



Rep. Michael J. Zalewski

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09800HB0533ham001

LRB098 03350 MGM 45529 a

1 AMENDMENT TO HOUSE BILL 533

2 AMENDMENT NO. _____. Amend House Bill 533 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Regulatory Sunset Act is amended by
5 changing Section 4.24 and by adding Section 4.34 as follows:

6 (5 ILCS 80/4.24)

7 Sec. 4.24. Acts and Section repealed on January 1, 2014.
8 The following Acts and Section of an Act are repealed on
9 January 1, 2014:

10 The Electrologist Licensing Act.

11 The Illinois Certified Shorthand Reporters Act of 1984.

12 The Illinois Occupational Therapy Practice Act.

13 The Illinois Public Accounting Act.

14 The Private Detective, Private Alarm, Private Security,
15 Fingerprint Vendor, and Locksmith Act of 2004.

16 ~~The Registered Surgical Assistant and Registered Surgical~~

1 ~~Technologist Title Protection Act.~~

2 Section 2.5 of the Illinois Plumbing License Law.

3 The Veterinary Medicine and Surgery Practice Act of 2004.

4 (Source: P.A. 97-1139, eff. 12-28-12.)

5 (5 ILCS 80/4.34 new)

6 Sec. 4.34. Act repealed on January 1, 2024. The following
7 Act is repealed on January 1, 2024:

8 The Registered Surgical Assistant and Registered Surgical
9 Technologist Title Protection Act.

10 Section 10. The Registered Surgical Assistant and
11 Registered Surgical Technologist Title Protection Act is
12 amended by changing Sections 10, 20, 30, 40, 45, 50, 55, 65,
13 70, 75, 77, 80, 85, 90, 95, 100, 105, 110, 115, 120, 125, 130,
14 135, 145, 150, and 165 and by adding Section 87 as follows:

15 (225 ILCS 130/10)

16 (Section scheduled to be repealed on January 1, 2014)

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 registrant's
20 application file or registration file as maintained by the
21 Department's licensure maintenance unit. It is the duty of the
22 applicant or registrant to inform the Department of any change
23 of address and those changes must be made either through the

1 Department's website or by contacting the Department.

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

4 "Direct supervision" means supervision by a licensed ~~an~~
5 ~~operating~~ physician, licensed podiatrist, or licensed dentist
6 who is physically present and who personally directs delegated
7 acts and remains available to personally respond to an
8 emergency until the patient is released from the operating
9 room. A registered professional nurse may also provide direct
10 supervision within the scope of his or her license. A
11 registered surgical assistant or registered surgical
12 technologist shall perform duties as assigned.

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

14 "Physician" ~~or "operating physician"~~ means a person
15 licensed to practice medicine in all of its branches under the
16 Medical Practice Act of 1987.

17 "Registered surgical assistant" means a person who (i) is
18 not licensed to practice medicine in all of its branches, (ii)
19 is certified by the National Surgical Assistant Association as
20 a Certified Surgical Assistant ~~on the Certification of Surgical~~
21 ~~Assistants,~~ the National Board of Surgical Technology and
22 Surgical Assisting Liaison Council on Certification for the
23 ~~Surgical Technologist~~ as a Certified Surgical First Assistant
24 ~~certified first assistant,~~ or the American Board of Surgical
25 Assistants as a Surgical Assistant-Certified Assisting, (iii)
26 performs duties under direct supervision, (iv) provides

1 services only in a licensed hospital, ambulatory treatment
2 center, or office of a physician licensed to practice medicine
3 in all its branches, and (v) is registered under this Act.

4 "Registered surgical technologist" means a person who (i)
5 is not a physician licensed to practice medicine in all of its
6 branches, (ii) is certified by the National Board for Surgical
7 Technology and Surgical Assisting ~~Liaison Council on~~
8 ~~Certification for the Surgical Technologist~~, (iii) performs
9 duties under direct supervision, (iv) provides services only in
10 a licensed hospital, ambulatory treatment center, or office of
11 a physician licensed to practice medicine in all its branches,
12 and (v) is registered under this Act.

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

15 (Source: P.A. 93-280, eff. 7-1-04.)

16 (225 ILCS 130/20)

17 (Section scheduled to be repealed on January 1, 2014)

18 Sec. 20. Illinois Administrative Procedure Act, ~~rules.~~ ~~(a)~~
19 The Illinois Administrative Procedure Act is expressly adopted
20 and incorporated in this Act as if all of the provisions of the
21 Illinois Administrative Procedure Act were included in this
22 Act, except that the provision of subsection (d) of Section
23 10-65 of the Illinois Administrative Procedure Act that
24 provides that at hearings the registrant has the right to show
25 compliance with all lawful requirements for retention,

1 continuation, or renewal of the registration is specifically
2 excluded. For purposes of this Act, the notice required under
3 Section 10-25 of the Illinois Administrative Procedure Act is
4 deemed sufficient when mailed to the registrant's address of
5 record ~~last known address of a party.~~

6 ~~(b) The Director may promulgate rules for the~~
7 ~~administration and enforcement of this Act and may prescribe~~
8 ~~forms to be issued in connection with this Act.~~

9 (Source: P.A. 93-280, eff. 7-1-04.)

