by a circuit court that a
10 licensed podiatric physician is subject to involuntary
11 admission or judicial admission as provided in the Mental
12 Health and Developmental Disabilities Code operates as an
13 automatic suspension. Such suspension will end only upon a
14 finding by a court that the patient is no longer subject to
15 involuntary admission or judicial admission and issues an
16 order so finding and discharging the patient; and upon the
17 recommendation of the ~~Podiatric Medical Licensing~~ Board to
18 the Secretary that the licensee be allowed to resume his or
19 her practice.

20 (20) Holding oneself out to treat human ailments under
21 any name other than his or her own, or the impersonation of
22 any other physician.

23 (21) Revocation or suspension or other action taken
24 with respect to a podiatric medical license in another
25 jurisdiction that would constitute disciplinary action
26 under this Act.

1 (22) Promotion of the sale of drugs, devices,
2 appliances or goods provided for a patient in such manner
3 as to exploit the patient for financial gain of the
4 podiatric physician.

5 (23) Gross, willful, and continued overcharging for
6 professional services including filing false statements
7 for collection of fees for those services, including, but
8 not limited to, filing false statement for collection of
9 monies for services not rendered from the medical
10 assistance program of the Department of Healthcare and
11 Family Services (formerly Department of Public Aid) under
12 the Illinois Public Aid Code or other private or public
13 third party payor.

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

21 (25) Willfully making or filing false records or
22 reports in the practice of podiatric medicine, including,
23 but not limited to, false records to support claims against
24 the medical assistance program of the Department of
25 Healthcare and Family Services (formerly Department of
26 Public Aid) under the Illinois Public Aid Code.

1 (26) (Blank).

2 (27) Immoral conduct in the commission of any act
3 including, sexual abuse, sexual misconduct, or sexual
4 exploitation, related to the licensee's practice.

5 (28) Violation of the Health Care Worker Self-Referral
6 Act.

7 (29) Failure to report to the Department any adverse
8 final action taken against him or her by another licensing
9 jurisdiction ~~(another state or a territory~~ of the United
10 States or any ~~a~~ foreign state or country) ~~by a,~~ any peer
11 review body, ~~by~~ any health care institution, any ~~by a~~
12 professional society or association ~~related to practice~~
13 ~~under this Act,~~ any ~~by a~~ governmental agency, any ~~by a~~ law
14 enforcement agency, or any ~~by a~~ court for acts or conduct
15 similar to acts or conduct that would constitute grounds
16 for action as defined in this Section.

17 (30) Willfully failing to report an instance of
18 suspected abuse, neglect, financial exploitation, or
19 self-neglect of an eligible adult as defined in and
20 required by the Adult Protective Services Act.

21 (31) Being named as a perpetrator in an indicated
22 report by the Department on Aging under the Adult
23 Protective Services Act, and upon proof by clear and
24 convincing evidence that the licensee has caused an
25 eligible adult to be abused, neglected, or financially
26 exploited as defined in the Adult Protective Services Act.

1 The Department may refuse to issue or may suspend the
2 license of any person who fails to file a return, or to pay the
3 tax, penalty or interest shown in a filed return, or to pay any
4 final assessment of tax, penalty or interest, as required by
5 any tax Act administered by the Illinois Department of Revenue,
6 until such time as the requirements of any such tax Act are
7 satisfied.

8 Upon receipt of a written communication from the Secretary
9 of Human Services, the Director of Healthcare and Family
10 Services (formerly Director of Public Aid), or the Director of
11 Public Health that continuation of practice of a person
12 licensed under this Act constitutes an immediate danger to the
13 public, the Secretary may immediately suspend the license of
14 such person without a hearing. In instances in which the
15 Secretary immediately suspends a license under this Section, a
16 hearing upon such person's license must be convened by the
17 Board within 15 days after such suspension and completed
18 without appreciable delay, such hearing held to determine
19 whether to recommend to the Secretary that the person's license
20 be revoked, suspended, placed on probationary status or
21 restored ~~reinstated~~, or such person be subject to other
22 disciplinary action. In such hearing, the written
23 communication and any other evidence submitted therewith may be
24 introduced as evidence against such person; provided, however,
25 the person or his counsel shall have the opportunity to
26 discredit or impeach such evidence and submit evidence

1 rebutting the same.

