Sen. Emil Jones, III

Filed: 5/28/2021

AMENDMENT TO HOUSE BILL 806

AMENDMENT NO. _____. Amend House Bill 806 by replacing everything after the enacting clause with the following:

"Section 5. The Regulatory Sunset Act is amended by changing Sections 4.32 and 4.37 as follows:

(5 ILCS 80/4.32)

Sec. 4.32. Acts repealed on January 1, 2022. The following Acts are repealed on January 1, 2022:

~~The Boxing and Full-contact Martial Arts Act.~~

~~The Cemetery Oversight Act.~~

The Collateral Recovery Act.

~~The Community Association Manager Licensing and Disciplinary Act.~~

The Crematory Regulation Act.

~~The Detection of Deception Examiners Act.~~

~~The Home Inspector License Act.~~

The Illinois Health Information Exchange and Technology Act.

~~The Medical Practice Act of 1987.~~

~~The Registered Interior Designers Act.~~

~~The Massage Licensing Act.~~

~~The Petroleum Equipment Contractors Licensing Act.~~

~~The Radiation Protection Act of 1990.~~

~~The Real Estate Appraiser Licensing Act of 2002.~~

The Water Well and Pump Installation Contractor's License Act.

(Source: P.A. 100-920, eff. 8-17-18; 101-316, eff. 8-9-19; 101-614, eff. 12-20-19; 101-639, eff. 6-12-20.)

(5 ILCS 80/4.37)

Sec. 4.37. Acts and Articles repealed on January 1, 2027. The following are repealed on January 1, 2027:

The Clinical Psychologist Licensing Act.

The Illinois Optometric Practice Act of 1987.

Articles II, III, IV, V, VI, VIIA, VIIB, VIIC, XVII, XXXI, XXXI 1/4, and XXXI 3/4 of the Illinois Insurance Code.

The Boiler and Pressure Vessel Repairer Regulation Act.

The Marriage and Family Therapy Licensing Act.

<u>The Boxing and Full-contact Martial Arts Act.</u>

<u>The Cemetery Oversight Act.</u>

<u>The Community Association Manager Licensing and Disciplinary Act.</u>

The Detection of Deception Examiners Act.

The Home Inspector License Act.

The Massage Licensing Act.

The Medical Practice Act of 1987.

The Petroleum Equipment Contractors Licensing Act.

The Radiation Protection Act of 1990.

The Real Estate Appraiser Licensing Act of 2002.

The Registered Interior Designers Act.

(Source: P.A. 99-572, eff. 7-15-16; 99-909, eff. 12-16-16; 99-910, eff. 12-16-16; 99-911, eff. 12-16-16; 100-201, eff. 8-18-17; 100-372, eff. 8-25-17.)

Section 10. The Department of Professional Regulation Law of the Civil Administrative Code of Illinois is amended by changing Sections 2105-35 and 2105-120 as follows:

(20 ILCS 2105/2105-35)

Sec. 2105-35. Prohibited uses of roster of information. Notwithstanding any other provision of law to the contrary, any roster of information including, but not limited to, the licensee's name, address, and profession, shall not be used by a third party for the purpose of marketing goods or services not related to the licensee's profession. Rosters provided by the Department shall comply with the requirements set forth under the Freedom of Information Act.

(Source: P.A. 96-978, eff. 7-2-10.)

(20 ILCS 2105/2105-120) (was 20 ILCS 2105/60g)

Sec. 2105-120. Board's report; licensee's or applicant's motion for rehearing.

(a) The board shall present to the Secretary ~~Director~~ its written report of its findings and recommendations. A copy of the report shall be served upon the licensee or applicant, either personally or by mail or email as provided in Section 2105-100 for the service of the notice. The Secretary may issue an order that deviates from the board's report and is not required to provide the board with an explanation of the deviation.

(b) Within 20 days after the service required under subsection (a), the licensee or applicant may present to the Department a motion in writing for a rehearing. The written motion shall specify the particular grounds for a rehearing. If the licensee or applicant orders and pays for a transcript of the record as provided in Section 2105-115, the time elapsing thereafter and before the transcript is ready for delivery to the licensee or applicant shall not be counted as part of the 20 days.

(Source: P.A. 99-227, eff. 8-3-15; 100-262, eff. 8-22-17.)

Section 15. The Massage Licensing Act is amended by changing Sections 1, 10, 15, 25, 32, 45, 50, 60, and 95 and by adding Section 12 as follows:

(225 ILCS 57/1)

(Section scheduled to be repealed on January 1, 2022)

Sec. 1. Short title. This Act may be cited as the Massage Therapy Practice ~~Licensing~~ Act.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10. Definitions. As used in this Act:

"Address of Record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file as maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address and those changes must be made either through the Department's website or by contacting the Department.

"Approved massage school" means a facility which meets minimum standards for training and curriculum as determined by the Department.

"Board" means the Massage Licensing Board appointed by the Secretary.

"Compensation" means the payment, loan, advance, donation, contribution, deposit, or gift of money or anything of value.

"Department" means the Department of Financial and Professional Regulation.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department's licensure maintenance unit.

"Massage" or "massage therapy" means a system of structured palpation or movement of the soft tissue of the body. The system may include, but is not limited to, techniques such as effleurage or stroking and gliding, petrissage or kneading, tapotement or percussion, friction, vibration, compression, and stretching activities as they pertain to massage therapy. These techniques may be applied by a licensed massage therapist with or without the aid of lubricants, salt or herbal preparations, hydromassage, thermal massage, or a massage device that mimics or enhances the actions possible by human hands. The purpose of the practice of massage, as licensed under this Act, is to enhance the general health and well-being of the mind and body of the recipient. "Massage" does not include the diagnosis of a specific pathology. "Massage" does not include those acts of physical therapy or therapeutic or corrective measures that are outside the scope of massage therapy practice as defined in this Section.

"Massage therapist" means a person who is licensed by the Department and administers massage for compensation.

"Professional massage or bodywork therapy association" means a state or nationally chartered organization that is

devoted to the massage specialty and therapeutic approach and meets the following requirements:

(1) The organization requires that its members meet minimum educational requirements. The educational requirements must include anatomy, physiology, hygiene, sanitation, ethics, technical theory, and application of techniques.

(2) The organization has an established code of ethics and has procedures for the suspension and revocation of membership of persons violating the code of ethics.

"Secretary" means the Secretary of Financial and Professional Regulation.

(Source: P.A. 97-514, eff. 8-23-11.)

(225 ILCS 57/12 new)

Sec. 12. Address of record; email address of record. All applicants and licensees shall:

(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for licensure or renewal of a license; and

(2) inform the Department of any change of address of record or email address of record within 14 days after such change either through the Department's website or by contacting the Department's licensure maintenance unit.

(225 ILCS 57/15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15. Licensure requirements.

(a) Persons engaged in massage for compensation must be licensed by the Department. The Department shall issue a license to an individual who meets all of the following requirements:

(1) The applicant has applied in writing on the prescribed forms and has paid the required fees.

(2) The applicant is at least 18 years of age and of good moral character. In determining good moral character, the Department may take into consideration conviction of any crime under the laws of the United States or any state or territory thereof that is a felony or a misdemeanor or any crime that is directly related to the practice of the profession. Such a conviction shall not operate automatically as a complete bar to a license, except in the case of any conviction for prostitution, rape, or sexual misconduct, or where the applicant is a registered sex offender.

(3) The applicant has ~~met one of the following requirements: (A) has~~ successfully completed a massage therapy program approved by the Department that requires a minimum of 500 hours, except applicants applying on or after January 1, 2014 shall meet a minimum requirement of 600 hours, and has passed a competency examination

approved by the Department.~~; (B) holds a current license from another jurisdiction having licensure requirements that include the completion of a massage therapy program of at least 500 hours; or (C) (blank).~~

(b) Each applicant for licensure as a massage therapist shall have his or her fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited into the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or to a vendor. The Department, in its discretion, may allow an applicant who does not have reasonable access to a designated vendor to provide his or her fingerprints in an alternative manner. The Department may adopt any rules necessary to implement this Section.

(Source: P.A. 97-514, eff. 8-23-11.)

(225 ILCS 57/25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25. Exemptions.

(a) This Act does not prohibit a person licensed under any other Act in this State from engaging in the practice for which he or she is licensed.

(b) Persons exempted under this Section include, but are not limited to, physicians, podiatric physicians, naprapaths, and physical therapists.

(c) Nothing in this Act prohibits qualified members of other professional groups, including but not limited to nurses, occupational therapists, cosmetologists, and estheticians, from performing massage in a manner consistent with their training and the code of ethics of their respective professions.

(d) Nothing in this Act prohibits a student of an approved massage school or program from performing massage, provided that the student does not hold himself or herself out as a licensed massage therapist and does not receive compensation, including tips, for massage therapy services.

(e) Nothing in this Act prohibits practitioners that do not involve intentional soft tissue manipulation, including but not limited to Alexander Technique, Feldenkrais, Reike, and Therapeutic Touch, from practicing.

(f) Practitioners of certain service marked bodywork

approaches that do involve intentional soft tissue manipulation, including but not limited to Rolfing, Trager Approach, Polarity Therapy, and Orthobionomy, are exempt from this Act if they are approved by their governing body based on a minimum level of training, demonstration of competency, and adherence to ethical standards.

(g) Until January 1, 2024 ~~2020~~, ~~practitioners of Asian bodywork approaches are exempt from this Act if they are~~ members of the American Organization for ~~of~~ Bodywork Therapies of Asia are exempt from licensure under this Act ~~as certified practitioners or if they are approved by an Asian bodywork organization based on a minimum level of training, demonstration of competency, and adherence to ethical standards set by their governing body~~.

(h) Practitioners of other forms of bodywork who restrict manipulation of soft tissue to the feet, hands, and ears, and who do not have the client disrobe, such as reflexology, are exempt from this Act.

(i) Nothing in this Act applies to massage therapists from other states or countries when providing educational programs ~~or services~~ for a period not exceeding 30 days within a calendar year.

(j) Nothing in this Act prohibits a person from treating ailments by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination.

(k) Nothing in this Act applies to the practice of massage therapy by a person either actively licensed as a massage therapist in another state or currently certified by the National Certification Board of Therapeutic Massage and Bodywork or other national certifying body if said person's state does not license massage therapists, if he or she is performing his or her duties for a Department-approved educational program for less than 30 days in a calendar year, a Department-approved continuing education program for less than 30 days in a calendar year, a non-Illinois based team or professional organization, or for a national athletic event held in this State, so long as he or she restricts his or her practice to his or her team or organization or to event participants during the course of his or her team's or organization's stay in this State or for the duration of the event.

(Source: P.A. 101-421, eff. 8-16-19.)

(225 ILCS 57/32)

(Section scheduled to be repealed on January 1, 2022)

Sec. 32. Display. Every holder of a license shall display it, or a copy, in a conspicuous place in the holder's principal office or any other location where the holder renders massage therapy services. Every displayed license shall have the license number visible.

(Source: P.A. 97-514, eff. 8-23-11.)

(225 ILCS 57/45)

(Section scheduled to be repealed on January 1, 2022)

Sec. 45. Grounds for discipline.

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

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

(2) conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony; or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession;

(3) professional incompetence;

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

(5) aiding, abetting, assisting, procuring, advising,

employing, or contracting with any unlicensed person to practice massage contrary to any rules or provisions of this Act;

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

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

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

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

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

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

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

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

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

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

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

(17) fraud or misrepresentation in applying for or procuring a license under this Act or in connection with applying for renewal of a license under this Act;

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

(19) charging for professional services not rendered,

including filing false statements for the collection of fees for which services are not rendered;

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

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

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

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

(c) The Department shall revoke any license issued under this Act of any person who is convicted of prostitution, rape, sexual misconduct, or any crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act and any such conviction shall operate as a permanent bar in the State of Illinois to practice as a massage therapist.

(d) The Department may refuse to issue or may suspend the license of any person who fails to file a tax return, to pay

the tax, penalty, or interest shown in a filed tax return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Civil Administrative Code of Illinois.

(e) (Blank).

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

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

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

A person holding a license under this Act or who has applied for a license under this Act who, because of a physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of motor skill, is unable to practice the profession with reasonable judgment, skill, or safety, may be required by the Department

to submit to care, counseling, or treatment by physicians approved or designated by the Department as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice. Submission to care, counseling, or treatment as required by the Department shall not be considered discipline of a license. If the licensee refuses to enter into a care, counseling, or treatment agreement or fails to abide by the terms of the agreement, the Department may file a complaint to revoke, suspend, or otherwise discipline the license of the individual. The Secretary may order the license suspended immediately, pending a hearing by the Department. Fines shall not be assessed in disciplinary actions involving physical or mental illness or impairment.

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

An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under

the provisions of his or her license.

(Source: P.A. 100-872, eff. 8-14-18.)

(225 ILCS 57/50)

(Section scheduled to be repealed on January 1, 2022)

Sec. 50. Advertising. It is a misdemeanor for any person, organization, or corporation to advertise massage services unless the person providing the service holds a valid license under this Act, except for those excluded licensed professionals who are allowed to include massage in their scope of practice. A massage therapist may not advertise unless he or she has a current license issued by this State. A massage therapist shall include the current license number issued by the Department on all advertisements in accordance with paragraph (4) of subsection (a) of Section 45. "Advertise" as used in this Section includes, but is not limited to, the issuance of any card, sign, or device to any person; the causing, permitting, or allowing of any sign or marking on or in any building, vehicle, or structure; advertising in any newspaper or magazine; any listing or advertising in any directory under a classification or heading that includes the words "massage", "massage therapist", "therapeutic massage", or "massage therapeutic"; or commercials broadcast by any means.

(Source: P.A. 92-860, eff. 6-1-03.)

(225 ILCS 57/60)

(Section scheduled to be repealed on January 1, 2022)

Sec. 60. Illinois Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation, or renewal of the license is specifically excluded. For the purposes of this Act the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed to the address of record or emailed to the email address of record of a party.

(Source: P.A. 97-514, eff. 8-23-11.)

(225 ILCS 57/95)

(Section scheduled to be repealed on January 1, 2022)

Sec. 95. Investigations; notice and hearing. The Department may investigate the actions of any applicant or of any person or persons rendering or offering to render massage therapy services or any person holding or claiming to hold a license as a massage therapist. The Department shall, before refusing to issue or renew a license or to discipline a licensee under Section 45, at least 30 days prior to the date

set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer with the Department under oath within 20 days after the service of the notice, and (iii) inform the applicant or licensee that failure to file an answer will result in a default judgment being entered against the applicant or licensee. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties of their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Department, be revoked, suspended, placed on probationary status, or the Department may take whatever disciplinary actions considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under the Act. The written notice may be served by personal delivery, ~~or~~ by certified mail to the accused's address of record, or by email to the accused's email address of record.

(Source: P.A. 97-514, eff. 8-23-11.)

Section 20. The Medical Practice Act of 1987 is amended by

changing Sections 2, 7, 7.5, 8, 8.1, 9, 9.3, 17, 18, 19, 21, 22, 23, 24, 25, 35, 36, 37, 38, 39, 40, 41, 42, 44, and 47 and by adding Sections 7.1 and 7.2 as follows:

(225 ILCS 60/2) (from Ch. 111, par. 4400-2)

(Section scheduled to be repealed on January 1, 2022)

Sec. 2. Definitions. For purposes of this Act, the following definitions shall have the following meanings, except where the context requires otherwise:

"Act" means the Medical Practice Act of 1987.

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file as maintained by the Department's licensure maintenance unit.

"Chiropractic physician" means a person licensed to treat human ailments without the use of drugs and without operative surgery. Nothing in this Act shall be construed to prohibit a chiropractic physician from providing advice regarding the use of non-prescription products or from administering atmospheric oxygen. Nothing in this Act shall be construed to authorize a chiropractic physician to prescribe drugs.

"Department" means the Department of Financial and Professional Regulation.

"Disciplinary action" means revocation, suspension, probation, supervision, practice modification, reprimand, required education, fines or any other action taken by the

Department against a person holding a license.

~~"Disciplinary Board" means the Medical Disciplinary Board.~~

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department's licensure maintenance unit.

"Final determination" means the governing body's final action taken under the procedure followed by a health care institution, or professional association or society, against any person licensed under the Act in accordance with the bylaws or rules and regulations of such health care institution, or professional association or society.

"Fund" means the Illinois State Medical Disciplinary Fund.

"Impaired" means the inability to practice medicine with reasonable skill and safety due to physical or mental disabilities as evidenced by a written determination or written consent based on clinical evidence including deterioration through the aging process or loss of motor skill, or abuse of drugs or alcohol, of sufficient degree to diminish a person's ability to deliver competent patient care.

~~"Licensing Board" means the Medical Licensing Board.~~

"Medical Board" means the Illinois State Medical Board.

"Physician" means a person licensed under the Medical Practice Act to practice medicine in all of its branches or a chiropractic physician.

"Professional association" means an association or society

of persons licensed under this Act, and operating within the State of Illinois, including but not limited to, medical societies, osteopathic organizations, and chiropractic organizations, but this term shall not be deemed to include hospital medical staffs.

"Program of care, counseling, or treatment" means a written schedule of organized treatment, care, counseling, activities, or education, satisfactory to the Medical ~~Disciplinary~~ Board, designed for the purpose of restoring an impaired person to a condition whereby the impaired person can practice medicine with reasonable skill and safety of a sufficient degree to deliver competent patient care.

"Reinstate" means to change the status of a license from inactive or nonrenewed status to active status.

"Restore" means to remove an encumbrance from a license due to probation, suspension, or revocation.

"Secretary" means the Secretary ~~of the Department~~ of Financial and Professional Regulation.

(Source: P.A. 99-933, eff. 1-27-17; 100-429, eff. 8-25-17.)

(225 ILCS 60/7) (from Ch. 111, par. 4400-7)

(Section scheduled to be repealed on January 1, 2022)

Sec. 7. Medical Disciplinary Board.

(A) There is hereby created the Illinois State Medical Disciplinary Board. The Disciplinary Board shall consist of 11 members, to be appointed by the Governor by and with the advice

and consent of the Senate. All members shall be residents of the State, not more than 6 of whom shall be members of the same political party. All members shall be voting members. Five members shall be physicians licensed to practice medicine in all of its branches in Illinois possessing the degree of doctor of medicine. One member shall be a physician licensed to practice medicine in all its branches in Illinois possessing the degree of doctor of osteopathy or osteopathic medicine. One member shall be a chiropractic physician licensed to practice in Illinois and possessing the degree of doctor of chiropractic. Four members shall be members of the public, who shall not be engaged in any way, directly or indirectly, as providers of health care.

(B) Members of the Disciplinary Board shall be appointed for terms of 4 years. Upon the expiration of the term of any member, their successor shall be appointed for a term of 4 years by the Governor by and with the advice and consent of the Senate. The Governor shall fill any vacancy for the remainder of the unexpired term with the advice and consent of the Senate. Upon recommendation of the Board, any member of the Disciplinary Board may be removed by the Governor for misfeasance, malfeasance, or wilful neglect of duty, after notice, and a public hearing, unless such notice and hearing shall be expressly waived in writing. Each member shall serve on the Disciplinary Board until their successor is appointed and qualified. No member of the Disciplinary Board shall serve

more than 2 consecutive 4 year terms.

In making appointments the Governor shall attempt to insure that the various social and geographic regions of the State of Illinois are properly represented.

In making the designation of persons to act for the several professions represented on the Disciplinary Board, the Governor shall give due consideration to recommendations by members of the respective professions and by organizations therein.

(C) The Disciplinary Board shall annually elect one of its voting members as chairperson and one as vice chairperson. No officer shall be elected more than twice in succession to the same office. Each officer shall serve until their successor has been elected and qualified.

(D) (Blank).

(E) Six voting members of the Disciplinary Board, at least 4 of whom are physicians, shall constitute a quorum. A vacancy in the membership of the Disciplinary Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Disciplinary Board. Any action taken by the Disciplinary Board under this Act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately. The Disciplinary Board shall meet at least quarterly.

(F) Each member, and member-officer, of the Disciplinary Board shall receive a per diem stipend as the Secretary shall

determine. Each member shall be paid their necessary expenses while engaged in the performance of their duties.

(G) The Secretary shall select a Chief Medical Coordinator and not less than 2 Deputy Medical Coordinators who shall not be members of the Disciplinary Board. Each medical coordinator shall be a physician licensed to practice medicine in all of its branches, and the Secretary shall set their rates of compensation. The Secretary shall assign at least one medical coordinator to a region composed of Cook County and such other counties as the Secretary may deem appropriate, and such medical coordinator or coordinators shall locate their office in Chicago. The Secretary shall assign at least one medical coordinator to a region composed of the balance of counties in the State, and such medical coordinator or coordinators shall locate their office in Springfield. The Chief Medical Coordinator shall be the chief enforcement officer of this Act. None of the functions, powers, or duties of the Department with respect to policies regarding enforcement or discipline under this Act, including the adoption of such rules as may be necessary for the administration of this Act, shall be exercised by the Department except upon review of the Disciplinary Board.

The Secretary shall employ, in conformity with the Personnel Code, investigators who are college graduates with at least 2 years of investigative experience or one year of advanced medical education. Upon the written request of the

Disciplinary Board, the Secretary shall employ, in conformity with the Personnel Code, such other professional, technical, investigative, and clerical help, either on a full or part-time basis as the Disciplinary Board deems necessary for the proper performance of its duties.

(H) Upon the specific request of the Disciplinary Board, signed by either the chairperson, vice chairperson, or a medical coordinator of the Disciplinary Board, the Department of Human Services, the Department of Healthcare and Family Services, the Department of State Police, or any other law enforcement agency located in this State shall make available any and all information that they have in their possession regarding a particular case then under investigation by the Disciplinary Board.

(I) Members of the Disciplinary Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Disciplinary Board.

(J) The Disciplinary Board may compile and establish a statewide roster of physicians and other medical professionals, including the several medical specialties, of such physicians and medical professionals, who have agreed to serve from time to time as advisors to the medical coordinators. Such advisors shall assist the medical coordinators or the Disciplinary Board in their investigations and participation in complaints against physicians. Such

advisors shall serve under contract and shall be reimbursed at a reasonable rate for the services provided, plus reasonable expenses incurred. While serving in this capacity, the advisor, for any act undertaken in good faith and in the conduct of his or her duties under this Section, shall be immune from civil suit.

(K) This Section is inoperative when a majority of the Medical Board is appointed. This Section is repealed one year after the effective date of this amendatory Act of the 102nd General Assembly.

(Source: P.A. 97-622, eff. 11-23-11; 98-1140, eff. 12-30-14.)

(225 ILCS 60/7.1 new)

Sec. 7.1. Medical Board.

(A) There is hereby created the Illinois State Medical Board. The Medical Board shall consist of 17 members, to be appointed by the Governor by and with the advice and consent of the Senate. All members shall be residents of the State, not more than 8 of whom shall be members of the same political party. All members shall be voting members. Eight members shall be physicians licensed to practice medicine in all of its branches in Illinois possessing the degree of doctor of medicine. Two members shall be physicians licensed to practice medicine in all its branches in Illinois possessing the degree of doctor of osteopathy or osteopathic medicine. Two of the physician members shall be physicians who collaborate with

physician assistants. Two members shall be chiropractic physicians licensed to practice in Illinois and possessing the degree of doctor of chiropractic. Two members shall be physician assistants licensed to practice in Illinois. Three members shall be members of the public, who shall not be engaged in any way, directly or indirectly, as providers of health care.

(B) Members of the Medical Board shall be appointed for terms of 4 years. Upon the expiration of the term of any member, their successor shall be appointed for a term of 4 years by the Governor by and with the advice and consent of the Senate. The Governor shall fill any vacancy for the remainder of the unexpired term with the advice and consent of the Senate. Upon recommendation of the Medical Board, any member of the Medical Board may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty, after notice, and a public hearing, unless such notice and hearing shall be expressly waived in writing. Each member shall serve on the Medical Board until their successor is appointed and qualified. No member of the Medical Board shall serve more than 2 consecutive 4-year terms.

In making appointments the Governor shall attempt to ensure that the various social and geographic regions of the State of Illinois are properly represented.

In making the designation of persons to act for the several professions represented on the Medical Board, the

Governor shall give due consideration to recommendations by members of the respective professions and by organizations therein.

(C) The Medical Board shall annually elect one of its voting members as chairperson and one as vice chairperson. No officer shall be elected more than twice in succession to the same office. Each officer shall serve until their successor has been elected and qualified.

(D) A majority of the Medical Board members currently appointed shall constitute a quorum. A vacancy in the membership of the Medical Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Medical Board. Any action taken by the Medical Board under this Act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately. The Medical Board shall meet at least quarterly.

(E) Each member shall be paid their necessary expenses while engaged in the performance of their duties.

(F) The Secretary shall select a Chief Medical Coordinator and not less than 2 Deputy Medical Coordinators who shall not be members of the Medical Board. Each medical coordinator shall be a physician licensed to practice medicine in all of its branches, and the Secretary shall set their rates of compensation. The Secretary shall assign at least one medical coordinator to a region composed of Cook County and such other counties as the Secretary may deem appropriate, and such

medical coordinator or coordinators shall locate their office in Chicago. The Secretary shall assign at least one medical coordinator to a region composed of the balance of counties in the State, and such medical coordinator or coordinators shall locate their office in Springfield. The Chief Medical Coordinator shall be the chief enforcement officer of this Act. None of the functions, powers, or duties of the Department with respect to policies regarding enforcement or discipline under this Act, including the adoption of such rules as may be necessary for the administration of this Act, shall be exercised by the Department except upon review of the Medical Board.

(G) The Secretary shall employ, in conformity with the Personnel Code, investigators who are college graduates with at least 2 years of investigative experience or one year of advanced medical education. Upon the written request of the Medical Board, the Secretary shall employ, in conformity with the Personnel Code, such other professional, technical, investigative, and clerical help, either on a full or part-time basis as the Medical Board deems necessary for the proper performance of its duties.

(H) Upon the specific request of the Medical Board, signed by either the chairperson, vice chairperson, or a medical coordinator of the Medical Board, the Department of Human Services, the Department of Healthcare and Family Services, the Department of State Police, or any other law enforcement

agency located in this State shall make available any and all information that they have in their possession regarding a particular case then under investigation by the Medical Board.

(I) Members of the Medical Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Medical Board.

(J) The Medical Board may compile and establish a statewide roster of physicians and other medical professionals, including the several medical specialties, of such physicians and medical professionals, who have agreed to serve from time to time as advisors to the medical coordinators. Such advisors shall assist the medical coordinators or the Medical Board in their investigations and participation in complaints against physicians. Such advisors shall serve under contract and shall be reimbursed at a reasonable rate for the services provided, plus reasonable expenses incurred. While serving in this capacity, the advisor, for any act undertaken in good faith and in the conduct of his or her duties under this Section, shall be immune from civil suit.

(225 ILCS 60/7.2 new)

Sec. 7.2. Medical Board appointment. All members of the Medical Licensing Board and the Medical Disciplinary Board shall serve as members of the Medical Board. A majority of the Medical Board members shall be appointed within 260 days after

the effective date of this amendatory Act of the 102nd General Assembly. The Medical Licensing Board and Medical Disciplinary Board shall exercise all functions, powers, and duties enumerated in this Act to the Medical Board. All functions, powers, and duties enumerated in this Act to the Medical Licensing Board and Medical Disciplinary Board shall dissolve at such time when a majority of the Medical Board is appointed. This Section is repealed one year after the effective date of this amendatory Act of the 102nd General Assembly.

(225 ILCS 60/7.5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 7.5. Complaint Committee.

(a) There shall be a Complaint Committee of the Medical ~~Disciplinary~~ Board composed of at least one of the medical coordinators established by subsection (G) of Section 7 of this Act, the Chief of Medical Investigations (person employed by the Department who is in charge of investigating complaints against physicians and physician assistants), the Chief of Medical Prosecutions (the person employed by the Department who is in charge of prosecuting formal complaints against physicians and physician assistants), and at least 3 members of the Medical ~~Disciplinary~~ Board (at least 2 of whom shall be physicians) designated by the Chairperson of the Medical ~~Disciplinary~~ Board with the approval of the Medical ~~Disciplinary~~ Board.

(b) The Complaint Committee shall meet at least twice a month to exercise its functions and duties set forth in subsection (c) below. At least 2 members of the Medical ~~Disciplinary~~ Board shall be in attendance in order for any business to be transacted by the Complaint Committee. The Complaint Committee shall make every effort to consider expeditiously and take prompt action on each item on its agenda.

(c) The Complaint Committee shall have the following duties and functions:

(1) To recommend to the Medical ~~Disciplinary~~ Board that a complaint file be closed.

(2) To refer a complaint file to the office of the Chief of Medical Prosecutions for review.

(3) To make a decision in conjunction with the Chief of Medical Prosecutions regarding action to be taken on a complaint file.

(d) In determining what action to take or whether to proceed with prosecution of a complaint, the Complaint Committee shall consider, but not be limited to, the following factors: sufficiency of the evidence presented, prosecutorial merit under Section 22 of this Act, any recommendation made by the Department, and insufficient cooperation from complaining parties.

(e) Notwithstanding any provision of this Act, the Department may close a complaint, after investigation and

approval of the Chief Medical Coordinator without review of the Complaint Committee, in which the allegations of the complaint if proven would not constitute a violation of the Act, there is insufficient evidence to prove a violation of the Act, or there is insufficient cooperation from complaining parties, as determined by the Department.

(Source: P.A. 97-622, eff. 11-23-11; 98-1140, eff. 12-30-14.)

(225 ILCS 60/8) (from Ch. 111, par. 4400-8)

(Section scheduled to be repealed on January 1, 2022)

Sec. 8. Medical Licensing Board.

(A) There is hereby created a Medical Licensing Board. The Licensing Board shall be composed of 7 members, to be appointed by the Governor by and with the advice and consent of the Senate; 5 of whom shall be reputable physicians licensed to practice medicine in all of its branches in Illinois, possessing the degree of doctor of medicine; one member shall be a reputable physician licensed in Illinois to practice medicine in all of its branches, possessing the degree of doctor of osteopathy or osteopathic medicine; and one member shall be a reputable chiropractic physician licensed to practice in Illinois and possessing the degree of doctor of chiropractic. Of the 5 members holding the degree of doctor of medicine, one shall be a full-time or part-time teacher of professorial rank in the clinical department of an Illinois school of medicine.

(B) Members of the Licensing Board shall be appointed for terms of 4 years, and until their successors are appointed and qualified. Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term. No more than 4 members of the Licensing Board shall be members of the same political party and all members shall be residents of this State. No member of the Licensing Board may be appointed to more than 2 successive 4 year terms.

(C) Members of the Licensing Board shall be immune from suit in any action based upon any licensing proceedings or other acts performed in good faith as members of the Licensing Board.

(D) (Blank).

(E) The Licensing Board shall annually elect one of its members as chairperson and one as vice chairperson. No member shall be elected more than twice in succession to the same office. Each officer shall serve until his or her successor has been elected and qualified.

(F) None of the functions, powers or duties of the Department with respect to policies regarding licensure and examination under this Act, including the promulgation of such rules as may be necessary for the administration of this Act, shall be exercised by the Department except upon review of the Licensing Board.

(G) The Licensing Board shall receive the same

compensation as the members of the Disciplinary Board, which compensation shall be paid out of the Illinois State Medical Disciplinary Fund.

(H) This Section is inoperative when a majority of the Medical Board is appointed. This Section is repealed one year after the effective date of this amendatory Act of the 102nd General Assembly.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/8.1)

(Section scheduled to be repealed on January 1, 2022)

Sec. 8.1. Matters concerning advanced practice registered nurses. Any proposed rules, amendments, second notice materials and adopted rule or amendment materials, and policy statements concerning advanced practice registered nurses shall be presented to the Medical ~~Licensing~~ Board for review and comment. The recommendations of both the Board of Nursing and the Medical ~~Licensing~~ Board shall be presented to the Secretary for consideration in making final decisions. Whenever the Board of Nursing and the Medical ~~Licensing~~ Board disagree on a proposed rule or policy, the Secretary shall convene a joint meeting of the officers of each Board to discuss the resolution of any such disagreements.

(Source: P.A. 100-513, eff. 1-1-18.)

(225 ILCS 60/9) (from Ch. 111, par. 4400-9)

(Section scheduled to be repealed on January 1, 2022)

Sec. 9. Application for license. Each applicant for a license shall:

(A) Make application on blank forms prepared and furnished by the Department.

(B) Submit evidence satisfactory to the Department that the applicant:

(1) is of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities which would constitute grounds for discipline under this Act. The Department may also request the applicant to submit, and may consider as evidence of moral character, endorsements from 2 or 3 individuals licensed under this Act;

(2) has the preliminary and professional education required by this Act;

(3) (blank); and

(4) is physically, mentally, and professionally capable of practicing medicine with reasonable judgment, skill, and safety. In determining physical and mental capacity under this Section, the Medical ~~Licensing~~ Board may, upon a showing of a possible incapacity or conduct or activities that would constitute grounds for discipline under this Act,

compel any applicant to submit to a mental or physical examination and evaluation, or both, as provided for in Section 22 of this Act. The Medical ~~Licensing~~ Board may condition or restrict any license, subject to the same terms and conditions as are provided for the Medical ~~Disciplinary~~ Board under Section 22 of this Act. Any such condition of a restricted license shall provide that the Chief Medical Coordinator or Deputy Medical Coordinator shall have the authority to review the subject physician's compliance with such conditions or restrictions, including, where appropriate, the physician's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records of patients.

In determining professional capacity under this Section, an individual may be required to complete such additional testing, training, or remedial education as the Medical ~~Licensing~~ Board may deem necessary in order to establish the applicant's present capacity to practice medicine with reasonable judgment, skill, and safety. The Medical ~~Licensing~~ Board may consider the following criteria, as they relate to an applicant, as part of its determination of professional capacity:

(1) Medical research in an established research

facility, hospital, college or university, or private corporation.

(2) Specialized training or education.

(3) Publication of original work in learned, medical, or scientific journals.

(4) Participation in federal, State, local, or international public health programs or organizations.

(5) Professional service in a federal veterans or military institution.

(6) Any other professional activities deemed to maintain and enhance the clinical capabilities of the applicant.

Any applicant applying for a license to practice medicine in all of its branches or for a license as a chiropractic physician who has not been engaged in the active practice of medicine or has not been enrolled in a medical program for 2 years prior to application must submit proof of professional capacity to the Medical ~~Licensing~~ Board.

Any applicant applying for a temporary license that has not been engaged in the active practice of medicine or has not been enrolled in a medical program for longer than 5 years prior to application must submit proof of professional capacity to the Medical ~~Licensing~~ Board.

(C) Designate specifically the name, location, and kind of professional school, college, or institution of

which the applicant is a graduate and the category under which the applicant seeks, and will undertake, to practice.

(D) Pay to the Department at the time of application the required fees.

(E) Pursuant to Department rules, as required, pass an examination authorized by the Department to determine the applicant's fitness to receive a license.

(F) Complete the application process within 3 years from the date of application. If the process has not been completed within 3 years, the application shall expire, application fees shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 97-622, eff. 11-23-11; 98-1140, eff. 12-30-14.)

(225 ILCS 60/9.3)

(Section scheduled to be repealed on January 1, 2022)

Sec. 9.3. Withdrawal of application. Any applicant applying for a license or permit under this Act may withdraw his or her application at any time. If an applicant withdraws his or her application after receipt of a written Notice of Intent to Deny License or Permit, then the withdrawal shall be reported to the Federation of State Medical Boards ~~and the National Practitioner Data Bank~~.

(Source: P.A. 98-601, eff. 12-30-13; 98-1140, eff. 12-30-14.)

(225 ILCS 60/17) (from Ch. 111, par. 4400-17)

(Section scheduled to be repealed on January 1, 2022)

Sec. 17. Temporary license. Persons holding the degree of Doctor of Medicine, persons holding the degree of Doctor of Osteopathy or Doctor of Osteopathic Medicine, and persons holding the degree of Doctor of Chiropractic or persons who have satisfied the requirements therefor and are eligible to receive such degree from a medical, osteopathic, or chiropractic school, who wish to pursue programs of graduate or specialty training in this State, may receive without examination, in the discretion of the Department, a 3-year temporary license. In order to receive a 3-year temporary license hereunder, an applicant shall submit evidence satisfactory to the Department that the applicant:

(A) Is of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities which would constitute grounds for discipline under this Act. The Department may also request the applicant to submit, and may consider as evidence of moral character, endorsements from 2 or 3 individuals licensed under this Act;

(B) Has been accepted or appointed for specialty or residency training by a hospital situated in this State or a training program in hospitals or facilities maintained

by the State of Illinois or affiliated training facilities which is approved by the Department for the purpose of such training under this Act. The applicant shall indicate the beginning and ending dates of the period for which the applicant has been accepted or appointed;

(C) Has or will satisfy the professional education requirements of Section 11 of this Act which are effective at the date of application except for postgraduate clinical training;

(D) Is physically, mentally, and professionally capable of practicing medicine or treating human ailments without the use of drugs and without operative surgery with reasonable judgment, skill, and safety. In determining physical, mental and professional capacity under this Section, the Medical ~~Licensing~~ Board may, upon a showing of a possible incapacity, compel an applicant to submit to a mental or physical examination and evaluation, or both, and may condition or restrict any temporary license, subject to the same terms and conditions as are provided for the Medical ~~Disciplinary~~ Board under Section 22 of this Act. Any such condition of restricted temporary license shall provide that the Chief Medical Coordinator or Deputy Medical Coordinator shall have the authority to review the subject physician's compliance with such conditions or restrictions, including, where appropriate, the physician's record of treatment and counseling

regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records of patients.

Three-year temporary licenses issued pursuant to this Section shall be valid only for the period of time designated therein, and may be extended or renewed pursuant to the rules of the Department, and if a temporary license is thereafter extended, it shall not extend beyond completion of the residency program. The holder of a valid 3-year temporary license shall be entitled thereby to perform only such acts as may be prescribed by and incidental to his or her program of residency training; he or she shall not be entitled to otherwise engage in the practice of medicine in this State unless fully licensed in this State.

A 3-year temporary license may be revoked or suspended by the Department upon proof that the holder thereof has engaged in the practice of medicine in this State outside of the program of his or her residency or specialty training, or if the holder shall fail to supply the Department, within 10 days of its request, with information as to his or her current status and activities in his or her specialty training program. Such a revocation or suspension shall comply with the procedures set forth in subsection (d) of Section 37 of this Act.

(Source: P.A. 97-622, eff. 11-23-11; 98-1140, eff. 12-30-14.)

(225 ILCS 60/18) (from Ch. 111, par. 4400-18)

(Section scheduled to be repealed on January 1, 2022)

Sec. 18. Visiting professor, physician, or resident permits.

(A) Visiting professor permit.

(1) A visiting professor permit shall entitle a person to practice medicine in all of its branches or to practice the treatment of human ailments without the use of drugs and without operative surgery provided:

(a) the person maintains an equivalent authorization to practice medicine in all of its branches or to practice the treatment of human ailments without the use of drugs and without operative surgery in good standing in his or her native licensing jurisdiction during the period of the visiting professor permit;

(b) the person has received a faculty appointment to teach in a medical, osteopathic or chiropractic school in Illinois; and

(c) the Department may prescribe the information necessary to establish an applicant's eligibility for a permit. This information shall include without limitation (i) a statement from the dean of the medical school at which the applicant will be employed describing the applicant's qualifications and (ii) a statement from the dean of the medical school listing

every affiliated institution in which the applicant will be providing instruction as part of the medical school's education program and justifying any clinical activities at each of the institutions listed by the dean.

(2) Application for visiting professor permits shall be made to the Department, in writing, on forms prescribed by the Department and shall be accompanied by the required fee established by rule, which shall not be refundable. Any application shall require the information as, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant.

(3) A visiting professor permit shall be valid for no longer than 2 years from the date of issuance or until the time the faculty appointment is terminated, whichever occurs first, and may be renewed only in accordance with subdivision (A)(6) of this Section.

(4) The applicant may be required to appear before the Medical ~~Licensing~~ Board for an interview prior to, and as a requirement for, the issuance of the original permit and the renewal.

(5) Persons holding a permit under this Section shall only practice medicine in all of its branches or practice the treatment of human ailments without the use of drugs and without operative surgery in the State of Illinois in their official capacity under their contract within the

medical school itself and any affiliated institution in which the permit holder is providing instruction as part of the medical school's educational program and for which the medical school has assumed direct responsibility.

(6) After the initial renewal of a visiting professor permit, a visiting professor permit shall be valid until the last day of the next physician license renewal period, as set by rule, and may only be renewed for applicants who meet the following requirements:

(i) have obtained the required continuing education hours as set by rule; and

(ii) have paid the fee prescribed for a license under Section 21 of this Act.

For initial renewal, the visiting professor must successfully pass a general competency examination authorized by the Department by rule, unless he or she was issued an initial visiting professor permit on or after January 1, 2007, but prior to July 1, 2007.

(B) Visiting physician permit.

(1) The Department may, in its discretion, issue a temporary visiting physician permit, without examination, provided:

(a) (blank);

(b) that the person maintains an equivalent authorization to practice medicine in all of its

branches or to practice the treatment of human ailments without the use of drugs and without operative surgery in good standing in his or her native licensing jurisdiction during the period of the temporary visiting physician permit;

(c) that the person has received an invitation or appointment to study, demonstrate, or perform a specific medical, osteopathic, chiropractic or clinical subject or technique in a medical, osteopathic, or chiropractic school, a state or national medical, osteopathic, or chiropractic professional association or society conference or meeting, a hospital licensed under the Hospital Licensing Act, a hospital organized under the University of Illinois Hospital Act, or a facility operated pursuant to the Ambulatory Surgical Treatment Center Act; and

(d) that the temporary visiting physician permit shall only permit the holder to practice medicine in all of its branches or practice the treatment of human ailments without the use of drugs and without operative surgery within the scope of the medical, osteopathic, chiropractic, or clinical studies, or in conjunction with the state or national medical, osteopathic, or chiropractic professional association or society conference or meeting, for which the holder

was invited or appointed.

(2) The application for the temporary visiting physician permit shall be made to the Department, in writing, on forms prescribed by the Department, and shall be accompanied by the required fee established by rule, which shall not be refundable. The application shall require information that, in the judgment of the Department, will enable the Department to pass on the qualification of the applicant, and the necessity for the granting of a temporary visiting physician permit.

