



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4126

by Rep. Daniel J. Burke

SYNOPSIS AS INTRODUCED:

See Index

Amends the Naprapathic Practice Act. Removes all references in the Act to the Naprapathic Examining Committee. Allows the Department to take action, including imposing fines not to exceed \$10,000 per violation, if the individual meets the requirements for grounds for disciplinary action. Permits the Department to disclose information and documents related to an examination or investigation of a licensee or applicant only to 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. Makes changes in provisions concerning definitions; educational and professional qualifications for licensure; title and designation of licensed naprapaths; powers and duties of the Department; rules; reports; Social Security Numbers on license application; renewal, reinstatement, restoration of licenses; military service; fees; roster; advertising; grounds for disciplinary action; refusal, revocation, and suspension; returned checks; fees; injunctions; cease and desist orders; investigation; notice; hearings; formal hearings; preservation of record; subpoenas; oaths; findings of fact, conclusions of laws, and recommendations; hearing officer; service of report; rehearing; order; substantial justice to be done; rehearing; order or certified copy as prima facie proof; restoration of licenses; imminent danger to public; summary suspension; provision concerning certifying records to the Court; and the Administrative Procedure Act. Amends the Regulatory Sunset Act to extend the repeal of the Naprapathic Practice Act from January 1, 2013 to January 1, 2023. Effective immediately.

LRB097 16319 CEL 61473 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 1. The Regulatory Sunset Act is amended by changing
5 Section 4.23 and by adding Section 4.33 as follows:

6 (5 ILCS 80/4.23)

7 Sec. 4.23. Acts and Sections repealed on January 1, 2013.

8 The following Acts and Sections of Acts are repealed on January
9 1, 2013:

10 The Dietetic and Nutrition Services Practice Act.

11 The Elevator Safety and Regulation Act.

12 The Fire Equipment Distributor and Employee Regulation Act
13 of 2011.

14 The Funeral Directors and Embalmers Licensing Code.

15 ~~The Naprapathic Practice Act.~~

16 The Professional Counselor and Clinical Professional
17 Counselor Licensing Act.

18 The Wholesale Drug Distribution Licensing Act.

19 Section 2.5 of the Illinois Plumbing License Law.

20 (Source: P.A. 95-331, eff. 8-21-07; 96-1499, eff. 1-18-11.)

21 (5 ILCS 80/4.33 new)

22 Sec. 4.33. Act repealed on January 1, 2023. The following

1 Act is repealed on January 1, 2023:

2 The Naprapathic Practice Act.

3 Section 5. The Naprapathic Practice Act is amended by
4 changing Sections 10, 17, 25, 45, 57, 70, 85, 95, 100, 110,
5 115, 120, 125, 130, 140, 145, 150, 155, 160, 165, 170, 180,
6 190, and 200 and by adding Section 193 as follows:

7 (225 ILCS 63/10)

8 (Section scheduled to be repealed on January 1, 2013)

9 Sec. 10. Definitions. In this Act:

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

17 "Naprapath" means a person who practices Naprapathy and who
18 has met all requirements as provided in the Act.

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

21 "Secretary Director" means the Secretary Director of the
22 Department of Financial and Professional Regulation.

23 ~~"Committee" means the Naprapathic Examining Committee~~
24 ~~appointed by the Director.~~

1 "Referral" means the following of guidance or direction to
2 the naprapath given by the licensed physician, dentist, or
3 podiatrist who maintains supervision of the patient.

4 "Documented current and relevant diagnosis" means a
5 diagnosis, substantiated by signature or oral verification of a
6 licensed physician, dentist, or podiatrist, that a patient's
7 condition is such that it may be treated by naprapathy as
8 defined in this Act, which diagnosis shall remain in effect
9 until changed by the licensed physician, dentist, or
10 podiatrist.

11 (Source: P.A. 87-1231.)

12 (225 ILCS 63/17)

13 (Section scheduled to be repealed on January 1, 2013)

14 Sec. 17. Educational and professional qualifications for
15 licensure. A person may be qualified to receive a license as a
16 naprapath if he or she:

17 (1) is at least 18 years of age and of good moral
18 character;

19 (2) has graduated from a 2 year college level program
20 or its equivalent approved by the Department;

21 (3) has graduated from a curriculum in naprapathy
22 approved by the Department. In approving a curriculum in
23 naprapathy, the Department shall consider, but not be bound
24 by, a curriculum approved by the American Naprapathic
25 Association;

1 (4) has passed an examination approved by the
2 Department to determine a person's fitness to practice as a
3 naprapath; and

4 (5) has met all other requirements of the Act.

5 The Department has the right and may request a personal
6 interview with an applicant ~~before the Committee~~ to further
7 evaluate a person's qualifications for a license.

8 (Source: P.A. 89-61, eff. 6-30-95.)

9 (225 ILCS 63/25)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 25. Title and designation of licensed naprapaths.
12 Every person to whom a valid existing license as a naprapath
13 has been issued under this Act shall be designated
14 professionally a "naprapath", and not otherwise, and any
15 licensed naprapath may, in connection with the practice of his
16 profession, use the title or designation of "naprapath", and,
17 if entitled by degree from a college or university recognized
18 by the Department ~~of Professional Regulation~~, may use the title
19 of "Doctor of Naprapathy" or the abbreviation "D.N.". When the
20 name of the licensed naprapath is used professionally in oral,
21 written, or printed announcements, professional cards, or
22 publications for the information of the public and is preceded
23 by the title "Doctor" or the abbreviation "Dr.", the
24 explanatory designation of "naprapath", "naprapathy", "Doctor
25 of Naprapathy", or the designation "D.N." shall be added

1 immediately following title and name. When the announcement,
2 professional cards, or publication is in writing or in print,
3 the explanatory addition shall be in writing, type, or print
4 not less than 1/2 the size of that used in the name and title.
5 No person other than the holder of a valid existing license
6 under this Act shall use the title and designation of "Doctor
7 of Naprapathy", "D.N.", or "naprapath", either directly or
8 indirectly, in connection with his or her profession or
9 business.

