

1 AMENDMENT TO HOUSE BILL 4255

2 AMENDMENT NO. _____. Amend House Bill 4255, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Electrologist Licensing Act.

7 Section 5. Purposes. The practice of electrology in the
8 State of Illinois is hereby declared to affect the public
9 health, safety, and welfare and to be subject to regulation
10 and control in the public interest.

11 It is declared to be a matter of public health and
12 concern that the practice of electrology, as defined in this
13 Act, merit and receive the confidence of the public and that
14 only qualified persons be authorized to practice as
15 electrologists in the State of Illinois. This Act shall be
16 liberally construed to best carry out these subjects and
17 purposes.

18 Section 10. Definitions. In this Act:

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

21 "Director" means the Director of Professional Regulation.

1 "Electrologist" means an individual licensed to practice
2 electrology pursuant to the provisions of this Act.

3 "Electrology" means the practice or teaching of services
4 for permanent hair removal utilizing only solid probe
5 electrode type epilation, which may include thermolysis
6 (shortwave, high frequency), electrolysis (galvanic), or a
7 combination of both (superimposed or sequential blend).

8 Section 15. License required. Beginning January 1, 2004,
9 no person shall engage in the practice of electrology or hold
10 himself or herself out as an electrologist in this State
11 without a license issued by the Department under this Act.

12 Section 20. Exemptions. This Act does not prohibit:

13 (1) A person licensed in this State under any other Act
14 from engaging in the practice for which that person is
15 licensed.

16 (2) The practice of electrology by a person who is
17 employed by the United States government or any bureau,
18 division, or agency thereof while in the discharge of the
19 employee's official duties.

20 (3) The practice of electrology included in a program of
21 study by students enrolled in schools or in refresher courses
22 approved by the Department. Nothing in this Act shall be
23 construed to prevent a person functioning as an assistant to
24 a person licensed to practice medicine in all its branches
25 from providing electrology services.

26 Section 23. Scope of practice.

27 (a) The scope of practice of an electrologist is limited
28 to the following:

29 (1) The application of an antiseptic on the area of
30 the individual's skin to which electrology will be
31 applied.

1 (2) The use of a sterile needle/probe electrode
2 type epilation, which includes (i) electrolysis, known as
3 direct current/DC, (ii) thermolysis, known as alternating
4 current/AC, or (iii) a combination of both electrolysis
5 and thermolysis, known as superimposed or sequential
6 blend.

7 (b) Nothing in this Act shall be construed to authorize
8 an electrologist to use surgery including but not limited to
9 the use of any laser technology. An electrologist shall
10 refer to a licensed physician any individual whose condition,
11 at the time of evaluation or service, is determined to be
12 beyond the scope of practice of the electrologist, such as an
13 individual with signs of infection or bleeding.

14 Section 25. Application. Applications for original
15 licenses shall be made to the Department in writing on forms
16 prescribed by the Department and shall be accompanied by the
17 required fee, which is not refundable. The application shall
18 require any information as, in the judgment of the
19 Department, will enable the Department to pass on the
20 qualifications of the applicant for a license. The
21 application shall include evidence of passage of an
22 examination recognized by the Department.

23 Section 30. Qualifications for licensure. A person shall
24 be qualified for licensure as an electrologist if that person
25 has met all of the following requirements:

26 (1) Has applied in writing on the prescribed forms
27 and has paid the required fees.

28 (2) Has not violated any of the provisions of
29 Section 75 of this Act or the rules promulgated under
30 this Act. The Department shall take into consideration
31 any felony conviction of the applicant, but a conviction
32 shall not operate as an absolute bar to licensure.

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

2 (4) Has received his or her high school diploma or
3 equivalent.

4 (5) Has completed a total of 600 hours in the study
5 of electrology over a period of not less than 16 weeks
6 nor more than 2 consecutive years at a program approved
7 by the Department.

8 (6) Has successfully completed an examination
9 approved by the Department that tests the applicant's
10 knowledge of the theory and clinical practice of
11 electrology.

12 Section 32. Social Security number on license
13 application. In addition to any other information required to
14 be contained in the application, every application for an
15 original, renewal, or restored license under this Act shall
16 include the applicant's social security number.

17 Section 33. Grandfather provision. For a period of 12
18 months after the filing of the original administrative rules
19 adopted under this Act, the Department may issue a license to
20 any individual who, in addition to meeting the requirements
21 set forth in paragraphs (1), (2), (3), and (4) of Section 30,
22 can document employment as an electrologist and has received
23 remuneration for practicing electrology for a period of 3
24 years and can show proof of one of the following: (i) current
25 board certification by a national electrology certifying body
26 approved by the Department; or (ii) completion of 75
27 continuing education units in electrology approved by the
28 Department.