10 (225 ILCS 130/30)

11 (Section scheduled to be repealed on January 1, 2014)

12 Sec. 30. Social Security Number on registration
13 application. In addition to any other information required to
14 be contained in the application, every application for an
15 original certificate of registration under this Act shall
16 include the applicant's Social Security Number, which shall be
17 retained in the agency's records pertaining to the registration
18 ~~license~~. As soon as practical, the Department shall assign a
19 customer's identification number to each applicant for a
20 registration ~~license~~.

21 Every application for a renewed, reinstated, ~~renewal~~ or
22 restored registration ~~license~~ shall require the applicant's
23 customer identification number.

24 (Source: P.A. 97-400, eff. 1-1-12.)

1 (225 ILCS 130/40)

2 (Section scheduled to be repealed on January 1, 2014)

3 Sec. 40. Application of Act. This Act shall not be
4 construed to prohibit the following:

5 (1) A person licensed in this State under any other Act
6 from engaging in the practice for which he or she is
7 licensed, including but not limited to a physician licensed
8 to practice medicine in all its branches, physician
9 assistant, advanced practice ~~registered~~ nurse, or nurse
10 performing surgery-related tasks within the scope of his or
11 her license, nor are these individuals required to be
12 registered under this Act.

13 (2) A person from engaging in practice as a surgical
14 assistant or surgical technologist in the discharge of his
15 or her official duties as an employee of the United States
16 government.

17 (3) One or more registered surgical assistants or
18 surgical technologists from forming a professional service
19 corporation in accordance with the Professional Service
20 Corporation Act and applying for licensure as a corporation
21 providing surgical assistant or surgical technologist
22 services.

23 (4) A student engaging in practice as a surgical
24 assistant or surgical technologist under the direct
25 supervision of a physician licensed to practice medicine in
26 all of its branches as part of his or her program of study

1 at a school approved by the Department or in preparation to
2 qualify for the examination as prescribed under Sections 45
3 and 50 of this Act.

4 (5) A person from assisting in surgery at a ~~an~~
5 ~~operating~~ physician's discretion, including but not
6 limited to medical students and residents, nor are medical
7 students and residents required to be registered under this
8 Act.

9 (6) A hospital, health system or network, ambulatory
10 surgical treatment center, physician licensed to practice
11 medicine in all its branches, physician medical group, or
12 other entity that provides surgery-related services from
13 employing individuals that the entity considers competent
14 to assist in surgery. These entities are not required to
15 utilize registered surgical assistants or registered
16 surgical technologists when providing surgery-related
17 services to patients. Nothing in this subsection shall be
18 construed to limit the ability of an employer to utilize
19 the services of any person to assist in surgery within the
20 employment setting consistent with the individual's skill
21 and training.

22 (Source: P.A. 93-280, eff. 7-1-04.)

23 (225 ILCS 130/45)

24 (Section scheduled to be repealed on January 1, 2014)

25 Sec. 45. Registration requirements; surgical assistant. A

1 person shall qualify for registration as a surgical assistant
2 if he or she has applied in writing on the prescribed form, has
3 paid the required fees, and meets all of the following
4 requirements:

5 (1) Is at least 21 years of age.

6 (2) Has not violated a provision of Section 75 ~~95~~ of
7 this Act. In addition the Department may take into
8 consideration any felony conviction of the applicant, but a
9 conviction shall not operate as an absolute bar to
10 registration unless otherwise provided by law.

11 (3) Has completed a medical education program approved
12 by the Department or has graduated from a United States
13 Military Program that emphasizes ~~emphasized~~ surgical
14 assisting.

15 (4) Has successfully completed a national certifying
16 examination approved by the Department.

17 (5) Is currently certified by the National Surgical
18 Assistant Association as a Certified Surgical Assistant ~~on~~
19 ~~the Certification of Surgical Assistants~~, the National
20 Board of Surgical Technology and Surgical Assisting
21 ~~Liaison Council on Certification for the Surgical~~
22 ~~Technologist~~ as a Certified Surgical First Assistant
23 ~~certified first assistant~~, or the American Board of
24 Surgical Assistants as a Surgical Assistant-Certified
25 Assisting.

26 (Source: P.A. 93-280, eff. 7-1-04.)

1 (225 ILCS 130/50)

2 (Section scheduled to be repealed on January 1, 2014)

3 Sec. 50. Registration requirements; surgical technologist.

4 A person shall qualify for registration as a surgical
5 technologist if he or she has applied in writing on the
6 prescribed form, has paid the required fees, and meets all of
7 the following requirements:

8 (1) Is at least 18 years of age.

9 (2) Has not violated a provision of Section 75 ~~95~~ of
10 this Act. In addition the Department may take into
11 consideration any felony conviction of the applicant, but a
12 conviction shall not operate as an absolute bar to
13 registration unless otherwise provided by law.

14 (3) Has completed a nationally accredited surgical
15 technology ~~technologist~~ program approved by the Department
16 or has graduated from a United States Military Program that
17 emphasizes surgical technology.

18 (4) Has successfully completed the surgical
19 technologist national certification examination provided
20 by the National Board of Surgical Technology and Surgical
21 Assisting ~~Liaison Council on Certification for the~~
22 ~~Surgical Technologist~~ or its successor agency.

23 (5) (Blank).

