

SB1810



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1810

Introduced 2/9/2017, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

225 ILCS 60/22

from Ch. 111, par. 4400-22

Amends the Medical Practice Act of 1987. Makes a technical change in a Section concerning disciplinary action.

LRB100 09640 SMS 19809 b

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Medical Practice Act of 1987 is amended by
5 changing Section 22 as follows:

6 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

7 (Section scheduled to be repealed on December 31, 2017)

8 Sec. 22. Disciplinary action.

9 (A) The ~~The~~ Department may revoke, suspend, place on
10 probation, reprimand, refuse to issue or renew, or take any
11 other disciplinary or non-disciplinary action as the
12 Department may deem proper with regard to the license or permit
13 of any person issued under this Act, including imposing fines
14 not to exceed \$10,000 for each violation, upon any of the
15 following grounds:

16 (1) Performance of an elective abortion in any place,
17 locale, facility, or institution other than:

18 (a) a facility licensed pursuant to the Ambulatory
19 Surgical Treatment Center Act;

20 (b) an institution licensed under the Hospital
21 Licensing Act;

22 (c) an ambulatory surgical treatment center or
23 hospitalization or care facility maintained by the

1 State or any agency thereof, where such department or
2 agency has authority under law to establish and enforce
3 standards for the ambulatory surgical treatment
4 centers, hospitalization, or care facilities under its
5 management and control;

6 (d) ambulatory surgical treatment centers,
7 hospitalization or care facilities maintained by the
8 Federal Government; or

9 (e) ambulatory surgical treatment centers,
10 hospitalization or care facilities maintained by any
11 university or college established under the laws of
12 this State and supported principally by public funds
13 raised by taxation.

14 (2) Performance of an abortion procedure in a wilful
15 and wanton manner on a woman who was not pregnant at the
16 time the abortion procedure was performed.

17 (3) A plea of guilty or nolo contendere, finding of
18 guilt, jury verdict, or entry of judgment or sentencing,
19 including, but not limited to, convictions, preceding
20 sentences of supervision, conditional discharge, or first
21 offender probation, under the laws of any jurisdiction of
22 the United States of any crime that is a felony.

23 (4) Gross negligence in practice under this Act.

24 (5) Engaging in dishonorable, unethical or
25 unprofessional conduct of a character likely to deceive,
26 defraud or harm the public.

1 (6) Obtaining any fee by fraud, deceit, or
2 misrepresentation.

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

7 (8) Practicing under a false or, except as provided by
8 law, an assumed name.

9 (9) Fraud or misrepresentation in applying for, or
10 procuring, a license under this Act or in connection with
11 applying for renewal of a license under this Act.

12 (10) Making a false or misleading statement regarding
13 their skill or the efficacy or value of the medicine,
14 treatment, or remedy prescribed by them at their direction
15 in the treatment of any disease or other condition of the
16 body or mind.

17 (11) Allowing another person or organization to use
18 their license, procured under this Act, to practice.

19 (12) Adverse action taken by another state or
20 jurisdiction against a license or other authorization to
21 practice as a medical doctor, doctor of osteopathy, doctor
22 of osteopathic medicine or doctor of chiropractic, a
23 certified copy of the record of the action taken by the
24 other state or jurisdiction being prima facie evidence
25 thereof. This includes any adverse action taken by a State
26 or federal agency that prohibits a medical doctor, doctor

1 of osteopathy, doctor of osteopathic medicine, or doctor of
2 chiropractic from providing services to the agency's
3 participants.

4 (13) Violation of any provision of this Act or of the
5 Medical Practice Act prior to the repeal of that Act, or
6 violation of the rules, or a final administrative action of
7 the Secretary, after consideration of the recommendation
8 of the Disciplinary Board.

9 (14) Violation of the prohibition against fee
10 splitting in Section 22.2 of this Act.

11 (15) A finding by the Disciplinary Board that the
12 registrant after having his or her license placed on
13 probationary status or subjected to conditions or
14 restrictions violated the terms of the probation or failed
15 to comply with such terms or conditions.

16 (16) Abandonment of a patient.

17 (17) Prescribing, selling, administering,
18 distributing, giving or self-administering any drug
19 classified as a controlled substance (designated product)
20 or narcotic for other than medically accepted therapeutic
21 purposes.

22 (18) Promotion of the sale of drugs, devices,
23 appliances or goods provided for a patient in such manner
24 as to exploit the patient for financial gain of the
25 physician.

26 (19) Offering, undertaking or agreeing to cure or treat

1 disease by a secret method, procedure, treatment or
2 medicine, or the treating, operating or prescribing for any
3 human condition by a method, means or procedure which the
4 licensee refuses to divulge upon demand of the Department.

