

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 Podiatric Medical Practice Act of 1987 is
5 amended by changing Section 24 and adding Section 24.2 as
6 follows:

7 (225 ILCS 100/24) (from Ch. 111, par. 4824)

8 (Section scheduled to be repealed on January 1, 2018)

9 Sec. 24. Grounds for disciplinary action. The Department
10 may refuse to issue, may refuse to renew, may refuse to
11 restore, may suspend, or may revoke any license, or may place
12 on probation, reprimand or take other disciplinary or
13 non-disciplinary action as the Department may deem proper,
14 including fines not to exceed \$10,000 for each violation upon
15 anyone licensed under this Act for any of the following
16 reasons:

17 (1) Making a material misstatement in furnishing
18 information to the Department.

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

21 (3) Conviction of or entry of a plea of guilty or nolo
22 contendere to any crime that is a felony under the laws of
23 the United States or any state or territory of the United

1 States that is a misdemeanor, of which an essential element
2 is dishonesty, or of any crime that is directly related to
3 the practice of the profession.

4 (4) Making any misrepresentation for the purpose of
5 obtaining licenses, or violating any provision of this Act
6 or the rules promulgated thereunder pertaining to
7 advertising.

8 (5) Professional incompetence.

9 (6) Gross or repeated malpractice or negligence.

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

12 (8) Failing, within 30 days, to provide information in
13 response to a written request made by the Department.

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

17 (10) Habitual or excessive use of alcohol, narcotics,
18 stimulants or other chemical agent or drug that results in
19 the inability to practice podiatric medicine with
20 reasonable judgment, skill or safety.

21 (11) Discipline by another United States jurisdiction
22 if at least one of the grounds for the discipline is the
23 same or substantially equivalent to those set forth in this
24 Section.

25 (12) Violation of the prohibition against fee
26 splitting in Section 24.2 of this Act. ~~Directly or~~

1 ~~indirectly giving to or receiving from any person, firm,~~
2 ~~corporation, partnership or association any fee,~~
3 ~~commission, rebate or other form of compensation for any~~
4 ~~professional services not actually or personally rendered.~~
5 ~~This shall not be deemed to include rent or other~~
6 ~~remunerations paid to an individual, partnership, or~~
7 ~~corporation, by a licensee, for the lease, rental or use of~~
8 ~~space, owned or controlled, by the individual, partnership~~
9 ~~or corporation.~~

10 (13) A finding by the Podiatric Medical Licensing Board
11 that the licensee, after having his or her license placed
12 on probationary status, has violated the terms of
13 probation.

14 (14) Abandonment of a patient.

15 (15) Willfully making or filing false records or
16 reports in his or her practice, including but not limited
17 to false records filed with state agencies or departments.

18 (16) Willfully failing to report an instance of
19 suspected child abuse or neglect as required by the Abused
20 and Neglected Child Report Act.

21 (17) Physical illness, mental illness, or other
22 impairment, including but not limited to, deterioration
23 through the aging process, or loss of motor skill that
24 results in the inability to practice the profession with
25 reasonable judgment, skill or safety.

26 (18) Solicitation of professional services other than

1 permitted advertising.

2 (19) The determination by a circuit court that a
3 licensed podiatric physician is subject to involuntary
4 admission or judicial admission as provided in the Mental
5 Health and Developmental Disabilities Code operates as an
6 automatic suspension. Such suspension will end only upon a
7 finding by a court that the patient is no longer subject to
8 involuntary admission or judicial admission and issues an
9 order so finding and discharging the patient; and upon the
10 recommendation of the Podiatric Medical Licensing Board to
11 the Secretary that the licensee be allowed to resume his or
12 her practice.

13 (20) Holding oneself out to treat human ailments under
14 any name other than his or her own, or the impersonation of
15 any other physician.

16 (21) Revocation or suspension or other action taken
17 with respect to a podiatric medical license in another
18 jurisdiction that would constitute disciplinary action
19 under this Act.

20 (22) Promotion of the sale of drugs, devices,
21 appliances or goods provided for a patient in such manner
22 as to exploit the patient for financial gain of the
23 podiatric physician.

24 (23) Gross, willful, and continued overcharging for
25 professional services including filing false statements
26 for collection of fees for those services, including, but

1 not limited to, filing false statement for collection of
2 monies for services not rendered from the medical
3 assistance program of the Department of Healthcare and
4 Family Services (formerly Department of Public Aid) under
5 the Illinois Public Aid Code or other private or public
6 third party payor.

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

14 (25) Willfully making or filing false records or
15 reports in the practice of podiatric medicine, including,
16 but not limited to, false records to support claims against
17 the medical assistance program of the Department of
18 Healthcare and Family Services (formerly Department of
19 Public Aid) under the Illinois Public Aid Code.

