

1 AN ACT concerning contact lenses.

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

4 Section 1. Short title. This Act may be cited as the
5 Contact Lens Act.

6 Section 5. Legislative intent. It is the intent of the
7 General Assembly to balance the right of the contact lens
8 patient and consumer to free and open access to purchase
9 contact lenses against the professional responsibility of eye
10 care professionals to protect the patient's eye health and
11 provide continuous and consistent quality care.

12 Section 10. Definitions. As used in this Act:

13 "Contact lens prescription" means a written order bearing
14 the original signature of a licensed optometrist or physician
15 or an oral or electronic order issued directly by an
16 optometrist or a physician to an ophthalmic provider that
17 authorizes the provision of contact lenses to the patient.

18 "Dispense" means the delivery of contact lenses to a
19 patient, either directly or by common carrier, by an
20 ophthalmic provider in accordance with a prescription issued
21 by a prescriber.

22 "Ophthalmic provider" means a licensed individual who is
23 responsible for the dispensing of contact lenses to the
24 patient from a contact lens prescription. An ophthalmic
25 provider is an optometrist, a physician, a pharmacist
26 licensed under the Pharmacy Practice Act of 1987, or an
27 entity licensed under the Mail Order Contact Lens Act.

28 "Optometrist" means an individual licensed to practice
29 optometry under the Illinois Optometric Practice Act of 1987.

30 "Physician" means an individual licensed to practice

1 medicine in all of its branches under the Medical Practice
2 Act of 1987.

3 "Prescriber" means an optometrist or physician who issues
4 a contact lens prescription.

5 Section 15. Application of Act. Nothing in this Act
6 requires an optometrist or physician to confirm that an
7 individual is a patient or to release any information
8 regarding the patient, other than confirmation or denial of a
9 valid prescription, without the express written consent of
10 the patient.

11 Section 20. Prescription contents. A prescription for
12 contact lenses shall contain all of the following:

13 (1) the name and address of the patient for whom
14 the contact lens is prescribed;

15 (2) the date of issuance;

16 (3) an expiration date of one year from the date of
17 issuance, unless stated otherwise by the prescriber
18 (prescriptions of less than one year shall be for
19 documented optometric or medical reasons);

20 (4) the number of refills or lenses permitted;

21 (5) the name, office address, telephone number,
22 license number, and signature of the optometrist or
23 physician issuing the prescription;

24 (6) the ophthalmic information necessary to
25 accurately fabricate or dispense the lenses, including
26 the lens manufacturer, lens series, and lens material, if
27 applicable; and

28 (7) a statement that no substitutions are
29 permitted.

30 Section 25. Release of prescription. An optometrist or
31 physician shall provide the patient with or shall

1 electronically transmit to an ophthalmic provider a copy of
2 his or her contact lens prescription, upon request by the
3 patient, within one year of examination if the patient:

4 (1) has completed the initial evaluation and
5 adaptation period necessary to complete a contact lens
6 prescription and has been released from initial follow-up
7 care;

8 (2) has no documented eye disease, condition, or
9 risk care factors that, in the professional opinion of
10 the optometrist or physician, would preclude release of
11 the prescription; and

12 (3) has made payment of all reasonable fees for
13 services and materials used or incurred in the
14 development of the contact lens prescription.

15 Any ophthalmic provider who fills a prescription bears
16 the full responsibility for the accurate dispensing of the
17 contact lenses provided under the prescription. At no time,
18 without the written direction of the prescriber, shall any
19 changes or substitutions be made, including brand, type of
20 lenses, or ophthalmic parameters.

21 Section 30. Dispensing. No contact lenses may be
22 dispensed to a patient within this State except by a licensed
23 ophthalmic provider in accordance with a contact lens
24 prescription issued by a licensed prescriber.

25 The failure of a prescriber to respond to a request to
26 verify a contact lens prescription does not authorize an
27 ophthalmic provider to dispense contact lenses pursuant to
28 that prescription. Contact lenses may be dispensed by an
29 ophthalmic provider only upon receipt by the ophthalmic
30 provider of affirmative confirmation of the prescription from
31 the prescriber.

32 Section 35. Fees. An optometrist or physician may not

1 impose any fee or charge for the reproduction or release of
2 the initial contact lens prescription. An optometrist or
3 physician may properly charge reasonable fees for a
4 patient-requested follow-up visit to determine whether a
5 prescription for contact lenses furnished by another
6 ophthalmic provider has been properly filled. Nothing in
7 this Act shall preclude an optometrist or physician from
8 charging for contact lenses provided to the patient during
9 the evaluation and adaptation period.

10 Section 40. Indemnification; liability. The prescriber
11 shall not be liable for any damage or injury resulting from
12 the packaging, manufacturing, or dispensing of the prescribed
13 lenses, unless the ophthalmic provider and the prescriber are
14 the same person.

15 The ophthalmic provider shall be responsible for
16 obtaining any and all required releases of confidentiality
17 from the patient in connection with the provision of contact
18 lenses. The prescriber shall be released from any liability
19 resulting from any such violations of confidentiality unless
20 the ophthalmic provider and the prescriber are the same
21 person.

22 Section 45. Violations. Violations of this Act include
23 all of the following:

24 (1) Dispensing contact lenses in Illinois without a
25 valid prescription, as required by this Act.

26 (2) Dispensing contact lenses in Illinois beyond the
27 stated expiration date of the prescription or 1 year from the
28 issuance date, if no expiration date is stated.

29 (3) Filling a prescription in excess of the quantities
30 or frequency stated or in quantities that would last beyond
31 the expiration date of the prescription.

32 (4) Filling a prescription other than exactly as written

1 without express written approval of the prescriber.

2 (5) Filling a prescription without the full name,
3 address, phone number, license number, and signature of the
4 prescriber on the original copy or in the electronically
5 transmitted record.

6 (6) Failure to maintain records of prescriptions filled,
7 including original copies or records of electronic
8 transmissions, for a period of 6 years.

