

94TH GENERAL ASSEMBLY**State of Illinois****2005 and 2006****SB2469**

Introduced 1/18/2006, by Sen. M. Maggie Crotty

SYNOPSIS AS INTRODUCED:

See Index

Amends the Regulatory Sunset Act to change the repeal date of the Illinois Optometric Act of 1987 from January 1, 2007 to January 1, 2017. Amends the Illinois Optometric Practice Act of 1987. Removes all references to certificates and therapeutical certification throughout the Act. Replaces all references to "Department of Professional Regulation" with "Department of Financial and Professional Regulation" and replaces all references to "Director of Professional Regulation" with "Secretary of Financial and Professional Regulation" throughout the Act. Provides that the practice of optometry includes the appropriate use of ocular pharmaceutical agents, rather than diagnostic ocular pharmaceutical agents and therapeutic ocular pharmaceutical agents. Provides that the civil penalties for unlicensed practice and for violation of the Act shall not exceed \$10,000 (now, \$5,000). Removes a provision concerning initial Optometric Licensing and Disciplinary Board terms. Creates the position of optometric coordinator. Provides that the optometric coordinator shall be the chief enforcement officer of the Act and shall serve at the will of the Board. Provides that all licenses without "Therapeutic Certification" that are on inactive status as of March 31, 2006 shall be placed on non-renewed status and may only be restored after the licensee meets those requirements established by the Department of Financial and Professional Regulation. Makes other changes. Effective immediately.

LRB094 16641 RAS 51909 b

FISCAL NOTE ACT
MAY APPLY

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 Regulatory Sunset Act is amended by changing
5 Section 4.17 and by adding Section 4.27 as follows:

6 (5 ILCS 80/4.17)

7 Sec. 4.17. Acts repealed on January 1, 2007. The following
8 are repealed on January 1, 2007:

9 The Boiler and Pressure Vessel Repairer Regulation
10 Act.

11 The Structural Pest Control Act.

12 Articles II, III, IV, V, V 1/2, VI, VIIA, VIIB, VIIC,
13 XVII, XXXI, XXXI 1/4, and XXXI 3/4 of the Illinois
14 Insurance Code.

15 The Clinical Psychologist Licensing Act.

16 ~~The Illinois Optometric Practice Act of 1987.~~

17 The Medical Practice Act of 1987.

18 The Environmental Health Practitioner Licensing Act.

19 (Source: P.A. 92-837, eff. 8-22-02.)

20 (5 ILCS 80/4.27 new)

21 Sec. 4.27. Act repealed on January 1, 2017. The following
22 Act is repealed on January 1, 2017:

23 The Illinois Optometric Practice Act of 1987.

24 Section 10. The Illinois Optometric Practice Act of 1987 is
25 amended by changing Sections 3, 4.5, 5, 6, 7, 8, 9, 10, 11, 12,
26 13, 14, 15.1, 16, 17, 19, 20, 21, 23, 24, 25, 26.1, 26.2, 26.5,
27 26.6, 26.7, 26.8, 26.9, 26.10, 26.11, 26.12, 26.13, and 28 and
28 by adding Section 11.5 as follows:

29 (225 ILCS 80/3) (from Ch. 111, par. 3903)

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

2 Sec. 3. Practice of optometry defined; referrals;
3 manufacture of lenses and prisms.

4 (a) The practice of optometry is defined as the employment
5 of any and all means for the examination, diagnosis, and
6 treatment of the human visual system, the human eye, and its
7 appendages without the use of surgery, including but not
8 limited to: the appropriate use of ~~diagnostic ocular~~
9 ~~pharmaceutical agents and therapeutic~~ ocular pharmaceutical
10 agents; refraction and other determinants of visual function;
11 prescribing corrective lenses or prisms; prescribing,
12 dispensing, or management of contact lenses; vision therapy;
13 visual rehabilitation; or any other procedures taught in
14 schools and colleges of optometry approved by the Department,
15 and not specifically restricted in this Act, subject to
16 demonstrated competency and training as required by the Board,
17 and pursuant to rule or regulation approved by the Board and
18 adopted by the Department.

19 A person shall be deemed to be practicing optometry within
20 the meaning of this Act who:

21 (1) In any way presents himself or herself to be
22 qualified to practice optometry.

23 (2) Performs refractions or employs any other
24 determinants of visual function.

25 (3) Employs any means for the adaptation of lenses or
26 prisms.

27 (4) Prescribes corrective lenses, prisms, vision
28 therapy, visual rehabilitation, or ocular pharmaceutical
29 agents.

30 (5) Prescribes or manages contact lenses for
31 refractive, cosmetic, or therapeutic purposes.

32 (6) Evaluates the need for, or prescribes, low vision
33 aids to partially sighted persons.

34 (7) Diagnoses or treats any ocular abnormality,
35 disease, or visual or muscular anomaly of the human eye or
36 visual system.

1 (8) Practices, or offers or attempts to practice,
2 optometry as defined in this Act either on his or her own
3 behalf or as an employee of a person, firm, or corporation,
4 whether under the supervision of his or her employer or
5 not.

6 Nothing in this Section shall be interpreted (i) to prevent
7 a person from functioning as an assistant under the direct
8 supervision of a person licensed by the State of Illinois to
9 practice optometry or medicine in all of its branches or (ii)
10 to prohibit visual screening programs that are conducted
11 without a fee (other than voluntary donations), by charitable
12 organizations acting in the public welfare under the
13 supervision of a committee composed of persons licensed by the
14 State of Illinois to practice optometry or persons licensed by
15 the State of Illinois to practice medicine in all of its
16 branches.

17 (b) When, in the course of providing optometric services to
18 any person, an optometrist licensed under this Act finds an
19 indication of a disease or condition of the eye which in his or
20 her professional judgment requires professional service
21 outside the scope of practice as defined in this Act, he or she
22 shall refer such person to a physician licensed to practice
23 medicine in all of its branches, or other appropriate health
24 care practitioner. Nothing in this Act shall preclude an
25 optometrist ~~who is therapeutically certified~~ from rendering
26 appropriate nonsurgical ~~ophthalmic~~ emergency care.

27 (c) Nothing contained in this Section shall prohibit a
28 person from manufacturing ophthalmic lenses and prisms or the
29 fabrication of contact lenses according to the specifications
30 prescribed by an optometrist or a physician licensed to
31 practice medicine in all of its branches, but shall
32 specifically prohibit the sale or delivery of ophthalmic
33 lenses, prisms, and contact lenses without a prescription
34 signed by an optometrist or a physician licensed to practice
35 medicine in all of its branches.

36 (d) Nothing in this Act shall restrict the filling of a

1 prescription by a pharmacist licensed under the Pharmacy
2 Practice Act of 1987.

3 (Source: P.A. 90-655, eff. 7-30-99; 91-141, eff. 7-16-99.)

4 (225 ILCS 80/4.5)

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

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

7 (a) Any person who practices, offers to practice, attempts
8 to practice, or holds oneself out to practice optometry without
9 being licensed under this Act or any individual or entity that
10 causes or attempts to cause a licensed optometrist or any other
11 person under that individual's or entity's control to violate
12 this Act or any other State or federal law or rule related to
13 the practice of optometry shall, in addition to any other
14 penalty provided by law, pay a civil penalty to the Department
15 in an amount not to exceed \$10,000 ~~\$5,000~~ for each offense as
16 determined by the Department. The civil penalty shall be
17 assessed by the Department after a hearing is held in
18 accordance with the provisions set forth in this Act regarding
19 the provision of a hearing for the discipline of a licensee.

