

# HB0225



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB0225

by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

225 ILCS 60/22

from Ch. 111, par. 4400-22

Amends the Medical Practice Act of 1987. Removes provisions prohibiting the Department of Financial and Professional Regulation from disciplining a physician for experimental treatments for Lyme disease or other tick-borne diseases.

LRB101 05986 JRG 51007 b

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Medical Practice Act of 1987 is amended by  
5 changing Section 22 as follows:

6 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

7 (Section scheduled to be repealed on December 31, 2019)

8 Sec. 22. Disciplinary action.

9 (A) The Department may revoke, suspend, place on probation,  
10 reprimand, refuse to issue or renew, or take any other  
11 disciplinary or non-disciplinary action as the Department may  
12 deem proper with regard to the license or permit of any person  
13 issued under this Act, including imposing fines not to exceed  
14 \$10,000 for each violation, upon any of the following grounds:

15 (1) Performance of an elective abortion in any place,  
16 locale, facility, or institution other than:

17 (a) a facility licensed pursuant to the Ambulatory  
18 Surgical Treatment Center Act;

19 (b) an institution licensed under the Hospital  
20 Licensing Act;

21 (c) an ambulatory surgical treatment center or  
22 hospitalization or care facility maintained by the  
23 State or any agency thereof, where such department or

1 agency has authority under law to establish and enforce  
2 standards for the ambulatory surgical treatment  
3 centers, hospitalization, or care facilities under its  
4 management and control;

5 (d) ambulatory surgical treatment centers,  
6 hospitalization or care facilities maintained by the  
7 Federal Government; or

8 (e) ambulatory surgical treatment centers,  
9 hospitalization or care facilities maintained by any  
10 university or college established under the laws of  
11 this State and supported principally by public funds  
12 raised by taxation.

13 (2) Performance of an abortion procedure in a willful  
14 and wanton manner on a woman who was not pregnant at the  
15 time the abortion procedure was performed.

16 (3) A plea of guilty or nolo contendere, finding of  
17 guilt, jury verdict, or entry of judgment or sentencing,  
18 including, but not limited to, convictions, preceding  
19 sentences of supervision, conditional discharge, or first  
20 offender probation, under the laws of any jurisdiction of  
21 the United States of any crime that is a felony.

22 (4) Gross negligence in practice under this Act.

23 (5) Engaging in dishonorable, unethical or  
24 unprofessional conduct of a character likely to deceive,  
25 defraud or harm the public.

26 (6) Obtaining any fee by fraud, deceit, or

1           misrepresentation.

2           (7) Habitual or excessive use or abuse of drugs defined  
3           in law as controlled substances, of alcohol, or of any  
4           other substances which results in the inability to practice  
5           with reasonable judgment, skill or safety.

6           (8) Practicing under a false or, except as provided by  
7           law, an assumed name.

8           (9) Fraud or misrepresentation in applying for, or  
9           procuring, a license under this Act or in connection with  
10          applying for renewal of a license under this Act.

11          (10) Making a false or misleading statement regarding  
12          their skill or the efficacy or value of the medicine,  
13          treatment, or remedy prescribed by them at their direction  
14          in the treatment of any disease or other condition of the  
15          body or mind.

16          (11) Allowing another person or organization to use  
17          their license, procured under this Act, to practice.

18          (12) Adverse action taken by another state or  
19          jurisdiction against a license or other authorization to  
20          practice as a medical doctor, doctor of osteopathy, doctor  
21          of osteopathic medicine or doctor of chiropractic, a  
22          certified copy of the record of the action taken by the  
23          other state or jurisdiction being prima facie evidence  
24          thereof. This includes any adverse action taken by a State  
25          or federal agency that prohibits a medical doctor, doctor  
26          of osteopathy, doctor of osteopathic medicine, or doctor of

1           chiropractic from providing services to the agency's  
2           participants.

3           (13) Violation of any provision of this Act or of the  
4           Medical Practice Act prior to the repeal of that Act, or  
5           violation of the rules, or a final administrative action of  
6           the Secretary, after consideration of the recommendation  
7           of the Disciplinary Board.

8           (14) Violation of the prohibition against fee  
9           splitting in Section 22.2 of this Act.