10 A naprapath licensed under this Act shall not hold himself
11 or herself out as a Doctor of Chiropractic unless he or she is
12 licensed as a Doctor of Chiropractic under the Medical Practice
13 Act of 1987 or any successor Act.

14 (Source: P.A. 89-61, eff. 6-30-95.)

15 (225 ILCS 63/45)

16 (Section scheduled to be repealed on January 1, 2013)

17 Sec. 45. Powers and duties of the Department; rules;
18 reports. The Department shall exercise the powers and duties
19 prescribed by the Civil Administrative Code of Illinois for the
20 administration of licensing Acts and shall exercise any other
21 powers and duties necessary for effectuating the purposes of
22 this Act.

23 The Department may promulgate rules consistent with the
24 provisions of this Act for its administration and enforcement
25 and may prescribe forms which shall be issued in connection

1 with this Act. The rules may include standards and criteria for
2 licensure, and professional conduct and discipline.

3 ~~The Department shall consult with the Committee in~~
4 ~~promulgating rules. Notice of proposed rulemaking shall be~~
5 ~~transmitted to the Committee and the Department shall review~~
6 ~~the Committee's responses and any recommendations made by the~~
7 ~~Committee. The Department may solicit the advice of the~~
8 ~~Committee on any matter relating to the administration and~~
9 ~~enforcement of this Act. Nothing shall limit the ability of the~~
10 ~~Committee to provide recommendations to the Director regarding~~
11 ~~any matter affecting the administration of this Act.~~

12 ~~The Department shall issue quarterly to the Committee a~~
13 ~~status report of all complaints related to the profession~~
14 ~~received by the Department.~~

15 (Source: P.A. 89-61, eff. 6-30-95.)

16 (225 ILCS 63/57)

17 (Section scheduled to be repealed on January 1, 2013)

18 Sec. 57. Social Security Number on license application. In
19 addition to any other information required to be contained in
20 the application, every application for an original, renewal,
21 reinstated, or restored license under this Act shall include
22 the applicant's Social Security Number, which shall be retained
23 in the agency's records pertaining to the license. ~~As soon as~~
24 ~~practical, the Department shall assign a customer's~~
25 ~~identification number to each applicant for a license.~~

1 ~~Every application for a renewal, reinstated, or restored~~
2 ~~license shall require the applicant's customer identification~~
3 ~~number.~~

4 (Source: P.A. 97-400, eff. 1-1-12.)

5 (225 ILCS 63/70)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 70. Renewal, reinstatement or restoration of
8 licenses; military service. The expiration date and renewal
9 period for each license issued under this Act shall be set by
10 rule.

11 All renewal applicants shall provide proof of having met
12 the requirements of continuing education set forth in the rules
13 of the Department. The Department shall, by rule, provide for
14 an orderly process for the reinstatement of licenses that have
15 not been renewed due to failure to meet the continuing
16 education requirements. The continuing education requirements
17 may be waived in cases of extreme hardship as defined by rules
18 of the Department.

19 Any naprapath who has permitted his or her license to
20 expire or who has had his or her license on inactive status may
21 have his or her license restored by making application to the
22 Department and filing proof acceptable to the Department of
23 fitness to have the license restored and by paying the required
24 fees. Proof of fitness may include sworn evidence certifying to
25 active lawful practice in another jurisdiction.

1 If the licensee has not maintained an active practice in
2 another jurisdiction satisfactory to the Department, then the
3 ~~The~~ Department shall determine, by an evaluation program
4 established by rule, fitness for restoration of the license and
5 shall establish procedures and requirements for restoration.

6 Any naprapath whose license expired while he or she was (i)
7 in federal service on active duty with the Armed Forces of the
8 United States or the State Militia called into service or
9 training or (ii) in training or education under the supervision
10 of the United States preliminary to induction into the military
11 service, however, may have his or her license restored without
12 paying any lapsed renewal fees if within 2 years after
13 honorable termination of service, training, or education, he or
14 she furnishes the Department with satisfactory evidence to the
15 effect that he or she has been so engaged and that his or her
16 service, training, or education has been so terminated.

17 (Source: P.A. 87-1231.)

18 (225 ILCS 63/85)

19 (Section scheduled to be repealed on January 1, 2013)

20 Sec. 85. Fees.

21 (a) The Department shall provide by rule for a schedule of
22 fees for the administration and enforcement of this Act,
23 including but not limited to original licensure, renewal, and
24 restoration. The fees shall be nonrefundable.

25 All fees, fines, and penalties collected under this Act

1 shall be deposited into the General Professions Dedicated Fund
2 and shall be appropriated to the Department for the ordinary
3 and contingent expenses of the Department in the administration
4 of this Act.

5 (b) An applicant for the examination shall be required to
6 pay, either to the Department or to the designated testing
7 service, a fee covering the cost of initial screening to
8 determine an applicant's eligibility and providing the
9 examination. Failure to appear for the examination on the
10 scheduled date, at the time and place specified, after the
11 applicant's application for examination has been received and
12 acknowledged by the Department or the designated testing
13 service, shall result in the forfeiture of the examination fee.
14 (Source: P.A. 92-655, eff. 7-16-02.)