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

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

27 (Source: P.A. 93-754, eff. 7-16-04.)

28 (225 ILCS 80/5) (from Ch. 111, par. 3905)

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

30 Sec. 5. Title and designation of licensed optometrists.
31 Every person to whom a valid existing license as an optometrist
32 has been issued under this Act, shall be designated
33 professionally as an "optometrist" and not otherwise, and any
34 such licensed optometrist may, in connection with the practice

1 of his or her profession, use the title or designation of
2 "optometrist", and, if entitled by degree from a college or
3 university recognized by the Department of Financial and
4 Professional Regulation, may use the title of "Doctor of
5 Optometry", or the abbreviation "O.D.". When the name of such
6 licensed optometrist is used professionally in oral, written,
7 or printed announcements, prescriptions, professional cards,
8 or publications for the information of the public, and is
9 preceded by the title "Doctor" or the abbreviation "Dr.", the
10 explanatory designation of "optometrist", "optometry", or
11 "Doctor of Optometry" shall be added immediately following such
12 title and name. When such announcement, prescription,
13 professional care or publication is in writing or in print,
14 such explanatory addition shall be in writing, type, or print
15 not less than one-half the size of that used in said name and
16 title. No person other than the holder of a valid existing
17 license under this Act shall use the title and designation of
18 "Doctor of Optometry", "O.D.", or "optometrist", either
19 directly or indirectly in connection with his or her profession
20 or business.

21 (Source: P.A. 89-702, eff. 7-1-97.)

22 (225 ILCS 80/6) (from Ch. 111, par. 3906)

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

24 Sec. 6. Display of license ~~or certificate~~; change of
25 address; record of examinations and prescriptions. Every
26 holder of a license ~~or certificate~~ under this Act shall display
27 such license ~~or certificate~~ on a conspicuous place in the
28 office or offices wherein such holder practices optometry and
29 every holder shall, whenever requested, exhibit such license ~~or~~
30 ~~certificate~~ to any representative of the Department, and shall
31 notify the Department of the address or addresses and of every
32 change thereof, where such holder shall practice optometry.

33 Every licensed optometrist shall keep a record of
34 examinations made and prescriptions issued, which record shall
35 include the names of persons examined and for whom

1 prescriptions were prepared, and shall be signed by the
2 licensed optometrist and retained by him in the office in which
3 such professional service was rendered. Such records shall be
4 preserved by the optometrist for a period designated by the
5 Department. A copy of such records shall be provided, upon
6 written request, to the person examined, or his or her
7 designee.

8 (Source: P.A. 91-141, eff. 7-16-99.)

9 (225 ILCS 80/7) (from Ch. 111, par. 3907)

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

11 Sec. 7. Additional licenses ~~and certificates~~. Upon proper
12 application and payment of the prescribed fee, additional
13 licenses ~~and certificates~~ may be issued to active practitioners
14 who are engaged in the practice of optometry at more than one
15 address. A license must be displayed at each location where the
16 licensee engages in the practice of optometry. Nothing
17 contained herein, however, shall be construed to require a
18 licensed optometrist in active practice to obtain an additional
19 license ~~or certificate~~ for the purpose of serving on the staff
20 of a hospital or an institution that receives no fees (other
21 than entrance registration fees) for the services rendered by
22 the optometrist and for which the optometrist receives no fees
23 or compensation directly or indirectly for such services
24 rendered. Nothing contained herein shall be construed to
25 require a licensed optometrist to obtain an additional license
26 ~~or certificate~~ for the purpose of rendering necessary
27 optometric services for his or her patients confined to their
28 homes, hospitals or institutions, or to act in an advisory
29 capacity, with or without remuneration, in any industry, school
30 or institution.

31 (Source: P.A. 89-702, eff. 7-1-97.)

32 (225 ILCS 80/8) (from Ch. 111, par. 3908)

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

34 Sec. 8. Permitted activities. This Act does not prohibit:

1 (1) Any person licensed in this State under any other Act
2 from engaging in the practice for which he or she is licensed.

3 (2) The practice of optometry by a person who is employed
4 by the United States government or any bureau, division or
5 agency thereof while in the discharge of the employee's
6 official duties.

7 (3) The practice of optometry that is included in their
8 program of study by students enrolled in schools of optometry
9 or in continuing education ~~refresher~~ courses approved by the
10 Department.

11 (4) Persons, firms, and corporations who manufacture or
12 deal in eye glasses or spectacles in a store, shop, or other
13 permanently established place of business, and who neither
14 practice nor attempt to practice optometry from engaging the
15 services of one or more licensed optometrists, nor prohibit any
16 such licensed optometrist when so engaged, to practice
17 optometry as defined in Section 3 of this Act, when the person,
18 or firm, or corporation so conducts his or her or its business
19 in a permanently established place and in such manner that his
20 or her or its activities, in any department in which such
21 optometrist is engaged, insofar as the practice of optometry is
22 concerned, are in keeping with the limitations imposed upon
23 individual practitioners of optometry by subparagraphs 17, 23,
24 26, 27, 28, 29, and 30 of Section 24 of this Act; provided,
25 that such licensed optometrist or optometrists shall not be
26 exempt, by reason of such relationship, from compliance with
27 the provisions of this Act as prescribed for individual
28 practitioners of optometry.

29 (Source: P.A. 89-702, eff. 7-1-97.)

30 (225 ILCS 80/9) (from Ch. 111, par. 3909)

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

32 Sec. 9. Definitions. In this Act:

33 (1) "Department" means the Department of Financial and
34 Professional Regulation.

35 (2) "Secretary ~~Director~~" means the Secretary ~~Director~~

1 of Financial and Professional Regulation.

2 (3) "Board" means the Illinois Optometric Licensing
3 and Disciplinary Board appointed by the Secretary
4 ~~Director~~.

5 (4) "License" means the document issued by the
6 Department authorizing the person named thereon to
7 practice optometry.

8 (5) (Blank). ~~"Certificate" means the document issued~~
9 ~~by the Department authorizing the person named thereon as a~~
10 ~~certified optometrist qualified to use diagnostic topical~~
11 ~~ocular pharmaceutical agents or therapeutic ocular~~
12 ~~pharmaceutical agents.~~

13 (6) "Direct supervision" means supervision of any
14 person assisting an optometrist, requiring that the
15 optometrist authorize the procedure, remain in the
16 facility while the procedure is performed, approve the work
17 performed by the person assisting before dismissal of the
18 patient, but does not mean that the optometrist must be
19 present with the patient, during the procedure.

20 (Source: P.A. 89-140, eff. 1-1-96; 89-702, eff. 7-1-97.)

21 (225 ILCS 80/10) (from Ch. 111, par. 3910)

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

23 Sec. 10. Powers and duties of Department; rules; report.
24 The Department shall exercise the powers and duties prescribed
25 by the Civil Administrative Code of Illinois for the
26 administration of Licensing Acts and shall exercise such other
27 powers and duties necessary for effectuating the purpose of
28 this Act.