29 Section 35. Powers and duties of the Department.

30 (a) The Department shall exercise the powers and duties
31 prescribed by the Civil Administrative Code of Illinois for

1 the administration of licensing Acts and shall exercise any
2 other powers and duties necessary for effectuating the
3 purposes of this Act.

4 (b) The Department may adopt rules consistent with the
5 provisions of this Act for its administration and enforcement
6 and may prescribe forms that shall be issued in connection
7 with this Act. The rules may include but are not limited to
8 standards and criteria for licensure, professional conduct,
9 and discipline.

10 Section 40. Administrative Procedure Act. The Illinois
11 Administrative Procedure Act is hereby expressly adopted and
12 incorporated in this Act as if all of the provisions of the
13 Illinois Administrative Procedure Act were included in this
14 Act, except that the provision of paragraph (c) of Section
15 10-65 of the Illinois Administrative Procedure Act, which
16 provides that at hearings the licensee has the right to show
17 compliance with all lawful requirements for retention,
18 continuation, or renewal of the license, is specifically
19 excluded. For the purposes of this Act, the notice required
20 under Section 10-25 of the Illinois Administrative Procedure
21 Act is considered to be sufficient when mailed to the last
22 known address of the party.

23 Section 50. Issuance of license. Upon the satisfactory
24 completion of the application and examination procedures, and
25 compliance with the applicable rules of the Department, the
26 Department shall issue an electrologist license to the
27 qualifying applicant.

28 Section 55. Endorsement. Pursuant to the rules of the
29 Department, upon payment of the required fee, an applicant
30 who has been licensed in another state that has substantially
31 the same requirements as those required for licensure under

1 the provisions of this Act may be granted a license as an
2 electrologist.

3 Section 60. Renewal; armed service duty. The expiration
4 date and renewal period for each license issued under this
5 Act shall be set by rule. Renewal shall be conditioned on
6 paying the required fee and meeting other requirements as may
7 be established by rule. All renewal applicants shall provide
8 proof of having met the continuing education requirements
9 approved by the Department consisting of the equivalent of 30
10 continuing education units every 24 months.

11 Any electrologist who has permitted a license to expire
12 or who has a license on inactive status may have the license
13 restored by submitting an application to the Department,
14 filing proof acceptable to the Department of fitness to have
15 the license restored, and paying the required fees. Proof of
16 fitness may include sworn evidence certifying to active
17 lawful practice in another jurisdiction.

18 The Department shall determine, by an evaluation process
19 established by rule, a person's fitness for restoration of a
20 license and shall establish procedures and requirements for
21 restoration.

22 Any electrologist whose license expired while (i) on
23 active duty with the Armed Forces of the United States, or
24 the State Militia called into service or training, or (ii) in
25 training or education under the supervision of the United
26 States preliminary to induction into the military service,
27 may have the license restored without paying any lapsed
28 renewal fees if, within 2 years after honorable termination
29 of service, training or education, the licensee furnishes the
30 Department with satisfactory evidence to the effect that the
31 licensee has been so engaged and that the service, training,
32 or education has been so terminated.

1 Section 65. Inactive status. Any electrologist who
2 notifies the Department in writing on forms prescribed by the
3 Department may elect to place a license on inactive status
4 and shall, subject to rules of the Department, be excused
5 from payment of renewal fees until the Department is notified
6 in writing of the intention to restore the license.

7 An electrologist requesting restoration from inactive
8 status shall be required to pay the current renewal fee and
9 shall be required to follow procedures to restore the license
10 as provided in Section 60 of this Act.

11 An electrologist whose license is on inactive status
12 shall not practice in the State of Illinois.

13 A licensee who engages in practice with a lapsed license
14 or a license on inactive status shall be considered to be
15 practicing without a license, which shall be grounds for
16 discipline under Section 75 of this Act.

17 Section 70. Fees. The Department, by rule, shall
18 establish fees to be imposed for a license application,
19 renewal of a license, restoration of a license other than
20 from inactive status, or for the issuance of a duplicate
21 license, replacement license, or a license that has been lost
22 or destroyed. All fees are non-refundable.

23 Section 75. Grounds for discipline.

24 (a) The Department may refuse to issue or renew and may
25 revoke or suspend a license under this Act, and may place on
26 probation, censure, reprimand, or take other disciplinary
27 action with regard to any licensee under this Act, as the
28 Department may consider proper, including the issuance of
29 fines not to exceed \$5,000 for each violation, for one or any
30 combination of the following causes:

31 (1) Material misstatement in furnishing information
32 to the Department.