24 (6) Is currently certified by the National Board of
25 Surgical Technology and Surgical Assisting ~~Liaison Council~~

1 ~~on Certification for the Surgical Technologist~~ or its
2 successor agency and has met the requirements set forth for
3 certification.

4 (Source: P.A. 97-813, eff. 7-13-12.)

5 (225 ILCS 130/55)

6 (Section scheduled to be repealed on January 1, 2014)

7 Sec. 55. Supervision requirement. A person registered
8 under this Act shall practice ~~as a surgical assistant only~~
9 under direct supervision.

10 (Source: P.A. 93-280, eff. 7-1-04.)

11 (225 ILCS 130/65)

12 (Section scheduled to be repealed on January 1, 2014)

13 Sec. 65. Inactive status. A registrant who notifies
14 ~~notified~~ the Department in writing on forms prescribed by the
15 Department may elect to place his or her registration on
16 inactive status and shall, subject to rules of the Department,
17 be excused from payment of renewal fees until he or she
18 notifies the Department in writing of his or her intention to
19 restore the registration. A registrant requesting restoration
20 from inactive status shall pay the current renewal fee and
21 shall restore his or her registration in accordance with
22 Section 60 of this Act. A registrant whose registration license
23 is on inactive or non-renewed status shall not hold himself or
24 herself out as a registered surgical assistant or registered

1 surgical technologist. To do so shall be grounds for discipline
2 under Section 75 of this Act.

3 (Source: P.A. 93-280, eff. 7-1-04.)

4 (225 ILCS 130/70)

5 (Section scheduled to be repealed on January 1, 2014)

6 Sec. 70. Fees; returned checks.

7 (a) The Department shall set by rule fees for the
8 administration of this Act, including but not limited to fees
9 for initial and renewal registration and restoration of a
10 certificate of registration.

11 (b) A person who delivers a check or other payment to the
12 Department that is returned to the Department unpaid by the
13 financial institution upon which it is drawn shall pay to the
14 Department, in addition to the amount already owed to the
15 Department, a fine of \$50. The fines imposed by this Section
16 are in addition to any other discipline provided under this
17 Act. The Department shall notify the person that fees and fines
18 shall be paid to the Department by certified check or money
19 order within 30 calendar days of the notification. If, after
20 the expiration of 30 days from the date of the notification,
21 the person has failed to submit the necessary remittance, the
22 Department shall automatically terminate the registration or
23 deny the application without a hearing. If the person seeks a
24 registration ~~license~~ after termination or denial, he or she
25 shall apply to the Department for restoration or issuance of

1 the registration ~~license~~ and pay all fees and fines due to the
2 Department. The Department may establish a fee for the
3 processing of an application for restoration of a registration
4 ~~license~~ to defray the expenses of processing the application.
5 The Secretary ~~Director~~ may waive the fines due under this
6 Section in individual cases if the Secretary ~~Director~~ finds
7 that the fines would be unreasonable or unnecessarily
8 burdensome.

9 (c) All of the fees and fines collected under this Act
10 shall be deposited into the General Professions Dedicated Fund.
11 All moneys in the Fund shall be used by the Department, as
12 appropriated, for the ordinary and contingent expenses of the
13 Department.

14 (Source: P.A. 93-280, eff. 7-1-04.)

15 (225 ILCS 130/75)

16 (Section scheduled to be repealed on January 1, 2014)

17 Sec. 75. Grounds for disciplinary action.

18 (a) The Department may refuse to issue, renew, or restore a
19 registration, may revoke or suspend a registration, or may
20 place on probation, ~~censure,~~ reprimand, or take other
21 disciplinary or non-disciplinary action with regard to a person
22 registered under this Act, including but not limited to the
23 imposition of fines not to exceed \$10,000 ~~\$5,000~~ for each
24 violation and the assessment of costs as provided for in
25 Section 90, for any one or combination of the following causes:

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

3 (2) Violating a provision of this Act or ~~its~~ rules
4 adopted under this Act.

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

18 (4) Fraud or ~~Making a~~ misrepresentation in applying
19 for, renewing, restoring, reinstating, or procuring a
20 registration under this Act ~~for the purpose of obtaining,~~
21 ~~renewing, or restoring a registration.~~

22 (5) Aiding ~~Wilfully aiding~~ or assisting another person
23 in violating a provision of this Act or its rules.

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

26 (7) Engaging in dishonorable, unethical, or

1 unprofessional conduct of a character likely to deceive,
2 defraud, or harm the public, as defined by rule of the
3 Department.

4 (8) Discipline by another United States jurisdiction,
5 governmental agency, unit of government, or foreign
6 nation, if at least one of the grounds for discipline is
7 the same or substantially equivalent to those set forth in
8 this Section.

9 (9) Directly or indirectly giving to or receiving from
10 a person, firm, corporation, partnership, or association a
11 fee, commission, rebate, or other form of compensation for
12 professional services not actually or personally rendered.
13 Nothing in this paragraph (9) affects any bona fide
14 independent contractor or employment arrangements among
15 health care professionals, health facilities, health care
16 providers, or other entities, except as otherwise
17 prohibited by law. Any employment arrangements may include
18 provisions for compensation, health insurance, pension, or
19 other employment benefits for the provision of services
20 within the scope of the registrant's ~~licensee's~~ practice
21 under this Act. Nothing in this paragraph (9) shall be
22 construed to require an employment arrangement to receive
23 professional fees for services rendered.

