

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 Funeral Directors and Embalmers Licensing
5 Code is amended by changing Section 15-75 and by adding Section
6 15-72 as follows:

7 (225 ILCS 41/15-72 new)

8 Sec. 15-72. Applicant convictions.

9 (a) When reviewing a conviction by plea of guilty or nolo
10 contendere, finding of guilt, jury verdict, or entry of
11 judgment or by sentencing of an initial applicant, the
12 Department may only deny a license based upon consideration of
13 mitigating factors provided in subsection (c) of this Section
14 for a felony directly related to the practice of funeral
15 directing and embalming.

16 (b) The following crimes or similar offenses in any other
17 jurisdiction are hereby deemed directly related to the practice
18 of funeral directing and embalming:

19 (1) first degree murder;

20 (2) second degree murder;

21 (3) drug induced homicide;

22 (4) unlawful restraint;

23 (5) aggravated unlawful restraint;

- 1 (6) forcible detention;
- 2 (7) involuntary servitude;
- 3 (8) involuntary sexual servitude of a minor;
- 4 (9) predatory criminal sexual assault of a child;
- 5 (10) aggravated criminal sexual assault;
- 6 (11) criminal sexual assault;
- 7 (12) criminal sexual abuse;
- 8 (13) aggravated kidnaping;
- 9 (14) aggravated robbery;
- 10 (15) armed robbery;
- 11 (16) kidnaping;
- 12 (17) aggravated battery;
- 13 (18) aggravated vehicular hijacking;
- 14 (19) terrorism;
- 15 (20) causing a catastrophe;
- 16 (21) possession of a deadly substance;
- 17 (22) making a terrorist threat;
- 18 (23) material support for terrorism;
- 19 (24) hindering prosecution of terrorism;
- 20 (25) armed violence;
- 21 (26) any felony based on consumer fraud or deceptive
22 business practices under the Consumer Fraud and Deceptive
23 Business Practices Act;
- 24 (27) any felony requiring registration as a sex
25 offender under the Sex Offender Registration Act;
- 26 (28) attempt of any the offenses set forth in

1 paragraphs (1) through (27) of this subsection (b); and
2 (29) convictions set forth in Section 15-75 of this
3 Code.

4 (c) The Department shall consider any mitigating factors
5 contained in the record, when determining the appropriate
6 disciplinary sanction, if any, to be imposed. In addition to
7 those set forth in Section 2105-130 of the Department of
8 Professional Regulation Law of the Civil Administrative Code of
9 Illinois, mitigating factors shall include the following:

10 (1) the bearing, if any, the criminal offense or
11 offenses for which the person was previously convicted will
12 have on his or her fitness or ability to perform one or
13 more such duties and responsibilities;

14 (2) the time that has elapsed since the criminal
15 conviction; and

16 (3) the age of the person at the time of the criminal
17 conviction.

18 (d) The Department shall issue an annual report by January
19 31, 2018 and by January 31 each year thereafter, indicating the
20 following:

21 (1) the number of initial applicants for a license
22 under this Code within the preceding calendar year;

23 (2) the number of initial applicants for a license
24 under this Code within the previous calendar year who had a
25 conviction;

26 (3) the number of applicants with a conviction who were

1 granted a license under this Code within the previous year;

2 (4) the number of applicants denied a license under
3 this Code within the preceding calendar year; and

4 (5) the number of applicants denied a license under
5 this Code solely on the basis of a conviction within the
6 preceding calendar year.

7 (e) Nothing in this Section shall prevent the Department
8 taking disciplinary or non-disciplinary action against a
9 license as set forth in paragraph (2) of subsection (b) of
10 Section 15-175 of this Code.

11 (225 ILCS 41/15-75)

12 (Section scheduled to be repealed on January 1, 2023)

13 Sec. 15-75. Violations; grounds for discipline; penalties.

14 (a) Each of the following acts is a Class A misdemeanor for
15 the first offense, and a Class 4 felony for each subsequent
16 offense. These penalties shall also apply to unlicensed owners
17 of funeral homes.

18 (1) Practicing the profession of funeral directing and
19 embalming or funeral directing, or attempting to practice
20 the profession of funeral directing and embalming or
21 funeral directing without a license as a funeral director
22 and embalmer or funeral director.

23 (2) Serving or attempting to serve as an intern under a
24 licensed funeral director and embalmer without a license as
25 a licensed funeral director and embalmer intern.

1 (3) Obtaining or attempting to obtain a license,
2 practice or business, or any other thing of value, by fraud
3 or misrepresentation.

4 (4) Permitting any person in one's employ, under one's
5 control or in or under one's service to serve as a funeral
6 director and embalmer, funeral director, or funeral
7 director and embalmer intern when the person does not have
8 the appropriate license.

9 (5) Failing to display a license as required by this
10 Code.

11 (6) Giving false information or making a false oath or
12 affidavit required by this Code.