9 (7) Dispensing plano, tinted, or decorative lenses
10 without a prescription.

11 (8) Knowingly releasing or confirming a prescription to
12 a provider who is not licensed as an ophthalmic provider in
13 Illinois for delivery of contact lenses to a patient in
14 Illinois.

15 (9) Any other offense that, if not excepted in this Act,
16 would be a violation of the Illinois Optometric Practice Act
17 of 1987, the Medical Practice Act of 1987, or the Pharmacy
18 Practice Act of 1987.

19 Section 50. Penalties; enforcement. A violation of this
20 Act by a person other than a physician or pharmacist shall
21 be considered a violation of the Illinois Optometric Practice
22 Act of 1987 and shall be enforced by the Department of
23 Professional Regulation upon the recommendation of the
24 Illinois Optometric Licensing and Disciplinary Board. A
25 violation of this Act by a physician shall be considered a
26 violation of the Medical Practice Act of 1987 and shall be
27 enforced by the Department of Professional Regulation upon
28 the recommendation of the Medical Disciplinary Board. A
29 violation of this Act by a pharmacist shall be considered a
30 violation of the Pharmacy Practice Act of 1987 and shall be
31 enforced by the Department of Professional Regulation upon
32 the recommendation of the State Board of Pharmacy.

1 Section 55. Deposit of civil penalties. All of the civil
2 penalties collected under this Act shall be deposited into
3 the Optometric Licensing and Disciplinary Fund. All moneys in
4 the fund shall be used by the Department of Professional
5 Regulation, as appropriated, for the ordinary and contingent
6 expenses of the Department in enforcing this Act.

7 Section 60. Rules. The Department of Professional
8 Regulation, after considering the recommendations of the
9 Optometric Licensing and Disciplinary Board and the Medical
10 Disciplinary Board, shall promulgate rules for the
11 implementation of this Act.

12 Section 900. The Medical Practice Act of 1987 is
13 amended by changing Section 22 as follows:

14 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

15 (Section scheduled to be repealed on January 1, 2007)

16 Sec. 22. Disciplinary action.

17 (A) The Department may revoke, suspend, place on
18 probationary status, or take any other disciplinary action as
19 the Department may deem proper with regard to the license or
20 visiting professor permit of any person issued under this Act
21 to practice medicine, or to treat human ailments without the
22 use of drugs and without operative surgery upon any of the
23 following grounds:

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

26 (a) a facility licensed pursuant to the
27 Ambulatory Surgical Treatment Center Act;

28 (b) an institution licensed under the Hospital
29 Licensing Act; or

30 (c) an ambulatory surgical treatment center or
31 hospitalization or care facility maintained by the

1 State or any agency thereof, where such department
2 or agency has authority under law to establish and
3 enforce standards for the ambulatory surgical
4 treatment centers, hospitalization, or care
5 facilities under its management and control; or

6 (d) ambulatory surgical treatment centers,
7 hospitalization or care facilities maintained by the
8 Federal Government; or

9 (e) ambulatory surgical treatment centers,
10 hospitalization or care facilities maintained by any
11 university or college established under the laws of
12 this State and supported principally by public funds
13 raised by taxation.

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

17 (3) The conviction of a felony in this or any other
18 jurisdiction, except as otherwise provided in subsection
19 B of this Section, whether or not related to practice
20 under this Act, or the entry of a guilty or nolo
21 contendere plea to a felony charge.

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

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

26 (6) Obtaining any fee by fraud, deceit, or
27 misrepresentation.

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

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

34 (9) Fraud or misrepresentation in applying for, or

1 procuring, a license under this Act or in connection with
2 applying for renewal of a license under this Act.

3 (10) Making a false or misleading statement
4 regarding their skill or the efficacy or value of the
5 medicine, treatment, or remedy prescribed by them at
6 their direction in the treatment of any disease or other
7 condition of the body or mind.

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

10 (12) Disciplinary action of another state or
11 jurisdiction against a license or other authorization to
12 practice as a medical doctor, doctor of osteopathy,
13 doctor of osteopathic medicine or doctor of chiropractic,
14 a certified copy of the record of the action taken by the
15 other state or jurisdiction being prima facie evidence
16 thereof.

17 (13) Violation of any provision of this Act or of
18 the Medical Practice Act prior to the repeal of that Act,
19 or violation of the rules, or a final administrative
20 action of the Director, after consideration of the
21 recommendation of the Disciplinary Board.

22 (14) Dividing with anyone other than physicians
23 with whom the licensee practices in a partnership,
24 Professional Association, limited liability company, or
25 Medical or Professional Corporation any fee, commission,
26 rebate or other form of compensation for any professional
27 services not actually and personally rendered. Nothing
28 contained in this subsection prohibits persons holding
29 valid and current licenses under this Act from practicing
30 medicine in partnership under a partnership agreement,
31 including a limited liability partnership, in a limited
32 liability company under the Limited Liability Company
33 Act, in a corporation authorized by the Medical
34 Corporation Act, as an association authorized by the

1 Professional Association Act, or in a corporation under
2 the Professional Corporation Act or from pooling,
3 sharing, dividing or apportioning the fees and monies
4 received by them or by the partnership, corporation or
5 association in accordance with the partnership agreement
6 or the policies of the Board of Directors of the
7 corporation or association. Nothing contained in this
8 subsection prohibits 2 or more corporations authorized by
9 the Medical Corporation Act, from forming a partnership
10 or joint venture of such corporations, and providing
11 medical, surgical and scientific research and knowledge
12 by employees of these corporations if such employees are
13 licensed under this Act, or from pooling, sharing,
14 dividing, or apportioning the fees and monies received by
15 the partnership or joint venture in accordance with the
16 partnership or joint venture agreement. Nothing
17 contained in this subsection shall abrogate the right of
18 2 or more persons, holding valid and current licenses
19 under this Act, to each receive adequate compensation for
20 concurrently rendering professional services to a patient
21 and divide a fee; provided, the patient has full
22 knowledge of the division, and, provided, that the
23 division is made in proportion to the services performed
24 and responsibility assumed by each.