2 Except for fraud in procuring a license, all proceedings to
3 suspend, revoke, place on probationary status, or take any
4 other disciplinary action as the Department may deem proper,
5 with regard to a license on any of the foregoing grounds, must
6 be commenced within 5 years after receipt by the Department of
7 a complaint alleging the commission of or notice of the
8 conviction order for any of the acts described in this Section.
9 Except for the grounds set forth in items (8), (9), (26), and
10 (29) of this Section, no action shall be commenced more than 10
11 years after the date of the incident or act alleged to have
12 been a violation of this Section. In the event of the
13 settlement of any claim or cause of action in favor of the
14 claimant or the reduction to final judgment of any civil action
15 in favor of the plaintiff, such claim, cause of action, or
16 civil action being grounded on the allegation that a person
17 licensed under this Act was negligent in providing care, the
18 Department shall have an additional period of 2 years from the
19 date of notification to the Department under Section 26 of this
20 Act of such settlement or final judgment in which to
21 investigate and commence formal disciplinary proceedings under
22 Section 24 of this Act, except as otherwise provided by law.
23 The time during which the holder of the license was outside the
24 State of Illinois shall not be included within any period of
25 time limiting the commencement of disciplinary action by the
26 Department.

1 In enforcing this Section, the Department or Board upon a
2 showing of a possible violation may compel an individual
3 licensed to practice under this Act, or who has applied for
4 licensure under this Act, to submit to a mental or physical
5 examination, or both, as required by and at the expense of the
6 Department. The Department or Board may order the examining
7 physician to present testimony concerning the mental or
8 physical examination of the licensee or applicant. No
9 information shall be excluded by reason of any common law or
10 statutory privilege relating to communications between the
11 licensee or applicant and the examining physician. The
12 examining physicians shall be specifically designated by the
13 Board or Department. The individual to be examined may have, at
14 his or her own expense, another physician of his or her choice
15 present during all aspects of this examination. Failure of an
16 individual to submit to a mental or physical examination, when
17 directed, shall be grounds for suspension of his or her license
18 until the individual submits to the examination if the
19 Department finds, after notice and hearing, that the refusal to
20 submit to the examination was without reasonable cause.

21 If the Department or Board finds an individual unable to
22 practice because of the reasons set forth in this Section, the
23 Department or Board may require that individual to submit to
24 care, counseling, or treatment by physicians approved or
25 designated by the Department or Board, as a condition, term, or
26 restriction for continued, restored ~~reinstated~~, or renewed

1 licensure to practice; or, in lieu of care, counseling, or
2 treatment, the Department may file, or the Board may recommend
3 to the Department to file, a complaint to immediately suspend,
4 revoke, or otherwise discipline the license of the individual.
5 An individual whose license was granted, continued, restored
6 ~~reinstated~~, renewed, disciplined or supervised subject to such
7 terms, conditions, or restrictions, and who fails to comply
8 with such terms, conditions, or restrictions, shall be referred
9 to the Secretary for a determination as to whether the
10 individual shall have his or her license suspended immediately,
11 pending a hearing by the Department.

12 In instances in which the Secretary immediately suspends a
13 person's license under this Section, a hearing on that person's
14 license must be convened by the Department within 30 days after
15 the suspension and completed without appreciable delay. The
16 Department and Board shall have the authority to review the
17 subject individual's record of treatment and counseling
18 regarding the impairment to the extent permitted by applicable
19 federal statutes and regulations safeguarding the
20 confidentiality of medical records.

21 An individual licensed under this Act and affected under
22 this Section shall be afforded an opportunity to demonstrate to
23 the Department or Board that he or she can resume practice in
24 compliance with acceptable and prevailing standards under the
25 provisions of his or her license.

26 (Source: P.A. 96-1158, eff. 1-1-11; 96-1482, eff. 11-29-10;

1 97-813, eff. 7-13-12.)

