

# HB3368



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB3368

by Rep. Kenneth Dunkin

#### SYNOPSIS AS INTRODUCED:

New Act  
5 ILCS 80/4.34 new

Creates the Colon Hydrotherapist Licensing Act. Establishes licensing requirements for the practice of colon hydrotherapy by the Department of Financial and Professional Regulation and provides that no person shall practice colon hydrotherapy for compensation without a license under the Act. Creates the Colon Hydrotherapy Licensing Board. Establishes guidelines for applications, endorsement, display of licenses, exemptions, advertising, investigations and hearings, continuing education, renewal and restoration of licenses, suspension of licenses, fees, confidentiality, and violations of the Act. Amends the regulatory Sunset Act. Provides for the repeal of the Colon Hydrotherapist Licensing Act on January 1, 2024. Effective on January 1, 2014.

LRB098 10628 MGM 40907 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 1. Short title. This Act may be cited as the Colon  
5 Hydrotherapist Licensing Act.

6 Section 5. Declaration of public policy. The purpose of  
7 this Act is to protect and benefit the public by setting  
8 standards of qualifications, education, training, and  
9 experience for those who seek to practice colon hydrotherapy,  
10 to promote high standards of professional performance for those  
11 licensed to practice colon hydrotherapy in this State, and to  
12 protect the public from unprofessional conduct by persons  
13 licensed to practice colon hydrotherapy.

14 Section 10. Definitions. As used in this Act:

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

22 "Approved colon hydrotherapy school" means a program that

1 meets the minimum standards for training and curriculum  
2 determined by the Department.

3 "Board" means the Colon Hydrotherapy Licensing Board  
4 appointed by the Secretary.

5 "Compensation" means the receipt of payment, loan,  
6 advance, donation, contribution, deposit, or gift of money or  
7 anything of value.

8 "Department" means the Department of Financial and  
9 Professional Regulation.

10 "Colon hydrotherapist" means a trained individual who is  
11 licensed by the Department and administers colon hydrotherapy  
12 for compensation.

13 "Colonic", "colon irrigation", or "colon hydrotherapy"  
14 mean the practice of introducing warm, filtered, and  
15 temperature regulated water into the large intestine or colon  
16 by permitted establishments and practitioners for the purpose  
17 of hydrating the waste and body and softening and loosening  
18 fecal waste, resulting in evacuation. "Colonic" or "colon  
19 hydrotherapy" may include, but are not limited to, techniques  
20 used to stimulate reflex points in the abdomen, hands, and  
21 feet. As part of the practice, "colonic" or "colon  
22 hydrotherapy" may also include discussion of lifestyle,  
23 healthy eating, and exercise. The colon hydrotherapist may  
24 provide to the client written aftercare instructions relating  
25 to the session. "Colonic" or "colon hydrotherapy" does not  
26 include the diagnosis of a specific pathology or treatment for

1 any medical condition. "Colon hydrotherapy" does not include  
2 those acts of massage, physical therapy, or therapeutic or  
3 corrective measures that are outside the scope of colon  
4 hydrotherapy practice as defined in this Section.

5 "Secretary" means the Secretary of the Department of  
6 Financial and Professional Regulation.

7 Section 15. Licensure requirements.

8 (a) Beginning January 1, 2014, persons engaged in colon  
9 hydrotherapy for compensation must be licensed by the  
10 Department. The Department shall only issue a license to an  
11 individual if the applicant:

12 (1) has applied in writing on the prescribed forms and  
13 has paid the required fees;

14 (2) is at least 18 years of age and of good moral  
15 character; in determining good moral character, the  
16 Department may take into consideration conviction of any  
17 crime under the laws of the United States, any state, or  
18 territory that is a felony or a misdemeanor or any crime  
19 that is directly related to the practice of the profession;  
20 a conviction shall not operate automatically as a complete  
21 bar to a license, except in the case of any conviction for  
22 prostitution, rape, or sexual misconduct, or where the  
23 applicant is a registered sex offender; and

24 (3) has met one of the following requirements:

25 (A) has successfully completed a colon

1 hydrotherapy program approved by the Department that  
2 requires 100 hours of course study with no less than  
3 100 hours of classroom instruction, a minimum of 45  
4 hours of anatomy and physiology, and 25 intern sessions  
5 (such as the course offered by the International  
6 Association for Colon Hydrotherapy), and has passed a  
7 competency examination managed by the National Board  
8 for Colon Hydrotherapy; or

9 (B) holds a current license from another  
10 jurisdiction having licensure requirements that  
11 include the completion of a colon hydrotherapy program  
12 of not less than 100 hours.