13 (b) The Department may refuse to issue or renew, revoke,
14 suspend, place on probation or administrative supervision,
15 reprimand, or take other disciplinary or non-disciplinary
16 action as the Department may deem appropriate, including
17 imposing fines not to exceed \$10,000 for each violation, with
18 regard to any license under the Code for any one or combination
19 of the following:

20 (1) Fraud or any misrepresentation in applying for or
21 procuring a license under this Code or in connection with
22 applying for renewal of a license under this Code.

23 (2) For licenses, conviction ~~Conviction~~ by plea of
24 guilty or nolo contendere, finding of guilt, jury verdict,
25 or entry of judgment or by sentencing of any crime,
26 including, but not limited to, convictions, preceding

1 sentences of supervision, conditional discharge, or first
2 offender probation, under the laws of any jurisdiction of
3 the United States: (i) that is a felony or (ii) that is a
4 misdemeanor, an essential element of which is dishonesty,
5 or that is directly related to the practice of the
6 profession and, for initial applicants, convictions set
7 forth in Section 15-72 of this Act.

8 (3) Violation of the laws of this State relating to the
9 funeral, burial or disposition of deceased human bodies or
10 of the rules and regulations of the Department, or the
11 Department of Public Health.

12 (4) Directly or indirectly paying or causing to be paid
13 any sum of money or other valuable consideration for the
14 securing of business or for obtaining authority to dispose
15 of any deceased human body.

16 (5) Professional incompetence, gross negligence,
17 malpractice, or untrustworthiness in the practice of
18 funeral directing and embalming or funeral directing.

19 (6) (Blank).

20 (7) Engaging in, promoting, selling, or issuing burial
21 contracts, burial certificates, or burial insurance
22 policies in connection with the profession as a funeral
23 director and embalmer, funeral director, or funeral
24 director and embalmer intern in violation of any laws of
25 the State of Illinois.

26 (8) Refusing, without cause, to surrender the custody

1 of a deceased human body upon the proper request of the
2 person or persons lawfully entitled to the custody of the
3 body.

4 (9) Taking undue advantage of a client or clients as to
5 amount to the perpetration of fraud.

6 (10) Engaging in funeral directing and embalming or
7 funeral directing without a license.

8 (11) Encouraging, requesting, or suggesting by a
9 licensee or some person working on his behalf and with his
10 consent for compensation that a person utilize the services
11 of a certain funeral director and embalmer, funeral
12 director, or funeral establishment unless that information
13 has been expressly requested by the person. This does not
14 prohibit general advertising or pre-need solicitation.

15 (12) Making or causing to be made any false or
16 misleading statements about the laws concerning the
17 disposition of human remains, including, but not limited
18 to, the need to embalm, the need for a casket for cremation
19 or the need for an outer burial container.

20 (13) (Blank).

21 (14) Embalming or attempting to embalm a deceased human
22 body without express prior authorization of the person
23 responsible for making the funeral arrangements for the
24 body. This does not apply to cases where embalming is
25 directed by local authorities who have jurisdiction or when
26 embalming is required by State or local law. A licensee may

1 embalm without express prior authorization if a good faith
2 effort has been made to contact family members and has been
3 unsuccessful and the licensee has no reason to believe the
4 family opposes embalming.

5 (15) Making a false statement on a Certificate of Death
6 where the person making the statement knew or should have
7 known that the statement was false.

8 (16) Soliciting human bodies after death or while death
9 is imminent.

10 (17) Performing any act or practice that is a violation
11 of this Code, the rules for the administration of this
12 Code, or any federal, State or local laws, rules, or
13 regulations governing the practice of funeral directing or
14 embalming.

15 (18) Performing any act or practice that is a violation
16 of Section 2 of the Consumer Fraud and Deceptive Business
17 Practices Act.

18 (19) Engaging in dishonorable, unethical, or
19 unprofessional conduct of a character likely to deceive,
20 defraud or harm the public.

21 (20) Taking possession of a dead human body without
22 having first obtained express permission from the person
23 holding the right to control the disposition in accordance
24 with Section 5 of the Disposition of Remains Act or a
25 public agency legally authorized to direct, control or
26 permit the removal of deceased human bodies.

1 (21) Advertising in a false or misleading manner or
2 advertising using the name of an unlicensed person in
3 connection with any service being rendered in the practice
4 of funeral directing or funeral directing and embalming.
5 The use of any name of an unlicensed or unregistered person
6 in an advertisement so as to imply that the person will
7 perform services is considered misleading advertising.
8 Nothing in this paragraph shall prevent including the name
9 of any owner, officer or corporate director of a funeral
10 home, who is not a licensee, in any advertisement used by a
11 funeral home with which the individual is affiliated, if
12 the advertisement specifies the individual's affiliation
13 with the funeral home.

14 (22) Charging for professional services not rendered,
15 including filing false statements for the collection of
16 fees for which services are not rendered.

17 (23) Failing to account for or remit any monies,
18 documents, or personal property that belongs to others that
19 comes into a licensee's possession.

