

AN ACT concerning regulation.

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

Section 5. The Department of Professional Regulation Law of the Civil Administrative Code of Illinois is amended by changing Section 2105-165 as follows:

(20 ILCS 2105/2105-165)

Sec. 2105-165. Health care worker licensure actions; sex crimes.

(a) When a licensed health care worker, as defined in the Health Care Worker Self-Referral Act, (1) has been convicted of a criminal act that requires registration under the Sex Offender Registration Act; (1.5) has been convicted of involuntary sexual servitude of a minor under subsection (c) of Section 10-9 or subsection (b) of Section 10A-10 of the Criminal Code of 1961 or the Criminal Code of 2012; (2) has been convicted of a criminal battery against any patient in the course of patient care or treatment, including any offense based on sexual conduct or sexual penetration; (3) has been convicted of a forcible felony; or (4) is required as a part of a criminal sentence to register under the Sex Offender Registration Act, then, notwithstanding any other provision of law to the contrary, except as provided in this Section, the

license of the health care worker shall by operation of law be permanently revoked without a hearing.

(a-1) If a licensed health care worker has been convicted of a forcible felony, other than a forcible felony requiring registration under the Sex Offender Registration Act or involuntary sexual servitude of a minor that is a forcible felony, and the health care worker has had his or her license revoked, the health care worker may petition the Department to restore his or her license if more than 5 years have passed since the conviction or more than 3 years have passed since the health care worker's release from confinement for that conviction, whichever is later. In determining whether a license shall be restored, the Department shall consider, but is not limited to, the following factors:

(1) the seriousness of the offense;

(2) the presence of multiple offenses;

(3) prior disciplinary history, including, but not limited to, actions taken by other agencies in this State or by other states or jurisdictions, hospitals, health care facilities, residency programs, employers, insurance providers, or any of the armed forces of the United States or any state;

(4) the impact of the offense on any injured party;

(5) the vulnerability of any injured party, including, but not limited to, consideration of the injured party's age, disability, or mental illness;

- (6) the motive for the offense;
- (7) the lack of contrition for the offense;
- (8) the lack of cooperation with the Department or other investigative authorities;
- (9) the lack of prior disciplinary action, including, but not limited to, action by the Department or by other agencies in this State or by other states or jurisdictions, hospitals, health care facilities, residency programs, employers, insurance providers, or any of the armed forces of the United States or any state;
- (10) contrition for the offense;
- (11) cooperation with the Department or other investigative authorities;
- (12) restitution to injured parties;
- (13) whether the misconduct was self-reported;
- (14) any voluntary remedial actions taken or other evidence of rehabilitation; and
- (15) the date of conviction.

(b) No person who has been convicted of any offense listed in subsection (a) or required to register as a sex offender may receive a license as a health care worker in Illinois. The process for petition and review by the Department provided in subsection (a-1) shall also apply to a person whose application for licensure is denied under this Section for a conviction of a forcible felony, other than a forcible felony requiring registration under the Sex Offender Registration Act or

involuntary sexual servitude of a minor that is a forcible felony.

(c) Immediately after a licensed health care worker, as defined in the Health Care Worker Self-Referral Act, has been charged with any offense for which the sentence includes registration as a sex offender; involuntary sexual servitude of a minor; a criminal battery against a patient, including any offense based on sexual conduct or sexual penetration, in the course of patient care or treatment; or a forcible felony; then the prosecuting attorney shall provide notice to the Department of the health care worker's name, address, practice address, and license number and the patient's name and a copy of the criminal charges filed. Within 5 business days after receiving notice from the prosecuting attorney of the filing of criminal charges against the health care worker, the Secretary shall issue an administrative order that the health care worker shall immediately practice only with a chaperone during all patient encounters pending the outcome of the criminal proceedings. The chaperone must be a licensed health care worker. The chaperone shall provide written notice to all of the health care worker's patients explaining the Department's order to use a chaperone. Each patient shall sign an acknowledgement that they received the notice. The notice to the patient of criminal charges shall include, in 14-point font, the following statement: "The health care worker is presumed innocent until proven guilty of the charges.". The licensed health care worker shall provide a

written plan of compliance with the administrative order that is acceptable to the Department within 5 days after receipt of the administrative order. Failure to comply with the administrative order, failure to file a compliance plan, or failure to follow the compliance plan shall subject the health care worker to temporary suspension of his or her professional license until the completion of the criminal proceedings.

(d) Nothing contained in this Section shall act in any way to waive or modify the confidentiality of information provided by the prosecuting attorney to the extent provided by law. Any information reported or disclosed shall be kept for the confidential use of the Secretary, Department attorneys, the investigative staff, and authorized clerical staff and shall be afforded the same status as is provided information under Part 21 of Article VIII of the Code of Civil Procedure, except that the Department may disclose information and documents to (1) a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation or (2) an appropriate licensing authority of another state or jurisdiction pursuant to an official request made by that authority. Any information and documents disclosed to a federal, State, or local law enforcement agency may be used by that agency only for the investigation and prosecution of a criminal offense. Any information or documents disclosed by the Department to a professional licensing authority of another state or jurisdiction may only be used by that authority for

investigations and disciplinary proceedings with regards to a professional license.

(e) Any licensee whose license was revoked or who received an administrative order under this Section shall have the revocation or administrative order vacated and completely removed from the licensee's records and public view and the revocation or administrative order shall be afforded the same status as is provided information under Part 21 of Article VIII of the Code of Civil Procedure if (1) the charges upon which the revocation or administrative order is based are dropped; (2) the licensee is not convicted of the charges upon which the revocation or administrative order is based; or (3) any conviction for charges upon which the revocation or administrative order was based have been vacated, overturned, or reversed.

(f) Nothing contained in this Section shall prohibit the Department from initiating or maintaining a disciplinary action against a licensee independent from any criminal charges, conviction, or sex offender registration.

(g) The Department may adopt rules necessary to implement this Section.

(Source: P.A. 97-156, eff. 8-20-11; 97-484, eff. 9-21-11; 97-873, eff. 7-31-12.)