13 (b) Each applicant for licensure as a colon hydrotherapist  
14 shall have his or her fingerprints submitted to the Department  
15 of State Police in an electronic format that complies with the  
16 form and manner for requesting and furnishing criminal history  
17 record information as prescribed by the Department of State  
18 Police. These fingerprints shall be checked against the  
19 Department of State Police and Federal Bureau of Investigation  
20 criminal history record databases. The Department of State  
21 Police shall charge applicants a fee for conducting the  
22 criminal history records check, which shall be deposited into  
23 the State Police Services Fund and shall not exceed the actual  
24 cost of the records check. After the identification of any  
25 convictions, the Department of State Police shall furnish  
26 records of the convictions to the Department. The Department

1 may require applicants to pay a separate fingerprinting fee,  
2 either to the Department or to a vendor. The Department may, in  
3 its discretion, allow an applicant who does not have reasonable  
4 access to a designated vendor to provide his or her  
5 fingerprints in an alternative manner. The Department may adopt  
6 any rules necessary to implement this Section.

7 Section 20. Social Security number on license application.  
8 In addition to any other information required to be contained  
9 in the application, every application for an original, renewed,  
10 reinstated, or restored license under this Act shall include  
11 the applicant's Social Security number.

12 Section 25. Endorsement. The Department may, in its  
13 discretion, license as a colon hydrotherapist, by endorsement,  
14 an applicant who is a colon hydrotherapist licensed under the  
15 laws of another state or territory, if the requirements for  
16 licensure in the state or territory where the applicant was  
17 licensed were, at the date of his or her licensure,  
18 substantially equivalent to the requirements in force in this  
19 State on that date, and if the applicant has paid the required  
20 fee to the Department. The Department may adopt any rules  
21 necessary to implement this Section.

22 Applicants have 3 years after the date of application to  
23 complete the application process. If the process has not been  
24 completed within the 3 years, the application shall be denied,

1 the fee forfeited, and the applicant must reapply and meet the  
2 requirements in effect at the time of reapplication.

3 Section 30. Exemptions.

4 (a) This Act does not prohibit a person licensed under any  
5 other Act in this State from engaging in the practice for which  
6 he or she is licensed.

7 (b) Persons exempted under this Section include, but are  
8 not limited to, physicians, chiropractors, and naprapaths.

9 (c) Nothing in this Act prohibits a student of an approved  
10 colon hydrotherapy school or program from performing colon  
11 hydrotherapy, provided that the student does not hold himself  
12 or herself out as a licensed colon hydrotherapist and does not  
13 receive compensation, including tips, for colon hydrotherapy  
14 services.

15 (d) Nothing in this Act applies to licensed colon  
16 hydrotherapists from other states or countries when providing  
17 educational programs or services for a period not exceeding 30  
18 days within a calendar year.

19 Section 35. Title protection.

20 (a) Persons regulated by this Act are designated as colon  
21 hydrotherapists. Unless he or she has been issued, by the  
22 Department, a valid, existing license under this Act, no person  
23 may use the title and designation of "colon hydrotherapist" or  
24 the terms "colonic", "colon hydrotherapy", and "colonic

1 irrigation" when advertising or printing promotional material.

2 (b) Anyone who knowingly aids and abets one or more persons  
3 not authorized to use a professional title regulated by this  
4 Act or knowingly employs persons not authorized to use the  
5 regulated professional title in the course of their employment,  
6 commits a violation of this Act.

7 (c) Anyone not authorized under this Act to use the term  
8 "colonic", "colon hydrotherapy", or "colonic irrigation" and  
9 who knowingly use these terms when advertising commits a  
10 violation of this Act.

11 Section 40. Display of license. Every licensee shall  
12 display his or her license or a copy in a conspicuous place in  
13 the licensee's principal place of business or any other  
14 location where the licensee provides colon hydrotherapy  
15 services.

16 Section 45. Colon Hydrotherapy Licensing Board.

17 (a) The Secretary shall appoint a Colon Hydrotherapy  
18 Licensing Board which shall serve in an advisory capacity to  
19 the Secretary. The Board shall consist of 7 members, 6 of whom  
20 shall be colon hydrotherapists with at least 3 years of  
21 experience in colon hydrotherapy and one member of the Board  
22 shall be a member of the public who is not licensed under this  
23 Act or a similar Act in Illinois or another jurisdiction.  
24 Membership on the Board shall reasonably reflect the geographic



1 areas of the State. The Board shall meet annually to elect a  
2 chairperson and vice-chairperson. The Board shall hold  
3 regularly scheduled meetings during the year. A simple majority  
4 of the Board shall constitute a quorum at any meeting. Any  
5 action taken by the Board must be on the affirmative vote of a  
6 simple majority of members. Voting by proxy shall not be  
7 permitted. In the case of an emergency where all Board members  
8 cannot meet in person, the Board may convene a meeting via an  
9 electronic format in accordance with the Open Meetings Act.

10 (b) Members shall be appointed to a 3-year term, except  
11 that initial appointees shall serve the following terms: 2  
12 members shall serve for one year, 2 members shall serve for 2  
13 years, and 3 members shall serve for 3 years. A member whose  
14 term has expired shall continue to serve until his or her  
15 successor is appointed. No member shall be reappointed to the  
16 Board for a term that would cause his or her continuous service  
17 on the Board to exceed 9 years. Appointments to fill a vacancy  
18 shall be made in the same manner as the original appointments.

19 (c) The members of the Board are entitled to receive  
20 compensation for all legitimate and necessary expenses  
21 incurred while attending Board and Department meetings.