2 (225 ILCS 100/26) (from Ch. 111, par. 4826)

3 (Section scheduled to be repealed on January 1, 2018)

4 Sec. 26. Reports relating to professional conduct and
5 capacity.

6 (A) The Board shall by rule provide for the reporting to it
7 of all instances in which a podiatric physician licensed under
8 this Act who is impaired by reason of age, drug or alcohol
9 abuse or physical or mental impairment, is under supervision
10 and, where appropriate, is in a program of rehabilitation.
11 Reports shall be strictly confidential and may be reviewed and
12 considered only by the members of the Board, or by authorized
13 staff of the Department as provided by the rules of the Board.
14 Provisions shall be made for the periodic report of the status
15 of any such podiatric physician not less than twice annually in
16 order that the Board shall have current information upon which
17 to determine the status of any such podiatric physician. Such
18 initial and periodic reports of impaired physicians shall not
19 be considered records within the meaning of the State Records
20 Act and shall be disposed of, following a determination by the
21 Board that such reports are no longer required, in a manner and
22 at such time as the Board shall determine by rule. The filing
23 of such reports shall be construed as the filing of a report
24 for the purposes of subsection (C) of this Section. Failure to
25 file a report under this Section shall be a Class A

1 misdemeanor.

2 (A-5) The following persons and entities shall report to
3 the Department or the Board in the instances and under the
4 conditions set forth in this subsection (A-5):

5 (1) Any administrator or officer of any hospital,
6 nursing home or other health care agency or facility who
7 has knowledge of any action or condition which reasonably
8 indicates to him or her that a licensed podiatric physician
9 practicing in such hospital, nursing home or other health
10 care agency or facility is habitually intoxicated or
11 addicted to the use of habit forming drugs, or is otherwise
12 impaired, to the extent that such intoxication, addiction,
13 or impairment adversely affects such podiatric physician's
14 professional performance, or has knowledge that reasonably
15 indicates to him or her that any podiatric physician
16 unlawfully possesses, uses, distributes or converts
17 habit-forming drugs belonging to the hospital, nursing
18 home or other health care agency or facility for such
19 podiatric physician's own use or benefit, shall promptly
20 file a written report thereof to the Department. The report
21 shall include the name of the podiatric physician, the name
22 of the patient or patients involved, if any, a brief
23 summary of the action, condition or occurrence that has
24 necessitated the report, and any other information as the
25 Department may deem necessary. The Department shall
26 provide forms on which such reports shall be filed.

1 (2) The president or chief executive officer of any
2 association or society of podiatric physicians licensed
3 under this Act, operating within this State shall report to
4 the Board when the association or society renders a final
5 determination relating to the professional competence or
6 conduct of the podiatric physician.

7 (3) Every insurance company that offers policies of
8 professional liability insurance to persons licensed under
9 this Act, or any other entity that seeks to indemnify the
10 professional liability of a podiatric physician licensed
11 under this Act, shall report to the Board the settlement of
12 any claim or cause of action, or final judgment rendered in
13 any cause of action that alleged negligence in the
14 furnishing of medical care by such licensed person when
15 such settlement or final judgement is in favor of the
16 plaintiff.

17 (4) The State's Attorney of each county shall report to
18 the Board all instances in which a person licensed under
19 this Act is convicted or otherwise found guilty of the
20 commission of any felony.

21 (5) All agencies, boards, commissions, departments, or
22 other instrumentalities of the government of the State of
23 Illinois shall report to the Board any instance arising in
24 connection with the operations of such agency, including
25 the administration of any law by such agency, in which a
26 podiatric physician licensed under this Act has either

1 committed an act or acts that may be a violation of this
2 Act or that may constitute unprofessional conduct related
3 directly to patient care or that indicates that a podiatric
4 physician licensed under this Act may have a mental or
5 physical disability that may endanger patients under that
6 physician's care.

7 (B) All reports required by this Act shall be submitted to
8 the Board in a timely fashion. The reports shall be filed in
9 writing within 60 days after a determination that a report is
10 required under this Act. All reports shall contain the
11 following information:

12 (1) The name, address and telephone number of the
13 person making the report.

14 (2) The name, address and telephone number of the
15 podiatric physician who is the subject of the report.