(3) A temporary visiting physician permit shall be valid for no longer than (i) 180 days from the date of issuance or (ii) until the time the medical, osteopathic, chiropractic, or clinical studies are completed, or the state or national medical, osteopathic, or chiropractic professional association or society conference or meeting has concluded, whichever occurs first. The temporary visiting physician permit may be issued multiple times to a visiting physician under this paragraph (3) as long as the total number of days it is active do not exceed 180 days within a 365-day period.

(4) The applicant for a temporary visiting physician permit may be required to appear before the Medical ~~Licensing~~ Board for an interview prior to, and as a requirement for, the issuance of a temporary visiting physician permit.

(5) A limited temporary visiting physician permit shall be issued to a physician licensed in another state who has been requested to perform emergency procedures in Illinois if he or she meets the requirements as established by rule.

(C) Visiting resident permit.

(1) The Department may, in its discretion, issue a temporary visiting resident permit, without examination, provided:

(a) (blank);

(b) that the person maintains an equivalent authorization to practice medicine in all of its branches or to practice the treatment of human ailments without the use of drugs and without operative surgery in good standing in his or her native licensing jurisdiction during the period of the temporary visiting resident permit;

(c) that the applicant is enrolled in a postgraduate clinical training program outside the State of Illinois that is approved by the Department;

(d) that the individual has been invited or appointed for a specific period of time to perform a portion of that post graduate clinical training program under the supervision of an Illinois licensed physician in an Illinois patient care clinic or

facility that is affiliated with the out-of-State post graduate training program; and

(e) that the temporary visiting resident permit shall only permit the holder to practice medicine in all of its branches or practice the treatment of human ailments without the use of drugs and without operative surgery within the scope of the medical, osteopathic, chiropractic or clinical studies for which the holder was invited or appointed.

(2) The application for the temporary visiting resident permit shall be made to the Department, in writing, on forms prescribed by the Department, and shall be accompanied by the required fee established by rule. The application shall require information that, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant.

(3) A temporary visiting resident permit shall be valid for 180 days from the date of issuance or until the time the medical, osteopathic, chiropractic, or clinical studies are completed, whichever occurs first.

(4) The applicant for a temporary visiting resident permit may be required to appear before the Medical ~~Licensing~~ Board for an interview prior to, and as a requirement for, the issuance of a temporary visiting resident permit.

(Source: P.A. 97-622, eff. 11-23-11; 98-1140, eff. 12-30-14.)

(225 ILCS 60/19) (from Ch. 111, par. 4400-19)

(Section scheduled to be repealed on January 1, 2022)

Sec. 19. Licensure by endorsement. The Department may, in its discretion, issue a license by endorsement to any person who is currently licensed to practice medicine in all of its branches, or a chiropractic physician, in any other state, territory, country or province, upon the following conditions and submitting evidence satisfactory to the Department of the following:

(A) (Blank);

(B) That the applicant is of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities which would constitute grounds for discipline under this Act. The Department may also request the applicant to submit, and may consider as evidence of moral character, endorsements from 2 or 3 individuals licensed under this Act;

(C) That the applicant is physically, mentally and professionally capable of practicing medicine with reasonable judgment, skill and safety. In determining physical, mental and professional capacity under this Section the Medical ~~Licensing~~ Board may, upon a showing of a possible incapacity, compel an applicant to submit to a mental or physical examination and evaluation, or both, in

the same manner as provided in Section 22 and may condition or restrict any license, subject to the same terms and conditions as are provided for the Medical ~~Disciplinary~~ Board under Section 22 of this Act.

(D) That if the applicant seeks to practice medicine in all of its branches:

(1) if the applicant was licensed in another jurisdiction prior to January 1, 1988, that the applicant has satisfied the educational requirements of paragraph (1) of subsection (A) or paragraph (2) of subsection (A) of Section 11 of this Act; or

(2) if the applicant was licensed in another jurisdiction after December 31, 1987, that the applicant has satisfied the educational requirements of paragraph (A)(2) of Section 11 of this Act; and

(3) the requirements for a license to practice medicine in all of its branches in the particular state, territory, country or province in which the applicant is licensed are deemed by the Department to have been substantially equivalent to the requirements for a license to practice medicine in all of its branches in force in this State at the date of the applicant's license;

(E) That if the applicant seeks to treat human ailments without the use of drugs and without operative surgery:

(1) the applicant is a graduate of a chiropractic school or college approved by the Department at the time of their graduation;

(2) the requirements for the applicant's license to practice the treatment of human ailments without the use of drugs are deemed by the Department to have been substantially equivalent to the requirements for a license to practice in this State at the date of the applicant's license;

(F) That the Department may, in its discretion, issue a license by endorsement to any graduate of a medical or osteopathic college, reputable and in good standing in the judgment of the Department, who has passed an examination for admission to the United States Public Health Service, or who has passed any other examination deemed by the Department to have been at least equal in all substantial respects to the examination required for admission to any such medical corps;

(G) That applications for licenses by endorsement shall be filed with the Department, under oath, on forms prepared and furnished by the Department, and shall set forth, and applicants therefor shall supply such information respecting the life, education, professional practice, and moral character of applicants as the Department may require to be filed for its use;

(H) That the applicant undergo the criminal background

check established under Section 9.7 of this Act.

In the exercise of its discretion under this Section, the Department is empowered to consider and evaluate each applicant on an individual basis. It may take into account, among other things: the extent to which the applicant will bring unique experience and skills to the State of Illinois or the extent to which there is or is not available to the Department authentic and definitive information concerning the quality of medical education and clinical training which the applicant has had. Under no circumstances shall a license be issued under the provisions of this Section to any person who has previously taken and failed the written examination conducted by the Department for such license. In the exercise of its discretion under this Section, the Department may require an applicant to successfully complete an examination as recommended by the Medical ~~Licensing~~ Board. The Department may also request the applicant to submit, and may consider as evidence of moral character, evidence from 2 or 3 individuals licensed under this Act. Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within 3 years, the application shall be denied, the fees shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 97-622, eff. 11-23-11; 98-1140, eff. 12-30-14.)

(225 ILCS 60/21) (from Ch. 111, par. 4400-21)

(Section scheduled to be repealed on January 1, 2022)

Sec. 21. License renewal; reinstatement; inactive status; disposition and collection of fees.

(A) Renewal. The expiration date and renewal period for each license issued under this Act shall be set by rule. The holder of a license may renew the license by paying the required fee. The holder of a license may also renew the license within 90 days after its expiration by complying with the requirements for renewal and payment of an additional fee. A license renewal within 90 days after expiration shall be effective retroactively to the expiration date.

The Department shall attempt to provide through electronic means to each licensee under this Act, at least 60 days in advance of the expiration date of his or her license, a renewal notice. No such license shall be deemed to have lapsed until 90 days after the expiration date and after the Department has attempted to provide such notice as herein provided.

(B) Reinstatement. Any licensee who has permitted his or her license to lapse or who has had his or her license on inactive status may have his or her license reinstated by making application to the Department and filing proof acceptable to the Department of his or her fitness to have the license reinstated, including evidence certifying to active practice in another jurisdiction satisfactory to the Department, proof of meeting the continuing education

requirements for one renewal period, and by paying the required reinstatement fee.

If the licensee has not maintained an active practice in another jurisdiction satisfactory to the Department, the Medical ~~Licensing~~ Board shall determine, by an evaluation program established by rule, the applicant's fitness to resume active status and may require the licensee to complete a period of evaluated clinical experience and may require successful completion of a practical examination specified by the Medical ~~Licensing~~ Board.

However, any registrant whose license has expired while he or she has been engaged (a) in Federal Service on active duty with the Army of the United States, the United States Navy, the Marine Corps, the Air Force, the Coast Guard, the Public Health Service or the State Militia called into the service or training of the United States of America, or (b) in training or education under the supervision of the United States preliminary to induction into the military service, may have his or her license reinstated without paying any lapsed renewal fees, if within 2 years after honorable termination of such service, training, or education, he or she furnishes to the Department with satisfactory evidence to the effect that he or she has been so engaged and that his or her service, training, or education has been so terminated.

(C) Inactive licenses. Any licensee who notifies the Department, in writing on forms prescribed by the Department,

may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

Any licensee requesting reinstatement from inactive status shall be required to pay the current renewal fee, provide proof of meeting the continuing education requirements for the period of time the license is inactive not to exceed one renewal period, and shall be required to reinstate his or her license as provided in subsection (B).

Any licensee whose license is in an inactive status shall not practice in the State of Illinois.

(D) Disposition of monies collected. All monies collected under this Act by the Department shall be deposited in the Illinois State Medical Disciplinary Fund in the State Treasury, and used only for the following purposes: (a) by the Medical ~~Disciplinary Board and Licensing~~ Board in the exercise of its powers and performance of its duties, as such use is made by the Department with full consideration of all recommendations of the Medical ~~Disciplinary Board and Licensing~~ Board, (b) for costs directly related to persons licensed under this Act, and (c) for direct and allocable indirect costs related to the public purposes of the Department.

Moneys in the Fund may be transferred to the Professions

Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

All earnings received from investment of monies in the Illinois State Medical Disciplinary Fund shall be deposited in the Illinois State Medical Disciplinary Fund and shall be used for the same purposes as fees deposited in such Fund.

(E) Fees. The following fees are nonrefundable.

(1) Applicants for any examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining the applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

(2) Before July 1, 2018, the fee for a license under Section 9 of this Act is $700. Beginning on July 1, 2018, the fee for a license under Section 9 of this Act is $500.

(3) Before July 1, 2018, the fee for a license under Section 19 of this Act is $700. Beginning on July 1, 2018, the fee for a license under Section 19 of this Act is $500.

(4) Before July 1, 2018, the fee for the renewal of a license for a resident of Illinois shall be calculated at

the rate of $230 per year, and beginning on July 1, 2018 and until January 1, 2020, the fee for the renewal of a license shall be $167, except for licensees who were issued a license within 12 months of the expiration date of the license, before July 1, 2018, the fee for the renewal shall be $230, and beginning on July 1, 2018 and until January 1, 2020 that fee will be $167. Before July 1, 2018, the fee for the renewal of a license for a nonresident shall be calculated at the rate of $460 per year, and beginning on July 1, 2018 and until January 1, 2020, the fee for the renewal of a license for a nonresident shall be $250, except for licensees who were issued a license within 12 months of the expiration date of the license, before July 1, 2018, the fee for the renewal shall be $460, and beginning on July 1, 2018 and until January 1, 2020 that fee will be $250. Beginning on January 1, 2020, the fee for renewal of a license for a resident or nonresident is $181 per year.

(5) The fee for the reinstatement of a license other than from inactive status, is $230. In addition, payment of all lapsed renewal fees not to exceed $1,400 is required.

(6) The fee for a 3-year temporary license under Section 17 is $230.

(7) The fee for the issuance of a license with a change of name or address other than during the renewal period is

$20. No fee is required for name and address changes on Department records when no updated license is issued.

(8) The fee to be paid for a license record for any purpose is $20.

(9) The fee to be paid to have the scoring of an examination, administered by the Department, reviewed and verified, is $20 plus any fees charged by the applicable testing service.

(F) Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or permit or deny the application, without hearing. If, after termination or denial, the person seeks a license or permit, he or she shall apply to the Department for reinstatement or issuance of the license or permit and pay all fees and fines due to the Department. The

Department may establish a fee for the processing of an application for reinstatement of a license or permit to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 101-316, eff. 8-9-19; 101-603, eff. 1-1-20.)

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

(Section scheduled to be repealed on January 1, 2022)

Sec. 22. Disciplinary action.

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

(1) (Blank).

(2) (Blank).

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

(4) Gross negligence in practice under this Act.

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

(6) Obtaining any fee by fraud, deceit, or misrepresentation.

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

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

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

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

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

(12) Adverse action taken by another state or jurisdiction against a license or other authorization to practice as a medical doctor, doctor of osteopathy, doctor of osteopathic medicine or doctor of chiropractic, a

certified copy of the record of the action taken by the other state or jurisdiction being prima facie evidence thereof. This includes any adverse action taken by a State or federal agency that prohibits a medical doctor, doctor of osteopathy, doctor of osteopathic medicine, or doctor of chiropractic from providing services to the agency's participants.

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

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

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

(16) Abandonment of a patient.

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

(18) Promotion of the sale of drugs, devices,

appliances, or goods provided for a patient in such manner as to exploit the patient for financial gain of the physician.

(19) Offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any human condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the Department.

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

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

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

(23) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and

upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(24) Solicitation of professional patronage by any corporation, agents or persons, or profiting from those representing themselves to be agents of the licensee.

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

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

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

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

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

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

(31) The use of any false, fraudulent, or deceptive statement in any document connected with practice under this Act.

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

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

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

(35) Failure to report to the Department surrender of a license or authorization to practice as a medical

doctor, a doctor of osteopathy, a doctor of osteopathic medicine, or doctor of chiropractic in another state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society, while under disciplinary investigation by any of those authorities or bodies, for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

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

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

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

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

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

(41) Failure to establish and maintain records of

patient care and treatment as required by this law.

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

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

(44) Violating the Compassionate Use of Medical Cannabis Program Act.

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

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

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

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

(49) Entering into an excessive number of written

collaborative agreements with licensed physician assistants resulting in an inability to adequately collaborate.

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

Except for actions involving the ground numbered (26), all proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 years next after receipt by the Department of a complaint alleging the commission of or notice of the conviction order for any of the acts described herein. Except for the grounds numbered (8), (9), (26), and (29), no action shall be commenced more than 10 years after the date of the incident or act alleged to have violated this Section. For actions involving the ground numbered (26), a pattern of practice or other behavior includes all incidents alleged to be part of the pattern of practice or other behavior that occurred, or a report pursuant to Section 23 of this Act received, within the 10-year period preceding the filing of the complaint. In the event of the settlement of any claim or cause of action in favor of the claimant or the reduction to final judgment of any civil action in favor of the plaintiff, such claim, cause of action, or civil action being grounded on the allegation that a person licensed under this Act was negligent in providing care, the Department shall have an

additional period of 2 years from the date of notification to the Department under Section 23 of this Act of such settlement or final judgment in which to investigate and commence formal disciplinary proceedings under Section 36 of this Act, except as otherwise provided by law. The time during which the holder of the license was outside the State of Illinois shall not be included within any period of time limiting the commencement of disciplinary action by the Department.

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

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

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

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

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

(c) what constitutes immoral conduct in the commission of any act, including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice; and

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

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

In enforcing this Section, the Medical ~~Disciplinary Board or the Licensing~~ Board, upon a showing of a possible violation, may compel~~, in the case of the Disciplinary Board,~~ any individual who is licensed to practice under this Act or holds a permit to practice under this Act, or~~, in the case of the Licensing Board,~~ any individual who has applied for licensure or a permit pursuant to this Act, to submit to a mental or physical examination and evaluation, or both, which may include a substance abuse or sexual offender evaluation,

as required by the Medical ~~Licensing Board or Disciplinary~~ Board and at the expense of the Department. The Medical ~~Disciplinary Board or Licensing~~ Board shall specifically designate the examining physician licensed to practice medicine in all of its branches or, if applicable, the multidisciplinary team involved in providing the mental or physical examination and evaluation, or both. The multidisciplinary team shall be led by a physician licensed to practice medicine in all of its branches and may consist of one or more or a combination of physicians licensed to practice medicine in all of its branches, licensed chiropractic physicians, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff. Any examining physician or member of the multidisciplinary team may require any person ordered to submit to an examination and evaluation pursuant to this Section to submit to any additional supplemental testing deemed necessary to complete any examination or evaluation process, including, but not limited to, blood testing, urinalysis, psychological testing, or neuropsychological testing. The Medical ~~Disciplinary Board, the Licensing~~ Board~~,~~ or the Department may order the examining physician or any member of the multidisciplinary team to provide to the Department~~, the Disciplinary Board,~~ or the Medical ~~Licensing~~ Board any and all records, including business records, that relate to the examination and

evaluation, including any supplemental testing performed. The Medical ~~Disciplinary Board, the Licensing~~ Board~~,~~ or the Department may order the examining physician or any member of the multidisciplinary team to present testimony concerning this examination and evaluation of the licensee, permit holder, or applicant, including testimony concerning any supplemental testing or documents relating to the examination and evaluation. No information, report, record, or other documents in any way related to the examination and evaluation shall be excluded by reason of any common law or statutory privilege relating to communication between the licensee, permit holder, or applicant and the examining physician or any member of the multidisciplinary team. No authorization is necessary from the licensee, permit holder, or applicant ordered to undergo an evaluation and examination for the examining physician or any member of the multidisciplinary team to provide information, reports, records, or other documents or to provide any testimony regarding the examination and evaluation. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination and evaluation, or both, when directed, shall result in an automatic suspension, without hearing, until such time as the individual submits to the examination. If the Medical ~~Disciplinary Board or Licensing~~ Board finds a

physician unable to practice following an examination and evaluation because of the reasons set forth in this Section, the Medical ~~Disciplinary Board or Licensing~~ Board shall require such physician to submit to care, counseling, or treatment by physicians, or other health care professionals, approved or designated by the Medical ~~Disciplinary~~ Board, as a condition for issued, continued, reinstated, or renewed licensure to practice. Any physician, whose license was granted pursuant to Sections 9, 17, or 19 of this Act, or, continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions, or restrictions who shall fail to comply with such terms, conditions, or restrictions, or to complete a required program of care, counseling, or treatment, as determined by the Chief Medical Coordinator or Deputy Medical Coordinators, shall be referred to the Secretary for a determination as to whether the licensee shall have his or her ~~their~~ license suspended immediately, pending a hearing by the Medical ~~Disciplinary~~ Board. In instances in which the Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Medical ~~Disciplinary~~ Board within 15 days after such suspension and completed without appreciable delay. The Medical ~~Disciplinary~~ Board shall have the authority to review the subject physician's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the

confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Medical ~~Disciplinary~~ Board that he or she ~~they~~ can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her ~~their~~ license.

The Department may promulgate rules for the imposition of fines in disciplinary cases, not to exceed $10,000 for each violation of this Act. Fines may be imposed in conjunction with other forms of disciplinary action, but shall not be the exclusive disposition of any disciplinary action arising out of conduct resulting in death or injury to a patient. Any funds collected from such fines shall be deposited in the Illinois State Medical Disciplinary Fund.

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

(B) The Department shall revoke the license or permit issued under this Act to practice medicine or a chiropractic physician who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act, or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or permit is revoked under this

subsection B shall be prohibited from practicing medicine or treating human ailments without the use of drugs and without operative surgery.

(C) The Department shall not revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action against the license or permit issued under this Act to practice medicine to a physician:

(1) based solely upon the recommendation of the physician to an eligible patient regarding, or prescription for, or treatment with, an investigational drug, biological product, or device; or

(2) for experimental treatment for Lyme disease or other tick-borne diseases, including, but not limited to, the prescription of or treatment with long-term antibiotics.

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

$5,000.

(Source: P.A. 100-429, eff. 8-25-17; 100-513, eff. 1-1-18; 100-605, eff. 1-1-19; 100-863, eff. 8-14-18; 100-1137, eff. 1-1-19; 101-13, eff. 6-12-19; 101-81, eff. 7-12-19; 101-363, eff. 8-9-19; revised 9-20-19.)

(225 ILCS 60/23) (from Ch. 111, par. 4400-23)

(Section scheduled to be repealed on January 1, 2022)

Sec. 23. Reports relating to professional conduct and capacity.

(A) Entities required to report.

(1) Health care institutions. The chief administrator or executive officer of any health care institution licensed by the Illinois Department of Public Health shall report to the Medical ~~Disciplinary~~ Board when any person's clinical privileges are terminated or are restricted based on a final determination made in accordance with that institution's by-laws or rules and regulations that a person has either committed an act or acts which may directly threaten patient care or that a person may have a mental or physical disability that may endanger patients under that person's care. Such officer also shall report if a person accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon conduct related directly to patient care or in lieu of formal action seeking to determine whether a person may

have a mental or physical disability that may endanger patients under that person's care. The Medical ~~Disciplinary~~ Board shall, by rule, provide for the reporting to it by health care institutions of all instances in which a person, licensed under this Act, who is impaired by reason of age, drug or alcohol abuse or physical or mental impairment, is under supervision and, where appropriate, is in a program of rehabilitation. Such reports shall be strictly confidential and may be reviewed and considered only by the members of the Medical ~~Disciplinary~~ Board, or by authorized staff as provided by rules of the Medical ~~Disciplinary~~ Board. Provisions shall be made for the periodic report of the status of any such person not less than twice annually in order that the Medical ~~Disciplinary~~ Board shall have current information upon which to determine the status of any such person. Such initial and periodic reports of impaired physicians shall not be considered records within the meaning of The State Records Act and shall be disposed of, following a determination by the Medical ~~Disciplinary~~ Board that such reports are no longer required, in a manner and at such time as the Medical ~~Disciplinary~~ Board shall determine by rule. The filing of such reports shall be construed as the filing of a report for purposes of subsection (C) of this Section.

(1.5) Clinical training programs. The program director

of any post-graduate clinical training program shall report to the Medical ~~Disciplinary~~ Board if a person engaged in a post-graduate clinical training program at the institution, including, but not limited to, a residency or fellowship, separates from the program for any reason prior to its conclusion. The program director shall provide all documentation relating to the separation if, after review of the report, the Medical ~~Disciplinary~~ Board determines that a review of those documents is necessary to determine whether a violation of this Act occurred.

(2) Professional associations. The President or chief executive officer of any association or society, of persons licensed under this Act, operating within this State shall report to the Medical ~~Disciplinary~~ Board when the association or society renders a final determination that a person has committed unprofessional conduct related directly to patient care or that a person may have a mental or physical disability that may endanger patients under that person's care.

(3) Professional liability insurers. Every insurance company which offers policies of professional liability insurance to persons licensed under this Act, or any other entity which seeks to indemnify the professional liability of a person licensed under this Act, shall report to the Medical ~~Disciplinary~~ Board the settlement of any claim or

cause of action, or final judgment rendered in any cause of action, which alleged negligence in the furnishing of medical care by such licensed person when such settlement or final judgment is in favor of the plaintiff.

(4) State's Attorneys. The State's Attorney of each county shall report to the Medical ~~Disciplinary~~ Board, within 5 days, any instances in which a person licensed under this Act is convicted of any felony or Class A misdemeanor. The State's Attorney of each county may report to the Medical ~~Disciplinary~~ Board through a verified complaint any instance in which the State's Attorney believes that a physician has willfully violated the notice requirements of the Parental Notice of Abortion Act of 1995.

(5) State agencies. All agencies, boards, commissions, departments, or other instrumentalities of the government of the State of Illinois shall report to the Medical ~~Disciplinary~~ Board any instance arising in connection with the operations of such agency, including the administration of any law by such agency, in which a person licensed under this Act has either committed an act or acts which may be a violation of this Act or which may constitute unprofessional conduct related directly to patient care or which indicates that a person licensed under this Act may have a mental or physical disability that may endanger patients under that person's care.

(B) Mandatory reporting. All reports required by items (34), (35), and (36) of subsection (A) of Section 22 and by Section 23 shall be submitted to the Medical ~~Disciplinary~~ Board in a timely fashion. Unless otherwise provided in this Section, the reports shall be filed in writing within 60 days after a determination that a report is required under this Act. All reports shall contain the following information:

(1) The name, address and telephone number of the person making the report.

(2) The name, address and telephone number of the person who is the subject of the report.

(3) The name and date of birth of any patient or patients whose treatment is a subject of the report, if available, or other means of identification if such information is not available, identification of the hospital or other healthcare facility where the care at issue in the report was rendered, provided, however, no medical records may be revealed.

(4) A brief description of the facts which gave rise to the issuance of the report, including the dates of any occurrences deemed to necessitate the filing of the report.

(5) If court action is involved, the identity of the court in which the action is filed, along with the docket number and date of filing of the action.

(6) Any further pertinent information which the

reporting party deems to be an aid in the evaluation of the report.

The Medical ~~Disciplinary~~ Board or Department may also exercise the power under Section 38 of this Act to subpoena copies of hospital or medical records in mandatory report cases alleging death or permanent bodily injury. Appropriate rules shall be adopted by the Department with the approval of the Medical ~~Disciplinary~~ Board.

When the Department has received written reports concerning incidents required to be reported in items (34), (35), and (36) of subsection (A) of Section 22, the licensee's failure to report the incident to the Department under those items shall not be the sole grounds for disciplinary action.

Nothing contained in this Section shall act to in any way, waive or modify the confidentiality of medical reports and committee reports to the extent provided by law. Any information reported or disclosed shall be kept for the confidential use of the Medical ~~Disciplinary~~ Board, the Medical Coordinators, the Medical ~~Disciplinary~~ Board's attorneys, the medical investigative staff, and authorized clerical staff, as provided in this Act, and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure, except that the Department may disclose information and documents to a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal

investigation or to a health care licensing body or medical licensing authority of this State or another state or jurisdiction pursuant to an official request made by that licensing body or medical licensing authority. Furthermore, 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, or, in the case of disclosure to a health care licensing body or medical licensing authority, only for investigations and disciplinary action proceedings with regard to a license. Information and documents disclosed to the Department of Public Health may be used by that Department only for investigation and disciplinary action regarding the license of a health care institution licensed by the Department of Public Health.

(C) Immunity from prosecution. Any individual or organization acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Medical ~~Disciplinary~~ Board or a peer review committee, or assisting in the investigation or preparation of such information, or by voluntarily reporting to the Medical ~~Disciplinary~~ Board or a peer review committee information regarding alleged errors or negligence by a person licensed under this Act, or by participating in proceedings of the Medical ~~Disciplinary~~ Board or a peer review committee, or by serving as a member of the Medical

~~Disciplinary~~ Board or a peer review committee, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(D) Indemnification. Members of the Medical ~~Disciplinary~~ Board, ~~the Licensing Board,~~ the Medical Coordinators, the Medical ~~Disciplinary~~ Board's attorneys, the medical investigative staff, physicians retained under contract to assist and advise the medical coordinators in the investigation, and authorized clerical staff shall be indemnified by the State for any actions occurring within the scope of services on the Medical ~~Disciplinary Board or Licensing~~ Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

Should the Attorney General decline representation, the member shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were wilful and wanton.

The member must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Medical ~~Disciplinary~~ Board. Failure to so

notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent the member.

(E) Deliberations of Medical ~~Disciplinary~~ Board. Upon the receipt of any report called for by this Act, other than those reports of impaired persons licensed under this Act required pursuant to the rules of the Medical ~~Disciplinary~~ Board, the Medical ~~Disciplinary~~ Board shall notify in writing, by ~~certified~~ mail or email, the person who is the subject of the report. Such notification shall be made within 30 days of receipt by the Medical ~~Disciplinary~~ Board of the report.

The notification shall include a written notice setting forth the person's right to examine the report. Included in such notification shall be the address at which the file is maintained, the name of the custodian of the reports, and the telephone number at which the custodian may be reached. The person who is the subject of the report shall submit a written statement responding, clarifying, adding to, or proposing the amending of the report previously filed. The person who is the subject of the report shall also submit with the written statement any medical records related to the report. The statement and accompanying medical records shall become a permanent part of the file and must be received by the Medical ~~Disciplinary~~ Board no more than 30 days after the date on which

the person was notified by the Medical ~~Disciplinary~~ Board of the existence of the original report.

The Medical ~~Disciplinary~~ Board shall review all reports received by it, together with any supporting information and responding statements submitted by persons who are the subject of reports. The review by the Medical ~~Disciplinary~~ Board shall be in a timely manner but in no event, shall the Medical ~~Disciplinary~~ Board's initial review of the material contained in each disciplinary file be less than 61 days nor more than 180 days after the receipt of the initial report by the Medical ~~Disciplinary~~ Board.

When the Medical ~~Disciplinary~~ Board makes its initial review of the materials contained within its disciplinary files, the Medical ~~Disciplinary~~ Board shall, in writing, make a determination as to whether there are sufficient facts to warrant further investigation or action. Failure to make such determination within the time provided shall be deemed to be a determination that there are not sufficient facts to warrant further investigation or action.

Should the Medical ~~Disciplinary~~ Board find that there are not sufficient facts to warrant further investigation, or action, the report shall be accepted for filing and the matter shall be deemed closed and so reported to the Secretary. The Secretary shall then have 30 days to accept the Medical ~~Disciplinary~~ Board's decision or request further investigation. The Secretary shall inform the Medical Board of

the decision to request further investigation, including the specific reasons for the decision. The individual or entity filing the original report or complaint and the person who is the subject of the report or complaint shall be notified in writing by the Secretary of any final action on their report or complaint. The Department shall disclose to the individual or entity who filed the original report or complaint, on request, the status of the Medical ~~Disciplinary~~ Board's review of a specific report or complaint. Such request may be made at any time, including prior to the Medical ~~Disciplinary~~ Board's determination as to whether there are sufficient facts to warrant further investigation or action.

(F) Summary reports. The Medical ~~Disciplinary~~ Board shall prepare, on a timely basis, but in no event less than once every other month, a summary report of final disciplinary actions taken upon disciplinary files maintained by the Medical ~~Disciplinary~~ Board. The summary reports shall be made available to the public upon request and payment of the fees set by the Department. This publication may be made available to the public on the Department's website. Information or documentation relating to any disciplinary file that is closed without disciplinary action taken shall not be disclosed and shall be afforded the same status as is provided by Part 21 of Article VIII of the Code of Civil Procedure.

(G) Any violation of this Section shall be a Class A misdemeanor.

(H) If any such person violates the provisions of this Section an action may be brought in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, for an order enjoining such violation or for an order enforcing compliance with this Section. Upon filing of a verified petition in such court, the court may issue a temporary restraining order without notice or bond and may preliminarily or permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this paragraph shall be in addition to, and not in lieu of, all other remedies and penalties provided for by this Section.

(Source: P.A. 98-601, eff. 12-30-13; 99-143, eff. 7-27-15.)

(225 ILCS 60/24) (from Ch. 111, par. 4400-24)

(Section scheduled to be repealed on January 1, 2022)

Sec. 24. Report of violations; medical associations.

(a) Any physician licensed under this Act, the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Chiropractic Society, the Illinois Prairie State Chiropractic Association, or any component societies of any of these 4 groups, and any other person, may report to the Medical ~~Disciplinary~~ Board any information the physician, association, society, or person may have that appears to show that a physician is or may be in

violation of any of the provisions of Section 22 of this Act.

(b) The Department may enter into agreements with the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Prairie State Chiropractic Association, or the Illinois Chiropractic Society to allow these organizations to assist the Medical ~~Disciplinary~~ Board in the review of alleged violations of this Act. Subject to the approval of the Department, any organization party to such an agreement may subcontract with other individuals or organizations to assist in review.

(c) Any physician, association, society, or person participating in good faith in the making of a report under this Act or participating in or assisting with an investigation or review under this Act shall have immunity from any civil, criminal, or other liability that might result by reason of those actions.

(d) The medical information in the custody of an entity under contract with the Department participating in an investigation or review shall be privileged and confidential to the same extent as are information and reports under the provisions of Part 21 of Article VIII of the Code of Civil Procedure.

(e) Upon request by the Department after a mandatory report has been filed with the Department, an attorney for any party seeking to recover damages for injuries or death by reason of medical, hospital, or other healing art malpractice

shall provide patient records related to the physician involved in the disciplinary proceeding to the Department within 30 days of the Department's request for use by the Department in any disciplinary matter under this Act. An attorney who provides patient records to the Department in accordance with this requirement shall not be deemed to have violated any attorney-client privilege. Notwithstanding any other provision of law, consent by a patient shall not be required for the provision of patient records in accordance with this requirement.

(f) For the purpose of any civil or criminal proceedings, the good faith of any physician, association, society or person shall be presumed.

(Source: P.A. 97-622, eff. 11-23-11; 98-1140, eff. 12-30-14.)

(225 ILCS 60/25) (from Ch. 111, par. 4400-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25. The Secretary of the Department may, upon receipt of a written communication from the Secretary of Human Services, the Director of Healthcare and Family Services (formerly Director of Public Aid), or the Director of Public Health that continuation of practice of a person licensed under this Act constitutes an immediate danger to the public, and after consultation with the Chief Medical Coordinator or Deputy Medical Coordinator, immediately suspend the license of such person without a hearing. In instances in which the

Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Medical ~~Disciplinary~~ Board within 15 days after such suspension and completed without appreciable delay. Such hearing is to be held to determine whether to recommend to the Secretary that the person's license be revoked, suspended, placed on probationary status or reinstated, or whether such person should be subject to other disciplinary action. In the hearing, the written communication and any other evidence submitted therewith may be introduced as evidence against such person; provided however, the person, or their counsel, shall have the opportunity to discredit, impeach and submit evidence rebutting such evidence.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/35) (from Ch. 111, par. 4400-35)

(Section scheduled to be repealed on January 1, 2022)

Sec. 35. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action to suspend, revoke, place on probationary status, or take any other disciplinary action with regard to a license. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his findings and recommendations to the Medical ~~Disciplinary Board or Licensing~~ Board within 30 days of the receipt of the record. The Medical

~~Disciplinary Board or Licensing~~ Board shall have 60 days from receipt of the report to review the report of the hearing officer and present their findings of fact, conclusions of law and recommendations to the Secretary.

(Source: P.A. 100-429, eff. 8-25-17.)

(225 ILCS 60/36) (from Ch. 111, par. 4400-36)

(Section scheduled to be repealed on January 1, 2022)

Sec. 36. Investigation; notice.

(a) Upon the motion of either the Department or the Medical ~~Disciplinary~~ Board or upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for suspension or revocation under Section 22 of this Act, the Department shall investigate the actions of any person, so accused, who holds or represents that he or she holds a license. Such person is hereinafter called the accused.

(b) The Department shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license at least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made and the time and place for a hearing of the charges before the Medical ~~Disciplinary~~ Board, direct him or her to file his or her written answer thereto to the Medical ~~Disciplinary~~ Board under oath within 20 days after the service on him or her

of such notice and inform him or her that if he or she fails to file such answer default will be taken against him or her and his or her license may be suspended, revoked, placed on probationary status, or have other disciplinary action, including limiting the scope, nature or extent of his or her practice, as the Department may deem proper taken with regard thereto. The Department shall, at least 14 days prior to the date set for the hearing, notify in writing any person who filed a complaint against the accused of the time and place for the hearing of the charges against the accused before the Medical ~~Disciplinary~~ Board and inform such person whether he or she may provide testimony at the hearing.

(c) (Blank).

(d) Such written notice and any notice in such proceedings thereafter may be served by personal delivery, email to the respondent's email address of record, or mail to the respondent's address of record.

(e) All information gathered by the Department during its investigation including information subpoenaed under Section 23 or 38 of this Act and the investigative file shall be kept for the confidential use of the Secretary, the Medical ~~Disciplinary~~ Board, the Medical Coordinators, persons employed by contract to advise the Medical Coordinator or the Department, the Medical ~~Disciplinary~~ Board's attorneys, the medical investigative staff, and authorized clerical staff, as provided in this Act and shall be afforded the same status as

is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure, except that the Department may disclose information and documents to a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation to a health care licensing body of this State or another state or jurisdiction pursuant to an official request made by that licensing body. Furthermore, 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 or, in the case of disclosure to a health care licensing body, only for investigations and disciplinary action proceedings with regard to a license issued by that licensing body.

(Source: P.A. 101-13, eff. 6-12-19; 101-316, eff. 8-9-19; revised 9-20-19.)

(225 ILCS 60/37) (from Ch. 111, par. 4400-37)

(Section scheduled to be repealed on January 1, 2022)

Sec. 37. Disciplinary actions.

(a) At the time and place fixed in the notice, the Medical ~~Disciplinary~~ Board provided for in this Act shall proceed to hear the charges, and the accused person shall be accorded ample opportunity to present in person, or by counsel, such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense thereto. The

Medical ~~Disciplinary~~ Board may continue such hearing from time to time. If the Medical ~~Disciplinary~~ Board is not sitting at the time and place fixed in the notice or at the time and place to which the hearing has been continued, the Department shall continue such hearing for a period not to exceed 30 days.

(b) In case the accused person, after receiving notice, fails to file an answer, their license may, in the discretion of the Secretary, having received first the recommendation of the Medical ~~Disciplinary~~ Board, be suspended, revoked or placed on probationary status, or the Secretary may take whatever disciplinary action as he or she may deem proper, including limiting the scope, nature, or extent of said person's practice, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

(c) The Medical ~~Disciplinary~~ Board has the authority to recommend to the Secretary that probation be granted or that other disciplinary or non-disciplinary action, including the limitation of the scope, nature or extent of a person's practice, be taken as it deems proper. If disciplinary or non-disciplinary action, other than suspension or revocation, is taken the Medical ~~Disciplinary~~ Board may recommend that the Secretary impose reasonable limitations and requirements upon the accused registrant to ensure ~~insure~~ compliance with the terms of the probation or other disciplinary action including, but not limited to, regular reporting by the accused to the

Department of their actions, placing themselves under the care of a qualified physician for treatment, or limiting their practice in such manner as the Secretary may require.

(d) The Secretary, after consultation with the Chief Medical Coordinator or Deputy Medical Coordinator, may temporarily suspend the license of a physician without a hearing, simultaneously with the institution of proceedings for a hearing provided under this Section if the Secretary finds that evidence in his or her possession indicates that a physician's continuation in practice would constitute an immediate danger to the public. In the event that the Secretary suspends, temporarily, the license of a physician without a hearing, a hearing by the Medical ~~Disciplinary~~ Board shall be held within 15 days after such suspension has occurred and shall be concluded without appreciable delay.

(Source: P.A. 97-622, eff. 11-23-11; 98-1140, eff. 12-30-14.)

(225 ILCS 60/38) (from Ch. 111, par. 4400-38)

(Section scheduled to be repealed on January 1, 2022)

Sec. 38. Subpoena; oaths.

(a) The Medical ~~Disciplinary~~ Board or Department has power to subpoena and bring before it any person in this State and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as is prescribed by law for judicial procedure in civil cases.

(b) The Medical ~~Disciplinary~~ Board or Department, upon a

determination that probable cause exists that a violation of one or more of the grounds for discipline listed in Section 22 has occurred or is occurring, may subpoena the medical and hospital records of individual patients of physicians licensed under this Act, provided, that prior to the submission of such records to the Medical ~~Disciplinary~~ Board, all information indicating the identity of the patient shall be removed and deleted. Notwithstanding the foregoing, the Medical ~~Disciplinary~~ Board and Department shall possess the power to subpoena copies of hospital or medical records in mandatory report cases under Section 23 alleging death or permanent bodily injury when consent to obtain records is not provided by a patient or legal representative. Prior to submission of the records to the Medical ~~Disciplinary~~ Board, all information indicating the identity of the patient shall be removed and deleted. All medical records and other information received pursuant to subpoena shall be confidential and shall be afforded the same status as is proved information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure. The use of such records shall be restricted to members of the Medical ~~Disciplinary~~ Board, the medical coordinators, and appropriate staff of the Department designated by the Medical ~~Disciplinary~~ Board for the purpose of determining the existence of one or more grounds for discipline of the physician as provided for by Section 22 of this Act. Any such review of individual patients' records

shall be conducted by the Medical ~~Disciplinary~~ Board in strict confidentiality, provided that such patient records shall be admissible in a disciplinary hearing, before the Medical ~~Disciplinary~~ Board, when necessary to substantiate the grounds for discipline alleged against the physician licensed under this Act, and provided further, that nothing herein shall be deemed to supersede the provisions of Part 21 of Article VIII of the ~~"~~Code of Civil Procedure~~", as now or hereafter amended~~, to the extent applicable.

(c) The Secretary, hearing officer, and any member of the Medical ~~Disciplinary~~ Board each have power to administer oaths at any hearing which the Medical ~~Disciplinary~~ Board or Department is authorized by law to conduct.

(d) The Medical ~~Disciplinary~~ Board, upon a determination that probable cause exists that a violation of one or more of the grounds for discipline listed in Section 22 has occurred or is occurring on the business premises of a physician licensed under this Act, may issue an order authorizing an appropriately qualified investigator employed by the Department to enter upon the business premises with due consideration for patient care of the subject of the investigation so as to inspect the physical premises and equipment and furnishings therein. No such order shall include the right of inspection of business, medical, or personnel records located on the premises. For purposes of this Section, "business premises" is defined as the office or offices where

the physician conducts the practice of medicine. Any such order shall expire and become void five business days after its issuance by the Medical ~~Disciplinary~~ Board. The execution of any such order shall be valid only during the normal business hours of the facility or office to be inspected.

(Source: P.A. 101-316, eff. 8-9-19.)

(225 ILCS 60/39) (from Ch. 111, par. 4400-39)

(Section scheduled to be repealed on January 1, 2022)

Sec. 39. Certified shorthand reporter; record. The Department, at its expense, shall provide a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing of any case wherein a license may be revoked, suspended, placed on probationary status, or other disciplinary action taken with regard thereto in accordance with Section 2105-115 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the hearing officer, exhibits, the report of the Medical Board, and the orders of the Department constitute the record of the proceedings.

(Source: P.A. 100-429, eff. 8-25-17; 101-316, eff. 8-9-19.)

(225 ILCS 60/40) (from Ch. 111, par. 4400-40)

(Section scheduled to be repealed on January 1, 2022)

Sec. 40. Findings and recommendations; rehearing.

(a) The Medical ~~Disciplinary~~ Board shall present to the Secretary a written report of its findings and recommendations. A copy of such report shall be served upon the accused person, either personally or by mail or email. Within 20 days after such service, the accused person may present to the Department his or her motion, in writing, for a rehearing, which written motion shall specify the particular ground therefor. If the accused person orders and pays for a transcript of the record as provided in Section 39, the time elapsing thereafter and before such transcript is ready for delivery to them shall not be counted as part of such 20 days.

(b) At the expiration of the time allowed for filing a motion for rehearing, the Secretary may take the action recommended by the Medical ~~Disciplinary~~ Board. Upon the suspension, revocation, placement on probationary status, or the taking of any other disciplinary action, including the limiting of the scope, nature, or extent of one's practice, deemed proper by the Department, with regard to the license or permit, the accused shall surrender his or her license or permit to the Department, if ordered to do so by the Department, and upon his or her failure or refusal so to do, the Department may seize the same.

