

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 Acts repealed on January 1, 2007.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8 are repealed on January 1, 2007: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 Act repealed on January 1, 2017.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22 Act is repealed on January 1, 2017: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 Sections 11.5 and 15.2 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1 (Section scheduled to be repealed on January 1, 2007)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 consultation with 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 (225 ILCS 80/12) (from Ch. 111, par. 3912)

6 (Section scheduled to be repealed on January 1, 2007)

7 Sec. 12. Applications for licenses ~~and certificates~~.  
8 Applications for original licenses ~~and certificates~~ shall be  
9 made to the Department in writing or electronically on forms  
10 prescribed by the Department and shall be accompanied by the  
11 required fee, which shall not be refundable. Any such  
12 application shall require such information as in the judgment  
13 of the Department will enable the Department to pass on the  
14 qualifications of the applicant for a license ~~or certificate~~.

15 ~~An applicant for initial licensure in Illinois shall apply~~  
16 ~~for and be qualified to receive and shall maintain~~  
17 ~~certification to use diagnostic and therapeutic ocular~~  
18 ~~pharmaceuticals.~~

19 Applicants have 3 years from the date of application to  
20 complete the application process. If the process has not been  
21 completed within 3 years, the application shall be denied, the  
22 application fees shall be forfeited, and the applicant must  
23 reapply and meet the requirements in effect at the time of  
24 reapplication.

25 Applicants who meet all other conditions for licensure and  
26 who will be practicing optometry in a residency program  
27 approved by the Board may apply for and receive a limited one  
28 year license to practice optometry as a resident in the  
29 program. The holder of a valid one-year residency license may  
30 perform those acts prescribed by and incidental to the  
31 residency license holder's program of residency training, with  
32 the same privileges and responsibilities as a fully licensed  
33 optometrist, but may not otherwise engage in the practice of  
34 optometry in this State, unless fully licensed under this Act.  
35 ~~A licensee who receives a limited license under this Section~~

1 ~~shall have the same privileges and responsibilities as a~~  
2 ~~therapeutically certified licensee.~~

3 The Department may revoke a one-year residency license upon  
4 proof that the residency license holder has engaged in the  
5 practice of optometry in this State outside of his or her  
6 residency program or if the residency license holder fails to  
7 supply the Department, within 10 days after its request, with  
8 information concerning his or her current status and activities  
9 in the residency program.

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

11 (225 ILCS 80/13) (from Ch. 111, par. 3913)

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

13 Sec. 13. Examination of applicants. The Department shall  
14 promulgate rules establishing examination requirements for  
15 applicants as optometrists. The examination shall accurately  
16 evaluate the applicant's ability to perform to the minimum  
17 standards of the practice of optometry ~~of applicants shall be~~  
18 ~~of a character to give a fair test of the qualifications of the~~  
19 ~~applicant to practice optometry.~~

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

28 The Department may employ consultants for the purpose of  
29 preparing and conducting examinations.

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

31 (225 ILCS 80/14) (from Ch. 111, par. 3914)

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

33 Sec. 14. A person shall be qualified for initial licensure  
34 as an optometrist if that person has applied in writing in form

1 and substance satisfactory to the Department and who:

2 (1) has not been convicted of any of the provisions of  
3 Section 24 of this Act which would be grounds for discipline  
4 under this Act;

5 (2) has graduated, after January 1, 1994, from a program of  
6 optometry education approved by the Department or has  
7 graduated, prior to January 1, 1994, and has met substantially  
8 equivalent criteria established by the Department;

9 (3) (blank); and

10 (4) has met all examination requirements including the  
11 passage of a nationally recognized examination authorized by  
12 the Department. Each applicant shall be tested on theoretical  
13 knowledge and clinical practice skills.

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

15 (225 ILCS 80/15.1)

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

17 Sec. 15.1. Diagnostic and therapeutic authority  
18 certification.

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

27 (b) A licensed optometrist may remove superficial foreign  
28 bodies from the human eye and adnexa and may give orders for  
29 patient care to a nurse licensed to practice under Illinois  
30 law.

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

34 (1) grave or repeated misuse of any ocular  
35 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           authorized under this Act.