5 (20) Immoral conduct in the commission of any act
6 including, but not limited to, commission of an act of
7 sexual misconduct related to the licensee's practice.

8 (21) Wilfully making or filing false records or reports
9 in his or her practice as a physician, including, but not
10 limited to, false records to support claims against the
11 medical assistance program of the Department of Healthcare
12 and Family Services (formerly Department of Public Aid)
13 under the Illinois Public Aid Code.

14 (22) Wilful omission to file or record, or wilfully
15 impeding the filing or recording, or inducing another
16 person to omit to file or record, medical reports as
17 required by law, or wilfully failing to report an instance
18 of suspected abuse or neglect as required by law.

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

26 (24) Solicitation of professional patronage by any

1 corporation, agents or persons, or profiting from those
2 representing themselves to be agents of the licensee.

3 (25) Gross and wilful and continued overcharging for
4 professional services, including filing false statements
5 for collection of fees for which services are not rendered,
6 including, but not limited to, filing such false statements
7 for collection of monies for services not rendered from the
8 medical assistance program of the Department of Healthcare
9 and Family Services (formerly Department of Public Aid)
10 under the Illinois Public Aid Code.

11 (26) A pattern of practice or other behavior which
12 demonstrates incapacity or incompetence to practice under
13 this Act.

14 (27) Mental illness or disability which results in the
15 inability to practice under this Act with reasonable
16 judgment, skill or safety.

17 (28) Physical illness, including, but not limited to,
18 deterioration through the aging process, or loss of motor
19 skill which results in a physician's inability to practice
20 under this Act with reasonable judgment, skill or safety.

21 (29) Cheating on or attempt to subvert the licensing
22 examinations administered under this Act.

23 (30) Wilfully or negligently violating the
24 confidentiality between physician and patient except as
25 required by law.

26 (31) The use of any false, fraudulent, or deceptive

1 statement in any document connected with practice under
2 this Act.

3 (32) Aiding and abetting an individual not licensed
4 under this Act in the practice of a profession licensed
5 under this Act.

6 (33) Violating state or federal laws or regulations
7 relating to controlled substances, legend drugs, or
8 ephedra as defined in the Ephedra Prohibition Act.

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

19 (35) Failure to report to the Department surrender of a
20 license or authorization to practice as a medical doctor, a
21 doctor of osteopathy, a doctor of osteopathic medicine, or
22 doctor of chiropractic in another state or jurisdiction, or
23 surrender of membership on any medical staff or in any
24 medical or professional association or society, while
25 under disciplinary investigation by any of those
26 authorities or bodies, for acts or conduct similar to acts

1 or conduct which would constitute grounds for action as
2 defined in this Section.

3 (36) Failure to report to the Department any adverse
4 judgment, settlement, or award arising from a liability
5 claim related to acts or conduct similar to acts or conduct
6 which would constitute grounds for action as defined in
7 this Section.

8 (37) Failure to provide copies of medical records as
9 required by law.

10 (38) Failure to furnish the Department, its
11 investigators or representatives, relevant information,
12 legally requested by the Department after consultation
13 with the Chief Medical Coordinator or the Deputy Medical
14 Coordinator.

15 (39) Violating the Health Care Worker Self-Referral
16 Act.

17 (40) Willful failure to provide notice when notice is
18 required under the Parental Notice of Abortion Act of 1995.

19 (41) Failure to establish and maintain records of
20 patient care and treatment as required by this law.

21 (42) Entering into an excessive number of written
22 collaborative agreements with licensed advanced practice
23 nurses resulting in an inability to adequately
24 collaborate.

25 (43) Repeated failure to adequately collaborate with a
26 licensed advanced practice nurse.

1 (44) Violating the Compassionate Use of Medical
2 Cannabis Pilot Program Act.

3 (45) Entering into an excessive number of written
4 collaborative agreements with licensed prescribing
5 psychologists resulting in an inability to adequately
6 collaborate.

7 (46) Repeated failure to adequately collaborate with a
8 licensed prescribing psychologist.