20 (26) (Blank).

21 (27) Immoral conduct in the commission of any act
22 including, sexual abuse, sexual misconduct, or sexual
23 exploitation, related to the licensee's practice.

24 (28) Violation of the Health Care Worker Self-Referral
25 Act.

26 (29) Failure to report to the Department any adverse

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

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

17 Upon receipt of a written communication from the Secretary
18 of Human Services, the Director of Healthcare and Family
19 Services (formerly Director of Public Aid), or the Director of
20 Public Health that continuation of practice of a person
21 licensed under this Act constitutes an immediate danger to the
22 public, the Secretary may immediately suspend the license of
23 such person without a hearing. In instances in which the
24 Secretary immediately suspends a license under this Section, a
25 hearing upon such person's license must be convened by the
26 Board within 15 days after such suspension and completed

1 without appreciable delay, such hearing held to determine
2 whether to recommend to the Secretary that the person's license
3 be revoked, suspended, placed on probationary status or
4 reinstated, or such person be subject to other disciplinary
5 action. In such hearing, the written communication and any
6 other evidence submitted therewith may be introduced as
7 evidence against such person; provided, however, the person or
8 his counsel shall have the opportunity to discredit or impeach
9 such evidence and submit evidence rebutting the same.

10 Except for fraud in procuring a license, all proceedings to
11 suspend, revoke, place on probationary status, or take any
12 other disciplinary action as the Department may deem proper,
13 with regard to a license on any of the foregoing grounds, must
14 be commenced within 5 years after receipt by the Department of
15 a complaint alleging the commission of or notice of the
16 conviction order for any of the acts described in this Section.
17 Except for the grounds set forth in items (8), (9), (26), and
18 (29) of this Section, no action shall be commenced more than 10
19 years after the date of the incident or act alleged to have
20 been a violation of this Section. In the event of the
21 settlement of any claim or cause of action in favor of the
22 claimant or the reduction to final judgment of any civil action
23 in favor of the plaintiff, such claim, cause of action, or
24 civil action being grounded on the allegation that a person
25 licensed under this Act was negligent in providing care, the
26 Department shall have an additional period of 2 years from the

1 date of notification to the Department under Section 26 of this
2 Act of such settlement or final judgment in which to
3 investigate and commence formal disciplinary proceedings under
4 Section 24 of this Act, except as otherwise provided by law.
5 The time during which the holder of the license was outside the
6 State of Illinois shall not be included within any period of
7 time limiting the commencement of disciplinary action by the
8 Department.

9 In enforcing this Section, the Department or Board upon a
10 showing of a possible violation may compel an individual
11 licensed to practice under this Act, or who has applied for
12 licensure under this Act, to submit to a mental or physical
13 examination, or both, as required by and at the expense of the
14 Department. The Department or Board may order the examining
15 physician to present testimony concerning the mental or
16 physical examination of the licensee or applicant. No
17 information shall be excluded by reason of any common law or
18 statutory privilege relating to communications between the
19 licensee or applicant and the examining physician. The
20 examining physicians shall be specifically designated by the
21 Board or Department. The individual to be examined may have, at
22 his or her own expense, another physician of his or her choice
23 present during all aspects of this examination. Failure of an
24 individual to submit to a mental or physical examination, when
25 directed, shall be grounds for suspension of his or her license
26 until the individual submits to the examination if the

1 Department finds, after notice and hearing, that the refusal to
2 submit to the examination was without reasonable cause.

3 If the Department or Board finds an individual unable to
4 practice because of the reasons set forth in this Section, the
5 Department or Board may require that individual to submit to
6 care, counseling, or treatment by physicians approved or
7 designated by the Department or Board, as a condition, term, or
8 restriction for continued, reinstated, or renewed licensure to
9 practice; or, in lieu of care, counseling, or treatment, the
10 Department may file, or the Board may recommend to the
11 Department to file, a complaint to immediately suspend, revoke,
12 or otherwise discipline the license of the individual. An
13 individual whose license was granted, continued, reinstated,
14 renewed, disciplined or supervised subject to such terms,
15 conditions, or restrictions, and who fails to comply with such
16 terms, conditions, or restrictions, shall be referred to the
17 Secretary for a determination as to whether the individual
18 shall have his or her license suspended immediately, pending a
19 hearing by the Department.

20 In instances in which the Secretary immediately suspends a
21 person's license under this Section, a hearing on that person's
22 license must be convened by the Department within 30 days after
23 the suspension and completed without appreciable delay. The
24 Department and Board shall have the authority to review the
25 subject individual's record of treatment and counseling
26 regarding the impairment to the extent permitted by applicable

1 federal statutes and regulations safeguarding the
2 confidentiality of medical records.