4           (d) The Secretary of Financial and Professional Regulation  
5           shall notify the Director of Public Health as to the categories  
6           of ocular pharmaceutical agents permitted for use by an  
7           optometrist. The Director of Public Health shall in turn notify  
8           every licensed pharmacist in the State of the categories of  
9           ocular pharmaceutical agents that can be utilized and  
10           prescribed by an optometrist. Any licensed optometrist may  
11           apply to the Department, in the form the Department may  
12           prescribe, for a certificate to use diagnostic topical ocular  
13           pharmaceutical agents and the Department shall certify the  
14           applicant if:

15           ~~(1) the applicant has received appropriate training~~  
16           ~~and certification from a properly accredited institution~~  
17           ~~of higher learning for the certificate; and~~

18           ~~(2) the applicant has demonstrated training and~~  
19           ~~competence to use diagnostic topical ocular pharmaceutical~~  
20           ~~agents as required by the Board pursuant to rule or~~  
21           ~~regulation approved by the Board and adopted by the~~  
22           ~~Department.~~

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

29           ~~(b) Any licensed optometrist may apply to the Department,~~  
30           ~~in the form the Department may prescribe, for a certificate to~~  
31           ~~use therapeutic ocular pharmaceutical agents and the~~  
32           ~~Department shall certify the applicant if:~~

33           ~~(1) the applicant has received a certificate to use~~  
34           ~~diagnostic topical ocular pharmaceutical agents under~~  
35           ~~subsection (a);~~

36           ~~(2) the applicant has received appropriate training~~

~~and certification from a properly accredited institution of higher learning for the certificate; and~~

~~(3) the applicant has demonstrated training and competence to use therapeutic ocular pharmaceutical agents as required by the Board pursuant to rule or regulation approved by the Board and adopted by the Department.~~

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

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

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

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

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

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

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

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

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

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

9       ~~(i) The provisions of Sections 26.2, 26.3, 26.5, 26.10,~~  
10 ~~26.11, 26.14, and 26.15 of this Act shall apply to all~~  
11 ~~disciplinary proceedings brought under this Section.~~

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

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

36       ~~(l) Nothing in this Act prohibits the use of diagnostic~~



~~topical ocular pharmaceutical agents or therapeutic ocular  
pharmaceutical agents in the practice of optometry by  
optometrists certified for such use under this Section.~~

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

(225 ILCS 80/15.2 new)

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

Sec. 15.2. Limited optometry license. Any licensed  
optometrist who (i) was originally licensed under a predecessor  
Act prior to 1965 and (ii) was not certified to use therapeutic  
ocular pharmaceutical agents as of January 1, 2006, shall, upon  
application and payment of a non-prorated fee of \$200, be  
issued a limited optometry license by the Department to  
practice optometry until January 1, 2007, as provided for in  
this Section.

A limited optometry licensee may not diagnose or treat eye  
disease, remove foreign bodies from the eye, or use or  
prescribe pharmaceutical agents, but shall have all other  
rights and responsibilities of a licensee under this Act.

This Section is repealed on January 1, 2007.

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

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

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

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

The Department shall establish by rule a means for the

1 verification of completion of the continuing education  
2 required by this Section. This verification may be accomplished  
3 through audits of records maintained by registrants; by  
4 requiring the filing of continuing education certificates with  
5 the Department; or by other means established by the  
6 Department.

7 Any optometrist who has permitted his or her license to  
8 expire or who has had his or her license on inactive status may  
9 have his or her license restored by making application to the  
10 Department and filing proof acceptable to the Department of his  
11 or her fitness to have his or her license restored and by  
12 paying the required fees. Such proof of fitness may include  
13 evidence certifying to active lawful practice in another  
14 jurisdiction and must include proof of the completion of the  
15 continuing education requirements specified in the rules for  
16 the preceding license renewal period ~~for the applicant's level~~  
17 ~~of certification~~ that has been completed during the 2 years  
18 prior to the application for license restoration.

19 The Department shall determine, by an evaluation program  
20 established by rule, his or her fitness for restoration of his  
21 or her license and shall establish procedures and requirements  
22 for such restoration.

