



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB4096

Introduced 5/17/2023, by Rep. Tom Weber

#### SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-45.35 new

210 ILCS 5/10f

210 ILCS 85/7

225 ILCS 60/67 new

from Ch. 111 1/2, par. 157-8.10f

from Ch. 111 1/2, par. 148

Amends the Medical Practice Act of 1987. Provides that sex-reassignment procedures are prohibited for patients younger than 18 years of age. Provides that if sex-reassignment procedures are administered or performed on patients 18 years of age or older, consent must be provided as specified. Provides that the Department of Financial and Professional Regulation shall revoke the license of any physician who willfully or actively violates the prohibition on sex-reassignment procedures for patients younger than 18 years of age. Amends the Hospital Licensing Act and the Ambulatory Surgical Treatment Center Act. Adds a failure to comply with the provisions as grounds for fines, license denial, license suspension or revocation, or refusal to renew a hospital or facility's license. Amends the Illinois Administrative Procedure Act to provide for emergency rulemaking.

LRB103 32558 SPS 62147 b

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 Illinois Administrative Procedure Act is  
5 amended by adding Section 5-45.35 as follows:

6 (5 ILCS 100/5-45.35 new)

7 Sec. 5-45.35. Emergency rulemaking; Department of  
8 Financial and Professional Regulation. To provide for the  
9 expeditious and timely implementation of this amendatory Act  
10 of the 103rd General Assembly, emergency rules implementing  
11 Section 67 of the Medical Practice Act of 1987 may be adopted  
12 in accordance with Section 5-45 by the Department of Financial  
13 and Professional Regulation and the Department of Public  
14 Health. The adoption of emergency rules authorized by Section  
15 5-45 and this Section is deemed to be necessary for the public  
16 interest, safety, and welfare.

17 This Section is repealed one year after the effective date  
18 of this amendatory Act of the 103rd General Assembly.

19 Section 10. The Ambulatory Surgical Treatment Center Act  
20 is amended by changing Section 10f as follows:

21 (210 ILCS 5/10f) (from Ch. 111 1/2, par. 157-8.10f)

1           Sec. 10f. Denial, suspension, revocation or refusal to  
2 renew a license; suspension of a service.

3           (a) When the Director determines that there is or has been  
4 a substantial or continued failure to comply with this Act or  
5 any rule promulgated hereunder, or Section 67 of the Medical  
6 Practice Act of 1987, the Department may issue an order of  
7 license denial, suspension or revocation, or refusal to renew  
8 a license, in accordance with subsection (a) of Section 10g of  
9 this Act.

10          (b) When the Director determines that a facility has  
11 failed to demonstrate the capacity to safely provide one or  
12 more of its services to patients, the Department may issue an  
13 order of service suspension in accordance with subsection (a)  
14 of Section 10g of this Act.

15          (c) If, however, the Department finds that the public  
16 interest, health, safety, or welfare imperatively requires  
17 emergency action, and if the Director incorporates a finding  
18 to that effect in the order, summary suspension of a service or  
19 a license to open, conduct, operate, and maintain an  
20 ambulatory surgical treatment center or any part thereof may  
21 be ordered pending proceedings for license revocation or other  
22 action, which shall be promptly instituted and determined.

23          (Source: P.A. 86-1292.)

24          Section 15. The Hospital Licensing Act is amended by  
25 changing Section 7 as follows:

1 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

2 Sec. 7. (a) The Director after notice and opportunity for  
3 hearing to the applicant or licensee may deny, suspend, or  
4 revoke a permit to establish a hospital or deny, suspend, or  
5 revoke a license to open, conduct, operate, and maintain a  
6 hospital in any case in which he finds that there has been a  
7 substantial failure to comply with the provisions of this Act,  
8 the Hospital Report Card Act, ~~or~~ the Illinois Adverse Health  
9 Care Events Reporting Law of 2005, or Section 67 of the Medical  
10 Practice Act of 1987 or the standards, rules, and regulations  
11 established by virtue of any of those Acts. The Department may  
12 impose fines on hospitals, not to exceed \$500 per occurrence,  
13 for failing to (1) initiate a criminal background check on a  
14 patient that meets the criteria for hospital-initiated  
15 background checks or (2) report the death of a person known to  
16 be a resident of a facility licensed under the ID/DD Community  
17 Care Act or the MC/DD Act to the coroner or medical examiner  
18 within 24 hours as required by Section 6.09a of this Act. In  
19 assessing whether to impose such a fine for failure to  
20 initiate a criminal background check, the Department shall  
21 consider various factors including, but not limited to,  
22 whether the hospital has engaged in a pattern or practice of  
23 failing to initiate criminal background checks. Money from  
24 fines shall be deposited into the Long Term Care Provider  
25 Fund.

