



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1496

Introduced 2/7/2013, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

See Index

Amends the Regulatory Sunset Act. Extends the repeal of the Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act from January 1, 2014 to January 1, 2024. Amends the Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act. Makes changes in provisions concerning definitions, the Illinois Administrative Procedure Act, registration applications, application of the Act, registration requirements, supervision requirement, inactive status, fees, disciplinary action, suspension of registration, cease and desist orders, investigations, hearings, record of proceedings, restoration of registration, and civil penalties. Provides that all information collected by the Department of Financial and Professional Regulation in the course of an examination or investigation of a registrant or applicant shall be maintained for the confidential use of the Department and shall not be disclosed. Effective December 31, 2013.

LRB098 06227 MGM 36268 b

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 5. The Regulatory Sunset Act is amended by changing
5 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 Acts and Section repealed on January 1, 2014.

8 The following Acts and Section of an Act are repealed on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
17 Technologist Title Protection Act.~~

18 Section 2.5 of the Illinois Plumbing License Law.

19 The Veterinary Medicine and Surgery Practice Act of 2004.

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

21 (5 ILCS 80/4.34 new)

22 Sec. 4.34. Act repealed on January 1, 2024The following Act

1 is repealed on January 1, 2024:

2 The Registered Surgical Assistant and Registered Surgical
3 Technologist Title Protection Act.

4 Section 10. The Registered Surgical Assistant and
5 Registered Surgical Technologist Title Protection Act is
6 amended by changing Sections 10, 20, 30, 40, 45, 50, 55, 65,
7 70, 75, 77, 80, 85, 90, 95, 100, 105, 110, 115, 120, 125, 130,
8 135, 145, 150, and 165 and by adding Section 87 as follows:

9 (225 ILCS 130/10)

10 (Section scheduled to be repealed on January 1, 2014)

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

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

19 "Department" means the Department of Financial and
20 Professional Regulation.

21 "Direct supervision" means supervision by a licensed ~~an~~
22 ~~operating~~ physician, licensed podiatrist, or licensed dentist
23 who is physically present and who personally directs delegated
24 acts and remains available to personally respond to an

1 emergency until the patient is released from the operating
2 room. A registered professional nurse may also provide direct
3 supervision within the scope of his or her license. A
4 registered surgical assistant or registered surgical
5 technologist shall perform duties as assigned.

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

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

10 "Registered surgical assistant" means a person who (i) is
11 not licensed to practice medicine in all of its branches, (ii)
12 is certified by the National Surgical Assistant Association as
13 a Certified Surgical Assistant ~~on the Certification of Surgical~~
14 ~~Assistants~~, the National Board for Surgical Technology and
15 Surgical Assisting Liaison Council on Certification for the
16 ~~Surgical Technologist~~ as a certified first assistant, or the
17 American Board of Surgical Assistants as Surgical
18 Assistant-Certified Assisting, (iii) performs duties under
19 direct supervision, (iv) provides services only in a licensed
20 hospital, ambulatory treatment center, or office of a physician
21 licensed to practice medicine in all its branches, and (v) is
22 registered under this Act.

23 "Registered surgical technologist" means a person who (i)
24 is not a physician licensed to practice medicine in all of its
25 branches, (ii) is certified by the National Board for Surgical
26 Technology and Surgical Assisting Liaison Council on

1 ~~Certification for the Surgical Technologist~~, (iii) performs
2 duties under direct supervision, (iv) provides services only in
3 a licensed hospital, ambulatory treatment center, or office of
4 a physician licensed to practice medicine in all its branches,
5 and (v) is registered under this Act.

6 "Secretary" means the Secretary of Financial and
7 Professional Regulation.