24 (10) A finding by the Department that the registrant,
25 after having his or her registration placed on probationary
26 status, has violated the terms of probation.

1 (11) Willfully ~~Wilfully~~ making or filing false records
2 or reports in his or her practice, including but not
3 limited to false records or reports filed with State
4 agencies.

5 (12) Willfully ~~Wilfully~~ making or signing a false
6 statement, certificate, or affidavit to induce payment.

7 (13) Willfully ~~Wilfully~~ failing to report an instance
8 of suspected child abuse or neglect as required under the
9 Abused and Neglected Child Reporting Act.

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

17 (15) (Blank). ~~Employment of fraud, deception, or any~~
18 ~~unlawful means in applying for or securing a license as a~~
19 ~~surgical assistant.~~

20 (16) Failure to report to the Department (A) any
21 adverse final action taken against the registrant by
22 another registering or licensing jurisdiction, government
23 agency, law enforcement agency, or any court or (B)
24 liability for conduct that would constitute grounds for
25 action as set forth in this Section.

26 (17) Habitual or excessive use or abuse of drugs

1 defined in law as controlled substances, alcohol, or any
2 other substance that results in the inability to practice
3 with reasonable judgment, skill, or safety ~~intoxication or~~
4 ~~addiction to the use of drugs.~~

5 (18) Physical or mental illness, including but not
6 limited to deterioration through the aging process or loss
7 of motor skills, which results in the inability to practice
8 the profession for which he or she is registered with
9 reasonable judgment, skill, or safety.

10 (19) Gross malpractice ~~resulting in permanent injury~~
11 ~~or death of a patient.~~

12 (20) Immoral conduct in the commission of an act
13 related to the registrant's practice, including but not
14 limited to sexual abuse, sexual misconduct, or sexual
15 exploitation.

16 (21) Violation of the Health Care Worker Self-Referral
17 Act.

18 (b) The Department may refuse to issue or may suspend
19 without hearing the registration of a person who fails to file
20 a return, to pay the tax, penalty, or interest shown in a filed
21 return, or to pay a final assessment of the tax, penalty, or
22 interest as required by a tax Act administered by the
23 Department of Revenue, until the requirements of the tax Act
24 are satisfied in accordance with subsection (g) of Section
25 2105-15 of the Department of Regulation Law of the Civil
26 Administrative Code of Illinois.

1 (c) The determination by a circuit court that a registrant
2 is subject to involuntary admission or judicial admission as
3 provided in the Mental Health and Developmental Disabilities
4 Code operates as an automatic suspension. The suspension will
5 end only upon (1) a finding by a court that the patient is no
6 longer subject to involuntary admission or judicial admission,
7 (2) issuance of an order so finding and discharging the
8 patient, and (3) filing of a petition for restoration
9 demonstrating fitness to practice ~~the recommendation of the~~
10 ~~Department to the Director that the registrant be allowed to~~
11 ~~resume his or her practice.~~

12 (d) The Department shall deny a registration or renewal
13 authorized by this Act to a person who has defaulted on an
14 educational loan or scholarship provided or guaranteed by the
15 Illinois Student Assistance Commission or any governmental
16 agency of this State in accordance with paragraph (5) of
17 subsection (a) of Section 2105-15 of the Department of
18 Regulation Law of the Civil Administrative Code of Illinois.

19 (e) In cases where the Department of Healthcare and Family
20 Services has previously determined a registrant or a potential
21 registrant is more than 30 days delinquent in the payment of
22 child support and has subsequently certified the delinquency to
23 the Department, the Department may refuse to issue or renew or
24 may revoke or suspend that person's registration or may take
25 other disciplinary action against that person based solely upon
26 the certification of delinquency made by the Department of

1 Healthcare and Family Services in accordance with paragraph (5)
2 of subsection (a) of Section 2105-15 of the Department of
3 Professional Regulation Law of the Civil Administrative Code of
4 Illinois.

5 (f) In enforcing this Section, the Department, upon a
6 showing of a possible violation, may compel any individual
7 registered under this Act or any individual who has applied for
8 registration to submit to a mental or physical examination and
9 evaluation, or both, that may include a substance abuse or
10 sexual offender evaluation, at the expense of the Department.
11 The Department shall specifically designate the examining
12 physician licensed to practice medicine in all of its branches
13 or, if applicable, the multidisciplinary team involved in
14 providing the mental or physical examination and evaluation, or
15 both. The multidisciplinary team shall be led by a physician
16 licensed to practice medicine in all of its branches and may
17 consist of one or more or a combination of physicians licensed
18 to practice medicine in all of its branches, licensed
19 chiropractic physicians, licensed clinical psychologists,
20 licensed clinical social workers, licensed clinical
21 professional counselors, and other professional and
22 administrative staff. Any examining physician or member of the
23 multidisciplinary team may require any person ordered to submit
24 to an examination and evaluation pursuant to this Section to
25 submit to any additional supplemental testing deemed necessary
26 to complete any examination or evaluation process, including,

1 but not limited to, blood testing, urinalysis, psychological
2 testing, or neuropsychological testing.

