



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### HB4520

Introduced 1/31/2012, by Rep. Angelo Saviano

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Professional Counselor and Clinical Professional Counselor Licensing Act. Renames the Act the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act (and makes conforming changes in other Acts). Provides that any person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice as a clinical professional counselor or professional counselor without being licensed or exempt under the Act shall pay a civil penalty to the Department of Financial and Professional Regulation in an amount not to exceed \$ 10,000 (instead of \$5,000) for each offense. Allows the Department to take action, including imposing fines not to exceed \$10,000 (instead of \$1,000) per violation, if the individual meets the requirements for grounds for disciplinary action. Creates a provision concerning the confidentiality of all information collected by the Department in the course of an examination or investigation of a licensee or applicant. Provides that a person who violates a provision of the Act is guilty of a Class A misdemeanor for the first offense and a Class 4 felony for the second and subsequent offense. Makes other changes in provisions concerning definitions; restrictions and limitations; powers and duties of the Department; qualifications for a license; the Board; renewal of licenses; payments; grounds for discipline; investigations; hearings and proceedings; and restoration of licenses. Amends the Regulatory Sunset Act to extend the Professional Counselor and Clinical Professional Counselor Licensing Act from January 1, 2013 to January 1, 2023. Effective immediately.

LRB097 19605 CEL 64859 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

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

6 (5 ILCS 80/4.23)

7 Sec. 4.23. Acts and Sections repealed on January 1, 2013.

8 The following Acts and Sections of Acts are repealed on January  
9 1, 2013:

10 The Dietetic and Nutrition Services Practice Act.

11 The Elevator Safety and Regulation Act.

12 The Fire Equipment Distributor and Employee Regulation Act  
13 of 2011.

14 The Funeral Directors and Embalmers Licensing Code.

15 The Naprapathic Practice Act.

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

18 The Wholesale Drug Distribution Licensing Act.

19 Section 2.5 of the Illinois Plumbing License Law.

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

21 (5 ILCS 80/4.33 new)

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

1 Act is repealed on January 1, 2023:

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

4 Section 5. The Professional Counselor and Clinical  
5 Professional Counselor Licensing Act is amended by changing  
6 Sections 1, 10, 20, 21, 25, 30, 45, 50, 60, 65, 75, 80, 85, 90,  
7 95, 100, 105, 110, 115, 120, 125, 130, 135, 145, 155, 160, and  
8 165 and by adding Section 93 as follows:

9 (225 ILCS 107/1)

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

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

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

15 (225 ILCS 107/10)

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

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

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

1 website or by contacting the Department.

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

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

5 "Board" means the Professional Counselor Licensing and  
6 Disciplinary Board as appointed by the Secretary ~~Director~~.

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

9 "Professional counseling" means the provision of services  
10 to individuals, couples, groups, families, and organizations  
11 in any one or more of the fields of professional counseling.  
12 Professional counseling includes, but is not limited to:

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

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

20 (3) research.

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

24 "Clinical professional counseling" means the provision of  
25 professional counseling and mental health services, which  
26 includes, but is not limited to, the application of clinical

1 counseling theory and techniques to prevent and alleviate  
2 mental and emotional disorders and psychopathology and to  
3 promote optimal mental health, rehabilitation, treatment,  
4 testing, assessment, and evaluation. It also includes clinical  
5 counseling and psychotherapy in a professional relationship to  
6 assist individuals, couples, families, groups, and  
7 organizations to alleviate emotional disorders, to understand  
8 conscious and unconscious motivation, to resolve emotional,  
9 relationship, and attitudinal conflicts, and to modify  
10 behaviors that interfere with effective emotional, social,  
11 adaptive, and intellectual functioning.

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

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

19 "Independent private practice of clinical professional  
20 counseling" means the application of clinical professional  
21 counseling knowledge and skills by a licensed clinical  
22 professional counselor who (i) regulates and is responsible for  
23 her or his own practice or treatment procedures and (ii) is  
24 self-employed or works in a group practice or setting not  
25 qualified under Internal Revenue Service regulations as a  
26 not-for-profit business.

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

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

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

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

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

18 (225 ILCS 107/20)

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

20 Sec. 20. Restrictions and limitations.

21 (a) No person shall, without a valid license as a  
22 professional counselor issued by the Department: (i) in any  
23 manner hold himself or herself out to the public as a  
24 professional counselor under this Act; (ii) attach the title  
25 "professional counselor" or "licensed professional counselor";

1 or (iii) offer to render or render to individuals,  
2 corporations, or the public professional counseling services.

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

12 (c) Licensed professional counselors may not engage in  
13 independent private practice as defined in this Act without a  
14 clinical professional counseling license. In an independent  
15 private practice, a licensed professional counselor must  
16 practice at all times under the order, control, and full  
17 professional responsibility of a licensed clinical  
18 professional counselor, a licensed clinical social worker, a  
19 licensed clinical psychologist, or a psychiatrist, ~~as defined~~  
20 ~~in Section 1-121 of the Mental Health and Developmental~~  
21 ~~Disabilities Code.~~

22 (d) No association, limited liability company, or  
23 partnership shall practice clinical professional counseling or  
24 professional counseling unless every member, partner, and  
25 employee of the association or partnership who practices  
26 professional counseling or clinical professional counseling,

1 or who renders professional counseling or clinical  
2 professional counseling services, holds a currently valid  
3 license issued under this Act. No license shall be issued to a  
4 corporation, the stated purpose of which includes or which  
5 practices or which holds itself out as available to practice  
6 professional counseling or clinical professional counseling  
7 unless it is organized under the Professional Service  
8 Corporation Act.