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

15          (16) Abandonment of a patient.

16          (17)        Prescribing,        selling,        administering,  
17          distributing, giving or self-administering any drug  
18          classified as a controlled substance (designated product)  
19          or narcotic for other than medically accepted therapeutic  
20          purposes.

21          (18) Promotion of the sale of drugs, devices,  
22          appliances or goods provided for a patient in such manner  
23          as to exploit the patient for financial gain of the  
24          physician.

25          (19) Offering, undertaking or agreeing to cure or treat  
26          disease by a secret method, procedure, treatment or

1 medicine, or the treating, operating or prescribing for any  
2 human condition by a method, means or procedure which the  
3 licensee refuses to divulge upon demand of the Department.

4 (20) Immoral conduct in the commission of any act  
5 including, but not limited to, commission of an act of  
6 sexual misconduct related to the licensee's practice.

7 (21) Willfully making or filing false records or  
8 reports in his or her practice as a physician, including,  
9 but not limited to, false records to support claims against  
10 the medical assistance program of the Department of  
11 Healthcare and Family Services (formerly Department of  
12 Public Aid) under the Illinois Public Aid Code.

13 (22) Willful omission to file or record, or willfully  
14 impeding the filing or recording, or inducing another  
15 person to omit to file or record, medical reports as  
16 required by law, or willfully failing to report an instance  
17 of suspected abuse or neglect as required by law.

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

25 (24) Solicitation of professional patronage by any  
26 corporation, agents or persons, or profiting from those

1 representing themselves to be agents of the licensee.

2 (25) Gross and willful and continued overcharging for  
3 professional services, including filing false statements  
4 for collection of fees for which services are not rendered,  
5 including, but not limited to, filing such false statements  
6 for collection of monies for services not rendered from the  
7 medical assistance program of the Department of Healthcare  
8 and Family Services (formerly Department of Public Aid)  
9 under the Illinois Public Aid Code.

10 (26) A pattern of practice or other behavior which  
11 demonstrates incapacity or incompetence to practice under  
12 this Act.

13 (27) Mental illness or disability which results in the  
14 inability to practice under this Act with reasonable  
15 judgment, skill or safety.

16 (28) Physical illness, including, but not limited to,  
17 deterioration through the aging process, or loss of motor  
18 skill which results in a physician's inability to practice  
19 under this Act with reasonable judgment, skill or safety.

20 (29) Cheating on or attempt to subvert the licensing  
21 examinations administered under this Act.

22 (30) Willfully or negligently violating the  
23 confidentiality between physician and patient except as  
24 required by law.

25 (31) The use of any false, fraudulent, or deceptive  
26 statement in any document connected with practice under

1           this Act.

2           (32) Aiding and abetting an individual not licensed  
3           under this Act in the practice of a profession licensed  
4           under this Act.

5           (33) Violating state or federal laws or regulations  
6           relating to controlled substances, legend drugs, or  
7           ephedra as defined in the Ephedra Prohibition Act.

8           (34) Failure to report to the Department any adverse  
9           final action taken against them by another licensing  
10          jurisdiction (any other state or any territory of the  
11          United States or any foreign state or country), by any peer  
12          review body, by any health care institution, by any  
13          professional society or association related to practice  
14          under this Act, by any governmental agency, by any law  
15          enforcement agency, or by any court for acts or conduct  
16          similar to acts or conduct which would constitute grounds  
17          for action as defined in this Section.

18          (35) Failure to report to the Department surrender of a  
19          license or authorization to practice as a medical doctor, a  
20          doctor of osteopathy, a doctor of osteopathic medicine, or  
21          doctor of chiropractic in another state or jurisdiction, or  
22          surrender of membership on any medical staff or in any  
23          medical or professional association or society, while  
24          under disciplinary investigation by any of those  
25          authorities or bodies, for acts or conduct similar to acts  
26          or conduct which would constitute grounds for action as



1 defined in this Section.

2 (36) Failure to report to the Department any adverse  
3 judgment, settlement, or award arising from a liability  
4 claim related to acts or conduct similar to acts or conduct  
5 which would constitute grounds for action as defined in  
6 this Section.