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

9 (225 ILCS 130/20)

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

11 Sec. 20. Illinois Administrative Procedure Act, ~~rules.~~ ~~(a)~~
12 The Illinois Administrative Procedure Act is expressly adopted
13 and incorporated in this Act as if all of the provisions of the
14 Illinois Administrative Procedure Act were included in this
15 Act, except that the provision of subsection (d) of Section
16 10-65 of the Illinois Administrative Procedure Act that
17 provides that at hearings the registrant has the right to show
18 compliance with all lawful requirements for retention,
19 continuation, or renewal of the registration is specifically
20 excluded. For purposes of this Act, the notice required under
21 Section 10-25 of the Illinois Administrative Procedure Act is
22 deemed sufficient when mailed to the the registrant's address
23 of record ~~last known address of a party.~~

24 ~~(b) The Director may promulgate rules for the~~
25 ~~administration and enforcement of this Act and may prescribe~~

1 ~~forms to be issued in connection with this Act.~~

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

3 (225 ILCS 130/30)

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

5 Sec. 30. Social Security Number on registration
6 application. In addition to any other information required to
7 be contained in the application, every application for an
8 original certificate of registration under this Act shall
9 include the applicant's Social Security Number, which shall be
10 retained in the agency's records pertaining to the registration
11 ~~license~~. As soon as practical, the Department shall assign a
12 customer's identification number to each applicant for a
13 registration license.

14 Every application for a renewed, reinstated, ~~renewal~~ or
15 restored registration license shall require the applicant's
16 customer identification number.

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

18 (225 ILCS 130/40)

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

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

22 (1) A person licensed in this State under any other Act
23 from engaging in the practice for which he or she is
24 licensed, including but not limited to a physician licensed

1 to practice medicine in all its branches, physician
2 assistant, advanced practice ~~registered~~ nurse, or nurse
3 performing surgery-related tasks within the scope of his or
4 her license, nor are these individuals required to be
5 registered under this Act.

6 (2) A person from engaging in practice as a surgical
7 assistant or surgical technologist in the discharge of his
8 or her official duties as an employee of the United States
9 government.

10 (3) One or more registered surgical assistants or
11 surgical technologists from forming a professional service
12 corporation in accordance with the Professional Service
13 Corporation Act and applying for licensure as a corporation
14 providing surgical assistant or surgical technologist
15 services.

16 (4) A student engaging in practice as a surgical
17 assistant or surgical technologist under the direct
18 supervision of a physician licensed to practice medicine in
19 all of its branches as part of his or her program of study
20 at a school approved by the Department or in preparation to
21 qualify for the examination as prescribed under Sections 45
22 and 50 of this Act.

23 (5) A person from assisting in surgery at a ~~an~~
24 ~~operating~~ physician's discretion, including but not
25 limited to medical students and residents, nor are medical
26 students and residents required to be registered under this

1 Act.

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

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

16 (225 ILCS 130/45)

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

18 Sec. 45. Registration requirements; surgical assistant. A
19 person shall qualify for registration as a surgical assistant
20 if he or she has applied in writing on the prescribed form, has
21 paid the required fees, and meets all of the following
22 requirements:

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

24 (2) Has not violated a provision of Section 75 ~~95~~ of
25 this Act. In addition the Department may take into

1 consideration any felony conviction of the applicant, but a
2 conviction shall not operate as an absolute bar to
3 registration unless otherwise provided by law.

4 (3) Has completed a medical education program approved
5 by the Department or has graduated from a United States
6 Military Program that emphasizes ~~emphasized~~ surgical
7 assisting.

8 (4) Has successfully completed a national certifying
9 examination approved by the Department.

10 (5) Is currently certified by the National Surgical
11 Assistant Association as a Certified Surgical Assistant ~~on~~
12 ~~the Certification of Surgical Assistants~~, the National
13 Board for Surgical Technology and Surgical Assisting
14 ~~Liaison Council on Certification for the Surgical~~
15 ~~Technologist~~ as a certified first assistant, or the
16 American Board of Surgical Assistants as Surgical
17 Assistant-Certified Assisting.

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

19 (225 ILCS 130/50)

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

21 Sec. 50. Registration requirements; surgical technologist.

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

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

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

7 (3) Has completed a nationally accredited surgical
8 technology ~~technologist~~ program approved by the Department
9 or has graduated from a United States Military Program that
10 emphasizes surgical technology.

11 (4) Has successfully completed the surgical
12 technologist national certification examination provided
13 by the National Board for Surgical Technology and Surgical
14 Assisting ~~Liaison Council on Certification for the~~
15 ~~Surgical Technologist~~ or its successor agency.

16 (5) (Blank).

17 (6) Is currently certified by the National Board for
18 Surgical Technology and Surgical Assisting ~~Liaison Council~~
19 ~~on Certification for the Surgical Technologist~~ or its
20 successor agency and has met the requirements set forth for
21 certification.