20 (24) Treating any person differently to his detriment
21 because of race, color, creed, gender, religion, or
22 national origin.

23 (25) Knowingly making any false statements, oral or
24 otherwise, of a character likely to influence, persuade or
25 induce others in the course of performing professional
26 services or activities.

1 (26) Willfully making or filing false records or
2 reports in the practice of funeral directing and embalming,
3 including, but not limited to, false records filed with
4 State agencies or departments.

5 (27) Failing to acquire continuing education required
6 under this Code.

7 (28) (Blank).

8 (29) Aiding or assisting another person in violating
9 any provision of this Code or rules adopted pursuant to
10 this Code.

11 (30) Failing within 10 days, to provide information in
12 response to a written request made by the Department.

13 (31) Discipline by another state, District of
14 Columbia, territory, foreign nation, or governmental
15 agency, if at least one of the grounds for the discipline
16 is the same or substantially equivalent to those set forth
17 in this Section.

18 (32) (Blank).

19 (33) Mental illness or disability which results in the
20 inability to practice the profession with reasonable
21 judgment, skill, or safety.

22 (34) Gross, willful, or continued overcharging for
23 professional services, including filing false statements
24 for collection of fees for which services are not rendered.

25 (35) Physical illness, including, but not limited to,
26 deterioration through the aging process or loss of motor

1 skill which results in a licensee's inability to practice
2 under this Code with reasonable judgment, skill, or safety.

3 (36) Failing to comply with any of the following
4 required activities:

5 (A) When reasonably possible, a funeral director
6 licensee or funeral director and embalmer licensee or
7 anyone acting on his or her behalf shall obtain the
8 express authorization of the person or persons
9 responsible for making the funeral arrangements for a
10 deceased human body prior to removing a body from the
11 place of death or any place it may be or embalming or
12 attempting to embalm a deceased human body, unless
13 required by State or local law. This requirement is
14 waived whenever removal or embalming is directed by
15 local authorities who have jurisdiction. If the
16 responsibility for the handling of the remains
17 lawfully falls under the jurisdiction of a public
18 agency, then the regulations of the public agency shall
19 prevail.

20 (B) A licensee shall clearly mark the price of any
21 casket offered for sale or the price of any service
22 using the casket on or in the casket if the casket is
23 displayed at the funeral establishment. If the casket
24 is displayed at any other location, regardless of
25 whether the licensee is in control of that location,
26 the casket shall be clearly marked and the registrant

1 shall use books, catalogues, brochures, or other
2 printed display aids to show the price of each casket
3 or service.

4 (C) At the time funeral arrangements are made and
5 prior to rendering the funeral services, a licensee
6 shall furnish a written statement of services to be
7 retained by the person or persons making the funeral
8 arrangements, signed by both parties, that shall
9 contain: (i) the name, address and telephone number of
10 the funeral establishment and the date on which the
11 arrangements were made; (ii) the price of the service
12 selected and the services and merchandise included for
13 that price; (iii) a clear disclosure that the person or
14 persons making the arrangement may decline and receive
15 credit for any service or merchandise not desired and
16 not required by law or the funeral director or the
17 funeral director and embalmer; (iv) the supplemental
18 items of service and merchandise requested and the
19 price of each item; (v) the terms or method of payment
20 agreed upon; and (vi) a statement as to any monetary
21 advances made by the registrant on behalf of the
22 family. The licensee shall maintain a copy of the
23 written statement of services in its permanent
24 records. All written statements of services are
25 subject to inspection by the Department.

26 (D) In all instances where the place of final

1 disposition of a deceased human body or the cremated
2 remains of a deceased human body is a cemetery, the
3 licensed funeral director and embalmer, or licensed
4 funeral director, who has been engaged to provide
5 funeral or embalming services shall remain at the
6 cemetery and personally witness the placement of the
7 human remains in their designated grave or the sealing
8 of the above ground depository, crypt, or urn. The
9 licensed funeral director or licensed funeral director
10 and embalmer may designate a licensed funeral director
11 and embalmer intern or representative of the funeral
12 home to be his or her witness to the placement of the
13 remains. If the cemetery authority, cemetery manager,
14 or any other agent of the cemetery takes any action
15 that prevents compliance with this paragraph (D), then
16 the funeral director and embalmer or funeral director
17 shall provide written notice to the Department within 5
18 business days after failing to comply. If the
19 Department receives this notice, then the Department
20 shall not take any disciplinary action against the
21 funeral director and embalmer or funeral director for a
22 violation of this paragraph (D) unless the Department
23 finds that the cemetery authority, manager, or any
24 other agent of the cemetery did not prevent the funeral
25 director and embalmer or funeral director from
26 complying with this paragraph (D) as claimed in the

1 written notice.

2 (E) A funeral director or funeral director and
3 embalmer shall fully complete the portion of the
4 Certificate of Death under the responsibility of the
5 funeral director or funeral director and embalmer and
6 provide all required information. In the event that any
7 reported information subsequently changes or proves
8 incorrect, a funeral director or funeral director and
9 embalmer shall immediately upon learning the correct
10 information correct the Certificate of Death.