(c) Each order of revocation, suspension, or other disciplinary action shall contain a brief, concise statement

of the ground or grounds upon which the Department's action is based, as well as the specific terms and conditions of such action. This document shall be retained as a permanent record by the Department ~~Disciplinary Board and the Secretary~~.

(d) (Blank). ~~The Department shall at least annually publish a list of the names of all persons disciplined under this Act in the preceding 12 months. Such lists shall be available by the Department on its website.~~

(e) In those instances where an order of revocation, suspension, or other disciplinary action has been rendered by virtue of a physician's physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill which results in a physician's inability to practice medicine with reasonable judgment, skill, or safety, the Department shall only permit this document, and the record of the hearing incident thereto, to be observed, inspected, viewed, or copied pursuant to court order.

(Source: P.A. 101-316, eff. 8-9-19.)

(225 ILCS 60/41) (from Ch. 111, par. 4400-41)

(Section scheduled to be repealed on January 1, 2022)

Sec. 41. Administrative review; certification of record.

(a) All final administrative decisions of the Department are subject to judicial review pursuant to the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides; but if the party is not a resident of this State, the venue shall be in Sangamon County.

(c) The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. ~~Exhibits shall be certified without cost.~~ Failure on the part of the plaintiff to file a receipt in court shall be grounds for dismissal of the action. During the pendency and hearing of any and all judicial proceedings incident to the disciplinary action the sanctions imposed upon the accused by the Department because of acts or omissions related to the delivery of direct patient care as specified in the Department's final administrative decision, shall as a matter of public policy remain in full force and effect in order to protect the public pending final resolution of any of the proceedings.

(Source: P.A. 97-622, eff. 11-23-11; 98-1140, eff. 12-30-14.)

(225 ILCS 60/42) (from Ch. 111, par. 4400-42)

(Section scheduled to be repealed on January 1, 2022)

Sec. 42. An order of revocation, suspension, placing the

license on probationary status, or other formal disciplinary action as the Department may deem proper, or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, is prima facie proof that:

(a) Such signature is the genuine signature of the Secretary;

(b) The Secretary is duly appointed and qualified; and

(c) The Medical ~~Disciplinary~~ Board and the members thereof are qualified.

Such proof may be rebutted.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/44) (from Ch. 111, par. 4400-44)

(Section scheduled to be repealed on January 1, 2022)

Sec. 44. None of the disciplinary functions, powers and duties enumerated in this Act shall be exercised by the Department except upon the action and report in writing of the Medical ~~Disciplinary~~ Board.

In all instances, under this Act, in which the Medical ~~Disciplinary~~ Board has rendered a recommendation to the Secretary with respect to a particular physician, the Secretary may take action contrary to the recommendation of the Medical Board. In ~~shall, in~~ the event that the Secretary ~~he or she~~ disagrees with or takes action contrary to the recommendation of the Medical ~~Disciplinary~~ Board, file with the Medical ~~Disciplinary~~ Board his or her specific written

reasons of disagreement with the Medical ~~Disciplinary~~ Board. Such reasons shall be filed within 30 days of the occurrence of the Secretary's contrary position having been taken.

The action and report in writing of a majority of the Medical ~~Disciplinary~~ Board designated is sufficient authority upon which the Secretary may act.

Whenever the Secretary is satisfied that substantial justice has not been done ~~either in an examination, or~~ in a formal disciplinary action, or refusal to restore a license, he or she may order a ~~reexamination or~~ rehearing ~~by the same or other examiners~~.

(Source: P.A. 97-622, eff. 11-23-11.)

(225 ILCS 60/47) (from Ch. 111, par. 4400-47)

(Section scheduled to be repealed on January 1, 2022)

Sec. 47. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation or renewal of the license is specifically excluded. For the purposes of this Act the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed or emailed to

the address of record of a party.

(Source: P.A. 97-622, eff. 11-23-11.)

Section 25. The Boxing and Full-contact Martial Arts Act is amended by changing Sections 1, 2, 5, 6, 7, 8, 10, 11, 12, 13, 15, 16, 17, 17.7, 17.8, 17.9, 18, 19, 19.1, 19.5, 20, 21, 22, 23, 23.1, 24, 24.5, and 25.1 and by adding Sections 1.4 and 2.5 as follows:

(225 ILCS 105/1) (from Ch. 111, par. 5001)

(Section scheduled to be repealed on January 1, 2022)

Sec. 1. Short title and definitions.

(a) This Act may be cited as the Boxing and Full-contact Martial Arts Act.

(b) As used in this Act:

"Department" means the Department of Financial and Professional Regulation.

"Secretary" means the Secretary of Financial and Professional Regulation <u>or a person authorized by the Secretary to act in the Secretary's stead</u>.

"Board" means the State of Illinois Athletic Board ~~established pursuant to this Act~~.

"License" means the license issued for promoters, professionals, <u>amateurs,</u> or officials in accordance with this Act.

"<u>Contest</u> ~~Professional contest~~" means a boxing or

full-contact martial arts competition in which all of the participants competing against one another are professionals or amateurs and where the public is able to attend or a fee is charged.

"Permit" means the authorization from the Department to a promoter to conduct professional or amateur contests, or a combination of both.

"Promoter" means a person who is licensed and who holds a permit to conduct professional or amateur contests, or a combination of both.

Unless the context indicates otherwise, "person" includes, but is not limited to, an individual, association, organization, business entity, gymnasium, or club.

"Judge" means a person licensed by the Department who is located at ringside or adjacent to the fighting area during a ~~professional~~ contest and who has the responsibility of scoring the performance of the participants in that professional or amateur contest.

"Referee" means a person licensed by the Department who has the general supervision of and is present inside of the ring or fighting area during a professional or amateur contest.

"Amateur" means a person licensed ~~registered~~ by the Department who is not competing for, and has never received or competed for, any purse or other article of

value, directly or indirectly, either for participating in any contest or for the expenses of training therefor, other than a non-monetary prize that does not exceed $50 in value.

"Professional" means a person licensed by the Department who competes for a money prize, purse, or other type of compensation in a professional contest held in Illinois.

"Second" means a person licensed by the Department who is present at any professional or amateur contest to provide assistance or advice to a professional during the contest.

"Matchmaker" means a person licensed by the Department who brings together professionals or amateurs to compete in contests.

"Manager" means a person licensed by the Department who is not a promoter and who, under contract, agreement, or other arrangement, undertakes to, directly or indirectly, control or administer the affairs of contestants ~~professionals~~.

"Timekeeper" means a person licensed by the Department who is the official timer of the length of rounds and the intervals between the rounds.

"Purse" means the financial guarantee or any other remuneration for which contestants are participating in a professional contest.

"Physician" means a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987.

"Martial arts" means a discipline or combination of different disciplines that utilizes sparring techniques without the intent to injure, disable, or incapacitate one's opponent, such as, but not limited to, Karate, Kung Fu, ~~Judo,~~ Jujutsu, and Tae Kwon Do~~, and Kyuki Do~~.

"Full-contact martial arts" means the use of a singular discipline or a combination of techniques from different disciplines of the martial arts, including, without limitation, full-force grappling, kicking, and striking with the intent to injure, disable, or incapacitate one's opponent.

~~"Amateur contest" means a boxing or full contact martial arts competition in which all of the participants competing against one another are amateurs and where the public is able to attend or a fee is charged.~~

"Contestant" means a person who competes in either a boxing or full-contact martial arts contest.

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or~~,~~ license file~~, or registration file~~ as maintained by the Department's licensure maintenance unit. ~~It is the duty of the applicant or licensee to inform the Department of any~~

~~change of address and those changes must be made either through the Department's website or by contacting the Department.~~

"Bout" means one match between 2 contestants.

"Sanctioning body" means an organization approved by the Department under the requirements and standards stated in this Act and the rules adopted under this Act to act as a governing body that sanctions professional or amateur full-contact martial arts contests.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file as maintained by the Department's licensure maintenance unit.

(Source: P.A. 96-663, eff. 8-25-09; 97-119, eff. 7-14-11; 97-1123, eff. 8-27-12.)

(225 ILCS 105/1.4 new)

Sec. 1.4. Address of record; email address of record. All applicants and licensees shall:

(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for licensure or renewal of a license; and

(2) inform the Department of any change of address of record or email address of record within 14 days after such change either through the Department's website or by

contacting the Department's licensure maintenance unit.

(225 ILCS 105/2) (from Ch. 111, par. 5002)

(Section scheduled to be repealed on January 1, 2022)

Sec. 2. State of Illinois Athletic Board.

(a) The Secretary shall appoint members to the State of Illinois Athletic Board. The Board shall consist of 7 members who shall serve in an advisory capacity to the Secretary. ~~There is created the State of Illinois Athletic Board consisting of 6 persons who shall be appointed by and shall serve in an advisory capacity to the Secretary, and the State Professional Boxing Board shall be disbanded.~~ One member of the Board shall be a physician licensed to practice medicine in all of its branches. One member of the Board shall be a member of the full-contact martial arts community. One ~~and one~~ member of the Board shall be a member of either the full-contact martial arts community or the boxing community. ~~The Secretary shall appoint each member to serve for a term of 3 years and until his or her successor is appointed and qualified. One member of the board shall be designated as the Chairperson and one member shall be designated as the Vice-chairperson. No member shall be appointed to the Board for a term which would cause continuous service to be more than 9 years. Each member of the board shall receive compensation for each day he or she is engaged in transacting the business of the board and, in addition, shall be reimbursed for his or~~

~~her authorized and approved expenses necessarily incurred in relation to such service in accordance with the travel regulations applicable to the Department at the time the expenses are incurred.~~

(b) Board members shall serve 5-year terms and until their successors are appointed and qualified.

(c) In appointing members to the Board, the Secretary shall give due consideration to recommendations by members and organizations of the martial arts and boxing industry.

(d) The membership of the Board should reasonably reflect representation from the geographic areas in this State.

(e) No member shall be appointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 2 consecutive 5-year terms.

(f) The Secretary may terminate the appointment of any member for cause that in the opinion of the Secretary reasonably justified such termination, which may include, but is not limited to, a Board member who does not attend 2 consecutive meetings.

(g) Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term.

(h) Four members of the Board shall constitute a quorum. A quorum is required for Board decisions.

(i) Members of the Board shall have no liability in any action based upon activity performed in good faith as members

of the Board.

(j) Members of the Board may be reimbursed for all legitimate, necessary, and authorized expenses.

~~Four members shall constitute a quorum.~~

~~The members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.~~

~~The Secretary may remove any member of the Board for misconduct, incapacity, or neglect of duty. The Secretary shall reduce to writing any causes for removal.~~

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/2.5 new)

Sec. 2.5. Powers and duties of the Board.

(a) Subject to the provisions of this Act, the Board shall exercise the following functions, powers, and duties:

(1) The Board shall hold at least one meeting each year.

(2) The Board shall elect a chairperson and a vice chairperson.

(b) The Department may, at any time, seek the expert advice and knowledge of the Board on any matter relating to the enforcement of this Act.

(225 ILCS 105/5) (from Ch. 111, par. 5005)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5. Powers and duties of the Department. The Department shall, subject to the provisions of this Act, exercise the following functions, powers, and duties:

(1) Ascertain the qualifications and fitness of applicants for license and permits.

(2) Adopt rules required for the administration of this Act.

(3) Conduct hearings on proceedings to refuse to issue, renew, or restore licenses and revoke, suspend, place on probation, or reprimand those licensed under the provisions of this Act.

(4) Issue licenses to those who meet the qualifications of this Act and its rules.

(5) Conduct investigations related to possible violations of this Act.

~~The Department shall exercise, but subject to the provisions of this Act, the following functions, powers, and duties: (a) to ascertain the qualifications and fitness of applicants for licenses and permits; (b) to prescribe rules and regulations for the administration of the Act; (c) to conduct hearings on proceedings to refuse to issue, refuse to renew, revoke, suspend, or subject to reprimand licenses or permits under this Act; and (d) to revoke, suspend, or refuse issuance or renewal of such licenses or permits.~~

(Source: P.A. 92-499, eff. 1-1-02.)

(225 ILCS 105/6) (from Ch. 111, par. 5006)

(Section scheduled to be repealed on January 1, 2022)

Sec. 6. Restricted contests and events.

(a) All professional and amateur contests, or a combination of both, in which physical contact is made are prohibited in Illinois unless authorized by the Department pursuant to the requirements and standards stated in this Act and the rules adopted pursuant to this Act. This subsection (a) does not apply to any of the following:

(1) Amateur boxing or full-contact martial arts contests conducted by accredited secondary schools, colleges, or universities, although a fee may be charged.

(2) Amateur boxing contests that are sanctioned by USA Boxing or any other sanctioning organization approved by the Department as determined by rule ~~Association of Boxing Commissions~~.

(3) Amateur boxing ~~or full-contact martial arts~~ contests conducted by a State, county, or municipal entity, including those events held by any agency organized under these entities.

(4) Amateur martial arts contests that are not defined as full-contact martial arts contests under this Act~~, including, but not limited to, Karate, Kung Fu, Judo, Jujutsu, Tae Kwon Do, and Kyuki-Do~~.

(5) Full-contact martial arts contests, as defined by this Act, that are recognized by the International Olympic

Committee or are contested in the Olympic Games and are not conducted in an enclosed fighting area or ring.

No other amateur boxing or full-contact martial arts contests shall be permitted unless authorized by the Department.

(b) The Department shall have the authority to determine whether a professional or amateur contest is exempt for purposes of this Section.

(Source: P.A. 96-663, eff. 8-25-09; 97-119, eff. 7-14-11; 97-1123, eff. 8-27-12.)

(225 ILCS 105/7) (from Ch. 111, par. 5007)

(Section scheduled to be repealed on January 1, 2022)

Sec. 7. Authorization to conduct contests; sanctioning bodies.

(a) In order to conduct a professional contest ~~or, beginning 6 months after the adoption of rules pertaining to an amateur contest~~, an amateur contest, or a combination of both, in this State, a promoter shall obtain a permit issued by the Department in accordance with this Act and the rules and regulations adopted pursuant thereto. This permit shall authorize one or more professional or amateur contests, or a combination of both.

(b) Before January 1, 2023, amateur ~~Amateur~~ full-contact martial arts contests must be registered and sanctioned by a sanctioning body approved by the Department for that purpose

under the requirements and standards stated in this Act and the rules adopted under this Act.

(c) On and after January 1, 2023, a promoter for an amateur full-contact martial arts contest shall obtain a permit issued by the Department under the requirements and standards set forth in this Act and the rules adopted under this Act.

(d) On and after January 1, 2023, the Department shall not approve any sanctioning body. A sanctioning body's approval by the Department that was received before January 1, 2023 is withdrawn on January 1, 2023.

(e) A permit issued under this Act is not transferable.

(Source: P.A. 96-663, eff. 8-25-09; 97-119, eff. 7-14-11.)

(225 ILCS 105/8) (from Ch. 111, par. 5008)

(Section scheduled to be repealed on January 1, 2022)

Sec. 8. Permits.

(a) A promoter who desires to obtain a permit to conduct a professional or amateur contest, or a combination of both, shall apply to the Department at least 30 calendar ~~20~~ days prior to the event, in writing or electronically, on forms prescribed ~~furnished~~ by the Department. The application shall be accompanied by the required fee and shall contain, but not be limited to, the following information to be submitted at times specified by rule:

(1) the legal names and addresses of the promoter;

(2) the name of the matchmaker;

(3) the time and exact location of the professional or amateur contest, or a combination of both. It is the responsibility of the promoter to ensure that the building to be used for the event complies with all laws, ordinances, and regulations in the city, town, village, or county where the contest is to be held;

(4) the signed and executed copy of the event venue lease agreement; and ~~proof of adequate security measures, as determined by Department rule, to ensure the protection of the safety of contestants and the general public while attending professional or amateur contests, or a combination of both;~~

~~(5) proof of adequate medical supervision, as determined by Department rule, to ensure the protection of the health and safety of professionals' or amateurs' while participating in the contest;~~

(5) ~~(6)~~ the initial list of names of the professionals or amateurs competing subject to Department approval. ~~;~~

~~(7) proof of insurance for not less than $50,000 as further defined by rule for each professional or amateur participating in a professional or amateur contest, or a combination of both; insurance required under this paragraph (7) shall cover (i) hospital, medication, physician, and other such expenses as would accrue in the treatment of an injury as a result of the professional or amateur contest; (ii) payment to the estate of the~~

~~professional or amateur in the event of his or her death as a result of his or her participation in the professional or amateur contest; and (iii) accidental death and dismemberment; the terms of the insurance coverage must not require the contestant to pay a deductible. The promoter may not carry an insurance policy with a deductible in an amount greater than $500 for the medical, surgical, or hospital care for injuries a contestant sustains while engaged in a contest, and if a licensed or registered contestant pays for the medical, surgical, or hospital care, the insurance proceeds must be paid to the contestant or his or her beneficiaries as reimbursement for such payment;~~

~~(8) the amount of the purses to be paid to the professionals for the event; the Department shall adopt rules for payment of the purses;~~

~~(9) organizational or internationally accepted rules, per discipline, for professional or amateur full contact martial arts contests where the Department does not provide the rules;~~

~~(10) proof of contract indicating the requisite registration and sanctioning by a Department approved sanctioning body for any full-contact martial arts contest with scheduled amateur bouts; and~~

~~(11) any other information that the Department may require to determine whether a permit shall be issued.~~

(b) The Department may issue a permit to any promoter who meets the requirements of this Act and the rules. The permit shall only be issued for a specific date and location of a professional or amateur contest, or a combination of both, and shall not be transferable. The Department may allow a promoter to amend a permit application to hold a professional or amateur contest, or a combination of both, in a different location other than the application specifies if all requirements of this Section are met, waiving the 30-day provision of subsection (a) ~~and may allow the promoter to substitute professionals or amateurs, respectively~~.

(c) The Department shall be responsible for assigning the judges, timekeepers, referees, and physicians~~,~~ for a professional contest, an amateur contest, or a combination of both. Compensation shall be determined by the Department, and it shall be the responsibility of the promoter to pay the individuals utilized.

(d) The promoter shall submit the following documents to the Department at times specified by rule:

(1) proof of adequate security measures, as determined by rule, to ensure the protection of the safety of contestants and the general public while attending professional contests, amateur contests, or a combination of both;

(2) proof of adequate medical supervision, as determined by rule, to ensure the protection of the health

and safety of professionals or amateurs while participating in contests;

(3) the complete and final list of names of the professionals or amateurs competing, subject to Department approval, which shall be submitted up to 48 hours prior to the event date specified in the permit;

(4) proof of insurance for not less than $50,000 as further defined by rule for each professional or amateur participating in a professional or amateur contest, or a combination of both; insurance required under this paragraph shall cover: (i) hospital, medication, physician, and other such expenses as would accrue in the treatment of an injury as a result of the professional or amateur contest; (ii) payment to the estate of the professional or amateur in the event of his or her death as a result of his or her participation in the professional or amateur contest; and (iii) accidental death and dismemberment; the terms of the insurance coverage shall require the promoter, not the licensed contestant, to pay the policy deductible for the medical, surgical, or hospital care of a contestant for injuries a contestant sustained while engaged in a contest; if a licensed contestant pays for the medical, surgical, or hospital care, the insurance proceeds shall be paid to the contestant or his or her beneficiaries as reimbursement for such payment;

(5) the amount of the purses to be paid to the professionals for the event as determined by rule;

(6) organizational or internationally accepted rules, per discipline, for professional or amateur full-contact martial arts contests if the Department does not provide the rules for Department approval; and

(7) any other information the Department may require, as determined by rule, to issue a permit.

(e) If the accuracy, relevance, or sufficiency of any submitted documentation is questioned by the Department because of lack of information, discrepancies, or conflicts in information given or a need for clarification, the promoter seeking a permit may be required to provide additional information.

(Source: P.A. 97-119, eff. 7-14-11; 98-756, eff. 7-16-14.)

(225 ILCS 105/10) (from Ch. 111, par. 5010)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10. Who must be licensed.

(a) In order to participate in ~~professional~~ contests the following persons must each be licensed and in good standing with the Department: (a) professionals and amateurs, (b) seconds, (c) referees, (d) judges, (e) managers, (f) matchmakers, and (g) timekeepers.

(b) In order to participate in professional or amateur contests or a combination of both, promoters must be licensed

and in good standing with the Department.

(c) Announcers may participate in professional or amateur contests, or a combination of both, without being licensed under this Act. It shall be the responsibility of the promoter to ensure that announcers comply with the Act, and all rules and regulations promulgated pursuant to this Act.

(d) A licensed promoter may not act as, and cannot be licensed as, a second, professional, referee, timekeeper, judge, or manager. If he or she is so licensed, he or she must relinquish any of these licenses to the Department for cancellation. A person possessing a valid promoter's license may act as a matchmaker.

(e) Participants in amateur full-contact martial arts contests taking place before January 1, 2023 are not required to obtain licenses by the Department, except for promoters of amateur contests.

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/11) (from Ch. 111, par. 5011)

(Section scheduled to be repealed on January 1, 2022)

Sec. 11. Qualifications for license. The Department shall grant licenses to the following persons if the following qualifications are met:

(1) An applicant for licensure as a professional or amateur must: (1) be 18 years old, (2) be of good moral character, (3) file an application stating the applicant's

legal name (and no assumed or ring name may be used unless such name is registered with the Department along with the applicant's legal name), date ~~and place~~ of birth, place of current residence, and a sworn statement that he or she is not currently in violation of any federal, State or local laws or rules governing boxing or full-contact martial arts, (4) file a certificate from a physician licensed to practice medicine in all of its branches which attests that the applicant is physically fit and qualified to participate in professional or amateur contests, and (5) pay the required fee and meet any other requirements as determined by rule. Applicants over age 35 who have not competed in a professional or amateur contest within the 12 ~~last 36~~ months preceding their application for licensure or have insufficient experience to participate in a professional or amateur contest may be required to appear before the Department to determine their fitness to participate in a professional or amateur contest. ~~A picture identification card shall be issued to all professionals licensed by the Department who are residents of Illinois or who are residents of any jurisdiction, state, or country that does not regulate professional boxing or full-contact martial arts. The identification card shall be presented to the Department or its representative upon request at weigh ins.~~

(2) An applicant for licensure as a referee, judge,

manager, second, matchmaker, or timekeeper must: (1) be of good moral character, (2) file an application stating the applicant's name, date ~~and place~~ of birth, and place of current residence along with a certifying statement that he or she is not currently in violation of any federal, State, or local laws or rules governing boxing, or full-contact martial arts, (3) have had satisfactory experience in his or her field as defined by rule, (4) pay the required fee, and (5) meet any other requirements as determined by rule.

(3) An applicant for licensure as a promoter must: (1) be of good moral character, (2) file an application with the Department stating the applicant's name, date ~~and place~~ of birth, place of current residence along with a certifying statement that he or she is not currently in violation of any federal, State, or local laws or rules governing boxing or full-contact martial arts, (3) pay the required fee and meet any other requirements as established by rule, and (4) in addition to the foregoing, an applicant for licensure as a promoter of professional or amateur contests or a combination of both professional and amateur bouts in one contest shall also provide (i) proof of a surety bond of no less than $5,000 to cover financial obligations under this Act, payable to the Department and conditioned for the payment of the tax imposed by this Act and compliance with this Act, and the

rules adopted under this Act, and (ii) ~~a financial statement, prepared by a certified public accountant, showing liquid working capital of $10,000 or more, or~~ a $10,000 performance bond guaranteeing payment of all obligations relating to the promotional activities payable to the Department and conditioned for the payment of the tax imposed by this Act and its rules.

(4) All applicants shall submit an application to the Department, in writing or electronically, on forms prescribed ~~provided~~ by the Department, containing such information as determined by rule.

In determining good moral character, the Department may take into consideration any violation of any of the provisions of Section 16 of this Act as to referees, judges, managers, matchmakers, timekeepers, or promoters and any felony conviction of the applicant, but such a conviction shall not operate as a bar to licensure. No license issued under this Act is transferable.

~~The Department may issue temporary licenses as provided by rule.~~

(Source: P.A. 96-663, eff. 8-25-09; 97-119, eff. 7-14-11.)

(225 ILCS 105/12) (from Ch. 111, par. 5012)

(Section scheduled to be repealed on January 1, 2022)

Sec. 12. Professional or amateur contests.

(a) The professional or amateur contest, or a combination

of both, shall be held in an area where adequate neurosurgical facilities are immediately available for skilled emergency treatment of an injured professional or amateur.

(b) Each professional or amateur shall be examined before the contest and promptly after each bout by a physician. The physician shall determine, prior to the contest, if each professional or amateur is physically fit to compete in the contest. After the bout the physician shall examine the professional or amateur to determine possible injury. If the professional's or amateur's physical condition so indicates, the physician shall recommend to the Department immediate medical suspension. The physician or a licensed paramedic must check the vital signs of all contestants as established by rule.

(c) The physician may, at any time during the professional or amateur bout, stop the professional or amateur bout to examine a professional or amateur contestant and may direct the referee to terminate the bout when, in the physician's opinion, continuing the bout could result in serious injury to the professional or amateur. If the professional's or amateur's physical condition so indicates, the physician shall recommend to the Department immediate medical suspension. The physician shall certify to the condition of the professional or amateur in writing, over his or her signature on forms prescribed ~~provided~~ by the Department. Such reports shall be submitted to the Department in a timely manner.

(d) No professional or amateur contest, or a combination of both, shall be allowed to begin or be held unless at least one physician, at least one EMT and one paramedic, and one ambulance have been contracted with solely for the care of professionals or amateurs who are competing as defined by rule.

(e) No professional boxing bout shall be more than 12 rounds in length. The rounds shall not be more than 3 minutes each with a minimum one-minute ~~one minute~~ interval between them, and no professional boxer shall be allowed to participate in more than one contest within a 7-day period.

The number and length of rounds for all other professional or amateur boxing or full-contact martial arts contests, or a combination of both, shall be determined by rule.

(f) The number and types of officials required for each professional or amateur contest, or a combination of both, shall be determined by rule.

(g) The Department or its representative shall have discretion to declare a price, remuneration, or purse or any part of it belonging to the professional withheld if in the judgment of the Department or its representative the professional is not honestly competing.

(h) The Department shall have the authority to prevent a professional or amateur contest, or a combination of both, from being held and shall have the authority to stop a professional or amateur contest, or a combination of both, for

noncompliance with any part of this Act or rules or when, in the judgment of the Department, or its representative, continuation of the event would endanger the health, safety, and welfare of the professionals or amateurs or spectators. The Department's authority to stop a contest on the basis that the professional or amateur contest, or a combination of both, would endanger the health, safety, and welfare of the professionals or amateurs or spectators shall extend to any professional or amateur contest, or a combination of both, regardless of whether that amateur contest is exempted from the prohibition in Section 6 of this Act. ~~Department staff, or its representative, may be present at any full-contact martial arts contest with scheduled amateur bouts.~~

(i) A professional shall only compete against another professional. An amateur shall only compete against another amateur.

(Source: P.A. 97-119, eff. 7-14-11; 98-973, eff. 8-15-14.)

(225 ILCS 105/13) (from Ch. 111, par. 5013)

(Section scheduled to be repealed on January 1, 2022)

Sec. 13. Tickets; tax. ~~Tickets to professional or amateur contests, or a combination of both, shall be printed in such form as the Department shall prescribe. A certified inventory of all tickets printed for any professional or amateur contest, or a combination of both, shall be mailed to the Department by the promoter not less than 7 days before the~~

~~contest.~~ The total number of tickets sold ~~printed~~ shall not exceed the total seating capacity of the premises in which the professional or amateur contest, or a combination of both, is to be held. No tickets of admission to any professional or amateur contest, or a combination of both, shall be sold except those declared on an official ticket inventory as described in this Section.

A promoter who conducts a professional contest, an amateur contest, or a combination of both ~~a professional and amateur contest~~ under this Act shall, within 7 business days ~~24 hours~~ after such a contest:

(1) furnish to the Department a written or electronic report verified by the promoter or his or her authorized designee showing the number of tickets sold for such a contest or the actual ticket stubs of tickets sold and the amount of the gross proceeds thereof; and

(2) pay to the Department a tax of 5% of gross receipts from the sale of admission tickets, not to exceed $75,000 ~~$52,500~~, to be collected by the Department and placed in the General Professions Dedicated ~~Athletics Supervision and Regulation~~ Fund~~, a special fund created in the State Treasury to be administered by the Department~~.

Moneys in the General Professions Dedicated ~~Athletics Supervision and Regulation~~ Fund shall be used by the Department, subject to appropriation, for expenses incurred in administering this Act. Moneys in the Fund may be transferred

to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law.

In addition to the payment of any other taxes and money due under this Section, every promoter of a professional or a combination of a professional and amateur contest shall pay to the Department 3% of the first $500,000 and 4% thereafter, which shall not exceed $50,000 ~~$35,000~~ in total from the total gross receipts from the sale, lease, or other exploitation of broadcasting, including, but not limited to, Internet, cable, television, and motion picture rights for that professional contest, amateur contest, ~~or professional and amateur~~ combination of both, ~~contest~~ or exhibition without any deductions for commissions, brokerage fees, distribution fees, advertising, professional contestants' purses, or any other expenses or charges. These fees shall be paid to the Department within 7 business days ~~72 hours~~ after the conclusion of the broadcast of the contest and placed in the General Professions Dedicated ~~Athletics Supervision and Regulation~~ Fund.

(Source: P.A. 97-119, eff. 7-14-11; 97-813, eff. 7-13-12.)

(225 ILCS 105/15) (from Ch. 111, par. 5015)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15. Inspectors. The Secretary may appoint inspectors to assist the Department staff in the administration of the

Act. Each inspector appointed by the Secretary shall receive compensation for each day he or she is engaged in the transacting of business of the Department. ~~Each inspector shall carry a card issued by the Department to authorize him or her to act in such capacity.~~ The inspector or inspectors shall supervise each professional contest, amateur contest, or combination of both and, at the Department's discretion, may supervise any contest to ensure that the provisions of the Act are strictly enforced.

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/16) (from Ch. 111, par. 5016)

(Section scheduled to be repealed on January 1, 2022)

Sec. 16. Discipline and sanctions.

(a) The Department may refuse to issue a permit or~~,~~ license~~,~~ or ~~registration,~~ refuse to renew, suspend, revoke, reprimand, place on probation, or take such other disciplinary or non-disciplinary action as the Department may deem proper, including the imposition of fines not to exceed $10,000 for each violation, with regard to any permit or~~,~~ license~~, or registration~~ for one or any combination of the following reasons:

(1) gambling, betting, or wagering on the result of or a contingency connected with a professional or amateur contest, or a combination of both, or permitting such activity to take place;

(2) participating in or permitting a sham or fake professional or amateur contest, or a combination of both;

(3) holding the professional or amateur contest, or a combination of both, at any other time or place than is stated on the permit application;

(4) permitting any professional or amateur other than those stated on the permit application to participate in a professional or amateur contest, or a combination of both, except as provided in Section 9;

(5) violation or aiding in the violation of any of the provisions of this Act or any rules or regulations promulgated thereto;

(6) violation of any federal, State or local laws of the United States or other jurisdiction governing professional or amateur contests or any regulation promulgated pursuant thereto;

(7) charging a greater rate or rates of admission than is specified on the permit application;

(8) failure to obtain all the necessary permits~~, registrations,~~ or licenses as required under this Act;

(9) failure to file the necessary bond or to pay the gross receipts or broadcast tax as required by this Act;

(10) engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public, or which is detrimental to honestly conducted contests;

(11) employment of fraud, deception or any unlawful means in applying for or securing a permit or license under this Act;

(12) permitting a physician making the physical examination to knowingly certify falsely to the physical condition of a professional or amateur;

(13) permitting professionals or amateurs of widely disparate weights or abilities to engage in professional or amateur contests, respectively;

(14) participating in a ~~professional~~ contest ~~as a professional~~ while under medical suspension in this State or in any other state, territory or country;

(15) physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skills which results in the inability to participate in contests with reasonable judgment, skill, or safety;

(16) allowing one's license or permit issued under this Act to be used by another person;

(17) failing, within a reasonable time, to provide any information requested by the Department as a result of a formal or informal complaint;

(18) professional incompetence;

(19) failure to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of

Revenue, until such time as the requirements of any such tax Act are satisfied;

(20) (blank);

(21) habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in an inability to participate in an event;

(22) failure to stop a professional or amateur contest, or a combination of both, when requested to do so by the Department;

(23) failure of a promoter to adequately supervise and enforce this Act and its rules as applicable to amateur contests, as set forth in rule; or

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

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

(c) In enforcing this Section, the Department, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for

licensure pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physicians or clinical psychologists shall be those specifically designated by the Department. The Department may order the examining physician or clinical psychologist to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician or clinical psychologist. Eye examinations may be provided by a physician licensed to practice medicine in all of its branches or a licensed and certified therapeutic optometrist. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to a mental or physical examination, when directed, shall be grounds for suspension or revocation of a license.

(d) A contestant who tests positive for a banned substance, as defined by rule, shall have his or her license immediately suspended. The license shall be subject to other discipline as authorized in this Section.

(Source: P.A. 96-663, eff. 8-25-09; 97-119, eff. 7-14-11.)

(225 ILCS 105/17) (from Ch. 111, par. 5017)

(Section scheduled to be repealed on January 1, 2022)

Sec. 17. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act. The Department shall not be required to annually verify email addresses as specified in paragraph (2) subsection (a) of Section 10-75 of the Illinois Administrative Procedure Act. For the purposes of this Act the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed to the last known address of record or emailed to the email address of record ~~a party~~.

(Source: P.A. 88-45.)

(225 ILCS 105/17.7)

(Section scheduled to be repealed on January 1, 2022)

Sec. 17.7. Restoration of license from discipline.

(a) At any time after the successful completion of a term of indefinite probation, suspension, or revocation of a license under this Act, the Department may restore the license to the licensee unless, after an investigation and a hearing, the Secretary determines that restoration is not in the public interest.

(b) If circumstances of suspension or revocation so indicate, the Department may require an examination of the licensee prior to restoring his or her license.

(c) No person whose license has been revoked as authorized in this Act may apply for restoration of that license until allowed under the Civil Administrative Code of Illinois.

(d) A license that has been suspended or revoked shall be considered nonrenewed for purposes of restoration under this Section and a licensee restoring his or her license from suspension or revocation must comply with the requirements for renewal as set forth in this Act and its rules.

~~At any time after the successful completion of a term of indefinite probation, suspension, or revocation of a license, the Department may restore the license to the licensee, unless after an investigation and hearing the Secretary determines that restoration is not in the public interest. No person or entity whose license, certificate, or authority has been revoked as authorized in this Act may apply for restoration of that license, certification, or authority until such time as provided for in the Civil Administrative Code of Illinois.~~

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/17.8)

(Section scheduled to be repealed on January 1, 2022)

Sec. 17.8. Surrender of license. Upon the revocation or suspension of a license ~~or registration~~, the licensee shall immediately surrender his or her license to the Department. If the licensee fails to do so, the Department has the right to seize the license.

(Source: P.A. 91-408, eff. 1-1-00; 92-499, eff. 1-1-02.)

(225 ILCS 105/17.9)

(Section scheduled to be repealed on January 1, 2022)

Sec. 17.9. Summary suspension of a license ~~or registration~~. The Secretary may summarily suspend a license ~~or registration~~ without a hearing if the Secretary finds that evidence in the Secretary's possession indicates that the continuation of practice would constitute an imminent danger to the public, participants, including any professional contest officials, or the individual involved or cause harm to the profession. If the Secretary summarily suspends the license without a hearing, a hearing must be commenced within 30 days after the suspension has occurred and concluded as expeditiously as practical.

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/18) (from Ch. 111, par. 5018)

(Section scheduled to be repealed on January 1, 2022)

Sec. 18. Investigations; notice and hearing.

(a) The Department may investigate the actions of any applicant or of any person or entity holding or claiming to hold a license under this Act.

(b) The Department shall, before disciplining an applicant or licensee, at least 30 days prior to the date set for the hearing: (i) notify, in writing, the accused of the charges

made and the time and place for the hearing on the charges; (ii) direct him or her to file a written answer to the charges, under oath, within 20 days after service of the notice; and (iii) inform the applicant or licensee that failure to file an answer will result in a default being entered against the applicant or licensee.

(c) Written or electronic notice, and any notice in the subsequent proceedings, may be served by personal delivery, by email, or by mail to the applicant or licensee at his or her address of record or email address of record.

(d) At the time and place fixed in the notice, the hearing officer appointed by the Secretary shall proceed to hear the charges, and the parties or their counsel shall be accorded ample opportunity to present any statement, testimony, evidence, and argument as may be pertinent to the charges or to their defense. The hearing officer may continue the hearing from time to time.

(e) If the licensee or applicant, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Secretary, be suspended, revoked, or placed on probationary status or be subject to whatever disciplinary action the Secretary considers proper, including limiting the scope, nature, or extent of the person's practice or imposition of a fine, without hearing, if the act or acts charged constitute sufficient grounds for the action under this Act.

~~The Department may investigate the actions of any applicant or of any person or persons promoting or participating in a professional or amateur contest or any person holding or claiming to hold a license. The Department shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under this Act, at least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Department under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her license may be suspended, revoked, or placed on probationary status or that other disciplinary action may be taken with regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Department may consider proper. At the time and place fixed in the notice, the hearing officer shall proceed to hear the charges, and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The hearing officer may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Department, be suspended, revoked, or placed on probationary status or the~~

~~Department may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act. The written notice may be served by personal delivery or by certified mail to the person's address of record.~~

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/19) (from Ch. 111, par. 5019)

(Section scheduled to be repealed on January 1, 2022)

Sec. 19. Hearing; Motion for rehearing ~~Findings and recommendations~~.

(a) The hearing officer appointed by the Secretary shall hear evidence in support of the formal charges and evidence produced by the applicant or licensee. At the conclusion of the hearing, the hearing officer shall present to the Secretary a written report of his or her findings of fact, conclusions of law, and recommendations.

(b) A copy of the hearing officer's report shall be served upon the applicant or licensee, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days after such service, the applicant or licensee may present to the Department a motion, in writing, for a rehearing that shall specify the particular grounds for rehearing. The Department may respond to the motion for

rehearing within 20 calendar days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or upon denial of a motion for rehearing, the Secretary may enter an order in accordance with the recommendations of the hearing officer. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20 calendar day period within which a motion may be filed shall commence upon delivery of the transcript to the applicant or licensee.

(c) If the Secretary disagrees in any regard with the report of the hearing officer, the Secretary may issue an order contrary to the report.

(d) Whenever the Secretary is not satisfied that substantial justice has been done, the Secretary may order a hearing by the same or another hearing officer.

(e) At any point in any investigation or disciplinary proceeding provided for in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

~~At the conclusion of the hearing, the hearing officer shall present to the Secretary a written report of its findings, conclusions of law, and recommendations. The report shall contain a finding of whether the accused person violated this Act or its rules or failed to comply with the conditions~~

~~required in this Act or its rules. The hearing officer shall specify the nature of any violations or failure to comply and shall make its recommendations to the Secretary. In making recommendations for any disciplinary actions, the hearing officer may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused and the potential for future harm to the public including, but not limited to, previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made by the accused, and whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct. In making its recommendations for discipline, the hearing officer shall endeavor to ensure that the severity of the discipline recommended is reasonably related to the severity of the violation.~~

~~The report of findings of fact, conclusions of law, and recommendation of the hearing officer shall be the basis for the Department's order refusing to issue, restore, or renew a license, or otherwise disciplining a licensee. If the Secretary disagrees with the recommendations of the hearing officer, the Secretary may issue an order in contravention of the hearing officer's recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution~~

~~brought for a violation of this Act.~~

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/19.1) (from Ch. 111, par. 5019.1)

(Section scheduled to be repealed on January 1, 2022)

Sec. 19.1. Hearing officer ~~Appointment of a hearing officer~~. Notwithstanding any provision of this Act, the Secretary has the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew a license or discipline a license. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Secretary ~~The Secretary has the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, restore, or renew a license or discipline of a licensee. The hearing officer has full authority to conduct the hearing. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Secretary. If the Secretary determines that the hearing officer's report is contrary to the manifest weight of the evidence, he may issue an order in contravention of the recommendation~~.

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/19.5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 19.5. Order or certified copy; prima facie proof. An order or certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, is prima facie proof that:

(1) the signature is the genuine signature of the Secretary; ~~and~~

(2) the Secretary is duly appointed and qualified; and~~.~~

(3) the hearing officer is qualified to act.

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/20) (from Ch. 111, par. 5020)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20. Record of proceeding ~~Stenographer; transcript~~.

(a) The Department, at its expense, shall provide a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing of any case in which a licensee may be revoked, suspended, placed on probationary status, reprimanded, fined, or subjected to other disciplinary action with reference to the license when a disciplinary action is authorized under this Act and rules. The notice of hearing, complaint, and all other documents in the nature of pleadings and written portions filed in the proceedings, the transcript of the testimony, the report of

the hearing officer, and the orders of the Department shall be the record of the proceedings. The record may be made available to any person interested in the hearing upon payment of the fee required by Section 2105-115 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(b) The Department may contract for court reporting services, and, if it does so, the Department shall provide the name and contact information for the certified shorthand reporter who transcribed the testimony at a hearing to any person interested, who may obtain a copy of the transcript of any proceedings at a hearing upon payment of the fee specified by the certified shorthand reporter.

~~The Department, at its expense, shall provide a stenographer to take down the testimony and preserve a record of all proceedings at the hearing of any case wherein a license or permit is subjected to disciplinary action. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the hearing officer and the orders of the Department shall be the record of the proceedings. The Department shall furnish a transcript of the record to any person interested in the hearing upon payment of the fee required under Section 2105-115 of the Department of Professional Regulation Law (20 ILCS 2105/2105-115).~~

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/21) (from Ch. 111, par. 5021)

(Section scheduled to be repealed on January 1, 2022)

Sec. 21. Injunctive action; cease and desist order.

(a) If a person violates the provisions of this Act, the Secretary ~~Director~~, in the name of the People of the State of Illinois, through the Attorney General or the State's Attorney of the county in which the violation is alleged to have occurred, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days from the date of the rule to file an answer satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to

cease and desist to be issued.

(Source: P.A. 91-408, eff. 1-1-00.)