15 (225 ILCS 63/95)

16 (Section scheduled to be repealed on January 1, 2013)

17 Sec. 95. Roster. The Department shall maintain a roster of
18 the names and addresses of record of all licensees and of all
19 persons whose licenses have been suspended or revoked. This
20 roster shall be available upon written request and payment of
21 the required fee.

22 (Source: P.A. 87-1231.)

23 (225 ILCS 63/100)

24 (Section scheduled to be repealed on January 1, 2013)

1 Sec. 100. Advertising.

2 (a) Any person licensed under this Act may advertise the
3 availability of professional services in the public media or on
4 the premises where professional services are rendered if the
5 advertising is truthful and not misleading and is in conformity
6 with any rules promulgated by the Department.

7 (b) A licensee shall include in every advertisement for
8 services regulated under this Act his or her title as it
9 appears on the license or the initials authorized under this
10 Act. Advertisements shall not include false, fraudulent,
11 deceptive, or misleading material or guarantees of success.

12 (Source: P.A. 91-310, eff. 1-1-00.)

13 (225 ILCS 63/110)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 110. Grounds for disciplinary action; refusal,
16 revocation, suspension.

17 (a) The Department may refuse to issue or to renew, or may
18 revoke, suspend, place on probation, reprimand or take other
19 disciplinary or non-disciplinary action as the Department may
20 deem appropriate ~~proper~~, including imposing fines not to exceed
21 \$10,000 ~~\$5,000~~ for each violation, with regard to any licensee
22 or license for any one or combination of the following causes:

23 (1) Violations of this Act or of its ~~its~~ rules adopted
24 under this Act.

25 (2) Material misstatement in furnishing information to

1 the Department.

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

15 (4) Fraud or Making any misrepresentation in applying
16 for or procuring a license under this Act or in connection
17 with applying for renewal of a license under this Act for
18 the purpose of obtaining a license.

19 (5) Professional incompetence or gross negligence.

20 (6) Malpractice ~~Gross malpractice.~~

21 (7) Aiding or assisting another person in violating any
22 provision of this Act or its rules.

23 (8) Failing to provide information within 60 days in
24 response to a written request made by the Department.

25 (9) Engaging in dishonorable, unethical, or
26 unprofessional conduct of a character likely to deceive,

1 defraud, or harm the public.

2 (10) Habitual or excessive use or abuse of drugs
3 defined in law as controlled substances, alcohol,
4 ~~addiction to alcohol, narcotics, stimulants,~~ or any other
5 substance which ~~chemical agent or drug that~~ results in the
6 inability to practice with reasonable judgment, skill, or
7 safety.

8 (11) Discipline by another U.S. jurisdiction or
9 foreign nation if at least one of the grounds for the
10 discipline is the same or substantially equivalent to those
11 set forth in this Act.

12 (12) Directly or indirectly giving to or receiving from
13 any person, firm, corporation, partnership, or association
14 any fee, commission, rebate, or other form of compensation
15 for any professional services not actually or personally
16 rendered. This shall not be deemed to include rent or other
17 remunerations paid to an individual, partnership, or
18 corporation by a naprapath for the lease, rental, or use of
19 space, owned or controlled by the individual, partnership,
20 corporation, or association. Nothing in this paragraph
21 (12) affects any bona fide independent contractor or
22 employment arrangements among health care professionals,
23 health facilities, health care providers, or other
24 entities, except as otherwise prohibited by law. Any
25 employment arrangements may include provisions for
26 compensation, health insurance, pension, or other

1 employment benefits for the provision of services within
2 the scope of the licensee's practice under this Act.
3 Nothing in this paragraph (12) shall be construed to
4 require an employment arrangement to receive professional
5 fees for services rendered.

6 (13) Using the title "Doctor" or its abbreviation
7 without further clarifying that title or abbreviation with
8 the word "naprapath" or "naprapathy" or the designation
9 "D.N."

10 (14) A finding by the Department that the licensee,
11 after having his or her license placed on probationary
12 status, has violated the terms of probation.

13 (15) Abandonment of a patient without cause.

14 (16) Willfully making or filing false records or
15 reports relating to a licensee's practice, including but
16 not limited to, false records filed with State agencies or
17 departments.

18 (17) Willfully failing to report an instance of
19 suspected child abuse or neglect as required by the Abused
20 and Neglected Child Reporting Act.

21 (18) Physical or mental illness or disability,
22 including, but not limited to, deterioration through the
23 aging process or loss of motor skill that results in the
24 inability to practice the profession with reasonable
25 judgment, skill, or safety.

26 (19) Solicitation of professional services by means

1 other than permitted advertising.

2 (20) Failure to provide a patient with a copy of his or
3 her record upon the written request of the patient.

4 (21) Cheating on or attempting to subvert the licensing
5 examination administered under this Act. ~~Conviction by any~~
6 ~~court of competent jurisdiction, either within or without~~
7 ~~this State, of any violation of any law governing the~~
8 ~~practice of naprapathy, conviction in this or another state~~
9 ~~of any crime which is a felony under the laws of this State~~
10 ~~or conviction of a felony in a federal court, if the~~
11 ~~Department determines, after investigation, that the~~
12 ~~person has not been sufficiently rehabilitated to warrant~~
13 ~~the public trust.~~

14 (22) Allowing one's license under this Act to be used
15 by an unlicensed person in violation of this Act. ~~A finding~~
16 ~~that licensure has been applied for or obtained by~~
17 ~~fraudulent means.~~

18 (23) (Blank). ~~Continued practice by a person knowingly~~
19 ~~having an infectious or contagious disease.~~

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

1 (25) Practicing under a false or, except as provided by
2 law, an assumed name ~~or attempting to practice under a name~~
3 ~~other than the full name shown on the license.~~

4 (26) Immoral conduct in the commission of any act, such
5 as sexual abuse, sexual misconduct, or sexual
6 exploitation, related to the licensee's practice.