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

23 (225 ILCS 130/55)

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

25 Sec. 55. Supervision requirement. A person registered

1 under this Act shall practice ~~as a surgical assistant only~~
2 under direct supervision.

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

4 (225 ILCS 130/65)

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

6 Sec. 65. Inactive status. A registrant who notifies
7 ~~notified~~ the Department in writing on forms prescribed by the
8 Department may elect to place his or her registration on
9 inactive status and shall, subject to rules of the Department,
10 be excused from payment of renewal fees until he or she
11 notifies the Department in writing of his or her intention to
12 restore the registration. A registrant requesting restoration
13 from inactive status shall pay the current renewal fee and
14 shall restore his or her registration in accordance with
15 Section 60 of this Act. A registrant whose registration license
16 is on inactive or non-renewed status shall not hold himself or
17 herself out as a registered surgical assistant or registered
18 surgical technologist. To do so shall be grounds for discipline
19 under Section 75 of this Act.

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

21 (225 ILCS 130/70)

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

23 Sec. 70. Fees; returned checks.

24 (a) The Department shall set by rule fees for the

1 administration of this Act, including but not limited to fees
2 for initial and renewal registration and restoration of a
3 certificate of registration.

4 (b) A person who delivers a check or other payment to the
5 Department that is returned to the Department unpaid by the
6 financial institution upon which it is drawn shall pay to the
7 Department, in addition to the amount already owed to the
8 Department, a fine of \$50. The fines imposed by this Section
9 are in addition to any other discipline provided under this
10 Act. The Department shall notify the person that fees and fines
11 shall be paid to the Department by certified check or money
12 order within 30 calendar days of the notification. If, after
13 the expiration of 30 days from the date of the notification,
14 the person has failed to submit the necessary remittance, the
15 Department shall automatically terminate the registration or
16 deny the application without a hearing. If the person seeks a
17 registration license after termination or denial, he or she
18 shall apply to the Department for restoration or issuance of
19 the registration license and pay all fees and fines due to the
20 Department. The Department may establish a fee for the
21 processing of an application for restoration of a registration
22 license to defray the expenses of processing the application.
23 The Secretary Director may waive the fines due under this
24 Section in individual cases if the Secretary Director finds
25 that the fines would be unreasonable or unnecessarily
26 burdensome.

1 (c) All of the fees and fines collected under this Act
2 shall be deposited into the General Professions Dedicated Fund.
3 All moneys in the Fund shall be used by the Department, as
4 appropriated, for the ordinary and contingent expenses of the
5 Department.

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

7 (225 ILCS 130/75)

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

9 Sec. 75. Grounds for disciplinary action.

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

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

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

22 (3) Conviction by plea of guilty or nolo contendere,
23 finding of guilt, jury verdict, or entry of judgment or by
24 sentencing of any crime, including, but not limited to,
25 convictions, preceding sentences of supervision,

1 conditional discharge, or first offender probation, under
2 the laws of any jurisdiction of the United States that is
3 (i) a felony or (ii) a misdemeanor, an essential element of
4 which is dishonesty, or that is directly related to the
5 practice of the profession. Conviction under the laws of a
6 United States jurisdiction of a crime that is a felony or a
7 misdemeanor, an essential element of which is dishonesty,
8 or of a crime that is directly related to the practice as a
9 surgical assistant or surgical technologist.

10 (4) Fraud or Making a misrepresentation in applying
11 for, renewing, restoring, reinstating, or procuring a
12 registration under this Act for the purpose of obtaining,
13 renewing, or restoring a registration.

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

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

18 (7) Engaging in dishonorable, unethical, or
19 unprofessional conduct of a character likely to deceive,
20 defraud, or harm the public, as defined by rule of the
21 Department.

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

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

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

19 (11) Willfully ~~Wilfully~~ making or filing false records
20 or reports in his or her practice, including but not
21 limited to false records or reports filed with State
22 agencies.

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

25 (13) Willfully ~~Wilfully~~ failing to report an instance
26 of suspected child abuse or neglect as required under the

1 Abused and Neglected Child Reporting Act.

2 (14) Being named as a perpetrator in an indicated
3 report by the Department of Children and Family Services
4 under the Abused and Neglected Child Reporting Act and upon
5 proof by clear and convincing evidence that the registrant
6 ~~licensee~~ has caused a child to be an abused child or
7 neglected child as defined in the Abused and Neglected
8 Child Reporting Act.