25 (15) A finding by the Medical Disciplinary Board
26 that the registrant after having his or her license
27 placed on probationary status or subjected to conditions
28 or restrictions violated the terms of the probation or
29 failed to comply with such terms or conditions.

30 (16) Abandonment of a patient.

31 (17) Prescribing, selling, administering,
32 distributing, giving or self-administering any drug
33 classified as a controlled substance (designated product)
34 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
7 treat disease by a secret method, procedure, treatment or
8 medicine, or the treating, operating or prescribing for
9 any human condition by a method, means or procedure which
10 the licensee refuses to divulge upon demand of the
11 Department.

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

15 (21) Wilfully making or filing false records or
16 reports in his or her practice as a physician, including,
17 but not limited to, false records to support claims
18 against the medical assistance program of the Department
19 of Public Aid 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
24 instance of suspected abuse or neglect as required by
25 law.

26 (23) Being named as a perpetrator in an indicated
27 report by the Department of Children and Family Services
28 under the Abused and Neglected Child Reporting Act, and
29 upon proof by clear and convincing evidence that the
30 licensee has caused a child to be an abused child or
31 neglected child as defined in the Abused and Neglected
32 Child Reporting Act.

33 (24) Solicitation of professional patronage by any
34 corporation, agents or persons, or profiting from those

1 representing themselves to be agents of the licensee.

2 (25) Gross and wilful and continued overcharging
3 for professional services, including filing false
4 statements for collection of fees for which services are
5 not rendered, including, but not limited to, filing such
6 false statements for collection of monies for services
7 not rendered from the medical assistance program of the
8 Department of Public Aid under the Illinois Public Aid
9 Code.

10 (26) A pattern of practice or other behavior which
11 demonstrates incapacity or incompetence to practice under
12 this Act.

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

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

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

23 (30) Wilfully or negligently violating the
24 confidentiality between physician and patient except as
25 required by law.

26 (31) The use of any false, fraudulent, or deceptive
27 statement in any document connected with practice under
28 this Act.

29 (32) Aiding and abetting an individual not licensed
30 under this Act in the practice of a profession licensed
31 under this Act.

32 (33) Violating state or federal laws or regulations
33 relating to controlled substances.

34 (34) Failure to report to the Department any

1 adverse final action taken against them by another
2 licensing jurisdiction (any other state or any territory
3 of the United States or any foreign state or country), by
4 any peer review body, by any health care institution, by
5 any professional society or association related to
6 practice under this Act, by any governmental agency, by
7 any law enforcement agency, or by any court for acts or
8 conduct similar to acts or conduct which would constitute
9 grounds for action as defined in this Section.

10 (35) Failure to report to the Department surrender
11 of a license or authorization to practice as a medical
12 doctor, a doctor of osteopathy, a doctor of osteopathic
13 medicine, or doctor of chiropractic in another state or
14 jurisdiction, or surrender of membership on any medical
15 staff or in any medical or professional association or
16 society, while under disciplinary investigation by any of
17 those authorities or bodies, for acts or conduct similar
18 to acts or conduct which would constitute grounds for
19 action as defined in this Section.

20 (36) Failure to report to the Department any
21 adverse judgment, settlement, or award arising from a
22 liability claim related to acts or conduct similar to
23 acts or conduct which would constitute grounds for action
24 as defined in this Section.

25 (37) Failure to transfer copies of medical records
26 as required by law.

27 (38) Failure to furnish the Department, its
28 investigators or representatives, relevant information,
29 legally requested by the Department after consultation
30 with the Chief Medical Coordinator or the Deputy Medical
31 Coordinator.

32 (39) Violating the Health Care Worker Self-Referral
33 Act.

34 (40) Willful failure to provide notice when notice

1 is required under the Parental Notice of Abortion Act of
2 1995.

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

5 (42) Entering into an excessive number of written
6 collaborative agreements with licensed advanced practice
7 nurses resulting in an inability to adequately
8 collaborate and provide medical direction.

9 (43) Repeated failure to adequately collaborate
10 with or provide medical direction to a licensed advanced
11 practice nurse.

12 (44) Violating the Contact Lens Act.

13 All proceedings to suspend, revoke, place on probationary
14 status, or take any other disciplinary action as the
15 Department may deem proper, with regard to a license on any
16 of the foregoing grounds, must be commenced within 3 years
17 next after receipt by the Department of a complaint alleging
18 the commission of or notice of the conviction order for any
19 of the acts described herein. Except for the grounds
20 numbered (8), (9) and (29), no action shall be commenced more
21 than 5 years after the date of the incident or act alleged to
22 have violated this Section. In the event of the settlement
23 of any claim or cause of action in favor of the claimant or
24 the reduction to final judgment of any civil action in favor
25 of the plaintiff, such claim, cause of action or civil action
26 being grounded on the allegation that a person licensed under
27 this Act was negligent in providing care, the Department
28 shall have an additional period of one year from the date of
29 notification to the Department under Section 23 of this Act
30 of such settlement or final judgment in which to investigate
31 and commence formal disciplinary proceedings under Section 36
32 of this Act, except as otherwise provided by law. The time
33 during which the holder of the license was outside the State
34 of Illinois shall not be included within any period of time

1 limiting the commencement of disciplinary action by the
2 Department.

3 The entry of an order or judgment by any circuit court
4 establishing that any person holding a license under this Act
5 is a person in need of mental treatment operates as a
6 suspension of that license. That person may resume their
7 practice only upon the entry of a Departmental order based
8 upon a finding by the Medical Disciplinary Board that they
9 have been determined to be recovered from mental illness by
10 the court and upon the Disciplinary Board's recommendation
11 that they be permitted to resume their practice.