1 (2) Violation of this Act or its rules.

2 (3) Conviction of any felony under the laws of any
3 U.S. jurisdiction, any misdemeanor an essential element
4 of which is dishonesty, or any crime that is directly
5 related to the practice of the profession.

6 (4) Making any misrepresentation for the purpose of
7 obtaining a license.

8 (5) Aiding or assisting another person in violating
9 any provision of this Act or its rules.

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

12 (7) Engaging in dishonorable, unethical, or
13 unprofessional conduct of a character likely to deceive,
14 defraud, or harm the public.

15 (8) Habitual or excessive use or addiction to
16 alcohol, narcotics, stimulants, or any other chemical
17 agent or drug that results in an electrologist's
18 inability to practice with reasonable judgement, skill,
19 or safety.

20 (9) Discipline by another U.S. jurisdiction or
21 foreign nation if at least one of the grounds for
22 discipline is the same as or substantially equivalent to
23 any of those set forth in this Act.

24 (10) Directly or indirectly giving to or receiving
25 from any person, firm, corporation, partnership, or
26 association any fee, commission, rebate, or other form of
27 compensation for any professional services not actually
28 or personally rendered.

29 (11) A finding by the Department that the licensee,
30 after having his or her license placed on probationary
31 status, has violated the terms of probation.

32 (12) Abandonment of a patient.

33 (13) Willfully making or filing false records or
34 reports in the licensee's practice, including, but not

1 limited to, false records filed with State agencies or
2 departments.

3 (14) Physical illness, including, but not limited
4 to, deterioration through the aging process or loss of
5 motor skill that results in the inability to practice the
6 profession with reasonable judgment, skill, or safety.

7 (15) Gross malpractice resulting in permanent
8 injury or death of a patient.

9 (16) Use of fraud, deception, or any unlawful means
10 in applying for and securing a license as an
11 electrologist.

12 (17) Immoral conduct in the commission of any act,
13 such as sexual abuse, sexual misconduct, or sexual
14 exploitation, related to the licensee's practice.

15 (18) Failure to comply with standards of
16 sterilization and sanitation as defined in the rules of
17 the Department.

18 (b) The Department may refuse to issue or renew or may
19 suspend the license of any person who fails to file a return,
20 to pay the tax, penalty or interest shown in a filed return,
21 or to pay any final assessment of the tax, penalty, or
22 interest as required by any tax Act administered by the
23 Illinois Department of Revenue until the requirements of the
24 tax Act are satisfied.

25 (c) The determination by a circuit court that a licensee
26 is subject to involuntary admission or judicial admission as
27 provided in the Mental Health and Developmental Disabilities
28 Code operates as an automatic suspension. The suspension
29 will end only upon a finding by a court that the patient is
30 no longer subject to involuntary admission or judicial
31 admission, the issuance of an order so finding and
32 discharging the patient, and the recommendation of the
33 Committee to the Director that the licensee be allowed to
34 resume his or her practice.

1 Section 80. Dishonored checks. A person who issues or
2 delivers a check or other order to the Department that is not
3 honored on 2 occasions by the financial institution upon
4 which it is drawn because of insufficient funds on account,
5 the account is closed, or a stop payment has been placed on
6 the check or order shall pay to the Department, in addition
7 to the amount owing upon the check or other order, a fee of
8 \$50. If the check or other order was issued or delivered in
9 payment of a renewal fee, and the person whose license has
10 lapsed continues to practice as an electrologist without
11 paying the renewal fee and the \$50 fee required under this
12 Section, an additional fee of \$100 shall be imposed. The
13 fees imposed by this Section are in addition to any other
14 penalties imposed by this Act for practice without a license.
15 The Department shall notify the person whose license has
16 lapsed, within 30 days after the discovery of the lapse, that
17 the individual is engaged in unauthorized practice as an
18 electrologist, and of the amount due to the Department,
19 including the lapsed renewal fee and all other fees required
20 by this Section. If, after the expiration of 30 days after
21 the date of notification, the person whose license has lapsed
22 seeks a current license, he or she must apply to the
23 Department for restoration of the license and pay all fees
24 due to the Department. The Department may establish a fee
25 for the processing of an application for restoration of a
26 license that allows the Department to pay all costs and
27 expenses incident to the processing of the application. The
28 Director may waive the fees due under this Section in
29 individual cases where he or she finds that the fees would be
30 unreasonable or unnecessarily burdensome.