22 (d) Members of the Board shall be immune from suit in any  
23 action based upon any disciplinary proceedings or other  
24 activities performed in good faith as members of the Board.

25 (e) The Secretary shall consider the recommendations of the  
26 Board on questions involving the standards of professional

1 conduct, discipline, and qualifications of applicants and  
2 licensees under this Act. Nothing shall limit the ability of  
3 the Board to provide recommendations to the Secretary in regard  
4 to any matter affecting the administration of this Act. The  
5 Secretary shall give due consideration to all recommendations  
6 of the Board.

7 (f) The Secretary may terminate the appointment of any  
8 member for cause, which, in the opinion of the Secretary,  
9 reasonably justifies termination and may include, but is not  
10 limited to, a Board member who does not attend 2 consecutive  
11 meetings.

12 Section 50. Duties of the Department. The Department shall  
13 exercise the powers and duties prescribed by the Civil  
14 Administrative Code of Illinois for administration of  
15 licensing Acts and shall exercise other powers and duties  
16 necessary for effectuating the purpose of this Act. The  
17 Department shall adopt rules to implement, interpret, or make  
18 specific the provisions and purposes of this Act. No rules  
19 shall be adopted by the Department until reviewed by the Board.

20 Section 55. Grounds for discipline.

21 (a) The Department may refuse to issue or renew, or may  
22 revoke, suspend, place on probation, reprimand, or take other  
23 disciplinary or non-disciplinary action, as the Department  
24 considers appropriate, including the imposition of fines not to

1 exceed \$10,000 for each violation, with regard to any license  
2 or licensee for any one or more of the following:

3 (1) violations of this Act or its rules;

4 (2) conviction by plea of guilty or nolo contendere,  
5 finding of guilt, jury verdict, or entry of judgment or by  
6 sentencing of any crime, including, but not limited to,  
7 convictions, preceding sentences of supervision,  
8 conditional discharge, or first offender probation, under  
9 the laws of any jurisdiction of the United States that is  
10 (i) a felony; or (ii) that is a misdemeanor, an essential  
11 element of which is dishonesty, or that is directly related  
12 to the practice of the profession;

13 (3) professional incompetence;

14 (4) advertising in a false, deceptive, or misleading  
15 manner;

16 (5) aiding, abetting, assisting, procuring, advising,  
17 employing, or contracting with any unlicensed person to  
18 practice colon hydrotherapy in violation of any rules or  
19 provisions of this Act;

20 (6) engaging in immoral conduct in the commission of  
21 any act related to the licensee's practice, including  
22 sexual abuse, sexual misconduct, or sexual exploitation;

23 (7) engaging in dishonorable, unethical, or  
24 unprofessional conduct of a character likely to deceive,  
25 defraud, or harm the public;

26 (8) practicing or offering to practice beyond the scope

1 permitted by law or accepting and performing professional  
2 responsibilities that the licensee knows or has reason to  
3 know that he or she is not competent to perform;

4 (9) knowingly delegating professional responsibilities  
5 to a person unqualified by training, experience, or  
6 licensure;

7 (10) failing to provide information in response within  
8 60 days after a written request made by the Department;

9 (11) habitual or excessive use or abuse of drugs  
10 defined in law as controlled substances, alcohol, or any  
11 other substances that results in the inability to practice  
12 with reasonable judgment, skill, or safety;

13 (12) having a pattern of practice or other behavior  
14 that demonstrates incapacity or incompetence to practice  
15 under this Act;

16 (13) discipline by another state, District of  
17 Columbia, territory, or foreign nation, if at least one of  
18 the grounds for the discipline is the same or substantially  
19 equivalent to those set forth in this Section;

20 (14) a finding by the Department that the licensee,  
21 after having his or her license placed on probationary  
22 status, has violated the terms of probation;

23 (15) willfully making or filing false records or  
24 reports in his or her practice, including, but not limited  
25 to, false records filed with State agencies or departments;

26 (16) making a material misstatement in furnishing

1 information to the Department or otherwise making  
2 misleading, deceptive, untrue, or fraudulent  
3 representations in violation of this Act or otherwise in  
4 the practice of the profession;

5 (17) fraud or misrepresentation in applying for or  
6 procuring a license under this Act or in connection with  
7 applying for renewal of a license under this Act;

8 (18) inability to practice the profession with  
9 reasonable judgment, skill, or safety as a result of  
10 physical illness, including, but not limited to,  
11 deterioration through the aging process, loss of motor  
12 skill, or a mental illness or disability;

13 (19) charging for professional services not rendered  
14 including filing false statements for the collection of  
15 fees for which services are not rendered;

16 (20) practicing under a false or, except as provided by  
17 law, assumed name; or

18 (21) cheating on or attempting to subvert the licensing  
19 examination administered under this Act.

20 All fines shall be paid within 60 days after the  
21 effective date of the order imposing the fine.

22 (b) A person not licensed under this Act and engaged in the  
23 business of offering colon hydrotherapy services through  
24 others, shall not aid, abet, assist, procure, advise, employ,  
25 or contract with any unlicensed person to practice colon  
26 hydrotherapy in violation of any rules or provisions of this

1 Act. A person violating this subsection (b) shall be treated as  
2 a licensee for the purposes of disciplinary action under this  
3 Section and shall be subject to cease and desist orders as  
4 provided in Section 105 of this Act.

