



Rep. David Reis

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09900HB2194ham001

LRB099 08198 MLM 33874 a

1 AMENDMENT TO HOUSE BILL 2194

2 AMENDMENT NO. _____. Amend House Bill 2194 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Medical Practice Act of 1987 is amended by
5 changing Section 22 as follows:

6 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

7 (Section scheduled to be repealed on December 31, 2015)

8 Sec. 22. Disciplinary action.

9 (A) The Department may revoke, suspend, place on probation,
10 reprimand, refuse to issue or renew, or take any other
11 disciplinary or non-disciplinary action as the Department may
12 deem proper with regard to the license or permit of any person
13 issued under this Act, including imposing fines not to exceed
14 \$10,000 for each violation, upon any of the following grounds:

15 (1) Performance of an elective abortion in any place,
16 locale, facility, or institution other than:

1 (a) a facility licensed pursuant to the Ambulatory
2 Surgical Treatment Center Act;

3 (b) an institution licensed under the Hospital
4 Licensing Act;

5 (c) an ambulatory surgical treatment center or
6 hospitalization or care facility maintained by the
7 State or any agency thereof, where such department or
8 agency has authority under law to establish and enforce
9 standards for the ambulatory surgical treatment
10 centers, hospitalization, or care facilities under its
11 management and control;

12 (d) ambulatory surgical treatment centers,
13 hospitalization or care facilities maintained by the
14 Federal Government; or

15 (e) ambulatory surgical treatment centers,
16 hospitalization or care facilities maintained by any
17 university or college established under the laws of
18 this State and supported principally by public funds
19 raised by taxation.

20 (2) Performance of an abortion procedure in a wilful
21 and wanton manner on a woman who was not pregnant at the
22 time the abortion procedure was performed.

23 (3) A plea of guilty or nolo contendere, finding of
24 guilt, jury verdict, or entry of judgment or sentencing,
25 including, but not limited to, convictions, preceding
26 sentences of supervision, conditional discharge, or first

1 offender probation, under the laws of any jurisdiction of
2 the United States of any crime that is a felony.

3 (4) Gross negligence in practice under this Act.

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

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

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

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

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

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

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

25 (12) Adverse action taken by another state or
26 jurisdiction against a license or other authorization to

1 practice as a medical doctor, doctor of osteopathy, doctor
2 of osteopathic medicine or doctor of chiropractic, a
3 certified copy of the record of the action taken by the
4 other state or jurisdiction being prima facie evidence
5 thereof. This includes any adverse action taken by a State
6 or federal agency that prohibits a medical doctor, doctor
7 of osteopathy, doctor of osteopathic medicine, or doctor of
8 chiropractic from providing services to the agency's
9 participants.

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

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

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

22 (16) Abandonment of a patient.

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

1 purposes.

2 (18) Promotion of the sale of drugs, devices,
3 appliances or goods provided for a patient in such manner
4 as to exploit the patient for financial gain of the
5 physician.

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

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

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

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

25 (23) Being named as a perpetrator in an indicated
26 report by the Department of Children and Family Services

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

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

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

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

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

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

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

3 (30) Wilfully or negligently violating the
4 confidentiality between physician and patient except as
5 required by law.

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

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

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

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

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

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

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

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

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

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

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

25 (41) Failure to establish and maintain records of
26 patient care and treatment as required by this law.

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

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

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

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

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

15 (47) Violating Section 3.3 of the Medical Patient
16 Rights Act.

17 Except for actions involving the ground numbered (26), all
18 proceedings to suspend, revoke, place on probationary status,
19 or take any other disciplinary action as the Department may
20 deem proper, with regard to a license on any of the foregoing
21 grounds, must be commenced within 5 years next after receipt by
22 the Department of a complaint alleging the commission of or
23 notice of the conviction order for any of the acts described
24 herein. Except for the grounds numbered (8), (9), (26), and
25 (29), no action shall be commenced more than 10 years after the
26 date of the incident or act alleged to have violated this

1 Section. For actions involving the ground numbered (26), a
2 pattern of practice or other behavior includes all incidents
3 alleged to be part of the pattern of practice or other behavior
4 that occurred, or a report pursuant to Section 23 of this Act
5 received, within the 10-year period preceding the filing of the
6 complaint. In the event of the settlement of any claim or cause
7 of action in favor of the claimant or the reduction to final
8 judgment of any civil action in favor of the plaintiff, such
9 claim, cause of action or civil action being grounded on the
10 allegation that a person licensed under this Act was negligent
11 in providing care, the Department shall have an additional
12 period of 2 years from the date of notification to the
13 Department under Section 23 of this Act of such settlement or
14 final judgment in which to investigate and commence formal
15 disciplinary proceedings under Section 36 of this Act, except
16 as otherwise provided by law. The time during which the holder
17 of the license was outside the State of Illinois shall not be
18 included within any period of time limiting the commencement of
19 disciplinary action by the Department.