23 However, any optometrist whose license expired while he or  
24 she was (1) in Federal Service on active duty with the Armed  
25 Forces of the United States, or the State Militia called into  
26 service or training, or (2) in training or education under the  
27 supervision of the United States preliminary to induction into  
28 the military service, may have his or her license restored  
29 without paying any lapsed renewal fees if within 2 years after  
30 honorable termination of such service, training, or education,  
31 he or she furnishes the Department with satisfactory evidence  
32 to the effect that he or she has been so engaged and that his or  
33 her service, training, or education has been so terminated.

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

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

2 Sec. 17. Inactive status. Any optometrist who notifies the  
3 Department in writing on forms prescribed by the Department,  
4 may elect to place his or her license on an inactive status and  
5 shall be excused from payment of renewal fees until he or she  
6 notifies the Department in writing of his intent to restore his  
7 or her license.

8 Any optometrist requesting restoration from inactive  
9 status shall be required to pay the current renewal fee, to  
10 provide proof of completion of the continuing education  
11 requirements specified in the rules for the preceding license  
12 renewal period ~~for the applicant's level of certification~~ that  
13 has been completed during the 2 years prior to the application  
14 for restoration, and to restore his or her license as provided  
15 by rule of the Department. All licenses without "Therapeutic  
16 Certification" that are on inactive status as of March 31, 2006  
17 shall be placed on non-renewed status and may only be restored  
18 after the licensee meets those requirements established by the  
19 Department.

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

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

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

27 (225 ILCS 80/19) (from Ch. 111, par. 3919)

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

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

32 The ~~(a) Except as provided in paragraph (b) below,~~ the fees  
33 for the administration and enforcement of this Act, including  
34 but not limited to, original licensure and certification,  
35 renewal and restoration, shall be set by rule. The fees shall

1 not be refundable.

2 ~~(b) Applicants for examination shall be required to pay,~~  
3 ~~either to the Department or the designated testing service, a~~  
4 ~~fee covering the cost of initial screening to determine~~  
5 ~~eligibility and for providing the examination. Failure to~~  
6 ~~appear for the examination on the scheduled date at the time~~  
7 ~~and place specified, after the applicant's application for~~  
8 ~~examination has been received and acknowledged by the~~  
9 ~~Department or the designated testing service, shall result in~~  
10 ~~the forfeiture of the examination fee.~~

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

12 (225 ILCS 80/20) (from Ch. 111, par. 3920)

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

14 Sec. 20. Fund. All moneys received by the Department  
15 pursuant to this Act shall be deposited in the Optometric  
16 Licensing and Disciplinary Board Fund, which is hereby created  
17 as a special fund in the State Treasury, and shall be used for  
18 the administration of this Act, including: (a) by the Board in  
19 the exercise of its powers and performance of its duties, as  
20 such use is made by the Department with full consideration of  
21 all recommendations of the Board; (b) for costs directly  
22 related to license renewal of persons licensed under this Act;  
23 and (c) for direct and allocable indirect costs related to the  
24 public purposes of the Department of Financial and Professional  
25 Regulation. Subject to appropriation, moneys in the Optometric  
26 Licensing and Disciplinary Board Fund may be used for the  
27 Optometric Education Scholarship Program administered by the  
28 Illinois Student Assistance Commission pursuant to Section  
29 65.70 of the Higher Education Student Assistance Act.

30 Moneys in the Fund may be transferred to the Professions  
31 Indirect Cost Fund as authorized under Section 2105-300 of the  
32 Department of Professional Regulation Law (20 ILCS  
33 2105/2105-300).

34 Money in the Optometric Licensing and Disciplinary Board  
35 Fund may be invested and reinvested, with all earnings received

1 from such investment to be deposited in the Optometric  
2 Licensing and Disciplinary Board Fund and used for the same  
3 purposes as fees deposited in such fund.

4 ~~Any monies in the Optometric Examining and Disciplinary~~  
5 ~~Board Fund on the effective date of this Act shall be~~  
6 ~~transferred to the Optometric Licensing and Disciplinary Board~~  
7 ~~Fund.~~

8 ~~Any obligations of the Optometric Examining and~~  
9 ~~Disciplinary Board Fund unpaid on the effective date of this~~  
10 ~~Act shall be paid from the Optometric Licensing and~~  
11 ~~Disciplinary Board Fund.~~

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

13 (225 ILCS 80/21) (from Ch. 111, par. 3921)

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

15 Sec. 21. The Department shall maintain a roster of the  
16 names and addresses of all licensees ~~and certificate holders~~  
17 and of all persons whose licenses ~~or certificates~~ have been  
18 suspended or revoked. This roster shall be available upon  
19 written request and payment of the required fee.