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

14 (f) When, in the course of providing professional  
15 counseling or clinical professional counseling services to any  
16 person, a professional counselor or clinical professional  
17 counselor licensed under this Act finds indication of a disease  
18 or condition that in his or her professional judgment requires  
19 professional service outside the scope of practice as defined  
20 in this Act, he or she shall refer that person to a physician  
21 licensed to practice medicine in all of its branches or another  
22 appropriate health care practitioner.

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

24 (225 ILCS 107/21)

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

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

2           (a) Any person who practices, offers to practice, attempts  
3 to practice, or holds himself or herself out to practice as a  
4 clinical professional counselor or professional counselor  
5 without being licensed or exempt under this Act shall, in  
6 addition to any other penalty provided by law, pay a civil  
7 penalty to the Department in an amount not to exceed \$10,000  
8 ~~\$5,000~~ for each offense, as determined by the Department. The  
9 civil penalty shall be assessed by the Department after a  
10 hearing is held in accordance with the provisions set forth in  
11 this Act regarding the provision of a hearing for the  
12 discipline of a licensee.

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

15           (c) The civil penalty shall be paid within 60 days after  
16 the effective date of the order imposing the civil penalty. The  
17 order shall constitute a final judgment and may be filed and  
18 execution had thereon in the same manner as any judgment from  
19 any court of record.

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

21           (225 ILCS 107/25)

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

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

25           (a) Authorize examinations to ascertain the qualifications

1 and fitness of applicants for licensing as professional  
2 counselors or clinical professional counselors and pass upon  
3 the qualifications of applicants for licensure by endorsement.

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

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

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

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

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

1 (225 ILCS 107/30) (from Ch. 111, par. 8451-30)

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

3 Sec. 30. Professional Counselor Examining and Disciplinary  
4 Board.

5 (a) The Secretary ~~Director~~ shall appoint a Board which  
6 shall serve in an advisory capacity to the Secretary ~~Director~~.  
7 The Board shall consist of 7 persons, 2 of whom are licensed  
8 solely as professional counselors, 3 of whom are licensed  
9 solely as clinical professional counselors, one full-time  
10 faculty member of an accredited college or university that is  
11 engaged in training professional counselors or clinical  
12 professional counselors who possesses the qualifications  
13 substantially equivalent to the education and experience  
14 requirements for a professional counselor or clinical  
15 professional counselor, and one member of the public who is not  
16 a licensed health care provider. In appointing members of the  
17 Board, the Secretary ~~Director~~ shall give due consideration to  
18 the adequate representation of the various fields of  
19 counseling. In appointing members of the Board, the Secretary  
20 ~~Director~~ shall give due consideration to recommendations by  
21 members of the professions of professional counseling and  
22 clinical professional counseling, the Statewide organizations  
23 representing the interests of professional counselors and  
24 clinical professional counselors, organizations representing  
25 the interests of academic programs, rehabilitation counseling  
26 programs, and approved counseling programs in the State of

1 Illinois.

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

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

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

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

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

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

26 (h) The Board may make recommendations on matters relating

1 to approving graduate counseling, rehabilitation counseling,  
2 psychology, and related programs.

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

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

12 (k) A majority of the Board members currently appointed  
13 shall constitute a quorum. A vacancy in the membership of the  
14 Board shall not impair the right of a quorum to perform all of  
15 the duties of the Board.

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

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

21 (225 ILCS 107/45)

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

23 Sec. 45. Qualifications for a license.

24 (a) Professional counselor. A person is qualified to be  
25 licensed as a licensed professional counselor, and the

1 Department shall issue a license authorizing the practice of  
2 professional counseling to an applicant who:

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

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

8 (3) is a graduate of:

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

13 (B) in the case of an applicant who applied ~~applies~~  
14 for licensure before the effective date of this  
15 amendatory Act of the 96th General Assembly, an  
16 approved baccalaureate program in human services or  
17 similar degree program approved by the Department and  
18 can document the equivalent of 5 years of full-time  
19 satisfactory supervised experience, as established by  
20 rule, under a qualified supervisor;

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

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

25 Any person who has received certification by any State or  
26 national organization whose standards are accepted by the

1 Department as being substantially similar to the standards in  
2 this Act may apply for a professional counselor license and  
3 need not be examined further.

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

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

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

13 (3) is a graduate of:

14 (A) a master's level program in the field of  
15 counseling, rehabilitation counseling, psychology, or  
16 similar degree program approved by the Department and  
17 has completed the equivalent of 2 years full-time  
18 satisfactory supervised employment or experience  
19 working as a clinical counselor under the direction of  
20 a qualified supervisor subsequent to the degree; or

21 (B) a doctoral program in the field of counseling,  
22 rehabilitation counseling, psychology, or similar  
23 program approved by the Department and has completed  
24 the equivalent of 2 years full-time satisfactory  
25 supervised employment or experience working as a  
26 clinical counselor under the direction of a qualified

1 supervisor, at least one year of which is subsequent to  
2 the degree;

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

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

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

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

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

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

22 (225 ILCS 107/50)

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

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

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

9 (b) Any person who has permitted a license to expire or who  
10 has a license on inactive status may have it restored by  
11 submitting an application to the Department and filing proof of  
12 fitness acceptable to the Department, ~~as defined by rule,~~ to  
13 have the license restored, including, if appropriate, evidence  
14 which is satisfactory to the Department certifying the active  
15 practice of professional counseling or clinical professional  
16 counseling in another jurisdiction and by paying the required  
17 fee.