11 (37) A finding by the Department that the license,
12 after having his or her license placed on probationary
13 status or subjected to conditions or restrictions,
14 violated the terms of the probation or failed to comply
15 with such terms or conditions.

16 (38) (Blank).

17 (39) Being named as a perpetrator in an indicated
18 report by the Department of Children and Family Services
19 pursuant to the Abused and Neglected Child Reporting Act
20 and, upon proof by clear and convincing evidence, being
21 found to have caused a child to be an abused child or
22 neglected child as defined in the Abused and Neglected
23 Child Reporting Act.

24 (40) Habitual or excessive use or abuse of drugs
25 defined in law as controlled substances, alcohol, or any
26 other substance which results in the inability to practice

1 with reasonable judgment, skill, or safety.

2 (41) Practicing under a false or, except as provided by
3 law, an assumed name.

4 (42) Cheating on or attempting to subvert the licensing
5 examination administered under this Code.

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

17 (d) No action may be taken under this Code against a person
18 licensed under this Code unless the action is commenced within
19 5 years after the occurrence of the alleged violations. A
20 continuing violation shall be deemed to have occurred on the
21 date when the circumstances last existed that give rise to the
22 alleged violation.

23 (e) Nothing in this Section shall be construed or enforced
24 to give a funeral director and embalmer, or his or her
25 designees, authority over the operation of a cemetery or over
26 cemetery employees. Nothing in this Section shall be construed

1 or enforced to impose duties or penalties on cemeteries with
2 respect to the timing of the placement of human remains in
3 their designated grave or the sealing of the above ground
4 depository, crypt, or urn due to patron safety, the allocation
5 of cemetery staffing, liability insurance, a collective
6 bargaining agreement, or other such reasons.

7 (f) All fines imposed under this Section shall be paid 60
8 days after the effective date of the order imposing the fine.

9 (g) The Department shall deny a license or renewal
10 authorized by this Code to a person who has defaulted on an
11 educational loan or scholarship provided or guaranteed by the
12 Illinois Student Assistance Commission or any governmental
13 agency of this State in accordance with item (5) of subsection
14 (a) of Section 2105-15 of the Department of Professional
15 Regulation Law of the Civil Administrative Code of Illinois.

16 (h) In cases where the Department of Healthcare and Family
17 Services has previously determined a licensee or a potential
18 licensee is more than 30 days delinquent in the payment of
19 child support and has subsequently certified the delinquency to
20 the Department, the Department may refuse to issue or renew or
21 may revoke or suspend that person's license or may take other
22 disciplinary action against that person based solely upon the
23 certification of delinquency made by the Department of
24 Healthcare and Family Services in accordance with item (5) of
25 subsection (a) of Section 2105-15 of the Department of
26 Professional Regulation Law of the Civil Administrative Code of

1 Illinois.

2 (i) A person not licensed under this Code who is an owner
3 of a funeral establishment or funeral business shall not aid,
4 abet, assist, procure, advise, employ, or contract with any
5 unlicensed person to offer funeral services or aid, abet,
6 assist, or direct any licensed person contrary to or in
7 violation of any rules or provisions of this Code. A person
8 violating this subsection shall be treated as a licensee for
9 the purposes of disciplinary action under this Section and
10 shall be subject to cease and desist orders as provided in this
11 Code, the imposition of a fine up to \$10,000 for each violation
12 and any other penalty provided by law.

13 (j) The determination by a circuit court that a licensee is
14 subject to involuntary admission or judicial admission as
15 provided in the Mental Health and Developmental Disabilities
16 Code, as amended, operates as an automatic suspension. The
17 suspension may end only upon a finding by a court that the
18 licensee is no longer subject to the involuntary admission or
19 judicial admission and issues an order so finding and
20 discharging the licensee, and upon the recommendation of the
21 Board to the Secretary that the licensee be allowed to resume
22 his or her practice.

23 (k) In enforcing this Code, the Department, upon a showing
24 of a possible violation, may compel an individual licensed to
25 practice under this Code, or who has applied for licensure
26 under this Code, to submit to a mental or physical examination,

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

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

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

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

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

23 (Source: P.A. 97-1130, eff. 8-28-12; 98-756, eff. 7-16-14.)

24 Section 10. The Illinois Roofing Industry Licensing Act is
25 amended by changing Section 9.1 and by adding Section 7.1 as

1 follows:

2 (225 ILCS 335/7.1 new)

3 Sec. 7.1. Applicant convictions.

4 (a) When reviewing a conviction by plea of guilty or nolo
5 contendere, finding of guilt, jury verdict, or entry of
6 judgment or by sentencing of an initial applicant, the
7 Department may only deny a license based upon consideration of
8 mitigating factors provided in subsection (c) of this Section
9 for a felony directly related to the practice of roofing
10 contracting.