7 (27) Maintaining a professional relationship with any
8 person, firm, or corporation when the naprapath knows, or
9 should know, that the person, firm, or corporation is
10 violating this Act.

11 (28) Promotion of the sale of food supplements,
12 devices, appliances, or goods provided for a client or
13 patient in such manner as to exploit the patient or client
14 for financial gain of the licensee.

15 (29) Having treated ailments of human beings other than
16 by the practice of naprapathy as defined in this Act, or
17 having treated ailments of human beings as a licensed
18 naprapath independent of a documented referral or
19 documented current and relevant diagnosis from a
20 physician, dentist, or podiatrist, or having failed to
21 notify the physician, dentist, or podiatrist who
22 established a documented current and relevant diagnosis
23 that the patient is receiving naprapathic treatment
24 pursuant to that diagnosis.

25 (30) Use by a registered naprapath of the word
26 "infirmary", "hospital", "school", "university", in

1 English or any other language, in connection with the place
2 where naprapathy may be practiced or demonstrated.

3 (31) Continuance of a naprapath in the employ of any
4 person, firm, or corporation, or as an assistant to any
5 naprapath or naprapaths, directly or indirectly, after his
6 or her employer or superior has been found guilty of
7 violating or has been enjoined from violating the laws of
8 the State of Illinois relating to the practice of
9 naprapathy when the employer or superior persists in that
10 violation.

11 (32) The performance of naprapathic service in
12 conjunction with a scheme or plan with another person,
13 firm, or corporation known to be advertising in a manner
14 contrary to this Act or otherwise violating the laws of the
15 State of Illinois concerning the practice of naprapathy.

16 (33) Failure to provide satisfactory proof of having
17 participated in approved continuing education programs as
18 determined by ~~the Committee~~ and approved by the Secretary
19 ~~Director~~. Exceptions for extreme hardships are to be
20 defined by the rules of the Department.

21 (34) (Blank). ~~Willfully making or filing false records~~
22 ~~or reports in the practice of naprapathy, including, but~~
23 ~~not limited to, false records to support claims against the~~
24 ~~medical assistance program of the Department of Healthcare~~
25 ~~and Family Services (formerly Department of Public Aid)~~
26 ~~under the Illinois Public Aid Code.~~

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

9 (36) (Blank). ~~Mental illness, including, but not~~
10 ~~limited to, deterioration through the aging process or loss~~
11 ~~of motor skill that results in the inability to practice~~
12 ~~the profession with reasonable judgment, skill, or safety.~~

13 All fines imposed under this Section shall be paid within
14 60 days after the effective date of the order imposing the
15 fine.

16 (b) The Department may refuse to issue or may suspend
17 without hearing, as provided for in the Department of
18 Professional Regulation Law of the Civil Administrative Code,
19 the license of any person who fails to file a return, or pay
20 the tax, penalty, or interest shown in a filed return, or pay
21 any final assessment of the tax, penalty, or interest as
22 required by any tax Act administered by the Illinois Department
23 of Revenue, until such time as the requirements of any such tax
24 Act are satisfied in accordance with subsection (g) of Section
25 2105-15 of the Department of Professional Regulation Law of the
26 Civil Administrative Code of Illinois.

1 (c) The Department shall deny a license or renewal
2 authorized by this Act to a person who has defaulted on an
3 educational loan or scholarship provided or guaranteed by the
4 Illinois Student Assistance Commission or any governmental
5 agency of this State in accordance with item (5) of subsection
6 (a) of Section 2105-15 of the Department of Professional
7 Regulation Law of the Civil Administrative Code of Illinois.

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

20 (e) The determination by a circuit court that a licensee is
21 subject to involuntary admission or judicial admission, as
22 provided in the Mental Health and Development Disabilities
23 Code, operates as an automatic suspension. The suspension shall
24 end only upon a finding by a court that the patient is no
25 longer subject to involuntary admission or judicial admission
26 and the issuance of an order so finding and discharging the

1 patient.

2 (f) In enforcing this Act, the Department, upon a showing
3 of a possible violation, may compel an individual licensed to
4 practice under this Act, or who has applied for licensure under
5 this Act, to submit to a mental or physical examination and
6 evaluation, or both, which may include a substance abuse or
7 sexual offender evaluation, as required by and at the expense
8 of the Department. The Department shall specifically designate
9 the examining physician licensed to practice medicine in all of
10 its branches or, if applicable, the multidisciplinary team
11 involved in providing the mental or physical examination and
12 evaluation, or both. The multidisciplinary team shall be led by
13 a physician licensed to practice medicine in all of its
14 branches and may consist of one or more or a combination of
15 physicians licensed to practice medicine in all of its
16 branches, licensed chiropractic physicians, licensed clinical
17 psychologists, licensed clinical social workers, licensed
18 clinical professional counselors, and other professional and
19 administrative staff. Any examining physician or member of the
20 multidisciplinary team may require any person ordered to submit
21 to an examination and evaluation pursuant to this Section to
22 submit to any additional supplemental testing deemed necessary
23 to complete any examination or evaluation process, including,
24 but not limited to, blood testing, urinalysis, psychological
25 testing, or neuropsychological testing.