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

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

13 (e) A license to practice shall not be denied any applicant  
14 because of the applicant's race, religion, creed, national  
15 origin, political beliefs or activities, age, sex, sexual  
16 orientation, or physical impairment.

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

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

22 (225 ILCS 107/60)

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

24 Sec. 60. Fees. The Department shall provide by rule for a  
25 schedule of fees for the administration and enforcement of this

1 Act, including, but not limited to, original licensure,  
2 registration, renewal, and restoration. The fees shall be  
3 nonrefundable ~~The fees imposed under this Act shall be set by~~  
4 ~~rule and are not refundable.~~

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

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

11 (225 ILCS 107/65)

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

13 Sec. 65. Payments; penalty for insufficient funds ~~Checks or~~  
14 ~~orders dishonored.~~ Any person who issues or delivers a check or  
15 other order to the Department that is returned to the  
16 Department unpaid by the financial institution upon which it is  
17 drawn shall pay to the Department, in addition to the amount  
18 already owed to the Department, a fine of \$50. The fines  
19 imposed by this Section are in addition to any other discipline  
20 provided under this Act prohibiting unlicensed practice or  
21 practice on a nonrenewed license. The Department shall notify  
22 the person that payment of fees and fines shall be paid to the  
23 Department by certified check or money order within 30 calendar  
24 days after notification. If, after the expiration of 30 days  
25 from the date of the notification, the person has failed to

1 submit the necessary remittance, the Department shall  
2 automatically terminate the license or certification or deny  
3 the application, without hearing. If, after termination or  
4 denial, the person seeks a license or certificate, he or she  
5 shall apply to the Department for restoration or issuance of  
6 the license or certificate and pay all fees and fines due to  
7 the Department. The Department may establish a fee for the  
8 processing of an application for restoration of a license to  
9 pay all costs and expenses of processing of this application.  
10 The Secretary ~~Director~~ may waive the fines due under this  
11 Section in individual cases where the Secretary ~~Director~~ finds  
12 that the fines would be unnecessarily burdensome.

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

14 (225 ILCS 107/75)

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

16 Sec. 75. Privileged communications and exceptions.

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

22 (1) In the course of formally reporting, conferring, or  
23 consulting with administrative superiors, colleagues, or  
24 consultants who share professional responsibility, in  
25 which instance all recipients of the information are

1 similarly bound to regard the communication as privileged;

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

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

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

15 (5) When the person waives the privilege by bringing  
16 any public charges against the licensee.

17 (b) When the person is a minor under the laws of the State  
18 of Illinois and the information acquired by the licensed  
19 professional counselor or licensed clinical professional  
20 counselor indicates the minor was the victim or subject of a  
21 crime, the licensed professional counselor or licensed  
22 clinical professional counselor may be required to testify in  
23 any judicial proceedings in which the commission of that crime  
24 is the subject of inquiry when, after in camera review of the  
25 information that the licensed professional counselor or  
26 licensed clinical professional counselor acquired, the court

1 determines that the interests of the minor in having the  
2 information held privileged are outweighed by the requirements  
3 of justice, the need to protect the public safety or the need  
4 to protect the minor, except as provided under the Abused and  
5 Neglected Child Reporting Act.

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

13 (d) Nothing in this Act shall be construed to prohibit a  
14 licensed professional counselor or licensed clinical  
15 professional counselor from voluntarily testifying in court  
16 hearings concerning matters of adoption, child abuse, child  
17 neglect or other matters pertaining to children, except as  
18 provided under the Abused and Neglected Child Reporting Act.

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

26 (f) Licensed professional counselors and licensed clinical

1 professional counselors when performing professional  
2 counseling services or clinical professional counseling  
3 services shall comply with counselor licensure rules and laws  
4 contained in this Section and Section 80 of this Act regardless  
5 of their employment or work setting.

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

7 (225 ILCS 107/80)

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

9 Sec. 80. Grounds for discipline.

10 (a) The Department may refuse to issue, renew, or may  
11 revoke, suspend, place on probation, reprimand, or take other  
12 disciplinary or non-disciplinary action as the Department  
13 deems appropriate, including the issuance of fines not to  
14 exceed \$10,000 ~~\$1000~~ for each violation, with regard to any  
15 license for any one or more of the following:

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

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

20 (3) Conviction by plea of guilty or nolo contendere,  
21 finding of guilt, jury verdict, or entry of judgment or by  
22 sentencing of any crime, including, but not limited to,  
23 convictions, preceding sentences of supervision,  
24 conditional discharge, or first offender probation, under  
25 the laws of any jurisdiction of the United States: (i) that

1        is a felony or (ii) that is a misdemeanor, an essential  
2        element of which is dishonesty, or that is directly related  
3        to the practice of the profession ~~Conviction of any crime~~  
4        ~~under the laws of the United States or any state or~~  
5        ~~territory thereof that is a felony, or that is a~~  
6        ~~misdemeanor, an essential element of which is dishonesty,~~  
7        ~~or of any crime which is directly related to the practice~~  
8        ~~of the profession.~~

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

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

17            (6) Malpractice.

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

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

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

26            (10) Habitual or excessive use or abuse of drugs as

1 defined in law as controlled substances, alcohol,  
2 ~~addiction to alcohol, narcotics, stimulants,~~ or any other  
3 substance ~~chemical agent or drug~~ which results in inability  
4 to practice with reasonable skill, judgment, or safety.