11 (b) The following crimes or similar offenses in any other
12 jurisdiction are hereby deemed directly related to the practice
13 of roofing contracting:

14 (1) first degree murder;

15 (2) second degree murder;

16 (3) drug induced homicide;

17 (4) unlawful restraint;

18 (5) aggravated unlawful restraint;

19 (6) forcible detention;

20 (7) involuntary servitude;

21 (8) involuntary sexual servitude of a minor;

22 (9) predatory criminal sexual assault of a child;

23 (10) aggravated criminal sexual assault;

24 (11) criminal sexual assault;

25 (12) criminal sexual abuse;

- 1 (13) aggravated kidnaping;
2 (14) aggravated robbery;
3 (15) armed robbery;
4 (16) kidnapping;
5 (17) aggravated battery;
6 (18) aggravated vehicular hijacking;
7 (19) home invasion;
8 (20) terrorism;
9 (21) causing a catastrophe;
10 (22) possession of a deadly substance;
11 (23) making a terrorist threat;
12 (24) material support for terrorism;
13 (25) hindering prosecution of terrorism;
14 (26) armed violence;
15 (27) any felony based on consumer fraud or deceptive
16 business practices under the Consumer Fraud and Deceptive
17 Business Practices Act;
18 (28) any felony requiring registration as a sex
19 offender under the Sex Offender Registration Act;
20 (29) attempt of any the offenses set forth in
21 paragraphs (1) through (28) of this subsection (b); and
22 (30) convictions set forth in subsection (e) of Section
23 5 or Section 9.8 of this Act.
24 (c) The Department shall consider any mitigating factors
25 contained in the record, when determining the appropriate
26 disciplinary sanction, if any, to be imposed. In addition to

1 those set forth in Section 2105-130 of the Department of
2 Professional Regulation Law of the Civil Administrative Code of
3 Illinois, mitigating factors shall include the following:

4 (1) the bearing, if any, the criminal offense or
5 offenses for which the person was previously convicted will
6 have on his or her fitness or ability to perform one or
7 more such duties and responsibilities;

8 (2) the time that has elapsed since the criminal
9 conviction; and

10 (3) the age of the person at the time of the criminal
11 conviction.

12 (d) The Department shall issue an annual report by January
13 31, 2018 and by January 31 each year thereafter, indicating the
14 following:

15 (1) the number of initial applicants for a license
16 under this Act within the preceding calendar year;

17 (2) the number of initial applicants for a license
18 under this Act within the previous calendar year who had a
19 conviction;

20 (3) the number of applicants with a conviction who were
21 granted a license under this Act within the previous year;

22 (4) the number of applicants denied a license under
23 this Act within the preceding calendar year; and

24 (5) the number of applicants denied a license under
25 this Act solely on the basis of a conviction within the
26 preceding calendar year.

1 (e) Nothing in this Section shall prevent the Department
2 taking disciplinary or non-disciplinary action against a
3 license as set forth in Section 9.1 of this Act.

4 (225 ILCS 335/9.1) (from Ch. 111, par. 7509.1)

5 (Section scheduled to be repealed on January 1, 2026)

6 Sec. 9.1. Grounds for disciplinary action.

7 (1) The Department may refuse to issue or to renew, or may
8 revoke, suspend, place on probation, reprimand or take other
9 disciplinary or non-disciplinary action as the Department may
10 deem proper, including fines not to exceed \$10,000 for each
11 violation, with regard to any license for any one or
12 combination of the following:

13 (a) violation of this Act or its rules;

14 (b) for licensees, conviction or plea of guilty or nolo
15 contendere, finding of guilt, jury verdict, or entry of
16 judgment or sentencing of any crime, including, but not
17 limited to, convictions, preceding sentences of
18 supervision, conditional discharge, or first offender
19 probation, under the laws of any jurisdiction of the United
20 States that is (i) a felony or (ii) a misdemeanor, an
21 essential element of which is dishonesty or that is
22 directly related to the practice of the profession and, for
23 initial applicants, convictions set forth in Section 7.1 of
24 this Act;

25 (c) fraud or any misrepresentation in applying for or

1 procuring a license under this Act, or in connection with
2 applying for renewal of a license under this Act;

3 (d) professional incompetence or gross negligence in
4 the practice of roofing contracting, prima facie evidence
5 of which may be a conviction or judgment in any court of
6 competent jurisdiction against an applicant or licensee
7 relating to the practice of roofing contracting or the
8 construction of a roof or repair thereof that results in
9 leakage within 90 days after the completion of such work;

10 (e) (blank);

11 (f) aiding or assisting another person in violating any
12 provision of this Act or rules;

13 (g) failing, within 60 days, to provide information in
14 response to a written request made by the Department;

15 (h) engaging in dishonorable, unethical, or
16 unprofessional conduct of a character likely to deceive,
17 defraud, or harm the public;

