



Rep. Bob Morgan

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10300HB4293ham001

LRB103 35932 RTM 69933 a

1 AMENDMENT TO HOUSE BILL 4293

2 AMENDMENT NO. _____. Amend House Bill 4293 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Massage Licensing Act is amended by
5 changing Section 45 as follows:

6 (225 ILCS 57/45)

7 (Section scheduled to be repealed on January 1, 2027)

8 Sec. 45. Grounds for discipline.

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

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

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

10 (3) professional incompetence;

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

14 (5) aiding, abetting, assisting, procuring, advising,
15 employing, or contracting with any unlicensed person to
16 practice massage contrary to any rules or provisions of
17 this Act;

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

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

24 (8) practicing or offering to practice beyond the
25 scope permitted by law or accepting and performing
26 professional responsibilities which the licensee knows or

1 has reason to know that he or she is not competent to
2 perform;

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

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

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

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

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

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

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

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

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

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

14 (19) charging for professional services not rendered,
15 including filing false statements for the collection of
16 fees for which services are not rendered;

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

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

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

23 (b) A person not licensed under this Act and engaged in the
24 business of offering massage therapy services through others,
25 shall not aid, abet, assist, procure, advise, employ, or
26 contract with any unlicensed person to practice massage

1 therapy contrary to any rules or provisions of this Act. A
2 person violating this subsection (b) shall be treated as a
3 licensee for the purposes of disciplinary action under this
4 Section and shall be subject to cease and desist orders as
5 provided in Section 90 of this Act.

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

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

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

20 (2) involuntary sexual servitude of a minor;

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

24 (4) a forcible felony.

25 If the victim of the crime the licensee has been charged
26 with is a patient of the licensee, the prosecuting attorney

1 shall also provide notice to the Department of the patient's
2 name.

3 Within 5 business days after receiving notice from the
4 prosecuting attorney of the filing of criminal charges against
5 the licensed massage therapist, the Secretary shall issue an
6 administrative order that the licensed massage therapist shall
7 practice only with a chaperone during all patient encounters
8 pending the outcome of the criminal proceedings. The chaperone
9 shall be a licensed massage therapist or other health care
10 worker licensed by the Department. The administrative order
11 shall specify any other terms or conditions deemed appropriate
12 by the Secretary. The chaperone shall provide written notice
13 to all of the licensed massage therapist's patients explaining
14 the Department's order to use a chaperone. Each patient shall
15 sign an acknowledgment that they received the notice. The
16 notice to the patient of criminal charges shall include, in
17 14-point font, the following statement: "The massage therapist
18 is presumed innocent until proven guilty of the charges."

19 The licensed massage therapist shall provide a written
20 plan of compliance with the administrative order that is
21 acceptable to the Department within 5 business days after
22 receipt of the administrative order. Failure to comply with
23 the administrative order, failure to file a compliance plan,
24 or failure to follow the compliance plan shall subject the
25 licensed massage therapist to temporary suspension of his or
26 her license until the completion of the criminal proceedings.

1 If the licensee is not convicted of the charge or if any
2 conviction is later overturned by a reviewing court, the
3 administrative order shall be vacated and removed from the
4 licensee's record.

5 The Department may adopt rules to implement this
6 subsection.

7 (d) The Department may refuse to issue or may suspend the
8 license of any person who fails to file a tax return, to pay
9 the tax, penalty, or interest shown in a filed tax return, or
10 to pay any final assessment of tax, penalty, or interest, as
11 required by any tax Act administered by the Illinois
12 Department of Revenue, until such time as the requirements of
13 the tax Act are satisfied in accordance with subsection (g) of
14 Section 2105-15 of the Civil Administrative Code of Illinois.

15 (e) (Blank).

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

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

9 (h) In enforcing this Act, the Department or Board, upon a
10 showing of a possible violation, may compel an individual
11 licensed to practice under this Act, or who has applied for
12 licensure under this Act, to submit to a mental or physical
13 examination, or both, as required by and at the expense of the
14 Department. The Department or Board may order the examining
15 physician to present testimony concerning the mental or
16 physical examination of the licensee or applicant. No
17 information shall be excluded by reason of any common law or
18 statutory privilege relating to communications between the
19 licensee or applicant and the examining physician. The
20 examining physicians shall be specifically designated by the
21 Board or Department. The individual to be examined may have,
22 at his or her own expense, another physician of his or her
23 choice present during all aspects of this examination. The
24 examination shall be performed by a physician licensed to
25 practice medicine in all its branches. Failure of an
26 individual to submit to a mental or physical examination, when

1 directed, shall result in an automatic suspension without
2 hearing.

3 A person holding a license under this Act or who has
4 applied for a license under this Act who, because of a physical
5 or mental illness or disability, including, but not limited
6 to, deterioration through the aging process or loss of motor
7 skill, is unable to practice the profession with reasonable
8 judgment, skill, or safety, may be required by the Department
9 to submit to care, counseling, or treatment by physicians
10 approved or designated by the Department as a condition, term,
11 or restriction for continued, reinstated, or renewed licensure
12 to practice. Submission to care, counseling, or treatment as
13 required by the Department shall not be considered discipline
14 of a license. If the licensee refuses to enter into a care,
15 counseling, or treatment agreement or fails to abide by the
16 terms of the agreement, the Department may file a complaint to
17 revoke, suspend, or otherwise discipline the license of the
18 individual. The Secretary may order the license suspended
19 immediately, pending a hearing by the Department. Fines shall
20 not be assessed in disciplinary actions involving physical or
21 mental illness or impairment.

22 In instances in which the Secretary immediately suspends a
23 person's license under this Section, a hearing on that
24 person's license must be convened by the Department within 15
25 days after the suspension and completed without appreciable
26 delay. The Department and Board shall have the authority to

1 review the subject individual's record of treatment and
2 counseling regarding the impairment to the extent permitted by
3 applicable federal statutes and regulations safeguarding the
4 confidentiality of medical records.

5 An individual licensed under this Act and affected under
6 this Section shall be afforded an opportunity to demonstrate
7 to the Department or Board that he or she can resume practice
8 in compliance with acceptable and prevailing standards under
9 the provisions of his or her license.

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

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."