29 The Secretary ~~Director~~ shall promulgate Rules consistent
30 with the provisions of this Act, for the administration and
31 enforcement thereof and may prescribe forms that shall be
32 issued in connection therewith. The rules shall include
33 standards and criteria for licensure and certification, and
34 professional conduct and discipline.

35 The Department shall consult with the Board in promulgating

1 rules. Notice of proposed rulemaking shall be transmitted to
2 the Board and the Department shall review the Board's responses
3 and any recommendations made therein. The Department shall
4 notify the Board in writing with explanations of deviations
5 from the Board's recommendations and responses. The Department
6 may solicit the advice of the Board on any matter relating to
7 the administration and enforcement of this Act.

8 (Source: P.A. 89-702, eff. 7-1-97.)

9 (225 ILCS 80/11) (from Ch. 111, par. 3911)

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

11 Sec. 11. Optometric Licensing and Disciplinary Board. The
12 Secretary ~~Director~~ shall appoint an Illinois Optometric
13 Licensing and Disciplinary Board as follows: Seven persons who
14 shall be appointed by and shall serve in an advisory capacity
15 to the Secretary ~~Director~~. Five members must be lawfully and
16 actively engaged in the practice of optometry in this State,
17 one member shall be a licensed optometrist ~~who is a member,~~
18 with a full-time faculty appointment with the Illinois College
19 of Optometry, and one member must be a member of the public who
20 shall be a voting member and is not licensed under this Act, or
21 a similar Act of another jurisdiction, or have any connection
22 with the profession. Neither the public member nor the faculty
23 member shall participate in the preparation or administration
24 of the examination of applicants for licensure or
25 certification.

26 Members shall serve 4-year terms and until their successors
27 are appointed and qualified. No member shall be appointed to
28 the Board for more than 2 successive 4-year terms, not counting
29 any partial terms when appointed to fill the unexpired portion
30 of a vacated term. Appointments to fill vacancies shall be made
31 in the same manner as original appointments, for the unexpired
32 portion of the vacated term. ~~Initial terms shall begin upon the~~
33 ~~effective date of this Act. Board members in office on that~~
34 ~~date may be appointed to specific terms as indicated herein.~~

35 The Board shall annually elect a chairperson and a

1 vice-chairperson, both of whom shall be licensed optometrists.

2 The membership of the Board should reasonably reflect
3 representation from the geographic areas in this State.

4 A majority of the Board members currently appointed shall
5 constitute a quorum. A vacancy in the membership of the Board
6 shall not impair the right of a quorum to perform all of the
7 duties of the Board.

8 The Secretary ~~Director~~ may terminate the appointment of any
9 member for cause.

10 The Secretary ~~Director~~ shall give due consideration to all
11 recommendations of the Board, and in the event that the
12 Secretary ~~Director~~ disagrees with or takes action contrary to
13 the recommendation of the Board, he or she shall provide the
14 Board with a written and specific explanation of this action.
15 None of the functions, powers or duties of the Department with
16 respect to policy matters relating to licensure, discipline,
17 and examination, including the promulgation of such rules as
18 may be necessary for the administration of this Act, shall be
19 exercised by the Department except upon review of the Board.

20 Without, in any manner, limiting the power of the
21 Department to conduct investigations, the Board may recommend
22 to the Secretary ~~Director~~ that one or more licensed
23 optometrists be selected by the Secretary ~~Director~~ to conduct
24 or assist in any investigation pursuant to this Act. Such
25 licensed optometrist may receive remuneration as determined by
26 the Secretary ~~Director~~.

27 (Source: P.A. 91-141, eff. 7-16-99.)

28 (225 ILCS 80/11.5 new)

29 (Section scheduled to be repealed on January 1, 2017)

30 Sec. 11.5. Optometric coordinator. The Secretary shall,
31 upon recommendation by the Board and with consideration of
32 credentials and experience commensurate with the requirements
33 of the position, select an optometric coordinator who shall not
34 be a member of the Board. The optometric coordinator shall be
35 an optometrist licensed to practice in Illinois and shall be

1 employed by the Department contractually or in conformance with
2 the Personnel Code. The optometric coordinator shall be the
3 chief enforcement officer of this Act and shall serve at the
4 will of the Board.

5 The Department shall employ, in conformity with the
6 Personnel Code, at least one full-time investigator and,
7 contractually, at least one part-time investigator to serve
8 central and southern Illinois in investigating allegations of
9 violations of this Act. The Secretary shall set rates of
10 compensation for these contractors and employees to be paid
11 from the Optometric Licensing and Disciplinary Board Fund.

12 (225 ILCS 80/12) (from Ch. 111, par. 3912)

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

14 Sec. 12. Applications for licenses ~~and certificates.~~
15 Applications for original licenses ~~and certificates~~ shall be
16 made to the Department in writing or electronically on forms
17 prescribed by the Department and shall be accompanied by the
18 required fee, which shall not be refundable. Any such
19 application shall require such information as in the judgment
20 of the Department will enable the Department to pass on the
21 qualifications of the applicant for a license ~~or certificate.~~

22 ~~An applicant for initial licensure in Illinois shall apply~~
23 ~~for and be qualified to receive and shall maintain~~
24 ~~certification to use diagnostic and therapeutic ocular~~
25 ~~pharmaceuticals.~~

26 Applicants have 3 years from the date of application to
27 complete the application process. If the process has not been
28 completed within 3 years, the application shall be denied, the
29 application fees shall be forfeited, and the applicant must
30 reapply and meet the requirements in effect at the time of
31 reapplication.

32 Applicants who meet all other conditions for licensure and
33 who will be practicing optometry in a residency program
34 approved by the Board may apply for and receive a limited one
35 year license to practice optometry as a resident in the

1 program. A resident licensee who receives a limited license
2 under this Section shall have the same privileges and
3 responsibilities as a full ~~therapeutically certified~~ licensee
4 when practicing within a residency program.

5 (Source: P.A. 91-141, eff. 7-16-99; 92-451, eff. 8-21-01.)

6 (225 ILCS 80/13) (from Ch. 111, par. 3913)

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

8 Sec. 13. Examination of applicants. The Department shall
9 promulgate rules establishing examination requirements for
10 applicants as optometrists. The examination shall accurately
11 evaluate the applicant's ability to perform to the minimum
12 standards of the practice of optometry ~~of applicants shall be~~
13 ~~of a character to give a fair test of the qualifications of the~~
14 ~~applicant to practice optometry.~~

15 Applicants for examination shall be required to pay, either
16 to the Department or the designated testing service, a fee
17 covering the cost of providing the examination. ~~Failure to~~
18 ~~appear for the examination on the scheduled date, at the time~~
19 ~~and place specified, after the applicant's application for~~
20 ~~examination has been received and acknowledged by the~~
21 ~~Department or the designated testing service, shall result in~~
22 ~~the forfeiture of the examination fee.~~

23 The Department may employ consultants for the purpose of
24 preparing and conducting examinations.

25 (Source: P.A. 89-702, eff. 7-1-97.)