(225 ILCS 105/22) (from Ch. 111, par. 5022)

(Section scheduled to be repealed on January 1, 2022)

Sec. 22. The expiration date and renewal period for each license issued under this Act shall be set by rule. The holder of a license may renew such license during the month preceding the expiration date thereof by paying the required fee and meeting additional requirements as determined by rule.

(Source: P.A. 82-522.)

(225 ILCS 105/23) (from Ch. 111, par. 5023)

(Section scheduled to be repealed on January 1, 2022)

Sec. 23. Fees.

(a) The fees for the administration and enforcement of this Act including, but not limited to, original licensure, renewal, and restoration shall be set by rule. The fees shall not be refundable. All ~~Beginning July 1, 2003, all~~ of the fees, taxes, and fines collected under this Act shall be deposited into the General Professions Dedicated Fund.

(b) Before January 1, 2023, there shall be no fees for amateur full-contact martial arts events; except that until January 1, 2023, the applicant fees for promoters of amateur events where only amateur bouts are held shall be $300.

(Source: P.A. 92-16, eff. 6-28-01; 92-499, eff. 1-1-02; 93-32,

eff. 7-1-03.)

(225 ILCS 105/23.1) (from Ch. 111, par. 5023.1)

(Section scheduled to be repealed on January 1, 2022)

Sec. 23.1. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary ~~Director~~ may waive the fines due under this Section in individual cases where the Secretary

~~Director~~ finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 92-146, eff. 1-1-02; 92-499, eff. 1-1-02.)

(225 ILCS 105/24) (from Ch. 111, par. 5024)

(Section scheduled to be repealed on January 1, 2022)

Sec. 24. Unlicensed practice; violations; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds himself or herself out as being able to engage in practices requiring a license under this Act without being licensed or exempt under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed $10,000 for each offense, as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provision set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) The Department may investigate any actual, alleged, or suspected unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and executed thereon in the same manner as any judgment from any court of record.

(d) A person or entity not licensed under this Act who has violated any provision of this Act or its rules is guilty of a

Class A misdemeanor for the first offense and a Class 4 felony for a second and subsequent offenses.

~~A person who violates a provision of this Act is guilty of a Class A Misdemeanor. On conviction of a second or subsequent offense the violator shall be guilty of a Class 4 felony.~~

(Source: P.A. 86-615.)

(225 ILCS 105/24.5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 24.5. Confidentiality. All information collected by the Department in the course of an examination or investigation of a licensee~~, registrant,~~ or applicant, including, but not limited to, any complaint against a licensee ~~or registrant~~ filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed. The Department may not disclose such information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee ~~or registrant~~ by the Department or any order issued by the Department against a licensee~~,~~

~~registrant,~~ or applicant shall be a public record, except as otherwise prohibited by law.

(Source: P.A. 97-119, eff. 7-14-11.)

(225 ILCS 105/25.1)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25.1. Medical Suspension.

(a) A licensee ~~or registrant~~ who is determined by the examining physician or Department to be unfit to compete or officiate shall be prohibited from participating in a contest in Illinois and, if actively licensed, shall be medically suspended ~~immediately suspended~~ until it is shown that he or she is fit for further competition or officiating. ~~If the licensee or registrant disagrees with a medical suspension set at the discretion of the ringside physician, he or she may request a hearing to show proof of fitness. The hearing shall be provided at the earliest opportunity after the Department receives a written request from the licensee.~~

(b) If the referee has stopped the bout or rendered a decision of technical knockout against a professional or amateur ~~or if the professional or amateur is knocked out other than by a blow to the head~~, the professional or amateur shall be medically ~~immediately~~ suspended immediately for a period of not less than 30 days.

(c) In a full-contact martial arts contest, if the professional or amateur has tapped out, ~~or~~ has submitted, or

the referee has stopped the bout, ~~shall stop the professional or amateur contest and~~ the ringside physician shall determine the length of suspension.

(d) If the professional or amateur has been knocked unconscious ~~out by a blow to the head~~, he or she shall be medically suspended immediately for a period of not less than 45 days.

(e) A licensee may receive a medical suspension for any injury sustained as a result of a bout that shall not be less than 7 days.

(f) A licensee may receive additional terms and conditions for a medical suspension beyond a prescribed passage of time as authorized under this Section.

(g) If a licensee receives a medical suspension that includes terms and conditions in addition to the prescribed passage of time as authorized under this Section, before the removal of the medical suspension, a licensee shall:

(1) satisfactorily pass a medical examination;

(2) provide those examination results to the Department;

(3) provide any additional requested documentation as directed by the licensee's examining physician or Department where applicable; and

(4) if the licensee's examining physician requires any necessary additional medical procedures during the examination related to the injury that resulted in the

medical suspension, those results shall be provided to the Department.

(h) Any medical suspension imposed as authorized under this Act against a licensee shall be reported to the Department's record keeper as determined by rule.

(i) A medical suspension as authorized under this Section shall not be considered a suspension under Section 16 of this Act. A violation of the terms of a medical suspension authorized under this Section shall subject a licensee to discipline under Section 16 of this Act.

(j) A professional or amateur contestant who has been placed on medical suspension under the laws of another state, the District of Columbia, or a territory of the United States for substantially similar reasons as this Section shall be prohibited from participating in a contest as authorized under this Act until the requirements of subsection (g) of this Section have been met or the medical suspension has been removed by that jurisdiction.

(k) A medical suspension authorized under this Section shall begin the day after the bout a licensee participated in.

~~Prior to reinstatement, any professional or amateur suspended for his or her medical protection shall satisfactorily pass a medical examination upon the direction of the Department. The examining physician may require any necessary medical procedures during the examination.~~

(Source: P.A. 96-663, eff. 8-25-09; 97-119, eff. 7-14-11.)

(225 ILCS 105/0.10 rep.)

(225 ILCS 105/10.1 rep.)

(225 ILCS 105/10.5 rep.)

(225 ILCS 105/11.5 rep.)

(225 ILCS 105/17.11 rep.)

(225 ILCS 105/17.12 rep.)

(225 ILCS 105/19.4 rep.)

Section 30. The Boxing and Full-contact Martial Arts Act is amended by repealing Sections 0.10, 10.1, 10.5, 11.5, 17.11, 17.12, and 19.4.

Section 35. The Registered Interior Designers Act is amended by changing Section 3, 4, 4.5, 6, 7, 11, 14, 20, 23, 29, 30 and by adding Section 3.1 as follows:

(225 ILCS 310/3) (from Ch. 111, par. 8203)

(Section scheduled to be repealed on January 1, 2022)

Sec. 3. Definitions. As used in this Act:

<u>"Address of record" means the designated address recorded by the Department in the applicant's application file or the registrant's registration file as maintained by the Department's licensure maintenance unit.</u>

"Board" means the Board of Registered Interior Design Professionals established under Section 6 of this Act.

"Department" means the Department of Financial and

Professional Regulation.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the registrant's registration file as maintained by the Department's licensure maintenance unit.

"The profession of interior design", within the meaning and intent of this Act, refers to persons qualified by education, experience, and examination, who administer contracts for fabrication, procurement, or installation in the implementation of designs, drawings, and specifications for any interior design project and offer or furnish professional services, such as consultations, studies, drawings, and specifications in connection with the location of lighting fixtures, lamps and specifications of ceiling finishes as shown in reflected ceiling plans, space planning, furnishings, or the fabrication of non-loadbearing structural elements within and surrounding interior spaces of buildings but specifically excluding mechanical and electrical systems, except for specifications of fixtures and their location within interior spaces.

"Public member" means a person who is not an interior designer, educator in the field, architect, structural engineer, or professional engineer. For purposes of board membership, any person with a significant financial interest in the design or construction service or profession is not a public member.

"Registered interior designer" means a person who has received registration under Section 8 of this Act. A person represents himself or herself to be a "registered interior designer" within the meaning of this Act if he or she holds himself or herself out to the public by any title incorporating the words "registered interior designer" or any title that includes the words "registered interior design".

"Secretary" means the Secretary of Financial and Professional Regulation.

(Source: P.A. 100-920, eff. 8-17-18.)

(225 ILCS 310/3.1 new)

Sec. 3.1. Address of record; email address of record. All applicants and registrants shall:

(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for registration or renewal of a registration; and

(2) inform the Department of any change of address of record or email address of record within 14 days after such change either through the Department's website or by contacting the Department's licensure maintenance unit.

(225 ILCS 310/4) (from Ch. 111, par. 8204)

(Section scheduled to be repealed on January 1, 2022)

Sec. 4. Title; application of Act.

(a) No individual shall, without a valid registration as an interior designer issued by the Department, in any manner hold himself or herself out to the public as a registered interior designer or attach the title "registered interior designer" or any other name or designation which would in any way imply that he or she is able to use the title "registered interior designer" as defined in this Act.

(a-5) Nothing in this Act shall be construed as preventing or restricting the services offered or advertised by an interior designer who is registered under this Act.

(b) Nothing in this Act shall prevent the employment, by a registered interior designer association, partnership, or a corporation furnishing interior design services for remuneration, of persons not registered as interior designers to perform services in various capacities as needed, provided that the persons do not represent themselves as, or use the title of, "registered interior designer".

(c) Nothing in this Act shall be construed to limit the activities and use of the title "interior designer" on the part of a person not registered under this Act who is a graduate of an interior design program and a full-time employee of a duly chartered institution of higher education insofar as such person engages in public speaking, with or without remuneration, provided that such person does not represent himself or herself to be a registered interior

designer or use the title "registered interior designer".

(d) Nothing contained in this Act shall restrict any person not registered under this Act from carrying out any of the activities listed in the definition of "the profession of interior design" in Section 3 if such person does not represent himself or herself or his or her services in any manner prohibited by this Act.

(e) Nothing in this Act shall be construed as preventing or restricting the practice, services, or activities of any person licensed in this State under any other law from engaging in the profession or occupation for which he or she is licensed.

(f) Nothing in this Act shall be construed as preventing or restricting the practice, services, or activities of engineers licensed under the Professional Engineering Practice Act of 1989 or the Structural Engineering Practice Act of 1989; architects licensed pursuant to the Illinois Architectural Practice Act of 1989; any interior decorator or individual offering interior decorating services including, but not limited to, the selection of surface materials, window treatments, wall coverings, furniture, accessories, paint, floor coverings, and lighting fixtures; or builders, home furnishings salespersons, and similar purveyors of goods and services relating to homemaking.

(g) Nothing in this Act or any other Act shall prevent a licensed architect from practicing interior design services.

Nothing in this Act shall be construed as requiring the services of a registered interior designer for the interior designing of a single family residence.

(h) Nothing in this Act shall authorize registered interior designers to perform services, including life safety services that they are prohibited from performing, or any practice (i) that is restricted in the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, or the Structural Engineering Practice Act of 1989, or (ii) that they are not authorized to perform under the Environmental Barriers Act.

(i) Nothing in this Act shall authorize registered interior designers to advertise services that they are prohibited to perform, including architecture or engineering services, nor to use the title "architect" in any form.

(Source: P.A. 95-1023, eff. 6-1-09; 96-1334, eff. 7-27-10.)

(225 ILCS 310/4.5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 4.5. Unregistered practice; violation; civil penalty.

(a) Any person who holds himself or herself out to be a registered interior designer without being registered under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed $5,000 for each offense as determined by the Department. The civil penalty shall be assessed by the

Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a registrant ~~licensee~~.

(b) The Department has the authority and power to investigate any illegal use of the title of registered interior designer.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(Source: P.A. 95-1023, eff. 6-1-09; 96-1334, eff. 7-27-10.)

(225 ILCS 310/6) (from Ch. 111, par. 8206)

(Section scheduled to be repealed on January 1, 2022)

Sec. 6. Board of Registered Interior Design Professionals. The Secretary shall appoint a Board of Registered Interior Design Professionals consisting of 5 members who shall serve in an advisory capacity to the Secretary. All members of the Board shall be residents of Illinois. Four members shall (i) hold a valid registration as an interior designer in Illinois and have held the registration under this Act for the preceding 10 years; and (ii) not have been disciplined within the preceding 10 years under this Act. In addition to the 4 registered interior designer members, there shall be one public member. The public member shall be a voting member and

shall not be licensed or registered under this Act or any other design profession licensing Act that the Department administers.

Board members shall serve 5-year terms and until their successors are appointed and qualified. In appointing members to the Board, the Secretary shall give due consideration to recommendations by members and organizations of the interior design profession.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 2 consecutive 5-year terms.

Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the vacated term.

Three members of the Board shall constitute a quorum. A quorum is required for Board decisions.

The Secretary may remove any member of the Board for misconduct, incompetence, or neglect of duty or for reasons prescribed by law for removal of State officials.

The Secretary may remove a member of the Board who does not attend 2 consecutive meetings.

Notice of proposed rulemaking may be transmitted to the Board and the Department may review the response of the Board and any recommendations made therein. The Department may, at

any time, seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act.

Members of the Board are not liable for damages in any action or proceeding as a result of activities performed as members of the Board, except upon proof of actual malice.

Members of the Board shall be reimbursed for all legitimate, necessary, and authorized expenses.

~~There is created a Board of Registered Interior Design Professionals to be composed of persons designated from time to time by the Director, as follows:~~

~~(a) For the first year, 5 persons, 4 of whom have been interior designers for a period of 5 years or more who would qualify upon application to the Department under this Act to be registered interior designers, and one public member. After the initial appointments, each interior design member shall hold a valid registration as a registered interior designer. The Board shall annually elect a chairman.~~

~~(b) Terms for all members shall be 3 years. For initial appointments, one member shall be appointed to serve for one year, 2 shall be appointed to serve for 2 years, and the remaining shall be appointed to serve for 3 years and until their successors are appointed and qualified. Initial terms shall begin on the effective date of this Act. Partial terms over 2 years in length shall be~~

~~considered as full terms. A member may be reappointed for a successive term, but no member shall serve more than 2 full terms.~~

~~(c) The membership of the Board should reasonably reflect representation from the various geographic areas of the State.~~

~~(d) In making appointments to the Board, the Director shall give due consideration to recommendations by national and state organizations of the interior design profession and shall promptly give due notice to such organizations of any vacancy in the membership of the Board. The Director may terminate the appointment of any member for any cause, which in the opinion of the Director, reasonably justifies such termination.~~

~~(e) Three members shall constitute a quorum. A quorum is required for all Board decisions.~~

~~(f) The members of the Board shall each receive as compensation a reasonable sum as determined by the Director for each day actually engaged in the duties of the office, and all legitimate and necessary expenses incurred in attending the meeting of the Board.~~

~~(g) Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.~~

(Source: P.A. 95-1023, eff. 6-1-09; 96-1334, eff. 7-27-10.)

(225 ILCS 310/7) (from Ch. 111, par. 8207)

(Section scheduled to be repealed on January 1, 2022)

Sec. 7. Board recommendations. The Secretary ~~Director~~ shall consider the recommendations of the Board in establishing guidelines for professional conduct, for the conduct of formal disciplinary proceedings brought under this Act, and for establishing guidelines for qualifications of applicants. Notice of proposed rulemaking may ~~shall~~ be transmitted to the Board and the Department shall review the response of the Board and any recommendations made in their response. The Department, at any time, may seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act.

(Source: P.A. 86-1404.)

(225 ILCS 310/11) (from Ch. 111, par. 8211)

(Section scheduled to be repealed on January 1, 2022)

Sec. 11. Fees. The Department shall provide by rule for a schedule of fees for the administration and enforcement of this Act, including but not limited to original registration ~~licensure~~, renewal, and restoration. The fees shall be nonrefundable.

All fees collected under this Act shall be deposited into the General Professions Dedicated Fund and shall be appropriated to the Department for the ordinary and contingent

expenses of the Department in the administration of this Act.
(Source: P.A. 91-454, eff. 1-1-00.)

(225 ILCS 310/14) (from Ch. 111, par. 8214)
(Section scheduled to be repealed on January 1, 2022)

Sec. 14. Investigations; Notice of hearing. Upon the motion of either the Department or the Board, or upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for refusal, suspension, or revocation of registration under this Act, the Board shall investigate the actions of any person, hereinafter called the "registrant", who holds or represents that he holds a certificate of registration. All such motions or complaints shall be brought to the Board.

The Director shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Director may deem proper with regard to any registration, at least 30 days prior to the date set for the hearing, notify the registrant in writing of any charges made and the time and place for a hearing on the charges before the Board. The Board shall also direct the registrant to file his written answer to the charges with the Board under oath within 20 days after the service on him of such notice, and inform him that if he fails to file such answer, his certificate of registration may be suspended, revoked, placed on probationary status or other disciplinary action may be taken with regard

thereto, as the Director may deem proper.

The written notice and any notice in such proceeding may be served by delivery personally to the registrant, by email, or by registered or certified mail to the address specified by the registrant in his last notification to the Director.

The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue or renew a registration, or discipline of a registrant. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board, and the orders of the Department shall be the record of such proceedings.

(Source: P.A. 86-1404.)

(225 ILCS 310/20) (from Ch. 111, par. 8220)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20. Restoration. At any time after suspension, revocation, placement on probationary status, or the taking of any other disciplinary action with regard to any registration, the Department may restore the certificate of registration, or take any other action to reinstate the registration to good standing, without further examination~~, upon the written recommendation of the Board~~.

(Source: P.A. 86-1404.)

(225 ILCS 310/23) (from Ch. 111, par. 8223)

(Section scheduled to be repealed on January 1, 2022)

Sec. 23. Confidentiality. ~~Confidential information; Disclosure.~~ All information collected by the Department in the course of an examination or investigation of a registrant or applicant, including, but not limited to, any complaint against a registrant filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and may not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency may not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed by the Department against a registrant or applicant is a public record, except as otherwise prohibited by law. ~~In hearings conducted under this Act, information presented into evidence that was acquired by an interior designer in serving any individual in a professional capacity, and necessary to professionally serve such individual, shall be deemed strictly confidential and shall only be made available either as part of the record of a hearing hereunder or otherwise:~~

~~(a) when the record is required, in its entirety, for~~

~~purposes of judicial review;~~

~~(b) upon the express written consent of the individual served, or in the case of his or her death or disability, the consent of his or her personal representative.~~

(Source: P.A. 86-1404.)

(225 ILCS 310/29) (from Ch. 111, par. 8229)

(Section scheduled to be repealed on January 1, 2022)

Sec. 29. Illinois Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the registrant has the right to show compliance with all lawful requirements for retention, continuation, or renewal of the registration is specifically excluded. For the purposes of this Act, the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed <u>or emailed</u> to the last known address of a party.

(Source: P.A. 91-357, eff. 7-29-99.)

(225 ILCS 310/30) (from Ch. 111, par. 8230)

(Section scheduled to be repealed on January 1, 2022)

Sec. 30. <u>Fund; appropriations; investments; audits</u> ~~Interior Design Administration and Investigation Fund~~. All of

the fees collected pursuant to this Act shall be deposited into the General Professions Dedicated Fund.

~~On January 1, 2000 the State Comptroller shall transfer the balance of the monies in the Interior Design Administration and Investigation Fund into the General Professions Dedicated Fund. Amounts appropriated for fiscal year 2000 out of the Interior Design Administration and Investigation Fund may be paid out of the General Professions Dedicated Fund.~~

The moneys ~~monies~~ deposited in the General Professions Dedicated Fund may be used for the expenses of the Department in the administration of this Act.

Moneys from the Fund may also be used for direct and allocable indirect costs related to the public purposes of the Department of Professional Regulation. Moneys in the Fund may be transferred to the Professions Indirect Cost Fund as authorized by Section 2105-300 of the Department of Professional Regulation Law ~~(20 ILCS 2105/2105-300)~~.

Upon the completion of any audit of the Department as prescribed by the Illinois State Auditing Act that includes an audit of the General Professions Dedicated Fund ~~Interior Design Administration and Investigation Fund~~, the Department shall make the audit open to inspection by any interested person. The copy of the audit report required to be submitted to the Department by this Section is in addition to copies of audit reports required to be submitted to other State officers

and agencies by Section 3-14 of the Illinois State Auditing Act.

(Source: P.A. 91-239, eff. 1-1-00; 91-454, eff. 1-1-00; 92-16, eff. 6-28-01.)

Section 40. The Cemetery Oversight Act is amended by changing Sections 5-15, 5-20, 5-25, 10-20, 10-21, 10-25, 10-40, 10-55, 20-10, 25-3, 25-5, 25-10, 25-15, 25-25, 25-30, 25-35, 25-90, 25-95, 25-105, 25-115, 35-5, 35-15, and 75-45 and by adding Sections 5-16, 5-26, and 25-26 as follows:

(225 ILCS 411/5-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-15. Definitions. In this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file. ~~It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days either through the Department's website or by contacting the Department's licensure maintenance unit.~~ The address of record for a cemetery authority shall be the permanent street address of the cemetery.

"Applicant" means a person applying for licensure under this Act as a cemetery authority, cemetery manager, or customer service employee. Any applicant or any person who holds himself or herself out as an applicant is considered a

licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Burial permit" means a permit provided by a licensed funeral director for the disposition of a dead human body.

"Care" means the maintenance of a cemetery and of the lots, graves, crypts, niches, family mausoleums, memorials, and markers therein, including: (i) the cutting and trimming of lawn, shrubs, and trees at reasonable intervals; (ii) keeping in repair the drains, water lines, roads, buildings, fences, and other structures, in keeping with a well-maintained cemetery as provided for in Section 20-5 of this Act and otherwise as required by rule; (iii) maintenance of machinery, tools, and equipment for such care; (iv) compensation of cemetery workers, any discretionary payment of insurance premiums, and any reasonable payments for workers' pension and other benefits plans; and (v) the payment of expenses necessary for such purposes and for maintaining necessary records of lot ownership, transfers, and burials.

"Cemetery" means any land or structure in this State dedicated to and used, or intended to be used, for the interment, inurnment, or entombment of human remains.

"Cemetery authority" means any individual or legal entity that owns or controls cemetery lands or property.

"Cemetery manager" means an individual directly responsible or holding himself or herself directly responsible for the operation, maintenance, development, or improvement of

a cemetery that is ~~or shall be~~ licensed under this Act or shall be licensed pursuant to Section 10-39 of this Act, irrespective of whether the individual is paid by the licensed cemetery authority or a third party. ~~This definition does not include a volunteer who receives no compensation, either directly or indirectly, for his or her work as a cemetery manager.~~

"Cemetery merchandise" means items of personal property normally sold by a cemetery authority not covered under the Illinois Funeral or Burial Funds Act, including, but not limited to: (1) memorials, (2) markers, (3) monuments, (4) foundations and installations, and (5) outer burial containers.

"Cemetery operation" means to engage in any or all of the following, whether on behalf of, or in the absence of, a cemetery authority: (i) the interment, entombment, or inurnment of human remains, (ii) the sale of interment, entombment, or inurnment rights, cemetery merchandise, or cemetery services, (iii) the maintenance of interment rights ownership records, (iv) the maintenance of or reporting of interment, entombment, or inurnment records, (v) the maintenance of cemetery property, (vi) the development or improvement of cemetery grounds, or (vii) the maintenance and execution of business documents, including State and federal government reporting and the payment of taxes, for a cemetery business entity.

"Cemetery Oversight Database" means a database certified by the Department as effective in tracking the interment, entombment, or inurnment of human remains.

"Cemetery services" means those services customarily performed by cemetery personnel in connection with the interment, entombment, or inurnment of a dead human body.

"Certificate of organization" means the document received by a cemetery association from the Secretary of State that indicates that the cemetery association shall be deemed fully organized as a body corporate under the name adopted and in its corporate name may sue and be sued.

"Comptroller" means the Comptroller of the State of Illinois.

"Confidential information" means unique identifiers, including a person's Social Security number, home address, home phone number, personal phone number, personal email address, personal financial information, and any other information protected by law.

"Consumer" means an individual who purchases or who is considering purchasing cemetery, burial, or cremation products or services from a cemetery authority, whether for themselves or for another person.

"Customer service employee" means an individual who has direct contact with consumers to explain cemetery merchandise, services, and interment rights and to execute the sale of those items to consumers, whether at the cemetery or an

off-site location, irrespective of whether compensation is paid by the cemetery authority or a third party. ~~This definition does not include a volunteer who receives no compensation, either directly or indirectly, for his or her work as a customer service employee.~~

"Department" means the Department of Financial and Professional Regulation.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file as maintained by the Department's licensure maintenance unit.

"Employee" means an individual who works for a cemetery authority where the cemetery authority has the right to control what work is performed and the details of how the work is performed regardless of whether federal or State payroll taxes are withheld.

"Entombment right" means the right to place individual human remains or individual cremated human remains in a specific mausoleum crypt or lawn crypt selected by a consumer for use as a final resting place.

"Family burying ground" means a cemetery in which no lots, crypts, or niches are sold to the public and in which interments, inurnments, and entombments are restricted to the immediate family or a group of individuals related to each other by blood or marriage.

"Full exemption" means an exemption granted to a cemetery

authority pursuant to subsection (a) of Section 5-20.

"Funeral director" means a funeral director as defined by the Funeral Directors and Embalmers Licensing Code.

"Grave" means a space of ground in a cemetery used or intended to be used for burial.

"Green burial or cremation disposition" means burial or cremation practices that reduce the greenhouse gas emissions, waste, and toxic chemicals ordinarily created in burial or cremation or, in the case of greenhouse gas emissions, mitigate or offset emissions. Such practices include any standards or method for burial or cremation that the Department may name by rule.

"Immediate family" means the designated agent of a person or the persons given priority for the disposition of a person's remains under the Disposition of Remains Act and shall include a person's spouse, parents, grandparents, children, grandchildren and siblings.

"Individual" means a natural person.

"Interment right" means the right to place individual human remains or cremated human remains in a specific underground location selected by a consumer for use as a final resting place.

"Inurnment right" means the right to place individual cremated human remains in a specific niche selected by the consumer for use as a final resting place.

"Lawn crypt" means a permanent underground crypt installed

in multiple units for the entombment of human remains.

"Licensee" means a person licensed under this Act as a cemetery authority, cemetery manager, or customer service employee. Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Mausoleum crypt" means a grouping of spaces constructed of reinforced concrete or similar material constructed or assembled above the ground for entombing remains.

"Niche" means a space in a columbarium or mausoleum used, or intended to be used, for inurnment of cremated human remains.

"Partial exemption" means an exemption granted to a cemetery authority pursuant to subsection (b) of Section 5-20.

"Parcel identification number" means a unique number assigned by the Cemetery Oversight Database to a grave, plot, crypt, or niche that enables the Department to ascertain the precise location of a decedent's remains interred, entombed, or inurned after the effective date of this Act.

"Person" means any individual, firm, partnership, association, corporation, limited liability company, trustee, government or political subdivision, or other entity.

"Public cemetery" means a cemetery owned, operated, controlled, or managed by the federal government, by any

state, county, city, village, incorporated town, township, multi-township, public cemetery district, or other municipal corporation, political subdivision, or instrumentality thereof authorized by law to own, operate, or manage a cemetery.

"Religious burying ground" means a cemetery in which no lots, crypts, or niches are sold and in which interments, inurnments, and entombments are restricted to a group of individuals all belonging to a religious order or granted burial rights by special consideration of the religious order.

"Religious cemetery" means a cemetery owned, operated, controlled, and managed by any recognized church, religious society, association, or denomination, or by any cemetery authority or any corporation administering, or through which is administered, the temporalities of any recognized church, religious society, association, or denomination.

"Secretary" means the Secretary of Financial and Professional Regulation <u>or a person authorized by the Secretary to act in the Secretary's stead</u>.

"Term burial" means a right of interment sold to a consumer in which the cemetery authority retains the right to disinter and relocate the remains, subject to the provisions of subsection (d) of Section 35-15 of this Act.

"Trustee" means any person authorized to hold funds under this Act.

"Unique personal identifier" means the parcel identification number in addition to the term of burial in

years; the numbered level or depth in the grave, plot, crypt, or niche; and the year of death for human remains interred, entombed, or inurned after the effective date of this Act. The unique personal identifier is assigned by the Cemetery Oversight Database.

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/5-16 new)

Sec. 5-16. Address of record; email address of record. All applicants and licensees shall:

(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for licensure or renewal of a license; and

(2) inform the Department of any change of address of record or email address of record within 14 days after such change either through the Department's website or by contacting the Department's licensure maintenance unit.

(225 ILCS 411/5-20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-20. Exemptions.

(a) Full exemption. Except as provided in this subsection, this Act does not apply to (1) any cemetery authority operating as a family burying ground or religious burying ground, (2) any cemetery authority that has not engaged in an

interment, inurnment, or entombment of human remains within the last 10 years, or (3) any cemetery authority that is less than 3 acres. For purposes of determining the applicability of this subsection, the number of interments, inurnments, and entombments shall be aggregated for each calendar year. A cemetery authority claiming a full exemption shall apply for exempt status as provided for in Section 10-20 of this Act. A cemetery authority claiming a full exemption shall be subject to Sections 10-40, 10-55, and 10-60 of this Act. A cemetery authority that performs activities that would disqualify it from a full exemption is required to apply for licensure within one year following the date on which its activities would disqualify it for a full exemption. A cemetery authority that previously qualified for and maintained a full exemption that fails to timely apply for licensure shall be deemed to have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(b) Partial exemption. If a cemetery authority does not qualify for a full exemption and (1) engages in 25 or fewer interments, inurnments, or entombments of human remains for each of the preceding 2 calendar years, (2) operates as a public cemetery, or (3) operates as a religious cemetery, then the cemetery authority is partially exempt from this Act but shall be required to comply with Sections 10-23, 10-40, 10-55, 10-60, subsections (a), (b), (b-5), (c), (d), <u>(f), (g),</u> and (h) of Section 20-5, Sections 20-6, 20-8, 20-10, 20-12, 20-30,

20-35, 20-40, 25-3, and 25-120, and Article 35 of this Act. Cemetery authorities claiming a partial exemption shall apply for the partial exemption as provided in Section 10-20 of this Act. A cemetery authority that changes to a status that would disqualify it from a partial exemption is required to apply for licensure within one year following the date on which it changes its status. A cemetery authority that maintains a partial exemption that fails to timely apply for licensure shall be deemed to have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(c) Nothing in this Act applies to the City of Chicago in its exercise of its powers under the O'Hare Modernization Act or limits the authority of the City of Chicago to acquire property or otherwise exercise its powers under the O'Hare Modernization Act, or requires the City of Chicago, or any person acting on behalf of the City of Chicago, to comply with the licensing, regulation, or investigation~~, or mediation~~ requirements of this Act in exercising its powers under the O'Hare Modernization Act.

(d) A cemetery manager and customer service employee license may be in active status only during the period that such a licensee is employed by a cemetery authority that is licensed under this Act. In the event that a cemetery manager or customer service employee commences work for a cemetery granted an exemption under this Section, it shall be a duty of

both the cemetery authority and the individual licensee to immediately notify the Department so that the license may be placed on inactive status. During the period that a license is in inactive status, the involved person may not hold himself or herself out as licensed. Upon returning to employment by a cemetery licensed under this Act, such a cemetery manager or customer service employee may reinstate the license to active status simply by notifying the Department and paying the applicable fee.

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/5-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-25. Powers and duties of the Department. The Department shall, subject ~~Subject~~ to the provisions of this Act, ~~the Department may~~ exercise the following functions, powers, and duties:

(1) Authorize certification programs to ascertain the qualifications and fitness of applicants for licensing as a licensed cemetery manager or as a customer service employee to ascertain whether they possess the requisite level of knowledge for such position.

(2) Examine a licensed cemetery authority's records from any year or any other aspects of cemetery operation as the Department deems appropriate.

(3) Investigate any and all cemetery operations.

(4) Conduct hearings on proceedings to refuse to issue, ~~or~~ renew, or restore licenses or to revoke, suspend, place on probation, or reprimand~~, or otherwise discipline~~ a licensee ~~license~~ under this Act ~~or take other non-disciplinary action~~.

(5) Adopt ~~reasonable~~ rules required for the administration of this Act.

(6) Prescribe forms to be issued for the administration and enforcement of this Act.

(7) (Blank). ~~Maintain rosters of the names and addresses of all licensees and all persons whose licenses have been suspended, revoked, denied renewal, or otherwise disciplined within the previous calendar year. These rosters shall be available upon written request and payment of the required fee as established by rule.~~

(8) Work with the Office of the Comptroller and the Department of Public Health, Division of Vital Records to exchange information and request additional information relating to a licensed cemetery authority.

(9) Investigate cemetery contracts, grounds, or employee records.

(10) Issue licenses to those who meet the requirements of this Act.

(11) Conduct investigations related to possible violations of this Act.

If the Department exercises its authority to conduct

investigations under this Section, the Department shall provide the cemetery authority with information sufficient to challenge the allegation. If the complainant consents, then the Department shall provide the cemetery authority with the identity of and contact information for the complainant so as to allow the cemetery authority and the complainant to resolve the complaint directly. Except as otherwise provided in this Act, any complaint received by the Department and any information collected to investigate the complaint shall be maintained by the Department for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials or other regulatory agencies or persons that have an appropriate regulatory interest, as determined by the Secretary, or to a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, state, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.

(Source: P.A. 99-78, eff. 7-20-15.)

(225 ILCS 411/5-26 new)

<u>Sec. 5-26. Confidentiality. All information collected by</u>

the Department in the course of an examination or investigation of a licensee or applicant, including, but not limited to, any complaint against a licensee filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.

(225 ILCS 411/10-20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-20. Application for original license or exemption.

(a) Applications for original licensure as a cemetery authority, cemetery manager, or customer service employee authorized by this Act, or application for exemption from licensure as a cemetery authority, shall be made to the Department in writing on forms or electronically as prescribed

by the Department, ~~which shall include the applicant's Social Security number or FEIN number, or both,~~ and shall be accompanied by the required fee that shall not be refundable. ~~as set by Section 10-55 of this Act and further refined by rule. Applications for partial or full exemption from licensure as a cemetery authority shall be submitted to the Department within 6 months after the Department adopts rules under this Act. If the person fails to submit the application for partial or full exemption within this period, the person shall be subject to discipline in accordance with Article 25 of this Act. The process for renewing a full or partial exemption shall be set by rule.~~ If a cemetery authority seeks to practice at more than one location, it shall meet all licensure requirements at each location as required by this Act and by rule, including submission of an application and fee. All applications shall contain information that, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant for a license under this Act.

(b) (Blank).

(c) After initial licensure, if any person comes to obtain at least 51% of the ownership over the licensed cemetery authority, then the cemetery authority shall have to apply for a new license and receive licensure in the required time as set by rule. The current license remains in effect until the Department takes action on the application for a new license.

(d) (Blank). ~~All applications shall contain the information that, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant for an exemption from licensure or for a license to practice as a cemetery authority, cemetery manager, or customer service employee as set by rule.~~

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/10-21)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-21. Qualifications for licensure.

(a) ~~A cemetery authority shall apply for licensure on forms prescribed by the Department and pay the required fee.~~ An applicant is qualified for licensure as a cemetery authority if the applicant meets all of the following qualifications:

(1) The applicant has not committed any act or offense in any jurisdiction that would constitute the basis for discipline under this Act. When considering such license, the Department shall take into consideration the following:

(A) the applicant's record of compliance with the Code of Professional Conduct and Ethics, and whether the applicant has been found to have engaged in any unethical or dishonest practices in the cemetery business;

(B) whether the applicant has been adjudicated, civilly or criminally, to have committed fraud or to have violated any law of any state involving unfair trade or business practices, has been convicted of a misdemeanor of which fraud is an essential element or which involves any aspect of the cemetery business, or has been convicted of any felony;

(C) whether the applicant has willfully violated any provision of this Act or a predecessor law or any regulations relating thereto;

(D) whether the applicant has been permanently or temporarily suspended, enjoined, or barred by any court of competent jurisdiction in any state from engaging in or continuing any conduct or practice involving any aspect of the cemetery or funeral business; and

(E) whether the applicant has ever had any license to practice any profession or occupation suspended, denied, fined, or otherwise acted against or disciplined by the applicable licensing authority.

If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then the Department shall determine whether each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock has met the requirements of this item (1) of subsection (a) of this Section.

(2) The applicant must provide a statement of its assets and liabilities to the Department.

(3) The applicant has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction <u>that is directly related to the practice of cemetery operations</u>. If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction <u>that is directly related to the practice of cemetery operations</u>.

(4) The applicant shall authorize the Department to conduct a criminal background check that does not involve fingerprinting.

(5) In the case of a person or entity applying for renewal of his, her, or its license, the applicant has complied with all other requirements of this Act and the rules adopted for the implementation of this Act.

(b) ~~The cemetery manager and customer service employees of a licensed cemetery authority shall apply for licensure as a cemetery manager or customer service employee on forms prescribed by the Department and pay the required fee.~~ A person is qualified for licensure as a cemetery manager or customer service employee if he or she meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Has acted in an ethical manner as set forth in Section 10-23 of this Act. In determining qualifications of licensure, the Department shall take into consideration the factors outlined in item (1) of subsection (a) of this Section.

(3) Submits proof of successful completion of a high school education or its equivalent as established by rule.

(4) The applicant shall authorize the Department to conduct a criminal background check that does not involve fingerprinting.

(5) Has not committed a violation of this Act or any rules adopted under this Act that, in the opinion of the Department, renders the applicant unqualified to be a cemetery manager.

(6) Submits proof of successful completion of a certification course recognized by the Department for a cemetery manager or customer service employee, whichever the case may be.

(7) Has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction that is directly related to the practice of cemetery operations.

(8) (Blank).

(9) In the case of a person applying for renewal of his or her license, has complied with all other requirements of this Act and the rules adopted for implementation of this Act.

(c) Each applicant for a cemetery authority, cemetery manager, or customer service employee license shall authorize the Department to conduct a criminal background check that does not involve fingerprinting. The Department must, in turn, conduct the criminal background check on each applicant. The Department shall adopt rules to implement this subsection (c), but in no event shall the Department impose a fee upon the applicant for the background check.

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/10-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-25. Certification.

(a) The Department shall authorize certification programs

for cemetery manager and customer service employee applicants. The certification programs must consist of education and training in cemetery ethics, cemetery law, and cemetery practices. Cemetery ethics shall include, without limitation, the Code of Professional Conduct and Ethics as set forth in Section 10-23 of this Act. Cemetery law shall include, without limitation, the Cemetery Oversight Act, the Cemetery Care Act, the Disposition of Remains Act, and the Cemetery Protection Act. Cemetery practices shall include, without limitation, treating the dead and their family members with dignity and respect. The certification program shall include an examination administered by the entity providing the certification.

(a-5) An entity seeking to offer a certification program to cemetery manager applicants and customer service employee applicants must receive approval of its program from the Department in a manner and form prescribed by the Department by rule. As part of this process, the entity must submit to the Department the examination it offers or intends to offer as part of its certification program.

(a-10) A cemetery manager applicant or customer service employee applicant may choose any entity that has been approved by the Department from which to obtain certification.

(b) Cemetery manager applicants and customer service employee applicants shall pay the fee for the certification program directly to the entity offering the program.

(c) If the cemetery manager applicant or customer service employee applicant neglects, fails, or refuses to become certified within one year after filing an application, then the application shall be denied. However, the applicant may thereafter submit a new application accompanied by the required fee. The applicant shall meet the requirements in force at the time of making the new application.

(d) A cemetery manager applicant or customer service employee applicant who has completed a certification program offered by an entity that has not received the Department's approval as required by this Section has not met the qualifications for licensure as set forth in Section 10-21 of this Act.

(e) The Department may approve ~~shall recognize~~ any certification program that is conducted by a death care trade association in Illinois that has been in existence for more than 5 years that, in the determination of the Department, provides adequate education and training in cemetery law, cemetery ethics, and cemetery practices and administers an examination covering the same.

(f) The Department may, without a hearing, summarily withdraw its approval of a certification program that, in the judgment of the Department, fails to meet the requirements of this Act or the rules adopted under this Act. A certification program that has had its approval withdrawn by the Department may reapply for approval, but shall provide such additional

information as may be required by the Department, including, but not limited to, evidence to the Department's satisfaction that the program is in compliance with this Act and the rules adopted under this Act.

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/10-40)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-40. Renewal, reinstatement, or restoration of license ~~Expiration and renewal of license~~.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule. The holder of a license may renew such license during the month preceding the expiration date thereof by paying the required fee.

(b) A licensee under this Act who has permitted his or her license to expire or has had his or her license placed on inactive status may have his or her license restored by making application to the Department and filing proof acceptable to the Department of his or her fitness of having his or her license restored, including, but not limited to, sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department, and by paying the required fee as determined by rule. ~~Every cemetery authority, cemetery manager, and customer service employee license shall expire every 2 years. Every registration as a fully exempt cemetery authority or partially exempt cemetery authority shall expire~~

~~every 4 years. The expiration date, renewal period, and other requirements for each license and registration shall be further refined by rule.~~

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/10-55)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-55. Fees.

(a) Except as provided in this Section, the fees for the administration and enforcement of this Act shall be set by the Department by rule. The fees ~~shall be reasonable and~~ shall not be refundable.

(b) Cemetery manager applicants and customer service employee applicants shall pay any certification program or continuing education program fee directly to the entity offering the program.

(c) The Department may waive fees based upon hardship.

(d) Nothing shall prohibit a cemetery authority from paying, on behalf of its cemetery managers or customer service employees, their application, renewal, or restoration fees.

(e) All fees and other moneys collected under this Act shall be deposited in the Cemetery Oversight Licensing and Disciplinary Fund.

(f) The fee for application as a cemetery authority seeking a full exemption is $0.

(g) The fee to renew registration as a fully exempt

cemetery authority is $0. ~~As provided in Section 10-40 of this Act and as further refined by rule, each registration as a fully exempt cemetery authority shall expire every 4 years.~~

(h) The fee for application as a cemetery authority seeking a partial exemption is $150.

(i) The fee to renew registration as a partially exempt cemetery authority is $150. ~~As provided in Section 10-40 of this Act and as further refined by rule, each registration as a partially exempt cemetery authority shall expire every 4 years.~~

(j) The fee for original licensure, renewal, and restoration as a cemetery authority not seeking a full or partial exemption is $75. ~~As provided in Section 10-40 of this Act and as further refined by rule, each cemetery authority license shall expire every 2 years.~~

(k) The fee for original licensure, renewal, and restoration as a cemetery manager is $25. ~~As provided in Section 10-40 of this Act and as further refined by rule, each cemetery manager license shall expire every 2 years.~~

(l) The fee for original licensure, renewal, and restoration as a customer service employee is $25. ~~As provided in Section 10-40 of this Act and as further refined by rule, each customer service employee license shall expire every 2 years.~~

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/20-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20-10. Contract. At the time cemetery arrangements are made and prior to rendering the cemetery services, a cemetery authority shall create a completed written contract to be provided to the consumer, signed by both parties by their actual written signatures on either paper or electronic form, that shall contain: (i) the date on which the arrangements were made; (ii) the price of the service selected and the services and merchandise included for that price; (iii) the supplemental items of service and merchandise requested and the price of each item; (iv) the terms or method of payment agreed upon; and (v) a statement as to any monetary advances made on behalf of the family. The cemetery authority shall maintain a copy of such written contract in its permanent records.