26 The Department may order the examining physician or any

1 member of the multidisciplinary team to provide to the
2 Department any and all records including business records that
3 relate to the examination and evaluation, including any
4 supplemental testing performed. The Department may order the
5 examining physician or any member of the multidisciplinary team
6 to present testimony concerning the examination and evaluation
7 of the licensee or applicant, including testimony concerning
8 any supplemental testing or documents in any way related to the
9 examination and evaluation. No information, report, record, or
10 other documents in any way related to the examination and
11 evaluation shall be excluded by reason of any common law or
12 statutory privilege relating to communications between the
13 licensee or applicant and the examining physician or any member
14 of the multidisciplinary team. No authorization is necessary
15 from the licensee or applicant ordered to undergo an evaluation
16 and examination for the examining physician or any member of
17 the multidisciplinary team to provide information, reports,
18 records, or other documents or to provide any testimony
19 regarding the examination and evaluation. The individual to be
20 examined may have, at his or her own expense, another physician
21 of his or her choice present during all aspects of this
22 examination. Failure of an individual to submit to a mental or
23 physical examination and evaluation, or both, when directed,
24 shall result in an automatic suspension without hearing, until
25 such time as the individual submits to the examination.

26 A person holding a license under this Act or who has

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

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

1 medical records.

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

7 ~~The Department may refuse to issue or may suspend the~~
8 ~~license of any person who fails to (i) file a return or to pay~~
9 ~~the tax, penalty or interest shown in a filed return or (ii)~~
10 ~~pay any final assessment of the tax, penalty, or interest as~~
11 ~~required by any tax Act administered by the Illinois Department~~
12 ~~of Revenue, until the time that the requirements of that tax~~
13 ~~Act are satisfied.~~

14 ~~(b) The determination by a circuit court that a licensee is~~
15 ~~subject to involuntary admission or judicial admission as~~
16 ~~provided in the Mental Health and Developmental Disabilities~~
17 ~~Code operates as an automatic suspension. The suspension will~~
18 ~~end only upon a finding by a court that the patient is no~~
19 ~~longer subject to involuntary admission or judicial admission,~~
20 ~~the issuance of an order so finding and discharging the~~
21 ~~patient, and the recommendation of the Committee to the~~
22 ~~Director that the licensee be allowed to resume his or her~~
23 ~~practice.~~

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

1 ~~certification pursuant to this Act to submit to a mental or~~
2 ~~physical examination, or both, as required by and at the~~
3 ~~expense of the Department. The examining physicians shall be~~
4 ~~those specifically designated by the Department. The~~
5 ~~Department may order the examining physician to present~~
6 ~~testimony concerning this mental or physical examination of the~~
7 ~~licensee or applicant. No information shall be excluded by~~
8 ~~reason of any common law or statutory privilege relating to~~
9 ~~communications between the licensee or applicant and the~~
10 ~~examining physician. The person to be examined may have, at his~~
11 ~~or her own expense, another physician of his or her choice~~
12 ~~present during all aspects of the examination. Failure of any~~
13 ~~person to submit to a mental or physical examination, when~~
14 ~~directed, shall be grounds for suspension of a license until~~
15 ~~the person submits to the examination if the Department finds,~~
16 ~~after notice and hearing, that the refusal to submit to the~~
17 ~~examination was without reasonable cause.~~

18 ~~If the Department finds an individual unable to practice~~
19 ~~because of the reasons set forth in this Section, the~~
20 ~~Department may require that individual to submit to care,~~
21 ~~counseling, or treatment by physicians approved or designated~~
22 ~~by the Department, as a condition, term, or restriction for~~
23 ~~continued, reinstated, or renewed licensure to practice or, in~~
24 ~~lieu of care, counseling, or treatment, the Department may file~~
25 ~~a complaint to immediately suspend, revoke, or otherwise~~
26 ~~discipline the license of the individual.~~

1 ~~Any person whose license was granted, continued,~~
2 ~~reinstated, renewed, disciplined, or supervised subject to~~
3 ~~such terms, conditions, or restrictions and who fails to comply~~
4 ~~with such terms, conditions, or restrictions shall be referred~~
5 ~~to the Director for a determination as to whether the person~~
6 ~~shall have his or her license suspended immediately, pending a~~
7 ~~hearing by the Department.~~

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

17 ~~A person licensed under this Act and affected under this~~
18 ~~Section shall be afforded an opportunity to demonstrate to the~~
19 ~~Department that he or she can resume practice in compliance~~
20 ~~with acceptable and prevailing standards under the provisions~~
21 ~~of his or her license.~~

22 (Source: P.A. 95-331, eff. 8-21-07; 96-1482, eff. 11-29-10.)

23 (225 ILCS 63/115)

24 (Section scheduled to be repealed on January 1, 2013)

25 Sec. 115. Returned checks; fines. Any person who delivers a

1 check or other payment to the Department that is returned to
2 the Department unpaid by the financial institution upon which
3 it is drawn shall pay to the Department, in addition to the
4 amount already owed to the Department, a fine of \$50. The fines
5 imposed by this Section are in addition to any other discipline
6 provided under this Act for unlicensed practice or practice on
7 a nonrenewed license. The Department shall notify the person
8 that fees and fines shall be paid to the Department by
9 certified check or money order within 30 calendar days of the
10 notification. If, after the expiration of 30 days from the date
11 of the notification, the person has failed to submit the
12 necessary remittance, the Department shall automatically
13 terminate the license or certificate or deny the application,
14 without hearing. If, after termination or denial, the person
15 seeks a license or certificate, he or she shall apply to the
16 Department for restoration or issuance of the license or
17 certificate and pay all fees and fines due to the Department.
18 The Department may establish a fee for the processing of an
19 application for restoration of a license or certificate to
20 defray all expenses of processing the application. The
21 Secretary ~~Director~~ may waive the fines due under this Section
22 in individual cases where the Secretary ~~Director~~ finds that the
23 fines would be unreasonable or unnecessarily burdensome.