18 (i) habitual or excessive use or abuse of controlled
19 substances, as defined by the Illinois Controlled
20 Substances Act, alcohol, or any other substance that
21 results in the inability to practice with reasonable
22 judgment, skill, or safety;

23 (j) discipline by another state, unit of government, or
24 government agency, the District of Columbia, a territory,
25 or a foreign nation, if at least one of the grounds for the
26 discipline is the same or substantially equivalent to those

1 set forth in this Section;

2 (k) directly or indirectly giving to or receiving from
3 any person, firm, corporation, partnership, or association
4 any fee, commission, rebate, or other form of compensation
5 for any professional services not actually or personally
6 rendered;

7 (l) a finding by the Department that the licensee,
8 after having his or her license disciplined, has violated
9 the terms of the discipline;

10 (m) a finding by any court of competent jurisdiction,
11 either within or without this State, of any violation of
12 any law governing the practice of roofing contracting, if
13 the Department determines, after investigation, that such
14 person has not been sufficiently rehabilitated to warrant
15 the public trust;

16 (n) willfully making or filing false records or reports
17 in the practice of roofing contracting, including, but not
18 limited to, false records filed with the State agencies or
19 departments;

20 (o) practicing, attempting to practice, or advertising
21 under a name other than the full name as shown on the
22 license or any other legally authorized name;

23 (p) gross and willful overcharging for professional
24 services including filing false statements for collection
25 of fees or monies for which services are not rendered;

26 (q) (blank);

1 (r) (blank);

2 (s) failure to continue to meet the requirements of
3 this Act shall be deemed a violation;

4 (t) physical or mental disability, including
5 deterioration through the aging process or loss of
6 abilities and skills that result in an inability to
7 practice the profession with reasonable judgment, skill,
8 or safety;

9 (u) material misstatement in furnishing information to
10 the Department or to any other State agency;

11 (v) (blank);

12 (w) advertising in any manner that is false,
13 misleading, or deceptive;

14 (x) taking undue advantage of a customer, which results
15 in the perpetration of a fraud;

16 (y) performing any act or practice that is a violation
17 of the Consumer Fraud and Deceptive Business Practices Act;

18 (z) engaging in the practice of roofing contracting, as
19 defined in this Act, with a suspended, revoked, or
20 cancelled license;

21 (aa) treating any person differently to the person's
22 detriment because of race, color, creed, gender, age,
23 religion, or national origin;

24 (bb) knowingly making any false statement, oral,
25 written, or otherwise, of a character likely to influence,
26 persuade, or induce others in the course of obtaining or

1 performing roofing contracting services;

2 (cc) violation of any final administrative action of
3 the Secretary;

4 (dd) allowing the use of his or her roofing license by
5 an unlicensed roofing contractor for the purposes of
6 providing roofing or waterproofing services; or

7 (ee) (blank);

8 (ff) cheating or attempting to subvert a licensing
9 examination administered under this Act; or

10 (gg) use of a license to permit or enable an unlicensed
11 person to provide roofing contractor services.

12 (2) The determination by a circuit court that a license
13 holder is subject to involuntary admission or judicial
14 admission, as provided in the Mental Health and Developmental
15 Disabilities Code, operates as an automatic suspension. Such
16 suspension will end only upon a finding by a court that the
17 patient is no longer subject to involuntary admission or
18 judicial admission, an order by the court so finding and
19 discharging the patient, and the recommendation of the Board to
20 the Director that the license holder be allowed to resume his
21 or her practice.

22 (3) The Department may refuse to issue or take disciplinary
23 action concerning the license of any person who fails to file a
24 return, to pay the tax, penalty, or interest shown in a filed
25 return, or to pay any final assessment of tax, penalty, or
26 interest as required by any tax Act administered by the

1 Department of Revenue, until such time as the requirements of
2 any such tax Act are satisfied as determined by the Department
3 of Revenue.

4 (4) In enforcing this Section, the Department, upon a
5 showing of a possible violation, may compel any individual who
6 is licensed under this Act or any individual who has applied
7 for licensure to submit to a mental or physical examination or
8 evaluation, or both, which may include a substance abuse or
9 sexual offender evaluation, at the expense of the Department.
10 The Department shall specifically designate the examining
11 physician licensed to practice medicine in all of its branches
12 or, if applicable, the multidisciplinary team involved in
13 providing the mental or physical examination and evaluation.
14 The multidisciplinary team shall be led by a physician licensed
15 to practice medicine in all of its branches and may consist of
16 one or more or a combination of physicians licensed to practice
17 medicine in all of its branches, licensed chiropractic
18 physicians, licensed clinical psychologists, licensed clinical
19 social workers, licensed clinical professional counselors, and
20 other professional and administrative staff. Any examining
21 physician or member of the multidisciplinary team may require
22 any person ordered to submit to an examination and evaluation
23 pursuant to this Section to submit to any additional
24 supplemental testing deemed necessary to complete any
25 examination or evaluation process, including, but not limited
26 to, blood testing, urinalysis, psychological testing, or

1 neuropsychological testing.