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/25-3)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-3. Exemption~~, investigation, mediation~~. All cemetery authorities maintaining a partial exemption must submit to the following investigation ~~and mediation~~ procedure by the Department in the event of a consumer complaint:

(a) Complaints to cemetery:

(1) the cemetery authority shall make every effort

to first resolve a consumer complaint; and

(2) if the complaint is not resolved, then the cemetery authority shall advise the consumer of his or her right to file a complaint with ~~seek investigation and mediation by~~ the Department.

(b) Complaints to the Department:

(1) if the Department receives a complaint, the Department shall make an initial determination as to whether the complaint has a reasonable basis and pertains to this Act;

(2) if the Department determines that the complaint has a reasonable basis and pertains to this Act, it shall inform the cemetery authority of the complaint and give it 30 days to tender a response;

(3) upon receiving the cemetery authority's response, or after the 30 days provided in subsection (2) of this subsection, whichever comes first, the Department shall attempt to resolve the complaint telephonically with the parties involved;

(4) if the complaint still is not resolved, then the Department shall conduct an investigation ~~and mediate the complaint~~ as provided for by rule;

(5) if the Department conducts an on-site investigation ~~and face-to-face mediation~~ with the parties, then it may charge the cemetery authority a single investigation ~~and mediation~~ fee, which fee

shall be set by rule and shall be calculated on an hourly basis; and

(6) if all attempts to resolve the consumer complaint as provided for in paragraphs (1) through (5) fail, then the cemetery authority may be subject to proceedings for penalties and discipline under this Article when it is determined by the Department that the cemetery authority may have engaged in any of the following: (i) gross malpractice; (ii) dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public; (iii) gross, willful, or continued overcharging for services; (iv) incompetence; (v) unjustified failure to honor its contracts; or (vi) failure to adequately maintain its premises. The Department may issue a citation or institute disciplinary action and cause the matter to be prosecuted and may thereafter issue and enforce its final order as provided in this Act.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-5. Citations.

(a) The Department may adopt rules to permit the issuance of citations for non-frivolous complaints. The citation shall be issued to the licensee and shall contain the licensee's

name and address, the licensee's license number, a brief factual statement, the Sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to request a hearing. If the licensee does not dispute the matter in the citation with the Department within 30 days after the citation is served, then the citation shall become a final order and shall constitute discipline. The penalty shall be a fine or other conditions as established by rule.

(b) The Department shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare. Citations shall not be utilized if there was any significant consumer harm resulting from the violation.

(c) A citation must be issued within 6 months after the reporting of a violation that is the basis for the citation.

(d) Service of a citation may be made by personal service, regular mail, or email ~~or certified mail~~ to the licensee at the licensee's address of record.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-10. Grounds for disciplinary action.

(a) The Department may refuse to issue or renew a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including ~~imposing~~ fines not to exceed $10,000 ~~$8,000~~ for each violation, with regard to any license under this Act, for any one or combination of the following:

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

(2) Violations of this Act, except for Section 20-8~~, or of the rules adopted under this Act~~.

(3) Conviction of or entry of a plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation under the law of any jurisdiction of the United States that is (i) a Class X felony or (ii) a felony, an essential element of which is fraud or dishonesty that is directly related to the practice of cemetery operations. ~~Conviction of, or entry of a plea of guilty or nolo contendere to, any crime within the last 10 years that is a Class X felony or higher or is a felony involving fraud and dishonesty under the laws of the United States or any state or territory thereof.~~

(4) Fraud or any misrepresentation in applying for or

procuring a license under this Act or in connection with applying for renewal. ~~Making any misrepresentation for the purpose of obtaining licensure or violating any provision of this Act or the rules adopted under this Act.~~

(5) Incompetence or misconduct in the practice of cemetery operations. ~~Professional incompetence.~~

(6) Gross malpractice.

(7) Aiding or assisting another person in violating any provision of this Act or rules adopted under this Act.

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

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

(10) Habitual or excessive use or abuse of drugs defined in law as controlled substances, alcohol, narcotics, stimulants, or any other substances that results in the inability to practice pursuant to the provisions of this Act with reasonable judgment, skill, or safety while acting under the provisions of this Act. ~~Inability to practice with reasonable judgment, skill, or safety as a result of habitual or excessive use of alcohol, narcotics, stimulants, or any other chemical agent or drug.~~

(11) Discipline by another ~~agency,~~ state, territory,

foreign country, the District of Columbia, the United States government ~~territory~~, or any other government agency ~~foreign nation~~, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act ~~Section~~.

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

(13) A finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation or failed to comply with such terms.

(14) Willfully making or filing false records or reports in his or her practice, including, but not limited to, false records filed with any governmental agency or department.

(15) Inability to practice the profession with reasonable judgment, skill, or safety as a result of physical illness, including, but not limited to, loss of motor skill, mental illness, or disability.

(16) Failure to comply with an order, decision, or finding of the Department made pursuant to this Act.

(17) Directly or indirectly receiving compensation for any professional services not actually performed.

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

(19) Using or attempting to use an expired, inactive, suspended, or revoked license or impersonating another licensee. ~~Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.~~

(20) A finding by the Department that an applicant or licensee has failed to pay a fine imposed by the Department. ~~Cheating on or attempting to subvert the licensing examination administered under this Act.~~

(21) Unjustified failure to honor its contracts.

(22) Negligent supervision of a cemetery manager, customer service employee, employee, or independent contractor.

(23) (Blank). ~~A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under this Act.~~

(24) (Blank). ~~Allowing an individual who is not, but is required to be, licensed under this Act to perform work for the cemetery authority.~~

(25) (Blank).

(b) No action may be taken under this Act against a person licensed under this Act for an occurrence or alleged occurrence that predates the enactment of this Act ~~unless the action is commenced within 5 years after the occurrence of the~~

~~alleged violations, except for a violation of item (3) of subsection (a) of this Section. If a person licensed under this Act violates item (3) of subsection (a) of this Section, then the action may commence within 10 years after the occurrence of the alleged violation. A continuing violation shall be deemed to have occurred on the date when the circumstances last existed that give rise to the alleged violation~~.

(c) In enforcing this Section, the Department, upon a showing of a possible violation, may order a licensee or applicant to submit to a mental or physical examination, or both, at the expense of the Department. The Department may order the examining physician to present testimony concerning his or her examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Department. The licensee or applicant may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of a licensee or applicant to submit to any such examination when directed, without reasonable cause, shall be grounds for either immediate suspending of his or her license or immediate denial of his or her application.

(1) If the Secretary immediately suspends the license

of a licensee for his or her failure to submit to a mental or physical examination when directed, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay.

(2) If the Secretary otherwise suspends a license pursuant to the results of the licensee's mental or physical examination, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department shall have the authority to review the licensee's record of treatment and counseling regarding the relevant impairment or impairments to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

(3) Any licensee suspended under this subsection shall be afforded an opportunity to demonstrate to the Department that he or she can resume practice in compliance with the acceptable and prevailing standards under the provisions of his or her license.

(d) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. Such suspension may end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission, the issuance of an order so finding and discharging the

patient, and the filing of a petition for restoration demonstrating fitness to practice.

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

(f) The Department shall refuse to issue or renew or shall revoke or suspend a person's license or shall take other disciplinary action against that person for his or her failure to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest as required by any tax Act administered by the Department of Revenue, until the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/25-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-15. Injunction; cease ~~Cease~~ and desist order.

(a) If any person or entity violates a provision of this Act, the Secretary may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, petition for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in such court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin such violation. If it is established that such person or entity has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act. ~~The Secretary may issue an order to cease and desist to any licensee or other person doing business without the required license when, in the opinion of the Secretary, the licensee or other person is violating or is about to violate any provision of this Act or any rule or requirement imposed in writing by the Department.~~

(b) Whenever in the opinion of the Department any person or entity violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against them. The rule shall clearly set forth the grounds relied upon by the Department and shall

provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately. ~~The Secretary may issue an order to cease and desist prior to a hearing and such order shall be in full force and effect until a final administrative order is entered.~~

~~(c) The Secretary shall serve notice of his or her action, designated as an order to cease and desist made pursuant to this Section, including a statement of the reasons for the action, either personally or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail and sent to the address of record or, in the case of unlicensed activity, the address known to the Department.~~

~~(d) Within 15 days after service of the order to cease and desist, the licensee or other person may request, in writing, a hearing.~~

~~(e) The Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.~~

~~(f) The Secretary shall have the authority to prescribe rules for the administration of this Section.~~

~~(g) If, after hearing, it is determined that the Secretary has the authority to issue the order to cease and desist, he or she may issue such orders as may be reasonably necessary to~~

~~correct, eliminate, or remedy such conduct.~~

~~(h) The powers vested in the Secretary by this Section are additional to any and all other powers and remedies vested in the Secretary by law and nothing in this Section shall be construed as requiring that the Secretary shall employ the power conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-25. Investigations, notice, hearings.

(a) The Department may investigate the actions of any applicant or of any person or entity holding or claiming to hold a license under this Act. ~~The Department may at any time investigate the actions of any applicant or of any person or persons rendering or offering to render services as a cemetery authority, cemetery manager, or customer service employee of or any person holding or claiming to hold a license as a licensed cemetery authority, cemetery manager, or customer service employee. If it appears to the Department that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this Act, then the Department may: (1) require that person to file on such terms as the Department prescribes a statement or report in writing,~~

~~under oath or otherwise, containing all information the Department may consider necessary to ascertain whether a licensee is in compliance with this Act, or whether an unlicensed person is engaging in activities for which a license is required; (2) examine under oath any individual in connection with the books and records pertaining to or having an impact upon the operation of a cemetery; (3) examine any books and records of the licensee that the Department may consider necessary to ascertain compliance with this Act; and (4) require the production of a copy of any record, book, document, account, or paper that is produced in accordance with this Act and retain it in his or her possession until the completion of all proceedings in connection with which it is produced.~~

(b) The Department shall, before disciplining an applicant or licensee, at least 30 days prior to the date set for the hearing: (i) notify, in writing, the accused of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges under oath within 20 days after service of the notice, and (iii) inform the applicant or licensee that failure to file an answer will result in a default being entered against the applicant or licensee. ~~The Secretary may, after 10 days notice by certified mail with return receipt requested to the licensee at the address of record or to the last known address of any other person stating the contemplated action and in~~

~~general the grounds therefor, fine such licensee an amount not exceeding $10,000 per violation or revoke, suspend, refuse to renew, place on probation, or reprimand any license issued under this Act if he or she finds that:~~

~~(1) the licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made pursuant to the authority of this Act; or~~

~~(2) any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the Secretary in refusing to issue the license.~~

(c) Written or electronic notice, and any notice in the subsequent proceedings, may be served by personal delivery, by email, or by mail to the applicant or licensee at his or her address of record or email address of record. ~~The Secretary may fine, revoke, suspend, refuse to renew, place on probation, reprimand, or take any other disciplinary action as to the particular license with respect to which grounds for the fine, revocation, suspension, refuse to renew, probation, or reprimand, or other disciplinary action occur or exist, but if the Secretary finds that grounds for revocation are of general application to all offices or to more than one office of the licensee, the Secretary shall fine, revoke, suspend, refuse to renew, place on probation, reprimand, or otherwise discipline every license to which such grounds apply.~~

(d) At the time and place fixed in the notice, the hearing officer appointed by the Secretary shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any statement, testimony, evidence, and argument as may be pertinent to the charges or to their defense. The hearing officer may continue the hearing from time to time. ~~In every case in which a license is revoked, suspended, placed on probation, reprimanded, or otherwise disciplined, the Secretary shall serve the licensee with notice of his or her action, including a statement of the reasons for his or her actions, either personally or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail and sent to the address of record.~~

(e) In case the licensee or applicant, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Secretary, be suspended, revoked, or placed on probationary status, or be subject to whatever disciplinary action the Secretary considers proper, including limiting the scope, nature, or extent of the person's practice or imposition of a fine, without hearing, if the act or acts charged constitute sufficient grounds for the action under this Act. ~~An order assessing a fine, an order revoking, suspending, placing on probation, or reprimanding a license or, an order denying renewal of a license shall take effect upon service of the order unless the licensee requests, in~~

~~writing, within 20 days after the date of service, a hearing. In the event a hearing is requested, an order issued under this Section shall be stayed until a final administrative order is entered.~~

~~(f) If the licensee requests a hearing, then the Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any disciplinary action with regard to a license. The hearing officer shall have full authority to conduct the hearing.~~

~~(g) The hearing shall be held at the time and place designated by the Secretary.~~

~~(h) The Secretary shall have the authority to prescribe rules for the administration of this Section.~~

~~(i) Fines imposed and any costs assessed shall be paid within 60 days.~~

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/25-26 new)

Sec. 25-26. Hearing officer. Notwithstanding any provision of this Act, the Secretary has the authority to appoint an attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew a license or discipline a license. The hearing

officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Secretary.

(225 ILCS 411/25-30)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-30. Hearing; motion for rehearing ~~Consent order~~.

(a) The hearing officer appointed by the Secretary shall hear evidence in support of the formal charges and evidence produced by the licensee. At the conclusion of the hearing, the hearing officer shall present to the Secretary a written report of his or her findings of fact, conclusions of law, and recommendations.

(b) At the conclusion of the hearing, a copy of the hearing officer's report shall be served upon the applicant or licensee, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days after such service, the applicant or licensee may present to the Department a motion, in writing, for a rehearing which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20 calendar days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or upon denial of a motion for rehearing, the Secretary may enter an order in accordance with the recommendations of the hearing officer. If

the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20 calendar day period within which a motion may be filed shall commence upon delivery of the transcript to the applicant or licensee.

(c) If the Secretary disagrees in any regard with the report of the hearing officer, the Secretary may issue an order contrary to the report.

(d) Whenever the Secretary is not satisfied that substantial justice has been done, the Secretary may order a hearing by the same or another hearing officer.

(e) At any point in any investigation or disciplinary proceeding provided for in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

~~At any point in any investigation or disciplinary proceeding provided for in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-35)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-35. Record of proceedings~~; transcript~~.

(a) The Department, at its expense, shall provide a certified shorthand reporter to take down the testimony and

preserve a record of all proceedings at the hearing of any case in which a licensee may be revoked, suspended, placed on probationary status, reprimanded, fined, or subjected to other disciplinary action with reference to the license when a disciplinary action is authorized under this Act and rules. The notice of hearing, complaint, and all other documents in the nature of pleadings and written portions filed in the proceedings, the transcript of the testimony, the report of the hearing officer, and the orders of the Department shall be the record of the proceedings. The record may be made available to any person interested in the hearing upon payment of the fee required by Section 2105-115 of the Department of Professional Regulation Law ~~shall preserve a record of all proceedings at the formal hearing of any case. Any notice, all documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, and orders of the Department shall be in the record of the proceeding~~.

(b) The Department may contract for court reporting services, and, if it does so, the Department shall provide the name and contact information for the certified shorthand reporter who transcribed the testimony at a hearing to any person interested, who may obtain a copy of the transcript of any proceedings at a hearing upon payment of the fee specified by the certified shorthand reporter.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-90)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-90. Restoration of license from discipline.

(a) At any time after the successful completion of a term of indefinite probation, suspension, or revocation of a license under this Act, the Department may restore the license to the licensee, unless after an investigation and a hearing the Secretary determines that restoration is not in the public interest.

(b) Where circumstances of suspension or revocation so indicate, the Department may require an examination of the licensee prior to restoring his or her license.

(c) No person whose license has been revoked as authorized in this Act may apply for restoration of that license until such time as provided for in the Civil Administrative Code of Illinois.

(d) A license that has been suspended or revoked shall be considered non-renewed for purposes of restoration and a licensee restoring his or her license from suspension or revocation must comply with the requirements for restoration as set forth in Section 10-40.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-95)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-95. Administrative review; venue.

(a) All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County.

(c) The Department shall not be required to certify any record to the court or file any answer in court, or to otherwise appear in any court in a judicial review proceeding, unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department.

(d) Failure on the part of the plaintiff to file a receipt in court shall be grounds for dismissal of the action.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-105)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-105. Unlicensed practice; violations; civil penalty ~~Violations~~.

(a) Any person who practices, offers to practice, attempts to practice, or hold himself or herself out as a cemetery manager or customer service employee as provided in this Act without being licensed or exempt under this Act shall, in

addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed $10,000 for each offense, as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provision set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) The Department may investigate any actual, alleged, or suspected unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(d) A person or entity not licensed under this Act who has violated any provision of this Act or its rules is guilty of a Class A misdemeanor for the first offense and a Class 4 felony for a second and subsequent offenses.

~~Each of the following acts is a Class A misdemeanor for the first offense and a Class 4 felony for each subsequent offense:~~

~~(1) the practice of or attempted practice of or holding out as available to practice as a cemetery authority, cemetery manager, or customer service employee without a license; or~~

~~(2) the obtaining of or the attempt to obtain any~~

~~license or authorization under this Act by fraud or misrepresentation.~~

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(225 ILCS 411/25-115)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-115. Illinois Administrative Procedure Act; application. The Illinois Administrative Procedure Act is expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act, except that the provision of paragraph (d) of Section 10-65 of the Illinois Administrative Procedure Act, which provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention or continuation or renewal of the license, is specifically excluded. The Department shall not be required to annually verify email addresses as specified in paragraph (a) of subsection (2) of Section 10-75 of the Illinois Administrative Procedure Act. For the purpose of this Act, the notice required under Section 10-25 of the Illinois Administrative Procedure Act is considered sufficient when mailed to the address of record or emailed to the email address of record.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/35-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 35-5. Penalties. Cemetery authorities shall respect the rights of consumers of cemetery products and services as put forth in this Article. Failure to abide by the cemetery duties listed in this Article or to comply with a request by a consumer based on a consumer's privileges under this Article may activate the ~~mediation, citation, or~~ disciplinary processes in Article 25 of this Act.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/35-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 35-15. Cemetery duties.

(a) Prices for all cemetery-related products offered for sale by the cemetery authority must be disclosed to the consumer in writing on a standardized price list. Memorialization pricing may be disclosed in price ranges. The price list shall include the effective dates of the prices. The price list shall include not only the range of interment, inurnment, and entombment rights, and the cost of extending the term of any term burial, but also any related merchandise or services offered by the cemetery authority. Charges for installation of markers, monuments, and vaults in cemeteries must be the same without regard to where the item is purchased.

(b) A contract for the interment, inurnment, or entombment of human remains must be signed by both parties: the consumer and the cemetery authority or its representative. <u>Such</u>

signature shall be personally signed by the signor on either paper or electronic format and shall not include a stamp or electronic facsimile of the signature. Before a contract is signed, the prices for the purchased services and merchandise must be disclosed on the contract and in plain language. If a contract is for a term burial, the term, the option to extend the term, and the subsequent disposition of the human remains post-term must be in bold print and discussed with the consumer. Any contract for the sale of a burial plot, when designated, must disclose the exact location of the burial plot based on the survey of the cemetery map or plat on file with the cemetery authority.

(c) A cemetery authority that has the legal right to extend a term burial shall, prior to disinterment, provide the family or other authorized agent under the Disposition of Remains Act the opportunity to extend the term of a term burial for the cost as stated on the cemetery authority's current price list. Regardless of whether the family or other authorized agent chooses to extend the term burial, the cemetery authority shall, prior to disinterment, provide notice to the family or other authorized agent under the Disposition of Remains Act of the cemetery authority's intention to disinter the remains and to inter different human remains in that space.

(d) If any rules or regulations, including the operational or maintenance requirements, of a cemetery change after the

date a contract is signed for the purchase of cemetery-related or funeral-related products or services, the cemetery may not require the consumer, purchaser, or such individual's relative or representative to purchase any merchandise or service not included in the original contract or in the rules and regulations in existence when the contract was entered unless the purchase is reasonable or required to make the cemetery authority compliant with applicable law.

(e) No cemetery authority or its agent may engage in deceptive or unfair practices. The cemetery authority and its agents may not misrepresent legal or cemetery requirements.

(f) The Department may adopt rules regarding green burial certification, green cremation products and methods, and consumer education.

(g) The contractual requirements contained in this Section only apply to contracts executed after the effective date of this Act.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-45)

(Section scheduled to be repealed on January 1, 2022)

Sec. 75-45. Fees. The Department shall by rule provide for fees for the administration and enforcement of this Act, and those fees are nonrefundable. All of the fees, ~~and~~ fines, and all other moneys collected under this Act and fees collected on behalf of the Department under subsection (1) of Section 25

of the Vital Records Act shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund and be appropriated to the Department for the ordinary and contingent expenses of the Department in the administration and enforcement of this Act.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-1 rep.)

(225 ILCS 411/25-50 rep.)

(225 ILCS 411/25-55 rep.)

(225 ILCS 411/25-60 rep.)

(225 ILCS 411/25-100 rep.)

(225 ILCS 411/25-110 rep.)

(225 ILCS 411/25-120 rep.)

(225 ILCS 411/25-125 rep.)

(225 ILCS 411/75-20 rep.)

(225 ILCS 411/75-35 rep.)

Section 45. The Cemetery Oversight Act is amended by repealing Sections 25-1, 25-50, 25-55, 25-60, 25-100, 25-110, 25-120, 25-125, 75-20, and 75-35.

Section 50. The Community Association Manager Licensing and Disciplinary Act is amended by changing Sections 10, 15, 20, 25, 27, 30, 40, 45, 50, 55, 60, 65, 70, 75, 85, 90, 92, 95, 115, 120, 140, 145, 155, and 165 and by adding Sections 12, 41, 85.1, 86, 161, and 162 as follows:

(225 ILCS 427/10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10. Definitions. As used in this Act:

"Address of record" means the designated street address, which may not be a post office box, recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department ~~Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit~~.

"Advertise" means, but is not limited to, issuing or causing to be distributed any card, sign or device to any person; or causing, permitting or allowing any sign or marking on or in any building, structure, newspaper, magazine or directory, or on radio or television; or advertising by any other means designed to secure public attention, including, but not limited to, print, electronic, social media, and digital forums.

"Board" means the Community Association Manager Licensing and Disciplinary Board.

"Community association" means an association in which membership is a condition of ownership or shareholder interest of a unit in a condominium, cooperative, townhouse, villa, or other residential unit which is part of a residential

development plan and that is authorized to impose an assessment, rents, or other costs that may become a lien on the unit or lot.

"Community association funds" means any assessments, fees, fines, or other funds collected by the community association manager from the community association, or its members, other than the compensation paid to the community association manager for performance of community association management services.

"Community association management firm" means a company, corporation, limited liability company, partnership, or other entity that engages in community association management services.

"Community association management services" means those services listed in the definition of community association manager in this Section.

"Community association manager" means an individual who:

(1) has an ownership interest in or is employed by a community association management firm, or is directly employed by or provides services as an independent contractor to a community association; and

(2) administers for remuneration the financial, administrative, maintenance, or other duties for the community association, including the following services:

(A) collecting, controlling or disbursing funds of the community association or having the authority to

do so;

(B) preparing budgets or other financial documents for the community association;

(C) assisting in the conduct of community association meetings;

(D) maintaining association records; ~~and~~

(E) administering ~~administrating~~ association contracts or procuring goods and services in accordance with~~, as stated in~~ the declaration, bylaws, proprietary lease, declaration of covenants, or other governing document of the community association or at the direction of the board of managers; and

(F) coordinating financial, administrative, maintenance, or other duties called for in the management contract, including individuals who are direct employees of the community association.

"Community association manager" does not mean support staff, including, but not limited to bookkeepers, administrative assistants, secretaries, property inspectors, or customer service representatives.

"Department" means the Department of Financial and Professional Regulation.

"Designated community association manager" means a licensed community association manager who: (1) has an ownership interest in or is employed by a community association management firm to act as a controlling person;

and (2) is the authorized signatory or has delegated signing authority for the firm on community association accounts; and (3) supervises, manages, and is responsible for the firm's community association manager activities pursuant to Section 50 of this Act.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department.

"License" means the privilege conferred by the Department to a person that has fulfilled all requirements prerequisite to any type of licensure under this Act ~~license issued to a person, corporation, partnership, limited liability company, or other legal entity under this Act to provide community association management services~~.

"Licensee" means a community association manager or a community association management firm.

"Person" means any individual, corporation, partnership, limited liability company, or other legal entity.

"Secretary" means the Secretary of Financial and Professional Regulation or the Secretary's designee.

~~"Supervising community association manager" means an individual licensed as a community association manager who manages and supervises a firm.~~

(Source: P.A. 100-201, eff. 8-18-17.)

(225 ILCS 427/12 new)

Sec. 12. Address of record; email address of record. All applicants and licensees shall:

(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for licensure or renewal of a license; and

(2) inform the Department of any change of address of record or email address of record within 14 days after such change through the Department's website or in a manner prescribed by the Department.

(225 ILCS 427/15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15. License required. It shall be unlawful for any person~~, corporation, partnership, limited liability company, or other entity~~ to provide community association management services, provide services as a community association manager, or hold the person ~~himself, herself, or itself~~ out as a community association manager or community association management firm to any community association in this State, unless the person holds ~~he, she, or it holds~~ a current and valid license issued ~~licensed~~ by the Department or the person is otherwise exempt from licensure under this Act.

(Source: P.A. 98-365, eff. 1-1-14.)

(225 ILCS 427/20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20. Exemptions.

(a) The requirement for holding a license under this Act shall not apply to any of the following:

(1) Any director or~~,~~ officer~~, or member~~ of a community association providing one or more of the services of a community association manager to a community association without compensation for such services to the association.

(2) Any person~~, corporation, partnership, or limited liability company~~ providing one or more of the services of a community association manager to a community association of 10 units or less.

(3) A licensed attorney acting solely as an incident to the practice of law.

(4) An individual ~~A person~~ acting as a receiver, trustee in bankruptcy, administrator, executor, or guardian acting under a court order or under the authority of a court ~~will or of a trust instrument~~.

(5) A person licensed in this State under any other Act who engages in practices or activities specifically authorized by the Act pursuant to which the license was granted ~~from engaging the practice for which he or she is licensed~~.

(b) A licensed community association manager may not perform or engage in any activities for which a real estate

managing broker, ~~or~~ real estate broker, or residential leasing agent ~~broker's~~ license is required under the Real Estate License Act of 2000, unless the licensee ~~he or she~~ also possesses a current and valid license under the Real Estate License Act of 2000 and is providing those services as provided for in the Real Estate License Act of 2000 and the applicable rules.

(c) (Blank). ~~A person may temporarily act as, or provide services as, a community association manager without being licensed under this Act if the person (i) is a community association manager regulated under the laws of another state or territory of the United States or another country and (ii) has applied in writing to the Department, on forms prepared and furnished by the Department, for licensure under this Act. This temporary right to act as a community association manager shall expire 6 months after the filing of his or her written application to the Department; upon the withdrawal of the application for licensure under this Act; or upon delivery of a notice of intent to deny the application from the Department; or upon the denial of the application by the Department, whichever occurs first.~~

(Source: P.A. 98-365, eff. 1-1-14.)

(225 ILCS 427/25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25. Community Association Manager Licensing and

Disciplinary Board.

(a) There is hereby created the Community Association Manager Licensing and Disciplinary Board, which shall consist of 7 members appointed by the Secretary. All members must be residents of the State and must have resided in the State for at least 5 years immediately preceding the date of appointment. Five members of the Board must be licensees under this Act~~, at least two members of which shall be supervising community association managers~~. Two members of the Board shall be owners of, or hold a shareholder's interest in, a unit in a community association at the time of appointment who are not licensees under this Act and have no direct affiliation ~~or work experience~~ with the community association's community association manager. This Board shall act in an advisory capacity to the Department.

(b) The term of each member ~~Members serving on the Board on the effective date of this amendatory Act of the 100th General Assembly may serve the remainder of their unexpired terms. Thereafter, the members' terms~~ shall be for 4 years or until that member's successor is appointed ~~and expire upon completion of the term~~. No member shall be reappointed to the Board for a term that would cause the member's ~~his or her~~ cumulative service to the Board to exceed 10 years. Appointments to fill vacancies shall be made by the Secretary for the unexpired portion of the term. The Secretary shall remove from the Board any member whose license has become void

or has been revoked or suspended and may remove any member of the Board for neglect of duty, misconduct, or incompetence. A member who is subject to formal disciplinary proceedings shall be disqualified ~~disqualify himself or herself~~ from all Board business until the charge is resolved. A member also shall be disqualified ~~disqualify himself or herself~~ from any matter on which the member cannot act objectively.

(c) Four Board members shall constitute a quorum. A quorum is required for all Board decisions.

(d) The Board shall elect annually, at its first meeting of the fiscal year, a chairperson and vice chairperson.

(e) Each member shall receive reimbursement as set by the Governor's Travel Control Board for expenses incurred in carrying out the duties as a Board member. The Board shall be compensated as determined by the Secretary.

(f) The Board may recommend policies, procedures, and rules relevant to the administration and enforcement of this Act.

(Source: P.A. 100-886, eff. 8-14-18.)

(225 ILCS 427/27)

(Section scheduled to be repealed on January 1, 2022)

Sec. 27. Immunity from liability. Any member of the Board, any attorney providing advice to the Board or Department, any person acting as a consultant to the Board or Department, and any witness testifying in a proceeding authorized under this

Act, excluding the party making the complaint, shall be immune from liability in any civil action brought ~~against him or her~~ for acts occurring while acting in one's ~~his or her~~ capacity as a Board member, attorney, consultant, or witness, respectively, unless the conduct that gave rise to the action was willful or wanton misconduct.

(Source: P.A. 98-365, eff. 1-1-14.)

(225 ILCS 427/30)

(Section scheduled to be repealed on January 1, 2022)

Sec. 30. Powers and duties of the Department. The Department may exercise the following functions, powers and duties:

(a) formulate rules for the administration and enforcement of this Act;

(b) prescribe forms to be issued for the administration and enforcement of this Act and utilize regular or electronic mail, at the discretion of the Department, to send notices and other information to applicants and licensees;

(c) conduct hearings or proceedings to refuse to issue or~~,~~ renew, or to suspend, revoke, place on probation, reprimand, or take disciplinary or non-disciplinary action as the Department may deem appropriate under this Act;

(d) (blank); ~~maintain a roster of the names and addresses of all licensees in a manner as deemed~~

~~appropriate by the Department; and~~

(e) seek the advice and expert knowledge of the Board on any matter relating to the administration and enforcement of this Act; and~~.~~

(f) exercise any and all general powers and duties set forth in Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(Source: P.A. 96-726, eff. 7-1-10.)

(225 ILCS 427/40)

(Section scheduled to be repealed on January 1, 2022)

Sec. 40. Qualifications for licensure as a community association manager.

(a) No person shall be qualified for licensure as a community association manager under this Act~~,~~ unless the person ~~he or she~~ has applied in writing on the prescribed forms and has paid the required, nonrefundable fees and has met ~~meets~~ all of the following qualifications:

(1) Is ~~He or she is~~ at least 18 years of age.

(1.5) Successfully completed a 4-year course of study in a high school, secondary school, or an equivalent course of study approved by the state in which the school is located, or possess a high school equivalency certificate, which shall be verified under oath by the applicant.

(2) Provided ~~He or she provides~~ satisfactory evidence of having completed at least 20 classroom hours in community association management courses approved by the Board.

(3) Passed ~~He or she has passed~~ an examination authorized by the Department.

(4) Has ~~He or she has~~ not committed an act or acts, in this or any other jurisdiction, that would be a violation of this Act.

(5) Is ~~He or she is~~ of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities that would constitute grounds for discipline under this Act. Good moral character is a continuing requirement of licensure. Conviction of crimes may be used in determining moral character, but shall not constitute an absolute bar to licensure.

(6) Has ~~He or she has~~ not been declared by any court of competent jurisdiction to be incompetent by reason of mental or physical defect or disease, unless ~~a court has~~ subsequently declared by a court ~~him or her~~ to be competent.

(7) Complies ~~He or she complies~~ with any additional qualifications for licensure as determined by rule of the Department.

(b) (Blank). ~~The education requirement set forth in item (2) of subsection (a) of this Section shall not apply to persons holding a real estate managing broker or real estate broker license in good standing issued under the Real Estate License Act of 2000.~~

(c) (Blank). ~~The examination and initial education requirement of items (2) and (3) of subsection (a) of this Section shall not apply to any person who within 6 months from the effective date of the requirement for licensure, as set forth in Section 170 of this Act, applies for a license by providing satisfactory evidence to the Department of qualifying experience or education, as may be set forth by rule, including without limitation evidence that he or she has practiced community association management for a period of 5 years.~~

(d) Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within the 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of re-application.

(e) The Department shall not require applicants to report the following information and shall not consider the following criminal history records in connection with an application for licensure:

(1) juvenile adjudications of delinquent minors as

defined in Section 5-105 of the Juvenile Court Act of 1987 subject to the restrictions set forth in Section 5-130 of that Act;

(2) law enforcement records, court records, and conviction records of an individual who was 17 years old at the time of the offense and before January 1, 2014, unless the nature of the offense required the individual to be tried as an adult;

(3) records of arrest not followed by a charge or conviction;

(4) records of arrest in which the charges were dismissed unless related to the practice of the profession; however, applicants shall not be asked to report any arrests, and an arrest not followed by a conviction shall not be the basis of a denial and may be used only to assess an applicant's rehabilitation;

(5) convictions overturned by a higher court; or

(6) convictions or arrests that have been sealed or expunged.

(f) An applicant or licensee shall report to the Department, in a manner prescribed by the Department, and within 30 days after the occurrence if during the term of licensure: (i) any conviction of or plea of guilty or nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any similar offense or offenses or any conviction of a felony

involving moral turpitude; (ii) the entry of an administrative sanction by a government agency in this State or any other jurisdiction that has as an essential element dishonesty or fraud or involves larceny, embezzlement, or obtaining money, property, or credit by false pretenses; or (iii) any conviction of or plea of guilty or nolo contendere to a crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act.

(Source: P.A. 100-892, eff. 8-14-18.)

(225 ILCS 427/41 new)

Sec. 41. Qualifications for licensure as a community association management firm. Any person who desires to obtain a community association management firm license must:

(1) apply to the Department on forms prescribed by the Department and pay the required fee;

(2) provide evidence to the Department that the community association management firm has a licensed and designated community association manager;

(3) be authorized to conduct business in the State of Illinois and provide proof of such authorization to the Department; and

(4) comply with all requirements as may be set forth by rule.

(225 ILCS 427/45)

(Section scheduled to be repealed on January 1, 2022)

Sec. 45. Examinations.

(a) The Department shall authorize examinations of applicants for licensure as a community association manager at such times and places as it may determine. The examination of applicants shall be of a character to give a fair test of the qualifications of the applicant to practice as a community association manager.

(b) Applicants for examination shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination.

(c) The Department may employ consultants to prepare and conduct ~~for the purpose of preparing and conducting~~ examinations.

(d) An applicant shall be eligible to take the examination only after successfully completing the education requirements set forth in this Act and attaining the minimum education and age required under this Act.

(e) (Blank). ~~The examination approved by the Department should utilize the basic principles of professional testing standards utilizing psychometric measurement. The examination shall use standards set forth by the National Organization for Competency Assurances and shall be approved by the Department.~~

(Source: P.A. 96-726, eff. 7-1-10.)

(225 ILCS 427/50)

(Section scheduled to be repealed on January 1, 2022)

Sec. 50. Community association management firm.

(a) No corporation, partnership, limited liability company, or other legal entity shall provide or offer to provide community association management services, unless it has applied in writing on the prescribed forms and has paid the required nonrefundable fees and provided evidence to the Department that the firm has designated a licensed ~~supervising~~ community association manager to supervise and manage the firm. Having a ~~A~~ designated ~~supervising~~ community association manager shall be a continuing requirement of firm licensure. ~~No supervising community association manager may be the supervising community association manager for more than one firm.~~

(b) Any corporation, partnership, limited liability company, or other legal entity that is providing, or offering to provide, community association management services and is not in compliance with this Section ~~50~~ and other provisions of this Act shall be subject to the civil penalties ~~fines~~, injunctions, cease and desist provisions, and penalties provided for in Sections 90, 92, and 155 of this Act.

(c) No community association manager may be the designated community association manager ~~licensee-in-charge~~ for more than one firm, corporation, limited liability company, partnership, or other legal entity. The designated community association manager shall supervise and manage all licensed and unlicensed

employees acting on behalf of the community association management firm. The designated community association manager shall supervise and manage all independent contractors providing community association management services on behalf of the community association management firm. The community association management firm and the designated community association manager shall be responsible for all actions of which they had knowledge taken on behalf of the community association management firm.

(d) The Department may adopt rules and set all necessary requirements for the implementation of this Section.

(Source: P.A. 98-365, eff. 1-1-14.)

(225 ILCS 427/55)

(Section scheduled to be repealed on January 1, 2022)

Sec. 55. Fidelity insurance; segregation of accounts.

(a) The designated ~~supervising~~ community association manager or the community association management firm that employs the designated community association manager ~~with which he or she is employed~~ shall not have access to and disburse community association funds unless each of the following conditions occur:

(1) There is fidelity insurance in place to insure against loss or ~~for~~ theft of community association funds.

(2) The fidelity insurance is in the maximum amount of coverage available to protect funds in the custody or ~~not~~

~~less than all moneys under the~~ control of the designated ~~supervising~~ community association manager or ~~the employing~~ community association management firm providing service to ~~for~~ the association.

(3) During the term and coverage period of the insurance, the ~~The~~ fidelity insurance shall cover ~~covers the~~:

(A) the designated community association manager;~~,~~ ~~supervising community association manager, and~~

(B) the community association management firm;

(C) all community association managers;

(D) all ~~all~~ partners, officers, and employees of the community association management firm; and ~~during the term of the insurance coverage, which shall be at least for the same term as the service agreement between the community association management firm or supervising community association manager as well as~~

(E) the community association officers, directors, and employees.

(4) The insurance company issuing the fidelity insurance may not cancel or refuse to renew the bond without giving at least 10 days' prior written notice.

(5) Unless an agreement between the community association and the designated ~~supervising~~ community association manager or the community association management firm provides to the contrary, a community

association may secure and pay for the fidelity insurance required by this Section. The designated ~~supervising~~ community association manager, all other licensees, and ~~or~~ the community association management firm must be named as additional insured parties on the community association policy.

(b) A community association management firm that provides community association management services for more than one community association shall maintain separate, segregated accounts for each community association ~~or, with the consent of the community association, combine the accounts of one or more community associations, but in that event, separately account for the funds of each community association~~. The funds shall not, in any event, be commingled with the supervising community association manager's or community association management firm's funds. The funds shall not, in any event, be commingled with the funds of the community association manager, the community association management firm, or any other community association. The maintenance of such accounts shall be custodial, and such accounts shall be in the name of the respective community association ~~or community association manager or Community Association Management Agency as the agent for the association~~.

(c) The designated ~~supervising~~ community association manager or community association management firm shall obtain the appropriate general liability and errors and omissions

insurance, as determined by the Department, to cover any losses or claims against a ~~the supervising~~ community association manager, the designated community association manager, or the community association management firm.

(d) The Department shall have authority to promulgate additional rules regarding insurance, fidelity insurance and all accounts maintained and to be maintained by a community association manager, designated ~~supervising~~ community association manager, or community association management firm.

(Source: P.A. 98-365, eff. 1-1-14.)

(225 ILCS 427/60)

(Section scheduled to be repealed on January 1, 2022)

Sec. 60. Licenses; renewals; restoration; person in military service.

(a) The expiration date, fees, and renewal period for each license issued under this Act shall be set by rule. The Department may promulgate rules requiring continuing education and set all necessary requirements for such, including but not limited to fees, approved coursework, number of hours, and waivers of continuing education.

(b) Any licensee who has an expired ~~permitted his, her, or its~~ license ~~to expire~~ may have the license restored by applying ~~making application~~ to the Department and filing proof acceptable to the Department of fitness to have the expired ~~his, her, or its~~ license restored, by which may include sworn

evidence certifying to active practice in another jurisdiction satisfactory to the Department, complying with any continuing education requirements, and paying the required restoration fee.

(c) Any ~~If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, the Department shall determine, by an evaluation program established by rule, the person's fitness to resume active status and may require the person to complete a period of evaluated clinical experience and successful completion of a practical examination. However, any~~ person whose license expired while (i) in federal service on active duty with the Armed Forces of the United States or called into service or training with the State Militia or (ii) in training or education under the supervision of the United States preliminary to induction into the military service may have the ~~his or her~~ license renewed or restored without paying any lapsed renewal fees if, within 2 years after honorable termination of the service, training or education, except under condition other than honorable, the licensee ~~he or she~~ furnishes the Department with satisfactory evidence of engagement ~~to the effect that he or she has been so engaged~~ and that the service, training, or education has been so honorably terminated.

(d) A community association manager or~~,~~ community association management firm that ~~or supervising community~~

~~association manager who~~ notifies the Department, in a manner ~~writing on forms~~ prescribed by the Department, may place the ~~his, her, or its~~ license on inactive status for a period not to exceed 2 years and shall be excused from the payment of renewal fees until the person notifies the Department in writing of the intention to resume active practice.

(e) A community association manager, community association management firm~~, or supervising community association manager~~ requesting that the ~~his, her, or its~~ license be changed from inactive to active status shall be required to pay the current renewal fee and shall also demonstrate compliance with the continuing education requirements.

(f) No ~~Any~~ licensee with a nonrenewed or ~~on~~ inactive license status or community association management firm operation without a designated community association manager shall ~~not~~ provide community association management services as set forth in this Act.

(g) Any person violating subsection (f) of this Section shall be considered to be practicing without a license and will be subject to the disciplinary provisions of this Act.