26 (225 ILCS 80/14) (from Ch. 111, par. 3914)

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

28 Sec. 14. A person shall be qualified for initial licensure
29 as an optometrist if that person has applied in writing in form
30 and substance satisfactory to the Department and who:

31 (1) has not been convicted of any of the provisions of
32 Section 24 of this Act which would be grounds for discipline
33 under this Act;

34 (2) has graduated, after January 1, 1994, from a program of

1 optometry education approved by the Department or has
2 graduated, prior to January 1, 1994, and has met substantially
3 equivalent criteria established by the Department;

4 (3) (blank); and

5 (4) has met all examination requirements including the
6 passage of a nationally recognized examination authorized by
7 the Department. Each applicant shall be tested on theoretical
8 knowledge and clinical practice skills.

9 (Source: P.A. 89-387, eff. 8-20-95.)

10 (225 ILCS 80/15.1)

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

12 Sec. 15.1. Diagnostic and therapeutic authority
13 certification.

14 (a) For purposes of the Act, "ocular pharmaceutical agents"
15 means topical anesthetics, topical mydriatics, topical
16 cycloplegics, topical miotics, topical anti-infective agents,
17 topical anti-allergy agents, topical anti-glaucoma agents,
18 topical anti-inflammatory agents, topical anesthetic agents,
19 over-the-counter agents, non-narcotic oral analgesic agents,
20 and mydriatic reversing agents when used for diagnostic or
21 therapeutic purposes.

22 (b) A licensed optometrist may remove superficial foreign
23 bodies from the human eye and adnexa and may give orders for
24 patient care to a nurse licensed to practice under Illinois
25 law.

26 (c) An optometrist's license shall be revoked or suspended
27 by the Department upon recommendation of the Board based upon
28 either of the following causes:

29 (1) grave or repeated misuse of any ocular
30 pharmaceutical agent; and

31 (2) the use of any agent or procedure in the course of
32 optometric practice by an optometrist not properly
33 authorized under this Act.

34 (d) The Secretary of Financial and Professional Regulation
35 shall notify the Director of Public Health as to the categories

1 of ocular pharmaceutical agents permitted for use by an
2 optometrist. The Director of Public Health shall in turn notify
3 every licensed pharmacist in the State of the categories of
4 ocular pharmaceutical agents that can be utilized and
5 prescribed by an optometrist. Any licensed optometrist may
6 apply to the Department, in the form the Department may
7 prescribe, for a certificate to use diagnostic topical ocular
8 pharmaceutical agents and the Department shall certify the
9 applicant if:

10 ~~(1) the applicant has received appropriate training~~
11 ~~and certification from a properly accredited institution~~
12 ~~of higher learning for the certificate; and~~

13 ~~(2) the applicant has demonstrated training and~~
14 ~~competence to use diagnostic topical ocular pharmaceutical~~
15 ~~agents as required by the Board pursuant to rule or~~
16 ~~regulation approved by the Board and adopted by the~~
17 ~~Department.~~

18 ~~A certificate to use topical ocular pharmaceutical agents~~
19 ~~for diagnostic purposes previously issued by the Department~~
20 ~~that is current and valid on the effective date of this~~
21 ~~amendatory Act of 1995 is valid until its expiration date and~~
22 ~~entitles the holder of the certificate to use diagnostic~~
23 ~~topical ocular pharmaceutical agents as provided in this Act.~~

24 ~~(b) Any licensed optometrist may apply to the Department,~~
25 ~~in the form the Department may prescribe, for a certificate to~~
26 ~~use therapeutic ocular pharmaceutical agents and the~~
27 ~~Department shall certify the applicant if:~~

28 ~~(1) the applicant has received a certificate to use~~
29 ~~diagnostic topical ocular pharmaceutical agents under~~
30 ~~subsection (a);~~

31 ~~(2) the applicant has received appropriate training~~
32 ~~and certification from a properly accredited institution~~
33 ~~of higher learning for the certificate; and~~

34 ~~(3) the applicant has demonstrated training and~~
35 ~~competence to use therapeutic ocular pharmaceutical agents~~
36 ~~as required by the Board pursuant to rule or regulation~~

1 ~~approved by the Board and adopted by the Department.~~

2 ~~All applicants for license renewal after January 1, 2006~~
3 ~~must apply for and maintain certification to use therapeutic~~
4 ~~ocular pharmaceutical agents.~~

5 ~~(c) For purposes of the Act, "diagnostic topical ocular~~
6 ~~pharmaceutical agents" means anesthetics, mydriatics,~~
7 ~~eyeloplegics, and miotics used for diagnostic purposes as~~
8 ~~defined by the Board pursuant to rule approved by the Board and~~
9 ~~adopted by the Department.~~

10 ~~(d) For the purposes of the Act, "therapeutic ocular~~
11 ~~pharmaceutical agents" means the following when used for~~
12 ~~diagnostic or therapeutic purposes: topical anti-infective~~
13 ~~agents, topical anti-allergy agents, topical anti-glaucoma~~
14 ~~agents, topical anti-inflammatory agents, topical anesthetic~~
15 ~~agents, over the counter agents, non-narcotic oral analgesic~~
16 ~~agents, and mydriatic reversing agents.~~

17 ~~(e) A licensed optometrist who is therapeutically~~
18 ~~certified may remove superficial foreign bodies from the human~~
19 ~~eye and adnexa.~~

20 ~~(e-5) A licensed optometrist who is therapeutically~~
21 ~~certified may give orders for patient care related to the use~~
22 ~~of therapeutic ocular pharmaceutical agents to a nurse licensed~~
23 ~~to practice under Illinois law.~~

24 ~~(f) An optometrist's certificate to use diagnostic topical~~
25 ~~ocular pharmaceutical agents shall be revoked or suspended by~~
26 ~~the Department upon recommendation of the Board based on the~~
27 ~~misuse of any diagnostic topical ocular pharmaceutical agent.~~

28 ~~(g) An optometrist's certificate to use therapeutic ocular~~
29 ~~pharmaceutical agents shall be revoked or suspended by the~~
30 ~~Department upon recommendation of the Board based on the misuse~~
31 ~~of any therapeutic ocular pharmaceutical agent.~~

32 ~~(h) An optometrist's license shall be revoked or suspended~~
33 ~~by the Department upon recommendation of the Board based upon~~
34 ~~either of the following causes:~~

35 ~~(1) grave or repeated misuse of any diagnostic or~~
36 ~~therapeutic ocular pharmaceutical agent; and~~

1 ~~(2) the use of any agent or procedure in the course of~~
2 ~~optometric practice by an optometrist not properly~~
3 ~~certified under this Section.~~

4 ~~(i) The provisions of Sections 26.2, 26.3, 26.5, 26.10,~~
5 ~~26.11, 26.14, and 26.15 of this Act shall apply to all~~
6 ~~disciplinary proceedings brought under this Section.~~

7 ~~(j) The Director may temporarily suspend a certificate to~~
8 ~~use diagnostic topical ocular pharmaceuticals or a certificate~~
9 ~~to use therapeutic ocular pharmaceuticals or a license to~~
10 ~~practice optometry, without a hearing, simultaneously with the~~
11 ~~institution of proceedings for a hearing based upon a violation~~
12 ~~of subsection (f), (g), or (h) of this Section, if the Director~~
13 ~~finds that evidence in his or her possession indicates that the~~
14 ~~continued use of diagnostic topical ocular pharmaceuticals, or~~
15 ~~therapeutic ocular pharmaceuticals, or continued practice of~~
16 ~~optometry would constitute an immediate danger to the public.~~
17 ~~In the event that the Director temporarily suspends a~~
18 ~~certificate to use diagnostic topical ocular pharmaceuticals,~~
19 ~~therapeutic ocular pharmaceuticals, or a license to practice~~
20 ~~optometry without a hearing, a hearing by the Board shall be~~
21 ~~commenced within 15 days after suspension has occurred, and~~
22 ~~concluded without appreciable delay.~~