16 (3) The name or other means of identification of any
17 patient or patients whose treatment is a subject of the
18 report, provided, however, no medical records may be
19 revealed without the written consent of the patient or
20 patients.

21 (4) A brief description of the facts that gave rise to
22 the issuance of the report, including the dates of any
23 occurrences deemed to necessitate the filing of the report.

24 (5) If court action is involved, the identity of the
25 court in which the action is filed, along with the docket
26 number and date of filing of the action.

1 (6) Any further pertinent information that the
2 reporting party deems to be an aid in the evaluation of the
3 report.

4 Nothing contained in this Section shall waive or modify the
5 confidentiality of medical reports and committee reports to the
6 extent provided by law. Any information reported or disclosed
7 shall be kept for the confidential use of the Board, the
8 Board's attorneys, the investigative staff and other
9 authorized Department staff, as provided in this Act, and shall
10 be afforded the same status as is provided information
11 concerning medical studies in Part 21 of Article VIII of the
12 Code of Civil Procedure.

13 (C) Any individual or organization acting in good faith,
14 and not in a willful and wanton manner, in complying with this
15 Act by providing any report or other information to the Board,
16 or assisting in the investigation or preparation of such
17 information, or by participating in proceedings of the Board,
18 or by serving as a member of the Board, shall not, as a result
19 of such actions, be subject to criminal prosecution or civil
20 damages.

21 (D) Members of the Board, the Board's attorneys, the
22 investigative staff, other podiatric physicians retained under
23 contract to assist and advise in the investigation, and other
24 authorized Department staff shall be indemnified by the State
25 for any actions occurring within the scope of services on the
26 Board, done in good faith and not willful and wanton in nature.

1 The Attorney General shall defend all such actions unless he or
2 she determines either that he or she would have a conflict of
3 interest in such representation or that the actions complained
4 of were not in good faith or were willful and wanton.

5 Should the Attorney General decline representation, the
6 member shall have the right to employ counsel of his or her
7 choice, whose fees shall be provided by the State, after
8 approval by the Attorney General, unless there is a
9 determination by a court that the member's actions were not in
10 good faith or were willful ~~wilful~~ and wanton. The member must
11 notify the Attorney General within 7 days of receipt of notice
12 of the initiation of any action involving services of the
13 Board. Failure to so notify the Attorney General shall
14 constitute an absolute waiver of the right to a defense and
15 indemnification. The Attorney General shall determine within 7
16 days after receiving such notice, whether he or she will
17 undertake to represent the member.

18 (E) Upon the receipt of any report called for by this Act,
19 other than those reports of impaired persons licensed under
20 this Act required pursuant to the rules of the Board, the Board
21 shall notify in writing, by ~~certified~~ mail or email, the
22 podiatric physician who is the subject of the report. Such
23 notification shall be made within 30 days of receipt by the
24 Board of the report.

25 The notification shall include a written notice setting
26 forth the podiatric physician's right to examine the report.

1 Included in such notification shall be the address at which the
2 file is maintained, the name of the custodian of the reports,
3 and the telephone number at which the custodian may be reached.
4 The podiatric physician who is the subject of the report shall
5 be permitted to submit a written statement responding,
6 clarifying, adding to, or proposing the amending of the report
7 previously filed. The statement shall become a permanent part
8 of the file and must be received by the Board no more than 30
9 days after the date on which the podiatric physician was
10 notified of the existence of the original report.

11 The Board shall review all reports received by it, together
12 with any supporting information and responding statements
13 submitted by persons who are the subject of reports. The review
14 by the Board shall be in a timely manner but in no event shall
15 the Board's initial review of the material contained in each
16 disciplinary file be less than 61 days nor more than 180 days
17 after the receipt of the initial report by the Board.

18 When the Board makes its initial review of the materials
19 contained within its disciplinary files the Board shall, in
20 writing, make a determination as to whether there are
21 sufficient facts to warrant further investigation or action.
22 Failure to make such determination within the time provided
23 shall be deemed to be a determination that there are not
24 sufficient facts to warrant further investigation or action.

25 Should the Board find that there are not sufficient facts
26 to warrant further investigation, or action, the report shall

1 be accepted for filing and the matter shall be deemed closed
2 and so reported.