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

25 (6) Failure of any individual to submit to mental or
26 physical examination or evaluation, or both, when directed,

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

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

16 (8) Licensees affected under this Section shall be afforded
17 an opportunity to demonstrate to the Department that they can
18 resume practice in compliance with acceptable and prevailing
19 standards under the provisions of their license.

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

1 Illinois.

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

14 The changes to this Act made by this amendatory Act of 1997
15 apply only to disciplinary actions relating to events occurring
16 after the effective date of this amendatory Act of 1997.

17 (Source: P.A. 99-469, eff. 8-26-15.)

18 Section 15. The Barber, Cosmetology, Esthetics, Hair
19 Braiding, and Nail Technology Act of 1985 is amended by
20 changing Section 4-7 and by adding Section 4-6.1 as follows:

21 (225 ILCS 410/4-6.1 new)

22 Sec. 4-6.1. Applicant convictions.

23 (a) When reviewing a conviction by plea of guilty or nolo
24 contendere, finding of guilt, jury verdict, or entry of

1 judgment or by sentencing of an initial applicant, the
2 Department may only deny a license based upon consideration of
3 mitigating factors provided in subsection (c) of this Section
4 for a felony directly related to the practice of cosmetology,
5 esthetics, hair braiding, nail technology, and barbering.

6 (b) The following crimes or similar offenses in any other
7 jurisdiction are hereby deemed directly related to the practice
8 of cosmetology, esthetics, hair braiding, nail technology, and
9 barbering:

10 (1) first degree murder;

11 (2) second degree murder;

12 (3) drug induced homicide;

13 (4) unlawful restraint;

14 (5) aggravated unlawful restraint;

15 (6) forcible detention;

16 (7) involuntary servitude;

17 (8) involuntary sexual servitude of a minor;

18 (9) predatory criminal sexual assault of a child;

19 (10) aggravated criminal sexual assault;

20 (11) criminal sexual assault;

21 (12) criminal sexual abuse;

22 (13) aggravated kidnaping;

23 (14) aggravated robbery;

24 (15) armed robbery;

25 (16) kidnapping;

26 (17) aggravated battery;

1 (18) aggravated vehicular hijacking;

2 (19) terrorism;

3 (20) causing a catastrophe;

4 (21) possession of a deadly substance;

5 (22) making a terrorist threat;

6 (23) material support for terrorism;

7 (24) hindering prosecution of terrorism;

8 (25) armed violence;

9 (26) any felony based on consumer fraud or deceptive
10 business practices under the Consumer Fraud and Deceptive
11 Business Practices Act;

12 (27) any felony requiring registration as a sex
13 offender under the Sex Offender Registration Act;

14 (28) attempt of any the offenses set forth in
15 paragraphs (1) through (27) of this subsection (b); and

16 (29) convictions set forth in Section 4-20 of this Act.

17 (c) The Department shall consider any mitigating factors
18 contained in the record, when determining the appropriate
19 disciplinary sanction, if any, to be imposed. In addition to
20 those set forth in Section 2105-130 of the Department of
21 Professional Regulation Law of the Civil Administrative Code of
22 Illinois, mitigating factors shall include the following:

23 (1) the bearing, if any, the criminal offense or
24 offenses for which the person was previously convicted will
25 have on his or her fitness or ability to perform one or
26 more such duties and responsibilities;

1 (2) the time that has elapsed since the criminal
2 conviction; and

3 (3) the age of the person at the time of the criminal
4 conviction.

5 (d) The Department shall issue an annual report by January
6 31, 2018 and by January 31 each year thereafter, indicating the
7 following:

8 (1) the number of initial applicants for a license
9 under this Act within the preceding calendar year;

10 (2) the number of initial applicants for a license
11 under this Act within the previous calendar year who had a
12 conviction;

13 (3) the number of applicants with a conviction who were
14 granted a license under this Act within the previous year;

15 (4) the number of applicants denied a license under
16 this Act within the preceding calendar year; and

17 (5) the number of applicants denied a license under
18 this Act solely on the basis of a conviction within the
19 preceding calendar year.

20 (e) Nothing in this Section shall prevent the Department
21 taking disciplinary or non-disciplinary action against a
22 license as set forth in paragraph (2) of subsection (1) of
23 Section 4-7 of this Act.

24 (225 ILCS 410/4-7) (from Ch. 111, par. 1704-7)

25 (Section scheduled to be repealed on January 1, 2026)

1 Sec. 4-7. Refusal, suspension and revocation of licenses;
2 causes; disciplinary action.

3 (1) The Department may refuse to issue or renew, and may
4 suspend, revoke, place on probation, reprimand or take any
5 other disciplinary or non-disciplinary action as the
6 Department may deem proper, including civil penalties not to
7 exceed \$500 for each violation, with regard to any license for
8 any one, or any combination, of the following causes:

9 a. For licensees, conviction ~~Conviction~~ of any crime
10 under the laws of the United States or any state or
11 territory thereof that is (i) a felony, (ii) a misdemeanor,
12 an essential element of which is dishonesty, or (iii) a
13 crime which is related to the practice of the profession
14 and, for initial applicants, convictions set forth in
15 Section 4-6.1 of this Act.