(h) The Department shall not renew a license if the licensee has an unpaid fine from a disciplinary matter or an unpaid fee from a non-disciplinary action imposed by the Department until the fine or fee is paid to the Department or the licensee has entered into a payment plan and is current on the required payments.

(i) The Department shall not issue a license if the applicant has an unpaid fine imposed by the Department for unlicensed practice until the fine is paid to the Department or the applicant has entered into a payment plan and is current on the required payments.

(Source: P.A. 98-365, eff. 1-1-14.)

(225 ILCS 427/65)

(Section scheduled to be repealed on January 1, 2022)

Sec. 65. Fees; Community Association Manager Licensing and Disciplinary Fund.

(a) The fees for the administration and enforcement of this Act, including, but not limited to, initial licensure, renewal, and restoration, shall be set by rule of the Department. The fees shall be nonrefundable.

(b) In addition to the application fee, applicants for the examination are required to pay, either to the Department or the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application and fee for examination have been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the fee.

(c) All fees, fines, penalties, or other monies received or collected pursuant to this Act shall be deposited in the

Community Association Manager Licensing and Disciplinary Fund.

(d) Moneys in the Community Association Manager Licensing and Disciplinary Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(Source: P.A. 97-1021, eff. 8-17-12; 98-365, eff. 1-1-14.)

(225 ILCS 427/70)

(Section scheduled to be repealed on January 1, 2022)

Sec. 70. Penalty for insufficient funds; payments. Any person who:

(1) delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn; or

(2) presents a credit or debit card for payment that is invalid or expired or against which charges by the Department are declined or dishonored;

shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the

application, without hearing. After ~~If, after~~ termination or denial, the person seeking ~~seeks~~ a license~~, he, she, or it~~ shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 98-365, eff. 1-1-14.)

(225 ILCS 427/75)

(Section scheduled to be repealed on January 1, 2022)

Sec. 75. Endorsement. The Department may issue a community association manager ~~or supervising community association manager~~ license~~,~~ without the required examination, to an applicant licensed under the laws of another state if the requirements for licensure in that state are, on the date of licensure, substantially equal to the requirements of this Act or to a person who, at the time of ~~his or her~~ application for licensure, possessed individual qualifications that were substantially equivalent to the requirements then in force in this State. An applicant under this Section shall pay all of the required fees.

All applicants under this Act ~~Applicants~~ have 3 years from

the date of application to complete the application process. If the process has not been completed within the 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 98-365, eff. 1-1-14.)

(225 ILCS 427/85)

(Section scheduled to be repealed on January 1, 2022)

Sec. 85. Grounds for discipline; refusal, revocation, or suspension.

(a) The Department may refuse to issue or renew a license, or may place on probation, reprimand, suspend, or revoke any license, or take any other disciplinary or non-disciplinary action as the Department may deem proper and impose a fine not to exceed $10,000 for each violation upon any licensee or applicant under this Act or any person or entity who holds oneself ~~himself, herself, or itself~~ out as an applicant or licensee for any one or combination of the following causes:

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

(2) Violations of this Act or its rules.

(3) Conviction of or entry of a plea of guilty or plea of nolo contendere, as set forth in subsection (f) of Section 40, to (i) a felony or a misdemeanor under the laws of the United States, any state, or any other jurisdiction

or entry of an administrative sanction by a government agency in this State or any other jurisdiction or (ii) a crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act; or the entry of an administrative sanction by a government agency in this State or any other jurisdiction. ~~Action taken under this paragraph (3) for a misdemeanor or an administrative sanction is limited to a misdemeanor or administrative sanction that has as an essential element dishonesty or fraud, that involves larceny, embezzlement, or obtaining money, property, or credit by false pretenses or by means of a confidence game, or that is directly related to the practice of the profession.~~

(4) Making any misrepresentation for the purpose of obtaining a license or violating any provision of this Act or its rules.

(5) Professional incompetence.

(6) Gross negligence.

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

(8) Failing, within 30 days, to provide information in response to a request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public as defined by the rules of the Department, or violating the rules of professional conduct

adopted by the Department.

(10) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in the inability to practice with reasonable judgment, skill, or safety.

(11) Having been disciplined by another state, the District of Columbia, a territory, a foreign nation, or a governmental agency authorized to impose discipline if at least one of the grounds for the discipline is the same or substantially equivalent of one of the grounds for which a licensee may be disciplined under this Act. A certified copy of the record of the action by the other state or jurisdiction shall be prima facie evidence thereof.

(12) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership or association any fee, commission, rebate, or other form of compensation for any ~~professional~~ services not actually or personally rendered.

(13) A finding by the Department that the licensee, after having the ~~his, her, or its~~ license placed on probationary status, has violated the terms of probation.

(14) Willfully making or filing false records or reports relating to a licensee's practice, including but not limited to false records filed with any State or federal agencies or departments.

(15) Being named as a perpetrator in an indicated

report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(16) Physical illness or mental illness or impairment~~, including, but not limited to, deterioration through the aging process or loss of motor skill~~ that results in the inability to practice the profession with reasonable judgment, skill, or safety.

(17) Solicitation of professional services by using false or misleading advertising.

(18) A finding that licensure has been applied for or obtained by fraudulent means.

(19) Practicing or attempting to practice under a name other than the full name as shown on the license or any other legally authorized name unless approved by the Department.

(20) Gross overcharging for professional services including, but not limited to, (i) collection of fees or moneys for services that are not rendered; and (ii) charging for services that are not in accordance with the contract between the licensee and the community association.

(21) Improper commingling of personal and client funds

in violation of this Act or any rules promulgated thereto.

(22) Failing to account for or remit any moneys or documents coming into the licensee's possession that belong to another person or entity.

(23) Giving differential treatment to a person that is to that person's detriment on the basis ~~because~~ of race, color, ~~creed,~~ sex, ancestry, age, order of protection status, marital status, physical or mental disability, military status, unfavorable discharge from military status, sexual orientation, pregnancy, religion, or national origin.

(24) Performing and charging for services without reasonable authorization to do so from the person or entity for whom service is being provided.

(25) Failing to make available to the Department, upon request, any books, records, or forms required by this Act.

(26) Purporting to be a designated ~~supervising~~ community association manager of a firm without active participation in the firm and having been designated as such.

(27) Failing to make available to the Department at the time of the request any indicia of licensure ~~or registration~~ issued under this Act.

(28) Failing to maintain and deposit funds belonging to a community association in accordance with subsection

(b) of Section 55 of this Act.

(29) Violating the terms of a disciplinary order issued by the Department.

(30) Operating a community association management firm without a designated community association manager who holds an active community association manager license.

(31) For a designated community association manager, failing to meet the requirements for acting as a designated community association manager.

(32) Failing to disclose to a community association any compensation received by a licensee from a third party in connection with or related to a transaction entered into by the licensee on behalf of the community association.

(33) Failing to disclose to a community association, at the time of making the referral, that a licensee (A) has greater than a 1% ownership interest in a third party to which it refers the community association; or (B) receives or may receive dividends or other profit sharing distributions from a third party, other than a publicly held or traded company, to which it refers the community association.

(b) (Blank).

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities

Code, operates as an automatic suspension. The suspension will terminate only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of an order so finding and discharging the patient, and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume ~~his or her~~ practice as a licensed community association manager.

(d) In accordance with subsection (g) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15), the Department may refuse to issue or renew or may suspend the license of any person who fails to file a return, to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of that tax Act are satisfied.

(e) In accordance with subdivision (a)(5) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15) and in cases where the Department of Healthcare and Family Services (formerly Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or may

revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services.

(f) (Blank). ~~In enforcing this Section, the Department or Board upon a showing of a possible violation may compel a licensee or an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license or denial of his or her application or renewal until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.~~

~~If the Department or Board finds an individual unable to~~

~~practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, deny, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.~~

~~In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.~~

~~An individual licensed under this Act and affected under~~

~~this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.~~

(Source: P.A. 100-872, eff. 8-14-18.)

(225 ILCS 427/85.1 new)

Sec. 85.1. Citations.

(a) The Department may adopt rules to permit the issuance of citations to any licensee for failure to comply with the continuing education requirements set forth in this Act or as established by rule. The citation shall be issued to the licensee and a copy sent to the licensee's designated community association manager, and shall contain the licensee's name, the licensee's address, the licensee's license number, the number of required hours of continuing education that have not been successfully completed by the licensee within the renewal period, and the penalty imposed, which shall not exceed $2,000. The issuance of any such citation shall not excuse the licensee from completing all continuing education required for that renewal period.

(b) Service of a citation shall be made in person, electronically, or by mail to the licensee at the licensee's address of record or email address of record, and the citation must clearly state that if the cited licensee wishes to dispute the citation, the cited licensee may make a written

request, within 30 days after the citation is served, for a hearing before the Department. If the cited licensee does not request a hearing within 30 days after the citation is served, then the citation shall become a final, non-disciplinary order, and any fine imposed is due and payable within 60 days after that final order. If the cited licensee requests a hearing within 30 days after the citation is served, the Department shall afford the cited licensee a hearing conducted in the same manner as a hearing provided for in this Act for any violation of this Act and shall determine whether the cited licensee committed the violation as charged and whether the fine as levied is warranted. If the violation is found, any fine shall constitute non-public discipline and be due and payable within 30 days after the order of the Secretary, which shall constitute a final order of the Department. No change in license status may be made by the Department until a final order of the Department has been issued.

(c) Payment of a fine that has been assessed pursuant to this Section shall not constitute disciplinary action reportable on the Department's website or elsewhere unless a licensee has previously received 2 or more citations and been assessed 2 or more fines.

(d) Nothing in this Section shall prohibit or limit the Department from taking further action pursuant to this Act and rules for additional, repeated, or continuing violations.

(225 ILCS 427/86 new)

Sec. 86. Illegal discrimination. When there has been an adjudication in a civil or criminal proceeding that a community association manager or community association management firm has illegally discriminated while engaged in any activity for which a license is required under this Act, the Department, upon the recommendation of the Board as to the extent of the suspension or revocation, shall suspend or revoke the license of that licensee in a timely manner, unless the adjudication is in the appeal process. When there has been an order in an administrative proceeding finding that a licensee has illegally discriminated while engaged in any activity for which a license is required under this Act, the Department, upon recommendation of the Board as to the nature and extent of the discipline, shall take one or more of the disciplinary actions provided for in Section 85 in a timely manner, unless the administrative order is in the appeal process.

(225 ILCS 427/90)

(Section scheduled to be repealed on January 1, 2022)

Sec. 90. Violations; injunctions; cease and desist orders.

(a) If any person violates a provision of this Act, the Secretary may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, petition for an order enjoining the violation or for

an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person provides~~, entity or other business may provide~~ community association management services or provides ~~provide~~ services as a community association manager to any community association in this State without having a valid license under this Act or, in the case of a community association management firm, without a designated community association manager, then any licensee, any interested party, or any person injured thereby may, in addition to the Secretary, petition for relief as provided in subsection (a) of this Section.

(c) Whenever in the opinion of the Department any person, entity or other business violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against such person, firm or other entity. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of at least 7 days from the date of the rule to file an

answer to the satisfaction of the Department. If the person, firm or other entity fails to file an answer satisfactory to the Department, the matter shall be considered as a default and the Department may cause an order to cease and desist to be issued immediately.

(Source: P.A. 96-726, eff. 7-1-10.)

(225 ILCS 427/92)

(Section scheduled to be repealed on January 1, 2022)

Sec. 92. Unlicensed practice; violation; civil penalty.

(a) Any person, entity or other business who practices, offers to practice, attempts to practice, or holds oneself ~~himself, herself or itself~~ out to practice as a community association manager or community association management firm or provides ~~provide~~ services as a community association manager or community association management firm to any community association in this State without being licensed under this Act or, in the case of a community association management firm, without a designated community association manager shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed $10,000 for each offense, as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) The Department may investigate any and all unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(Source: P.A. 98-365, eff. 1-1-14.)

(225 ILCS 427/95)

(Section scheduled to be repealed on January 1, 2022)

Sec. 95. Investigation; notice and hearing. The Department may investigate the actions or qualifications of a person, entity or other business applying for, holding or claiming to hold, or holding oneself out as having a license or rendering or offering to render services for which a license is required by this Act and may notify their designated community association manager, if any, of the pending investigation. Before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license, at least 30 days before the date set for the hearing, the Department shall (i) notify the accused and their designated community association manager, if any, in writing of any charges made and the time and place for a hearing on the charges before the Board, (ii) direct the accused ~~individual~~

~~or entity~~ to file a written answer to the charges with the Board under oath within 20 days after the service on the accused ~~him or her~~ of such notice, and (iii) inform the accused ~~person, entity or other business~~ that if the accused ~~the person, entity, or other business~~ fails to file an answer, default will be taken against the accused ~~such person, entity, or other business~~ and the license of the accused ~~such person, entity, or other business~~ may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license, including limiting the scope, nature, or extent of related ~~his or her~~ practice, as the Department may deem proper. The Department shall serve notice under this Section by regular or electronic ~~Written notice may be served by personal delivery or by registered or certified~~ mail to the applicant's or licensee's ~~applicant or licensee at his or her~~ last address of record or email address of record as provided to ~~with~~ the Department. If the accused ~~In case the person~~ fails to file an answer after receiving notice, the ~~his or her~~ license may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. The ~~written~~ answer shall be served by personal delivery or regular~~, certified~~

~~delivery, or certified or registered~~ mail to the Department. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence, and argument as may be pertinent to the charges or to the defense thereto. The Department may continue such hearing from time to time. At the discretion of the Secretary after having first received the recommendation of the Board, the accused person's license may be suspended, ~~or~~ revoked, or placed on probationary status or the Department may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine if the act or acts charged constitute sufficient grounds for that action under this Act. A copy of the Department's final order shall be delivered to the accused's designated community association manager or, if the accused is directly employed by a community association, to the board of managers of that association if known to the Department~~, if the evidence constitutes sufficient grounds for such action under this Act~~. (Source: P.A. 96-726, eff. 7-1-10; 97-333, eff. 8-12-11.)

(225 ILCS 427/115)

(Section scheduled to be repealed on January 1, 2022)

Sec. 115. Rehearing. At the conclusion of a hearing and following deliberation by the Board, a copy of the Board's

report shall be served upon the applicant, licensee, or unlicensed person by the Department, either personally or as provided in this Act for the service of a notice of hearing. ~~In any hearing involving disciplinary action against a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing.~~ Within 20 calendar days after service, the respondent may present to the Department a motion in writing for a rehearing that shall specify the particular grounds for rehearing. If no motion for rehearing is filed, then upon the expiration of the time specified for filing a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with recommendations of the Board, except as provided in this Act. If the respondent orders from the reporting service, and pays for, a transcript of the record within the time for filing a motion for rehearing, the 20 calendar day period within which a motion may be filed shall commence upon the delivery of the transcript to the respondent.

(Source: P.A. 96-726, eff. 7-1-10.)

(225 ILCS 427/120)

(Section scheduled to be repealed on January 1, 2022)

Sec. 120. Appointment of a hearing officer. The Secretary has the authority to appoint any attorney duly licensed to

practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew a license, or to discipline a licensee. The hearing officer has full authority to conduct the hearing. The hearing officer shall report the ~~his~~ findings and recommendations to the Board and the Secretary. At its next meeting following ~~The Board has 60 calendar days from~~ receipt of the report, the Board shall ~~to~~ review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary.

If the Board fails to present its report within 30 calendar days following its next meeting after receiving the report ~~within the 60 calendar day period~~, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7 calendar days after the request, issue an order directing the Board to issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days after such order.

If the Board fails to issue its findings of fact, conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order.

If (i) a direct appeal is requested, (ii) the Board fails to issue its findings of fact, conclusions of law, and recommendations within the 30-day mandate from the Secretary or the Secretary fails to order the Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary.

Notwithstanding any other provision of this Section, if the Secretary, upon review, determines that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license or other disciplinary action taken as the result of the entry of the hearing officer's report, the Secretary may order a rehearing by the same or other examiners. If the Secretary disagrees with the recommendation of the Board or the hearing officer, the Secretary may issue an order in contravention of either recommendation.

(Source: P.A. 96-726, eff. 7-1-10.)

(225 ILCS 427/140)

(Section scheduled to be repealed on January 1, 2022)

Sec. 140. Summary suspension. The Secretary may summarily suspend a license without a hearing, simultaneously with the institution of proceedings for a hearing provided for in this Act, if the Secretary finds ~~that~~ evidence indicating ~~in his or her possession indicates~~ that a continuation in practice would

constitute an imminent danger to the public. In the event that the Secretary summarily suspends a license without a hearing, a hearing by the Department must be held within 30 calendar days after the suspension has occurred.

(Source: P.A. 96-726, eff. 7-1-10.)

(225 ILCS 427/145)

(Section scheduled to be repealed on January 1, 2022)

Sec. 145. Judicial review. All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides; but if the party is not a resident of this State, the venue shall be in Sangamon County <u>or Cook County</u>.

(Source: P.A. 96-726, eff. 7-1-10.)

(225 ILCS 427/155)

(Section scheduled to be repealed on January 1, 2022)

Sec. 155. Violations; penalties.

(a) A person who violates any of the following provisions shall be guilty of a Class A misdemeanor; a person who commits a second or subsequent violation of these provisions is guilty of a Class 4 felony:

(1) Practicing or attempting to ~~The practice of or attempted~~ practice ~~of~~ or holding oneself out as available to practice as a community association manager ~~or supervising community association manager~~ without a license.

(2) Operating or attempting ~~Operation of or attempt~~ to operate a community association management firm without a firm license or a designated ~~supervising~~ community association manager.

(3) Obtaining or attempting ~~The obtaining of or the attempt~~ to obtain any license or authorization issued under this Act by fraudulent misrepresentation.

(b) Whenever a licensee is convicted of a felony related to the violations set forth in this Section, ~~the clerk of the court in any jurisdiction shall promptly report the conviction to the Department and~~ the Department shall immediately revoke any license authorized under this Act held by that licensee. The licensee shall not be eligible for licensure under this Act until at least 5 years have elapsed since a felony conviction or 3 years since release from confinement for the conviction, whichever is later, without a subsequent ~~10 years have elapsed since the time of full discharge from any sentence imposed for a felony~~ conviction. ~~If any person in making any oath or affidavit required by this Act swears falsely, the person is guilty of perjury and may be punished accordingly.~~

(Source: P.A. 98-365, eff. 1-1-14; 99-78, eff. 7-20-15.)

(225 ILCS 427/161 new)

Sec. 161. Statute of limitations. No action may be taken under this Act against a person or entity licensed under this Act unless the action is commenced within 5 years after the occurrence of the alleged violation. A continuing violation is deemed to have occurred on the date when the circumstances last existed that gave rise to the alleged continuing violation.

(225 ILCS 427/162 new)

Sec. 162. No private right of action. Except as otherwise expressly provided for in this Act, nothing in this Act shall be construed to grant to any person a private right of action to enforce the provisions of this Act or the rules adopted under this Act.

(225 ILCS 427/165)

(Section scheduled to be repealed on January 1, 2022)

Sec. 165. Home rule. The regulation and licensing of community association managers~~, supervising community association managers,~~ and community association management firms are exclusive powers and functions of the State. A home rule unit may not regulate or license community association managers~~, supervising community association managers,~~ or

community association management firms. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 98-365, eff. 1-1-14.)

(225 ILCS 427/42 rep.)

(225 ILCS 427/80 rep.)

(225 ILCS 427/135 rep.)

(225 ILCS 427/170 rep.)

Section 55. The Community Association Manager Licensing and Disciplinary Act is amended by repealing Sections 42, 80, 135, and 170.

Section 60. The Detection of Deception Examiners Act is amended by changing Sections 1, 7.1, 7.3, 17, and 20 and by adding Section 10.2 as follows:

(225 ILCS 430/1) (from Ch. 111, par. 2401)

(Section scheduled to be repealed on January 1, 2022)

Sec. 1. Definitions. As used in this Act, unless the context otherwise requires:

"Address of record ~~Record~~" means the designated address recorded by the Department in the applicant's or licensee's application file or license file as maintained by the Department's licensure maintenance unit. ~~It is the duty of the~~

~~applicant or licensee to inform the Department of any change of address and those changes must be made either through the Department's website or by contacting the Department.~~

"Detection of Deception Examination", hereinafter referred to as "Examination" means any examination in which a device or instrument is used to test or question individuals for the purpose of evaluating truthfulness or untruthfulness.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department's licensure maintenance unit.

"Examiner" means any person licensed under this Act.

"Person" includes any natural person, partnership, association, corporation or trust.

"Department" means the Department of Financial and Professional Regulation.

"Law enforcement agency" means an agency of the State or a unit of local government that is vested by law or ordinance with the power to maintain public order and to enforce criminal laws and ordinances.

"Secretary" means the Secretary of Financial and Professional Regulation.

(Source: P.A. 97-168, eff. 7-22-11.)

(225 ILCS 430/7.1) (from Ch. 111, par. 2408)

(Section scheduled to be repealed on January 1, 2022)

Sec. 7.1. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation, or renewal of the license is specifically excluded. For the purposes of this Act, the notice required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed or emailed to the last known address of a party.

(Source: P.A. 100-201, eff. 8-18-17.)

(225 ILCS 430/7.3)

(Section scheduled to be repealed on January 1, 2022)

Sec. 7.3. Appointment of a Hearing Officer. The Secretary has the authority to appoint an attorney, licensed to practice law in the State of Illinois, to serve as a Hearing Officer in any action for refusal to issue or renew a license or to discipline a license. The Hearing Officer has full authority to conduct the hearing. ~~The appointed Detection of Deception Coordinator may attend hearings and advise the Hearing Officer on technical matters involving Detection of Deception examinations.~~

(Source: P.A. 97-168, eff. 7-22-11.)

(225 ILCS 430/10.2 new)

Sec. 10.2. Address of record; email address of record. All applicants and licensees shall:

(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for licensure or renewal of a license; and

(2) inform the Department of any change of address of record or email address of record within 14 days after such change either through the Department's website or by contacting the Department's licensure maintenance unit.

(225 ILCS 430/17) (from Ch. 111, par. 2418)

(Section scheduled to be repealed on January 1, 2022)

Sec. 17. Investigations; notice and hearing. The Department may investigate the actions of any applicant or any person or persons rendering or offering to render detection of deception services or any person holding or claiming to hold a license as a licensed examiner. The Department shall, before refusing to issue or renew a license or to discipline a licensee under Section 14, at least 30 days prior to the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer with the Department under oath within 20 days after the service of

the notice, and (iii) inform the applicant or licensee that failure to file an answer will result in default being taken against the applicant or licensee. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license, may, in the discretion of the Department, be revoked, suspended, placed on probationary status, or the Department may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under the Act. The written notice may be served by email, by personal delivery, or by ~~certified~~ mail to the accused's address of record.

(Source: P.A. 97-168, eff. 7-22-11.)

(225 ILCS 430/20) (from Ch. 111, par. 2421)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20. Any person affected by a final administrative decision of the Department may have such decision reviewed judicially by the circuit court of the county wherein such person resides. If the plaintiff in the review proceeding is

not a resident of this State, the venue shall be in Sangamon County. The provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Department hereunder. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial ~~Judicial~~ review proceeding, unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record which costs shall be determined by the Department. ~~Exhibits shall be certified without cost.~~ Failure on the part of the plaintiff to file a receipt in court is grounds for dismissal of the action.

(Source: P.A. 97-168, eff. 7-22-11.)

(225 ILCS 430/7.2 rep.)

(225 ILCS 430/16 rep.)

Section 65. The Detection of Deception Examiners Act is amended by repealing Sections 7.2 and 16.

Section 70. The Home Inspector License Act is amended by changing Sections 1-10, 5-5, 5-10, 5-12, 5-16, 5-17, 5-20,

5-25, 5-30, 10-10, 15-10, 15-15, 15-20, 15-55, 15-60, 20-5, 25-15, and 25-27 and by adding Sections 1-12, 5-50, 15-10.1, and 15-36 as follows:

(225 ILCS 441/1-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 1-10. Definitions. As used in this Act, unless the context otherwise requires:

"Address of record" means the designated street address, which may not be a post office box, recorded by the Department in the applicant's or licensee's application file or license file as maintained by the ~~Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address and those changes must be made either through the Department's website or by contacting the~~ Department.

"Applicant" means a person who applies to the Department for a license under this Act.

"Client" means a person who engages or seeks to engage the services of a home inspector for an inspection assignment.

"Department" means the Department of Financial and Professional Regulation.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department.

"Home inspection" means the examination and evaluation of the exterior and interior components of residential real property, which includes the inspection of any 2 or more of the following components of residential real property in connection with or to facilitate the sale, lease, or other conveyance of, or the proposed sale, lease or other conveyance of, residential real property:

(1) heating, ventilation, and air conditioning system;

(2) plumbing system;

(3) electrical system;

(4) structural composition;

(5) foundation;

(6) roof;

(7) masonry structure; or

(8) any other residential real property component as established by rule.

"Home inspector" means a person <u>or entity</u> who, for another and for compensation either direct or indirect, performs home inspections.

"Home inspection report" or "inspection report" means a written evaluation prepared and issued by a home inspector upon completion of a home inspection, which meets the standards of practice as established by the Department.

"Inspection assignment" means an engagement for which a home inspector is employed or retained to conduct a home inspection and prepare a home inspection report.

"License" means the privilege conferred by the Department to a person who has fulfilled all requirements prerequisite to any type of licensure under this Act.

"Licensee" means a home inspector, home inspector entity, or home inspector education provider.

"Person" means individuals, entities, corporations, limited liability companies, registered limited liability partnerships, and partnerships, foreign or domestic, except that when the context otherwise requires, the term may refer to a single individual or other described entity.

"Residential real property" means real property that is used or intended to be used as a residence by one or more individuals.

"Secretary" means the Secretary of Financial and Professional Regulation or the Secretary's designee.

"Standards of practice" means recognized standards ~~and codes~~ to be used in a home inspection, as determined by the Department and established by rule.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/1-12 new)

Sec. 1-12. Address of record; email address of record. All applicants and licensees shall:

(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of

application for licensure or renewal of a license; and

(2) inform the Department of any change of address of record or email address of record within 14 days after such change through the Department's website or by contacting the Department.

(225 ILCS 441/5-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-5. Necessity of license; use of title; exemptions.

(a) It is unlawful for any person, including any entity, to act or assume to act as a home inspector, to engage in the business of home inspection, to develop a home inspection report, to practice as a home inspector, or to advertise or hold oneself ~~himself, herself, or itself~~ out to be a home inspector without a home inspector license issued under this Act. A person who violates this subsection is guilty of a Class A misdemeanor for the first offense and a Class 4 felony for the second and any subsequent offenses.

(b) It is unlawful for any person, other than a person who holds a valid home inspector license issued pursuant to this Act, to use the title "home inspector" or any other title, designation, or abbreviation likely to create the impression that the person is licensed as a home inspector pursuant to this Act. A person who violates this subsection is guilty of a Class A misdemeanor.

(c) The licensing requirements of this Article do not

apply to:

(1) any person who is employed as a code enforcement official by the State of Illinois or any unit of local government, while acting within the scope of that government employment;

(2) any person licensed in this State by any other law who is engaging in the profession or occupation for which the person is licensed ~~by the State of Illinois while acting within the scope of his or her license~~; or

(3) any person engaged by the owner or lessor of residential real property for the purpose of preparing a bid or estimate as to the work necessary or the costs associated with performing home construction, home remodeling, or home repair work on the residential real property, provided such person does not ~~hold himself or herself out, or~~ advertise or hold oneself out as ~~himself or herself, as being~~ engaged in business as a home inspector.

(d) The licensing of home inspector entities required under this Act does not apply to an entity whose ownership structure is one licensed home inspector operating a sole proprietorship, a single member limited liability company, or a single shareholder corporation, and that home inspector is the only licensed home inspector performing inspections on the entity's behalf. The licensed home inspector who is the sole proprietor, sole shareholder, or single member of the company

or entity shall comply with all other provisions of this Act.
(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/5-10)
(Section scheduled to be repealed on January 1, 2022)
Sec. 5-10. Application for home inspector license.
(a) Every natural person who desires to obtain a home inspector license shall:
(1) apply to the Department in a manner ~~on forms~~ prescribed by the Department and accompanied by the required fee; all applications shall contain the information that, in the judgment of the Department, enables the Department to pass on the qualifications of the applicant for a license to practice as a home inspector as set by rule;
(2) be at least 18 years of age;
(3) successfully complete a 4-year course of study in a high school or secondary school or an equivalent course of study approved by the state in which the school is located, or possess a high school equivalency certificate, which shall be verified under oath by the applicant ~~provide evidence of having attained a high school diploma or completed an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education~~;
(4) personally take and pass a written examination and

a field ~~an~~ examination authorized by the Department; and

(5) prior to taking the examination, provide evidence to the Department that the applicant ~~he or she~~ has successfully completed the prerequisite classroom hours of instruction in home inspection, as established by rule.

(b) The Department shall not require applicants to report the following information and shall not consider the following criminal history records in connection with an application for licensure or registration:

(1) juvenile adjudications of delinquent minors as defined in Section 5-105 of the Juvenile Court Act of 1987 subject to the restrictions set forth in Section 5-130 of that Act;

(2) law enforcement records, court records, and conviction records of an individual who was 17 years old at the time of the offense and before January 1, 2014, unless the nature of the offense required the individual to be tried as an adult;

(3) records of arrest not followed by a charge or conviction;

(4) records of arrest where the charges were dismissed unless related to the practice of the profession; however, applicants shall not be asked to report any arrests, and an arrest not followed by a conviction shall not be the basis of denial and may be used only to assess an applicant's rehabilitation;

(5) convictions overturned by a higher court; or

(6) convictions or arrests that have been sealed or expunged.

(c) An applicant or licensee shall report to the Department, in a manner prescribed by the Department, upon application and within 30 days after the occurrence, if during the term of licensure, (i) any conviction of or plea of guilty or nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any similar offense or offenses or any conviction of a felony involving moral turpitude, (ii) the entry of an administrative sanction by a government agency in this State or any other jurisdiction that has as an essential element dishonesty or fraud or involves larceny, embezzlement, or obtaining money, property, or credit by false pretenses, or (iii) a crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act.

(d) Applicants have 3 years after the date of the application to complete the application process. If the process has not been completed within 3 years, the application shall be denied, the fee forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 100-892, eff. 8-14-18.)

(225 ILCS 441/5-12)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-12. Application for home inspector license; entity. Every entity that is not a natural person that desires to obtain a home inspector license shall apply to the Department in a manner prescribed ~~on forms provided~~ by the Department and accompanied by the required fee.

Applicants have 3 years after the date of the application to complete the application process. If the process has not been completed within 3 years, the application shall be denied, the fee forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

A corporation, limited liability company, partnership, or entity shall, as a condition of licensure, designate a managing licensed home inspector. The managing home inspector of any home inspector entity shall be responsible for the actions of all licensed and unlicensed employees, agents, and representatives of that home inspector entity while it is providing a home inspection or home inspection service. All other requirements for home inspector entities shall be established by rule.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/5-16)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-16. Renewal of license.

(a) The expiration date and renewal period for a home

inspector license issued under this Act shall be set by rule. Except as otherwise provided in subsections (b) and (c) of this Section, the holder of a license may renew the license within 90 days preceding the expiration date by:

(1) completing and submitting to the Department a renewal application in a manner prescribed ~~form as provided~~ by the Department;

(2) paying the required fees; and

(3) providing evidence of successful completion of the continuing education requirements through courses approved by the Department given by education providers licensed by the Department, as established by rule.

(b) A home inspector whose license under this Act has expired may renew the license for a period of 2 years following the expiration date by complying with the requirements of subparagraphs (1), (2), and (3) of subsection (a) of this Section and paying any late penalties established by rule.

(c) Notwithstanding subsection (b), a home inspector whose license under this Act has expired may renew the license without paying any lapsed renewal fees or late penalties if (i) the license expired while the home inspector was on active duty with the United States Armed Services, (ii) application for renewal is made within 2 years following the termination of the military service or related education, training, or employment, and (iii) the applicant furnishes to the Department an affidavit that the applicant ~~he or she~~ was so

engaged.

(d) The Department shall provide reasonable care and due diligence to ensure that each licensee under this Act is provided a renewal application at least 90 days prior to the expiration date, but it is the responsibility of each licensee to renew the ~~his or her~~ license prior to its expiration date.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/5-17)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-17. Renewal of home inspector license; entity.

(a) The expiration date and renewal period for a home inspector license for an entity that is not a natural person shall be set by rule. The holder of a license may renew the license within 90 days preceding the expiration date by completing and submitting to the Department a renewal application in a manner prescribed ~~form as provided~~ by the Department and paying the required fees.

(b) An entity that is not a natural person whose license under this Act has expired may renew the license for a period of 2 years following the expiration date by complying with the requirements of subsection (a) of this Section and paying any late penalties established by rule.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/5-20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-20. Endorsement. The Department may, in its discretion, license as a home inspector, by endorsement, on payment of the required fee, an applicant who is a home inspector licensed under the laws of another state or territory, if (i) the requirements for licensure in the state or territory in which the applicant was licensed were, at the date of ~~his or her~~ licensure, substantially equivalent to the requirements in force in this State on that date or (ii) there were no requirements in force in this State on the date of ~~his or her~~ licensure and the applicant possessed individual qualifications on that date that are substantially similar to the requirements under this Act. The Department may adopt any rules necessary to implement this Section.

Applicants have 3 years after the date of application to complete the application process. If the process has not been completed within 3 years, the application shall be denied, the fee forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/5-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-25. Pre-license education requirements. The prerequisite <u>curriculum and</u> classroom hours necessary for a person to be approved to sit for the examination for a home

inspector shall be established by rule. Approved education, as prescribed by this Act and its associated administrative rules for licensure as a home inspector, shall be valid for 2 years after the date of satisfactory completion of the education.
(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/5-30)
(Section scheduled to be repealed on January 1, 2022)
Sec. 5-30. Continuing education renewal requirements. The continuing education requirements for a person to renew a license as a home inspector shall be established by rule. ~~The Department shall establish a continuing education completion deadline for home inspector licensees and require evidence of compliance with continuing education requirements in a manner established by rule before the renewal of a license.~~
(Source: P.A. 100-831, eff. 1-1-19.)

(225 ILCS 441/5-50 new)
Sec. 5-50. Insurance.
(a) All applicants for a home inspector license and all licensees shall maintain general liability insurance in an amount of not less than $100,000.
(b) Failure of an applicant or a licensee to carry and maintain the insurance required by this Section, to timely submit proof of coverage upon the Department's request, or to timely report any claims made against such policies of

insurance shall be grounds for the denial of an application to renew a license, or the suspension or revocation of the license.

(c) The policies of insurance submitted by an applicant for a new license or an applicant for renewal of a license must include the name of the applicant as it appears or will appear on the license.

(d) A home inspector shall maintain the insurance required by this Section for at least one year after the latest home inspection report the home inspector delivered.

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

(225 ILCS 441/10-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-10. Retention of records. A person licensed under this Act shall retain the original or a true and exact copy of all written contracts that engage the licensee's ~~engaging his or her~~ services as a home inspector and all home inspection reports, including any supporting data used to develop the home inspection report, for a period of 5 years or 2 years after the final disposition of any judicial proceeding, which includes any appeal, in which testimony was given, whichever is longer.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/15-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15-10. Grounds for disciplinary action.

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed $25,000 for each violation, with regard to any license for any one or combination of the following:

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

(2) Failing to meet the minimum qualifications for licensure as a home inspector established by this Act.

(3) Paying money, other than for the fees provided for by this Act, or anything of value to an employee of the Department to procure licensure under this Act.

(4) Conviction of, or ~~by~~ plea of guilty or nolo contendere, or finding as enumerated in subsection (c) of Section 5-10, ~~of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation,~~ under the laws of any jurisdiction of the United States: (i) that is a felony, ~~; (ii) that is a~~ misdemeanor, or administrative sanction, or (ii) ~~an essential element of~~

~~which is dishonesty, or that is directly related to the practice of the profession; or (iii)~~ that is a crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act.

(5) Committing an act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the licensee or another person or with the intent to substantially injure another person.

(6) Violating a provision or standard for the development or communication of home inspections as provided in Section 10-5 of this Act or as defined in the rules.

(7) Failing or refusing to exercise reasonable diligence in the development, reporting, or communication of a home inspection report, as defined by this Act or the rules.

(8) Violating a provision of this Act or the rules.

(9) Having been disciplined by another state, the District of Columbia, a territory, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or substantially equivalent to one of the grounds for which a licensee may be disciplined under this Act.

(10) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive,

defraud, or harm the public.

(11) Accepting an inspection assignment when the employment itself is contingent upon the home inspector reporting a predetermined analysis or opinion, or when the fee to be paid is contingent upon the analysis, opinion, or conclusion reached or upon the consequences resulting from the home inspection assignment.

(12) Developing home inspection opinions or conclusions based on the race, color, religion, sex, national origin, ancestry, age, marital status, family status, physical or mental disability, military status, ~~or~~ unfavorable discharge from military status ~~discharge~~, sexual orientation, order of protection status, or pregnancy, as defined under the Illinois Human Rights Act, of the prospective or present owners or occupants of the area or property under home inspection.

(13) Being adjudicated liable in a civil proceeding on grounds of fraud, misrepresentation, or deceit. In a disciplinary proceeding based upon a finding of civil liability, the home inspector shall be afforded an opportunity to present mitigating and extenuating circumstances, but may not collaterally attack the civil adjudication.

(14) Being adjudicated liable in a civil proceeding for violation of a State or federal fair housing law.

(15) Engaging in misleading or untruthful advertising

or using a trade name or insignia of membership in a home inspection organization of which the licensee is not a member.

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

(17) Failing to include within the home inspection report the home inspector's license number and the date of expiration of the license. The names of (i) all persons who conducted the home inspection; and (ii) all persons who prepared the subsequent written evaluation or any part thereof must be disclosed in the report. ~~All home inspectors providing significant contribution to the development and reporting of a home inspection must be disclosed in the home inspection report.~~ It is a violation of this Act for a home inspector to sign a home inspection report knowing that the names of all such persons have ~~a person providing a significant contribution to the report has~~ not been disclosed in the home inspection report.

(18) Advising a client as to whether the client should or should not engage in a transaction regarding the residential real property that is the subject of the home inspection.

(19) Performing a home inspection in a manner that damages or alters the residential real property that is the subject of the home inspection without the consent of the owner.

(20) Performing a home inspection when the home inspector is providing or may also provide other services in connection with the residential real property or transaction, or has an interest in the residential real property, without providing prior written notice of the potential or actual conflict and obtaining the prior consent of the client as provided by rule.

(21) Aiding or assisting another person in violating any provision of this Act or rules adopted under this Act.

(22) Inability to practice with reasonable judgment, skill, or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug.

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

(24) Willfully making or filing false records or reports related to the ~~in his or her~~ practice of home inspection, including, but not limited to, false records filed with State agencies or departments.

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

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

(27) Cheating on or attempting to subvert the

licensing examination administered under this Act.

(28) Engaging in any of the following prohibited fraudulent, false, deceptive, or misleading advertising practices:

(i) advertising as a home inspector or operating a home inspection business entity unless there is a duly licensed home inspector responsible for all inspection activities and all inspections;

(ii) advertising that contains a misrepresentation of facts or false statements regarding the licensee's professional achievements, degrees, training, skills, or qualifications in the home inspection profession or any other profession requiring licensure;

(iii) advertising that makes only a partial disclosure of relevant facts related to pricing or home inspection services; and

(iv) advertising that claims this State or any of its political subdivisions endorse the home inspection report or its contents.

(29) Disclosing, except as otherwise required by law, inspection results or client information obtained without the client's written consent. A home inspector shall not deliver a home inspection report to any person other than the client of the home inspector without the client's written consent.

(30) Providing fees, gifts, waivers of liability, or

other forms of compensation or gratuities to persons licensed under any real estate professional licensing act in this State as consideration or inducement for the referral of business.

(b) The Department may suspend, revoke, or refuse to issue or renew an education provider's license, may reprimand, place on probation, or otherwise discipline an education provider licensee, and may suspend or revoke the course approval of any course offered by an education provider, for any of the following:

(1) Procuring or attempting to procure licensure by knowingly making a false statement, submitting false information, making any form of fraud or misrepresentation, or refusing to provide complete information in response to a question in an application for licensure.

(2) Failing to comply with the covenants certified to on the application for licensure as an education provider.

(3) Committing an act or omission involving dishonesty, fraud, or misrepresentation or allowing any such act or omission by any employee or contractor under the control of the education provider.

(4) Engaging in misleading or untruthful advertising.

(5) Failing to retain competent instructors in accordance with rules adopted under this Act.

(6) Failing to meet the topic or time requirements for

course approval as the provider of a pre-license curriculum course or a continuing education course.

(7) Failing to administer an approved course using the course materials, syllabus, and examinations submitted as the basis of the course approval.

(8) Failing to provide an appropriate classroom environment for presentation of courses, with consideration for student comfort, acoustics, lighting, seating, workspace, and visual aid material.

(9) Failing to maintain student records in compliance with the rules adopted under this Act.

(10) Failing to provide a certificate, transcript, or other student record to the Department or to a student as may be required by rule.

(11) Failing to fully cooperate with a Department investigation by knowingly making a false statement, submitting false or misleading information, or refusing to provide complete information in response to written interrogatories or a written request for documentation within 30 days of the request.

(c) (Blank). ~~In appropriate cases, the Department may resolve a complaint against a licensee through the issuance of a Consent to Administrative Supervision order. A licensee subject to a Consent to Administrative Supervision order shall be considered by the Department as an active licensee in good standing. This order shall not be reported as or considered by~~

~~the Department to be a discipline of the licensee. The records regarding an investigation and a Consent to Administrative Supervision order shall be considered confidential and shall not be released by the Department except as mandated by law. The complainant shall be notified that his or her complaint has been resolved by a Consent to Administrative Supervision order.~~

(d) The Department may refuse to issue or may suspend without hearing, as provided for in the Code of Civil Procedure, the license of any person who fails to file a tax return, to pay the tax, penalty, or interest shown in a filed tax return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Civil Administrative Code of Illinois.

(e) (Blank).

(f) In cases where the Department of Healthcare and Family Services has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the

Department of Healthcare and Family Services in accordance with item (5) of subsection (a) of Section 2105-15 of the Civil Administrative Code of Illinois.