5 (c) The Department shall revoke any license issued under  
6 this Act of any person who is convicted of prostitution, rape,  
7 sexual misconduct, or any crime that subjects the licensee to  
8 compliance with the requirements of the Sex Offender  
9 Registration Act and any such conviction shall operate as a  
10 permanent bar in this State to practice as a colon  
11 hydrotherapist.

12 (d) The Department may refuse to issue or may suspend the  
13 license of any person who fails to file a tax return, to pay  
14 the tax, penalty, or interest shown in a filed tax return, or  
15 to pay any final assessment of tax, penalty, or interest, as  
16 required by any tax Act administered by the Illinois Department  
17 of Revenue, until such time as the requirements of the tax Act  
18 are satisfied in accordance with subsection (g) of Section  
19 2105-15 of the Department of Professional Regulation Law of the  
20 Civil Administrative Code of Illinois.

21 (e) The Department shall deny a license or renewal  
22 authorized by this Act to a person who has defaulted on an  
23 educational loan or scholarship provided or guaranteed by the  
24 Illinois Student Assistance Commission or any governmental  
25 agency of this State in accordance with item (5) of subsection  
26 (g) of Section 2105-15 of the Department of Professional

1 Regulation Law of the Civil Administrative Code of Illinois.

2 (f) In cases where the Department of Healthcare and Family  
3 Services has previously determined that a licensee or a  
4 potential licensee is more than 30 days delinquent in the  
5 payment of child support and has subsequently certified the  
6 delinquency to the Department, the Department may refuse to  
7 issue or renew or may revoke or suspend that person's license  
8 or may take other disciplinary action against that person based  
9 solely upon the certification of delinquency made by the  
10 Department of Healthcare and Family Services in accordance with  
11 item (5) of subsection (a) of Section 2105-15 of the Department  
12 of Professional Regulation Law of the Civil Administrative Code  
13 of Illinois.

14 (g) The determination by a circuit court that a licensee is  
15 subject to involuntary admission or judicial admission, as  
16 provided in the Mental Health and Developmental Disabilities  
17 Code, operates as an automatic suspension. The suspension shall  
18 end only upon a finding by a court that the patient is no  
19 longer subject to involuntary admission or judicial admission  
20 and the issuance of a court order so finding and discharging  
21 the patient.

22 (h) In enforcing this Act, the Department or Board, upon a  
23 showing of a possible violation, may compel an individual  
24 licensed to practice under this Act, or who has applied for  
25 licensure under this Act, to submit to a mental or physical  
26 examination, or both, as required by and at the expense of the

1 Department. The Department or Board may order the examining  
2 physician to present testimony concerning the mental or  
3 physical examination of the licensee or applicant. No  
4 information shall be excluded by reason of any common law or  
5 statutory privilege relating to communications between the  
6 licensee or applicant and the examining physician. The  
7 examining physicians shall be specifically designated by the  
8 Board or Department. The individual to be examined may have, at  
9 his or her own expense, another physician of his or her choice  
10 present during all aspects of the examination. The examination  
11 shall be performed by a physician licensed to practice medicine  
12 in all its branches. Failure of an individual to submit to a  
13 mental or physical examination, when directed, shall result in  
14 an automatic suspension without hearing.

15 A person holding a license under this Act or who has  
16 applied for a license under this Act who, because of a physical  
17 or mental illness or disability, including, but not limited to,  
18 deterioration through the aging process or loss of motor skill,  
19 is unable to practice the profession with reasonable judgment,  
20 skill, or safety, may be required by the Department to submit  
21 to care, counseling, or treatment by physicians approved or  
22 designated by the Department as a condition, term, or  
23 restriction for continued, reinstated, or renewed licensure to  
24 practice. Submission to care, counseling, or treatment as  
25 required by the Department shall not be considered discipline  
26 of a licensee. If the licensee refuses to enter into a care,



1 counseling, or treatment agreement or fails to abide by the  
2 terms of the agreement, the Department may file a complaint to  
3 revoke or suspend the license or otherwise discipline the  
4 licensee. The Secretary may order the license suspended  
5 immediately, pending a hearing by the Department. Fines shall  
6 not be assessed in disciplinary actions involving physical or  
7 mental illness or impairment.

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

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

22 Section 60. Advertising.

23 (a) It is a Class A misdemeanor for any person,  
24 organization, or corporation to advertise colon hydrotherapy  
25 services unless the person providing the service holds a valid

1 license under this Act, except for those excluded licensed  
2 professionals who are allowed to include colon hydrotherapy in  
3 their scope of practice. A colon hydrotherapist may not  
4 advertise unless he or she has a current license issued by this  
5 State. "Advertise" as used in this subsection includes, but is  
6 not limited to, the issuance of any card, sign, or device to  
7 any person; the causing, permitting, or allowing of any sign or  
8 marking on or in any building, vehicle, or structure;  
9 advertising in any newspaper or magazine; any listing or  
10 advertising in any directory under a classification or heading  
11 that includes the words "colonic", "colon hydrotherapist", or  
12 "colon hydrotherapy"; or commercials broadcast by any means.