1 (a-5) If a hospital demonstrates a pattern or practice of  
2 failing to substantially comply with the requirements of  
3 Section 10.10 or the hospital's written staffing plan, the  
4 hospital shall provide a plan of correction to the Department  
5 within 60 days. The Department may impose fines as follows:  
6 (i) if a hospital fails to implement a written staffing plan  
7 for nursing services, a fine not to exceed \$500 per occurrence  
8 may be imposed; (ii) if a hospital demonstrates a pattern or  
9 practice of failing to substantially comply with a plan of  
10 correction within 60 days after the plan takes effect, a fine  
11 not to exceed \$500 per occurrence may be imposed; and (iii) if  
12 a hospital demonstrates for a second or subsequent time a  
13 pattern or practice of failing to substantially comply with a  
14 plan of correction within 60 days after the plan takes effect,  
15 a fine not to exceed \$1,000 per occurrence may be imposed.  
16 Reports of violations of Section 10.10 shall be subject to  
17 public disclosure under Section 6.14a. Money from fines within  
18 this subsection (a-5) shall be deposited into the Hospital  
19 Licensure Fund, and money from fines for violations of Section  
20 10.10 shall be used for scholarships under the Nursing  
21 Education Scholarship Law.

22 (b) Such notice shall be effected by registered mail or by  
23 personal service setting forth the particular reasons for the  
24 proposed action and fixing a date, not less than 15 days from  
25 the date of such mailing or service, at which time the  
26 applicant or licensee shall be given an opportunity for a

1 hearing. Such hearing shall be conducted by the Director or by  
2 an employee of the Department designated in writing by the  
3 Director as Hearing Officer to conduct the hearing. On the  
4 basis of any such hearing, or upon default of the applicant or  
5 licensee, the Director shall make a determination specifying  
6 his findings and conclusions. In case of a denial to an  
7 applicant of a permit to establish a hospital, such  
8 determination shall specify the subsection of Section 6 under  
9 which the permit was denied and shall contain findings of fact  
10 forming the basis of such denial. A copy of such determination  
11 shall be sent by registered mail or served personally upon the  
12 applicant or licensee. The decision denying, suspending, or  
13 revoking a permit or a license shall become final 35 days after  
14 it is so mailed or served, unless the applicant or licensee,  
15 within such 35 day period, petitions for review pursuant to  
16 Section 13.

17 (c) The procedure governing hearings authorized by this  
18 Section shall be in accordance with rules promulgated by the  
19 Department and approved by the Hospital Licensing Board. A  
20 full and complete record shall be kept of all proceedings,  
21 including the notice of hearing, complaint, and all other  
22 documents in the nature of pleadings, written motions filed in  
23 the proceedings, and the report and orders of the Director and  
24 Hearing Officer. All testimony shall be reported but need not  
25 be transcribed unless the decision is appealed pursuant to  
26 Section 13. A copy or copies of the transcript may be obtained

1 by any interested party on payment of the cost of preparing  
2 such copy or copies.

3 (d) The Director or Hearing Officer shall upon his own  
4 motion, or on the written request of any party to the  
5 proceeding, issue subpoenas requiring the attendance and the  
6 giving of testimony by witnesses, and subpoenas duces tecum  
7 requiring the production of books, papers, records, or  
8 memoranda. All subpoenas and subpoenas duces tecum issued  
9 under the terms of this Act may be served by any person of full  
10 age. The fees of witnesses for attendance and travel shall be  
11 the same as the fees of witnesses before the Circuit Court of  
12 this State, such fees to be paid when the witness is excused  
13 from further attendance. When the witness is subpoenaed at the  
14 instance of the Director, or Hearing Officer, such fees shall  
15 be paid in the same manner as other expenses of the Department,  
16 and when the witness is subpoenaed at the instance of any other  
17 party to any such proceeding the Department may require that  
18 the cost of service of the subpoena or subpoena duces tecum and  
19 the fee of the witness be borne by the party at whose instance  
20 the witness is summoned. In such case, the Department in its  
21 discretion, may require a deposit to cover the cost of such  
22 service and witness fees. A subpoena or subpoena duces tecum  
23 issued as aforesaid shall be served in the same manner as a  
24 subpoena issued out of a court.

