

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 Massage Licensing Act is amended by
5 changing Section 45 as follows:

6 (225 ILCS 57/45)

7 (Section scheduled to be repealed on January 1, 2027)

8 Sec. 45. Grounds for discipline.

9 (a) The Department may refuse to issue or renew, or may
10 revoke, suspend, place on probation, reprimand, or take other
11 disciplinary or non-disciplinary action, as the Department
12 considers appropriate, including the imposition of fines not
13 to exceed \$10,000 for each violation, with regard to any
14 license or licensee for any one or more of the following:

15 (1) violations of this Act or of the rules adopted
16 under this Act;

17 (2) conviction by plea of guilty or nolo contendere,
18 finding of guilt, jury verdict, or entry of judgment or by
19 sentencing of any crime, including, but not limited to,
20 convictions, preceding sentences of supervision,
21 conditional discharge, or first offender probation, under
22 the laws of any jurisdiction of the United States: (i)
23 that is a felony; or (ii) that is a misdemeanor, an

1 essential element of which is dishonesty, or that is
2 directly related to the practice of the profession;

3 (3) professional incompetence;

4 (4) advertising in a false, deceptive, or misleading
5 manner, including failing to use the massage therapist's
6 own license number in an advertisement;

7 (5) aiding, abetting, assisting, procuring, advising,
8 employing, or contracting with any unlicensed person to
9 practice massage contrary to any rules or provisions of
10 this Act;

11 (6) engaging in immoral conduct in the commission of
12 any act, such as sexual abuse, sexual misconduct, or
13 sexual exploitation, related to the licensee's practice;

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

17 (8) practicing or offering to practice beyond the
18 scope permitted by law or accepting and performing
19 professional responsibilities which the licensee knows or
20 has reason to know that he or she is not competent to
21 perform;

22 (9) knowingly delegating professional
23 responsibilities to a person unqualified by training,
24 experience, or licensure to perform;

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

1 (11) having a habitual or excessive use of or
2 addiction to alcohol, narcotics, stimulants, or any other
3 chemical agent or drug which results in the inability to
4 practice with reasonable judgment, skill, or safety;

5 (12) having a pattern of practice or other behavior
6 that demonstrates incapacity or incompetence to practice
7 under this Act;

8 (13) discipline by another state, District of
9 Columbia, territory, or foreign nation, if at least one of
10 the grounds for the discipline is the same or
11 substantially equivalent to those set forth in this
12 Section;

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

16 (15) willfully making or filing false records or
17 reports in his or her practice, including, but not limited
18 to, false records filed with State agencies or
19 departments;

20 (16) making a material misstatement in furnishing
21 information to the Department or otherwise making
22 misleading, deceptive, untrue, or fraudulent
23 representations in violation of this Act or otherwise in
24 the practice of the profession;

25 (17) fraud or misrepresentation in applying for or
26 procuring a license under this Act or in connection with

1 applying for renewal of a license under this Act;

2 (18) inability to practice the profession with
3 reasonable judgment, skill, or safety as a result of
4 physical illness, including, but not limited to,
5 deterioration through the aging process, loss of motor
6 skill, or a mental illness or disability;

7 (19) charging for professional services not rendered,
8 including filing false statements for the collection of
9 fees for which services are not rendered;

10 (20) practicing under a false or, except as provided
11 by law, an assumed name; or

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

14 All fines shall be paid within 60 days of the effective
15 date of the order imposing the fine.

16 (b) A person not licensed under this Act and engaged in the
17 business of offering massage therapy services through others,
18 shall not aid, abet, assist, procure, advise, employ, or
19 contract with any unlicensed person to practice massage
20 therapy contrary to any rules or provisions of this Act. A
21 person violating this subsection (b) shall be treated as a
22 licensee for the purposes of disciplinary action under this
23 Section and shall be subject to cease and desist orders as
24 provided in Section 90 of this Act.

25 (c) The Department shall revoke any license issued under
26 this Act of any person who is convicted of prostitution, rape,

1 sexual misconduct, or any crime that subjects the licensee to
2 compliance with the requirements of the Sex Offender
3 Registration Act and any such conviction shall operate as a
4 permanent bar in the State of Illinois to practice as a massage
5 therapist.

6 (c-5) A prosecuting attorney shall provide notice to the
7 Department of the licensed massage therapist's name, address,
8 practice address, and license number and a copy of the
9 criminal charges filed immediately after a licensed massage
10 therapist has been charged with any of the following offenses:

11 (1) an offense for which the sentence includes
12 registration as a sex offender;

13 (2) involuntary sexual servitude of a minor;

14 (3) the crime of battery against a patient, including
15 any offense based on sexual conduct or sexual penetration,
16 in the course of patient care or treatment; or

17 (4) a forcible felony.