7 (37) Failure to provide copies of medical records as  
8 required by law.

9 (38) Failure to furnish the Department, its  
10 investigators or representatives, relevant information,  
11 legally requested by the Department after consultation  
12 with the Chief Medical Coordinator or the Deputy Medical  
13 Coordinator.

14 (39) Violating the Health Care Worker Self-Referral  
15 Act.

16 (40) Willful failure to provide notice when notice is  
17 required under the Parental Notice of Abortion Act of 1995.

18 (41) Failure to establish and maintain records of  
19 patient care and treatment as required by this law.

20 (42) Entering into an excessive number of written  
21 collaborative agreements with licensed advanced practice  
22 registered nurses resulting in an inability to adequately  
23 collaborate.

24 (43) Repeated failure to adequately collaborate with a  
25 licensed advanced practice registered nurse.

26 (44) Violating the Compassionate Use of Medical

1 Cannabis Pilot Program Act.

2 (45) Entering into an excessive number of written  
3 collaborative agreements with licensed prescribing  
4 psychologists resulting in an inability to adequately  
5 collaborate.

6 (46) Repeated failure to adequately collaborate with a  
7 licensed prescribing psychologist.

8 (47) Willfully failing to report an instance of  
9 suspected abuse, neglect, financial exploitation, or  
10 self-neglect of an eligible adult as defined in and  
11 required by the Adult Protective Services Act.

12 (48) Being named as an abuser in a verified report by  
13 the Department on Aging under the Adult Protective Services  
14 Act, and upon proof by clear and convincing evidence that  
15 the licensee abused, neglected, or financially exploited  
16 an eligible adult as defined in the Adult Protective  
17 Services Act.

18 (49) Entering into an excessive number of written  
19 collaborative agreements with licensed physician  
20 assistants resulting in an inability to adequately  
21 collaborate.

22 (50) Repeated failure to adequately collaborate with a  
23 physician assistant.

24 Except for actions involving the ground numbered (26), all  
25 proceedings to suspend, revoke, place on probationary status,  
26 or take any other disciplinary action as the Department may

1 deem proper, with regard to a license on any of the foregoing  
2 grounds, must be commenced within 5 years next after receipt by  
3 the Department of a complaint alleging the commission of or  
4 notice of the conviction order for any of the acts described  
5 herein. Except for the grounds numbered (8), (9), (26), and  
6 (29), no action shall be commenced more than 10 years after the  
7 date of the incident or act alleged to have violated this  
8 Section. For actions involving the ground numbered (26), a  
9 pattern of practice or other behavior includes all incidents  
10 alleged to be part of the pattern of practice or other behavior  
11 that occurred, or a report pursuant to Section 23 of this Act  
12 received, within the 10-year period preceding the filing of the  
13 complaint. In the event of the settlement of any claim or cause  
14 of action in favor of the claimant or the reduction to final  
15 judgment of any civil action in favor of the plaintiff, such  
16 claim, cause of action or civil action being grounded on the  
17 allegation that a person licensed under this Act was negligent  
18 in providing care, the Department shall have an additional  
19 period of 2 years from the date of notification to the  
20 Department under Section 23 of this Act of such settlement or  
21 final judgment in which to investigate and commence formal  
22 disciplinary proceedings under Section 36 of this Act, except  
23 as otherwise provided by law. The time during which the holder  
24 of the license was outside the State of Illinois shall not be  
25 included within any period of time limiting the commencement of  
26 disciplinary action by the Department.

1           The entry of an order or judgment by any circuit court  
2 establishing that any person holding a license under this Act  
3 is a person in need of mental treatment operates as a  
4 suspension of that license. That person may resume their  
5 practice only upon the entry of a Departmental order based upon  
6 a finding by the Disciplinary Board that they have been  
7 determined to be recovered from mental illness by the court and  
8 upon the Disciplinary Board's recommendation that they be  
9 permitted to resume their practice.

10           The Department may refuse to issue or take disciplinary  
11 action concerning the license of any person who fails to file a  
12 return, or to pay the tax, penalty or interest shown in a filed  
13 return, or to pay any final assessment of tax, penalty or  
14 interest, as required by any tax Act administered by the  
15 Illinois Department of Revenue, until such time as the  
16 requirements of any such tax Act are satisfied as determined by  
17 the Illinois Department of Revenue.