25 (e) Any Circuit Court of this State upon the application  
26 of the Director, or upon the application of any other party to

1 the proceeding, may, in its discretion, compel the attendance  
2 of witnesses, the production of books, papers, records, or  
3 memoranda and the giving of testimony before the Director or  
4 Hearing Officer conducting an investigation or holding a  
5 hearing authorized by this Act, by an attachment for contempt,  
6 or otherwise, in the same manner as production of evidence may  
7 be compelled before the court.

8 (f) The Director or Hearing Officer, or any party in an  
9 investigation or hearing before the Department, may cause the  
10 depositions of witnesses within the State to be taken in the  
11 manner prescribed by law for like depositions in civil actions  
12 in courts of this State, and to that end compel the attendance  
13 of witnesses and the production of books, papers, records, or  
14 memoranda.

15 (Source: P.A. 102-641, eff. 8-27-21.)

16 Section 20. The Medical Practice Act of 1987 is amended by  
17 adding Section 67 as follows:

18 (225 ILCS 60/67 new)

19 Sec. 67. Prohibition on sex-reassignment procedures.

20 (a) As used in this Section:

21 "Sex" means the classification of a person as either male  
22 or female based on the organization of the human body of such  
23 person for a specific reproductive role, as indicated by the  
24 person's sex chromosomes, naturally occurring sex hormones,



1 and internal and external genitalia present at birth.

2 "Sex-reassignment procedures" means any medical procedure,  
3 including a surgical procedure, to affirm a person's  
4 perception of his or her sex if that perception is  
5 inconsistent with the person's sex.

6 "Sex-reassignment procedures" does not include:

7 (1) treatment provided by a physician who, in his or  
8 her good faith clinical judgment, performs procedures upon  
9 or provides therapies to a minor born with a medically  
10 verifiable genetic disorder of sexual development,  
11 including any of the following:

12 (A) external biological sex characteristics that  
13 are unresolvably ambiguous; and

14 (B) a disorder of sexual development in which the  
15 physician has determined through genetic or  
16 biochemical testing that the patient does not have a  
17 normal sex chromosome structure, sex steroid hormone  
18 production, or sex steroid hormone action for a male  
19 or female, as applicable;

20 (2) procedures to treat an infection, an injury, a  
21 disease, or a disorder that has been caused or exacerbated  
22 by the performance of any sex-reassignment procedure,  
23 regardless of whether such procedure was performed in  
24 accordance with state or federal law; and

25 (3) procedures provided to a patient for the treatment  
26 of a physical disorder, physical injury, or physical

1 illness that would, as certified by a licensed physician,  
2 place the individual in imminent danger of death or  
3 impairment of a major bodily function without the  
4 procedure.

5 (b) Sex-reassignment procedures are prohibited for  
6 patients younger than 18 years of age.

7 (c) If sex-reassignment procedures are prescribed for or  
8 administered or performed on patients 18 years of age or  
9 older, consent must be voluntary, informed, and in writing on  
10 forms adopted by rule of the Department. Consent to  
11 sex-reassignment procedures is voluntary and informed only if  
12 the physician who is to prescribe or administer the  
13 pharmaceutical product or perform the procedure has, at a  
14 minimum, while physically present in the same room:

15 (1) informed the patient of the nature and risks of  
16 the procedure in order for the patient to make a prudent  
17 decision;

18 (2) provided the informed consent form, as adopted in  
19 rule by the Department, to the patient; and

20 (3) received the patient's written acknowledgment,  
21 before the procedure is administered or performed, that  
22 the information required to be provided under this  
23 subsection has been provided.

24 (c) Sex-reassignment procedures may not be administered or  
25 performed except by a physician.

26 (d) The Department shall revoke the license of any

1 physician who willfully or actively participates in a  
2 violation of subsection (b).

3 (e) The Department shall adopt emergency rules to  
4 implement this Section.