3 The Department may order the examining physician or any
4 member of the multidisciplinary team to provide to the
5 Department any and all records, including business records,
6 that relate to the examination and evaluation, including any
7 supplemental testing performed. The Department may order the
8 examining physician or any member of the multidisciplinary team
9 to present testimony concerning this examination and
10 evaluation of the registrant or applicant, including testimony
11 concerning any supplemental testing or documents relating to
12 the examination and evaluation. No information, report,
13 record, or other documents in any way related to the
14 examination and evaluation shall be excluded by reason of any
15 common law or statutory privilege relating to communication
16 between the registrant or applicant and the examining physician
17 or any member of the multidisciplinary team. No authorization
18 is necessary from the registrant or applicant ordered to
19 undergo an evaluation and examination for the examining
20 physician or any member of the multidisciplinary team to
21 provide information, reports, records, or other documents or to
22 provide any testimony regarding the examination and
23 evaluation. The individual to be examined may have, at his or
24 her own expense, another physician of his or her choice present
25 during all aspects of the examination.

26 Failure of any individual to submit to mental or physical

1 examination and evaluation, or both, when directed, shall
2 result in an automatic suspension without hearing until such
3 time as the individual submits to the examination. If the
4 Department finds a registrant unable to practice because of the
5 reasons set forth in this Section, the Department shall require
6 such registrant to submit to care, counseling, or treatment by
7 physicians approved or designated by the Department as a
8 condition for continued, reinstated, or renewed registration.

9 When the Secretary immediately suspends a registration
10 under this Section, a hearing upon such person's registration
11 must be convened by the Department within 15 days after such
12 suspension and completed without appreciable delay. The
13 Department shall have the authority to review the registrant's
14 record of treatment and counseling regarding the impairment to
15 the extent permitted by applicable federal statutes and
16 regulations safeguarding the confidentiality of medical
17 records.

18 Individuals registered under this Act and affected under
19 this Section shall be afforded an opportunity to demonstrate to
20 the Department that they can resume practice in compliance with
21 acceptable and prevailing standards under the provisions of
22 their registration.

23 (g) All fines imposed under this Section shall be paid
24 within 60 days after the effective date of the order imposing
25 the fine or in accordance with the terms set forth in the order
26 imposing the fine.

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

2 (225 ILCS 130/77)

3 (Section scheduled to be repealed on January 1, 2014)

4 Sec. 77. Suspension of registration for failure to pay
5 restitution. The Department, without further process or
6 hearing, shall suspend the registration ~~license or other~~
7 ~~authorization to practice~~ of any person ~~issued under this Act~~
8 who has been certified by court order as not having paid
9 restitution to a person under Section 8A-3.5 of the Illinois
10 Public Aid Code or under Section 17-10.5 or 46-1 of the
11 Criminal Code of 1961 or the Criminal Code of 2012. A person
12 whose registration ~~license or other authorization to practice~~
13 is suspended under this Section is prohibited from practicing
14 until the restitution is made in full.

15 (Source: P.A. 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)

16 (225 ILCS 130/80)

17 (Section scheduled to be repealed on January 1, 2014)

18 Sec. 80. Cease and desist order; injunctions.

19 (a) If a person violates a provision of this Act, the
20 Secretary ~~Director~~, in the name of the People of the State of
21 Illinois through the Attorney General of the State of Illinois,
22 or the State's Attorney of a county in which the violation is
23 alleged to have occurred ~~occurs~~, may petition for an order
24 enjoining the violation or for an order enforcing compliance

1 with this Act. Upon the filing of a verified petition in court,
2 the court may issue a temporary restraining order without
3 notice or bond and may preliminarily and permanently enjoin the
4 violation. If it is established that the registrant has
5 violated or is violating the injunction, the court may punish
6 the offender for contempt of court. Proceedings under this
7 Section shall be in addition to, and not in lieu of, all other
8 remedies and penalties provided by this Act.

9 (b) If a person holds himself or herself out as a surgical
10 assistant or surgical technologist without being registered
11 under this Act, then any registrant under this Act, interested
12 party, or person injured thereby, in addition to the Secretary
13 ~~Director~~ or State's Attorney, may petition for relief as
14 provided in subsection (a) of this Section.

15 (c) If the Department determines that a person violated a
16 provision of this Act, the Department may issue a rule to show
17 cause why an order to cease and desist should not be entered
18 against him or her. The rule shall clearly set forth the
19 grounds relied upon by the Department and shall provide a
20 period of 7 days from the date of the rule to file an answer to
21 the satisfaction of the Department. Failure to answer to the
22 satisfaction of the Department shall cause an order to cease
23 and desist to be issued immediately.

24 (Source: P.A. 93-280, eff. 7-1-04.)

1 (Section scheduled to be repealed on January 1, 2014)