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

21 (225 ILCS 80/23) (from Ch. 111, par. 3923)

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

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

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

30 (225 ILCS 80/24) (from Ch. 111, par. 3924)

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

32 Sec. 24. Grounds for disciplinary action.

33 (a) The Department may refuse to issue or to renew, or may

1 revoke, suspend, place on probation, reprimand or take other  
2 disciplinary action as the Department may deem proper,  
3 including fines not to exceed \$10,000 ~~\$5,000~~ for each  
4 violation, with regard to any license ~~or certificate~~ for any  
5 one or combination of the following causes:

6 (1) Violations of this Act, or of the rules promulgated  
7 hereunder.

8 (2) Conviction of or entry of a plea of guilty to any  
9 crime under the laws of any U.S. jurisdiction thereof that  
10 is a felony or that is a misdemeanor of which an essential  
11 element is dishonesty, or ~~of~~ any crime that is directly  
12 related to the practice of the profession.

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

15 (4) Professional incompetence or gross negligence in  
16 the practice of optometry.

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

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

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

26 (8) Engaging in dishonorable, unethical, or  
27 unprofessional conduct of a character likely to deceive,  
28 defraud, or harm the public.

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

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

1 (11) Directly or indirectly giving to or receiving from  
2 any person, firm, corporation, partnership, or association  
3 any fee, commission, rebate, or other form of compensation  
4 for any professional services not actually or personally  
5 rendered. This shall not be deemed to include (i) rent or  
6 other remunerations paid to an individual, partnership, or  
7 corporation by an optometrist for the lease, rental, or use  
8 of space, owned or controlled, by the individual,  
9 partnership, corporation or association, and (ii) the  
10 division of fees between an optometrist and related  
11 professional service providers with whom the optometrist  
12 practices in a professional corporation organized under  
13 Section 3.6 of the Professional Service Corporation Act.

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

17 (13) Abandonment of a patient.

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

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

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

29 (17) Solicitation of professional services other than  
30 permitted advertising.

31 (18) Failure to provide a patient with a copy of his or  
32 her record or prescription in accordance with federal law  
33 ~~upon the written request of the patient.~~

34 (19) Conviction by any court of competent  
35 jurisdiction, either within or without this State, of any  
36 violation of any law governing the practice of optometry,

1 conviction in this or another State of any crime that is a  
2 felony under the laws of this State or conviction of a  
3 felony in a federal court, if the Department determines,  
4 after investigation, that such person has not been  
5 sufficiently rehabilitated to warrant the public trust.

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

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

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

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

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

22 (25) Maintaining a professional relationship with any  
23 person, firm, or corporation when the optometrist knows, or  
24 should know, that such person, firm, or corporation is  
25 violating this Act.

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

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

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



1 (29) Continuance of an optometrist in the employ of any  
2 person, firm or corporation, or as an assistant to any  
3 optometrist or optometrists, directly or indirectly, after  
4 his or her employer or superior has been found guilty of  
5 violating or has been enjoined from violating the laws of  
6 the State of Illinois relating to the practice of  
7 optometry, when the employer or superior persists in that  
8 violation.

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

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

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

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

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

36 (35) Violation of the Health Care Worker Self-Referral

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

32 If the Board finds an individual unable to practice because  
33 of the reasons set forth in this Section, the Board shall  
34 require such individual to submit to care, counseling, or  
35 treatment by physicians or clinical psychologists approved or  
36 designated by the Board, as a condition, term, or restriction

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

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

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

26 (225 ILCS 80/25) (from Ch. 111, par. 3925)

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

28 Sec. 25. Returned checks; fines. Any person who delivers a  
29 check or other payment to the Department that is returned to  
30 the Department unpaid by the financial institution upon which  
31 it is drawn shall pay to the Department, in addition to the  
32 amount already owed to the Department, a fine of \$50. The fines  
33 imposed by this Section are in addition to any other discipline  
34 provided under this Act for unlicensed practice or practice on  
35 a nonrenewed license. The Department shall notify the person