23 ~~(k) The Director of the Department of Professional~~
24 ~~Regulation shall notify the Director of the Department of~~
25 ~~Public Health as to the categories of ocular pharmaceutical~~
26 ~~agents permitted for use by an optometrist. The Director of the~~
27 ~~Department of Public Health shall in turn notify every licensed~~
28 ~~pharmacist in the State of the categories of ocular~~
29 ~~pharmaceutical agents that can be utilized and prescribed by an~~
30 ~~optometrist.~~

31 ~~(l) Nothing in this Act prohibits the use of diagnostic~~
32 ~~topical ocular pharmaceutical agents or therapeutic ocular~~
33 ~~pharmaceutical agents in the practice of optometry by~~
34 ~~optometrists certified for such use under this Section.~~

35 (Source: P.A. 90-73, eff. 7-8-97; 91-141, eff. 7-16-99.)

1 (225 ILCS 80/16) (from Ch. 111, par. 3916)

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

3 Sec. 16. Renewal, reinstatement or restoration of
4 licenses; military service. The expiration date and renewal
5 period for each license ~~and certificate~~ issued under this Act
6 shall be set by rule.

7 All renewal applicants shall provide proof of having met
8 the requirements of continuing education set forth in the rules
9 of the Department. The Department shall, by rule, provide for
10 an orderly process for the reinstatement of licenses which have
11 not been renewed due to failure to meet the continuing
12 education requirements. The continuing education requirement
13 may be waived for such good cause, including but not limited to
14 illness or hardship, as defined by rules of the Department.

15 The Department shall establish by rule a means for the
16 verification of completion of the continuing education
17 required by this Section. This verification may be accomplished
18 through audits of records maintained by registrants; by
19 requiring the filing of continuing education certificates with
20 the Department; or by other means established by the
21 Department.

22 Any optometrist who has permitted his or her license to
23 expire or who has had his or her license on inactive status may
24 have his or her license restored by making application to the
25 Department and filing proof acceptable to the Department of his
26 or her fitness to have his or her license restored and by
27 paying the required fees. Such proof of fitness may include
28 evidence certifying to active lawful practice in another
29 jurisdiction and must include proof of the completion of the
30 continuing education requirements specified in the rules for
31 the preceding license renewal period ~~for the applicant's level~~
32 ~~of certification~~ that has been completed during the 2 years
33 prior to the application for license restoration.

34 The Department shall determine, by an evaluation program
35 established by rule, his or her fitness for restoration of his
36 or her license and shall establish procedures and requirements

1 for such restoration.

2 However, any optometrist whose license expired while he or
3 she was (1) in Federal Service on active duty with the Armed
4 Forces of the United States, or the State Militia called into
5 service or training, or (2) in training or education under the
6 supervision of the United States preliminary to induction into
7 the military service, may have his or her license restored
8 without paying any lapsed renewal fees if within 2 years after
9 honorable termination of such service, training, or education,
10 he or she furnishes the Department with satisfactory evidence
11 to the effect that he or she has been so engaged and that his or
12 her service, training, or education has been so terminated.

13 (Source: P.A. 92-451, eff. 8-21-01; 92-750, eff. 1-1-03.)

14 (225 ILCS 80/17) (from Ch. 111, par. 3917)

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

16 Sec. 17. Inactive status. Any optometrist who notifies the
17 Department in writing on forms prescribed by the Department,
18 may elect to place his or her license on an inactive status and
19 shall be excused from payment of renewal fees until he or she
20 notifies the Department in writing of his intent to restore his
21 or her license.

22 Any optometrist requesting restoration from inactive
23 status shall be required to pay the current renewal fee, to
24 provide proof of completion of the continuing education
25 requirements specified in the rules for the preceding license
26 renewal period ~~for the applicant's level of certification~~ that
27 has been completed during the 2 years prior to the application
28 for restoration, and to restore his or her license as provided
29 by rule of the Department. All licenses without "Therapeutic
30 Certification" that are on inactive status as of March 31, 2006
31 shall be placed on non-renewed status and may only be restored
32 after the licensee meets those requirements established by the
33 Department.

34 Any optometrist whose license is in an inactive status
35 shall not practice optometry in the State of Illinois.

1 Any licensee who shall practice while his or her license is
2 lapsed or on inactive status shall be considered to be
3 practicing without a license which shall be grounds for
4 discipline under Section 24 subsection (a) of this Act.

5 (Source: P.A. 92-451, eff. 8-21-01.)

6 (225 ILCS 80/19) (from Ch. 111, par. 3919)

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

8 Sec. 19. Fees. The Department shall provide by rule, for a
9 schedule of fees to be paid for licenses or certificates of
10 registration by all applicants.

11 ~~The (a) Except as provided in paragraph (b) below, the fees~~
12 ~~for the administration and enforcement of this Act, including~~
13 ~~but not limited to, original licensure and certification,~~
14 ~~renewal and restoration, shall be set by rule. The fees shall~~
15 ~~not be refundable.~~

16 ~~(b) Applicants for examination shall be required to pay,~~
17 ~~either to the Department or the designated testing service, a~~
18 ~~fee covering the cost of initial screening to determine~~
19 ~~eligibility and for providing the examination. Failure to~~
20 ~~appear for the examination on the scheduled date at the time~~
21 ~~and place specified, after the applicant's application for~~
22 ~~examination has been received and acknowledged by the~~
23 ~~Department or the designated testing service, shall result in~~
24 ~~the forfeiture of the examination fee.~~

25 (Source: P.A. 89-702, eff. 7-1-97.)

26 (225 ILCS 80/20) (from Ch. 111, par. 3920)

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

28 Sec. 20. Fund. All moneys received by the Department
29 pursuant to this Act shall be deposited in the Optometric
30 Licensing and Disciplinary Board Fund, which is hereby created
31 as a special fund in the State Treasury, and shall be used for
32 the administration of this Act, including: (a) by the Board in
33 the exercise of its powers and performance of its duties, as
34 such use is made by the Department with full consideration of

1 all recommendations of the Board; (b) for costs directly
2 related to license renewal of persons licensed under this Act;
3 and (c) for direct and allocable indirect costs related to the
4 public purposes of the Department of Financial and Professional
5 Regulation. Subject to appropriation, moneys in the Optometric
6 Licensing and Disciplinary Board Fund may be used for the
7 Optometric Education Scholarship Program administered by the
8 Illinois Student Assistance Commission pursuant to Section
9 65.70 of the Higher Education Student Assistance Act.

10 Moneys in the Fund may be transferred to the Professions
11 Indirect Cost Fund as authorized under Section 2105-300 of the
12 Department of Professional Regulation Law (20 ILCS
13 2105/2105-300).