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

10 (12) Directly or indirectly giving to or receiving from  
11 any person, firm, corporation, partnership, or association  
12 any fee, commission, rebate or other form of compensation  
13 for any professional service not actually rendered.  
14 Nothing in this paragraph (12) affects any bona fide  
15 independent contractor or employment arrangements among  
16 health care professionals, health facilities, health care  
17 providers, or other entities, except as otherwise  
18 prohibited by law. Any employment arrangements may include  
19 provisions for compensation, health insurance, pension, or  
20 other employment benefits for the provision of services  
21 within the scope of the licensee's practice under this Act.  
22 Nothing in this paragraph (12) shall be construed to  
23 require an employment arrangement to receive professional  
24 fees for services rendered.

25 (13) A finding by the Board that the licensee, after  
26 having the license placed on probationary status, has

1 violated the terms of probation.

2 (14) Abandonment of a client.

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

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

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

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

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

26 (20) Allowing one's license under this Act to be used

1 ~~by an unlicensed person in violation of this Act Failure to~~  
2 ~~file a return, or to pay the tax, penalty or interest shown~~  
3 ~~in a filed return, or to pay any final assessment of tax,~~  
4 ~~penalty or interest, as required by any tax Act~~  
5 ~~administered by the Illinois Department of Revenue or any~~  
6 ~~successor agency or the Internal Revenue Service or any~~  
7 ~~successor agency.~~

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

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

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

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

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

22 All fines imposed under this Section shall be paid within  
23 60 days after the effective date of the order imposing the  
24 fine.

25 (b) The Department shall deny, without hearing, any  
26 application or renewal for a license under this Act to any

1 person who has defaulted on an educational loan guaranteed by  
2 the Illinois State Assistance Commission or any governmental  
3 agency of this State in accordance with item (5) of subsection  
4 (a) of Section 2105-15 of the Department of Professional  
5 Regulation Law of the Civil Administrative Code of Illinois,  
6 ~~however, the Department may issue a license or renewal if the~~  
7 ~~person in default has established a satisfactory repayment~~  
8 ~~record as determined by the Illinois Student Assistance~~  
9 ~~Commission.~~

10 (b-5) The Department may refuse to issue or may suspend  
11 without hearing, as provided for in the Code of Civil  
12 Procedure, the license of any person who fails to file a  
13 return, pay the tax, penalty, or interest shown in a filed  
14 return, or pay any final assessment of the tax, penalty, or  
15 interest as required by any tax Act administered by the  
16 Illinois Department of Revenue, until such time as the  
17 requirements of any such tax Act are satisfied in accordance  
18 with subsection (g) of Section 2105-15 of the Department of  
19 Professional Regulation Law of the Civil Administrative Code of  
20 Illinois.

21 (b-10) In cases where the Department of Healthcare and  
22 Family Services has previously determined a licensee or a  
23 potential licensee is more than 30 days delinquent in the  
24 payment of child support and has subsequently certified the  
25 delinquency to the Department, the Department may refuse to  
26 issue or renew or may revoke or suspend that person's license

1 or may take other disciplinary action against that person based  
2 solely upon the certification of delinquency made by the  
3 Department of Healthcare and Family Services in accordance with  
4 item (5) of subsection (a) of Section 2105-15 of the Department  
5 of Professional Regulation Law of the Civil Administrative Code  
6 of Illinois.

7 (c) The determination by a court that a licensee is subject  
8 to involuntary admission or judicial admission as provided in  
9 the Mental Health and Developmental Disabilities Code will  
10 result in an automatic suspension of his or her license. The  
11 suspension will end upon a finding by a court that the licensee  
12 is no longer subject to involuntary admission or judicial  
13 admission, the issuance of an order so finding and discharging  
14 the patient, and the recommendation of the Board to the  
15 Secretary ~~Director~~ that the licensee be allowed to resume  
16 professional practice.

17 (c-5) In enforcing this Act, the Department, upon a showing  
18 of a possible violation, may compel an individual licensed to  
19 practice under this Act, or who has applied for licensure under  
20 this Act, to submit to a mental or physical examination, or  
21 both, as required by and at the expense of the Department. The  
22 Department may order the examining physician to present  
23 testimony concerning the mental or physical examination of the  
24 licensee or applicant. No information shall be excluded by  
25 reason of any common law or statutory privilege relating to  
26 communications between the licensee or applicant and the

1 examining physician. The examining physicians shall be  
2 specifically designated by the Department. The individual to be  
3 examined may have, at his or her own expense, another physician  
4 of his or her choice present during all aspects of this  
5 examination. The examination shall be performed by a physician  
6 licensed to practice medicine in all its branches. Failure of  
7 an individual to submit to a mental or physical examination,  
8 when directed, shall result in an automatic suspension without  
9 hearing.

10 A person holding a license under this Act or who has  
11 applied for a license under this Act who, because of a physical  
12 or mental illness or disability, including, but not limited to,  
13 deterioration through the aging process or loss of motor skill,  
14 is unable to practice the profession with reasonable judgment,  
15 skill, or safety, may be required by the Department to submit  
16 to care, counseling, or treatment by physicians approved or  
17 designated by the Department as a condition, term, or  
18 restriction for continued, reinstated, or renewed licensure to  
19 practice. Submission to care, counseling, or treatment as  
20 required by the Department shall not be considered discipline  
21 of a license. If the licensee refuses to enter into a care,  
22 counseling, or treatment agreement or fails to abide by the  
23 terms of the agreement, the Department may file a complaint to  
24 revoke, suspend, or otherwise discipline the license of the  
25 individual. The Secretary may order the license suspended  
26 immediately, pending a hearing by the Department. Fines shall

1 not be assessed in disciplinary actions involving physical or  
2 mental illness or impairment.