12 The Department may refuse to issue or take disciplinary
13 action concerning the license of any person who fails to file
14 a return, or to pay the tax, penalty or interest shown in a
15 filed return, or to pay any final assessment of tax, penalty
16 or interest, as required by any tax Act administered by the
17 Illinois Department of Revenue, until such time as the
18 requirements of any such tax Act are satisfied as determined
19 by the Illinois Department of Revenue.

20 The Department, upon the recommendation of the
21 Disciplinary Board, shall adopt rules which set forth
22 standards to be used in determining:

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

25 (b) what constitutes dishonorable, unethical or
26 unprofessional conduct of a character likely to deceive,
27 defraud, or harm the public;

28 (c) what constitutes immoral conduct in the
29 commission of any act, including, but not limited to,
30 commission of an act of sexual misconduct related to the
31 licensee's practice; and

32 (d) what constitutes gross negligence in the
33 practice of medicine.

34 However, no such rule shall be admissible into evidence

1 in any civil action except for review of a licensing or other
2 disciplinary action under this Act.

3 In enforcing this Section, the Medical Disciplinary
4 Board, upon a showing of a possible violation, may compel any
5 individual licensed to practice under this Act, or who has
6 applied for licensure or a permit pursuant to this Act, to
7 submit to a mental or physical examination, or both, as
8 required by and at the expense of the Department. The
9 examining physician or physicians shall be those specifically
10 designated by the Disciplinary Board. The Medical
11 Disciplinary Board or the Department may order the examining
12 physician to present testimony concerning this mental or
13 physical examination of the licensee or applicant. No
14 information shall be excluded by reason of any common law or
15 statutory privilege relating to communication between the
16 licensee or applicant and the examining physician. The
17 individual to be examined may have, at his or her own
18 expense, another physician of his or her choice present
19 during all aspects of the examination. Failure of any
20 individual to submit to mental or physical examination, when
21 directed, shall be grounds for suspension of his or her
22 license until such time as the individual submits to the
23 examination if the Disciplinary Board finds, after notice and
24 hearing, that the refusal to submit to the examination was
25 without reasonable cause. If the Disciplinary Board finds a
26 physician unable to practice because of the reasons set forth
27 in this Section, the Disciplinary Board shall require such
28 physician to submit to care, counseling, or treatment by
29 physicians approved or designated by the Disciplinary Board,
30 as a condition for continued, reinstated, or renewed
31 licensure to practice. Any physician, whose license was
32 granted pursuant to Sections 9, 17, or 19 of this Act, or,
33 continued, reinstated, renewed, disciplined or supervised,
34 subject to such terms, conditions or restrictions who shall

1 fail to comply with such terms, conditions or restrictions,
2 or to complete a required program of care, counseling, or
3 treatment, as determined by the Chief Medical Coordinator or
4 Deputy Medical Coordinators, shall be referred to the
5 Director for a determination as to whether the licensee shall
6 have their license suspended immediately, pending a hearing
7 by the Disciplinary Board. In instances in which the
8 Director immediately suspends a license under this Section, a
9 hearing upon such person's license must be convened by the
10 Disciplinary Board within 15 days after such suspension and
11 completed without appreciable delay. The Disciplinary Board
12 shall have the authority to review the subject physician's
13 record of treatment and counseling regarding the impairment,
14 to the extent permitted by applicable federal statutes and
15 regulations safeguarding the confidentiality of medical
16 records.

17 An individual licensed under this Act, affected under
18 this Section, shall be afforded an opportunity to demonstrate
19 to the Disciplinary Board that they can resume practice in
20 compliance with acceptable and prevailing standards under the
21 provisions of their license.

22 The Department may promulgate rules for the imposition of
23 fines in disciplinary cases, not to exceed \$5,000 for each
24 violation of this Act. Fines may be imposed in conjunction
25 with other forms of disciplinary action, but shall not be the
26 exclusive disposition of any disciplinary action arising out
27 of conduct resulting in death or injury to a patient. Any
28 funds collected from such fines shall be deposited in the
29 Medical Disciplinary Fund.

30 (B) The Department shall revoke the license or visiting
31 permit of any person issued under this Act to practice
32 medicine or to treat human ailments without the use of drugs
33 and without operative surgery, who has been convicted a
34 second time of committing any felony under the Illinois

1 Controlled Substances Act, or who has been convicted a second
2 time of committing a Class 1 felony under Sections 8A-3 and
3 8A-6 of the Illinois Public Aid Code. A person whose license
4 or visiting permit is revoked under this subsection B of
5 Section 22 of this Act shall be prohibited from practicing
6 medicine or treating human ailments without the use of drugs
7 and without operative surgery.

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

19 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96;
20 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff.
21 8-13-98.)

22 Section 905. The Illinois Optometric Practice Act of
23 1987 is amended by changing Sections 4.5 and 24 as follows:

24 (225 ILCS 80/4.5)

25 (Section scheduled to be repealed on January 1, 2007)

26 Sec. 4.5. Unlicensed practice; violation; civil penalty.

27 (a) Any person who practices, offers to practice,
28 attempts to practice, or holds oneself out to practice
29 optometry without being licensed under this Act or any
30 individual or entity that causes or attempts to cause a
31 licensed optometrist or any other person under that
32 individual or entity's control to violate this Act, the

1 Contact Lens Act, or the rules adopted pursuant to either Act
 2 shall, in addition to any other penalty provided by law, pay
 3 a civil penalty to the Department in an amount not to exceed
 4 \$10,000 ~~\$5,000~~ for each offense as determined by the
 5 Department. The civil penalty shall be assessed by the
 6 Department after a hearing is held in accordance with the
 7 provisions set forth in this Act regarding the provision of a
 8 hearing for the discipline of a licensee.

9 (b) The Department has the authority and power to
 10 investigate any and all unlicensed activity.

11 (c) The civil penalty shall be paid within 60 days after
 12 the effective date of the order imposing the civil penalty.
 13 The order shall constitute a judgment and may be filed and
 14 execution had thereon in the same manner as any judgment from
 15 any court of record.

