

**103RD GENERAL ASSEMBLY****State of Illinois****2023 and 2024****SB2660**

Introduced 1/10/2024, by Sen. Javier L. Cervantes

SYNOPSIS AS INTRODUCED:

225 ILCS 57/45

Amends the Massage Licensing Act. Provides that, immediately after a person licensed under the Act has been charged with the offense of prostitution, rape, or sexual misconduct or with any crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act, then the prosecuting attorney shall provide notice to the Department of Financial and Professional Regulation of the licensee's name, address, practice address, and license number and a copy of the criminal charges filed. Provides that, within 5 business days after receiving notice from the prosecuting attorney, the Secretary shall issue an administrative order that the licensee shall practice only with a chaperone who is a licensed health care worker present during all patient encounters pending the outcome of the criminal proceedings. Provides that the chaperone shall provide written notice to all of the licensee's patients before treatment explaining the Department's order to use a chaperone and each patient shall sign an acknowledgement that he or she received the notice. Provides that, within 5 business days after receipt of the administrative order, the licensee shall provide to the Department a written plan of compliance with the administrative order that is acceptable to the Department. Provides that failure to comply with the administrative order, failure to file a compliance plan, or failure to follow the compliance plan shall subject the licensed massage therapist to temporary suspension of his or her license until the completion of the criminal proceedings. Provides that, if the licensee is not convicted of the charge or if any conviction is later overturned by a reviewing court, the administrative order shall be vacated and removed from the licensee's record. Provides that the Department may adopt rules to implement the provisions. Effective immediately.

LRB103 35933 SPS 66020 b

1 AN ACT concerning regulation.

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

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

6 (225 ILCS 57/45)

7 (Section scheduled to be repealed on January 1, 2027)

8 Sec. 45. Grounds for discipline.

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

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

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

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

3 (3) professional incompetence;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 applying for renewal of a license under this Act;

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

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

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

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

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

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

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

1 sexual misconduct, or any crime that subjects the licensee to
2 compliance with the requirements of the Sex Offender
3 Registration Act and any such conviction shall operate as a
4 permanent bar in the State of Illinois to practice as a massage
5 therapist. Immediately after a person licensed under this Act
6 has been charged with the offense of prostitution, rape, or
7 sexual misconduct or with any crime that subjects the licensee
8 to compliance with the requirements of the Sex Offender
9 Registration Act, the prosecuting attorney shall provide
10 notice to the Department of the licensee's name, address,
11 practice address, and license number and a copy of the
12 criminal charges filed. If the victim of the crime the
13 licensee has been charged with is a patient of the licensee,
14 the prosecuting attorney shall also provide notice to the
15 Department of the patient's name. Within 5 business days after
16 receiving notice from the prosecuting attorney, the Secretary
17 shall issue an administrative order that the licensee shall
18 practice only with a chaperone who is a licensed health care
19 worker present during all patient encounters pending the
20 outcome of the criminal proceedings. The administrative order
21 shall also specify any other terms or conditions deemed
22 appropriate by the Secretary. The chaperone shall provide
23 written notice to all of the licensee's patients before
24 treatment explaining the Department's order to use a
25 chaperone, and each patient shall sign an acknowledgement that
26 he or she received the notice. The notice to the patient shall

1 include, in 14-point font, the following statement: "The
2 massage therapist is presumed innocent until proven guilty of
3 the charges." Within 5 business days after receipt of the
4 administrative order, the licensee shall provide to the
5 Department a written plan of compliance with the
6 administrative order that is acceptable to the Department.
7 Failure to comply with the administrative order, failure to
8 file a compliance plan, or failure to follow the compliance
9 plan shall subject the licensed massage therapist to temporary
10 suspension of his or her license until the completion of the
11 criminal proceedings. If the licensee is not convicted of the
12 charge or if any conviction is later overturned by a reviewing
13 court, the administrative order shall be vacated and removed
14 from the licensee's record. The Department may adopt rules to
15 implement the changes made by this amendatory Act of the 103rd
16 General Assembly.

17 (d) The Department may refuse to issue or may suspend the
18 license of any person who fails to file a tax return, to pay
19 the tax, penalty, or interest shown in a filed tax return, or
20 to pay any final assessment of tax, penalty, or interest, as
21 required by any tax Act administered by the Illinois
22 Department of Revenue, until such time as the requirements of
23 the tax Act are satisfied in accordance with subsection (g) of
24 Section 2105-15 of the Civil Administrative Code of Illinois.

25 (e) (Blank).

26 (f) In cases where the Department of Healthcare and Family

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

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

19 (h) In enforcing this Act, the Department or Board, upon a
20 showing of a possible violation, may compel an individual
21 licensed to practice under this Act, or who has applied for
22 licensure under this Act, to submit to a mental or physical
23 examination, or both, as required by and at the expense of the
24 Department. The Department or Board may order the examining
25 physician to present testimony concerning the mental or
26 physical examination of the licensee or applicant. No

1 information shall be excluded by reason of any common law or
2 statutory privilege relating to communications between the
3 licensee or applicant and the examining physician. The
4 examining physicians shall be specifically designated by the
5 Board or Department. The individual to be examined may have,
6 at his or her own expense, another physician of his or her
7 choice present during all aspects of this examination. The
8 examination shall be performed by a physician licensed to
9 practice medicine in all its branches. Failure of an
10 individual to submit to a mental or physical examination, when
11 directed, shall result in an automatic suspension without
12 hearing.

13 A person holding a license under this Act or who has
14 applied for a license under this Act who, because of a physical
15 or mental illness or disability, including, but not limited
16 to, deterioration through the aging process or loss of motor
17 skill, is unable to practice the profession with reasonable
18 judgment, skill, or safety, may be required by the Department
19 to submit to care, counseling, or treatment by physicians
20 approved or designated by the Department as a condition, term,
21 or restriction for continued, reinstated, or renewed licensure
22 to practice. Submission to care, counseling, or treatment as
23 required by the Department shall not be considered discipline
24 of a license. If the licensee refuses to enter into a care,
25 counseling, or treatment agreement or fails to abide by the
26 terms of the agreement, the Department may file a complaint to

1 revoke, suspend, or otherwise discipline the license of the
2 individual. The Secretary may order the license suspended
3 immediately, pending a hearing by the Department. Fines shall
4 not be assessed in disciplinary actions involving physical or
5 mental illness or impairment.

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

15 An individual licensed under this Act and affected under
16 this Section shall be afforded an opportunity to demonstrate
17 to the Department or Board that he or she can resume practice
18 in compliance with acceptable and prevailing standards under
19 the provisions of his or her license.

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.