14 Money in the Optometric Licensing and Disciplinary Board
15 Fund may be invested and reinvested, with all earnings received
16 from such investment to be deposited in the Optometric
17 Licensing and Disciplinary Board Fund and used for the same
18 purposes as fees deposited in such fund.

19 ~~Any monies in the Optometric Examining and Disciplinary~~
20 ~~Board Fund on the effective date of this Act shall be~~
21 ~~transferred to the Optometric Licensing and Disciplinary Board~~
22 ~~Fund.~~

23 ~~Any obligations of the Optometric Examining and~~
24 ~~Disciplinary Board Fund unpaid on the effective date of this~~
25 ~~Act shall be paid from the Optometric Licensing and~~
26 ~~Disciplinary Board Fund.~~

27 (Source: P.A. 91-239, eff. 1-1-00; 92-569, eff. 6-26-02.)

28 (225 ILCS 80/21) (from Ch. 111, par. 3921)

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

30 Sec. 21. The Department shall maintain a roster of the
31 names and addresses of all licensees ~~and certificate holders~~
32 and of all persons whose licenses ~~or certificates~~ have been
33 suspended or revoked. This roster shall be available upon
34 written request and payment of the required fee.

35 (Source: P.A. 85-896.)

1 (225 ILCS 80/23) (from Ch. 111, par. 3923)

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

3 Sec. 23. Practice by corporations. No license shall be
4 issued by the Department to any corporation that (i) has a
5 stated purpose that includes, or (ii) practices or holds itself
6 out as available to practice, optometry or any of the functions
7 described in Section 3 of the Act, ~~unless it is organized under~~
8 ~~the Professional Service Corporation Act.~~

9 (Source: P.A. 89-702, eff. 7-1-97.)

10 (225 ILCS 80/24) (from Ch. 111, par. 3924)

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

12 Sec. 24. Grounds for disciplinary action.

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

19 (1) Violations of this Act, or of the rules promulgated
20 hereunder.

21 (2) Conviction of any crime under the laws of any U.S.
22 jurisdiction thereof that is a felony or that is a
23 misdemeanor of which an essential element is dishonesty, or
24 of any crime that is directly related to the practice of
25 the profession.

26 (3) Making any misrepresentation for the purpose of
27 obtaining a license ~~or certificate~~.

28 (4) Professional incompetence or gross negligence in
29 the practice of optometry.

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

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

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

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

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

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

16 (11) Directly or indirectly giving to or receiving from
17 any person, firm, corporation, partnership, or association
18 any fee, commission, rebate, or other form of compensation
19 for any professional services not actually or personally
20 rendered. This shall not be deemed to include (i) rent or
21 other remunerations paid to an individual, partnership, or
22 corporation by an optometrist for the lease, rental, or use
23 of space, owned or controlled, by the individual,
24 partnership, corporation or association, and (ii) the
25 division of fees between an optometrist and related
26 professional service providers with whom the optometrist
27 practices in a professional corporation organized under
28 Section 3.6 of the Professional Service Corporation Act.

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

32 (13) Abandonment of a patient.

33 (14) Willfully making or filing false records or
34 reports in his or her practice, including but not limited
35 to false records filed with State agencies or departments.

36 (15) Willfully failing to report an instance of

1 suspected child abuse or neglect as required by the Abused
2 and Neglected Child Reporting Act.

3 (16) Physical illness, including but not limited to,
4 deterioration through the aging process, or loss of motor
5 skill, mental illness, or disability that results in the
6 inability to practice the profession with reasonable
7 judgment, skill, or safety.

8 (17) Solicitation of professional services other than
9 permitted advertising.

10 (18) Failure to provide a patient with a copy of his or
11 her record or prescription upon the written request of the
12 patient.

13 (19) Conviction by any court of competent
14 jurisdiction, either within or without this State, of any
15 violation of any law governing the practice of optometry,
16 conviction in this or another State of any crime that is a
17 felony under the laws of this State or conviction of a
18 felony in a federal court, if the Department determines,
19 after investigation, that such person has not been
20 sufficiently rehabilitated to warrant the public trust.

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

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

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

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

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

1 (25) Maintaining a professional relationship with any
2 person, firm, or corporation when the optometrist knows, or
3 should know, that such person, firm, or corporation is
4 violating this Act.

5 (26) Promotion of the sale of drugs, devices,
6 appliances or goods provided for a client or patient in
7 such manner as to exploit the patient or client for
8 financial gain of the licensee.

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

12 (28) Use by a licensed optometrist of the word
13 "infirmary", "hospital", "school", "university", in
14 English or any other language, in connection with the place
15 where optometry may be practiced or demonstrated.

16 (29) Continuance of an optometrist in the employ of any
17 person, firm or corporation, or as an assistant to any
18 optometrist or optometrists, directly or indirectly, after
19 his or her employer or superior has been found guilty of
20 violating or has been enjoined from violating the laws of
21 the State of Illinois relating to the practice of
22 optometry, when the employer or superior persists in that
23 violation.

24 (30) The performance of optometric service in
25 conjunction with a scheme or plan with another person, firm
26 or corporation known to be advertising in a manner contrary
27 to this Act or otherwise violating the laws of the State of
28 Illinois concerning the practice of optometry.

29 (31) Failure to provide satisfactory proof of having
30 participated in approved continuing education programs as
31 determined by the Board and approved by the Secretary
32 ~~Director~~. Exceptions for extreme hardships are to be
33 defined by the rules of the Department.

34 (32) Willfully making or filing false records or
35 reports in the practice of optometry, including, but not
36 limited to false records to support claims against the

1 medical assistance program of the Department of Healthcare
2 and Family Services (formerly Department of Public Aid)
3 under the Illinois Public Aid Code.

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

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

15 (35) Violation of the Health Care Worker Self-Referral
16 Act.

17 The Department may refuse to issue or may suspend the
18 license ~~or certificate~~ of any person who fails to file a
19 return, or to pay the tax, penalty or interest shown in a filed
20 return, or to pay any final assessment of the tax, penalty or
21 interest, as required by any tax Act administered by the
22 Illinois Department of Revenue, until such time as the
23 requirements of any such tax Act are satisfied.

24 (a-5) In enforcing this Section, the Board upon a showing
25 of a possible violation, may compel any individual licensed to
26 practice under this Act, or who has applied for licensure or
27 certification pursuant to this Act, to submit to a mental or
28 physical examination, or both, as required by and at the
29 expense of the Department. The examining physicians or clinical
30 psychologists shall be those specifically designated by the
31 Board. The Board or the Department may order the examining
32 physician or clinical psychologist to present testimony
33 concerning this mental or physical examination of the licensee
34 or applicant. No information shall be excluded by reason of any
35 common law or statutory privilege relating to communications
36 between the licensee or applicant and the examining physician

1 or clinical psychologist. Eye examinations may be provided by a
2 licensed ~~and certified therapeutic~~ optometrist. The individual
3 to be examined may have, at his or her own expense, another
4 physician of his or her choice present during all aspects of
5 the examination. Failure of any individual to submit to a
6 mental or physical examination, when directed, shall be grounds
7 for suspension of a license until such time as the individual
8 submits to the examination if the Board finds, after notice and
9 hearing, that the refusal to submit to the examination was
10 without reasonable cause.

