



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB6166

Introduced 2/11/2016, by Rep. Anna Moeller

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Regulatory Sunset Act. Extends the repeal of the Illinois Optometric Practice Act of 1987 from January 1, 2017 to January 1, 2027. Amends the Illinois Optometric Practice Act of 1987. Requires applicants or licensees to inform the Department of Financial and Professional Regulation of any change of address within 14 days after the change. Removes language limiting the practice of optometry to examination, diagnosis, and treatment without the use of surgery. Instead, excludes certain ophthalmic procedures from the scope of practice of optometry, except for the preoperative and postoperative care of the procedures. Allows members of the Optometric Licensing and Disciplinary Board to be reimbursed for certain expenses. Limits the liability of members of the Board in certain circumstances. Provides that ocular pharmaceutical agents may be administered by injection in certain circumstances. Removes the requirement that the Department list all persons whose licenses have been suspended or revoked. Provides that any fine imposed under the Act shall be payable within 60 days after the effective date of the order. Provides that the Department shall (rather than may) refuse to issue or suspend a license of licensees who fail to pay taxes. Removes requirements of written reports at the conclusions of hearings. Allows parties to agree to a negotiated consent order. Removes certain requirements concerning hearing officers. Removes provisions requiring the Secretary to explain deviations from Board recommendations. Adds provisions concerning confidentiality of certain information collected by the Department. Makes other changes. Effective immediately, except that certain provisions concerning injections and surgery are effective January 1, 2017.

LRB099 20424 SMS 44921 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 4.27 and adding 4.37 as follows:

6 (5 ILCS 80/4.27)

7 Sec. 4.27. Acts repealed on January 1, 2017. The following  
8 are repealed on January 1, 2017:

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

10 The Clinical Psychologist Licensing Act.

11 The Boiler and Pressure Vessel Repairer Regulation Act.

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

14 (Source: P.A. 99-78, eff. 7-20-15.)

15 (5 ILCS 80/4.37 new)

16 Sec. 4.37. Act repealed on January 1, 2027. The following  
17 Act is repealed on January 1, 2027:

18 The Optometric Practice Act of 1984.

19 Section 10. The Illinois Optometric Practice Act of 1987 is  
20 amended by changing the title of the Act and Sections 3, 9, 10,  
21 11, 14, 15.1, 18, 20, 21, 24, 26.2, 26.6, 26.7, 26.8, 26.15,

1 and 27 and by adding Sections 9.5 and 30 as follows:

2 (225 ILCS 80/3) (from Ch. 111, par. 3903)

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

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

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

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

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

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

1           (3) Employs any means for the adaptation of lenses or  
2           prisms.

3           (4) Prescribes corrective lenses, prisms, vision  
4           therapy, visual rehabilitation, or ocular pharmaceutical  
5           agents.

6           (5) Prescribes or manages contact lenses for  
7           refractive, cosmetic, or therapeutic purposes.

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

10          (7) Diagnoses or treats any ocular abnormality,  
11          disease, or visual or muscular anomaly of the human eye or  
12          visual system.

13          (8) Practices, or offers or attempts to practice,  
14          optometry as defined in this Act either on his or her own  
15          behalf or as an employee of a person, firm, or corporation,  
16          whether under the supervision of his or her employer or  
17          not.

18          The following ophthalmic surgery procedures are  
19          excluded from the scope of practice of optometry, except  
20          for the preoperative and postoperative care of these  
21          procedures:

22                 (i) Surgery using a laser.

23                 (ii) Penetrating keratoplasty, corneal transplant,  
24                 or lamellar keratoplasty.

25                 (iii) The administration of general anesthesia.

26                 (iv) Surgery done with general anesthesia.

1           (v) Laser or non-laser injection into the vitreous  
2 chamber of the eye to treat any macular or retinal  
3 disease.

4           (vi) Surgery related to removal of the eye from a  
5 living human being.

6           (vii) Surgery requiring full thickness incision or  
7 excision of the cornea or sclera other than  
8 paracentesis in an emergency situation requiring  
9 immediate reduction of the pressure inside the eye.

10          (viii) Surgery requiring incision of the iris and  
11 ciliary body, including iris diathermy or cryotherapy.