3 The individual or entity filing the original report or
4 complaint and the podiatric physician who is the subject of the
5 report or complaint shall be notified in writing by the Board
6 of any final action on their report or complaint.

7 (F) The Board shall prepare on a timely basis, but in no
8 event less than once every other month, a summary report of
9 final disciplinary actions taken upon disciplinary files
10 maintained by the Board. The summary reports shall be made
11 available on the Department's web site.

12 (G) Any violation of this Section shall be a Class A
13 misdemeanor.

14 (H) If any such podiatric physician violates the provisions
15 of this Section, an action may be brought in the name of the
16 People of the State of Illinois, through the Attorney General
17 of the State of Illinois, for an order enjoining such violation
18 or for an order enforcing compliance with this Section. Upon
19 filing of a verified petition in such court, the court may
20 issue a temporary restraining order without notice or bond and
21 may preliminarily or permanently enjoin such violation, and if
22 it is established that such podiatric physician has violated or
23 is violating the injunction, the Court may punish the offender
24 for contempt of court. Proceedings under this paragraph shall
25 be in addition to, and not in lieu of, all other remedies and
26 penalties provided for by this Section.

1 (Source: P.A. 99-143, eff. 7-27-15.)

2 (225 ILCS 100/27) (from Ch. 111, par. 4827)

3 (Section scheduled to be repealed on January 1, 2018)

4 Sec. 27. Investigations; notice and hearing. The
5 Department may investigate the actions of any applicant or of
6 any person or persons holding or claiming to hold a license.
7 The Department shall, before suspending, revoking, placing on
8 probationary status or taking any other disciplinary action as
9 the Department may deem proper with regard to any licensee, at
10 least 30 days prior to the date set for the hearing, notify the
11 accused in writing of any charges made and the time and place
12 for a hearing of the charges before the Board, direct him or
13 her to file his or her written answer thereto to the Board
14 under oath within 20 days after the service on him or her of
15 such notice and inform her or him that if he or she fails to
16 file such answer default will be taken against him or her and
17 his or her license may be revoked, suspended, placed on
18 probationary status, or subject to other disciplinary action,
19 including limiting the scope, nature, or extent of his or her
20 practice as the Department may deem proper.

21 In case the accused person, after receiving notice fails to
22 file an answer, his or her license may, in the discretion of
23 the Secretary having received the recommendation of the Board,
24 be suspended, revoked, or placed on probationary status or the
25 Secretary may take whatever disciplinary action as he or she

1 may deem proper including limiting the scope, nature, or extent
2 of the accused person's practice without a hearing if the act
3 or acts charged constitute sufficient grounds for such action
4 under this Act.

5 Written or electronic ~~Such written~~ notice may be served by
6 personal delivery, ~~or certified or registered mail,~~ or email to
7 the applicant or licensee ~~respondent~~ at his or her ~~the~~ address
8 of on record or email address of record ~~with the Department~~. At
9 the time and place fixed in the notice, the Board shall
10 proceed to hear the charges and the parties or their counsel
11 shall be accorded ample opportunity to present such statements,
12 testimony, evidence and argument as may be pertinent to the
13 charges or to the defense thereto. The Board may continue such
14 hearing from time to time.

15 (Source: P.A. 95-235, eff. 8-17-07.)

16 (225 ILCS 100/34) (from Ch. 111, par. 4834)

17 (Section scheduled to be repealed on January 1, 2018)

18 Sec. 34. Appointment of a hearing officer. The
19 ~~Notwithstanding the provisions of Section 32 of this Act, the~~
20 Secretary has ~~shall have~~ the authority to appoint any attorney
21 duly licensed to practice law in the State of Illinois to serve
22 as the hearing officer in any action for refusal to issue,
23 restore, or renew a license or discipline of a license.