13 (b) The colon hydrotherapist shall maintain an absolutely  
14 factual and true representation of the colon hydrotherapy  
15 procedure and profession in any advertising medium.  
16 Advertising under this subsection shall include the license  
17 number in any advertisement. It is a Class A misdemeanor for  
18 any person, organization, or corporation to advertise or imply  
19 that colon hydrotherapy can treat any disease or condition. For  
20 the purposes of this subsection, "advertising medium" means any  
21 newspaper, airwave or computer transmission, telephone  
22 directory listing other than an in-column listing consisting  
23 only of a name, address, and telephone number, business card,  
24 handbill, flyer, sign other than a building directory listing  
25 all building tenants and their room or suite numbers, or other  
26 form of written advertising.

1           Section 65. Home rule. The regulation and licensing of  
2 colon hydrotherapy is an exclusive power and function of the  
3 State. A home rule unit may not regulate or license colon  
4 hydrotherapists. This Section is a denial and limitation of  
5 home rule powers and functions under subsection (h) of Section  
6 6 of Article VII of the Illinois Constitution.

7           Section 70. Administrative Procedure Act. The Illinois  
8 Administrative Procedure Act shall apply to this Act, except  
9 the provision of subsection (d) of Section 10-65 of the  
10 Illinois Administrative Procedure Act that provides that at  
11 hearings the licensee has the right to show compliance with all  
12 lawful requirements for retention, continuation, or renewal of  
13 the license is specifically excluded. For the purposes of this  
14 Act the notice required under Section 10-25 of the  
15 Administrative Procedure Act is sufficient when mailed to the  
16 party's address of record.

17           Section 75. Renewal of licenses. The expiration date and  
18 renewal period for each license issued under this Act shall be  
19 set by rule.

20           Section 80. Continuing education. The Department shall  
21 adopt rules for continuing education for persons licensed under  
22 this Act that require the completion of 24 hours of approved

1 continuing education for each license renewal period. The  
2 Department shall establish by rule a means for the verification  
3 of completion of the continuing education required by this  
4 Section. This verification may be accomplished through audits  
5 of records maintained by the licensee, by requiring the filing  
6 of continuing education certificates with the Department, or by  
7 other means established by the Department.

8 Section 85. Restoration of expired licenses. A colon  
9 hydrotherapist who has permitted his or her license to expire  
10 or who has had his or her license on inactive status may have  
11 his or her license restored by making application to the  
12 Department and filing proof acceptable to the Department of his  
13 or her fitness to have his or her license restored, including  
14 sworn evidence certifying to active practice in another  
15 jurisdiction satisfactory to the Department, by paying the  
16 required restoration fee, and showing proof of completion of  
17 required continuing education. Licensees must provide proof of  
18 completion of 24 hours approved continuing education to renew  
19 their license.

20 If the colon hydrotherapist has not maintained an active  
21 practice in another jurisdiction satisfactory to the  
22 Department, the Board shall determine by an evaluation program  
23 established by rule his or her fitness to resume active status  
24 and may require the colon hydrotherapist to complete a period  
25 of evaluated clinical experience and may require successful

1 completion of an examination.

2 A colon hydrotherapist whose license has been expired or  
3 placed on inactive status for more than 5 years may have his or  
4 her license restored by making application to the Department  
5 and filing proof acceptable to the Department of his or her  
6 fitness to have his or her license restored, including sworn  
7 evidence certifying to active practice in another  
8 jurisdiction, by paying the required restoration fee, and by  
9 showing proof of the completion of 24 hours of continuing  
10 education.

11 However, any registrant whose license has expired while he  
12 or she has been engaged in (i) Federal Service on active duty  
13 with the United States Army, Navy, Marine Corps, Air Force,  
14 Coast Guard, or Public Health Service or the State Militia  
15 called into the service or training of the United States of  
16 America, or (ii) training or education under the supervision of  
17 the United States preliminary to induction into the military  
18 service, may have his or her license reinstated or restored  
19 without paying any lapsed renewal fees if, within 2 years after  
20 honorable termination of such service, training, or education,  
21 he or she furnishes to the Department satisfactory evidence to  
22 the effect that he or she has been so engaged and that his or  
23 her service, training, or education has been so terminated.

24 Section 90. Inactive licenses. Any colon hydrotherapist  
25 who notifies the Department, in writing on forms prescribed by

1 the Department, may elect to place his or her license on  
2 inactive status and shall, subject to rules of the Department,  
3 be excused from payment of renewal fees until he or she  
4 notifies the Department in writing of his or her desire to  
5 resume active status.

6 A colon hydrotherapist requesting restoration from  
7 inactive status shall be required to pay the current renewal  
8 fee and shall be required to restore his or her license as  
9 provided in Section 85 of this Act.