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

1 (Section scheduled to be repealed on January 1, 2013)

2 Sec. 120. Injunctions; cease and desist orders.

3 (a) If any person violates the provision of this Act, the
4 Secretary ~~Director~~ may, in the name of the People of the State
5 of Illinois, through the Attorney General of the State of
6 Illinois or the State's Attorney of any county in which the
7 violation is alleged to have occurred ~~action is brought,~~
8 petition for an order enjoining the violation or for an order
9 enforcing compliance with this Act. Upon the filing of a
10 verified petition in court, the court may issue a temporary
11 restraining order, without notice or bond, and may
12 preliminarily and permanently enjoin the violation. If it is
13 established that the person has violated or is violating the
14 injunction, the Court may punish the offender for contempt of
15 court. Proceedings under this Section shall be in addition to,
16 and not in lieu of, all other remedies and penalties provided
17 by this Act.

18 (b) If any person practices as a naprapath or holds himself
19 or herself out as a naprapath without being licensed under the
20 provisions of this Act then any licensed naprapath, any
21 interested party, or any person injured thereby may, in
22 addition to the Secretary ~~Director~~, petition for relief as
23 provided in subsection (a) of this Section.

24 (c) Whenever in the opinion of the Department any person
25 violates any provision of this Act, the Department may issue a
26 rule to show cause why an order to cease and desist should not

1 be entered against that person. The rule shall clearly set
2 forth the grounds relied upon by the Department and shall
3 provide a period of 7 days from the date of the rule to file an
4 answer to the satisfaction of the Department. Failure to answer
5 to the satisfaction of the Department shall cause an order to
6 cease and desist to be issued immediately.

7 (Source: P.A. 89-61, eff. 6-30-95; 90-655, eff. 7-30-98.)

8 (225 ILCS 63/125)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 125. Investigation; notice; hearing. The Department
11 may investigate the actions of any applicant or of any person
12 or persons holding or claiming to hold a license. Before
13 refusing to issue, refusing to renew, or taking any
14 disciplinary action under Section 110 regarding a license, the
15 Department shall, at least 30 days prior to the date set for
16 the hearing, notify in writing the applicant for, or holder of,
17 a license of the nature of any charges and that a hearing will
18 be held on a date designated. The Department shall direct the
19 applicant or licensee to file a written answer with the
20 Department ~~Committee~~ under oath within 20 days after the
21 service of the notice and inform the applicant or licensee that
22 failure to file an answer shall result in default being taken
23 against the applicant or licensee. At the time and place fixed
24 in the notice, the Department shall proceed to hear the charges
25 and the parties or their counsel shall be accorded ample

1 opportunity to present any pertinent statements, testimony,
2 evidence, and arguments. The Department may continue the
3 hearing from time to time. If the person, after receiving the
4 notice, fails to file an answer, his or her license may, in the
5 discretion of the Department, be revoked, suspended, or placed
6 on probationary status or the Department may take whatever
7 disciplinary action considered proper, including limiting the
8 scope, nature, or extent of the person's practice under the
9 Act. The written notice in the subsequent proceeding may be
10 served by registered or certified mail to the licensee's
11 address of record. ~~and that the license or certificate may be~~
12 ~~suspended, revoked, or placed on probationary status, or that~~
13 ~~other disciplinary action may be taken, including limiting the~~
14 ~~scope, nature, or extent of practice, as the Director may deem~~
15 ~~proper. Written notice may be served by personal delivery or~~
16 ~~certified or registered mail to the respondent at the address~~
17 ~~of his or her last notification to the Department. If the~~
18 ~~person fails to file an answer after receiving notice, his or~~
19 ~~her license or certificate may, in the discretion of the~~
20 ~~Department, be suspended, revoked, or placed on probationary~~
21 ~~status, or the Department may take any disciplinary action~~
22 ~~deemed proper, including limiting the scope, nature, or extent~~
23 ~~of the person's practice or the imposition of a fine, without a~~
24 ~~hearing, if the act or acts charged constitute sufficient~~
25 ~~grounds for such action under this Act. At the time and place~~
26 ~~fixed in the notice, the Committee shall proceed to hear the~~

1 ~~charges and the parties or their counsel shall be accorded~~
2 ~~ample opportunity to present such statements, testimony,~~
3 ~~evidence and argument as may be pertinent to the charges or to~~
4 ~~their defense. The Committee may continue a hearing from time~~
5 ~~to time.~~

6 (Source: P.A. 89-61, eff. 6-30-95.)

7 (225 ILCS 63/130)

8 (Section scheduled to be repealed on January 1, 2013)

9 Sec. 130. Formal hearing; preservation of record. The
10 Department, at its expense, shall preserve a record of all
11 proceedings at the formal hearing of any case. The notice of
12 hearing, complaint, and all other documents in the nature of
13 pleadings and written motions filed in the proceedings, the
14 transcript of testimony, ~~the report of the Committee or hearing~~
15 ~~officer,~~ and order of the Department shall be the record of the
16 proceeding. ~~The Department shall furnish a transcript of the~~
17 ~~record to any person interested in the hearing upon payment of~~
18 ~~the fee required under Section 2105 115 of the Department of~~
19 ~~Professional Regulation Law (20 ILCS 2105/2105-115).~~

20 (Source: P.A. 91-239, eff. 1-1-00.)