18 If the victim of the crime the licensee has been charged
19 with is a patient of the licensee, the prosecuting attorney
20 shall also provide notice to the Department of the patient's
21 name.

22 Within 5 business days after receiving notice from the
23 prosecuting attorney of the filing of criminal charges against
24 the licensed massage therapist, the Secretary shall issue an
25 administrative order that the licensed massage therapist shall
26 practice only with a chaperone during all patient encounters

1 pending the outcome of the criminal proceedings. The chaperone
2 shall be a licensed massage therapist or other health care
3 worker licensed by the Department. The administrative order
4 shall specify any other terms or conditions deemed appropriate
5 by the Secretary. The chaperone shall provide written notice
6 to all of the licensed massage therapist's patients explaining
7 the Department's order to use a chaperone. Each patient shall
8 sign an acknowledgment that they received the notice. The
9 notice to the patient of criminal charges shall include, in
10 14-point font, the following statement: "The massage therapist
11 is presumed innocent until proven guilty of the charges.".

12 The licensed massage therapist shall provide a written
13 plan of compliance with the administrative order that is
14 acceptable to the Department within 5 business days after
15 receipt of the administrative order. Failure to comply with
16 the administrative order, failure to file a compliance plan,
17 or failure to follow the compliance plan shall subject the
18 licensed massage therapist to temporary suspension of his or
19 her license until the completion of the criminal proceedings.

20 If the licensee is not convicted of the charge or if any
21 conviction is later overturned by a reviewing court, the
22 administrative order shall be vacated and removed from the
23 licensee's record.

24 The Department may adopt rules to implement this
25 subsection.

26 (d) The Department may refuse to issue or may suspend the

1 license of any person who fails to file a tax return, to pay
2 the tax, penalty, or interest shown in a filed tax return, or
3 to pay any final assessment of tax, penalty, or interest, as
4 required by any tax Act administered by the Illinois
5 Department of Revenue, until such time as the requirements of
6 the tax Act are satisfied in accordance with subsection (g) of
7 Section 2105-15 of the Civil Administrative Code of Illinois.

8 (e) (Blank).

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

20 (g) The determination by a circuit court that a licensee
21 is subject to involuntary admission or judicial admission, as
22 provided in the Mental Health and Developmental Disabilities
23 Code, operates as an automatic suspension. The suspension will
24 end only upon a finding by a court that the patient is no
25 longer subject to involuntary admission or judicial admission
26 and the issuance of a court order so finding and discharging

1 the patient.

2 (h) In enforcing this Act, the Department or Board, upon a
3 showing of a possible violation, may compel an individual
4 licensed to practice under this Act, or who has applied for
5 licensure under this Act, to submit to a mental or physical
6 examination, or both, as required by and at the expense of the
7 Department. The Department or Board may order the examining
8 physician to present testimony concerning the mental or
9 physical examination of the licensee or applicant. No
10 information shall be excluded by reason of any common law or
11 statutory privilege relating to communications between the
12 licensee or applicant and the examining physician. The
13 examining physicians shall be specifically designated by the
14 Board or Department. The individual to be examined may have,
15 at his or her own expense, another physician of his or her
16 choice present during all aspects of this examination. The
17 examination shall be performed by a physician licensed to
18 practice medicine in all its branches. Failure of an
19 individual to submit to a mental or physical examination, when
20 directed, shall result in an automatic suspension without
21 hearing.

22 A person holding a license under this Act or who has
23 applied for a license under this Act who, because of a physical
24 or mental illness or disability, including, but not limited
25 to, deterioration through the aging process or loss of motor
26 skill, is unable to practice the profession with reasonable

1 judgment, skill, or safety, may be required by the Department
2 to submit to care, counseling, or treatment by physicians
3 approved or designated by the Department as a condition, term,
4 or restriction for continued, reinstated, or renewed licensure
5 to practice. Submission to care, counseling, or treatment as
6 required by the Department shall not be considered discipline
7 of a license. If the licensee refuses to enter into a care,
8 counseling, or treatment agreement or fails to abide by the
9 terms of the agreement, the Department may file a complaint to
10 revoke, suspend, or otherwise discipline the license of the
11 individual. The Secretary may order the license suspended
12 immediately, pending a hearing by the Department. Fines shall
13 not be assessed in disciplinary actions involving physical or
14 mental illness or impairment.

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

24 An individual licensed under this Act and affected under
25 this Section shall be afforded an opportunity to demonstrate
26 to the Department or Board that he or she can resume practice

1 in compliance with acceptable and prevailing standards under
2 the provisions of his or her license.

3 (Source: P.A. 102-20, eff. 1-1-22.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.