11 If the Board finds an individual unable to practice because
12 of the reasons set forth in this Section, the Board shall
13 require such individual to submit to care, counseling, or
14 treatment by physicians or clinical psychologists approved or
15 designated by the Board, as a condition, term, or restriction
16 for continued, reinstated, or renewed licensure to practice, or
17 in lieu of care, counseling, or treatment, the Board may
18 recommend to the Department to file a complaint to immediately
19 suspend, revoke, or otherwise discipline the license of the
20 individual, or the Board may recommend to the Department to
21 file a complaint to suspend, revoke, or otherwise discipline
22 the license of the individual. Any individual whose license was
23 granted pursuant to this Act, or continued, reinstated,
24 renewed, disciplined, or supervised, subject to such
25 conditions, terms, or restrictions, who shall fail to comply
26 with such conditions, terms, or restrictions, shall be referred
27 to the Secretary ~~Director~~ for a determination as to whether the
28 individual shall have his or her license suspended immediately,
29 pending a hearing by the Board.

30 (b) The determination by a circuit court that a licensee is
31 subject to involuntary admission or judicial admission as
32 provided in the Mental Health and Developmental Disabilities
33 Code operates as an automatic suspension. The suspension will
34 end only upon a finding by a court that the patient is no
35 longer subject to involuntary admission or judicial admission
36 and issues an order so finding and discharging the patient; and

1 upon the recommendation of the Board to the Secretary ~~Director~~
2 that the licensee be allowed to resume his or her practice.

3 (Source: P.A. 89-702, eff. 7-1-97; 90-230, eff. 1-1-98; 90-655,
4 eff. 7-30-98; revised 12-15-05.)

5 (225 ILCS 80/25) (from Ch. 111, par. 3925)

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

7 Sec. 25. Returned checks; fines. Any person who delivers a
8 check or other payment to the Department that is returned to
9 the Department unpaid by the financial institution upon which
10 it is drawn shall pay to the Department, in addition to the
11 amount already owed to the Department, a fine of \$50. The fines
12 imposed by this Section are in addition to any other discipline
13 provided under this Act for unlicensed practice or practice on
14 a nonrenewed license. The Department shall notify the person
15 that payment of fees and fines shall be paid to the Department
16 by certified check or money order within 30 calendar days of
17 the notification. If, after the expiration of 30 days from the
18 date of the notification, the person has failed to submit the
19 necessary remittance, the Department shall automatically
20 terminate the license ~~or certificate~~ or deny the application,
21 without hearing. If, after termination or denial, the person
22 seeks a license ~~or certificate~~, he or she shall apply to the
23 Department for restoration or issuance of the license ~~or~~
24 ~~certificate~~ and pay all fees and fines due to the Department.
25 The Department may establish a fee for the processing of an
26 application for restoration of a license ~~or certificate~~ to pay
27 all expenses of processing this application. The Secretary
28 ~~Director~~ may waive the fines due under this Section in
29 individual cases where the Secretary ~~Director~~ finds that the
30 fines would be unreasonable or unnecessarily burdensome.

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

32 (225 ILCS 80/26.1) (from Ch. 111, par. 3926.1)

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

34 Sec. 26.1. Injunctions; criminal offenses; cease and

1 desist orders.

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

16 (b) If any person shall practice as an optometrist or hold
17 himself or herself out as an optometrist without being licensed
18 under the provisions of this Act then any licensed optometrist,
19 any interested party or any person injured thereby may, in
20 addition to the Secretary ~~Director~~, petition for relief as
21 provided in subsection (a) of this Section.

22 Whoever knowingly practices or offers to practice
23 optometry in this State without being licensed for that purpose
24 shall be guilty of a Class A misdemeanor and for each
25 subsequent conviction, shall be guilty of a Class 4 felony.
26 Notwithstanding any other provision of this Act, all criminal
27 fines, monies, or other property collected or received by the
28 Department under this Section or any other State or federal
29 statute, including, but not limited to, property forfeited to
30 the Department under Section 505 of the Illinois Controlled
31 Substances Act or Section 85 of the Methamphetamine Control and
32 Community Protection Act, shall be deposited into the
33 Optometric Licensing and Disciplinary Board Fund ~~Professional~~
34 ~~Regulation Evidence Fund~~.

35 (c) Whenever in the opinion of the Department any person
36 violates any provision of this Act, the Department may issue a

1 rule to show cause why an order to cease and desist should not
2 be entered against him. The rule shall clearly set forth the
3 grounds relied upon by the Department and shall provide a
4 period of 7 days from the date of the rule to file an answer to
5 the satisfaction of the Department. Failure to answer to the
6 satisfaction of the Department shall cause an order to cease
7 and desist to be issued forthwith.

8 (Source: P.A. 94-556, eff. 9-11-05.)

9 (225 ILCS 80/26.2) (from Ch. 111, par. 3926.2)

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

11 Sec. 26.2. Investigation; notice. The Department may
12 investigate the actions of any applicant or of any person or
13 persons holding or claiming to hold a license. The Department
14 shall, before suspending, revoking, placing on probationary
15 status, or taking any other disciplinary action as the
16 Department may deem proper with regard to any license ~~or~~
17 ~~certificate~~, at least 30 days prior to the date set for the
18 hearing, notify the accused in writing of any charges made and
19 the time and place for a hearing of the charges before the
20 Board, direct him or her to file his or her written answer to
21 the Board under oath within 20 days after the service on him or
22 her of the notice and inform him or her that if he or she fails
23 to file an answer default will be taken against him or her and
24 his or her license ~~or certificate~~ may be suspended, revoked,
25 placed on probationary status, or have other disciplinary
26 action, including limiting the scope, nature or extent of his
27 or her practice, as the Department may deem proper taken with
28 regard thereto. Such written notice may be served by personal
29 delivery or certified delivery or certified or registered mail
30 to the Department. In case the person fails to file an answer
31 after receiving notice, his or her license ~~or certificate~~ may,
32 in the discretion of the Department, be suspended, revoked, or
33 placed on probationary status, or the Department may take
34 whatever disciplinary action deemed proper, including limiting
35 the scope, nature, or extent of the person's practice or the

1 imposition of a fine, without a hearing, if the act or acts
2 charged constitute sufficient grounds for such action under
3 this Act. At the time and place fixed in the notice, the
4 Department shall proceed to hear the charges and the parties or
5 their counsel shall be accorded ample opportunity to present
6 such statements, testimony, evidence and argument as may be
7 pertinent to the charges or to their defense. The Department
8 may continue the hearing from time to time. At the discretion
9 of the Secretary ~~Director~~ after having first received the
10 recommendation of the Board, the accused person's license may
11 be suspended, revoked, placed on probationary status, or
12 whatever disciplinary action as the Secretary ~~Director~~ may deem
13 proper, including limiting the scope, nature, or extent of said
14 person's practice, without a hearing, if the act or acts
15 charged constitute sufficient grounds for such action under
16 this Act.

17 (Source: P.A. 89-702, eff. 7-1-97.)

18 (225 ILCS 80/26.5) (from Ch. 111, par. 3926.5)

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

20 Sec. 26.5. Subpoena; oaths. The Department shall have power
21 to subpoena and bring before it any person in this State and to
22 take testimony either orally or by deposition or both, with the
23 same fees and mileage and in the same manner as prescribed by
24 law in judicial proceedings in civil cases in circuit courts of
25 this State.