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

12 An individual licensed under this Act and affected under  
13 this Section shall be afforded an opportunity to demonstrate to  
14 the Department that he or she can resume practice in compliance  
15 with acceptable and prevailing standards under the provisions  
16 of his or her license.

17 (d) (Blank). ~~In enforcing this Section, the Board, upon a~~  
18 ~~showing of a possible violation, may compel a licensee or~~  
19 ~~applicant to submit to a mental or physical examination, or~~  
20 ~~both, as required by and at the expense of the Department. The~~  
21 ~~examining physicians or clinical psychologists shall be those~~  
22 ~~specifically designated by the Board. The Board or the~~  
23 ~~Department may order (i) the examining physician to present~~  
24 ~~testimony concerning the mental or physical examination of a~~  
25 ~~licensee or applicant or (ii) the examining clinical~~  
26 ~~psychologist to present testimony concerning the mental~~

1 ~~examination of a licensee or applicant. No information shall be~~  
2 ~~excluded by reason of any common law or statutory privilege~~  
3 ~~relating to communications between a licensee or applicant and~~  
4 ~~the examining physician or clinical psychologist. An~~  
5 ~~individual to be examined may have, at his or her own expense,~~  
6 ~~another physician or clinical psychologist of his or her choice~~  
7 ~~present during all aspects of the examination. Failure of an~~  
8 ~~individual to submit to a mental or physical examination, when~~  
9 ~~directed, is grounds for suspension of his or her license. The~~  
10 ~~license must remain suspended until the person submits to the~~  
11 ~~examination or the Board finds, after notice and hearing, that~~  
12 ~~the refusal to submit to the examination was with reasonable~~  
13 ~~cause.~~

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

24 ~~Any individual whose license was granted, continued,~~  
25 ~~reinstated, or renewed subject to conditions, terms, or~~  
26 ~~restrictions, as provided for in this Section, or any~~

1 ~~individual who was disciplined or placed on supervision~~  
2 ~~pursuant to this Section must be referred to the Director for a~~  
3 ~~determination as to whether the person shall have his or her~~  
4 ~~license suspended immediately, pending a hearing by the Board.~~

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

6 (225 ILCS 107/85)

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

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

9 (a) If any person violates the provisions of this Act, the  
10 Secretary ~~Director~~ may, in the name of the People of the State  
11 of Illinois, through the Attorney General of the State of  
12 Illinois or the State's Attorney of the county in which the  
13 violation is alleged to have occurred, petition for an order  
14 enjoining the violation or for an order enforcing compliance  
15 with this Act. Upon the filing of a verified petition, the  
16 court with appropriate jurisdiction may issue a temporary  
17 restraining order without notice or bond, and may preliminarily  
18 and permanently enjoin the violation. If it is established that  
19 the person has violated or is violating the injunction, the  
20 court may punish the offender for contempt of court.  
21 Proceedings under this Section are in addition to all other  
22 remedies and penalties provided by this Act.

23 (b) If any person holds himself or herself out as being a  
24 licensed professional counselor or licensed clinical  
25 professional counselor under this Act and is not licensed to do

1 so, then any licensed professional counselor, licensed  
2 clinical professional counselor, interested party, or any  
3 person injured thereby may petition for relief as provided in  
4 subsection (a) of this Section.

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

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

15 (225 ILCS 107/90)

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

17 Sec. 90. Investigations; notice and hearing. The  
18 Department may investigate the actions of any applicant or any  
19 person holding or claiming to hold a license. The Department  
20 shall, before refusing to issue or renew a license or  
21 disciplining a licensee ~~revoking, suspending, placing on~~  
22 ~~probation, reprimanding, or taking any other disciplinary~~  
23 ~~action~~ under Section 80 of this Act, at least 30 days prior to  
24 the date set for the hearing, (i) notify the accused, in  
25 writing, of any charges made and the time and place for the

1 hearing on the charges, (ii) direct him or her to file a  
2 written answer to the charges with the Board under oath within  
3 20 days after the service ~~on him or her~~ of the notice, and  
4 (iii) inform the applicant or licensee ~~accused~~ that failure, if  
5 ~~he or she fails~~ to file an answer shall result in, default  
6 being ~~will be~~ taken against the applicant or licensee. At the  
7 time and place fixed in the notice, the Department shall  
8 proceed to hear the charges, and the parties or their counsel  
9 shall be accorded ample opportunity to present any pertinent  
10 statements, testimony, evidence, and arguments. The Department  
11 may continue the hearing from time to time. In case the person,  
12 after receiving the notice, fails to answer, his or her  
13 license, may, in the discretion of the Department, be revoked,  
14 suspended, placed on probationary status, or the Department may  
15 take whatever disciplinary action considered proper, including  
16 limiting the scope, nature, or extent of the person's practice  
17 or the imposition of a fine, without a hearing, if the act or  
18 acts charged constitute sufficient grounds for that action  
19 under the Act. The written notice and any notice in the  
20 subsequent proceeding may be served by registered or certified  
21 mail to the licensee's address of record. ~~him or her or that~~  
22 ~~his or her license or certificate may be suspended, revoked,~~  
23 ~~placed on probationary status, or other disciplinary action~~  
24 ~~taken with regard to the license or certificate, including~~  
25 ~~limiting the scope, nature, or extent of his or her practice,~~  
26 ~~as the Department may deem proper. In case the person, after~~