31 Section 85. Violations; injunctions.

32 (a) If any person violates any provision of this Act,
33 the Director may, in the name of the People of the State of

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

13 (b) If a person practices as an electrologist or holds
14 himself or herself out as an electrologist without being
15 licensed under the provisions of this Act, then any licensed
16 electrologist, any interested party, or any person injured
17 thereby may, in addition to the Director, petition for relief
18 as provided in subsection (a) of this Section.

19 (c) Whenever, in the opinion of the Department, a person
20 violates any provision of this Act, the Department may issue
21 a rule to show cause why an order to cease and desist should
22 not be entered against that person. The rule shall clearly
23 set forth the grounds relied upon by the Department and shall
24 provide a period of 7 days after the date of the rule to file
25 an answer to the satisfaction of the Department. Failure to
26 answer to the satisfaction of the Department shall cause an
27 order to cease and desist to be issued immediately.

28 Section 90. Investigations; notice and hearing.

29 (a) The Department may investigate the actions of an
30 applicant or a person holding or claiming to hold a license.

31 (b) Before refusing to issue or renew a license or
32 disciplining a licensed electrologist, the Department shall
33 notify in writing the applicant or the licensee of the nature

1 of the charges and that a hearing will be held on the date
2 designated, which shall be at least 30 days after the date of
3 the notice. The Department shall direct the applicant or
4 licensee to file a written answer to the Department under
5 oath within 20 days after the service of the notice and
6 inform the applicant or licensee that failure to file an
7 answer will result in default being taken against the
8 applicant or licensee and that the license may be suspended,
9 revoked, placed on probationary status, or other disciplinary
10 action may be taken, including limiting the scope, nature, or
11 extent of business as the Director may deem proper. Written
12 notice may be served by personal delivery or certified or
13 registered mail sent to the respondent at the most recent
14 address on record with the Department.

15 If the applicant or licensee fails to file an answer
16 after receiving notice, the license may, in the discretion of
17 the Department, be suspended, revoked, or placed on
18 probationary status, or the Department may take whatever
19 disciplinary action it deems proper including imposing a
20 civil penalty, without a hearing if the act or acts charged
21 constitute sufficient ground for such action under this Act.

22 At the time and place fixed in the notice, the Department
23 shall proceed to hear the charges, and the parties or their
24 counsel shall be accorded ample opportunity to present such
25 statements, testimony, evidence, and argument as may be
26 pertinent to the charges or to their defense. The Department
27 may continue a hearing from time to time.

28 Section 95. Stenographer; transcript. The Department,
29 at its expense, shall preserve a record of all proceedings at
30 the formal hearing of any case involving the refusal to issue
31 or renew a license or the discipline of a licensed
32 electrologist. The notice of hearing, complaint, and all
33 other documents in the nature of pleadings, written motions

1 filed in the proceedings, the transcript of testimony, the
2 report of the hearing officer, and the order of the
3 Department shall be the record of the proceeding.

4 Section 100. Required testimony. Upon application of
5 the Department or its designee, or of the person against whom
6 proceedings pursuant to Section 70 of this Act are pending,
7 any circuit court may enter an order requiring the
8 attendance of witnesses and their testimony, and the
9 production of documents, paper, files, books, and records in
10 connection with any hearing or investigation. The court may
11 compel obedience to its order by proceedings for contempt.

12 Section 105. Subpoena power; oaths. The Department has
13 power to subpoena and bring before it any person in this
14 State and to take testimony either orally, by deposition, or
15 both, with the same fees and mileage and in the same manner
16 as prescribed by law in judicial proceedings in civil cases
17 in circuit courts of this State.

18 The Director and hearing officers may administer oaths to
19 witnesses at any hearing that the Department is authorized to
20 conduct under this Act and any other oaths required or
21 authorized to be administered by the Department.

22 Section 110. Findings and recommendations. At the
23 conclusion of the hearing, the hearing officer shall present
24 to the Director a written report of its findings and
25 recommendations. The report shall contain a finding of
26 whether or not the accused applicant or licensee violated
27 this Act or failed to comply with the conditions required in
28 this Act. The hearing officer shall specify the nature of
29 the violation or failure to comply, and shall make its
30 recommendations to the Director.

31 The report of the findings and recommendations of the

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

11 Section 115. Hearing officer. The Director has the
12 authority to appoint an attorney duly licensed to practice
13 law in this State to serve as the hearing officer in an
14 action for refusal to issue or renew a license or for the
15 discipline of a licensed electrologist. The hearing officer
16 shall have full authority to conduct the hearing. The
17 hearing officer shall report his or her findings and
18 recommendations to the Director.