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

12 (16) Failure to report to the Department (A) any
13 adverse final action taken against the registrant by
14 another registering or licensing jurisdiction, government
15 agency, law enforcement agency, or any court or (B)
16 liability for conduct that would constitute grounds for
17 action as set forth in this Section.

18 (17) Habitual or excessive use or abuse of drugs
19 defined in law as controlled substances, alcohol, or any
20 other substance that results in the inability to practice
21 with reasonable judgment, skill, or safety ~~intoxication or~~
22 ~~addiction to the use of drugs.~~

23 (18) Physical or mental illness, including but not
24 limited to deterioration through the aging process or loss
25 of motor skills, which results in the inability to practice
26 the profession for which he or she is registered with

1 reasonable judgment, skill, or safety.

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

4 (20) Immoral conduct in the commission of an act
5 related to the registrant's practice, including but not
6 limited to sexual abuse, sexual misconduct, or sexual
7 exploitation.

8 (21) Violation of the Health Care Worker Self-Referral
9 Act.

10 (b) The Department may refuse to issue or may suspend
11 without hearing the registration of a person who fails to file
12 a return, to pay the tax, penalty, or interest shown in a filed
13 return, or to pay a final assessment of the tax, penalty, or
14 interest as required by a tax Act administered by the
15 Department of Revenue, until the requirements of the tax Act
16 are satisfied in accordance with subsection (g) of Section
17 2105-15 of the Civil Administration Code of Illinois.

18 (c) The determination by a circuit court that a registrant
19 is subject to involuntary admission or judicial admission as
20 provided in the Mental Health and Developmental Disabilities
21 Code operates as an automatic suspension. The suspension will
22 end only upon (1) a finding by a court that the patient is no
23 longer subject to involuntary admission or judicial admission,
24 (2) issuance of an order so finding and discharging the
25 patient, and (3) filing of a petition for restoration
26 demonstrating fitness to practice ~~the recommendation of the~~

1 ~~Department to the Director that the registrant be allowed to~~
2 ~~resume his or her practice.~~

3 (d) The Department shall deny a registration or renewal
4 authorized by this Act to a person who has defaulted on an
5 educational loan or scholarship provided or guaranteed by the
6 Illinois Student Assistance commission or any governmental
7 agency of this State in accordance with paragraph (5) of
8 subsection (a) of Section 2105-15 of the Civil Administrative
9 Code of Illinois.

10 (e) In cases where the Department of Healthcare and Family
11 Services has previously determined a registrant or a potential
12 registrant is more than 30 days delinquent in the payment of
13 child support and has subsequently certified the delinquency to
14 the Department, the Department may refuse to issue or renew or
15 may revoke or suspend that person's registration or may take
16 other disciplinary action against that person based solely upon
17 the certification of delinquency made by the Department of
18 Healthcare and Family Services in accordance with paragraph (5)
19 of subsection (a) of Section 1205-15 of the Department of
20 Professional Regulation Law of the Civil Administrative Code of
21 Illinois.

22 (f) In enforcing this Section, the Department, upon a
23 showing of a possible violation, may compel any individual
24 registered under this Act or any individual who has applied for
25 registration to submit to a mental or physical examination and
26 evaluation, or both, that may include a substance abuse or

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

20 The Department may order the examining physician or any
21 member of the multidisciplinary team to provide to the
22 Department any and all records, including business records,
23 that relate to the examination and evaluation, including any
24 supplemental testing performed. The Department may order the
25 examining physician or any member of the multidisciplinary team
26 to present testimony concerning this examination and

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

17 Failure of any individual to submit to mental or physical
18 examination and evaluation, or both, when directed, shall
19 result in an automatic suspension without hearing until such
20 time as the individual submits to the examination. If the
21 Department finds a registrant unable to practice because of the
22 reasons set forth in this Section, the Department shall require
23 such registrant to submit to care, counseling, or treatment by
24 physicians approved or designated by the Department as a
25 condition for continued, reinstated, or renewed registration.