10 Any colon hydrotherapist whose license is on inactive  
11 status shall not practice colon hydrotherapy in the State, and  
12 any practice conducted shall be deemed unlicensed practice.

13 Section 95. Fees. The fees assessed under this Act shall  
14 be set by rule.

15 Section 100. Deposit of fees and fines; appropriations.  
16 All fees and fines collected under this Act shall be deposited  
17 into the General Professions Dedicated Fund. All monies in the  
18 Fund shall be used by the Department of Financial and  
19 Professional Regulation, as appropriated, for the ordinary and  
20 contingent expenses of the Department.

21 Section 105. Violations; injunction; cease and desist  
22 order.

23 (a) If any person violates a provision of this Act, the

1 Secretary may, in the name of the People of the State of  
2 Illinois, through the Attorney General of the State of Illinois  
3 or the State's Attorney in the county in which the offense  
4 occurs, petition for an order enjoining the violation or for an  
5 order enforcing compliance with this Act. Upon the filing of a  
6 verified petition in court, the court may issue a temporary  
7 restraining order, without notice or bond, and may  
8 preliminarily and permanently enjoin the violation. If it is  
9 established that the person has violated or is violating the  
10 injunction, the court may punish the offender for contempt of  
11 court. Proceedings under this Section shall be in addition to,  
12 and not in lieu of, all other remedies and penalties provided  
13 by this Act.

14 (b) If any person practices as a colon hydrotherapist or  
15 holds himself or herself out as a colon hydrotherapist without  
16 being licensed under the provisions of this Act, then the  
17 Secretary, any colon hydrotherapist, any interested party, or  
18 any person injured thereby may petition for relief as provided  
19 in subsection (a) of this Section or may apply to the circuit  
20 court of the county where the violation or some part thereof  
21 occurred, or where the person complained of has his or her  
22 principal place of business or resides, to prevent the  
23 violation. The court has jurisdiction to enforce obedience by  
24 injunction or by other process restricting the person  
25 complained of from further violation.

26 (c) Whenever, in the opinion of the Department, a person

1 violates any provision of this Act, the Department may issue a  
2 rule to show cause why an order to cease and desist should not  
3 be entered against him or her. The rule shall clearly set forth  
4 the grounds relied upon by the Department and shall provide a  
5 period of 7 days after the date of the rule to file an answer to  
6 the satisfaction of the Department. Failure to answer to the  
7 satisfaction of the Department shall cause an order to cease  
8 and desist to be issued.

9 Section 110. Investigations; notice and hearing. The  
10 Department may investigate the actions of any applicant or of  
11 any person or persons rendering or offering to render colon  
12 hydrotherapy services or any person holding or claiming to hold  
13 a license as a colon hydrotherapist. The Department shall,  
14 before refusing to issue or renew a license or to discipline a  
15 licensee under Section 55 of this Act, at least 30 days prior  
16 to the date set for the hearing, (i) notify the accused in  
17 writing of the charges made and the time and place for the  
18 hearing on the charges, (ii) direct him or her to file a  
19 written answer with the Department under oath within 20 days  
20 after the service of the notice, and (iii) inform the applicant  
21 or licensee that failure to file an answer will result in a  
22 default judgment being entered against the applicant or  
23 licensee. At the time and place fixed in the notice, the  
24 Department shall proceed to hear the charges and the parties of  
25 their counsel shall be accorded ample opportunity to present



1 any pertinent statements, testimony, evidence, and arguments.  
2 The Department may continue the hearing from time to time. In  
3 case the person, after receiving the notice, fails to file an  
4 answer, his or her license may, in the discretion of the  
5 Department, be revoked, suspended, or placed on probationary  
6 status or the Department may take whatever disciplinary actions  
7 considered proper, including limiting the scope, nature, or  
8 extent of the person's practice or the imposition of a fine,  
9 without a hearing, if the act or acts charged constitute  
10 sufficient grounds for that action under this Act. The written  
11 notice may be served by personal delivery or by certified mail  
12 to the address of record of the accused.

13 Section 115. Stenographer; transcript. The Department  
14 shall, at its own expense, preserve a record of all proceedings  
15 at the formal hearing of any case. Any notice, all documents in  
16 the nature of pleadings, written motions filed, the transcripts  
17 of testimony, reports of the Board and hearing officer, and  
18 orders of the Department shall be in the record of the  
19 proceeding.

20 Section 120. Subpoenas; depositions; oaths.

21 (a) The Department may subpoena and bring before it any  
22 person to take the oral or written testimony or compel the  
23 production of any books, papers, records, or any other  
24 documents that the Secretary or his or her designee deems

1 relevant or material to any such investigation or hearing  
2 conducted by the Department with the same fees and in the same  
3 manner as prescribed in civil cases in the courts of this  
4 State.

5 (b) Any circuit court, upon the application of the licensee  
6 or the Department, may order the attendance and testimony of  
7 witnesses and the production of relevant documents, files,  
8 records, books, and papers in connection with any hearing or  
9 investigation. The circuit court may compel obedience to its  
10 order by proceedings for contempt.