3 An individual licensed under this Act and affected under
4 this Section shall be afforded an opportunity to demonstrate to
5 the Department or Board that he or she can resume practice in
6 compliance with acceptable and prevailing standards under the
7 provisions of his or her license.

8 (Source: P.A. 95-235, eff. 8-17-07; 95-331, eff. 8-21-07.)

9 (225 ILCS 100/24.2 new)

10 (Section scheduled to be repealed on January 1, 2018)

11 Sec. 24.2. Prohibition against fee splitting.

12 (a) A licensee under this Act may not directly or
13 indirectly divide, share, or split any professional fee or
14 other form of compensation for professional services with
15 anyone in exchange for a referral or otherwise, other than as
16 provided in this Section 24.2.

17 (b) Nothing contained in this Section abrogates the right
18 of 2 or more licensed health care workers as defined in the
19 Health Care Worker Self-Referral Act to each receive adequate
20 compensation for concurrently rendering services to a patient
21 and to divide the fee for such service, whether or not the
22 worker is employed, provided that the patient has full
23 knowledge of the division and the division is made in
24 proportion to the actual services personally performed and
25 responsibility assumed by each licensee consistent with his or

1 her license, except as prohibited by law.

2 (c) Nothing contained in this Section prohibits a licensee
3 under this Act from practicing podiatry through or within any
4 form of legal entity authorized to conduct business in this
5 State or from pooling, sharing, dividing, or apportioning the
6 professional fees and other revenues in accordance with the
7 agreements and policies of the entity provided:

8 (1) each owner of the entity is licensed under this
9 Act; or

10 (2) the entity is organized under the Professional
11 Services Corporation Act, the Professional Association
12 Act, or the Limited Liability Company Act; or

13 (3) the entity is allowed by Illinois law to provide
14 podiatry services or employ podiatrists such as a licensed
15 hospital or hospital affiliate or licensed ambulatory
16 surgical treatment center owned in full or in part by
17 Illinois-licensed physicians; or

18 (4) the entity is a combination or joint venture of the
19 entities authorized under this subsection (c).

20 (d) Nothing contained in this Section prohibits a licensee
21 under this Act from paying a fair market value fee to any
22 person or entity whose purpose is to perform billing,
23 administrative preparation, or collection services based upon
24 a percentage of professional service fees billed or collected,
25 a flat fee, or any other arrangement that directly or
26 indirectly divides professional fees, for the administrative

1 preparation of the licensee's claims or the collection of the
2 licensee's charges for professional services, provided that:

3 (1) the licensee or the licensee's practice under
4 subsection (c) of this Section at all times controls the
5 amount of fees charged and collected; and

6 (2) all charges collected are paid directly to the
7 licensee or the licensee's practice or are deposited
8 directly into an account in the name of and under the sole
9 control of the licensee or the licensee's practice or
10 deposited into a "Trust Account" by a licensed collection
11 agency in accordance with the requirements of Section 8(c)
12 of the Illinois Collection Agency Act.

13 (e) Nothing contained in this Section prohibits the
14 granting of a security interest in the accounts receivable or
15 fees of a licensee under this Act or the licensee's practice
16 for bona fide advances made to the licensee or licensee's
17 practice provided the licensee retains control and
18 responsibility for the collection of the accounts receivable
19 and fees.

20 (f) Excluding payments that may be made to the owners of or
21 licensees in the licensee's practice under subsection (c) of
22 this Section, a licensee under this Act may not divide, share
23 or split a professional service fee with, or otherwise directly
24 or indirectly pay a percentage of the licensee's professional
25 service fees, revenues or profits to anyone for: (i) the
26 marketing or management of the licensee's practice, (ii)

1 including the licensee or the licensee's practice on any
2 preferred provider list, (iii) allowing the licensee to
3 participate in any network of health care providers, (iv)
4 negotiating fees, charges or terms of service or payment on
5 behalf of the licensee, or (v) including the licensee in a
6 program whereby patients or beneficiaries are provided an
7 incentive to use the services of the licensee.

8 (g) Nothing contained in this Section prohibits the payment
9 of rent or other remunerations paid to an individual,
10 partnership, or corporation by a licensee for the lease,
11 rental, or use of space, owned or controlled by the individual,
12 partnership, corporation, or association.

13 (h) Nothing contained in this Section prohibits the
14 payment, at no more than fair market value, to an individual,
15 partnership, or corporation by a licensee for the use of staff,
16 administrative services, franchise agreements, marketing
17 required by franchise agreements, or equipment owned or
18 controlled by the individual, partnership, or corporation, or
19 the receipt thereof by a licensee.