2 Sec. 85. Investigation; notice; hearing. ~~Certificates of~~
3 ~~registration may be refused, revoked, suspended, or otherwise~~
4 ~~disciplined in the manner provided by this Act and not~~
5 ~~otherwise.~~ The Department may ~~upon its own motion and shall~~
6 ~~upon the verified complaint in writing of any person setting~~
7 ~~forth facts that if proven would constitute grounds for refusal~~
8 ~~to issue or for suspension or revocation under this Act,~~
9 investigate the actions of a person applying for, holding, or
10 claiming to hold a certificate of registration. The Department
11 shall, before refusing to issue or renew a registration ~~7~~
12 ~~suspending, or revoking a certificate of registration or taking~~
13 other disciplinary or non-disciplinary action ~~discipline~~
14 pursuant to Section 75 of this Act, and at least 30 days prior
15 to the date set for the hearing, (i) notify in writing the
16 applicant or registrant licensee of the any charges made and
17 the time and place for a hearing of the charges, ~~shall afford~~
18 ~~the applicant or registrant an opportunity to be heard in~~
19 ~~person or by counsel in reference to the charges,~~ and (ii)
20 direct the applicant or registrant to file a written answer to
21 the Department under oath within 20 days after the service of
22 the notice, and (iii) inform the applicant or registrant that
23 failure to file an answer will result in default being taken
24 against the applicant or registrant ~~and that the certificate of~~
25 ~~registration may be suspended, revoked, placed on probationary~~
26 ~~status, or other disciplinary action may be taken, including~~

1 ~~limiting the scope, nature, or extent of practice, as the~~
2 ~~Director may deem proper.~~

3 Written notice and any notice in the subsequent proceeding
4 may be served ~~by personal delivery to the applicant or~~
5 ~~registrant or by mailing the notice by~~ registered or certified
6 mail to the applicant's or registrant's address of record ~~his~~
7 ~~or her last known place of residence or to the place of~~
8 ~~business last specified by the applicant or registrant in his~~
9 ~~or her last notification to the Department.~~ If the person fails
10 to file an answer after receiving notice, his or her
11 certificate of registration may, in the discretion of the
12 Department, be suspended, revoked, or placed on probationary
13 status or the Department may take whatever disciplinary or
14 non-disciplinary action deemed proper, including limiting the
15 delegated tasks or the imposition of a fine, without a hearing,
16 if the act or acts charged constitute sufficient grounds for
17 such action under this Act. At the time and place fixed in the
18 notice, the Department shall proceed to hearing of the charges
19 and the parties and their counsel ~~both the applicant or~~
20 ~~registrant and the complainant~~ shall be afforded ample
21 opportunity to present, ~~in person or by counsel,~~ any pertinent
22 statements, testimony, evidence, and arguments ~~that may be~~
23 ~~pertinent to the charges or to their defense.~~ The Department
24 may continue a hearing from time to time. ~~The Department may~~
25 ~~continue a hearing for a period not to exceed 30 days.~~

26 (Source: P.A. 93-280, eff. 7-1-04.)

1 (225 ILCS 130/87 new)

2 Sec. 87. Confidentiality. All information collected by the
3 Department in the course of an examination or investigation of
4 a registrant or applicant, including, but not limited to, any
5 complaint against a registrant filed with the Department and
6 information collected to investigate any such complaint shall
7 be maintained for the confidential use of the Department and
8 shall not be disclosed. The Department shall not disclose the
9 information to anyone other than law enforcement officials,
10 regulatory agencies that have an appropriate regulatory
11 interest as determined by the Secretary, or a party presenting
12 a lawful subpoena to the Department. Information and documents
13 disclosed to a federal, State, county, or local law enforcement
14 agency shall not be disclosed by the agency for any purpose to
15 any other agency or person. A formal complaint filed against a
16 registrant by the Department or any order issued by the
17 Department against a registrant or applicant shall be a public
18 record, except as otherwise prohibited by law.

19 (225 ILCS 130/90)

20 (Section scheduled to be repealed on January 1, 2014)

21 Sec. 90. Record of proceedings. The Department, at its
22 expense, shall preserve a record of all proceedings at a formal
23 hearing conducted pursuant to Section 85 of this Act. Any
24 registrant who is found to have violated this Act or who fails

1 to appear for a hearing to refuse to issue, restore, or renew a
2 registration or to discipline a registrant may be required by
3 the Department to pay for the costs of the proceeding. These
4 costs are limited to costs for court reporters, transcripts,
5 and witness attendance and mileage fees. All costs imposed
6 under this Section shall be paid within 60 days after the
7 effective date of the order imposing the fine. ~~The notice of~~
8 ~~hearing, complaint, and all other documents in the nature of~~
9 ~~pleadings and written motions filed in the proceedings, the~~
10 ~~transcript of testimony, the report of the Department or~~
11 ~~hearing officer, and orders of the Department shall be the~~
12 ~~record of the proceeding. The Department shall supply a~~
13 ~~transcript of the record to a person interested in the hearing~~
14 ~~on payment of the fee required under Section 2105 115 of the~~
15 ~~Department of Professional Regulation Law of the Civil~~
16 ~~Administrative Code of Illinois.~~

17 (Source: P.A. 93-280, eff. 7-1-04.)

18 (225 ILCS 130/95)

19 (Section scheduled to be repealed on January 1, 2014)

20 Sec. 95. Order for production of documents. A circuit court
21 ~~may, upon application of the Department, or its designee, or of~~
22 ~~the applicant or registration against whom proceedings~~
23 ~~pursuant to Section 85 of this Act are pending, enter an may~~
24 ~~order requiring the attendance and testimony of witnesses and~~
25 ~~their testimony~~ and the production of relevant documents,

1 papers, files, books, and records in connection with a hearing
2 or investigation ~~authorized by this Act~~. The court may compel
3 obedience to its order through contempt proceedings.

4 (Source: P.A. 93-280, eff. 7-1-04.)