1 that payment of fees and fines shall be paid to the Department  
2 by certified check or money order within 30 calendar days of  
3 the notification. If, after the expiration of 30 days from the  
4 date of the notification, the person has failed to submit the  
5 necessary remittance, the Department shall automatically  
6 terminate the license ~~or certificate~~ or deny the application,  
7 without hearing. If, after termination or denial, the person  
8 seeks a license ~~or certificate~~, he or she shall apply to the  
9 Department for restoration or issuance of the license ~~or~~  
10 ~~certificate~~ and pay all fees and fines due to the Department.  
11 The Department may establish a fee for the processing of an  
12 application for restoration of a license ~~or certificate~~ to pay  
13 all expenses of processing this application. The Secretary  
14 ~~Director~~ may waive the fines due under this Section in  
15 individual cases where the Secretary ~~Director~~ finds that the  
16 fines would be unreasonable or unnecessarily burdensome.

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

18 (225 ILCS 80/26.1) (from Ch. 111, par. 3926.1)

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

20 Sec. 26.1. Injunctions; criminal offenses; cease and  
21 desist orders.

22 (a) If any person violates the provision of this Act, the  
23 Secretary ~~Director~~ may, in the name of the People of the State  
24 of Illinois, through the Attorney General of the State of  
25 Illinois, or the State's Attorney of any county in which the  
26 action is brought, petition for an order enjoining such  
27 violation or for an order enforcing compliance with this Act.  
28 Upon the filing of a verified petition in court, the court may  
29 issue a temporary restraining order, without notice or bond,  
30 and may preliminarily and permanently enjoin such violation,  
31 and if it is established that such person has violated or is  
32 violating the injunction, the Court may punish the offender for  
33 contempt of court. Proceedings under this Section shall be in  
34 addition to, and not in lieu of, all other remedies and  
35 penalties provided by this Act.

1 (b) If any person shall practice as an optometrist or hold  
2 himself or herself out as an optometrist without being licensed  
3 under the provisions of this Act then any licensed optometrist,  
4 any interested party or any person injured thereby may, in  
5 addition to the Secretary ~~Director~~, petition for relief as  
6 provided in subsection (a) of this Section.

7 Whoever knowingly practices or offers to practice  
8 optometry in this State without being licensed for that purpose  
9 shall be guilty of a Class A misdemeanor and for each  
10 subsequent conviction, shall be guilty of a Class 4 felony.  
11 Notwithstanding any other provision of this Act, all criminal  
12 fines, monies, or other property collected or received by the  
13 Department under this Section or any other State or federal  
14 statute, including, but not limited to, property forfeited to  
15 the Department under Section 505 of the Illinois Controlled  
16 Substances Act or Section 85 of the Methamphetamine Control and  
17 Community Protection Act, shall be deposited into the  
18 Optometric Licensing and Disciplinary Board Fund ~~Professional~~  
19 ~~Regulation Evidence Fund~~.

20 (c) Whenever in the opinion of the Department any person  
21 violates any provision of this Act, the Department may issue a  
22 rule to show cause why an order to cease and desist should not  
23 be entered against him. The rule shall clearly set forth the  
24 grounds relied upon by the Department and shall provide a  
25 period of 7 days from the date of the rule to file an answer to  
26 the satisfaction of the Department. Failure to answer to the  
27 satisfaction of the Department shall cause an order to cease  
28 and desist to be issued forthwith.

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

30 (225 ILCS 80/26.2) (from Ch. 111, par. 3926.2)

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

32 Sec. 26.2. Investigation; notice. The Department may  
33 investigate the actions of any applicant or of any person or  
34 persons holding or claiming to hold a license. The Department  
35 shall, before suspending, revoking, placing on probationary