26 When the Secretary immediately suspends a registration

1 under this Section, a hearing upon such person's registration
2 must be convened by the Department within 15 days after such
3 suspension and completed without appreciable delay. The
4 Department shall have the authority to review the registrant's
5 record of treatment and counseling regarding the impairment to
6 the extent permitted by applicable federal statutes and
7 regulations safeguarding the confidentiality of medical
8 records.

9 Individuals registered under this Act and affected under
10 this Section shall be afforded an opportunity to demonstrate to
11 the Department that they can resume practice in compliance with
12 acceptable and prevailing standards under the provisions of
13 their registration.

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

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

19 (225 ILCS 130/77)

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

21 Sec. 77. Suspension of registration for failure to pay
22 restitution. The Department, without further process or
23 hearing, shall suspend the registration ~~license or other~~
24 ~~authorization to practice~~ of any person issued under this Act
25 who has been certified by court order as not having paid

1 restitution to a person under Section 8A-3.5 of the Illinois
2 Public Aid Code or under Section 17-10.5 or 46-1 of the
3 Criminal Code of 1961. A person whose registration ~~license or~~
4 ~~other authorization to practice~~ is suspended under this Section
5 is prohibited from practicing until the restitution is made in
6 full.

7 (Source: P.A. 96-1551, eff. 7-1-11.)

8 (225 ILCS 130/80)

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

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

11 (a) If a person violates a provision of this Act, the
12 Secretary ~~Director~~, in the name of the People of the State of
13 Illinois through the Attorney General of the State of Illinois,
14 or the State's Attorney of a county in which the violation is
15 alleged to have occurred ~~occurs~~, may petition for an order
16 enjoining the violation or for an order enforcing compliance
17 with this Act. Upon the filing of a verified petition in court,
18 the court may issue a temporary restraining order without
19 notice or bond and may preliminarily and permanently enjoin the
20 violation. If it is established that the registrant has
21 violated or is violating the injunction, the court may punish
22 the offender for contempt of court. Proceedings under this
23 Section shall be in addition to, and not in lieu of, all other
24 remedies and penalties provided by this Act.

25 (b) If a person holds himself or herself out as a surgical

1 assistant or surgical technologist without being registered
2 under this Act, then any registrant under this Act, interested
3 party, or person injured thereby, in addition to the Secretary
4 ~~Director~~ or State's Attorney, may petition for relief as
5 provided in subsection (a) of this Section.

6 (c) If the Department determines that a person violated a
7 provision of this Act, the Department may issue a rule to show
8 cause why an order to cease and desist should not be entered
9 against him or her. The rule shall clearly set forth the
10 grounds relied upon by the Department and shall provide a
11 period of 7 days from the date of the rule to file an answer to
12 the satisfaction of the Department. Failure to answer to the
13 satisfaction of the Department shall cause an order to cease
14 and desist to be issued immediately.

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

16 (225 ILCS 130/85)

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

18 Sec. 85. Investigation; notice; hearing. ~~Certificates of~~
19 ~~registration may be refused, revoked, suspended, or otherwise~~
20 ~~disciplined in the manner provided by this Act and not~~
21 ~~otherwise.~~ The Department may ~~upon its own motion and shall~~
22 ~~upon the verified complaint in writing of any person setting~~
23 ~~forth facts that if proven would constitute grounds for refusal~~
24 ~~to issue or for suspension or revocation under this Act,~~
25 investigate the actions of a person applying for, holding, or

1 claiming to hold a certificate of registration. The Department
2 shall, before refusing to issue or renew a registration ~~7~~
3 ~~suspending, or revoking a certificate of registration or taking~~
4 other disciplinary or non-disciplinary action ~~discipline~~
5 pursuant to Section 75 of this Act, and at least 30 days prior
6 to the date set for the hearing, (i) notify in writing the
7 applicant or registrant licensee of the any charges made and
8 the time and place for a hearing of the charges, ~~shall afford~~
9 ~~the applicant or registrant an opportunity to be heard in~~
10 ~~person or by counsel in reference to the charges, and (ii)
11 direct the applicant or registrant to file a written answer to
12 the Department under oath within 20 days after the service of
13 the notice, and (iii) inform the applicant or registrant that
14 failure to file an answer will result in default being taken
15 against the applicant or registrant ~~and that the certificate of~~
16 ~~registration may be suspended, revoked, placed on probationary~~
17 ~~status, or other disciplinary action may be taken, including~~
18 ~~limiting the scope, nature, or extent of practice, as the~~
19 ~~Director may deem proper.~~~~