1 ~~receiving notice, fails to file an answer, his or her license~~  
2 ~~may, in the discretion of the Department, be suspended,~~  
3 ~~revoked, placed on probationary status, or the Department may~~  
4 ~~take whatever disciplinary action deemed proper, including~~  
5 ~~limiting the scope, nature, or extent of the person's practice~~  
6 ~~or the imposition of a fine, without a hearing, if the act or~~  
7 ~~acts charged constitute sufficient grounds for such action~~  
8 ~~under this Act. The written notice may be served by personal~~  
9 ~~delivery or certified mail to the address specified by the~~  
10 ~~accused in his or her last notification to the Department.~~

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

12 (225 ILCS 107/93 new)

13 Sec. 93. Confidentiality. All information collected by the  
14 Department in the course of an examination or investigation of  
15 a licensee or applicant, including, but not limited to, any  
16 complaint against a licensee filed with the Department and  
17 information collected to investigate any such complaint, shall  
18 be maintained for the confidential use of the Department and  
19 shall not be disclosed. The Department may not disclose the  
20 information to anyone other than law enforcement officials,  
21 other regulatory agencies that have an appropriate regulatory  
22 interest as determined by the Secretary, or a party presenting  
23 a lawful subpoena to the Department. Information and documents  
24 disclosed to a federal, State, county, or local law enforcement  
25 agency shall not be disclosed by the agency for any purpose to

1 any other agency or person. A formal complaint filed against a  
2 licensee by the Department or any order issued by the  
3 Department against a licensee or applicant shall be a public  
4 record, except as otherwise prohibited by law.

5 (225 ILCS 107/95)

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

7 Sec. 95. Record of proceedings; transcript. The  
8 Department, at its expense, shall preserve a record of all  
9 proceedings at the formal hearing of any case. The notice of  
10 hearing, complaint, all other documents in the nature of  
11 pleadings, written motions filed in the proceedings, the  
12 transcript of testimony, the report of the Board and orders of  
13 the Department shall be in the record of such proceeding. ~~The~~  
14 ~~Department shall furnish a transcript of the record to any~~  
15 ~~person interested in the hearing upon payment of the fee~~  
16 ~~required under Section 2105 115 of the Department of~~  
17 ~~Professional Regulation Law (20 ILCS 2105/2105 115).~~

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

19 (225 ILCS 107/100)

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

21 Sec. 100. Subpoenas; ~~depositions;~~ oaths. The Department  
22 has the power to subpoena and ~~to~~ bring before it any person ~~and~~  
23 to take the oral or written testimony or compel the production  
24 of any books, papers, records, or any other documents that the

1 Secretary or his or her designee deems relevant or material to  
2 any investigation or hearing conducted by the Department either  
3 ~~orally or by deposition, or both,~~ with the same fees and  
4 mileage and in the same manner as prescribed in civil cases in  
5 the courts of this State.

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

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

16 (225 ILCS 107/105)

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

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

1 contempt.

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

3 (225 ILCS 107/110)

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

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

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

1 of this Act.

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

3 (225 ILCS 107/115)

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

5 Sec. 115. Motion for Board, rehearing. In any hearing  
6 involving the refusal to issue or renew a license, or the  
7 discipline of a licensee ~~At the conclusion of the hearing~~, a  
8 copy of the Board's report shall be served upon the applicant  
9 or licensee by the Department, either personally or as provided  
10 in this Act for the service of the notice of hearing. Within 20  
11 days after such service, the applicant or licensee may present  
12 to the Department a motion in writing for a rehearing which  
13 shall specify the particular grounds for rehearing. If no  
14 motion for a rehearing is filed, then upon the expiration of  
15 the time specified for filing such a motion, or if a motion for  
16 rehearing is denied, then upon such denial, the Secretary  
17 ~~Director~~ may enter an order in accordance with recommendations  
18 of the Board, except as provided in Section 120 of this Act. If  
19 the applicant or licensee requests and pays for a transcript of  
20 the record within the time for filing a motion for rehearing,  
21 the 20-day period within which a motion may be filed shall  
22 commence upon the delivery of the transcript to the applicant  
23 or licensee.

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

1 (225 ILCS 107/120)

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

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

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

10 (225 ILCS 107/125)

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

12 Sec. 125. Appointment of a hearing officer. The Secretary  
13 ~~Director~~ has the authority to appoint any attorney licensed to  
14 practice law in the State of Illinois to serve as the hearing  
15 officer in any action for refusal to issue or renew a license  
16 or permit or to discipline a licensee. The hearing officer has  
17 full authority to conduct the hearing. ~~At least one member of~~  
18 ~~the Board shall attend each hearing.~~ The hearing officer shall  
19 report his or her findings of fact, conclusions of law, and  
20 recommendations to the Board and to the Secretary ~~Director~~. The  
21 Board shall have 60 calendar days from receipt of the report to  
22 review it and to present its findings of fact, conclusions of  
23 law and recommendation to the Secretary ~~Director~~. If the Board  
24 does not present its report within the 60 day period, the  
25 Secretary ~~Director~~ may issue an order based on the report of

1 the hearing officer. If the Secretary ~~Director~~ disagrees with  
2 the recommendation of the Board or of the hearing officer, the  
3 Secretary ~~Director~~ may issue an order in contravention of the  
4 recommendation. ~~The Director shall promptly provide a written~~  
5 ~~explanation to the Board on any such disagreement.~~