1 status, or taking any other disciplinary action as the  
2 Department may deem proper with regard to any license ~~or~~  
3 ~~certificate~~, at least 30 days prior to the date set for the  
4 hearing, notify the accused in writing of any charges made and  
5 the time and place for a hearing of the charges before the  
6 Board, direct him or her to file his or her written answer to  
7 the Board under oath within 20 days after the service on him or  
8 her of the notice and inform him or her that if he or she fails  
9 to file an answer default will be taken against him or her and  
10 his or her license ~~or certificate~~ may be suspended, revoked,  
11 placed on probationary status, or have other disciplinary  
12 action, including limiting the scope, nature or extent of his  
13 or her practice, as the Department may deem proper taken with  
14 regard thereto. Such written notice may be served by personal  
15 delivery or certified delivery or certified or registered mail  
16 to the Department. In case the person fails to file an answer  
17 after receiving notice, his or her license ~~or certificate~~ may,  
18 in the discretion of the Department, be suspended, revoked, or  
19 placed on probationary status, or the Department may take  
20 whatever disciplinary action deemed proper, including limiting  
21 the scope, nature, or extent of the person's practice or the  
22 imposition of a fine, without a hearing, if the act or acts  
23 charged constitute sufficient grounds for such action under  
24 this Act. At the time and place fixed in the notice, the  
25 Department shall proceed to hear the charges and the parties or  
26 their counsel shall be accorded ample opportunity to present  
27 such statements, testimony, evidence and argument as may be  
28 pertinent to the charges or to their defense. The Department  
29 may continue the hearing from time to time. At the discretion  
30 of the Secretary ~~Director~~ after having first received the  
31 recommendation of the Board, the accused person's license may  
32 be suspended, revoked, placed on probationary status, or  
33 whatever disciplinary action as the Secretary ~~Director~~ may deem  
34 proper, including limiting the scope, nature, or extent of said  
35 person's practice, without a hearing, if the act or acts  
36 charged constitute sufficient grounds for such action under

1 this Act.

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

3 (225 ILCS 80/26.5) (from Ch. 111, par. 3926.5)

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

5 Sec. 26.5. Subpoena; oaths. The Department shall have power  
6 to subpoena and bring before it any person in this State and to  
7 take testimony either orally or by deposition or both, with the  
8 same fees and mileage and in the same manner as prescribed by  
9 law in judicial proceedings in civil cases in circuit courts of  
10 this State.

11 The Secretary Director, the hearing officer and any member  
12 of the Board designated by the Secretary Director shall each  
13 have power to administer oaths to witnesses at any hearing  
14 which the Department is authorized to conduct under this Act,  
15 and any other oaths required or authorized to be administered  
16 by the Department hereunder.

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

18 (225 ILCS 80/26.6) (from Ch. 111, par. 3926.6)

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

20 Sec. 26.6. Findings of fact, conclusions of law, and  
21 recommendations. At the conclusion of the hearing the Board  
22 shall present to the Secretary Director a written report of its  
23 findings of fact, conclusions of law and recommendations. The  
24 report shall contain a finding whether or not the accused  
25 person violated this Act or failed to comply with the  
26 conditions required in this Act. The Board shall specify the  
27 nature of the violation or failure to comply, and shall make  
28 its recommendations to the Secretary Director.

29 The report of findings of fact, conclusions of law and  
30 recommendations of the Board shall be the basis for the  
31 Department's order. If the Secretary Director disagrees in any  
32 regard with the report of the Board, the Secretary Director may  
33 issue an order in contravention thereof. The Secretary Director  
34 shall provide within 60 days of taking such action a written

1 report to the Board on any such deviation, and shall specify  
2 with particularity the reasons for said action in the final  
3 order. The finding is not admissible in evidence against the  
4 person in a criminal prosecution brought for the violation of  
5 this Act, but the hearing and findings are not a bar to a  
6 criminal prosecution brought for the violation of this Act.

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

8 (225 ILCS 80/26.7) (from Ch. 111, par. 3926.7)

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

10 Sec. 26.7. Hearing officer. Notwithstanding the provisions  
11 of Section 26.6 of this Act, the Secretary ~~Director~~ shall have  
12 the authority to appoint any attorney duly licensed to practice  
13 law in the State of Illinois to serve as the hearing officer in  
14 any action for discipline of a license. The Secretary ~~Director~~  
15 shall notify the Board of any such appointment. The hearing  
16 officer shall have full authority to conduct the hearing. The  
17 Board shall have the right to have at least one member present  
18 at any hearing conducted by such hearing officer. The hearing  
19 officer shall report his or her findings of fact, conclusions  
20 of law and recommendations to the Board and the Secretary  
21 ~~Director~~. The Board shall have 60 days from receipt of the  
22 report to review the report of the hearing officer and present  
23 its findings of fact, conclusions of law and recommendations to  
24 the Secretary ~~Director~~. If the Board fails to present its  
25 report within the 60 day period, the Secretary ~~Director~~ shall  
26 issue an order based on the report of the hearing officer. If  
27 the Secretary ~~Director~~ disagrees in any regard with the report  
28 of the Board or hearing officer, he or she may issue an order  
29 in contravention thereof. The Secretary ~~Director~~ shall provide  
30 a written explanation to the Board on any such deviation, and  
31 shall specify with particularity the reasons for such action in  
32 the final order.