12          (ix) Surgery requiring incision of the vitreous.

13          (x) Surgery requiring incision of the retina.

14          (xi) Surgical extraction of the crystalline lens.

15          (xii) Surgical intraocular implants.

16          (xiii) Incisional or excisional surgery of the  
17 extraocular muscles.

18          (xiv) Surgery of the eyelid for suspect eyelid  
19 malignancies or for incisional cosmetic or mechanical  
20 repair of blepharochalasis, ptosis, and tarsorrhaphy.

21          (xv) Surgery of the bony orbit, including orbital  
22 implants.

23          (xvi) Incisional or excisional surgery of the  
24 lacrimal system other than lacrimal probing or related  
25 procedures.

26          (xvii) Surgery requiring full thickness

1           conjunctivoplasty with graft or flap.

2           (xviii) Any surgical procedure that does not  
3           provide for the correction and relief of ocular  
4           abnormalities.

5           (xix) Injection or incision into the eyeball.

6           (xx) Retrobulbar or intraorbital injection.

7           (xxi) Surgery requiring suturing.

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

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

1 optometrist from rendering appropriate nonsurgical emergency  
2 care.

3 (c) Nothing contained in this Section shall prohibit a  
4 person from manufacturing ophthalmic lenses and prisms or the  
5 fabrication of contact lenses according to the specifications  
6 prescribed by an optometrist or a physician licensed to  
7 practice medicine in all of its branches, but shall  
8 specifically prohibit (1) the sale or delivery of ophthalmic  
9 lenses, prisms, and contact lenses without a prescription  
10 signed by an optometrist or a physician licensed to practice  
11 medicine in all of its branches and (2) the dispensing of  
12 contact lenses by anyone other than a licensed optometrist,  
13 licensed pharmacist, or a physician licensed to practice  
14 medicine in all of its branches. For the purposes of this Act,  
15 "contact lenses" include, but are not limited to, contact  
16 lenses with prescriptive power and decorative and plano power  
17 contact lenses. Nothing in this Section shall prohibit the sale  
18 of contact lenses by an optical firm or corporation primarily  
19 engaged in manufacturing or dealing in eyeglasses or contact  
20 lenses with an affiliated optometrist who practices and is  
21 licensed or has an ancillary registration for the location  
22 where the sale occurs.

23 (d) Nothing in this Act shall restrict the filling of a  
24 prescription by a pharmacist licensed under the Pharmacy  
25 Practice Act.

26 (e) Nothing in this Act shall be construed to restrict the

1 dispensing and sale by an optometrist of ocular devices, such  
2 as contact lenses, that contain and deliver ocular  
3 pharmaceutical agents permitted for use or prescription under  
4 this Act.

5 (Source: P.A. 98-186, eff. 8-5-13.)

6 (225 ILCS 80/9) (from Ch. 111, par. 3909)

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

8 Sec. 9. Definitions. In this Act:

9 (1) "Department" means the Department of Financial and  
10 Professional Regulation.

11 (2) "Secretary" means the Secretary of Financial and  
12 Professional Regulation.

13 (3) "Board" means the Illinois Optometric Licensing  
14 and Disciplinary Board appointed by the Secretary.

15 (4) "License" means the document issued by the  
16 Department authorizing the person named thereon to  
17 practice optometry.

18 (5) (Blank).

19 (6) "Direct supervision" means supervision of any  
20 person assisting an optometrist, requiring that the  
21 optometrist authorize the procedure, remain in the  
22 facility while the procedure is performed, approve the work  
23 performed by the person assisting before dismissal of the  
24 patient, but does not mean that the optometrist must be  
25 present with the patient, during the procedure. For the



1           dispensing of contact lenses, "direct supervision" means  
2           that the optometrist is responsible for training the person  
3           assisting the optometrist in the dispensing or sale of  
4           contact lenses, but does not mean that the optometrist must  
5           be present in the facility where he or she practices under  
6           a license or ancillary registration at the time the  
7           contacts are dispensed or sold.

8           (7) "Address of record" means the designated address  
9           recorded by the Department in the applicant's application  
10           file or the licensee's license file maintained by the  
11           Department's licensure maintenance unit.