16 (Source: P.A. 89-474, eff. 6-18-96.)

17 (225 ILCS 80/24) (from Ch. 111, par. 3924)

18 (Section scheduled to be repealed on January 1, 2007)

19 Sec. 24. Grounds for disciplinary action.

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

26 (1) Violations of this Act, or of the rules
 27 promulgated hereunder.

28 (2) Conviction of any crime under the laws of any
 29 U.S. jurisdiction thereof that is a felony or that is a
 30 misdemeanor of which an essential element is dishonesty,
 31 or of any crime that is directly related to the practice
 32 of the profession.

33 (3) Making any misrepresentation for the purpose of

1 obtaining a license or certificate.

2 (4) Professional incompetence or gross negligence
3 in the practice of optometry.

4 (5) Gross malpractice, prima facie evidence of
5 which may be a conviction or judgment of malpractice in
6 any court of competent jurisdiction.

7 (6) Aiding or assisting another person in violating
8 any provision of this Act or rules.

9 (7) Failing, within 60 days, to provide information
10 in response to a written request made by the Department
11 that has been sent by certified or registered mail to the
12 licensee's last known address.

13 (8) Engaging in dishonorable, unethical, or
14 unprofessional conduct of a character likely to deceive,
15 defraud, or harm the public.

16 (9) Habitual or excessive use or addiction to
17 alcohol, narcotics, stimulants or any other chemical
18 agent or drug that results in the inability to practice
19 with reasonable judgment, skill, or safety.

20 (10) Discipline by another U.S. jurisdiction or
21 foreign nation, if at least one of the grounds for the
22 discipline is the same or substantially equivalent to
23 those set forth herein.

24 (11) Directly or indirectly giving to or receiving
25 from any person, firm, corporation, partnership, or
26 association any fee, commission, rebate, or other form of
27 compensation for any professional services not actually
28 or personally rendered. This shall not be deemed to
29 include (i) rent or other remunerations paid to an
30 individual, partnership, or corporation by an optometrist
31 for the lease, rental, or use of space, owned or
32 controlled, by the individual, partnership, corporation
33 or association, and (ii) the division of fees between an
34 optometrist and related professional service providers

1 with whom the optometrist practices in a professional
2 corporation organized under Section 3.6 of the
3 Professional Service Corporation Act.

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

7 (13) Abandonment of a patient.

8 (14) Willfully making or filing false records or
9 reports in his or her practice, including but not limited
10 to false records filed with State agencies or
11 departments.

12 (15) Willfully failing to report an instance of
13 suspected child abuse or neglect as required by the
14 Abused and Neglected Child Reporting Act.

15 (16) Physical illness, including but not limited
16 to, deterioration through the aging process, or loss of
17 motor skill, mental illness, or disability that results
18 in the inability to practice the profession with
19 reasonable judgment, skill, or safety.

20 (17) Solicitation of professional services other
21 than permitted advertising.

22 (18) Failure to provide a patient with a copy of
23 his or her (i) record or prescription upon the written
24 request of the patient, (ii) spectacle prescription, or
25 (iii) contact lens prescription in violation of the
26 Contact Lens Act.

27 (19) Conviction by any court of competent
28 jurisdiction, either within or without this State, of any
29 violation of any law governing the practice of optometry,
30 conviction in this or another State of any crime that is
31 a felony under the laws of this State or conviction of a
32 felony in a federal court, if the Department determines,
33 after investigation, that such person has not been
34 sufficiently rehabilitated to warrant the public trust.

1 (20) A finding that licensure has been applied for
2 or obtained by fraudulent means.

3 (21) Continued practice by a person knowingly
4 having an infectious or contagious disease.

5 (22) Being named as a perpetrator in an indicated
6 report by the Department of Children and Family Services
7 under the Abused and Neglected Child Reporting Act, and
8 upon proof by clear and convincing evidence that the
9 licensee has caused a child to be an abused child or a
10 neglected child as defined in the Abused and Neglected
11 Child Reporting Act.

12 (23) Practicing or attempting to practice under a
13 name other than the full name as shown on his or her
14 license.

15 (24) Immoral conduct in the commission of any act,
16 such as sexual abuse, sexual misconduct or sexual
17 exploitation, related to the licensee's practice.

18 (25) Maintaining a professional relationship with
19 any person, firm, or corporation when the optometrist
20 knows, or should know, that such person, firm, or
21 corporation is violating this Act.

22 (26) Promotion of the sale of drugs, devices,
23 appliances or goods provided for a client or patient in
24 such manner as to exploit the patient or client for
25 financial gain of the licensee.

26 (27) Using the title "Doctor" or its abbreviation
27 without further qualifying that title or abbreviation
28 with the word "optometry" or "optometrist".

29 (28) Use by a licensed optometrist of the word
30 "infirmery", "hospital", "school", "university", in
31 English or any other language, in connection with the
32 place where optometry may be practiced or demonstrated.

33 (29) Continuance of an optometrist in the employ of
34 any person, firm or corporation, or as an assistant to

1 any optometrist or optometrists, directly or indirectly,
2 after his or her employer or superior has been found
3 guilty of violating or has been enjoined from violating
4 the laws of the State of Illinois relating to the
5 practice of optometry, when the employer or superior
6 persists in that violation.

7 (30) The performance of optometric service in
8 conjunction with a scheme or plan with another person,
9 firm or corporation known to be advertising in a manner
10 contrary to this Act or otherwise violating the laws of
11 the State of Illinois concerning the practice of
12 optometry.

13 (31) Failure to provide satisfactory proof of
14 having participated in approved continuing education
15 programs as determined by the Board and approved by the
16 Director. Exceptions for extreme hardships are to be
17 defined by the rules of the Department.

18 (32) Willfully making or filing false records or
19 reports in the practice of optometry, including, but not
20 limited to false records to support claims against the
21 medical assistance program of the Department of Public
22 Aid under the Illinois Public Aid Code.