21 (225 ILCS 63/140)

22 (Section scheduled to be repealed on January 1, 2013)

23 Sec. 140. Subpoena; oaths.

24 (a) The Department may ~~shall have power to~~ subpoena and

1 bring before it any person in this State and to take the oral
2 or written testimony or compel the production of any books,
3 papers, records, or any other documents that the Secretary or
4 his or her designee deems relevant or material to any
5 investigation or hearing conducted by the Department ~~either~~
6 ~~orally or by deposition or both~~ with the same fees and mileage
7 and in the same manner as prescribed in civil cases in circuit
8 courts of this State.

9 (b) The Secretary Director, the ~~designated~~ hearing
10 officer, and a certified shorthand court reporter may ~~every~~
11 ~~member of the Committee has power to~~ administer oaths ~~to~~
12 ~~witnesses~~ at any hearing that the Department conducts ~~is~~
13 ~~authorized to conduct and any other oaths authorized in any Act~~
14 ~~administered by the Department.~~ Notwithstanding any other
15 statute or Department rule to the contrary, all requests for
16 testimony, production of documents, or records shall be in
17 accordance with this Act.

18 (c) Any circuit court ~~may~~, upon application of the
19 Department or licensee, may ~~its designee or upon application of~~
20 ~~the person against whom proceedings under this Act are pending,~~
21 ~~enter an order requiring~~ the attendance and testimony of
22 witnesses ~~and their testimony~~, and the production of relevant
23 documents, papers, files, books, and records in connection with
24 any hearing or investigation. The court may compel obedience to
25 its order by proceedings for contempt.

26 (Source: P.A. 89-61, eff. 6-30-95.)

1 (225 ILCS 63/145)

2 (Section scheduled to be repealed on January 1, 2013)

3 Sec. 145. Findings of facts, conclusions of law, and
4 recommendations. At the conclusion of the hearing the hearing
5 officer Committee shall present to the Secretary Director a
6 written report of its findings of fact, conclusions of law, and
7 recommendations. The report shall contain a finding whether or
8 not the accused person violated this Act or failed to comply
9 with the conditions required in this Act. The hearing officer
10 Committee shall specify the nature of the violation or failure
11 to comply and shall make its recommendations to the Secretary
12 Director.

13 The report of findings of fact, conclusions of law, and
14 recommendations of the hearing officer Committee shall be the
15 basis for the Department's order refusing to issue, restore, or
16 renew a license, or otherwise disciplining a licensee. If the
17 Secretary Director disagrees in any regard with the report of
18 the hearing officer Committee, the Secretary Director may issue
19 an order in contravention of the hearing officer's
20 recommendations report. The finding is not admissible in
21 evidence against the person in a criminal prosecution brought
22 for the violation of this Act, but the hearing and findings are
23 not a bar to a criminal prosecution brought for the violation
24 of this Act.

25 If the Secretary fails to issue a final order within 30

1 days after the receipt of the hearing officer's findings of
2 fact, conclusions of law, and recommendations, then the hearing
3 officer's findings of fact, conclusions of law, and
4 recommendations shall become a final order of the Department
5 without further review.

6 (Source: P.A. 89-61, eff. 6-30-95.)

7 (225 ILCS 63/150)

8 (Section scheduled to be repealed on January 1, 2013)

9 Sec. 150. Hearing officer. The Secretary ~~Director~~ shall
10 have the authority to appoint any attorney duly licensed to
11 practice law in the State of Illinois to serve as the hearing
12 officer in any action for Departmental refusal to issue, renew,
13 or license an applicant, or disciplinary action against a
14 licensee. The hearing officer shall have full authority to
15 conduct the hearing. The hearing officer shall report his or
16 her findings of fact, conclusions of law, and recommendations
17 to the Secretary ~~Committee and the Director~~. ~~The Committee~~
18 ~~shall have 60 calendar days from receipt of the report to~~
19 ~~review the report of the hearing officer and present its~~
20 ~~findings of fact, conclusions of law, and recommendations to~~
21 ~~the Director. If the Committee fails to present its report~~
22 ~~within the 60 calendar day period, the Director may issue an~~
23 ~~order based on the report of the hearing officer.~~ If the
24 Secretary ~~Director~~ disagrees with the recommendation of the
25 ~~Committee or~~ hearing officer, he or she may issue an order in

1 contravention of that recommendation.

2 (Source: P.A. 89-61, eff. 6-30-95.)

3 (225 ILCS 63/155)

4 (Section scheduled to be repealed on January 1, 2013)

5 Sec. 155. Service of report; rehearing; order. In any case
6 involving the refusal to issue or renew or the discipline of a
7 license, a copy of the hearing officer's ~~Committee's~~ report
8 shall be served upon the respondent by the Department, either
9 personally or as provided in this Act for the service of the
10 notice of hearing. Within 20 days after the service, the
11 respondent may present to the Department a motion in writing
12 for a rehearing that shall specify the particular grounds for
13 rehearing. If no motion for rehearing is filed, then upon the
14 expiration of the time specified for filing a motion, or if a
15 motion for rehearing is denied, then upon the denial the
16 Secretary ~~Director~~ may enter an order in accordance with this
17 Act. If the respondent orders from the reporting service and
18 pays for a transcript of the record within the time for filing
19 a motion for rehearing, the 20 calendar day period within which
20 the motion may be filed shall commence upon the delivery of the
21 transcript to the respondent.

