

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 Department of Professional Regulation Law of
5 the Civil Administrative Code of Illinois is amended by
6 changing Section 2105-165 as follows:

7 (20 ILCS 2105/2105-165)

8 Sec. 2105-165. Health care worker licensure actions; sex
9 crimes.

10 (a) When a licensed health care worker, as defined in the
11 Health Care Worker Self-Referral Act, (1) has been convicted of
12 a criminal act that requires registration under the Sex
13 Offender Registration Act; (2) has been convicted of a criminal
14 battery against any patient in the course of patient care or
15 treatment, including any offense based on sexual conduct or
16 sexual penetration; (3) has been convicted of a forcible
17 felony; or (4) is required as a part of a criminal sentence to
18 register under the Sex Offender Registration Act, then,
19 notwithstanding any other provision of law to the contrary,
20 except as provided in this Section, the license of the health
21 care worker shall by operation of law be permanently revoked
22 without a hearing.

23 (a-1) If a licensed health care worker has been convicted

1 of a forcible felony, other than a forcible felony requiring
2 registration under the Sex Offender Registration Act, and the
3 health care worker has had his or her license revoked, the
4 health care worker may petition the Department to restore his
5 or her license. In determining whether a license shall be
6 restored, the Department shall consider, but is not limited to,
7 the following factors:

8 (1) the seriousness of the offenses;

9 (2) the presence of multiple offenses;

10 (3) prior disciplinary history, including actions
11 taken by other agencies in this State or by other states or
12 jurisdictions, hospitals, health care facilities,
13 residency programs, employers, insurance providers, or any
14 of the armed forces of the United States or any state;

15 (4) the impact of the offenses on any injured party;

16 (5) the vulnerability of any injured party, including,
17 but not limited to, consideration of the injured party's
18 age, disability, or mental illness;

19 (6) the motive for the offenses;

20 (7) the lack of contrition for the offenses;

21 (8) the lack of cooperation with the Department or
22 other investigative authorities;

23 (9) the lack of prior disciplinary action by the
24 Department or by other agencies in this State or by other
25 states or jurisdictions, hospitals, health care
26 facilities, residency programs, employers, insurance

1 providers, or any of the armed forces of the United States
2 or any state;

3 (10) contrition for the offenses;

4 (11) cooperation with the Department or other
5 investigative authorities;

6 (12) restitution to injured parties;

7 (13) whether the misconduct was self-reported;

8 (14) any voluntary remedial actions taken; and

9 (15) the date of conviction.

10 (b) No person who has been convicted of any offense listed
11 in subsection (a) or required to register as a sex offender may
12 receive a license as a health care worker in Illinois. The
13 process for petition and review by the Department provided in
14 subsection (a-1) shall also apply to a person whose application
15 for licensure is denied pursuant to this Section.

16 (c) Immediately after a licensed health care worker, as
17 defined in the Health Care Worker Self-Referral Act, has been
18 charged with any offense for which the sentence includes
19 registration as a sex offender; a criminal battery against a
20 patient, including any offense based on sexual conduct or
21 sexual penetration, in the course of patient care or treatment;
22 or a forcible felony; then the prosecuting attorney shall
23 provide notice to the Department of the health care worker's
24 name, address, practice address, and license number and the
25 patient's name and a copy of the criminal charges filed. Within
26 5 business days after receiving notice from the prosecuting

1 attorney of the filing of criminal charges against the health
2 care worker, the Secretary shall issue an administrative order
3 that the health care worker shall immediately practice only
4 with a chaperone during all patient encounters pending the
5 outcome of the criminal proceedings. The chaperone must be a
6 licensed health care worker. The chaperone shall provide
7 written notice to all of the health care worker's patients
8 explaining the Department's order to use a chaperone. Each
9 patient shall sign an acknowledgement that they received the
10 notice. The notice to the patient of criminal charges shall
11 include, in 14-point font, the following statement: "The health
12 care worker is presumed innocent until proven guilty of the
13 charges.". The licensed health care worker shall provide a
14 written plan of compliance with the administrative order that
15 is acceptable to the Department within 5 days after receipt of
16 the administrative order. Failure to comply with the
17 administrative order, failure to file a compliance plan, or
18 failure to follow the compliance plan shall subject the health
19 care worker to temporary suspension of his or her professional
20 license until the completion of the criminal proceedings.

21 (d) Nothing contained in this Section shall act in any way
22 to waive or modify the confidentiality of information provided
23 by the prosecuting attorney to the extent provided by law. Any
24 information reported or disclosed shall be kept for the
25 confidential use of the Secretary, Department attorneys, the
26 investigative staff, and authorized clerical staff and shall be

1 afforded the same status as is provided information under Part
2 21 of Article VIII of the Code of Civil Procedure, except that
3 the Department may disclose information and documents to (1) a
4 federal, State, or local law enforcement agency pursuant to a
5 subpoena in an ongoing criminal investigation or (2) an
6 appropriate licensing authority of another state or
7 jurisdiction pursuant to an official request made by that
8 authority. Any information and documents disclosed to a
9 federal, State, or local law enforcement agency may be used by
10 that agency only for the investigation and prosecution of a
11 criminal offense. Any information or documents disclosed by the
12 Department to a professional licensing authority of another
13 state or jurisdiction may only be used by that authority for
14 investigations and disciplinary proceedings with regards to a
15 professional license.

16 (e) Any licensee whose license was revoked or who received
17 an administrative order under this Section shall have the
18 revocation or administrative order vacated and completely
19 removed from the licensee's records and public view and the
20 revocation or administrative order shall be afforded the same
21 status as is provided information under Part 21 of Article VIII
22 of the Code of Civil Procedure if (1) the charges upon which
23 the revocation or administrative order is based are dropped;
24 (2) the licensee is not convicted of the charges upon which the
25 revocation or administrative order is based; or (3) any
26 conviction for charges upon which the revocation or

1 administrative order was based have been vacated, overturned,
2 or reversed.

3 (f) Nothing contained in this Section shall prohibit the
4 Department from initiating or maintaining a disciplinary
5 action against a licensee independent from any criminal
6 charges, conviction, or sex offender registration.

7 (g) The Department may adopt rules necessary to implement
8 this Section.

9 (Source: P.A. 97-156, eff. 8-20-11; 97-484, eff. 9-21-11;
10 97-873, eff. 7-31-12.)