23 (33) Gross and willful overcharging for
24 professional services including filing false statements
25 for collection of fees for which services are not
26 rendered, including, but not limited to filing false
27 statements for collection of monies for services not
28 rendered from the medical assistance program of the
29 Department of Public Aid under the Illinois Public Aid
30 Code.

31 (34) In the absence of good reasons to the
32 contrary, failure to perform a minimum eye examination as
33 required by the rules of the Department.

34 (35) Violation of the Health Care Worker

1 Self-Referral Act.

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

9 (a-5) In enforcing this Section, the Board upon a
10 showing of a possible violation, may compel any individual
11 licensed to practice under this Act, or who has applied for
12 licensure or certification pursuant to this Act, to submit to
13 a mental or physical examination, or both, as required by and
14 at the expense of the Department. The examining physicians
15 or clinical psychologists shall be those specifically
16 designated by the Board. The Board or the Department may
17 order the examining physician or clinical psychologist to
18 present testimony concerning this mental or physical
19 examination of the licensee or applicant. No information
20 shall be excluded by reason of any common law or statutory
21 privilege relating to communications between the licensee or
22 applicant and the examining physician or clinical
23 psychologist. Eye examinations may be provided by a licensed
24 and certified therapeutic optometrist. The individual to be
25 examined may have, at his or her own expense, another
26 physician of his or her choice present during all aspects of
27 the examination. Failure of any individual to submit to a
28 mental or physical examination, when directed, shall be
29 grounds for suspension of a license until such time as the
30 individual submits to the examination if the Board finds,
31 after notice and hearing, that the refusal to submit to the
32 examination was without reasonable cause.

33 If the Board finds an individual unable to practice
34 because of the reasons set forth in this Section, the Board

1 shall require such individual to submit to care, counseling,
2 or treatment by physicians or clinical psychologists approved
3 or designated by the Board, as a condition, term, or
4 restriction for continued, reinstated, or renewed licensure
5 to practice, or in lieu of care, counseling, or treatment,
6 the Board may recommend to the Department to file a complaint
7 to immediately suspend, revoke, or otherwise discipline the
8 license of the individual, or the Board may recommend to the
9 Department to file a complaint to suspend, revoke, or
10 otherwise discipline the license of the individual. Any
11 individual whose license was granted pursuant to this Act, or
12 continued, reinstated, renewed, disciplined, or supervised,
13 subject to such conditions, terms, or restrictions, who shall
14 fail to comply with such conditions, terms, or restrictions,
15 shall be referred to the Director for a determination as to
16 whether the individual shall have his or her license
17 suspended immediately, pending a hearing by the Board.

18 (b) The determination by a circuit court that a licensee
19 is subject to involuntary admission or judicial admission as
20 provided in the Mental Health and Developmental Disabilities
21 Code operates as an automatic suspension. The suspension
22 will end only upon a finding by a court that the patient is
23 no longer subject to involuntary admission or judicial
24 admission and issues an order so finding and discharging the
25 patient; and upon the recommendation of the Board to the
26 Director that the licensee be allowed to resume his or her
27 practice.

28 (Source: P.A. 89-702, eff. 7-1-97; 90-230, eff. 1-1-98;
29 90-655, eff. 7-30-98.)

30 Section 910. The Mail Order Contact Lens Act is amended
31 by changing Sections 25, 30, and 35 and adding Section 31 as
32 follows:

1 (225 ILCS 83/25)

2 Sec. 25. Fees. The Department shall provide by rule for
3 a schedule of fees for the administration and enforcement of
4 this Act. The fees shall be nonrefundable.

5 All fees collected under this Act shall be deposited into
6 the Optometric Licensing and Disciplinary General-Professions
7 Dedicated Fund and, subject to appropriation, shall be used
8 by the Department for the ordinary and contingent expenses of
9 the Department in the administration of this Act.

10 (Source: P.A. 91-421, eff. 1-1-00.)

11 (225 ILCS 83/30)

12 Sec. 30. Violation; civil penalty.

13 (a) Any person who dispenses, offers to dispense, or
14 attempts to dispense contact lenses in violation of this Act
15 or its rules shall, in addition to any other penalty provided
16 by law, pay a civil penalty to the Department in an amount
17 not to exceed \$10,000 ~~\$5,000~~ for each offense as determined
18 by the Department. The civil penalty may ~~shall~~ be assessed by
19 the Department after a hearing is held in accordance with the
20 provisions set forth in the Illinois Administrative Procedure
21 Act.

22 (b) The Department may investigate all violations of
23 this Act.

24 (c) The civil penalty shall be paid within 60 days after
25 the effective date of the order imposing the civil penalty.
26 The order constitutes a judgment and may be filed and
27 execution had thereon in the same manner as any judgment from
28 any court of record.

29 (d) Violations of this Act include all of the following:

30 (1) Dispensing contact lenses in Illinois without a
31 valid prescription, as required by this Act.

32 (2) Dispensing contact lenses in Illinois beyond
33 the stated expiration date of the prescription or 1 year

1 from the issuance date, if no expiration date is stated.

2 (3) Filling a prescription in excess of the
3 quantities or frequency stated or in quantities that
4 would last beyond the expiration date of the
5 prescription.

6 (4) Filling a prescription other than exactly as
7 written without express written approval of the
8 prescribing eye care professional.

9 (5) Filling a prescription without the full name,
10 address, phone number, license number, and signature of
11 the prescribing eye care professional on the original
12 copy or noted in the electronically transmitted record.

13 (6) Failure to maintain records of prescriptions
14 filled, including original copies or records of
15 electronic transmissions, for a period of 6 years.

16 (7) Recommending wearing or replacement schedules,
17 solutions, or care regimens other than those noted on the
18 prescription or recommended by the manufacturer.

19 (8) Rendering to the patient any optometric or
20 medical advice, including recommending that the patient
21 see a new or alternate eye care professional.