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

7 (225 ILCS 107/130)

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

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

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

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

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

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

19 (225 ILCS 107/135)

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

21 Sec. 135. Restoration of ~~suspended or revoked~~ license from  
22 discipline. At any time after the successful completion of a  
23 term of indefinite probation, suspension, or revocation of a  
24 license, the Department may restore the license to the

1 licensee, unless, after an investigation and a hearing, the  
2 Secretary determines that restoration is not in the public  
3 interest or that the licensee has not been sufficiently  
4 rehabilitated to warrant the public trust. No person or entity  
5 whose license, certificate, or authority has been revoked as  
6 authorized in this Act may apply for restoration of that  
7 license, certification, or authority until such time as  
8 provided for in Article 2105 of the Department of Professional  
9 Regulation Law of the Civil Administrative Code of Illinois  
10 ~~suspension or revocation of any license, the Department may~~  
11 ~~restore it to the licensee upon the written recommendation of~~  
12 ~~the Board, unless after an investigation and hearing the Board~~  
13 ~~determines that restoration is not in the public interest.~~

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

15 (225 ILCS 107/145)

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

17 Sec. 145. Summary suspension of license. The Secretary  
18 ~~Director~~ may summarily suspend the license of a professional  
19 counselor or a clinical professional counselor without a  
20 hearing, simultaneously with the institution of proceedings  
21 for a hearing provided for in Section 90 of this Act, if the  
22 Secretary ~~Director~~ finds that the evidence ~~in the possession of~~  
23 ~~the Director~~ indicates that the continuation of practice by the  
24 professional counselor or clinical professional counselor  
25 would constitute an imminent danger to the public. In the event

1 that the Secretary ~~Director~~ summarily suspends the license of  
2 an individual without a hearing, a hearing must be commenced  
3 ~~held~~ within 30 days after the suspension has occurred and shall  
4 be concluded as expeditiously as possible.

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

6 (225 ILCS 107/155)

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

8 Sec. 155. Certification of record; costs. The Department  
9 shall not be required to certify any record to the court, to  
10 file an answer in court, or to otherwise appear in any court in  
11 a judicial review proceeding, unless and until the Department  
12 has received from the plaintiff there is filed in the court,  
13 ~~with the complaint, a receipt from the Department acknowledging~~  
14 ~~payment of the costs of furnishing and certifying the record,~~  
15 which costs shall be determined by the Department. Exhibits  
16 shall be certified without cost. Failure on the part of the  
17 plaintiff to file the receipt in court is grounds for dismissal  
18 of the action.

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

20 (225 ILCS 107/160)

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

22 Sec. 160. Violations. Unless otherwise specified, any  
23 person found to have violated any provision of this Act is  
24 guilty of a Class A misdemeanor for the first offense and a

1 Class 4 felony for the second and any subsequent offense.

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

3 (225 ILCS 107/165)

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

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

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

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

21 (320 ILCS 20/2) (from Ch. 23, par. 6602)

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

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

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

10           Nothing in this Act shall be construed to mean that an  
11 eligible adult is a victim of abuse because of health care  
12 services provided or not provided by licensed health care  
13 professionals.

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

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

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

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

24           (d) "Domestic living situation" means a residence where the  
25 eligible adult at the time of the report lives alone or with  
26 his or her family or a caregiver, or others, or a board and

1 care home or other community-based unlicensed facility, but is  
2 not:

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

5 (1.5) A facility licensed under the ID/DD Community  
6 Care Act;

7 (1.7) A facility licensed under the Specialized Mental  
8 Health Rehabilitation Act;

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

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

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

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

22 (6) (Blank);

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

26 (8) An assisted living or shared housing establishment

1 as defined in the Assisted Living and Shared Housing Act;  
2 or

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

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

9 (f) "Emergency" means a situation in which an eligible  
10 adult is living in conditions presenting a risk of death or  
11 physical, mental or sexual injury and the provider agency has  
12 reason to believe the eligible adult is unable to consent to  
13 services which would alleviate that risk.

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

17 (1) a professional or professional's delegate while  
18 engaged in: (i) social services, (ii) law enforcement,  
19 (iii) education, (iv) the care of an eligible adult or  
20 eligible adults, or (v) any of the occupations required to  
21 be licensed under the Clinical Psychologist Licensing Act,  
22 the Clinical Social Work and Social Work Practice Act, the  
23 Illinois Dental Practice Act, the Dietetic and Nutrition  
24 Services Practice Act, the Marriage and Family Therapy  
25 Licensing Act, the Medical Practice Act of 1987, the  
26 Naprapathic Practice Act, the Nurse Practice Act, the

1 Nursing Home Administrators Licensing and Disciplinary  
2 Act, the Illinois Occupational Therapy Practice Act, the  
3 Illinois Optometric Practice Act of 1987, the Pharmacy  
4 Practice Act, the Illinois Physical Therapy Act, the  
5 Physician Assistant Practice Act of 1987, the Podiatric  
6 Medical Practice Act of 1987, the Respiratory Care Practice  
7 Act, the Professional Counselor and Clinical Professional  
8 Counselor Licensing and Practice Act, the Illinois  
9 Speech-Language Pathology and Audiology Practice Act, the  
10 Veterinary Medicine and Surgery Practice Act of 2004, and  
11 the Illinois Public Accounting Act;

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

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

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

25 (5) field personnel of the Department of Healthcare and  
26 Family Services, Department of Public Health, and

1 Department of Human Services, and any county or municipal  
2 health department;

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

8 (7) any employee of the State of Illinois not otherwise  
9 specified herein who is involved in providing services to  
10 eligible adults, including professionals providing medical  
11 or rehabilitation services and all other persons having  
12 direct contact with eligible adults;

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

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

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

26 (h) "Provider agency" means any public or nonprofit agency

1 in a planning and service area appointed by the regional  
2 administrative agency with prior approval by the Department on  
3 Aging to receive and assess reports of alleged or suspected  
4 abuse, neglect, or financial exploitation.