5 (225 ILCS 130/100)

6 (Section scheduled to be repealed on January 1, 2014)

7 Sec. 100. Subpoena power.

8 (a) The Department may ~~has the power to~~ subpoena and bring
9 before it any person ~~in this State and~~ to take the oral or
10 written testimony or compel the production of any books,
11 papers, records, or any other documents that the Secretary or
12 his or her designee deems relevant or material to any
13 investigation or hearing conducted by the Department orally or
14 ~~by deposition~~, with the same fees and mileage and in the same
15 manner as prescribed by law in judicial proceedings in civil
16 cases in circuit courts of this State.

17 (b) The Secretary, the hearing officer, or a certified
18 shorthand court reporter may ~~Director shall have the authority~~
19 ~~to~~ administer oaths, at any hearing that the Department
20 conducts ~~is authorized to conduct under this Act, oaths to~~
21 ~~witnesses and any other oaths authorized to be administered by~~
22 ~~the Department under this Act.~~ Notwithstanding any other
23 statute or Department rule to the contrary, all requests for
24 testimony, production of documents, or records shall be in
25 accordance with this Act.

1 (Source: P.A. 93-280, eff. 7-1-04.)

2 (225 ILCS 130/105)

3 (Section scheduled to be repealed on January 1, 2014)

4 Sec. 105. Disciplinary report. At the conclusion of the
5 hearing, the hearing officer ~~Department~~ shall present to the
6 Secretary ~~Director~~ a written report of his or her ~~its~~ findings
7 of fact, conclusions of law, and recommendations. In the
8 report, the hearing officer ~~Department~~ shall make a finding of
9 whether or not the charged registrant or applicant violated a
10 provision of this Act or its rules ~~and shall specify the nature~~
11 ~~of the violation. In making its recommendations for discipline,~~
12 ~~the Department may take into consideration all facts and~~
13 ~~circumstances bearing upon the reasonableness of the conduct of~~
14 ~~the respondent and the potential for future harm to the public,~~
15 ~~including but not limited to previous discipline of that~~
16 ~~respondent by the Department, intent, degree of harm to the~~
17 ~~public and likelihood of harm in the future, any restitution~~
18 ~~made, and whether the incident or incidents complained of~~
19 ~~appear to be isolated or a pattern of conduct. In making its~~
20 ~~recommendations for discipline, the Department shall seek to~~
21 ~~ensure that the severity of the discipline recommended bears~~
22 ~~some reasonable relationship to the severity of the violation.~~

23 (Source: P.A. 93-280, eff. 7-1-04.)

24 (225 ILCS 130/110)

1 (Section scheduled to be repealed on January 1, 2014)

2 Sec. 110. Motion for rehearing. In a case involving the
3 refusal to issue or renew a registration or the discipline of a
4 registrant, a copy of the hearing officer's ~~Department's~~ report
5 shall be served upon the respondent by the Department, ~~either~~
6 ~~personally or~~ as provided under Section 20 of this Act ~~for the~~
7 ~~service of the notice of hearing~~. Within 20 days after the
8 service, the respondent may present to the Department a motion
9 in writing for a rehearing, which shall specify the particular
10 grounds for a rehearing. If no motion for rehearing is filed,
11 then upon the expiration of the time specified for filing the
12 motion, or if a motion for rehearing is denied, then upon the
13 denial the Secretary ~~Director~~ may enter an order in accordance
14 with recommendations of the Department, except as provided in
15 Section 115 or 120 of this Act. If the respondent orders a
16 transcript of the record from the reporting service and pays
17 for the transcript within the time for filing a motion for
18 rehearing, the 20-day period within which such a motion may be
19 filed shall commence upon the delivery of the transcript to the
20 respondent.

21 (Source: P.A. 93-280, eff. 7-1-04.)

22 (225 ILCS 130/115)

23 (Section scheduled to be repealed on January 1, 2014)

24 Sec. 115. Order of Secretary ~~Director~~.

25 ~~(a) The Director shall issue an order concerning the~~

1 ~~disposition of the charges (i) following the expiration of the~~
2 ~~filing period granted under Section 110 of this Act if no~~
3 ~~motion for rehearing is filed or (ii) following a denial of a~~
4 ~~timely motion for rehearing.~~

5 ~~(b) The Secretary's ~~Director's~~ order shall be based on the~~
6 ~~recommendations contained in the Department report unless,~~
7 ~~after giving due consideration to the Department's report,~~ the
8 Secretary ~~Director~~ disagrees in any regard with the report of
9 the Department, in which case he or she may issue an order in
10 contravention of the report. ~~The Director shall provide a~~
11 ~~written report to the Department on any deviation from the~~
12 ~~Department's report and shall specify with particularity the~~
13 ~~reasons for his or her deviation in the final order. The~~
14 hearing officer's ~~Department's~~ report and Secretary's
15 ~~Director's~~ order are not admissible in evidence against the
16 person in a criminal prosecution brought for a violation of
17 this Act, but the hearing, report, and order are not a bar to a
18 criminal prosecution brought for the violation of this Act.

19 (Source: P.A. 93-280, eff. 7-1-04.)