18           The Department, upon the recommendation of the  
19 Disciplinary Board, shall adopt rules which set forth standards  
20 to be used in determining:

21           (a) when a person will be deemed sufficiently  
22 rehabilitated to warrant the public trust;

23           (b) what constitutes dishonorable, unethical or  
24 unprofessional conduct of a character likely to deceive,  
25 defraud, or harm the public;

26           (c) what constitutes immoral conduct in the commission

1 of any act, including, but not limited to, commission of an  
2 act of sexual misconduct related to the licensee's  
3 practice; and

4 (d) what constitutes gross negligence in the practice  
5 of medicine.

6 However, no such rule shall be admissible into evidence in  
7 any civil action except for review of a licensing or other  
8 disciplinary action under this Act.

9 In enforcing this Section, the Disciplinary Board or the  
10 Licensing Board, upon a showing of a possible violation, may  
11 compel, in the case of the Disciplinary Board, any individual  
12 who is licensed to practice under this Act or holds a permit to  
13 practice under this Act, or, in the case of the Licensing  
14 Board, any individual who has applied for licensure or a permit  
15 pursuant to this Act, to submit to a mental or physical  
16 examination and evaluation, or both, which may include a  
17 substance abuse or sexual offender evaluation, as required by  
18 the Licensing Board or Disciplinary Board and at the expense of  
19 the Department. The Disciplinary Board or Licensing Board shall  
20 specifically designate the examining physician licensed to  
21 practice medicine in all of its branches or, if applicable, the  
22 multidisciplinary team involved in providing the mental or  
23 physical examination and evaluation, or both. The  
24 multidisciplinary team shall be led by a physician licensed to  
25 practice medicine in all of its branches and may consist of one  
26 or more or a combination of physicians licensed to practice

1 medicine in all of its branches, licensed chiropractic  
2 physicians, licensed clinical psychologists, licensed clinical  
3 social workers, licensed clinical professional counselors, and  
4 other professional and administrative staff. Any examining  
5 physician or member of the multidisciplinary team may require  
6 any person ordered to submit to an examination and evaluation  
7 pursuant to this Section to submit to any additional  
8 supplemental testing deemed necessary to complete any  
9 examination or evaluation process, including, but not limited  
10 to, blood testing, urinalysis, psychological testing, or  
11 neuropsychological testing. The Disciplinary Board, the  
12 Licensing Board, or the Department may order the examining  
13 physician or any member of the multidisciplinary team to  
14 provide to the Department, the Disciplinary Board, or the  
15 Licensing Board any and all records, including business  
16 records, that relate to the examination and evaluation,  
17 including any supplemental testing performed. The Disciplinary  
18 Board, the Licensing Board, or the Department may order the  
19 examining physician or any member of the multidisciplinary team  
20 to present testimony concerning this examination and  
21 evaluation of the licensee, permit holder, or applicant,  
22 including testimony concerning any supplemental testing or  
23 documents relating to the examination and evaluation. No  
24 information, report, record, or other documents in any way  
25 related to the examination and evaluation shall be excluded by  
26 reason of any common law or statutory privilege relating to

1 communication between the licensee, permit holder, or  
2 applicant and the examining physician or any member of the  
3 multidisciplinary team. No authorization is necessary from the  
4 licensee, permit holder, or applicant ordered to undergo an  
5 evaluation and examination for the examining physician or any  
6 member of the multidisciplinary team to provide information,  
7 reports, records, or other documents or to provide any  
8 testimony regarding the examination and evaluation. The  
9 individual to be examined may have, at his or her own expense,  
10 another physician of his or her choice present during all  
11 aspects of the examination. Failure of any individual to submit  
12 to mental or physical examination and evaluation, or both, when  
13 directed, shall result in an automatic suspension, without  
14 hearing, until such time as the individual submits to the  
15 examination. If the Disciplinary Board or Licensing Board finds  
16 a physician unable to practice following an examination and  
17 evaluation because of the reasons set forth in this Section,  
18 the Disciplinary Board or Licensing Board shall require such  
19 physician to submit to care, counseling, or treatment by  
20 physicians, or other health care professionals, approved or  
21 designated by the Disciplinary Board, as a condition for  
22 issued, continued, reinstated, or renewed licensure to  
23 practice. Any physician, whose license was granted pursuant to  
24 Sections 9, 17, or 19 of this Act, or, continued, reinstated,  
25 renewed, disciplined or supervised, subject to such terms,  
26 conditions or restrictions who shall fail to comply with such