5 (i) "Regional administrative agency" means any public or  
6 nonprofit agency in a planning and service area so designated  
7 by the Department, provided that the designated Area Agency on  
8 Aging shall be designated the regional administrative agency if  
9 it so requests. The Department shall assume the functions of  
10 the regional administrative agency for any planning and service  
11 area where another agency is not so designated.

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

25 (j) "Substantiated case" means a reported case of alleged  
26 or suspected abuse, neglect, financial exploitation, or

1 self-neglect in which a provider agency, after assessment,  
2 determines that there is reason to believe abuse, neglect, or  
3 financial exploitation has occurred.

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

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

9 (730 ILCS 5/5-5-5) (from Ch. 38, par. 1005-5-5)

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

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

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

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

20 (d) On completion of sentence of imprisonment or upon  
21 discharge from probation, conditional discharge or periodic  
22 imprisonment, or at any time thereafter, all license rights and  
23 privileges granted under the authority of this State which have  
24 been revoked or suspended because of conviction of an offense

1 shall be restored unless the authority having jurisdiction of  
2 such license rights finds after investigation and hearing that  
3 restoration is not in the public interest. This paragraph (d)  
4 shall not apply to the suspension or revocation of a license to  
5 operate a motor vehicle under the Illinois Vehicle Code.

6 (e) Upon a person's discharge from incarceration or parole,  
7 or upon a person's discharge from probation or at any time  
8 thereafter, the committing court may enter an order certifying  
9 that the sentence has been satisfactorily completed when the  
10 court believes it would assist in the rehabilitation of the  
11 person and be consistent with the public welfare. Such order  
12 may be entered upon the motion of the defendant or the State or  
13 upon the court's own motion.

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

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

21 (h) No application for any license specified in subsection  
22 (i) of this Section granted under the authority of this State  
23 shall be denied by reason of an eligible offender who has  
24 obtained a certificate of relief from disabilities, as defined  
25 in Article 5.5 of this Chapter, having been previously  
26 convicted of one or more criminal offenses, or by reason of a

1 finding of lack of "good moral character" when the finding is  
2 based upon the fact that the applicant has previously been  
3 convicted of one or more criminal offenses, unless:

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

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

10 In making such a determination, the licensing agency shall  
11 consider the following factors:

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

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

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

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

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

26 (6) the seriousness of the offense or offenses;

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

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

10          (i) A certificate of relief from disabilities shall be  
11          issued only for a license or certification issued under the  
12          following Acts:

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

20               (2) the Illinois Athletic Trainers Practice Act;

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

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

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

26               (6) the Illinois Certified Shorthand Reporters Act of

1 1984;

2 (7) the Illinois Farm Labor Contractor Certification  
3 Act;

4 (8) the Interior Design Title Act;

5 (9) the Illinois Professional Land Surveyor Act of  
6 1989;

7 (10) the Illinois Landscape Architecture Act of 1989;

8 (11) the Marriage and Family Therapy Licensing Act;

9 (12) the Private Employment Agency Act;

10 (13) the Professional Counselor and Clinical  
11 Professional Counselor Licensing and Practice Act;

12 (14) the Real Estate License Act of 2000;

13 (15) the Illinois Roofing Industry Licensing Act;

14 (16) the Professional Engineering Practice Act of  
15 1989;

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

18 (18) the Electrologist Licensing Act;

19 (19) the Auction License Act;

20 (20) the Illinois Architecture Practice Act of 1989;

21 (21) the Dietetic and Nutrition Services Practice Act;

22 (22) the Environmental Health Practitioner Licensing  
23 Act;

24 (23) the Funeral Directors and Embalmers Licensing  
25 Code;

26 (24) the Land Sales Registration Act of 1999;

- 1           (25) the Professional Geologist Licensing Act;
- 2           (26) the Illinois Public Accounting Act; and
- 3           (27) the Structural Engineering Practice Act of 1989.
- 4           (Source: P.A. 96-1246, eff. 1-1-11; 97-119, eff. 7-14-11.)

5           Section 99. Effective date. This Act takes effect upon

6           becoming law.

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- 4 5 ILCS 80/4.33 new
- 5 225 ILCS 107/1
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- 7 225 ILCS 107/20
- 8 225 ILCS 107/21
- 9 225 ILCS 107/25
- 10 225 ILCS 107/30 from Ch. 111, par. 8451-30
- 11 225 ILCS 107/45
- 12 225 ILCS 107/50
- 13 225 ILCS 107/60
- 14 225 ILCS 107/65
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- 19 225 ILCS 107/93 new
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3 225 ILCS 107/135

4 225 ILCS 107/145

5 225 ILCS 107/155

6 225 ILCS 107/160

7 225 ILCS 107/165

8 320 ILCS 20/2 from Ch. 23, par. 6602

9 730 ILCS 5/5-5-5 from Ch. 38, par. 1005-5-5