20 (225 ILCS 130/120)

21 (Section scheduled to be repealed on January 1, 2014)

22 Sec. 120. Hearing officer. The Secretary ~~Director~~ shall
23 have the authority to appoint an attorney licensed to practice
24 law in this State to serve as the hearing officer in a hearing
25 authorized under Section 90 of this Act. The hearing officer

1 shall have full authority to conduct the hearing. The hearing
2 officer shall report his or her findings of fact, conclusions
3 of law, and recommendations to the Department. If the Secretary
4 ~~Director~~ disagrees in any regard with the report of the
5 Department, he or she may issue an order in contravention of
6 the report. The Secretary ~~Director~~ shall provide a written
7 explanation to the Department on a deviation from the
8 Department's report and shall specify with particularity the
9 reasons for his or her deviation in the final order.

10 (Source: P.A. 93-280, eff. 7-1-04.)

11 (225 ILCS 130/125)

12 (Section scheduled to be repealed on January 1, 2014)

13 Sec. 125. Rehearing on order of Secretary ~~Director~~.
14 Whenever the Secretary ~~Director~~ is not satisfied that
15 substantial justice has been achieved in the discipline of a
16 registrant, the Secretary ~~Director~~ may order a rehearing by the
17 same or another hearing officer.

18 (Source: P.A. 93-280, eff. 7-1-04.)

19 (225 ILCS 130/130)

20 (Section scheduled to be repealed on January 1, 2014)

21 Sec. 130. Order; prima facie proof. An order or a certified
22 copy of an order, over the seal of the Department and
23 purporting to be signed by the Secretary ~~Director~~, shall be
24 prima facie proof that:

1 (1) the signature is the genuine signature of the
2 Secretary Director; and

3 (2) the Secretary Director is duly appointed and
4 qualified.

5 (Source: P.A. 93-280, eff. 7-1-04.)

6 (225 ILCS 130/135)

7 (Section scheduled to be repealed on January 1, 2014)

8 Sec. 135. Restoration of registration from discipline. At
9 any time after the successful completion of a term of
10 indefinite probation, suspension, or revocation of a
11 registration, the Department may restore the registration to
12 active status unless, after an investigation and a hearing, the
13 Secretary determines that restoration is not in the public
14 interest. No person whose registration has been revoked as
15 authorized in this Act may apply for restoration of that
16 registration until such time as provided for in the Civil
17 Administrative Code of Illinois. ~~suspension or revocation of a~~
18 ~~certificate of registration, the Department may restore it to~~
19 ~~the registrant unless, after an investigation and a hearing,~~
20 ~~the Department determines that restoration is not in the public~~
21 ~~interest. Where circumstances of suspension or revocation so~~
22 ~~indicate, the Department may require an examination of the~~
23 ~~registrant before restoring his or her certificate of~~
24 ~~registration.~~

25 (Source: P.A. 93-280, eff. 7-1-04.)

1 (225 ILCS 130/145)

2 (Section scheduled to be repealed on January 1, 2014)

3 Sec. 145. Summary ~~Temporary~~ suspension. The Secretary
4 ~~Director~~ may summarily ~~temporarily~~ suspend the registration of
5 a surgical assistant or surgical technologist without a
6 hearing, simultaneously with the institution of proceedings
7 for a hearing provided for in Section 85 of this Act, if the
8 Secretary ~~Director~~ finds that evidence ~~in his or her possession~~
9 indicates that continuation in practice would constitute an
10 imminent danger to the public. If the Secretary ~~Director~~
11 summarily ~~temporarily~~ suspends a registration ~~license~~ without
12 a hearing, a hearing by the Department shall be commenced ~~held~~
13 within 30 days after the suspension has occurred and shall be
14 concluded as expeditiously as possible ~~without appreciable~~
15 ~~delay~~.

16 (Source: P.A. 93-280, eff. 7-1-04.)

17 (225 ILCS 130/150)

18 (Section scheduled to be repealed on January 1, 2014)

19 Sec. 150. Certificate of record. The Department shall not
20 be required to certify any record to a court or file an answer
21 in court or otherwise appear in a court in a judicial review
22 proceeding unless and until the Department has received from
23 the plaintiff ~~there is filed in the court, with the complaint,~~
24 ~~a receipt from the Department acknowledging~~ payment of the

1 costs of furnishing and certifying the record, which costs
2 shall be determined by the Department. Exhibits shall be
3 certified without cost. Failure on the part of the plaintiff to
4 file a receipt in court shall be grounds for dismissal of the
5 action.

6 (Source: P.A. 93-280, eff. 7-1-04.)

7 (225 ILCS 130/165)

8 (Section scheduled to be repealed on January 1, 2014)

9 Sec. 165. Civil penalties.

10 (a) In addition to any other penalty provided by law, a
11 person who violates Section 35 of this Act shall pay a civil
12 penalty to the Department in an amount not to exceed \$10,000
13 ~~\$5,000~~ for each offense as determined by the Department. The
14 civil penalty shall be assessed by the Department after a
15 hearing is held in accordance with the provisions set forth in
16 this Act ~~regarding a hearing for the discipline of a licensee.~~

17 (b) The Department has the authority and power to
18 investigate any and all unregistered activity.

19 (c) The civil penalty assessed under this Act shall be paid
20 within 60 days after the effective date of the order imposing
21 the civil penalty. The order shall constitute a judgment and
22 may be filed and execution had on the judgment in the same
23 manner as a judgment from a court of record.

24 (Source: P.A. 93-280, eff. 7-1-04.)

1 Section 99. Effective date. This Act takes effect December
2 31, 2013."