22 (9) Advertising to the citizens of Illinois the
23 availability of goods or services that, if provided,
24 would violate this Act, the Optometric Practice Act of
25 1987, or the Medical Practice Act of 1987.

26 (10) Dispensing plano, tinted, or decorative lenses
27 without a prescription.

28 (11) Any other offense that, if not excepted in
29 this Act, would be a violation of the Illinois Optometric
30 Practice Act of 1987, the Medical Practice Act of 1987,
31 or the Pharmacy Practice Act of 1987.

32 (Source: P.A. 91-421, eff. 1-1-00.)

33 (225 ILCS 83/31 new)

1 Sec. 31. Indemnification; liability. The mail order
 2 ophthalmic provider shall be responsible for obtaining any
 3 and all required releases of confidentiality from the patient
 4 in connection with the provision of contact lenses under
 5 this Act. The optometrist or physician issuing the
 6 prescription shall be released from any liability resulting
 7 from any such violation of confidentiality.

8 (225 ILCS 83/35)

9 Sec. 35. Deposit of civil penalties; appropriations.
 10 All of the civil penalties collected under this Act shall be
 11 deposited in the Optometric Licensing and Disciplinary
 12 ~~General-Professions-Dedicated~~ Fund. All moneys in the Fund
 13 shall be used by the Department, as appropriated, for the
 14 ordinary and contingent expenses of the Department.

15 (Source: P.A. 91-421, eff. 1-1-00.)

16 Section 915. The Pharmacy Practice Act of 1987 is
 17 amended by changing Section 30 as follows:

18 (225 ILCS 85/30) (from Ch. 111, par. 4150)

19 (Section scheduled to be repealed on January 1, 2008)

20 (Text of Section before amendment by P.A. 92-880)

21 Sec. 30. (a) In accordance with Section 11 of this Act,
 22 the Department may refuse to issue, restore, or renew, or may
 23 revoke, suspend, place on probation, reprimand or take other
 24 disciplinary action as the Department may deem proper with
 25 regard to any license or certificate of registration for any
 26 one or combination of the following causes:

27 1. Material misstatement in furnishing information
 28 to the Department.

29 2. Violations of this Act, or the rules promulgated
 30 hereunder.

31 3. Making any misrepresentation for the purpose of

1 obtaining licenses.

2 4. A pattern of conduct which demonstrates
3 incompetence or unfitness to practice.

4 5. Aiding or assisting another person in violating
5 any provision of this Act or rules.

6 6. Failing, within 60 days, to respond to a written
7 request made by the Department for information.

8 7. Engaging in dishonorable, unethical or
9 unprofessional conduct of a character likely to deceive,
10 defraud or harm the public.

11 8. Discipline by another U.S. jurisdiction or
12 foreign nation, if at least one of the grounds for the
13 discipline is the same or substantially equivalent to
14 those set forth herein.

15 9. Directly or indirectly giving to or receiving
16 from any person, firm, corporation, partnership or
17 association any fee, commission, rebate or other form of
18 compensation for any professional services not actually
19 or personally rendered.

20 10. A finding by the Department that the licensee,
21 after having his license placed on probationary status
22 has violated the terms of probation.

23 11. Selling or engaging in the sale of drug samples
24 provided at no cost by drug manufacturers.

25 12. Physical illness, including but not limited to,
26 deterioration through the aging process, or loss of motor
27 skill which results in the inability to practice the
28 profession with reasonable judgment, skill or safety.

29 13. A finding that licensure or registration has
30 been applied for or obtained by fraudulent means.

31 14. The applicant, or licensee has been convicted
32 in state or federal court of any crime which is a felony
33 or any misdemeanor related to the practice of pharmacy,
34 of which an essential element is dishonesty.

1 15. Habitual or excessive use or addiction to
2 alcohol, narcotics, stimulants or any other chemical
3 agent or drug which results in the inability to practice
4 with reasonable judgment, skill or safety.

5 16. Willfully making or filing false records or
6 reports in the practice of pharmacy, including, but not
7 limited to false records to support claims against the
8 medical assistance program of the Department of Public
9 Aid under the Public Aid Code.

10 17. Gross and willful overcharging for professional
11 services including filing false statements for collection
12 of fees for which services are not rendered, including,
13 but not limited to, filing false statements for
14 collection of monies for services not rendered from the
15 medical assistance program of the Department of Public
16 Aid under the Public Aid Code.

17 18. Repetitiously dispensing prescription drugs
18 without receiving a written or oral prescription.

19 19. Upon a finding of a substantial discrepancy in
20 a Department audit of a prescription drug, including
21 controlled substances, as that term is defined in this
22 Act or in the Illinois Controlled Substances Act.

23 20. Physical illness which results in the inability
24 to practice with reasonable judgment, skill or safety, or
25 mental incompetency as declared by a court of competent
26 jurisdiction.

27 21. Violation of the Health Care Worker
28 Self-Referral Act.

29 (b) The Department may refuse to issue or may suspend
30 the license or registration of any person who fails to file a
31 return, or to pay the tax, penalty or interest shown in a
32 filed return, or to pay any final assessment of tax, penalty
33 or interest, as required by any tax Act administered by the
34 Illinois Department of Revenue, until such time as the

1 requirements of any such tax Act are satisfied.

2 (c) The Department shall revoke the license or
3 certificate of registration issued under the provisions of
4 this Act or any prior Act of this State of any person who has
5 been convicted a second time of committing any felony under
6 the Illinois Controlled Substances Act, or who has been
7 convicted a second time of committing a Class 1 felony under
8 Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A
9 person whose license or certificate of registration issued
10 under the provisions of this Act or any prior Act of this
11 State is revoked under this subsection (c) shall be
12 prohibited from engaging in the practice of pharmacy in this
13 State.