24 ~~The Secretary shall notify the Board of any such~~
25 ~~appointment.~~ The hearing officer shall have full authority to

1 conduct the hearing. The hearing officer shall report his or
2 her findings of fact, conclusions of law and recommendations to
3 the Board and the Secretary. The Board shall review the report
4 of the hearing officer and present their findings of fact,
5 conclusions of law and recommendations to the Secretary. If the
6 Board fails to present its report, the Secretary may issue an
7 order based on the report of the hearing officer. If the
8 Secretary disagrees in any regard with the report of the Board
9 or hearing officer, he or she may issue an order in
10 contravention of the Board's report thereof. ~~The Secretary~~
11 ~~shall provide an explanation to the Board on any such~~
12 ~~deviation, and shall specify with particularity the reasons for~~
13 ~~such action in the final order.~~

14 (Source: P.A. 95-235, eff. 8-17-07.)

15 (225 ILCS 100/36) (from Ch. 111, par. 4836)

16 (Section scheduled to be repealed on January 1, 2018)

17 Sec. 36. Restoration of suspended or revoked license. At
18 any time after the suspension or revocation of any license, the
19 Department may restore it to the accused person upon the
20 written recommendation of the Board, unless after an
21 investigation and a hearing the Board determines that
22 restoration is not in the public interest. No person whose
23 license has been revoked as authorized in this Act may apply
24 for restoration of that license until such time as provided for
25 in the Civil Administrative Code of Illinois.

1 A license that has been suspended or revoked shall be
2 considered nonrenewed for purposes of restoration and a person
3 restoring his or her license from suspension or revocation must
4 comply with the requirements for restoration of a nonrenewed
5 license as set forth in Section 15 of this Act and any related
6 rules adopted.

7 (Source: P.A. 91-357, eff. 7-29-99.)

8 (225 ILCS 100/40) (from Ch. 111, par. 4840)

9 (Section scheduled to be repealed on January 1, 2018)

10 Sec. 40. Certification of record; costs. The Department
11 shall not be required to certify any record to the court or
12 file any answer in court or otherwise appear in any court in a
13 judicial review proceeding, unless and until the Department has
14 received from the plaintiff there is filed in the court, with
15 the complaint, a receipt from the Department acknowledging
16 payment of the costs of furnishing and certifying the record,
17 which costs shall be determined by the Department. Exhibits
18 shall be certified without cost. Failure on the part of the
19 plaintiff to file a receipt in court shall be grounds for
20 dismissal of the action.

21 (Source: P.A. 87-1031.)

22 (225 ILCS 100/42) (from Ch. 111, par. 4842)

23 (Section scheduled to be repealed on January 1, 2018)

24 Sec. 42. Illinois Administrative Procedure Act. The

1 Illinois Administrative Procedure Act is hereby expressly
2 adopted and incorporated herein as if all of the provisions of
3 that Act were included in this Act, except that the provision
4 of subsection (d) of Section 10-65 of the Illinois
5 Administrative Procedure Act that provides that at hearings the
6 licensee has the right to show compliance with all lawful
7 requirements for retention, continuation or renewal of the
8 license is specifically excluded. For the purpose of this Act
9 the notice required under Section 10-25 of the Illinois
10 Administrative Procedure Act is deemed sufficient when mailed
11 or emailed to the ~~last known~~ address of record or email address
12 of record ~~a party~~.

13 (Source: P.A. 88-45.)

14 (225 ILCS 100/46 new)

15 Sec. 46. Confidentiality. All information collected by the
16 Department in the course of an examination or investigation of
17 a licensee, registrant, or applicant, including, but not
18 limited to, any complaint against a licensee or registrant
19 filed with the Department and information collected to
20 investigate any such complaint, shall be maintained for the
21 confidential use of the Department and shall not be disclosed.
22 The Department may not disclose the information to anyone other
23 than law enforcement officials, other regulatory agencies that
24 have an appropriate regulatory interest as determined by the
25 Secretary, or a party presenting a lawful subpoena to the

1 Department. Information and documents disclosed to a federal,
2 State, county, or local law enforcement agency shall not be
3 disclosed by the agency for any purpose to any other agency or
4 person. A formal complaint filed against a licensee or
5 registrant by the Department or any order issued by the
6 Department against a licensee, registrant, or applicant shall
7 be a public record, except as otherwise prohibited by law.

8 (225 ILCS 100/20 rep.)

9 Section 20. The Podiatric Medical Practice Act of 1987 is
10 amended by repealing Section 20.

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