20 Written notice and any notice in the subsequent proceeding
21 may be served ~~by personal delivery to the applicant or~~
22 ~~registrant or by mailing the notice~~ by registered or certified
23 mail to the applicant or registrant's address of record ~~his or~~
24 ~~her last known place of residence or to the place of business~~
25 ~~last specified by the applicant or registrant in his or her~~
26 ~~last notification to the Department.~~ If the person fails to

1 file an answer after receiving notice, his or her certificate
2 of registration may, in the discretion of the Department, be
3 suspended, revoked, or placed on probationary status or the
4 Department may take whatever disciplinary or non-disciplinary
5 action deemed proper, including limiting the delegated tasks or
6 the imposition of a fine, without a hearing, if the act or acts
7 charged constitute sufficient grounds for such action under
8 this Act. At the time and place fixed in the notice, the
9 Department shall proceed to hearing of the charges and the
10 parties and their counsel ~~both the applicant or registrant and~~
11 ~~the complainant~~ shall be afforded ample opportunity to present,
12 ~~in person or by counsel,~~ any pertinent statements, testimony,
13 evidence, and arguments ~~that may be pertinent to the charges or~~
14 ~~to their defense~~. The Department may continue a hearing from
15 time to time. ~~The Department may continue a hearing for a~~
16 ~~period not to exceed 30 days.~~

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

18 (225 ILCS 130/87 new)

19 Sec. 87. Confidentiality. All information collected by the
20 Department in the course of an examination or investigation of
21 a registrant or applicant, including, but not limited to, any
22 complaint against a registrant filed with the Department and
23 information collected to investigate any such complaint shall
24 be maintained for the confidential use of the Department and
25 shall not be disclosed. The Department shall not disclose the

1 information to anyone other than law enforcement officials,
2 regulatory agencies that have an appropriate regulatory
3 interest as determined by the Secretary, or a party presenting
4 a lawful subpoena to the Department. Information and documents
5 disclosed to a federal, State, county, or local law enforcement
6 agency shall not be disclosed by the agency for any purpose to
7 any other agency or person. A formal complaint filed against a
8 registrant by the Department or any other issued by the
9 Department against a registrant or applicant shall be a public
10 record, except as otherwise prohibited by law.

11 (225 ILCS 130/90)

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

13 Sec. 90. Record of proceedings. The Department, at its
14 expense, shall preserve a record of all proceedings at a formal
15 hearing conducted pursuant to Section 85 of this Act. Any
16 registrant who is found to have violated this Act or who fails
17 to appear for a hearing to refuse to issue, restore, or renew a
18 registration or to discipline a registrant may be required by
19 the Department to pay for the costs of the proceeding. These
20 costs are limited to costs for court reporters, transcripts,
21 and witness attendance and mileage fees. All costs imposed
22 under this Section shall be paid within 60 days after the
23 effective date of the order imposing the fine. ~~The notice of~~
24 hearing, complaint, and all other documents in the nature of
25 pleadings and written motions filed in the proceedings, the

1 ~~transcript of testimony, the report of the Department or~~
2 ~~hearing officer, and orders of the Department shall be the~~
3 ~~record of the proceeding. The Department shall supply a~~
4 ~~transcript of the record to a person interested in the hearing~~
5 ~~on payment of the fee required under Section 2105-115 of the~~
6 ~~Department of Professional Regulation Law of the Civil~~
7 ~~Administrative Code of Illinois.~~

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

9 (225 ILCS 130/95)

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

11 Sec. 95. Order for production of documents. A circuit court
12 ~~may~~, upon application of the Department, ~~or its designee, or of~~
13 ~~the applicant or registration against whom proceedings~~
14 ~~pursuant to Section 85 of this Act are pending, enter an may~~
15 ~~order requiring the attendance and testimony of witnesses and~~
16 ~~their testimony~~ and the production of relevant documents,
17 papers, files, books, and records in connection with a hearing
18 or investigation ~~authorized by this Act~~. The court may compel
19 obedience to its order through contempt proceedings.