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

(h) (Blank). ~~In enforcing this Act, the Department, upon a showing of a possible violation, may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physician shall be specifically designated by the Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a~~

~~physician licensed to practice medicine in all its branches. Failure of an individual to submit to a mental or physical examination, when directed, shall result in an automatic suspension without hearing.~~

~~A person holding a license under this Act or who has applied for a license under this Act, who, because of a physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of motor skill, is unable to practice the profession with reasonable judgment, skill, or safety, may be required by the Department to submit to care, counseling, or treatment by physicians approved or designated by the Department as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice. Submission to care, counseling, or treatment as required by the Department shall not be considered discipline of a license. If the licensee refuses to enter into a care, counseling, or treatment agreement or fails to abide by the terms of the agreement, the Department may file a complaint to revoke, suspend, or otherwise discipline the license of the individual. The Secretary may order the license suspended immediately, pending a hearing by the Department. Fines shall not be assessed in disciplinary actions involving physical or mental illness or impairment.~~

~~In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15~~

~~days after the suspension and completed without appreciable delay. The Department shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.~~

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

(Source: P.A. 100-872, eff. 8-14-18.)

(225 ILCS 441/15-10.1 new)

Sec. 15-10.1. Citations.

(a) The Department may adopt rules to permit the issuance of citations to any licensee for failure to comply with the continuing education requirements set forth in this Act or as established by rule. The citation shall be issued to the licensee and shall contain the licensee's name, the licensee's address, the licensee's license number, the number of required hours of continuing education that have not been successfully completed by the licensee within the renewal period, and the penalty imposed, which shall not exceed $2,000. The issuance of a citation shall not excuse the licensee from completing all continuing education required for that renewal period.

(b) Service of a citation shall be made in person, electronically, or by mail to the licensee at the licensee's address of record or email address of record, and the citation must clearly state that if the cited licensee wishes to dispute the citation, the cited licensee may make a written request, within 30 days after the citation is served, for a hearing before the Department. If the cited licensee does not request a hearing within 30 days after the citation is served, then the citation shall become a final, non-disciplinary order, and any fine imposed is due and payable within 60 days after that final order. If the cited licensee requests a hearing within 30 days after the citation is served, the Department shall afford the cited licensee a hearing conducted in the same manner as a hearing provided for in this Act for any violation of this Act and shall determine whether the cited licensee committed the violation as charged and whether the fine as levied is warranted. If the violation is found, any fine shall constitute non-public discipline and be due and payable within 30 days after the order of the Secretary, which shall constitute a final order of the Department. No change in license status may be made by the Department until a final order of the Department has been issued.

(c) Payment of a fine that has been assessed pursuant to this Section shall not constitute disciplinary action reportable on the Department's website or elsewhere unless a licensee has previously received 2 or more citations and been

assessed 2 or more fines.

(d) Nothing in this Section shall prohibit or limit the Department from taking further action pursuant to this Act and rules for additional, repeated, or continuing violations.

(225 ILCS 441/15-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15-15. Investigation; notice; hearing. The Department may investigate the actions of any applicant or licensee or of any person or persons rendering or offering to render home inspection services or any person holding or claiming to hold a license as a home inspector. The Department shall, before refusing to issue or renew a license or to discipline a licensee pursuant to Section 15-10, at least 30 days prior to the date set for the hearing, (i) notify the accused in writing, of the charges made and the time and place for the hearing on the charges, (ii) direct the licensee or applicant ~~him or her~~ to file a written answer with the Department under oath within 20 days after the service of the notice, and (iii) inform the applicant or licensee that failure to file an answer will result in a default judgment being entered against the applicant or licensee. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties of their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the

hearing from time to time. In case the person, after receiving the notice, fails to file an answer, the ~~his or her~~ license, may, in the discretion of the Department, be revoked, suspended, placed on probationary status, or the Department may take whatever disciplinary actions considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under the Act. The notice may be served by personal delivery, by mail, or, at the discretion of the Department, by electronic means to the address of record or email address of record specified by the accused as last updated with the Department. ~~The written notice may be served by personal delivery or by certified mail to the accused's address of record.~~

A copy of the hearing officer's report or any Order of Default, along with a copy of the original complaint giving rise to the action, shall be served upon the applicant, licensee, or unlicensed person by the Department to the applicant, licensee, or unlicensed individual in the manner provided in this Act for the service of a notice of hearing. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter

an order in accordance with the recommendations of the hearing officer. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, then the 20-day period during which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/15-20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15-20. Administrative Review Law; certification fees; Illinois Administrative Procedure Act.

(a) All final administrative decisions of the Department under this Act are subject to judicial review pursuant to the provisions of the Administrative Review Law and the rules adopted pursuant thereto. The term "administrative decision" has the meaning ascribed to it in Section 3-101 of the Administrative Review Law.

(b) The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding, unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Exhibits shall be certified without cost. Failure on the part of the

plaintiff to file a receipt in court is grounds for dismissal of the action.

(c) The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein. In the event of a conflict between this Act and the Illinois Administrative Procedure Act, this Act shall control.

(d) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County or Cook County.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/15-36 new)

Sec. 15-36. No private right of action. Except as otherwise expressly provided for in this Act, nothing in this Act shall be construed to grant to any person a private right of action to enforce the provisions of this Act or the rules adopted under this Act.

(225 ILCS 441/15-55)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15-55. Returned checks and dishonored credit card charges; penalty fee; revocation ~~termination~~. A person who (1) delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it was drawn shall pay to the Department; or (2)

presents a credit or debit card for payment that is invalid or expired or against which charges by the Department are declined or dishonored, in addition to the amount already owed, a penalty fee of $50. The Department shall notify the person~~, by certified mail return receipt requested,~~ that the ~~his or her~~ check or payment was returned or that the credit card charge was dishonored and that the person shall pay to the Department by certified check or money order the amount of the returned check plus a $50 penalty fee within 30 calendar days after the date of the notification. If, after the expiration of 30 calendar days of the notification, the person has failed to remit the necessary funds and penalty, the Department shall automatically revoke ~~terminate~~ the license or deny the application without hearing. If the returned check or other payment was for issuance of a license under this Act and that person practices as a home inspector, that person may be subject to discipline for unlicensed practice as provided in this Act. If, after revocation ~~termination~~ or denial, the person seeks a license, the applicant or licensee ~~he or she~~ shall petition the Department for restoration or issuance of the license and ~~he or she~~ may be subject to additional discipline or fines. The Secretary may waive the penalties or fines due under this Section in individual cases where the Secretary finds that the penalties or fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/15-60)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15-60. Violations; injunction; cease and desist orders.

(a) If any person violates a provision of this Act, the Secretary may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois or the State's Attorney in the county in which the offense occurs, petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person practices as a home inspector or holds oneself ~~himself or herself~~ out as a home inspector without being licensed under the provisions of this Act, then the Secretary, any licensed home inspector, any interested party, or any person injured thereby may petition for relief as provided in subsection (a) of this Section or may apply to the circuit court of the county in which the violation or some part

thereof occurred, or in which the person complained of resides or has a ~~his or her~~ principal place of business ~~or resides~~, to prevent the violation. The court has jurisdiction to enforce obedience by injunction or by other process restricting the person complained of from further violation and may enjoin ~~enjoining~~ upon the person ~~him or her~~ obedience.

(c) Whoever knowingly practices or offers to practice home inspection in this State without a license for that purpose shall be guilty of a Class A misdemeanor for the first offense and shall be guilty of a Class 4 felony for the second and any subsequent offense.

(d) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/20-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20-5. Education provider.

(a) Only education providers licensed by the Department

may provide the pre-license and continuing education courses required for licensure under this Act.

(b) A person or entity seeking to be licensed as an education provider under this Act shall provide satisfactory evidence of the following:

(1) a sound financial base for establishing, promoting, and delivering the necessary courses;

(2) a sufficient number of qualified instructors;

(3) adequate support personnel to assist with administrative matters and technical assistance;

(4) a written policy dealing with procedures for management of grievances and fee refunds;

(5) a qualified school administrator, who is responsible for the administration of the school, courses, and the actions of the instructors; and

(6) any other requirements provided by rule.

(c) All applicants for an education provider's license shall make initial application to the Department in a manner prescribed ~~on forms provided~~ by the Department and pay the appropriate fee as provided by rule. In addition to any other information required to be contained in the application as prescribed by rule, every application for an original or renewed license shall include the applicant's tax identification number. The term, expiration date, and renewal of an education provider's license shall be established by rule.

(d) An education provider shall provide each successful course participant with a certificate of completion signed by the school administrator. The format and content of the certificate shall be specified by rule.

(e) All education providers shall provide to the Department a monthly roster of all successful course participants as provided by rule.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/25-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-15. Liaison; duties. The Secretary shall appoint an employee of the Department to:

(1) (blank);

(2) be the direct liaison between the Department, ~~peer review advisors,~~ the profession, home inspectors, and related industry organizations and associations; and

(3) prepare and circulate to licensees such educational and informational material as the Department deems necessary for providing guidance or assistance to licensees.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/25-27)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-27. Subpoenas; depositions; oaths.

(a) The Department may subpoena and bring before it any person to take oral or written testimony or compel the production of any books, papers, records, or any other documents the Secretary or the Secretary's ~~his or her~~ designee deems relevant or material to any investigation or hearing conducted by the Department with the same fees and in the same manner as prescribed in civil cases in the courts of this State.

(b) Any circuit court, upon the application of the licensee or the Department, may order the attendance and testimony of witnesses and the production of relevant documents, files, records, books, and papers in connection with any hearing or investigation. The circuit court may compel obedience to its order by proceedings for contempt.

(c) The Secretary, the hearing officer, any member of the Board, or a certified shorthand court reporter may administer oaths at any hearing the Department conducts. Notwithstanding any other statute or Department rule to the contrary, all requests for testimony, production of documents, or records shall be in accordance with this Act.

(Source: P.A. 97-226, eff. 7-28-11.)

(225 ILCS 441/25-17 rep.)

Section 75. The Home Inspector License Act is amended by repealing Section 25-17.

Section 80. The Real Estate Appraiser Licensing Act of 2002 is amended by changing Sections 1-10, 5-5, 5-10, 5-15, 5-20, 5-20.5, 5-22, 5-25, 5-30, 5-35, 10-5, 10-10, 15-5, 15-10, 15-15, 15-55, 20-5, 20-10, 25-10, 25-15, 25-16, 25-20, 25-25, and 30-5 and by adding Sections 1-12, 5-26, 15-10.1, 15-11, and 25-35 as follows:

(225 ILCS 458/1-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 1-10. Definitions. As used in this Act, unless the context otherwise requires:

"Accredited college or university, junior college, or community college" means a college or university, junior college, or community college that is approved or accredited by the Board of Higher Education, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education.

"Address of record" means the designated street address, which may not be a post office box, recorded by the Department in the applicant's or licensee's application file or license file as maintained by the ~~Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address and those changes must be made either through the Department's website or by contacting the~~ Department.

"Applicant" means person who applies to the Department for

a license under this Act.

"Appraisal" means (noun) the act or process of developing an opinion of value; an opinion of value (adjective) of or pertaining to appraising and related functions, such as appraisal practice or appraisal services.

"Appraisal assignment" means a valuation service provided pursuant to ~~as a consequence of~~ an agreement between an appraiser and a client.

~~"Appraisal consulting" means the act or process of developing an analysis, recommendation, or opinion to solve a problem, where an opinion of value is a component of the analysis leading to the assignment results.~~

"Appraisal firm" means an appraisal entity that is 100% owned and controlled by a person or persons licensed in Illinois as a certified general real estate appraiser or a certified residential real estate appraiser. "Appraisal firm" does not include an appraisal management company.

"Appraisal management company" means any corporation, limited liability company, partnership, sole proprietorship, subsidiary, unit, or other business entity that directly or indirectly: (1) provides appraisal management services to creditors or secondary mortgage market participants, including affiliates; (2) provides appraisal management services in connection with valuing the consumer's principal dwelling as security for a consumer credit transaction (including consumer credit transactions incorporated into securitizations); and

(3) ~~within a given year, oversees an appraiser panel of any size of State-certified appraisers in Illinois; and (4)~~ any appraisal management company that, within a given 12-month period ~~year~~, oversees an appraiser panel of 16 or more State-certified appraisers in Illinois or 25 or more State-certified or State-licensed appraisers in 2 or more jurisdictions ~~shall be subject to the appraisal management company national registry fee in addition to the appraiser panel fee~~. "Appraisal management company" includes a hybrid entity.

"Appraisal practice" means valuation services performed by an individual acting as an appraiser, including, but not limited to, appraisal or~~,~~ appraisal review~~, or appraisal consulting~~.

"Appraisal report" means any communication, written or oral, of an appraisal or appraisal review that is transmitted to a client upon completion of an assignment.

"Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal, appraisal review, or appraisal assignment.

"Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council as established by Title XI.

"Appraiser" means a person who performs real estate or real property appraisals competently and in a manner that is

independent, impartial, and objective.

"Appraiser panel" means a network, list, or roster of licensed or certified appraisers approved by the appraisal management company or by the end-user client to perform appraisals as independent contractors for the appraisal management company. "Appraiser panel" includes both appraisers accepted by an appraisal management company for consideration for future appraisal assignments and appraisers engaged by an appraisal management company to perform one or more appraisals. For the purposes of determining the size of an appraiser panel, only independent contractors of hybrid entities shall be counted towards the appraiser panel.

"AQB" means the Appraisal Qualifications Board of the Appraisal Foundation.

"Associate real estate trainee appraiser" means an entry-level appraiser who holds a license of this classification under this Act with restrictions as to the scope of practice in accordance with this Act.

"Automated valuation model" means an automated system that is used to derive a property value through the use of available property records and various analytic methodologies such as comparable sales prices, home characteristics, and price changes.

"Board" means the Real Estate Appraisal Administration and Disciplinary Board.

"Broker price opinion" means an estimate or analysis of

the probable selling price of a particular interest in real estate, which may provide a varying level of detail about the property's condition, market, and neighborhood and information on comparable sales. The activities of a real estate broker or managing broker engaging in the ordinary course of business as a broker, as defined in this Section, shall not be considered a broker price opinion if no compensation is paid to the broker or managing broker, other than compensation based upon the sale or rental of real estate.

"Classroom hour" means 50 minutes of instruction out of each 60 minute segment of coursework.

"Client" means the party or parties who engage an appraiser by employment or contract in a specific appraisal assignment.

"Comparative market analysis" is an analysis or opinion regarding pricing, marketing, or financial aspects relating to a specified interest or interests in real estate that may be based upon an analysis of comparative market data, the expertise of the real estate broker or managing broker, and such other factors as the broker or managing broker may deem appropriate in developing or preparing such analysis or opinion. The activities of a real estate broker or managing broker engaging in the ordinary course of business as a broker, as defined in this Section, shall not be considered a comparative market analysis if no compensation is paid to the broker or managing broker, other than compensation based upon

the sale or rental of real estate.

"Coordinator" means the ~~Coordinator of~~ Real Estate Appraisal Coordinator created in Section 25-15 ~~of the Division of Professional Regulation of the Department of Financial and Professional Regulation~~.

"Department" means the Department of Financial and Professional Regulation.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file maintained by the Department.

"Evaluation" means a valuation permitted by the appraisal regulations of the Federal Financial Institutions Examination Council and its federal agencies for transactions that qualify for the appraisal threshold exemption, business loan exemption, or subsequent transaction exemption.

"Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Consumer Financial Protection Bureau, and the National Credit Union Administration.

"Federally related transaction" means any real estate-related financial transaction in which a federal financial institutions regulatory agency engages in, contracts for, or regulates and requires the services of an appraiser.

"Financial institution" means any bank, savings bank,

savings and loan association, credit union, mortgage broker, mortgage banker, licensee under the Consumer Installment Loan Act or the Sales Finance Agency Act, or a corporate fiduciary, subsidiary, affiliate, parent company, or holding company of any such licensee, or any institution involved in real estate financing that is regulated by state or federal law.

"Hybrid entity" means an appraisal management company that hires an appraiser as an employee to perform an appraisal and engages an independent contractor to perform an appraisal.

"License" means the privilege conferred by the Department to a person that has fulfilled all requirements prerequisite to any type of licensure under this Act.

"Licensee" means any person, as defined in this Section, who holds a valid unexpired license.

"Multi-state licensing system" means a web-based platform that allows an applicant to submit the ~~his or her~~ application or license renewal application to the Department online.

"Person" means an individual, entity, sole proprietorship, corporation, limited liability company, partnership, and joint venture, foreign or domestic, except that when the context otherwise requires, the term may refer to more than one individual or other described entity.

"Real estate" means an identified parcel or tract of land, including any improvements.

"Real estate related financial transaction" means any transaction involving:

(1) the sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof;

(2) the refinancing of real property or interests in real property; and

(3) the use of real property or interest in property as security for a loan or investment, including mortgage backed securities.

"Real property" means the interests, benefits, and rights inherent in the ownership of real estate.

"Secretary" means the Secretary of Financial and Professional Regulation <u>or the Secretary's designee</u>.

"State certified general real estate appraiser" means an appraiser who holds a license of this classification under this Act and such classification applies to the appraisal of all types of real property without restrictions as to the scope of practice.

"State certified residential real estate appraiser" means an appraiser who holds a license of this classification under this Act and such classification applies to the appraisal of one to 4 units of residential real property without regard to transaction value or complexity, but with restrictions as to the scope of practice in a federally related transaction in accordance with Title XI, the provisions of USPAP, criteria established by the AQB, and further defined by rule.

"Supervising appraiser" means either (i) an appraiser who

holds a valid license under this Act as either a State certified general real estate appraiser or a State certified residential real estate appraiser, who co-signs an appraisal report for an associate real estate trainee appraiser or (ii) a State certified general real estate appraiser who holds a valid license under this Act who co-signs an appraisal report for a State certified residential real estate appraiser on properties other than one to 4 units of residential real property without regard to transaction value or complexity.

"Title XI" means Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"USPAP" means the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board pursuant to Title XI and by rule.

"Valuation services" means services pertaining to aspects of property value.

(Source: P.A. 100-604, eff. 7-13-18.)

(225 ILCS 458/1-12 new)

<u>Sec. 1-12. Address of record; email address of record. All applicants and licensees shall:</u>

<u>(1) provide a valid address and email address to the Department, which shall serve as the address of record and email address of record, respectively, at the time of application for licensure or renewal of a license; and</u>

<u>(2) inform the Department of any change of address of</u>

record or email address of record within 14 days after such change through the Department's website.

(225 ILCS 458/5-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-5. Necessity of license; use of title; exemptions.

(a) It is unlawful for a person to (i) act, offer services, or advertise services as a State certified general real estate appraiser, State certified residential real estate appraiser, or associate real estate trainee appraiser, (ii) develop a real estate appraisal, (iii) practice as a real estate appraiser, or (iv) advertise as ~~or hold himself or herself out to be~~ a real estate appraiser without a license issued under this Act. A person who violates this subsection is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for any subsequent offense.

(a-5) It is unlawful for a person, unless registered as an appraisal management company, to solicit clients or enter into an appraisal engagement with clients without either a certified residential real estate appraiser license or a certified general real estate appraiser license issued under this Act. A person who violates this subsection is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for any subsequent offense.

(b) It is unlawful for a person, other than a person who holds a valid license issued pursuant to this Act as a State

certified general real estate appraiser, a State certified residential real estate appraiser, or an associate real estate trainee appraiser to use these titles or any other title, designation, or abbreviation likely to create the impression that the person is licensed as a real estate appraiser pursuant to this Act. A person who violates this subsection is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for any subsequent offense.

(c) This Act does not apply to a person who holds a valid license as a real estate broker or managing broker pursuant to the Real Estate License Act of 2000 who prepares or provides a broker price opinion or comparative market analysis in compliance with Section 10-45 of the Real Estate License Act of 2000.

(d) Nothing in this Act shall preclude a State certified general real estate appraiser, a State certified residential real estate appraiser, or an associate real estate trainee appraiser from rendering appraisals for or on behalf of a partnership, association, corporation, firm, or group. However, no State appraisal license or certification shall be issued under this Act to a partnership, association, corporation, firm, or group.

(e) This Act does not apply to a county assessor, township assessor, multi-township assessor, county supervisor of assessments, or any deputy or employee of any county assessor, township assessor, multi-township assessor, or county

supervisor of assessments in performance of ~~who is performing his or her~~ respective duties in accordance with the provisions of the Property Tax Code.

(e-5) For the purposes of this Act, valuation waivers may be prepared by a licensed appraiser notwithstanding any other provision of this Act, and the following types of valuations are not appraisals and may not be represented to be appraisals, and a license is not required under this Act to perform such valuations if the valuations are performed by (1) an employee of the Illinois Department of Transportation who has completed a minimum of 45 hours of course work in real estate appraisal, including the principles ~~principals~~ of real estate appraisals, appraisal of partial acquisitions, easement valuation, reviewing appraisals in eminent domain, appraisal for federal aid highway programs, and appraisal review for federal aid highway programs and has at least 2 years' experience in a field closely related to real estate; (2) a county engineer who is a registered professional engineer under the Professional Engineering Practice Act of 1989; (3) an employee of a municipality who has (i) completed a minimum of 45 hours of coursework in real estate appraisal, including the principles ~~principals~~ of real estate appraisals, appraisal of partial acquisitions, easement valuation, reviewing appraisals in eminent domain, appraisal for federal aid highway programs, and appraisal review for federal aid highway programs and (ii) has either 2 years' experience in a field

clearly related to real estate or has completed 20 hours of additional coursework that is sufficient for a person to complete waiver valuations as approved by the Federal Highway Administration; or (4) a municipal engineer who has completed coursework that is sufficient for ~~his or her~~ waiver valuations to be approved by the Federal Highway Administration and who is a registered professional engineer under the Professional Engineering Act of 1989, under the following circumstances:

(A) a valuation waiver in an amount not to exceed $20,000 ~~$10,000~~ prepared pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, or prepared pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs regulations and which is performed by (1) an employee of the Illinois Department of Transportation and co-signed, with a license number affixed, by another employee of the Illinois Department of Transportation who is a registered professional engineer under the Professional Engineering Practice Act of 1989 or (2) an employee of a municipality and co-signed with a license number affixed by a county or municipal engineer who is a registered professional engineer under the Professional Engineering Practice Act of 1989; and

(B) a valuation waiver in an amount not to exceed $20,000 ~~$10,000~~ prepared pursuant to the federal Uniform

Relocation Assistance and Real Property Acquisition Policies Act of 1970, or prepared pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs regulations and which is performed by a county or municipal engineer who is employed by a county or municipality and is a registered professional engineer under the Professional Engineering Practice Act of 1989. The valuation shall include ~~In addition to his or her signature,~~ the county or municipal engineer's signature and ~~engineer shall affix his or her~~ license number ~~to the valuation~~.

Nothing in this subsection (e-5) shall be construed to allow the State of Illinois, a political subdivision thereof, or any public body to acquire real estate by eminent domain in any manner other than provided for in the Eminent Domain Act.

(f) A State real estate appraisal certification or license is not required under this Act for any ~~of the following: (1) A~~ person, partnership, association, or corporation that performs appraisals of property owned by that person, partnership, association, or corporation for the sole use of that person, partnership, association, or corporation.

~~(2) A court-appointed commissioner who conducts an appraisal pursuant to a judicially ordered evaluation of property.~~

Any ~~However, any~~ person who is certified or licensed under

this Act and who performs any of the activities set forth in this subsection (f) must comply with the provisions of this Act. A person who violates this subsection (f) is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for any subsequent offense.

(g) This Act does not apply to an employee, officer, director, or member of a credit or loan committee of a financial institution or any other person engaged by a financial institution when performing an evaluation of real property for the sole use of the financial institution in a transaction for which the financial institution would not be required to use the services of a State licensed or State certified appraiser pursuant to federal regulations adopted under Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989~~, nor does this Act apply to the procurement of an automated valuation model~~.

(h) This Act does not apply to the procurement of an automated valuation model.

~~"Automated valuation model" means an automated system that is used to derive a property value through the use of publicly available property records and various analytic methodologies such as comparable sales prices, home characteristics, and historical home price appreciations.~~

(Source: P.A. 98-444, eff. 8-16-13; 98-933, eff. 1-1-15; 98-1109, eff. 1-1-15; 99-78, eff. 7-20-15.)

(225 ILCS 458/5-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-10. Application for State certified general real estate appraiser.

(a) Every person who desires to obtain a State certified general real estate appraiser license shall:

(1) apply to the Department on forms provided by the Department, or through a multi-state licensing system as designated by the Secretary, accompanied by the required fee;

(2) be at least 18 years of age;

(3) (blank);

(4) personally take and pass an examination authorized by the Department and endorsed by the AQB;

(5) prior to taking the examination, provide evidence to the Department, or through a multi-state licensing system as designated by the Secretary, of successful completion of ~~in Modular Course format, with each module conforming to the Required Core Curriculum established and adopted by the AQB, that he or she has successfully completed~~ the prerequisite classroom hours of instruction in appraising as established by the AQB and by rule; evidence shall be in a Modular Course format with each module conforming to the Required Core Curriculum established and adopted by the AQB; and

(6) prior to taking the examination, provide evidence

to the Department, or through a multi-state licensing system as designated by the Secretary, of successful completion of ~~that he or she has successfully completed~~ the prerequisite experience and educational requirements in appraising as established by AQB and by rule.

(b) Applicants must provide evidence to the Department, or through a multi-state licensing system as designated by the Secretary, of holding a Bachelor's degree or higher from an accredited college or university.

(Source: P.A. 100-604, eff. 7-13-18.)

(225 ILCS 458/5-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-15. Application for State certified residential real estate appraiser. Every person who desires to obtain a State certified residential real estate appraiser license shall:

(1) apply to the Department on forms provided by the Department, or through a multi-state licensing system as designated by the Secretary, accompanied by the required fee;

(2) be at least 18 years of age;

(3) (blank);

(4) personally take and pass an examination authorized by the Department and endorsed by the AQB;

(5) prior to taking the examination, provide evidence

to the Department, or through a multi-state licensing system as designated by the Secretary, of successful completion of ~~in Modular Course format, with each module conforming to the Required Core Curriculum established and adopted by the AQB, that he or she has successfully completed~~ the prerequisite classroom hours of instruction in appraising as established by the AQB and by rule; evidence shall be in a Modular Course format with each module conforming to the Required Core Curriculum established and adopted by the AQB; and

(6) prior to taking the examination, provide evidence to the Department, or through a multi-state licensing system as designated by the Secretary, of successful completion of ~~that he or she has successfully completed~~ the prerequisite experience and educational requirements as established by AQB and by rule.

(Source: P.A. 100-201, eff. 8-18-17; 100-604, eff. 7-13-18.)

(225 ILCS 458/5-20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-20. Application for associate real estate trainee appraiser. Every person who desires to obtain an associate real estate trainee appraiser license shall:

(1) apply to the Department on forms provided by the Department, or through a multi-state licensing system as designated by the Secretary, accompanied by the required

fee;

(2) be at least 18 years of age;

(3) provide evidence of having attained a high school diploma or completed an equivalent course of study as determined by an examination conducted or accepted by the Illinois State Board of Education;

(4) (blank); and

(5) provide evidence to the Department, or through a multi-state licensing system as designated by the Secretary, of successful completion of ~~that he or she has successfully completed~~ the prerequisite qualifying and any conditional education requirements as established by rule.

(Source: P.A. 100-604, eff. 7-13-18; 100-832, eff. 1-1-19; 101-81, eff. 7-12-19.)

(225 ILCS 458/5-20.5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-20.5. Duration of application. Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within 3 years, the application shall expire ~~be denied~~, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

(Source: P.A. 96-844, eff. 12-23-09.)

(225 ILCS 458/5-22)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-22. Criminal history records check.

(a) An application ~~Each applicant~~ for licensure by examination or restoration shall include the applicant's ~~have his or her~~ fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited into the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or to a vendor. The Department may adopt any rules necessary to implement this Section.

(b) The Secretary may designate a multi-state licensing system to perform the functions described in subsection (a). The Department may require applicants to pay a separate fingerprinting fee, either to the Department or to the multi-state licensing system. The Department may adopt any

rules necessary to implement this subsection.

(c) The Department shall not consider the following criminal history records in connection with an application for licensure:

(1) juvenile adjudications of delinquent minors as defined in Section 5-105 of the Juvenile Court Act of 1987 subject to the restrictions set forth in Section 5-130 of that Act;

(2) law enforcement records, court records, and conviction records of an individual who was 17 years old at the time of the offense and before January 1, 2014, unless the nature of the offense required the individual to be tried as an adult;

(3) records of arrest not followed by a charge or conviction;

(4) records of arrest in which the charges were dismissed unless related to the practice of the profession; however, applicants shall not be asked to report any arrests, and an arrest not followed by a conviction shall not be the basis of a denial and may be used only to assess an applicant's rehabilitation;

(5) convictions overturned by a higher court; or

(6) convictions or arrests that have been sealed or expunged.

(d) If an applicant makes a false statement of material fact on the application, the false statement may in itself be

sufficient grounds to revoke or refuse to issue a license.

(e) An applicant or licensee shall report to the Department, in a manner prescribed by the Department, upon application and within 30 days after the occurrence, if during the term of licensure, (i) any conviction of or plea of guilty or nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any similar offense or offenses or any conviction of a felony involving moral turpitude, (ii) the entry of an administrative sanction by a government agency in this State or any other jurisdiction that has as an essential element dishonesty or fraud or involves larceny, embezzlement, or obtaining money, property, or credit by false pretenses, or (iii) a crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act.

(Source: P.A. 100-604, eff. 7-13-18.)

(225 ILCS 458/5-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-25. Renewal of license.

(a) The expiration date and renewal period for a State certified general real estate appraiser license or a State certified residential real estate appraiser license issued under this Act shall be set by rule. Except as otherwise provided in subsections (b) and (f) of this Section, the holder of a license may renew the license within 90 days

preceding the expiration date by:

(1) completing and submitting to the Department, or through a multi-state licensing system as designated by the Secretary, a renewal application form as provided by the Department;

(2) paying the required fees; and

(3) providing evidence to the Department, or through a multi-state licensing system as designated by the Secretary, of successful completion of the continuing education requirements through courses approved by the Department from education providers licensed by the Department, as established by the AQB and by rule.

(b) A State certified general real estate appraiser or State certified residential real estate appraiser whose license under this Act has expired may renew the license for a period of 2 years following the expiration date by complying with the requirements of paragraphs (1), (2), and (3) of subsection (a) of this Section and paying any late penalties established by rule.

(c) (Blank).

(d) The expiration date and renewal period for an associate real estate trainee appraiser license issued under this Act shall be set by rule. Except as otherwise provided in subsections (e) and (f) of this Section, the holder of an associate real estate <u>trainee</u> appraiser license may renew the license within 90 days preceding the expiration date by:

(1) completing and submitting to the Department, or through a multi-state licensing system as designated by the Secretary, a renewal application form as provided by the Department;

(2) paying the required fees; and

(3) providing evidence to the Department, or through a multi-state licensing system as designated by the Secretary, of successful completion of the continuing education requirements through courses approved by the Department from education providers approved by the Department, as established by rule.

(e) Any associate real estate trainee appraiser ~~trainee~~ whose license under this Act has expired may renew the license for a period of 2 years following the expiration date by complying with the requirements of paragraphs (1), (2), and (3) of subsection (d) of this Section and paying any late penalties as established by rule.

(f) Notwithstanding subsections (c) and (e), an appraiser whose license under this Act has expired may renew or convert the license without paying any lapsed renewal fees or late penalties if the license expired while the appraiser was:

(1) on active duty with the United States Armed Services;

(2) serving as the Coordinator ~~of Real Estate Appraisal~~ or an employee of the Department who was required to surrender the ~~his or her~~ license during the

term of employment.

Application for renewal must be made within 2 years following the termination of the military service or related education, training, or employment and shall include an affidavit from the licensee of engagement. ~~The licensee shall furnish the Department with an affidavit that he or she was so engaged.~~

(g) The Department shall provide reasonable care and due diligence to ensure that each licensee under this Act is provided with a renewal application at least 90 days prior to the expiration date, but ~~each licensee is responsible to~~ timely renewal or conversion of the ~~renew or convert his or her~~ license prior to its expiration date is the responsibility of the licensee.

(h) The Department shall not renew a license if the licensee has an unpaid fine from a disciplinary matter or an unpaid fee from a non-disciplinary action imposed by the Department until the fine or fee is paid to the Department or the licensee has entered into a payment plan and is current on the required payments.

(i) The Department shall not issue a license if the applicant has an unpaid fine imposed by the Department for unlicensed practice until the fine is paid to the Department or the applicant has entered into a payment plan and is current on the required payments.

(Source: P.A. 100-604, eff. 7-13-18; 100-832, eff. 1-1-19;

101-81, eff. 7-12-19.)

(225 ILCS 458/5-26 new)

Sec. 5-26. Inactive licenses. Any licensee who notifies the Department, in writing on forms prescribed by the Department, may elect to place the license on an inactive status and shall, subject to the rules of the Department, be excused from payment of renewal fees until notification in writing to the Department of the desire to resume active status. Any licensee requesting reinstatement from inactive status shall pay the current renewal fee, provide proof of meeting the continuing education requirements for the period of time the license is inactive (not to exceed 2 renewal periods), and follow the requirements for reinstatement as provided by rule. Any licensee whose license is in an inactive status shall not practice in the State of Illinois. The Department will update the licensee's record in the National Registry to show that the license is inactive.

(225 ILCS 458/5-30)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-30. Endorsement. The Department may issue an appraiser license, without the required examination, to an applicant licensed by another state, territory, possession of the United States, or the District of Columbia, if (i) the licensing requirements of that licensing authority are, on the

date of licensure, substantially equal to the requirements set forth under this Act or to a person who, at the time of the ~~his or her~~ application, possessed individual qualifications that were substantially equivalent to the requirements of this Act or (ii) the applicant provides the Department with evidence of good standing from the Appraisal Subcommittee National Registry report and a criminal history records check in accordance with Section 5-22. An applicant under this Section shall pay all of the required fees.

(Source: P.A. 98-1109, eff. 1-1-15.)

(225 ILCS 458/5-35)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-35. Qualifying education requirements. ~~(a)~~ The prerequisite classroom hours necessary for a person to be approved to sit for the examination for licensure as a State certified general real estate appraiser or a State certified residential real estate appraiser shall be in accordance with AQB criteria and established by rule.

~~(b) The prerequisite classroom hours necessary for a person to sit for the examination for licensure as an associate real estate trainee appraiser shall be established by rule.~~

(Source: P.A. 98-1109, eff. 1-1-15.)

(225 ILCS 458/10-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-5. Scope of practice.

(a) This Act does not limit a State certified general real estate appraiser's ~~appraiser in his or her~~ scope of practice in a federally related transaction. A State certified general real estate appraiser may independently provide appraisal services, review, or consult related ~~consulting relating~~ to any type of property for which there is related ~~he or she has~~ experience or competency by the appraiser ~~is competent~~. All such appraisal practice must be made in accordance with the provisions of USPAP, criteria established by the AQB, and rules adopted pursuant to this Act.

(b) A State certified residential real estate appraiser is limited in ~~his or her~~ scope of practice to the provisions of USPAP, criteria established by the AQB, and the rules adopted pursuant to this Act.

(c) A State certified residential real estate appraiser must have a State certified general real estate appraiser who holds a valid license under this Act co-sign all appraisal reports on properties other than one to 4 units of residential real property without regard to transaction value or complexity.

(d) An associate real estate trainee appraiser is limited in ~~his or her~~ scope of practice in all transactions in accordance with the provisions of USPAP, this Act, and the rules adopted pursuant to this Act. In addition, an associate

real estate trainee appraiser shall be required to have a State certified general real estate appraiser or State certified residential real estate appraiser who holds a valid license under this Act to co-sign all appraisal reports. A supervising appraiser may not supervise more than 3 associate real estate trainee appraisers at one time. Associate real estate trainee appraisers shall not be limited in the number of concurrent supervising appraisers. A chronological appraisal log on an approved log form shall be maintained by the associate real estate trainee appraiser and shall be made available to the Department upon request.

(Source: P.A. 97-602, eff. 8-26-11; 98-1109, eff. 1-1-15.)

(225 ILCS 458/10-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-10. Standards of practice. All persons licensed under this Act must comply with standards of professional appraisal practice adopted by the Department. The Department must adopt, as part of its rules, the Uniform Standards of Professional Appraisal Practice (USPAP) as published from time to time by the Appraisal Standards Board of the Appraisal Foundation. The Department shall consider federal laws and regulations regarding the licensure of real estate appraisers prior to adopting its rules for the administration of this Act. When an appraisal obtained through an appraisal management company is used for loan purposes, the borrower or

loan applicant shall be provided with a written disclosure of the total compensation to the appraiser or appraisal firm within the body ~~certification~~ of the appraisal report and it shall not be redacted or otherwise obscured.

(Source: P.A. 96-844, eff. 12-23-09; 97-602, eff. 8-26-11.)

(225 ILCS 458/15-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15-5. Unlicensed practice; civil penalty; injunctive relief; unlawful influence.

(a) A person who violates Section 5-5 of this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed $25,000 for each violation as determined by the Secretary. The civil penalty shall be assessed by the Secretary after a hearing in accordance with the provisions of this Act regarding the provision of a hearing for the discipline of a license.

(b) The Department has the authority to investigate any activity that may violate this Act.

(c) A civil penalty imposed pursuant to subsection (a) shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and executed in the same manner as any judgment from any court of record. Any civil penalty collected under this Act shall be made payable to the Department of Financial and Professional Regulation and

deposited into the Appraisal Administration Fund. In addition to or in lieu of the imposition of a civil penalty, the Department may report a violation of this Act or the failure or refusal to comply with an order of the Department to the Attorney General or to the appropriate State's Attorney.

(d) Practicing as an appraiser without holding an active ~~a valid~~ license as required under this Act is declared to be adverse to the public welfare, to constitute a public nuisance, and to cause irreparable harm to the public welfare. The Secretary, the Attorney General, or the State's Attorney of any county in the State may maintain an action for injunctive relief in any circuit court to enjoin any person from engaging in such practice.

Upon the filing of a verified petition in a circuit court, the court, if satisfied by affidavit or otherwise that a person has been engaged in the practice of real estate appraisal without an active ~~a valid~~ license, may enter a temporary restraining order without notice or bond enjoining the defendant from further practice. The showing of non-licensure, by affidavit or otherwise, is sufficient for the issuance of a temporary injunction. If it is established that the defendant has been or is engaged in unlawful practice, the court may enter an order or judgment perpetually enjoining the defendant from further unlawful practice. In all proceedings under this Section, the court, in its discretion, may apportion the costs among the parties interested in the

action, including the cost of filing the complaint, service of process, witness fees and expenses, court reporter charges, and reasonable attorneys' fees. These injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Act.

(e) No person shall influence or attempt to influence through coercion, extortion, or bribery the independent judgment of an appraiser licensed or certified under this Act in the development, reporting, result, or review of a real estate appraisal. A person who violates this subsection (e) is guilty of a Class A misdemeanor for the first offense and a Class 4 felony for any subsequent offense.

(Source: P.A. 96-844, eff. 12-23-09.)

(225 ILCS 458/15-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15-10. Grounds for disciplinary action.

(a) The Department may suspend, revoke, refuse to issue, renew, or restore a license and may reprimand place on probation or administrative supervision, or take any disciplinary or non-disciplinary action, including imposing conditions limiting the scope, nature, or extent of the real estate appraisal practice of a licensee or reducing the appraisal rank of a licensee, and may impose an administrative fine not to exceed $25,000 for each violation upon a licensee for any one or combination of the following:

(1) Procuring or attempting to procure a license by knowingly making a false statement, submitting false information, engaging in any form of fraud or misrepresentation, or refusing to provide complete information in response to a question in an application for licensure.

(2) Failing to meet the minimum qualifications for licensure as an appraiser established by this Act.

(3) Paying money, other than for the fees provided for by this Act, or anything of value to a member or employee of the Board or the Department to procure licensure under this Act.

(4) Conviction of, or ~~by~~ plea of guilty or nolo contendere, as enumerated in subsection (e) of Section 5-22 ~~finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation~~, under the laws of any jurisdiction of the United States: (i) that is a felony, ~~; or (ii) that is a~~ misdemeanor, or administrative sanction or (ii) that is a crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act ~~an essential element of which is dishonesty, or that is directly related to the practice of the profession~~.

(5) Committing an act or omission involving

dishonesty, fraud, or misrepresentation with the intent to substantially benefit the licensee or another person or with intent to substantially injure another person as defined by rule.

(6) Violating a provision or standard for the development or communication of real estate appraisals as provided in Section 10-10 of this Act or as defined by rule.

(7) Failing or refusing without good cause to exercise reasonable diligence in developing, reporting, or communicating an appraisal, as defined by this Act or by rule.

(8) Violating a provision of this Act or the rules adopted pursuant to this Act.

(9) Having been disciplined by another state, the District of Columbia, a territory, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent of one of the grounds for which a licensee may be disciplined under this Act.

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

(11) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser

reporting a predetermined estimate, analysis, or opinion or when the fee to be paid is contingent upon the opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment.

(12) Developing valuation conclusions based on the race, color, religion, sex, national origin, ancestry, age, marital status, family status, physical or mental disability, sexual orientation, pregnancy, order of protection status, military status, or unfavorable military discharge, as defined under the Illinois Human Rights Act, of the prospective or present owners or occupants of the area or property under appraisal.

(13) Violating the confidential nature of government records to which the licensee gained access through employment or engagement as an appraiser by a government agency.

(14) Being adjudicated liable in a civil proceeding on grounds of fraud, misrepresentation, or deceit. In a disciplinary proceeding based upon a finding of civil liability, the appraiser shall be afforded an opportunity to present mitigating and extenuating circumstances, but may not collaterally attack the civil adjudication.

(15) Being adjudicated liable in a civil proceeding for violation of a state or federal fair housing law.

(16) Engaging in misleading or untruthful advertising or using a trade name or insignia of membership in a real

estate appraisal or real estate organization of which the licensee is not a member.

(17) Failing to fully cooperate with a Department investigation by knowingly making a false statement, submitting false or misleading information, or refusing to provide complete information in response to written interrogatories or a written request for documentation within 30 days of the request.