9 Except for actions involving the ground numbered (26), all
10 proceedings to suspend, revoke, place on probationary status,
11 or take any other disciplinary action as the Department may
12 deem proper, with regard to a license on any of the foregoing
13 grounds, must be commenced within 5 years next after receipt by
14 the Department of a complaint alleging the commission of or
15 notice of the conviction order for any of the acts described
16 herein. Except for the grounds numbered (8), (9), (26), and
17 (29), no action shall be commenced more than 10 years after the
18 date of the incident or act alleged to have violated this
19 Section. For actions involving the ground numbered (26), a
20 pattern of practice or other behavior includes all incidents
21 alleged to be part of the pattern of practice or other behavior
22 that occurred, or a report pursuant to Section 23 of this Act
23 received, within the 10-year period preceding the filing of the
24 complaint. In the event of the settlement of any claim or cause
25 of action in favor of the claimant or the reduction to final
26 judgment of any civil action in favor of the plaintiff, such

1 claim, cause of action or civil action being grounded on the
2 allegation that a person licensed under this Act was negligent
3 in providing care, the Department shall have an additional
4 period of 2 years from the date of notification to the
5 Department under Section 23 of this Act of such settlement or
6 final judgment in which to investigate and commence formal
7 disciplinary proceedings under Section 36 of this Act, except
8 as otherwise provided by law. The time during which the holder
9 of the license was outside the State of Illinois shall not be
10 included within any period of time limiting the commencement of
11 disciplinary action by the Department.

12 The entry of an order or judgment by any circuit court
13 establishing that any person holding a license under this Act
14 is a person in need of mental treatment operates as a
15 suspension of that license. That person may resume their
16 practice only upon the entry of a Departmental order based upon
17 a finding by the Disciplinary Board that they have been
18 determined to be recovered from mental illness by the court and
19 upon the Disciplinary Board's recommendation that they be
20 permitted to resume their practice.

21 The Department may refuse to issue or take disciplinary
22 action concerning the license of any person who fails to file a
23 return, or to pay the tax, penalty or interest shown in a filed
24 return, or to pay any final assessment of tax, penalty or
25 interest, as required by any tax Act administered by the
26 Illinois Department of Revenue, until such time as the

1 requirements of any such tax Act are satisfied as determined by
2 the Illinois Department of Revenue.

3 The Department, upon the recommendation of the
4 Disciplinary Board, shall adopt rules which set forth standards
5 to be used in determining:

6 (a) when a person will be deemed sufficiently
7 rehabilitated to warrant the public trust;

8 (b) what constitutes dishonorable, unethical or
9 unprofessional conduct of a character likely to deceive,
10 defraud, or harm the public;

11 (c) what constitutes immoral conduct in the commission
12 of any act, including, but not limited to, commission of an
13 act of sexual misconduct related to the licensee's
14 practice; and

15 (d) what constitutes gross negligence in the practice
16 of medicine.

17 However, no such rule shall be admissible into evidence in
18 any civil action except for review of a licensing or other
19 disciplinary action under this Act.

20 In enforcing this Section, the Disciplinary Board or the
21 Licensing Board, upon a showing of a possible violation, may
22 compel, in the case of the Disciplinary Board, any individual
23 who is licensed to practice under this Act or holds a permit to
24 practice under this Act, or, in the case of the Licensing
25 Board, any individual who has applied for licensure or a permit
26 pursuant to this Act, to submit to a mental or physical

1 examination and evaluation, or both, which may include a
2 substance abuse or sexual offender evaluation, as required by
3 the Licensing Board or Disciplinary Board and at the expense of
4 the Department. The Disciplinary Board or Licensing Board shall
5 specifically designate the examining physician licensed to
6 practice medicine in all of its branches or, if applicable, the
7 multidisciplinary team involved in providing the mental or
8 physical examination and evaluation, or both. The
9 multidisciplinary team shall be led by a physician licensed to
10 practice medicine in all of its branches and may consist of one
11 or more or a combination of physicians licensed to practice
12 medicine in all of its branches, licensed chiropractic
13 physicians, licensed clinical psychologists, licensed clinical
14 social workers, licensed clinical professional counselors, and
15 other professional and administrative staff. Any examining
16 physician or member of the multidisciplinary team may require
17 any person ordered to submit to an examination and evaluation
18 pursuant to this Section to submit to any additional
19 supplemental testing deemed necessary to complete any
20 examination or evaluation process, including, but not limited
21 to, blood testing, urinalysis, psychological testing, or
22 neuropsychological testing. The Disciplinary Board, the
23 Licensing Board, or the Department may order the examining
24 physician or any member of the multidisciplinary team to
25 provide to the Department, the Disciplinary Board, or the
26 Licensing Board any and all records, including business