19 Section 120. Motion for rehearing. In any case
20 involving the refusal to issue or renew a license, or the
21 discipline of a licensee, a copy of the hearing officer's
22 report shall be served upon the respondent by the
23 Department, either personally or as provided in this Act for
24 the service of the notice of hearing. Within 20 days after
25 service, the respondent may present to the Department a
26 motion in writing for a rehearing which shall specify the
27 particular grounds for rehearing. If no motion for rehearing
28 is filed, then upon the expiration of the time specified for
29 filing a motion, or if a motion for rehearing is denied, then
30 upon denial, the Director may enter an order in accordance
31 with the recommendation of the hearing officer. If the
32 respondent orders from the reporting service, and pays for, a

1 transcript of the record within the time for filing a motion
2 for rehearing, the 20-day period within which a motion may be
3 filed shall commence upon the delivery of the transcript to
4 the respondent.

5 Section 125. Rehearing on order of Director. Whenever
6 the Director is not satisfied that substantial justice has
7 been done in the revocation, suspension, or refusal to issue
8 or renew a license, the Director may order a rehearing.

9 Section 130. Order or certified copy as prima facie
10 proof. An order or a certified copy thereof, over the seal
11 of the Department and purporting to be signed by the
12 Director, shall be prima facie proof:

13 (1) that the signature is the genuine signature of
14 the Director; and

15 (2) that the Director is duly appointed and
16 qualified.

17 This proof may be rebutted.

18 Section 135. License restoration. At any time after the
19 suspension or revocation of a license the Department may
20 restore it to the accused person, unless after an
21 investigation and a hearing the Department determines that
22 restoration is not in the public interest.

23 Section 140. Surrender of license. Upon the revocation
24 or suspension of any license, the licensee shall immediately
25 surrender the license to the Department, and if the licensee
26 fails to do so, the Department has the right to seize the
27 license.

28 Section 145. Temporary suspension. The Director may
29 temporarily suspend the license of an electrologist without a

1 hearing, simultaneously with the institution of proceedings
2 for a hearing under Section 90 of this Act, if the Director
3 finds that evidence in his or her possession indicates that
4 continuation in practice would constitute an imminent danger
5 to the public. In the event that the Director temporarily
6 suspends a license without a hearing, a hearing by the
7 Department must be held within 30 days after the suspension
8 has occurred, and concluded without appreciable delay.

9 Section 150. Administrative Review Law. All final
10 administrative decisions of the Department are subject to
11 judicial review under the Administrative Review Law and its
12 rules. The term "administrative decision" is defined as in
13 Section 3-101 of the Code of Civil Procedure.

14 Proceedings for judicial review shall be commenced in the
15 circuit court of the county in which the party applying for
16 review resides. If the party is not a resident of this State,
17 venue shall be in Sangamon County.

18 Section 155. Certification of record. The Department
19 shall not be required to certify any record to the court,
20 file any answer in court, or otherwise appear in any court in
21 a judicial review proceedings unless there is filed in the
22 court, with the complaint, a receipt from the Department
23 acknowledging payment of the costs of furnishing and
24 certifying the record. Failure on the part of the plaintiff
25 to file a receipt in court is grounds for dismissal of the
26 action.

27 Section 160. Penalties. A person who is found to have
28 knowingly violated any provision of this Act is guilty of a
29 Class A misdemeanor. On conviction of a second or subsequent
30 offense the violator is guilty of a Class 4 felony.

1 Section 165. Deposit of fees and fines. All of the fees
2 and fines collected under this Act shall be deposited into
3 the General Professions Dedicated Fund.

4 Section 170. Home rule. The regulation and licensing of
5 electrologists are exclusive powers and functions of the
6 State. A home rule unit may not regulate or license
7 electrologists. This Section is a denial and limitation of
8 home rule powers and functions under subsection (h) of
9 Section 6 of Article VII of the Illinois Constitution.

10 Section 900. The Regulatory Sunset Act is amended by
11 changing Section 4.24 as follows:

12 (5 ILCS 80/4.24)

13 Sec. 4.24. Acts ~~Act~~ repealed on January 1, 2014. The
14 following Acts are ~~Act-is~~ repealed on January 1, 2014:

15 The Electrologist Licensing Act.

16 The Illinois Public Accounting Act.

17 (Source: P.A. 92-457, eff. 8-21-01.)

18 Section 999. Effective date. This Act takes effect on
19 January 1, 2003."