11 (c) The Secretary, the hearing officer, any member of the  
12 Board, or a certified shorthand court reporter may administer  
13 oaths at any hearing the Department conducts. Notwithstanding  
14 any other statute or Department rule to the contrary, all  
15 requests for testimony, production of documents, or records  
16 shall be in accordance with this Act.

17 Section 125. Findings and recommendations. At the  
18 conclusion of the hearing, the Board shall present to the  
19 Secretary a written report of its findings and recommendations.  
20 The report shall contain a finding of whether or not the  
21 accused person violated this Act or failed to comply with the  
22 conditions required in this Act. The Board shall specify the  
23 nature of the violation or failure to comply and shall make its  
24 recommendations to the Secretary.

25 The report of findings and recommendations of the Board

1 shall be the basis for the Department's order or refusal or for  
2 the granting of a license unless the Secretary shall determine  
3 that the Board's report is contrary to the manifest weight of  
4 the evidence, in which case the Secretary may issue an order  
5 contrary to the Board's report. The finding is not admissible  
6 in evidence against the person in a criminal prosecution  
7 brought for the violation of this Act, but the hearing and  
8 finding are not a bar to a criminal prosecution brought for the  
9 violation of this Act.

10 Section 130. Board; rehearing. In any case involving  
11 discipline of a licensee or the refusal to issue or renew a  
12 license, a copy of the Board's report shall be served upon the  
13 respondent by the Department, either personally or as provided  
14 in this Act for the service of the notice of hearing. Within 20  
15 days after service, the respondent may present to the  
16 Department a motion for a rehearing in writing and specifying  
17 particular grounds. If no motion for rehearing is filed, then  
18 upon the expiration of the time specified for filing the  
19 motion, or if a motion for rehearing is denied, then upon the  
20 denial, the Secretary may enter an order in accordance with  
21 recommendations of the Board, except as provided in Section 125  
22 of this Act. If the respondent shall order from the reporting  
23 service and pay for a transcript of the record within the time  
24 for filing a motion for rehearing, the 20 day period for filing  
25 the motion shall start upon the delivery of the transcript to

1 the respondent.

2 Section 135. Secretary; rehearing. Whenever the Secretary  
3 is not satisfied that substantial justice has been done in the  
4 revocation, suspension, or refusal to issue, restore, or renew  
5 a license, or other discipline of an applicant or licensee, the  
6 Secretary may order a rehearing by the same or other hearing  
7 officers.

8 Section 140. Appointment of a hearing officer. The  
9 Secretary shall have the authority to appoint any attorney duly  
10 licensed to practice law in this State to serve as the hearing  
11 officer in any action for refusal to issue or renew a license  
12 or permit or for the discipline of a licensee. The hearing  
13 officer shall have full authority to conduct the hearing. The  
14 hearing officer shall report his or her findings and  
15 recommendations to the Board and the Secretary. The Board shall  
16 have 60 days after receipt of the report to review the report  
17 of the hearing officer and present its findings of fact,  
18 conclusions of law, and recommendations to the Secretary. If  
19 the Board fails to present its report within the 60-day period,  
20 the Secretary shall issue an order based on the report of the  
21 hearing officer. If the Secretary determines that the Board's  
22 report is contrary to the manifest weight of the evidence, he  
23 or she may issue an order contrary to the Board's report.

1           Section 145. Order or certified copy; prima facie proof.  
2           An order or a certified copy of the order, over the seal of the  
3           Department and purporting to be signed by the Secretary, shall  
4           be prima facie proof that:

5                   (1) the signature is the genuine signature of the  
6           Secretary;

7                   (2) the Secretary is duly appointed and qualified; and

8                   (3) the Board and the members of the Board are  
9           qualified to act.

10           Section 150. Restoration of license from discipline. At  
11           any time after the successful completion of a term of  
12           indefinite probation, suspension, or revocation of a license,  
13           the Department may restore the license to the licensee upon  
14           written recommendation of the Board, unless after an  
15           investigation and a hearing the Secretary determines that  
16           restoration is not in the public interest. No person or entity  
17           whose license, certificate, or authority has been revoked under  
18           this Act may apply for restoration of that license,  
19           certification, or authority until such time as provided for in  
20           the Civil Administrative Code of Illinois.

21           Section 155. Surrender of license. Upon the revocation or  
22           suspension of any license, the licensee shall surrender the  
23           license to the Department and, if the licensee fails to do so,  
24           the Department shall have the right to seize the license.

1           Section 160. Temporary suspension of a license. The  
2 Secretary may temporarily suspend the license of a colon  
3 hydrotherapist without a hearing, simultaneously with the  
4 institution of proceedings for a hearing provided for in  
5 Section 110 of this Act, if the Secretary finds that the  
6 evidence in his or her possession indicates that continuation  
7 in practice would constitute an imminent danger to the public.  
8 In the event that the Secretary temporarily suspends the  
9 license of a colon hydrotherapist without a hearing, a hearing  
10 by the Board must be held within 30 calendar days after the  
11 suspension has occurred.

12           Section 165. Administrative review; venue. All final  
13 administrative decisions of the Department are subject to  
14 judicial review under the Administrative Review Law and its  
15 rules. For the purposes of this Act, the term "administrative  
16 decision" is defined as in Section 3-101 of the Code of Civil  
17 Procedure.