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

34 (225 ILCS 80/26.8) (from Ch. 111, par. 3926.8)



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

2 Sec. 26.8. Service of report; rehearing; order. In any case  
3 involving the discipline of a license, a copy of the Board's  
4 report shall be served upon the respondent by the Department,  
5 either personally or as provided in this Act for the service of  
6 the notice of hearing. Within 20 days after such service, the  
7 respondent may present to the Department a motion in writing  
8 for a rehearing, which motion shall specify the particular  
9 grounds therefor. If no motion for rehearing is filed, then  
10 upon the expiration of the time specified for filing such a  
11 motion, or if a motion for rehearing is denied, then upon such  
12 denial the Secretary ~~Director~~ may enter an order in accordance  
13 with this Act. If the respondent shall order from the reporting  
14 service, and pay for a transcript of the record within the time  
15 for filing a motion for rehearing, the 20 day period within  
16 which such a motion may be filed shall commence upon the  
17 delivery of the transcript to the respondent.

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

19 (225 ILCS 80/26.9) (from Ch. 111, par. 3926.9)

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

21 Sec. 26.9. Substantial justice; rehearing. Whenever the  
22 Secretary ~~Director~~ is satisfied that substantial justice has  
23 not been done in the revocation, suspension or refusal to issue  
24 or renew a license, the Secretary ~~Director~~ may order a  
25 rehearing by the same or another hearing officer or by the  
26 Board.

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

28 (225 ILCS 80/26.10) (from Ch. 111, par. 3926.10)

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

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

34 (a) the signature is the genuine signature of the

1           Secretary Director;

2           (b) the Secretary Director is duly appointed and  
3           qualified; and

4           (c) the Board and the members thereof are qualified to  
5           act.

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

7           (225 ILCS 80/26.11) (from Ch. 111, par. 3926.11)

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

9           Sec. 26.11. At any time after the suspension or revocation  
10          of any license ~~or certificate~~ the Department may restore it to  
11          the accused person, unless after an investigation and a  
12          hearing, the Department determines that restoration is not in  
13          the public interest.

14          (Source: P.A. 85-896.)

15          (225 ILCS 80/26.12) (from Ch. 111, par. 3926.12)

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

17          Sec. 26.12. Upon the revocation or suspension of any  
18          license ~~or certificate~~, the licensee ~~or certificate holder~~  
19          shall forthwith surrender the license to the Department and if  
20          the licensee fails to do so, the Department shall have the  
21          right to seize the license ~~or certificate~~.

22          (Source: P.A. 85-896.)

23          (225 ILCS 80/26.13) (from Ch. 111, par. 3926.13)

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

25          Sec. 26.13. Temporary suspension. The Secretary Director  
26          may temporarily suspend the license ~~or certificate~~ of an  
27          optometrist without a hearing, simultaneously with the  
28          institution of proceedings for a hearing provided for in  
29          Section 26.2 of this Act, if the Secretary Director finds that  
30          evidence in his or her possession indicates that continuation  
31          in practice would constitute an imminent danger to the public.  
32          In the event that the Secretary Director suspends, temporarily,  
33          this license ~~or certificate~~ without a hearing, a hearing by the

1 Department must be held within 30 days after such suspension  
2 has occurred, and be concluded without appreciable delay.

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

4 (225 ILCS 80/28) (from Ch. 111, par. 3928)

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

6 Sec. 28. It is declared to be the public policy of this  
7 State, pursuant to paragraphs (h) and (i) of Section 6 of  
8 Article VII of the Illinois Constitution of 1970, that any  
9 power or function set forth in this Act to be exercised by the  
10 State is an exclusive State power or function. Such power or  
11 function shall not be exercised concurrently, either directly  
12 ~~director~~ or indirectly, by any unit of local government,  
13 including home rule units, except as otherwise provided in this  
14 Act.

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

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.