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

21 (225 ILCS 130/100)

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

23 Sec. 100. Subpoena power.

24 (a) The Department may ~~has the power to~~ subpoena and bring

1 before it any person ~~in this State and~~ to take the oral or
2 written testimony or compel the production of any books,
3 papers, records, or any other documents that the Secretary or
4 his or her designee deems relevant or material to any
5 investigation or hearing conducted by the Department orally or
6 ~~by deposition,~~ with the same fees and mileage and in the same
7 manner as prescribed by law in judicial proceedings in civil
8 cases in circuit courts of this State.

9 (b) The Secretary, the hearing officer, or a certified
10 shorthand court reporter may ~~Director shall have the authority~~
11 ~~to~~ administer oaths, at any hearing that the Department
12 conducts is authorized to conduct under this Act, oaths to
13 ~~witnesses and any other oaths authorized to be administered by~~
14 ~~the Department under this Act.~~ Notwithstanding any other
15 statute or Department rule to the contrary, all requests for
16 testimony, production of documents, or records shall be in
17 accordance with this Act.

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

19 (225 ILCS 130/105)

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

21 Sec. 105. Disciplinary report. At the conclusion of the
22 hearing, the hearing officer ~~Department~~ shall present to the
23 Secretary ~~Director~~ a written report of his or her ~~its~~ findings
24 of fact, conclusions of law, and recommendations. In the
25 report, the hearing officer ~~Department~~ shall make a finding of

1 whether or not the charged registrant or applicant violated a
2 provision of this Act or its rules ~~and shall specify the nature~~
3 ~~of the violation. In making its recommendations for discipline,~~
4 ~~the Department may take into consideration all facts and~~
5 ~~circumstances bearing upon the reasonableness of the conduct of~~
6 ~~the respondent and the potential for future harm to the public,~~
7 ~~including but not limited to previous discipline of that~~
8 ~~respondent by the Department, intent, degree of harm to the~~
9 ~~public and likelihood of harm in the future, any restitution~~
10 ~~made, and whether the incident or incidents complained of~~
11 ~~appear to be isolated or a pattern of conduct. In making its~~
12 ~~recommendations for discipline, the Department shall seek to~~
13 ~~ensure that the severity of the discipline recommended bears~~
14 ~~some reasonable relationship to the severity of the violation.~~

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

16 (225 ILCS 130/110)

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

18 Sec. 110. Motion for rehearing. In a case involving the
19 refusal to issue or renew a registration or the discipline of a
20 registrant, a copy of the hearing officer's ~~Department's~~ report
21 shall be served upon the respondent by the Department, ~~either~~
22 ~~personally or~~ as provided under Section 20 of this Act ~~for the~~
23 ~~service of the notice of hearing.~~ Within 20 days after the
24 service, the respondent may present to the Department a motion
25 in writing for a rehearing, which shall specify the particular

1 grounds for a rehearing. If no motion for rehearing is filed,
2 then upon the expiration of the time specified for filing the
3 motion, or if a motion for rehearing is denied, then upon the
4 denial the Secretary ~~Director~~ may enter an order in accordance
5 with recommendations of the Department, except as provided in
6 Section 115 or 120 of this Act. If the respondent orders a
7 transcript of the record from the reporting service and pays
8 for the transcript within the time for filing a motion for
9 rehearing, the 20-day period within which such a motion may be
10 filed shall commence upon the delivery of the transcript to the
11 respondent.

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

13 (225 ILCS 130/115)

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

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

16 ~~(a) The Director shall issue an order concerning the~~
17 ~~disposition of the charges (i) following the expiration of the~~
18 ~~filing period granted under Section 110 of this Act if no~~
19 ~~motion for rehearing is filed or (ii) following a denial of a~~
20 ~~timely motion for rehearing.~~

21 ~~(b) The Secretary's ~~Director's~~ order shall be based on the~~
22 ~~recommendations contained in the Department report unless,~~
23 ~~after giving due consideration to the Department's report,~~ the
24 Secretary ~~Director~~ disagrees in any regard with the report of
25 the Department, in which case he or she may issue an order in

1 ~~contravention of the report. The Director shall provide a~~
2 ~~written report to the Department on any deviation from the~~
3 ~~Department's report and shall specify with particularity the~~
4 ~~reasons for his or her deviation in the final order. The~~
5 hearing officer's ~~Department's~~ report and Secretary's
6 ~~Director's~~ order are not admissible in evidence against the
7 person in a criminal prosecution brought for a violation of
8 this Act, but the hearing, report, and order are not a bar to a
9 criminal prosecution brought for the violation of this Act.