22 (Source: P.A. 89-61, eff. 6-30-95.)

23 (225 ILCS 63/160)

24 (Section scheduled to be repealed on January 1, 2013)

1 Sec. 160. Substantial justice to be done; rehearing.
2 Whenever the Secretary ~~Director~~ is satisfied that substantial
3 justice has not been done in the revocation, suspension, or
4 refusal to issue or renew a license, the Secretary ~~Director~~ may
5 order a rehearing by the same or another hearing officer ~~or by~~
6 ~~the Committee.~~

7 (Source: P.A. 87-1231.)

8 (225 ILCS 63/165)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 165. Order or certified copy as prima facie proof. An
11 order or a certified copy thereof, over the seal of the
12 Department and purporting to be signed by the Secretary
13 ~~Director~~, shall be prima facie proof:

14 (a) that the signature is the genuine signature of the
15 Secretary ~~Director~~; and

16 (b) that such Secretary ~~Director~~ is duly appointed and
17 qualified.†

18 ~~(c) that the Committee and its members are qualified to~~
19 ~~act.~~

20 (Source: P.A. 89-61, eff. 6-30-95.)

21 (225 ILCS 63/170)

22 (Section scheduled to be repealed on January 1, 2013)

23 Sec. 170. Restoration of license. At any time after the
24 successful completion of a term of indefinite probation,

1 suspension, or revocation of a license, the Department may
2 restore the license to the licensee, unless, after an
3 investigation and a hearing, the Secretary determines that
4 restoration is not in the public interest or that the licensee
5 has not been sufficiently rehabilitated to warrant the public
6 trust. No person or entity whose license, certificate, or
7 authority has been revoked as authorized in this Act may apply
8 for restoration of that license, certification, or authority
9 until such time as provided for in the Department of
10 Professional Regulation Law of the Civil Administrative Code of
11 Illinois ~~suspension or revocation of any license the Department~~
12 ~~may restore the license to the accused person, unless after an~~
13 ~~investigation and a hearing the Department determines that~~
14 ~~restoration is not in the public interest.~~

15 (Source: P.A. 89-61, eff. 6-30-95.)

16 (225 ILCS 63/180)

17 (Section scheduled to be repealed on January 1, 2013)

18 Sec. 180. Imminent danger to public; summary suspension.
19 The Secretary ~~Director~~ may summarily suspend the license of a
20 naprapath without a hearing, simultaneously with the
21 institution of proceedings for a hearing provided for in this
22 Act, if the Secretary ~~Director~~ finds that evidence ~~in his or~~
23 ~~her possession~~ indicates that continuation in practice would
24 constitute an imminent danger to the public. In the event that
25 the Secretary ~~Director~~ summarily suspends a license without a

1 hearing, a hearing shall ~~by the Department must~~ be commenced
2 ~~held~~ within 30 days after the suspension has occurred and shall
3 be concluded as expeditiously as possible.

4 (Source: P.A. 89-61, eff. 6-30-95.)

5 (225 ILCS 63/190)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 190. The Department shall not be required to certify
8 any record to the Court or file any answer in court or
9 otherwise appear in any court in a judicial review proceeding,
10 unless and until the Department receives from the plaintiff
11 ~~there is filed in the court, with the complaint, a receipt from~~
12 ~~the Department acknowledging~~ payment of the costs of furnishing
13 and certifying the record, which costs shall be determined by
14 the Department. Exhibits shall be certified without cost.
15 Failure on the part of the plaintiff to file a receipt in court
16 is ~~shall be~~ grounds for dismissal of the action.

17 (Source: P.A. 89-61, eff. 6-30-95.)

18 (225 ILCS 63/193 new)

19 Sec. 193. Confidentiality. All information collected by
20 the Department in the course of an examination or investigation
21 of a licensee or applicant, including, but not limited to, any
22 complaint against a licensee filed with the Department and
23 information collected to investigate any such complaint, shall
24 be maintained for the confidential use of the Department and

1 shall not be disclosed. The Department may not disclose such
2 information to anyone other than law enforcement officials,
3 other regulatory agencies that have an appropriate regulatory
4 interest as determined by the Secretary, or a party presenting
5 a lawful subpoena to the Department. Information and documents
6 disclosed to a federal, State, county, or local law enforcement
7 agency shall not be disclosed by the agency for any purpose to
8 any other agency or person. A formal complaint filed against a
9 licensee by the Department or any order issued by the
10 Department against a licensee or applicant shall be a public
11 record, except as otherwise prohibited by law.

12 (225 ILCS 63/200)

13 (Section scheduled to be repealed on January 1, 2013)

14 Sec. 200. Administrative Procedure Act. The Illinois
15 Administrative Procedure Act is expressly adopted and
16 incorporated in this Act as if all of the provisions of that
17 Act were included in this Act, except that the provision of
18 paragraph (d) of Section 10-65 of the Illinois Administrative
19 Procedure Act, which provides that at hearings the licensee has
20 the right to show compliance with all lawful requirements for
21 retention, continuation, or renewal of the license, is
22 specifically excluded. For the purpose of this Act, the notice
23 required under Section 10-25 of the Administrative Procedure
24 Act is deemed sufficient when mailed to the last known address
25 of record of a party.

1 (Source: P.A. 88-670, eff. 12-2-94; 89-61, eff. 6-30-95.)

2 (225 ILCS 63/50 rep.)

3 (225 ILCS 63/65 rep.)

4 Section 10. The Naprapathic Practice Act is amended by
5 repealing Sections 50 and 65.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.

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