26 The Secretary ~~Director~~, the hearing officer and any member
27 of the Board designated by the Secretary ~~Director~~ shall each
28 have power to administer oaths to witnesses at any hearing
29 which the Department is authorized to conduct under this Act,
30 and any other oaths required or authorized to be administered
31 by the Department hereunder.

32 (Source: P.A. 89-702, eff. 7-1-97.)

33 (225 ILCS 80/26.6) (from Ch. 111, par. 3926.6)

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

1 Sec. 26.6. Findings of fact, conclusions of law, and
2 recommendations. At the conclusion of the hearing the Board
3 shall present to the Secretary ~~Director~~ a written report of its
4 findings of fact, conclusions of law and recommendations. The
5 report shall contain a finding whether or not the accused
6 person violated this Act or failed to comply with the
7 conditions required in this Act. The Board shall specify the
8 nature of the violation or failure to comply, and shall make
9 its recommendations to the Secretary ~~Director~~.

10 The report of findings of fact, conclusions of law and
11 recommendations of the Board shall be the basis for the
12 Department's order. If the Secretary ~~Director~~ disagrees in any
13 regard with the report of the Board, the Secretary ~~Director~~ may
14 issue an order in contravention thereof. The Secretary ~~Director~~
15 shall provide within 60 days of taking such action a written
16 report to the Board on any such deviation, and shall specify
17 with particularity the reasons for said action in the final
18 order. The finding is not admissible in evidence against the
19 person in a criminal prosecution brought for the violation of
20 this Act, but the hearing and findings are not a bar to a
21 criminal prosecution brought for the violation of this Act.

22 (Source: P.A. 89-702, eff. 7-1-97.)

23 (225 ILCS 80/26.7) (from Ch. 111, par. 3926.7)

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

25 Sec. 26.7. Hearing officer. Notwithstanding the provisions
26 of Section 26.6 of this Act, the Secretary ~~Director~~ shall have
27 the authority to appoint any attorney duly licensed to practice
28 law in the State of Illinois to serve as the hearing officer in
29 any action for discipline of a license. The Secretary ~~Director~~
30 shall notify the Board of any such appointment. The hearing
31 officer shall have full authority to conduct the hearing. The
32 Board shall have the right to have at least one member present
33 at any hearing conducted by such hearing officer. The hearing
34 officer shall report his or her findings of fact, conclusions
35 of law and recommendations to the Board and the Secretary

1 ~~Director~~. The Board shall have 60 days from receipt of the
2 report to review the report of the hearing officer and present
3 its findings of fact, conclusions of law and recommendations to
4 the Secretary ~~Director~~. If the Board fails to present its
5 report within the 60 day period, the Secretary ~~Director~~ shall
6 issue an order based on the report of the hearing officer. If
7 the Secretary ~~Director~~ disagrees in any regard with the report
8 of the Board or hearing officer, he or she may issue an order
9 in contravention thereof. The Secretary ~~Director~~ shall provide
10 a written explanation to the Board on any such deviation, and
11 shall specify with particularity the reasons for such action in
12 the final order.

13 (Source: P.A. 89-702, eff. 7-1-97.)

14 (225 ILCS 80/26.8) (from Ch. 111, par. 3926.8)

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

16 Sec. 26.8. Service of report; rehearing; order. In any case
17 involving the discipline of a license, a copy of the Board's
18 report shall be served upon the respondent by the Department,
19 either personally or as provided in this Act for the service of
20 the notice of hearing. Within 20 days after such service, the
21 respondent may present to the Department a motion in writing
22 for a rehearing, which motion shall specify the particular
23 grounds therefor. If no motion for rehearing is filed, then
24 upon the expiration of the time specified for filing such a
25 motion, or if a motion for rehearing is denied, then upon such
26 denial the Secretary ~~Director~~ may enter an order in accordance
27 with this Act. If the respondent shall order from the reporting
28 service, and pay for a transcript of the record within the time
29 for filing a motion for rehearing, the 20 day period within
30 which such a motion may be filed shall commence upon the
31 delivery of the transcript to the respondent.

32 (Source: P.A. 89-702, eff. 7-1-97.)

33 (225 ILCS 80/26.9) (from Ch. 111, par. 3926.9)

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

1 Sec. 26.9. Substantial justice; rehearing. Whenever the
2 Secretary ~~Director~~ is satisfied that substantial justice has
3 not been done in the revocation, suspension or refusal to issue
4 or renew a license, the Secretary ~~Director~~ may order a
5 rehearing by the same or another hearing officer or by the
6 Board.

7 (Source: P.A. 89-702, eff. 7-1-97.)

8 (225 ILCS 80/26.10) (from Ch. 111, par. 3926.10)

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

10 Sec. 26.10. Order or certified copy as prima facie proof.
11 An order or a certified copy thereof, over the seal of the
12 Department and purporting to be signed by the Secretary
13 ~~Director~~, shall be prima facie proof that:

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

16 (b) the Secretary ~~Director~~ is duly appointed and
17 qualified; and

18 (c) the Board and the members thereof are qualified to
19 act.

20 (Source: P.A. 91-357, eff. 7-29-99.)

21 (225 ILCS 80/26.11) (from Ch. 111, par. 3926.11)

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

23 Sec. 26.11. At any time after the suspension or revocation
24 of any license ~~or certificate~~ the Department may restore it to
25 the accused person, unless after an investigation and a
26 hearing, the Department determines that restoration is not in
27 the public interest.

28 (Source: P.A. 85-896.)

29 (225 ILCS 80/26.12) (from Ch. 111, par. 3926.12)

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

31 Sec. 26.12. Upon the revocation or suspension of any
32 license ~~or certificate~~, the licensee ~~or certificate holder~~
33 shall forthwith surrender the license to the Department and if

1 the licensee fails to do so, the Department shall have the
2 right to seize the license ~~or certificate~~.

3 (Source: P.A. 85-896.)

4 (225 ILCS 80/26.13) (from Ch. 111, par. 3926.13)

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

6 Sec. 26.13. Temporary suspension. The Secretary ~~Director~~
7 may temporarily suspend the license ~~or certificate~~ of an
8 optometrist without a hearing, simultaneously with the
9 institution of proceedings for a hearing provided for in
10 Section 26.2 of this Act, if the Secretary ~~Director~~ finds that
11 evidence in his or her possession indicates that continuation
12 in practice would constitute an imminent danger to the public.
13 In the event that the Secretary ~~Director~~ suspends, temporarily,
14 this license ~~or certificate~~ without a hearing, a hearing by the
15 Department must be held within 30 days after such suspension
16 has occurred, and be concluded without appreciable delay.

17 (Source: P.A. 89-702, eff. 7-1-97.)

18 (225 ILCS 80/28) (from Ch. 111, par. 3928)

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

20 Sec. 28. It is declared to be the public policy of this
21 State, pursuant to paragraphs (h) and (i) of Section 6 of
22 Article VII of the Illinois Constitution of 1970, that any
23 power or function set forth in this Act to be exercised by the
24 State is an exclusive State power or function. Such power or
25 function shall not be exercised concurrently, either directly
26 ~~director~~ or indirectly, by any unit of local government,
27 including home rule units, except as otherwise provided in this
28 Act.

29 (Source: P.A. 85-896.)

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.

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