1 terms, conditions or restrictions, or to complete a required  
2 program of care, counseling, or treatment, as determined by the  
3 Chief Medical Coordinator or Deputy Medical Coordinators,  
4 shall be referred to the Secretary for a determination as to  
5 whether the licensee shall have their license suspended  
6 immediately, pending a hearing by the Disciplinary Board. In  
7 instances in which the Secretary immediately suspends a license  
8 under this Section, a hearing upon such person's license must  
9 be convened by the Disciplinary Board within 15 days after such  
10 suspension and completed without appreciable delay. The  
11 Disciplinary Board shall have the authority to review the  
12 subject physician's record of treatment and counseling  
13 regarding the impairment, to the extent permitted by applicable  
14 federal statutes and regulations safeguarding the  
15 confidentiality of medical records.

16 An individual licensed under this Act, affected under this  
17 Section, shall be afforded an opportunity to demonstrate to the  
18 Disciplinary Board that they can resume practice in compliance  
19 with acceptable and prevailing standards under the provisions  
20 of their license.

21 The Department may promulgate rules for the imposition of  
22 fines in disciplinary cases, not to exceed \$10,000 for each  
23 violation of this Act. Fines may be imposed in conjunction with  
24 other forms of disciplinary action, but shall not be the  
25 exclusive disposition of any disciplinary action arising out of  
26 conduct resulting in death or injury to a patient. Any funds



1 collected from such fines shall be deposited in the Illinois  
2 State Medical Disciplinary Fund.

3 All fines imposed under this Section shall be paid within  
4 60 days after the effective date of the order imposing the fine  
5 or in accordance with the terms set forth in the order imposing  
6 the fine.

7 (B) The Department shall revoke the license or permit  
8 issued under this Act to practice medicine or a chiropractic  
9 physician who has been convicted a second time of committing  
10 any felony under the Illinois Controlled Substances Act or the  
11 Methamphetamine Control and Community Protection Act, or who  
12 has been convicted a second time of committing a Class 1 felony  
13 under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A  
14 person whose license or permit is revoked under this subsection  
15 B shall be prohibited from practicing medicine or treating  
16 human ailments without the use of drugs and without operative  
17 surgery.

18 (C) The Department shall not revoke, suspend, place on  
19 probation, reprimand, refuse to issue or renew, or take any  
20 other disciplinary or non-disciplinary action against the  
21 license or permit issued under this Act to practice medicine to  
22 a physician: ~~(1) based solely upon the recommendation of the~~  
23 ~~physician to an eligible patient regarding, or prescription~~  
24 ~~for, or treatment with, an investigational drug, biological~~  
25 ~~product, or device; or (2) for experimental treatment for Lyme~~  
26 ~~disease or other tick borne diseases, including, but not~~

1 ~~limited to, the prescription of or treatment with long-term~~  
2 ~~antibiotics.~~

3 (D) The Disciplinary Board shall recommend to the  
4 Department civil penalties and any other appropriate  
5 discipline in disciplinary cases when the Board finds that a  
6 physician willfully performed an abortion with actual  
7 knowledge that the person upon whom the abortion has been  
8 performed is a minor or an incompetent person without notice as  
9 required under the Parental Notice of Abortion Act of 1995.  
10 Upon the Board's recommendation, the Department shall impose,  
11 for the first violation, a civil penalty of \$1,000 and for a  
12 second or subsequent violation, a civil penalty of \$5,000.

13 (Source: P.A. 99-270, eff. 1-1-16; 99-933, eff. 1-27-17;  
14 100-429, eff. 8-25-17; 100-513, eff. 1-1-18; 100-605, eff.  
15 1-1-19; 100-863, eff. 8-14-18; 100-1137, eff. 1-1-19; revised  
16 12-19-18.)