18           Proceedings for judicial review shall be commenced in the  
19 circuit court of the county in which the party applying for  
20 relief resides. If the party is not a resident of this State,  
21 then the venue shall be in Sangamon County.

22           The Department shall not be required to certify any record  
23 to the court or file any answer in court or otherwise appear in  
24 any court in a judicial review proceeding, unless and until the

1 Department has received from the plaintiff payment of the costs  
2 of furnishing and certifying the record, which costs shall be  
3 determined by the Department. Failure on the part of the  
4 plaintiff to file a receipt in court shall be grounds for  
5 dismissal of the action.

6 Section 170. Violations.

7 (a) A person who is found to have violated any provision of  
8 this Act is guilty of a Class A misdemeanor.

9 (b) Whoever knowingly practices or offers to practice colon  
10 hydrotherapy in this State without a license, or knowingly  
11 aids, abets, assists, procures, advises, employs, or contracts  
12 with any unlicensed person to practice colon hydrotherapy  
13 contrary to any rule or provision of this Act, shall be guilty  
14 of a Class A misdemeanor.

15 Section 175. Returned checks; fines. Any person who  
16 delivers a check or other payment to the Department that is  
17 returned to the Department unpaid by the financial institution  
18 upon which it is drawn shall pay to the Department, in addition  
19 to the amount already owed to the Department, a fine of \$50.  
20 The fines imposed by this Section are in addition to any other  
21 discipline provided under this Act for unlicensed practice or  
22 practice on a non-renewed license. The Department shall notify  
23 the person that payment of fees and fines shall be paid to the  
24 Department by certified check or money order within 30 calendar

1 days after receipt of the notification. If after the expiration  
2 of 30 days after the date of the notification, the person has  
3 failed to submit the fee, the Department shall automatically  
4 terminate the license or deny the application without hearing.  
5 If, after termination or denial, the person seeks a license, he  
6 or she shall apply to the Department for restoration or  
7 issuance of the license and pay all fees and fines owed to the  
8 Department. The Department may establish a fee for the  
9 processing of an application for restoration of a license to  
10 pay all expenses of processing this application. The Secretary  
11 may waive the fines due under this Section in individual cases  
12 where the Secretary finds that the fines would be unreasonable  
13 or unnecessarily burdensome.

14 Section 180. Unlicensed practice; violation; civil  
15 penalty.

16 (a) Any person who practices, offers to practice, attempts  
17 to practice, or holds himself or herself out to practice colon  
18 hydrotherapy or as a colon hydrotherapist without being  
19 licensed under this Act, or any person not licensed under this  
20 Act who aids, abets, assists, procures, advises, employs, or  
21 contracts with any unlicensed person to practice colon  
22 hydrotherapy contrary to any rules or provisions of this Act,  
23 shall, in addition to any other penalty provided by law, pay a  
24 civil penalty to the Department in an amount not to exceed  
25 \$10,000 for each violation of this Act as determined by the



1 Department. The civil penalty shall be assessed by the  
2 Department after a hearing is held in accordance with the  
3 provisions set forth in this Act regarding the provision of a  
4 hearing for the discipline of a licensee.

5 (b) The Department has the authority and power to  
6 investigate any unlicensed activity.

7 (c) The civil penalty shall be paid within 60 days after  
8 the effective date of the order imposing the civil penalty. The  
9 order shall constitute a judgment and may be filed and executed  
10 in the same manner as any judgment from any court of record.

11 (d) All moneys collected under this Section shall be  
12 deposited into the General Professions Dedicated Fund.

13 Section 185. Confidentiality. All information collected  
14 by the Department in the course of an examination or  
15 investigation of a licensee or applicant, including, but not  
16 limited to, any complaint against a licensee filed with the  
17 Department and information collected to investigate any such  
18 complaint, shall be maintained for the confidential use of the  
19 Department and shall not be disclosed. The Department may not  
20 disclose the information to anyone other than law enforcement  
21 officials, regulatory agencies that have an appropriate  
22 regulatory interest as determined by the Secretary, or a party  
23 presenting a lawful subpoena to the Department. Information and  
24 documents disclosed to a federal, State, county, or local law  
25 enforcement agency shall not be disclosed by the agency for any

1 purpose to any other agency or person. A formal complaint filed  
2 against a 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 Section 190. Severability. If any provision of this Act or  
6 the application of any provision of this Act to any person or  
7 circumstance is held invalid, the invalidity does not affect  
8 other provisions or applications of the Act that can be given  
9 effect without the invalid provision or application, and for  
10 this purpose the provisions of this Act are severable.

11 Section 200. The Regulatory Sunset Act is amended by adding  
12 Section 4.34 as follows:

13 (5 ILCS 80/4.34 new)

14 Sec. 4.34. Act repealed on January 1, 2024. The following  
15 Act is repealed on January 1, 2024:

16 The Colon Hydrotherapist Licensing Act.

17 Section 999. Effective date. This Act takes effect on  
18 January 1, 2014.