(18) Failing to include within the certificate of appraisal for all written appraisal reports the appraiser's license number and licensure title. All appraisers providing significant contribution to the development and reporting of an appraisal must be disclosed in the appraisal report. It is a violation of this Act for an appraiser to sign a report, transmittal letter, or appraisal certification knowing that a person providing a significant contribution to the report has not been disclosed in the appraisal report.

(19) Violating the terms of a disciplinary order or consent to administrative supervision order.

(20) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a licensee's inability to practice with reasonable judgment, skill, or safety.

(21) A physical or mental illness or disability which results in the inability to practice under this Act with

reasonable judgment, skill, or safety.

(22) Gross negligence in developing an appraisal or in communicating an appraisal or failing to observe one or more of the Uniform Standards of Professional Appraisal Practice.

(23) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(24) Using or attempting to use the seal, certificate, or license of another as one's ~~his or her~~ own; falsely impersonating any duly licensed appraiser; using or attempting to use an inactive, expired, suspended, or revoked license; or aiding or abetting any of the foregoing.

(25) Solicitation of professional services by using false, misleading, or deceptive advertising.

(26) Making a material misstatement in furnishing information to the Department.

(27) Failure to furnish information to the Department upon written request.

(b) The Department may reprimand suspend, revoke, or refuse to issue or renew an education provider's license, may reprimand, place on probation, or otherwise discipline an education provider and may suspend or revoke the course approval of any course offered by an education provider and may impose an administrative fine not to exceed $25,000 upon

an education provider, for any of the following:

(1) Procuring or attempting to procure licensure by knowingly making a false statement, submitting false information, engaging in any form of fraud or misrepresentation, or refusing to provide complete information in response to a question in an application for licensure.

(2) Failing to comply with the covenants certified to on the application for licensure as an education provider.

(3) Committing an act or omission involving dishonesty, fraud, or misrepresentation or allowing any such act or omission by any employee or contractor under the control of the provider.

(4) Engaging in misleading or untruthful advertising.

(5) Failing to retain competent instructors in accordance with rules adopted under this Act.

(6) Failing to meet the topic or time requirements for course approval as the provider of a qualifying curriculum course or a continuing education course.

(7) Failing to administer an approved course using the course materials, syllabus, and examinations submitted as the basis of the course approval.

(8) Failing to provide an appropriate classroom environment for presentation of courses, with consideration for student comfort, acoustics, lighting, seating, workspace, and visual aid material.

(9) Failing to maintain student records in compliance with the rules adopted under this Act.

(10) Failing to provide a certificate, transcript, or other student record to the Department or to a student as may be required by rule.

(11) Failing to fully cooperate with an investigation by the Department by knowingly making a false statement, submitting false or misleading information, or refusing to provide complete information in response to written interrogatories or a written request for documentation within 30 days of the request.

(c) In appropriate cases, the Department may resolve a complaint against a licensee through the issuance of a Consent to Administrative Supervision order. A licensee subject to a Consent to Administrative Supervision order shall be considered by the Department as an active licensee in good standing. This order shall not be reported or considered by the Department to be a discipline of the licensee. The records regarding an investigation and a Consent to Administrative Supervision order shall be considered confidential and shall not be released by the Department except as mandated by law. A complainant shall be notified if the ~~his or her~~ complaint has been resolved by a Consent to Administrative Supervision order.

(Source: P.A. 97-602, eff. 8-26-11; 97-877, eff. 8-2-12; 98-1109, eff. 1-1-15.)

(225 ILCS 458/15-10.1 new)

Sec. 15-10.1. Citations.

(a) The Department may adopt rules to permit the issuance of citations to any licensee for failure to comply with the continuing education requirements set forth in this Act or as established by rule. The citation shall be issued to the licensee. For associate real estate trainee appraisers, a copy shall also be sent to the licensee's supervising appraiser of record. The citation shall contain the licensee's name, the licensee's address, the licensee's license number, the number of required hours of continuing education that have not been successfully completed by the licensee within the renewal period, and the penalty imposed, which shall not exceed $2,000. The issuance of a citation shall not excuse the licensee from completing all continuing education required for that renewal period.

(b) Service of a citation shall be made in person, electronically, or by mail to the licensee at the licensee's address of record or email address of record. Service of a citation must clearly state that if the cited licensee wishes to dispute the citation, the cited licensee may make a written request, within 30 days after the citation is served, for a hearing before the Department. If the cited licensee does not request a hearing within 30 days after the citation is served, then the citation shall become a final, non-disciplinary

order, and any fine imposed is due and payable within 60 days after that final order. If the cited licensee requests a hearing within 30 days after the citation is served, the Department shall afford the cited licensee a hearing conducted in the same manner as a hearing provided for in this Act for any violation of this Act and shall determine whether the cited licensee committed the violation as charged and whether the fine as levied is warranted. If the violation is found, any fine shall constitute non-public discipline and be due and payable within 30 days after the order of the Secretary, which shall constitute a final order of the Department. No change in license status may be made by the Department until a final order of the Department has been issued.

(c) Payment of a fine that has been assessed pursuant to this Section shall not constitute disciplinary action reportable on the Department's website or elsewhere unless a licensee has previously received 2 or more citations and been assessed 2 or more fines.

(d) Nothing in this Section shall prohibit or limit the Department from taking further action pursuant to this Act and rules for additional, repeated, or continuing violations.

(225 ILCS 458/15-11 new)

Sec. 15-11. Illegal discrimination. When there has been an adjudication in a civil or criminal proceeding that a licensee has illegally discriminated while engaged in any

activity for which a license is required under this Act, the Department, upon the recommendation of the Board as to the extent of the suspension or revocation, shall suspend or revoke the license of that licensee in a timely manner, unless the adjudication is in the appeal process. When there has been an order in an administrative proceeding finding that a licensee has illegally discriminated while engaged in any activity for which a license is required under this Act, the Department, upon recommendation of the Board as to the nature and extent of the discipline, shall take one or more of the disciplinary actions provided for in Section 15-10 in a timely manner, unless the administrative order is in the appeal process.

(225 ILCS 458/15-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15-15. Investigation; notice; hearing.

(a) Upon the motion of the Department or the Board or upon a complaint in writing of a person setting forth facts that, if proven, would constitute grounds for suspension, revocation, or other disciplinary action against a licensee or applicant for licensure, the Department shall investigate the actions of the licensee or applicant. If, upon investigation, the Department believes that there may be cause for suspension, revocation, or other disciplinary action, the Department shall use the services of a State certified general real estate

appraiser, a State certified residential real estate appraiser, or the Real Estate Coordinator to assist in determining whether grounds for disciplinary action exist prior to commencing formal disciplinary proceedings.

(b) Formal disciplinary proceedings shall commence upon the issuance of a written complaint describing the charges that are the basis of the disciplinary action and delivery of the detailed complaint to the address of record of the licensee or applicant. For an associate real estate trainee appraiser, a copy shall also be sent to the licensee's supervising appraiser of record. The Department shall notify the licensee or applicant to file a verified written answer within 20 days after the service of the notice and complaint. The notification shall inform the licensee or applicant of the ~~his or her~~ right to be heard in person or by legal counsel; that the hearing will be afforded not sooner than 20 ~~30~~ days after service of the complaint; that failure to file an answer will result in a default being entered against the licensee or applicant; that the license may be suspended, revoked, or placed on probationary status; and that other disciplinary action may be taken pursuant to this Act, including limiting the scope, nature, or extent of the licensee's practice. If the licensee or applicant fails to file an answer after service of notice, the respective ~~his or her~~ license may, at the discretion of the Department, be suspended, revoked, or placed on probationary status and the Department may take

whatever disciplinary action it deems proper, including limiting the scope, nature, or extent of the person's practice, without a hearing.

(c) At the time and place fixed in the notice, the Board shall conduct hearing of the charges, providing both the accused person and the complainant ample opportunity to present in person or by counsel such statements, testimony, evidence, and argument as may be pertinent to the charges or to a defense thereto.

(d) The Board shall present to the Secretary a written report of its findings of fact and recommendations. A copy of the report shall be served upon the licensee or applicant, either personally, ~~or~~ by ~~certified~~ mail, or, at the discretion of the Department, by electronic means. For associate real estate trainee appraisers, a copy shall also be sent to the licensee's supervising appraiser of record. Within 20 days after the service, the licensee or applicant may present the Secretary with a motion in writing for ~~either~~ a rehearing~~, a proposed finding of fact, a conclusion of law, or an alternative sanction,~~ and shall specify the particular grounds for the request. If the accused orders a transcript of the record as provided in this Act, the time elapsing thereafter and before the transcript is ready for delivery to the accused shall not be counted as part of the 20 days. If the Secretary is not satisfied that substantial justice has been done, the Secretary may order a rehearing by the Board or other special

committee appointed by the Secretary, may remand the matter to the Board for its reconsideration of the matter based on the pleadings and evidence presented to the Board, or may enter a final order in contravention of the Board's recommendation. Notwithstanding a licensee's or applicant's failure to file a motion for rehearing, the Secretary shall have the right to take any of the actions specified in this subsection (d). Upon the suspension or revocation of a license, the licensee shall be required to surrender the respective ~~his or her~~ license to the Department, and upon failure or refusal to do so, the Department shall have the right to seize the license.

(e) The Department has the power to issue subpoenas and subpoenas duces tecum to bring before it any person in this State, to take testimony, or to require production of any records relevant to an inquiry or hearing by the Board in the same manner as prescribed by law in judicial proceedings in the courts of this State. In a case of refusal of a witness to attend, testify, or to produce books or papers concerning a matter upon which the witness ~~he or she~~ might be lawfully examined, the circuit court of the county where the hearing is held, upon application of the Department or any party to the proceeding, may compel obedience by proceedings as for contempt.

(f) Any license that is ~~suspended indefinitely or~~ revoked may not be restored for a minimum period of 3 ~~2~~ years~~, or as otherwise ordered by the Secretary~~.

(g) In addition to the provisions of this Section concerning the conduct of hearings and the recommendations for discipline, the Department has the authority to negotiate disciplinary and non-disciplinary settlement agreements concerning any license issued under this Act. All such agreements shall be recorded as Consent Orders or Consent to Administrative Supervision Orders.

(h) The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action to suspend, revoke, or otherwise discipline any license issued by the Department. The Hearing Officer shall have full authority to conduct the hearing.

(i) The Department, at its expense, shall preserve a record of all formal hearings of any contested case involving the discipline of a license. At all hearings or pre-hearing conferences, the Department and the licensee shall be entitled to have the proceedings transcribed by a certified shorthand reporter. A copy of the transcribed proceedings shall be made available to the licensee by the certified shorthand reporter upon payment of the prevailing contract copy rate.

(Source: P.A. 100-831, eff. 1-1-19.)

(225 ILCS 458/15-55)

(Section scheduled to be repealed on January 1, 2022)

Sec. 15-55. Checks, credit card charges, or orders to

Department dishonored because of insufficient funds. Any person who:

(1) delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it was drawn; or

(2) presents a credit card or debit card for payment that is invalid or expired or against which charges by the Department are declined or dishonored;

shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a non-renewed license. The Department shall notify the applicant or licensee that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. After ~~If, after~~ termination or denial, the person seeking ~~seeks~~ a license~~, he or she~~ must apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all of the expenses of processing the application. The Secretary may

waive the fines due under this Section in individual cases where the Secretary finds that the penalties or fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 96-844, eff. 12-23-09.)

(225 ILCS 458/20-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20-5. Education providers.

(a) No person shall operate an education provider entity without possessing an active license issued by the Department. Only ~~Beginning July 1, 2002, only~~ education providers licensed or otherwise approved by the Department may provide the qualifying and continuing education courses required for licensure under this Act. Every person that desires to obtain an education provider license shall make application to the Department in a manner prescribed by the Department and pay the fee prescribed by rule.

(b) A person or entity seeking to be licensed as an education provider under this Act shall provide satisfactory evidence of the following:

(1) a sound financial base for establishing, promoting, and delivering the necessary courses;

(2) (blank); ~~a sufficient number of qualified instructors;~~

(3) (blank); ~~adequate support personnel to assist with administrative matters and technical assistance;~~

(4) (blank); ~~a written policy dealing with procedures for management of grievances and fee refunds;~~

(5) a qualified administrator, who is responsible for the administration of the education provider, courses, and the actions of the instructors; ~~and~~

(6) any other requirements as provided by rule; and~~.~~

(7) proof of good standing with the Secretary of State and authority to conduct businesses in this State.

(c) All applicants for an education provider's license shall make initial application to the Department on forms provided by the Department, or through a multi-state licensing system as designated by the Secretary, and pay the appropriate fee as provided by rule. The term, expiration date, and renewal of an education provider's license shall be established by rule.

(d) An education provider shall provide each successful course participant with a certificate of completion signed by the school administrator. The format and content of the certificate shall be specified by rule.

(e) All education providers shall provide to the Department a monthly roster of all successful course participants as provided by rule.

(Source: P.A. 100-604, eff. 7-13-18.)

(225 ILCS 458/20-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20-10. Course approval.

(a) Only courses offered by licensed education providers and approved by the Department, courses approved by the AQB, or courses approved by jurisdictions monitored ~~regulated~~ by the Appraisal Subcommittee shall be used to meet the requirements of this Act and rules.

(b) An education provider licensed under this Act may submit courses to the Department, or through a multi-state licensing system as designated by the Secretary, for approval. The criteria, requirements, and fees for courses shall be established by rule in accordance with this Act and the criteria established by the AQB.

(c) For each course approved, the Department shall issue a license to the education provider. The term, expiration date, and renewal of a course approval shall be established by rule.

(d) An education provider must use an instructor for each course approved by the Department who (i) holds a valid real estate appraisal license in good standing as a State certified general real estate appraiser or a State certified residential real estate appraiser in Illinois or any other jurisdiction monitored by the Appraisal Subcommittee, (ii) holds a valid teaching certificate issued by the State of Illinois, (iii) is a faculty member in good standing with an accredited college or university or community college, or (iv) satisfies requirements established by rule ~~is an approved appraisal instructor from an appraisal organization that is a member of~~

~~the Appraisal Foundation~~.

(Source: P.A. 100-604, eff. 7-13-18.)

(225 ILCS 458/25-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-10. Real Estate Appraisal Administration and Disciplinary Board; appointment.

(a) There is hereby created the Real Estate Appraisal Administration and Disciplinary Board. The Board shall be composed of the Coordinator and 10 persons appointed by the Governor~~, plus the Coordinator of the Real Estate Appraisal Division~~. Members shall be appointed to the Board subject to the following conditions:

(1) All appointed members shall have been residents and citizens of this State for at least 5 years prior to the date of appointment.

(2) The appointed membership of the Board should reasonably reflect the geographic distribution of the population of the State.

(3) Four appointed members shall have been actively engaged and currently licensed as State certified general real estate appraisers for a period of not less than 5 years.

(4) Three ~~Two~~ appointed members shall have been actively engaged and currently licensed as State certified residential real estate appraisers for a period of not

less than 5 years.

(5) One ~~Two~~ appointed member ~~members~~ shall hold a valid license as a real estate broker for at least 3 ~~10~~ years prior to the date of the appointment and~~, one of whom~~ shall hold either a valid State certified general real estate appraiser license or a valid State certified residential appraiser license issued under this Act or a predecessor Act for a period of at least 5 years prior to the appointment ~~and one of whom shall hold a valid State certified residential real estate appraiser license issued under this Act or a predecessor Act for a period of at least 5 years prior to the appointment~~.

(6) One appointed member shall be a representative of a financial institution, as evidenced by proof of ~~his or her~~ employment with a financial institution.

(7) One appointed member shall represent the interests of the general public. This member or the member's ~~his or her~~ spouse shall not be licensed under this Act nor be employed by or have any financial interest in an appraisal business, appraisal management company, real estate brokerage business, or a financial institution.

In making appointments as provided in paragraphs (3) and (4) of this subsection, the Governor shall give due consideration to recommendations by members and organizations representing the profession.

In making the appointments as provided in paragraph (5) of

this subsection, the Governor shall give due consideration to the recommendations by members and organizations representing the real estate industry.

In making the appointment as provided in paragraph (6) of this subsection, the Governor shall give due consideration to the recommendations by members and organizations representing financial institutions.

(b) The members' terms shall be for 4 years or until a successor is appointed ~~and expire upon completion of the term~~. No member shall be reappointed to the Board for a term that would cause the member's ~~his or her~~ cumulative service to the Board to exceed 10 years. Appointments to fill vacancies shall be for the unexpired portion of the term.

(c) The Governor may terminate the appointment of a member for cause that, in the opinion of the Governor, reasonably justifies the termination. Cause for termination may include, without limitation, misconduct, incapacity, neglect of duty, or missing 4 Board meetings during any one fiscal ~~calendar~~ year.

(d) A majority of the Board members shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board.

(e) The Board shall meet at least monthly ~~quarterly~~ and may be convened by the Chairperson, Vice-Chairperson, or 3 members of the Board upon 10 days written notice.

(f) The Board shall, annually at the first meeting of the fiscal year, elect a Chairperson and Vice-Chairperson from its members. The Chairperson shall preside over the meetings and shall coordinate with the Coordinator in developing and distributing an agenda for each meeting. In the absence of the Chairperson, the Vice-Chairperson shall preside over the meeting.

(g) The Coordinator ~~of the Real Estate Appraisal Division~~ shall serve as a member of the Board without vote.

(h) The Board shall advise and make recommendations to the Department on the education and experience qualifications of any applicant for initial licensure as a State certified general real estate appraiser or a State certified residential real estate appraiser. The Department shall not make any decisions concerning education or experience qualifications of an applicant for initial licensure as a State certified general real estate appraiser or a State certified residential real estate appraiser without having first received the advice and recommendation of the Board and shall give due consideration to all such advice and recommendations; however, if the Board does not render advice or make a recommendation within a reasonable amount of time, then the Department may render a decision.

(i) Except as provided in Section 15-17 of this Act, the Board shall hear and make recommendations to the Secretary on disciplinary matters that require a formal evidentiary

hearing. The Secretary shall give due consideration to the recommendations of the Board involving discipline and questions involving standards of professional conduct of licensees.

(j) The Department shall seek and the Board shall provide recommendations to the Department consistent with the provisions of this Act and for the administration and enforcement of all rules adopted pursuant to this Act. The Department shall give due consideration to such recommendations prior to adopting rules.

(k) The Department shall seek and the Board shall provide recommendations to the Department on the approval of all courses submitted to the Department pursuant to this Act and the rules adopted pursuant to this Act. The Department shall not approve any courses without having first received the recommendation of the Board and shall give due consideration to such recommendations prior to approving and licensing courses; however, if the Board does not make a recommendation within a reasonable amount of time, then the Department may approve courses.

(l) Each voting member of the Board shall receive a per diem stipend in an amount to be determined by the Secretary. While engaged in the performance of duties, each ~~Each~~ member shall be paid the ~~his or her~~ necessary expenses ~~while engaged in the performance of his or her duties~~.

(m) Members of the Board shall be immune from suit in an

action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(n) If the Department disagrees with any advice or recommendation provided by the Board under this Section to the Secretary or the Department, then notice of such disagreement must be provided to the Board by the Department.

(o) (Blank). ~~Upon resolution adopted at any Board meeting, the exercise of any Board function, power, or duty enumerated in this Section or in subsection (d) of Section 15-10 of this Act may be suspended. The exercise of any suspended function, power, or duty of the Board may be reinstated by a resolution adopted at a subsequent Board meeting. Any resolution adopted pursuant to this Section shall take effect immediately.~~

(Source: P.A. 100-886, eff. 8-14-18.)

(225 ILCS 458/25-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-15. ~~Coordinator of~~ Real Estate Appraisal Coordinator; appointment; duties. The Secretary shall appoint~~, subject to the Personnel Code,~~ a Coordinator ~~of Real Estate Appraisal~~. In appointing the Coordinator, the Secretary shall give due consideration to recommendations made by members, organizations, and associations of the real estate appraisal industry. The ~~On or after January 1, 2010, the~~ Coordinator must hold a current, valid State certified general real estate appraiser license for a period of at least 5 years prior to

appointment. The Coordinator shall not practice during the term of the ~~his or her~~ appointment. ~~The Coordinator must take the 30-hour National Instructors Course on Uniform Standards of Professional Appraisal Practice.~~ The Coordinator shall be credited with all fees that came due during the Coordinator's ~~his or her~~ employment. The Coordinator shall:

(1) serve as a member of the Real Estate Appraisal Administration and Disciplinary Board without vote;

(2) be the direct liaison between the Department, the profession, and the real estate appraisal industry organizations and associations;

(3) prepare and circulate to licensees such educational and informational material as the Department deems necessary for providing guidance or assistance to licensees;

(4) appoint necessary committees to assist in the performance of the functions and duties of the Department under this Act;

(5) (blank); and

(6) be authorized to investigate and determine the facts of a complaint; the coordinator may interview witnesses, the complainant, and any licensees involved in the alleged matter and make a recommendation as to the findings of fact.

(Source: P.A. 97-602, eff. 8-26-11; 98-1109, eff. 1-1-15.)

(225 ILCS 458/25-16)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-16. Staff. The Department shall employ a minimum of one investigator ~~with an active certified appraiser license~~ per 2,000 licensees in order to have sufficient staff to perform the Department's obligations under this Act.

(Source: P.A. 100-832, eff. 1-1-19.)

(225 ILCS 458/25-20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-20. Department; powers and duties. The Department of Financial and Professional Regulation shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing Acts and shall exercise such other powers and duties as are prescribed by this Act for the administration of this Act. The Department may contract with third parties for services necessary for the proper administration of this Act, including without limitation, investigators with the proper knowledge, training, and skills to ~~properly~~ investigate complaints against real estate appraisers.

The Department shall maintain and update a registry of the names and addresses of all licensees and a listing of disciplinary orders issued pursuant to this Act and shall transmit the registry, along with any national registry fees that may be required, to the entity specified by, and in a

manner consistent with, Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.
(Source: P.A. 96-844, eff. 12-23-09.)

(225 ILCS 458/25-25)
(Section scheduled to be repealed on January 1, 2022)
Sec. 25-25. Rules. The Department, after notifying and considering any recommendations of the Board, if any, shall adopt rules that may be necessary for administration, implementation, and enforcement of the Act.
(Source: P.A. 96-844, eff. 12-23-09.)

(225 ILCS 458/25-35 new)
Sec. 25-35. No private right of action. Except as otherwise expressly provided for in this Act, nothing in this Act shall be construed to grant to any person a private right of action to enforce the provisions of this Act or the rules adopted under this Act.

(225 ILCS 458/30-5)
(Section scheduled to be repealed on January 1, 2022)
Sec. 30-5. Savings provisions.
(a) This Act is intended to replace the Real Estate Appraiser Licensing Act in all respects.
(b) Beginning July 1, 2002, the rights, powers, and duties exercised by the Office of Banks and Real Estate under the Real

Estate Appraiser Licensing Act shall continue to be vested in, to be the obligation of, and to be exercised by the Division of Real Estate of the Department of Financial and Professional Regulation ~~Office of Banks and Real Estate~~ under the provisions of this Act.

(c) This Act does not affect any act done, ratified, or cancelled, any right occurring or established, or any action or proceeding commenced in an administrative, civil, or criminal cause before July 1, 2002 by the Office of Banks and Real Estate under the Real Estate Appraiser Licensing Act. Those actions or proceedings may be prosecuted and continued by the Division of Real Estate of the Department of Financial and Professional Regulation ~~Office of Banks and Real Estate~~ under this Act.

(d) This Act does not affect any license, certificate, permit, or other form of licensure issued by the Office of Banks and Real Estate under the Real Estate Appraiser Licensing Act, except as provided is subsection (c) of Section 5-25. All such licenses, certificates, permits, or other form of licensure shall continue to be valid under the terms and conditions of this Act.

(e) The rules adopted by the Office of Banks and Real Estate relating to the Real Estate Appraiser Licensing Act, unless inconsistent with the provisions of this Act, are not affected by this Act, and on July 1, 2002, those rules become rules under this Act. ~~The Office of Banks and Real Estate~~

~~shall, as soon as practicable, adopt new or amended rules consistent with the provisions of this Act.~~

(f) This Act does not affect any discipline, suspension, or termination that has occurred under the Real Estate Appraiser Licensing Act or other predecessor Act. Any action for discipline, suspension, or termination instituted under the Real Estate Appraiser Licensing Act shall be continued under this Act.

(Source: P.A. 92-180, eff. 7-1-02.)

(225 ILCS 458/10-17 rep.)

(225 ILCS 458/30-10 rep.)

Section 85. The Real Estate Appraiser Licensing Act of 2002 is amended by repealing Sections 10-17 and 30-10.

Section 90. The Appraisal Management Company Registration Act is amended by changing Sections 10 and 15 as follows:

(225 ILCS 459/10)

Sec. 10. Definitions. In this Act:

"Address of record" means the principal address recorded by the Department in the applicant's or registrant's application file or registration file maintained by the Department's registration maintenance unit.

"Applicant" means a person or entity who applies to the Department for a registration under this Act.

"Appraisal" means (noun) the act or process of developing an opinion of value; an opinion of value (adjective) of or pertaining to appraising and related functions.

"Appraisal firm" means an appraisal entity that is 100% owned and controlled by a person or persons licensed in Illinois as a certified general real estate appraiser or a certified residential real estate appraiser. An appraisal firm does not include an appraisal management company.

"Appraisal management company" means any corporation, limited liability company, partnership, sole proprietorship, subsidiary, unit, or other business entity that directly or indirectly: (1) provides appraisal management services to creditors or secondary mortgage market participants, including affiliates; (2) provides appraisal management services in connection with valuing the consumer's principal dwelling as security for a consumer credit transaction (including consumer credit transactions incorporated into securitizations); and (3) ~~within a given year, oversees an appraiser panel of any size of State certified appraisers in Illinois; and (4)~~ any appraisal management company that, within a given 12-month period ~~year~~, oversees an appraiser panel of 16 or more State-certified appraisers in Illinois or 25 or more State-certified or State-licensed appraisers in 2 or more jurisdictions ~~shall be subject to the appraisal management company national registry fee in addition to the appraiser panel fee~~. "Appraisal management company" includes a hybrid

entity.

"Appraisal management company national registry fee" means the fee implemented pursuant to Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 for an appraiser management company's national registry.

"Appraisal management services" means one or more of the following:

(1) recruiting, selecting, and retaining appraisers;

(2) contracting with State-certified or State-licensed appraisers to perform appraisal assignments;

(3) managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports; submitting completed appraisal reports to creditors and secondary market participants; collecting compensation from creditors, underwriters, or secondary market participants for services provided; or paying appraisers for services performed; or

(4) reviewing and verifying the work of appraisers.

"Appraiser panel" means a network, list, or roster of licensed or certified appraisers approved by the appraisal management company or by the end-user client to perform appraisals <u>as independent contractors</u> for the appraisal management company. "Appraiser panel" includes both appraisers accepted by an appraisal management company for consideration for future appraisal assignments and appraisers engaged by an

appraisal management company to perform one or more appraisals. For the purposes of determining the size of an appraiser panel, only independent contractors of hybrid entities shall be counted towards the appraiser panel.

"Appraiser panel fee" means the amount collected from a registrant that, where applicable, includes an appraisal management company's national registry fee.

"Appraisal report" means a written appraisal by an appraiser to a client.

"Appraisal practice service" means valuation services performed by an individual acting as an appraiser, including, but not limited to, appraisal or appraisal review.

"Appraisal subcommittee" means the appraisal subcommittee of the Federal Financial Institutions Examination Council as established by Title XI.

"Appraiser" means a person who performs real estate or real property appraisals.

"Assignment result" means an appraiser's opinions and conclusions developed specific to an assignment.

"Audit" includes, but is not limited to, an annual or special audit, visit, or review necessary under this Act or required by the Secretary or the Secretary's authorized representative in carrying out the duties and responsibilities under this Act.

"Client" means the party or parties who engage an appraiser by employment or contract in a specific appraisal

assignment.

"Controlling Person" means:

(1) an owner, officer, or director of an entity seeking to offer appraisal management services;

(2) an individual employed, appointed, or authorized by an appraisal management company who has the authority to:

(A) enter into a contractual relationship with a client for the performance of an appraisal management service or appraisal practice service; and

(B) enter into an agreement with an appraiser for the performance of a real estate appraisal activity;

(3) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company; or

(4) an individual who will act as the sole compliance officer with regard to this Act and any rules adopted under this Act.

~~"Coordinator" means the Coordinator of the Appraisal Management Company Registration Unit of the Department or his or her designee.~~

"Covered transaction" means a consumer credit transaction secured by a consumer's principal dwelling.

"Department" means the Department of Financial and Professional Regulation.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the registrant's registration file maintained by the Department's registration maintenance unit.

"Entity" means a corporation, a limited liability company, partnership, a sole proprietorship, or other entity providing services or holding itself out to provide services as an appraisal management company or an appraisal management service.

"End-user client" means any person who utilizes or engages the services of an appraiser through an appraisal management company.

"Federally regulated appraisal management company" means an appraisal management company that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. 1813, or an insured credit union, as defined in 12 U.S.C. 1752, and regulated by the Office of the Comptroller of the Currency, the Federal Reserve Board, the National Credit Union Association, or the Federal Deposit Insurance Corporation.

"Financial institution" means any bank, savings bank, savings and loan association, credit union, mortgage broker, mortgage banker, registrant under the Consumer Installment Loan Act or the Sales Finance Agency Act, or a corporate fiduciary, subsidiary, affiliate, parent company, or holding company of any registrant, or any institution involved in real estate financing that is regulated by State or federal law.

"Foreign appraisal management company" means any appraisal management company organized under the laws of any other state of the United States, the District of Columbia, or any other jurisdiction of the United States.

"Hybrid entity" means an appraisal management company that hires an appraiser as an employee to perform an appraisal and engages an independent contractor to perform an appraisal.

"Multi-state licensing system" means a web-based platform that allows an applicant to submit the ~~his or her~~ application or registration renewal to the Department online.

"Person" means individuals, entities, sole proprietorships, corporations, limited liability companies, and alien, foreign, or domestic partnerships, except that when the context otherwise requires, the term may refer to a single individual or other described entity.

"Principal dwelling" means a residential structure that contains one to 4 units, whether or not that structure is attached to real property. "Principal dwelling" includes an individual condominium unit, cooperative unit, manufactured home, mobile home, and trailer, if it is used as a residence.

"Principal office" means the actual, physical business address, which shall not be a post office box or a virtual business address, of a registrant, at which (i) the Department may contact the registrant and (ii) records required under this Act are maintained.

"Qualified to transact business in this State" means being

in compliance with the requirements of the Business Corporation Act of 1983.

"Quality control review" means a review of an appraisal report for compliance and completeness, including grammatical, typographical, or other similar errors, unrelated to developing an opinion of value.

"Real estate" means an identified parcel or tract of land, including any improvements.

"Real estate related financial transaction" means any transaction involving:

(1) the sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof;

(2) the refinancing of real property or interests in real property; and

(3) the use of real property or interest in property as security for a loan or investment, including mortgage backed securities.

"Real property" means the interests, benefits, and rights inherent in the ownership of real estate.

"Secretary" means the Secretary of Financial and Professional Regulation.

"USPAP" means the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board under Title XI.

"Valuation" means any estimate of the value of real

property in connection with a creditor's decision to provide credit, including those values developed under a policy of a government sponsored enterprise or by an automated valuation model or other methodology or mechanism.

"Written notice" means a communication transmitted by mail or by electronic means that can be verified between an appraisal management company and a licensed or certified real estate appraiser.

(Source: P.A. 100-604, eff. 7-13-18.)

(225 ILCS 459/15)

Sec. 15. Exemptions.

(a) Nothing in this Act shall apply to any of the following:

(1) an agency of the federal, State, county, or municipal government or an officer or employee of a government agency, or person, described in this Section when acting within the scope of employment of the officer or employee;

(2) a corporate relocation company when the appraisal is not used for mortgage purposes and the end user client is an employer company;

(3) any person licensed in this State under any other Act while engaged in the activities or practice for which he or she is licensed;

(4) any person licensed to practice law in this State

who is working with or on behalf of a client of that person in connection with one or more appraisals for that client;

(5) an appraiser that enters into an agreement, whether written or otherwise, with another appraiser for the performance of an appraisal, and upon the completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal, except that an appraisal management company may not avoid the requirement of registration under this Act by requiring an employee of the appraisal management company who is an appraiser to sign an appraisal that was completed by another appraiser who is part of the appraisal panel of the appraisal management company;

(6) any person acting as an agent of the Illinois Department of Transportation in the acquisition or relinquishment of land for transportation issues to the extent of their contract scope;

(7) a design professional entity when the appraisal is not used for mortgage purposes and the end user client is an agency of State government or a unit of local government;

(8) an appraiser firm whose ownership is appropriately certified under the Real Estate Appraiser Licensing Act of 2002; ~~or~~

(9) an appraisal management company solely engaged in non-residential appraisal management services; or~~.~~

(10) a department or division of an entity that provides appraisal management services only to that entity.

(b) A federally regulated appraisal management company shall register with the Department for the sole purpose of collecting required information for, and to pay all fees associated with, the State of Illinois' obligation to register the federally regulated appraisal management company with the Appraisal Management Companies National Registry, but the federally regulated appraisal management company is otherwise exempt from all other provisions in this Act.

(c) In the event that the Final Interim Rule of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act provides that an appraisal management company is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution's regulatory agency and is exempt from State appraisal management company registration requirements, the Department, shall, by rule, provide for the implementation of such an exemption.

(Source: P.A. 100-604, eff. 7-13-18.)

Section 95. The Petroleum Equipment Contractors Licensing Act is amended by changing Sections 35, 45, 60, and 65 and by adding Section 73 as follows:

(225 ILCS 729/35)

(Section scheduled to be repealed on January 1, 2022)

Sec. 35. Licensure qualifications and fees.

(a) Applicants for a license must submit to the Office all of the following:

(1) fees as established by the Office;

(2) evidence of current registration as an Illinois corporation or other business entity and, when applicable, evidence of compliance with the Assumed Business Name Act; if the corporation or business entity does not have evidence of current registration, such as a Secretary of State issued Certificate of Good Standing, the Office has the authority to deny or revoke the license of such a corporation or business entity;

(3) evidence of financial responsibility in a minimum amount of $1,000,000 through liability insurance, self-insurance, group insurance, group self-insurance, or risk retention groups that must include completed operations and environmental impairment; and

(4) evidence of compliance with the qualifications and standards established by the Office.

(b) The contractor must possess a license from the Office to perform the following types of activity:

(1) installation of underground storage tanks;

(2) repair of USTs, which shall include retrofitting

and installation of cathodic protection systems;

(3) decommissioning of USTs including abandonment in place;

(4) relining of USTs;

(5) tank and piping tightness testing;

(6) testing of cathodic protection systems; and

(7) any other category established by the Office of the State Fire Marshal.

(c) (Blank).

(Source: P.A. 97-428, eff. 8-16-11.)

(225 ILCS 729/45)

(Section scheduled to be repealed on January 1, 2022)

Sec. 45. Issuance of license; renewal.

(a) The State Fire Marshal shall, upon the applicant's satisfactory completion of the requirements authorized under this Act, and upon receipt of the requisite fees, issue the appropriate license showing the name and business location of the licensee and the dates of issuance and expiration.

(b) Each licensee may apply for renewal of his or her license upon payment of the requisite fee. The expiration date and renewal period for each license issued under this Act shall be set by rule. Failure to renew by the expiration date shall cause the license to lapse. A lapsed license may not be reinstated until an ~~a written~~ application is filed, the renewal fee is paid, and a $50 reinstatement fee is paid. The

renewal and reinstatement fees shall be waived for persons who did not renew while on active duty in the military and who file for renewal or restoration within one year after discharge from the active duty service.

(c) All fees paid pursuant to this Act are non-refundable. This shall not preclude the State Fire Marshal from refunding accidental overpayment of fees.

(Source: P.A. 97-428, eff. 8-16-11.)

(225 ILCS 729/60)

(Section scheduled to be repealed on January 1, 2022)

Sec. 60. License renewal; display of license; inspection.

(a) As a condition of renewal of a license, the State Fire Marshal may require the licensee to report information pertaining to his or her practice that the State Fire Marshal determines to be in the interest of public safety.

(b) A licensee shall report a change in home or office address within 10 days.

(c) Each licensee shall prominently display his or her license to practice at each place from which the practice is being performed. If more than one location is used, branch office certificates shall be issued upon payment of the fees to be established by the State Fire Marshal.

(d) ~~If a license or certificate is lost, a duplicate shall be issued upon payment of the required fee to be established by the State Fire Marshal.~~ If a licensee wishes to change his or

her name, the State Fire Marshal shall issue a license in the new name upon payment of the required fee and upon receipt of satisfactory proof that the change was done in accordance with law.

(e) Each licensee shall permit his or her facilities to be inspected by representatives of the Office of the State Fire Marshal.

(Source: P.A. 97-428, eff. 8-16-11.)

(225 ILCS 729/65)

(Section scheduled to be repealed on January 1, 2022)

Sec. 65. Disciplinary actions. Licensees shall be subject to disciplinary action for any of the following:

(1) obtaining or renewing a license by the use of fraud or material deception;

(2) being professionally incompetent as manifested by poor standards of service;

(3) engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public in the course of professional services or activities;

(4) being convicted of a crime that has a substantial relationship to his or her practice or an essential element of which is misstatement, fraud, or dishonesty, being convicted in this or another state of any crime that is a felony under the laws of Illinois or of that state, or

being convicted of a felony in a federal court, unless the licensee demonstrates that he or she has been sufficiently rehabilitated to warrant the public trust;

(5) performing any service in a grossly negligent manner or permitting any licensed employee to perform services in a grossly negligent manner, regardless of whether actual damage or damage to the public is established;

(6) (blank); ~~being a habitual drunk or having a habitual addiction to the use of morphine, cocaine, controlled substances, or other habit-forming drugs;~~

(7) willfully receiving compensation, directly or indirectly, for any professional service not actually rendered;

(8) having disciplinary action taken against his or her license in another State;

(9) contracting or assisting unlicensed persons to perform services for which a license is required under this Act;

(10) permitting the use of his or her license to enable an unlicensed person or agency to operate as a licensee;

(11) performing and charging for services without having authorization to do so from the member of the public being served; or

(12) failing to comply with any provision of this Act

or the rules adopted under this Act.

(Source: P.A. 92-618, eff. 7-11-02.)

(225 ILCS 729/73 new)

Sec. 73. Citations.

(a) The Office of the State Fire Marshal may adopt rules to permit the issuance of citations for certain violations of this Act or the rules adopted under this Act. The citation shall be issued to the licensee and shall contain the licensee's name and address, the licensee's license number, a brief factual statement, the Sections of the law or rules allegedly violated, and the penalty imposed. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to request a hearing to appeal the citation. If the licensee does not file a written appeal of the citation with the Office of the State Fire Marshal within 15 days after the citation is served, then the citation shall become a final order imposing a monetary penalty. The penalty shall be a monetary civil fine. In the event of a timely written appeal, the Office of the State Fire Marshal shall conduct an administrative hearing governed by the Illinois Administrative Procedure Act and enter an order to sustain, modify, or revoke such citation. Any appeal from such hearing order shall be to the circuit court of the county in which the violation took place and shall be governed by the Administrative Review Law.

(b) The Office of the State Fire Marshal shall adopt rules designating violations for which a citation may be issued, which may specify separate hearing procedures for appeals of such citations so long as the hearing procedures are not inconsistent with the Illinois Administrative Procedure Act.

(c) Service of a citation may be made by personal service or certified mail to the licensee at the licensee's last known address as listed with the Office of the State Fire Marshal.

Section 100. The Mercury Thermostat Collection Act is amended by changing Section 55 as follows:

(415 ILCS 98/55)

(Section scheduled to be repealed on January 1, 2022)

Sec. 55. Repealer. This Act is repealed on January 1, 2023 ~~2022~~.

(Source: P.A. 101-639, eff. 6-12-20.)

Section 105. The Professional Service Corporation Act is amended by changing Section 3.6 as follows:

(805 ILCS 10/3.6) (from Ch. 32, par. 415-3.6)

Sec. 3.6. "Related professions" and "related professional services" mean more than one personal service which requires as a condition precedent to the rendering thereof the obtaining of a license and which prior to October 1, 1973 could

not be performed by a corporation by reason of law; provided, however, that these terms shall be restricted to:

(1) a combination of 2 or more of the following personal services: (a) "architecture" as defined in Section 5 of the Illinois Architecture Practice Act of 1989, (b) "professional engineering" as defined in Section 4 of the Professional Engineering Practice Act of 1989, (c) "structural engineering" as defined in Section 5 of the Structural Engineering Practice Act of 1989, (d) "land surveying" as defined in Section 2 of the Illinois Professional Land Surveyor Act of 1989;

(2) a combination of the following personal services: (a) the practice of medicine by persons licensed under the Medical Practice Act of 1987, (b) the practice of podiatry as defined in the Podiatric Medical Practice Act of 1987, (c) the practice of dentistry as defined in the Illinois Dental Practice Act, (d) the practice of optometry as defined in the Illinois Optometric Practice Act of 1987;

(3) a combination of 2 or more of the following personal services: (a) the practice of clinical psychology by persons licensed under the Clinical Psychologist Licensing Act, (b) the practice of social work or clinical social work by persons licensed under the Clinical Social Work and Social Work Practice Act, (c) the practice of marriage and family therapy by persons licensed under the Marriage and Family Therapy Licensing Act, (d) the

practice of professional counseling or clinical professional counseling by persons licensed under the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act, or (e) the practice of sex offender evaluations by persons licensed under the Sex Offender Evaluation and Treatment Provider Act; or

(4) a combination of 2 or more of the following personal services: (a) the practice of acupuncture by persons licensed under the Acupuncture Practice Act, (b) the practice of massage by persons licensed under the Massage Therapy Practice ~~Licensing~~ Act, (c) the practice of naprapathy by persons licensed under the Naprapathic Practice Act, (d) the practice of occupational therapy by persons licensed under the Illinois Occupational Therapy Practice Act, (e) the practice of physical therapy by persons licensed under the Illinois Physical Therapy Act, or (f) the practice of speech-language therapy by persons licensed under the Illinois Speech-Language Pathology and Audiology Practice Act.

(Source: P.A. 101-95, eff. 7-19-19.)

Section 999. Effective date. This Act takes effect January 1, 2022, except that this Section and Sections 5, 10, 40, and 45 take effect upon becoming law.".