16 b. Conviction of any of the violations listed in
17 Section 4-20.

18 c. Material misstatement in furnishing information to
19 the Department.

20 d. Making any misrepresentation for the purpose of
21 obtaining a license or violating any provision of this Act
22 or its rules.

23 e. Aiding or assisting another person in violating any
24 provision of this Act or its rules.

25 f. Failing, within 60 days, to provide information in
26 response to a written request made by the Department.

1 g. Discipline by another state, territory, or country
2 if at least one of the grounds for the discipline is the
3 same as or substantially equivalent to those set forth in
4 this Act.

5 h. Practice in the barber, nail technology, esthetics,
6 hair braiding, or cosmetology profession, or an attempt to
7 practice in those professions, by fraudulent
8 misrepresentation.

9 i. Gross malpractice or gross incompetency.

10 j. Continued practice by a person knowingly having an
11 infectious or contagious disease.

12 k. Solicitation of professional services by using
13 false or misleading advertising.

14 l. A finding by the Department that the licensee, after
15 having his or her license placed on probationary status,
16 has violated the terms of probation.

17 m. Directly or indirectly giving to or receiving from
18 any person, firm, corporation, partnership or association
19 any fee, commission, rebate, or other form of compensation
20 for any professional services not actually or personally
21 rendered.

22 n. Violating any of the provisions of this Act or rules
23 adopted pursuant to this Act.

24 o. Willfully making or filing false records or reports
25 relating to a licensee's practice, including but not
26 limited to, false records filed with State agencies or

1 departments.

2 p. Habitual or excessive use or addiction to alcohol,
3 narcotics, stimulants, or any other chemical agent or drug
4 that results in the inability to practice with reasonable
5 judgment, skill or safety.

6 q. Engaging in dishonorable, unethical or
7 unprofessional conduct of a character likely to deceive,
8 defraud, or harm the public as may be defined by rules of
9 the Department, or violating the rules of professional
10 conduct which may be adopted by the Department.

11 r. Permitting any person to use for any unlawful or
12 fraudulent purpose one's diploma or license or certificate
13 of registration as a cosmetologist, nail technician,
14 esthetician, hair braider, or barber or cosmetology, nail
15 technology, esthetics, hair braiding, or barber teacher or
16 salon or shop or cosmetology clinic teacher.

17 s. Being named as a perpetrator in an indicated report
18 by the Department of Children and Family Services under the
19 Abused and Neglected Child Reporting Act and upon proof by
20 clear and convincing evidence that the licensee has caused
21 a child to be an abused child or neglected child as defined
22 in the Abused and Neglected Child Reporting Act.

23 t. Operating a salon or shop without a valid
24 registration.

25 u. Failure to complete required continuing education
26 hours.

1 (2) In rendering an order, the Secretary shall take into
2 consideration the facts and circumstances involving the type of
3 acts or omissions in paragraph (1) of this Section including,
4 but not limited to:

5 (a) the extent to which public confidence in the
6 cosmetology, nail technology, esthetics, hair braiding, or
7 barbering profession was, might have been, or may be,
8 injured;

9 (b) the degree of trust and dependence among the
10 involved parties;

11 (c) the character and degree of harm which did result
12 or might have resulted;

13 (d) the intent or mental state of the licensee at the
14 time of the acts or omissions.

15 (3) The Department may reissue the license or registration
16 upon certification by the Board that the disciplined licensee
17 or registrant has complied with all of the terms and conditions
18 set forth in the final order or has been sufficiently
19 rehabilitated to warrant the public trust.

20 (4) The Department shall refuse to issue or renew or
21 suspend without hearing the license or certificate of
22 registration of any person who fails to file a return, or to
23 pay the tax, penalty or interest shown in a filed return, or to
24 pay any final assessment of tax, penalty or interest, as
25 required by any tax Act administered by the Illinois Department
26 of Revenue, until such time as the requirements of any such tax

1 Act are satisfied as determined by the Department of Revenue.

2 (5) The Department shall deny without hearing any
3 application for a license or renewal of a license under this
4 Act by a person who has defaulted on an educational loan
5 guaranteed by the Illinois Student Assistance Commission;
6 however, the Department may issue or renew a license if the
7 person in default has established a satisfactory repayment
8 record as determined by the Illinois Student Assistance
9 Commission.

10 (6) All fines imposed under this Section shall be paid
11 within 60 days after the effective date of the order imposing
12 the fine or in accordance with the terms set forth in the order
13 imposing the fine.

14 (Source: P.A. 98-911, eff. 1-1-15; 99-427, eff. 8-21-15.)

15 Section 99. Effective date. This Act takes effect January
16 1, 2017.