14 (d) In any order issued in resolution of a disciplinary
15 proceeding, the Board may request any licensee found guilty
16 of a charge involving a significant violation of subsection
17 (a) of Section 5, or paragraph 19 of Section 30 as it
18 pertains to controlled substances, to pay to the Department a
19 fine not to exceed \$2,000.

20 (e) In any order issued in resolution of a disciplinary
21 proceeding, in addition to any other disciplinary action, the
22 Board may request any licensee found guilty of noncompliance
23 with the continuing education requirements of Section 12 to
24 pay the Department a fine not to exceed \$1000.

25 (f) The Department shall issue quarterly to the Board a
26 status of all complaints related to the profession received
27 by the Department.

28 (Source: P.A. 86-596; 86-1434; 86-1472; 87-1207.)

29 (Text of Section after amendment by P.A. 92-880)

30 Sec. 30. (a) In accordance with Section 11 of this Act,
31 the Department may refuse to issue, restore, or renew, or may
32 revoke, suspend, place on probation, reprimand or take other
33 disciplinary action as the Department may deem proper with
34 regard to any license or certificate of registration for any

1 one or combination of the following causes:

2 1. Material misstatement in furnishing information
3 to the Department.

4 2. Violations of this Act, or the rules promulgated
5 hereunder.

6 3. Making any misrepresentation for the purpose of
7 obtaining licenses.

8 4. A pattern of conduct which demonstrates
9 incompetence or unfitness to practice.

10 5. Aiding or assisting another person in violating
11 any provision of this Act or rules.

12 6. Failing, within 60 days, to respond to a written
13 request made by the Department for information.

14 7. Engaging in dishonorable, unethical or
15 unprofessional conduct of a character likely to deceive,
16 defraud or harm the public.

17 8. Discipline by another U.S. jurisdiction or
18 foreign nation, if at least one of the grounds for the
19 discipline is the same or substantially equivalent to
20 those set forth herein.

21 9. Directly or indirectly giving to or receiving
22 from any person, firm, corporation, partnership or
23 association any fee, commission, rebate or other form of
24 compensation for any professional services not actually
25 or personally rendered.

26 10. A finding by the Department that the licensee,
27 after having his license placed on probationary status
28 has violated the terms of probation.

29 11. Selling or engaging in the sale of drug samples
30 provided at no cost by drug manufacturers.

31 12. Physical illness, including but not limited to,
32 deterioration through the aging process, or loss of motor
33 skill which results in the inability to practice the
34 profession with reasonable judgment, skill or safety.

1 13. A finding that licensure or registration has
2 been applied for or obtained by fraudulent means.

3 14. The applicant, or licensee has been convicted
4 in state or federal court of any crime which is a felony
5 or any misdemeanor related to the practice of pharmacy,
6 of which an essential element is dishonesty.

7 15. Habitual or excessive use or addiction to
8 alcohol, narcotics, stimulants or any other chemical
9 agent or drug which results in the inability to practice
10 with reasonable judgment, skill or safety.

11 16. Willfully making or filing false records or
12 reports in the practice of pharmacy, including, but not
13 limited to false records to support claims against the
14 medical assistance program of the Department of Public
15 Aid under the Public Aid Code.

16 17. Gross and willful overcharging for professional
17 services including filing false statements for collection
18 of fees for which services are not rendered, including,
19 but not limited to, filing false statements for
20 collection of monies for services not rendered from the
21 medical assistance program of the Department of Public
22 Aid under the Public Aid Code.

23 18. Repetitiously dispensing prescription drugs
24 without receiving a written or oral prescription.

25 19. Upon a finding of a substantial discrepancy in
26 a Department audit of a prescription drug, including
27 controlled substances, as that term is defined in this
28 Act or in the Illinois Controlled Substances Act.

29 20. Physical illness which results in the inability
30 to practice with reasonable judgment, skill or safety, or
31 mental incompetency as declared by a court of competent
32 jurisdiction.

33 21. Violation of the Health Care Worker
34 Self-Referral Act.

1 22. Failing to sell or dispense any drug, medicine,
2 or poison in good faith. "Good faith", for the purposes
3 of this Section, has the meaning ascribed to it in
4 subsection (u) of Section 102 of the Illinois Controlled
5 Substances Act.

6 23. Interfering with the professional judgment of a
7 pharmacist by any registrant under this Act, or his or
8 her agents or employees.

9 24. Violation of the Contact Lens Act.

10 (b) The Department may refuse to issue or may suspend
11 the license or registration of any person who fails to file a
12 return, or to pay the tax, penalty or interest shown in a
13 filed return, or to pay any final assessment of tax, penalty
14 or interest, as required by any tax Act administered by the
15 Illinois Department of Revenue, until such time as the
16 requirements of any such tax Act are satisfied.

17 (c) The Department shall revoke the license or
18 certificate of registration issued under the provisions of
19 this Act or any prior Act of this State of any person who has
20 been convicted a second time of committing any felony under
21 the Illinois Controlled Substances Act, or who has been
22 convicted a second time of committing a Class 1 felony under
23 Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A
24 person whose license or certificate of registration issued
25 under the provisions of this Act or any prior Act of this
26 State is revoked under this subsection (c) shall be
27 prohibited from engaging in the practice of pharmacy in this
28 State.

29 (d) In any order issued in resolution of a disciplinary
30 proceeding, the Board may request any licensee found guilty
31 of a charge involving a significant violation of subsection
32 (a) of Section 5, or paragraph 19 of Section 30 as it
33 pertains to controlled substances, to pay to the Department a
34 fine not to exceed \$2,000.

1 (e) In any order issued in resolution of a disciplinary
2 proceeding, in addition to any other disciplinary action, the
3 Board may request any licensee found guilty of noncompliance
4 with the continuing education requirements of Section 12 to
5 pay the Department a fine not to exceed \$1000.

6 (f) The Department shall issue quarterly to the Board a
7 status of all complaints related to the profession received
8 by the Department.

9 (Source: P.A. 92-880, eff. 1-1-04.)