20 The entry of an order or judgment by any circuit court
21 establishing that any person holding a license under this Act
22 is a person in need of mental treatment operates as a
23 suspension of that license. That person may resume their
24 practice only upon the entry of a Departmental order based upon
25 a finding by the Disciplinary Board that they have been
26 determined to be recovered from mental illness by the court and

1 upon the Disciplinary Board's recommendation that they be
2 permitted to resume their practice.

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

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

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

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

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

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

25 However, no such rule shall be admissible into evidence in
26 any civil action except for review of a licensing or other

1 disciplinary action under this Act.

2 In enforcing this Section, the Disciplinary Board or the
3 Licensing Board, upon a showing of a possible violation, may
4 compel, in the case of the Disciplinary Board, any individual
5 who is licensed to practice under this Act or holds a permit to
6 practice under this Act, or, in the case of the Licensing
7 Board, any individual who has applied for licensure or a permit
8 pursuant to this Act, to submit to a mental or physical
9 examination and evaluation, or both, which may include a
10 substance abuse or sexual offender evaluation, as required by
11 the Licensing Board or Disciplinary Board and at the expense of
12 the Department. The Disciplinary Board or Licensing Board shall
13 specifically designate the examining physician licensed to
14 practice medicine in all of its branches or, if applicable, the
15 multidisciplinary team involved in providing the mental or
16 physical examination and evaluation, or both. The
17 multidisciplinary team shall be led by a physician licensed to
18 practice medicine in all of its branches and may consist of one
19 or more or a combination of physicians licensed to practice
20 medicine in all of its branches, licensed chiropractic
21 physicians, licensed clinical psychologists, licensed clinical
22 social workers, licensed clinical professional counselors, and
23 other professional and administrative staff. Any examining
24 physician or member of the multidisciplinary team may require
25 any person ordered to submit to an examination and evaluation
26 pursuant to this Section to submit to any additional

1 supplemental testing deemed necessary to complete any
2 examination or evaluation process, including, but not limited
3 to, blood testing, urinalysis, psychological testing, or
4 neuropsychological testing. The Disciplinary Board, the
5 Licensing Board, or the Department may order the examining
6 physician or any member of the multidisciplinary team to
7 provide to the Department, the Disciplinary Board, or the
8 Licensing Board any and all records, including business
9 records, that relate to the examination and evaluation,
10 including any supplemental testing performed. The Disciplinary
11 Board, the Licensing Board, or the Department may order the
12 examining physician or any member of the multidisciplinary team
13 to present testimony concerning this examination and
14 evaluation of the licensee, permit holder, or applicant,
15 including testimony concerning any supplemental testing or
16 documents relating to the examination and evaluation. No
17 information, report, record, or other documents in any way
18 related to the examination and evaluation shall be excluded by
19 reason of any common law or statutory privilege relating to
20 communication between the licensee, permit holder, or
21 applicant and the examining physician or any member of the
22 multidisciplinary team. No authorization is necessary from the
23 licensee, permit holder, or applicant ordered to undergo an
24 evaluation and examination for the examining physician or any
25 member of the multidisciplinary team to provide information,
26 reports, records, or other documents or to provide any

1 testimony regarding the examination and evaluation. The
2 individual to be examined may have, at his or her own expense,
3 another physician of his or her choice present during all
4 aspects of the examination. Failure of any individual to submit
5 to mental or physical examination and evaluation, or both, when
6 directed, shall result in an automatic suspension, without
7 hearing, until such time as the individual submits to the
8 examination. If the Disciplinary Board or Licensing Board finds
9 a physician unable to practice following an examination and
10 evaluation because of the reasons set forth in this Section,
11 the Disciplinary Board or Licensing Board shall require such
12 physician to submit to care, counseling, or treatment by
13 physicians, or other health care professionals, approved or
14 designated by the Disciplinary Board, as a condition for
15 issued, continued, reinstated, or renewed licensure to
16 practice. Any physician, whose license was granted pursuant to
17 Sections 9, 17, or 19 of this Act, or, continued, reinstated,
18 renewed, disciplined or supervised, subject to such terms,
19 conditions or restrictions who shall fail to comply with such
20 terms, conditions or restrictions, or to complete a required
21 program of care, counseling, or treatment, as determined by the
22 Chief Medical Coordinator or Deputy Medical Coordinators,
23 shall be referred to the Secretary for a determination as to
24 whether the licensee shall have their license suspended
25 immediately, pending a hearing by the Disciplinary Board. In
26 instances in which the Secretary immediately suspends a license

1 under this Section, a hearing upon such person's license must
2 be convened by the Disciplinary Board within 15 days after such
3 suspension and completed without appreciable delay. The
4 Disciplinary Board shall have the authority to review the
5 subject physician's record of treatment and counseling
6 regarding the impairment, to the extent permitted by applicable
7 federal statutes and regulations safeguarding the
8 confidentiality of medical records.