1 records, that relate to the examination and evaluation,
2 including any supplemental testing performed. The Disciplinary
3 Board, the Licensing Board, or the Department may order the
4 examining physician or any member of the multidisciplinary team
5 to present testimony concerning this examination and
6 evaluation of the licensee, permit holder, or applicant,
7 including testimony concerning any supplemental testing or
8 documents relating to the examination and evaluation. No
9 information, report, record, or other documents in any way
10 related to the examination and evaluation shall be excluded by
11 reason of any common law or statutory privilege relating to
12 communication between the licensee, permit holder, or
13 applicant and the examining physician or any member of the
14 multidisciplinary team. No authorization is necessary from the
15 licensee, permit holder, or applicant ordered to undergo an
16 evaluation and examination for the examining physician or any
17 member of the multidisciplinary team to provide information,
18 reports, records, or other documents or to provide any
19 testimony regarding the examination and evaluation. The
20 individual to be examined may have, at his or her own expense,
21 another physician of his or her choice present during all
22 aspects of the examination. Failure of any individual to submit
23 to mental or physical examination and evaluation, or both, when
24 directed, shall result in an automatic suspension, without
25 hearing, until such time as the individual submits to the
26 examination. If the Disciplinary Board or Licensing Board finds

1 a physician unable to practice following an examination and
2 evaluation because of the reasons set forth in this Section,
3 the Disciplinary Board or Licensing Board shall require such
4 physician to submit to care, counseling, or treatment by
5 physicians, or other health care professionals, approved or
6 designated by the Disciplinary Board, as a condition for
7 issued, continued, reinstated, or renewed licensure to
8 practice. Any physician, whose license was granted pursuant to
9 Sections 9, 17, or 19 of this Act, or, continued, reinstated,
10 renewed, disciplined or supervised, subject to such terms,
11 conditions or restrictions who shall fail to comply with such
12 terms, conditions or restrictions, or to complete a required
13 program of care, counseling, or treatment, as determined by the
14 Chief Medical Coordinator or Deputy Medical Coordinators,
15 shall be referred to the Secretary for a determination as to
16 whether the licensee shall have their license suspended
17 immediately, pending a hearing by the Disciplinary Board. In
18 instances in which the Secretary immediately suspends a license
19 under this Section, a hearing upon such person's license must
20 be convened by the Disciplinary Board within 15 days after such
21 suspension and completed without appreciable delay. The
22 Disciplinary Board shall have the authority to review the
23 subject physician's record of treatment and counseling
24 regarding the impairment, to the extent permitted by applicable
25 federal statutes and regulations safeguarding the
26 confidentiality of medical records.

1 An individual licensed under this Act, affected under this
2 Section, shall be afforded an opportunity to demonstrate to the
3 Disciplinary Board that they can resume practice in compliance
4 with acceptable and prevailing standards under the provisions
5 of their license.

6 The Department may promulgate rules for the imposition of
7 fines in disciplinary cases, not to exceed \$10,000 for each
8 violation of this Act. Fines may be imposed in conjunction with
9 other forms of disciplinary action, but shall not be the
10 exclusive disposition of any disciplinary action arising out of
11 conduct resulting in death or injury to a patient. Any funds
12 collected from such fines shall be deposited in the Medical
13 Disciplinary Fund.

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

18 (B) The Department shall revoke the license or permit
19 issued under this Act to practice medicine or a chiropractic
20 physician who has been convicted a second time of committing
21 any felony under the Illinois Controlled Substances Act or the
22 Methamphetamine Control and Community Protection Act, or who
23 has been convicted a second time of committing a Class 1 felony
24 under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A
25 person whose license or permit is revoked under this subsection
26 B shall be prohibited from practicing medicine or treating

1 human ailments without the use of drugs and without operative
2 surgery.

3 (C) The Department shall not revoke, suspend, place on
4 probation, reprimand, refuse to issue or renew, or take any
5 other disciplinary or non-disciplinary action against the
6 license or permit issued under this Act to practice medicine to
7 a physician based solely upon the recommendation of the
8 physician to an eligible patient regarding, or prescription
9 for, or treatment with, an investigational drug, biological
10 product, or device.

11 (D) The Disciplinary Board shall recommend to the
12 Department civil penalties and any other appropriate
13 discipline in disciplinary cases when the Board finds that a
14 physician willfully performed an abortion with actual
15 knowledge that the person upon whom the abortion has been
16 performed is a minor or an incompetent person without notice as
17 required under the Parental Notice of Abortion Act of 1995.
18 Upon the Board's recommendation, the Department shall impose,
19 for the first violation, a civil penalty of \$1,000 and for a
20 second or subsequent violation, a civil penalty of \$5,000.

21 (Source: P.A. 98-601, eff. 12-30-13; 98-668, eff. 6-25-14;
22 98-1140, eff. 12-30-14; 99-270, eff. 1-1-16.)