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

11 (225 ILCS 130/120)

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

13 Sec. 120. Hearing officer. The Secretary ~~Director~~ shall
14 have the authority to appoint an attorney licensed to practice
15 law in this State to serve as the hearing officer in a hearing
16 authorized under Section 90 of this Act. The hearing officer
17 shall have full authority to conduct the hearing. The hearing
18 officer shall report his or her findings of fact, conclusions
19 of law, and recommendations to the Department. If the Secretary
20 ~~Director~~ disagrees in any regard with the report of the
21 Department, he or she may issue an order in contravention of
22 the report. The Secretary ~~Director~~ shall provide a written
23 explanation to the Department on a deviation from the
24 Department's report and shall specify with particularity the
25 reasons for his or her deviation in the final order.

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

2 (225 ILCS 130/125)

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

4 Sec. 125. Rehearing on order of Secretary ~~Director~~.
5 Whenever the Secretary ~~Director~~ is not satisfied that
6 substantial justice has been achieved in the discipline of a
7 registrant, the Secretary ~~Director~~ may order a rehearing by the
8 same or another hearing officer.

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

10 (225 ILCS 130/130)

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

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

16 (1) the signature is the genuine signature of the
17 Secretary ~~Director~~; and

18 (2) the Secretary ~~Director~~ is duly appointed and
19 qualified.

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

21 (225 ILCS 130/135)

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

23 Sec. 135. Restoration of registration from discipline. At

1 any time after the successful completion of a term of
2 indefinite probation, suspension, or revocation of a
3 registration, the Department may restore the registration to
4 active status unless, after an investigation and a hearing, the
5 Secretary determines that restoration is not in the public
6 interest. No person whose registration has been revoked as
7 authorized in this Act may apply for restoration of that
8 registration until such time as provided for in the Civil
9 Administrative Code of Illinois. ~~suspension or revocation of a~~
10 ~~certificate of registration, the Department may restore it to~~
11 ~~the registrant unless, after an investigation and a hearing,~~
12 ~~the Department determines that restoration is not in the public~~
13 ~~interest. Where circumstances of suspension or revocation so~~
14 ~~indicate, the Department may require an examination of the~~
15 ~~registrant before restoring his or her certificate of~~
16 ~~registration.~~

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

18 (225 ILCS 130/145)

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

20 Sec. 145. Summary ~~Temporary~~ suspension. The Secretary
21 ~~Director~~ may summarily ~~temporarily~~ suspend the registration of
22 a surgical assistant or surgical technologist without a
23 hearing, simultaneously with the institution of proceedings
24 for a hearing provided for in Section 85 of this Act, if the
25 Secretary ~~Director~~ finds that evidence ~~in his or her possession~~

1 indicates that continuation in practice would constitute an
2 imminent danger to the public. If the Secretary ~~Director~~
3 summarily ~~temporarily~~ suspends a registration ~~license~~ without
4 a hearing, a hearing by the Department shall be commenced ~~held~~
5 within 30 days after the suspension has occurred and shall be
6 concluded as expeditiously as possible ~~without appreciable~~
7 ~~delay~~.

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

9 (225 ILCS 130/150)

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

11 Sec. 150. Certificate of record. The Department shall not
12 be required to certify any record to a court or file an answer
13 in court or otherwise appear in a court in a judicial review
14 proceeding unless and until the Department has received from
15 the plaintiff there is filed in the court, with the complaint,
16 a receipt from the Department acknowledging payment of the
17 costs of furnishing and certifying the record, which costs
18 shall be determined by the Department. Exhibits shall be
19 certified without cost. Failure on the part of the plaintiff to
20 file a receipt in court shall be grounds for dismissal of the
21 action.

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

23 (225 ILCS 130/165)

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

1 Sec. 165. Civil penalties.

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

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

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

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

17 Section 99. Effective date. This Act takes effect December
18 31, 2013.

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