9 An individual licensed under this Act, affected under this
10 Section, shall be afforded an opportunity to demonstrate to the
11 Disciplinary Board that they can resume practice in compliance
12 with acceptable and prevailing standards under the provisions
13 of their license.

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

22 All fines imposed under this Section shall be paid within
23 60 days after the effective date of the order imposing the fine
24 or in accordance with the terms set forth in the order imposing
25 the fine.

26 (B) The Department shall revoke the license or permit

1 issued under this Act to practice medicine or a chiropractic
2 physician who has been convicted a second time of committing
3 any felony under the Illinois Controlled Substances Act or the
4 Methamphetamine Control and Community Protection Act, or who
5 has been convicted a second time of committing a Class 1 felony
6 under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A
7 person whose license or permit is revoked under this subsection
8 B shall be prohibited from practicing medicine or treating
9 human ailments without the use of drugs and without operative
10 surgery.

11 (C) The Disciplinary Board shall recommend to the
12 Department civil penalties and any other appropriate
13 discipline in disciplinary cases when the Board finds that a
14 physician willfully performed an abortion with actual
15 knowledge that the person upon whom the abortion has been
16 performed is a minor or an incompetent person without notice as
17 required under the Parental Notice of Abortion Act of 1995.
18 Upon the Board's recommendation, the Department shall impose,
19 for the first violation, a civil penalty of \$1,000 and for a
20 second or subsequent violation, a civil penalty of \$5,000.

21 (Source: P.A. 97-622, eff. 11-23-11; 98-601, eff. 12-30-13;
22 98-668, eff. 6-25-14; 98-1140, eff. 12-30-14.)

23 Section 10. The Medical Patient Rights Act is amended by
24 changing Section 3.3 as follows:

1 (410 ILCS 50/3.3)

2 Sec. 3.3. Prohibition on the markup of anatomic pathology
3 services.

4 (a) A physician who orders, but who does not supervise or
5 perform, an anatomic pathology service shall disclose in a bill
6 for such service presented to the patient:

7 (1) the name and address of the physician or laboratory
8 that provided the anatomic pathology service; and

9 (2) the actual amount paid or to be paid for each
10 anatomic pathology service provided to the patient by the
11 physician or laboratory that performed the service.

12 (b) A physician subject to the requirement of subsection
13 (a) of this Section when billing a patient, insurer, or
14 third-party payer shall not markup, or directly or indirectly
15 increase, the amount subject to disclosure under paragraph (2)
16 of subsection (a) of this Section in any bill presented to a
17 patient, insurer, or third-party payer.

18 (c) This Section does not prohibit a referring physician
19 from charging a specimen acquisition or processing charge if:

20 (1) the charge is limited to actual costs incurred for
21 specimen collection and transportation; and

22 (2) the charge is separately coded or denoted as a
23 service distinct from the performance of the anatomic
24 pathology service, in conformance with the coding policies
25 of the American Medical Association.

26 (d) The requirements of this Section do not apply to an

1 anatomic pathology service ordered or provided by:

2 (1) facilities licensed under the Hospital Licensing
3 Act or the University of Illinois Hospital Act or clinical
4 laboratories owned, operated by, or operated within
5 facilities licensed under the Hospital Licensing Act or the
6 University of Illinois Hospital Act;

7 (2) any public health clinic or nonprofit health
8 clinic; or

9 (3) any government agency, or their specified public or
10 private agents.

11 (e) No patient, insurer, or other third-party payer, shall
12 be required to reimburse any licensed health care professional
13 for charges or claims submitted in violation of this Section.

14 (f) A person who receives a bill for an anatomic pathology
15 service made in knowing and willful violation of this Section
16 may maintain an action to recover the actual amount paid for
17 the bill.

18 (g) The Department of Financial and Professional
19 Regulation ~~Insurance~~ shall enforce the provisions of this
20 Section for any bill submitted to a payer in violation of this
21 Section. A violation of this Section shall be a violation of
22 the Medical Practice Act of 1987.

23 (h) For the purposes of this Section, "anatomic pathology
24 services" means:

25 (1) histopathology or surgical pathology, meaning the
26 gross and microscopic examination performed by a physician

1 or under the supervision of a physician, including
2 histologic processing;

3 (2) cytopathology, meaning the microscopic examination
4 of cells from (A) fluids, (B) aspirates, (C) washings, (D)
5 brushings, or (E) smears, including the Pap smear test
6 examination performed by a physician or under the
7 supervision of a physician;

8 (3) hematology, meaning the microscopic evaluation of
9 bone marrow aspirates and biopsies performed by a
10 physician, or under the supervision of a physician, and
11 peripheral blood smears when the attending or treating
12 physician or technologist requests that a blood smear be
13 reviewed by a pathologist;

14 (4) sub-cellular pathology or molecular pathology,
15 meaning the assessment of a patient specimen for the
16 detection, localization, measurement, or analysis of one
17 or more protein or nucleic acid targets; and

18 (5) blood-banking services performed by pathologists.

19 (Source: P.A. 98-1127, eff. 1-1-15.)

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