12           (Source: P.A. 98-186, eff. 8-5-13.)

13           (225 ILCS 80/9.5 new)

14           Sec. 9.5. Change of address. It is the duty of the  
15           applicant or licensee to inform the Department of any change of  
16           address within 14 days after such change either through the  
17           Department's website or by contacting the Department's  
18           licensure maintenance unit.

19           (225 ILCS 80/10) (from Ch. 111, par. 3910)

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

21           Sec. 10. Powers and duties of Department; rules; report.  
22           The Department shall exercise the powers and duties prescribed  
23           by the Civil Administrative Code of Illinois for the  
24           administration of Licensing Acts and shall exercise such other

1 powers and duties necessary for effectuating the purpose of  
2 this Act.

3 The Secretary shall promulgate Rules consistent with the  
4 provisions of this Act, for the administration and enforcement  
5 thereof and may prescribe forms that shall be issued in  
6 connection therewith. The rules shall include standards and  
7 criteria for licensure and certification, and professional  
8 conduct and discipline.

9 The Department shall consult with the Board in promulgating  
10 rules. Notice of proposed rulemaking shall be transmitted to  
11 the Board and the Department shall review the Board's responses  
12 and any recommendations made therein. ~~The Department shall~~  
13 ~~notify the Board in writing with explanations of deviations~~  
14 ~~from the Board's recommendations and responses.~~ The Department  
15 may solicit the advice of the Board on any matter relating to  
16 the administration and enforcement of this Act.

17 (Source: P.A. 94-787, eff. 5-19-06.)

18 (225 ILCS 80/11) (from Ch. 111, par. 3911)

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

20 Sec. 11. Optometric Licensing and Disciplinary Board. The  
21 Secretary shall appoint an Illinois Optometric Licensing and  
22 Disciplinary Board as follows: Seven persons who shall be  
23 appointed by and shall serve in an advisory capacity to the  
24 Secretary. Five members must be lawfully and actively engaged  
25 in the practice of optometry in this State, one member shall be

1 a licensed optometrist, with a full-time faculty appointment  
2 with the Illinois College of Optometry, and one member must be  
3 a member of the public who shall be a voting member and is not  
4 licensed under this Act, or a similar Act of another  
5 jurisdiction, or have any connection with the profession.  
6 Neither the public member nor the faculty member shall  
7 participate in the preparation or administration of the  
8 examination of applicants for licensure.

9 Members shall serve 4-year terms and until their successors  
10 are appointed and qualified. No member shall be appointed to  
11 the Board for more than 2 successive 4-year terms, not counting  
12 any partial terms when appointed to fill the unexpired portion  
13 of a vacated term. Appointments to fill vacancies shall be made  
14 in the same manner as original appointments, for the unexpired  
15 portion of the vacated term.

16 The Board shall annually elect a chairperson and a  
17 vice-chairperson, both of whom shall be licensed optometrists.

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

20 A majority of the Board members currently appointed shall  
21 constitute a quorum. A vacancy in the membership of the Board  
22 shall not impair the right of a quorum to perform all of the  
23 duties of the Board.

24 The Secretary may terminate the appointment of any member  
25 for cause.

26 The members of the Board shall be reimbursed for all

1 authorized legitimate and necessary expenses incurred in  
2 attending the meetings of the Board.

3 Members of the Board shall have no liability in any action  
4 based upon any disciplinary proceeding or other activity  
5 performed in good faith as a member of the Board.

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

16 Without, in any manner, limiting the power of the  
17 Department to conduct investigations, the Board may recommend  
18 to the Secretary that one or more licensed optometrists be  
19 selected by the Secretary to conduct or assist in any  
20 investigation pursuant to this Act. Such licensed optometrist  
21 may receive remuneration as determined by the Secretary.

22 (Source: P.A. 96-270, eff. 1-1-10.)

23 (225 ILCS 80/14) (from Ch. 111, par. 3914)

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

25 Sec. 14. A person shall be qualified for initial licensure

1 as an optometrist if that person has applied in writing in form  
2 and substance satisfactory to the Department and who:

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

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

10 (3) (blank); and

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

15 (Source: P.A. 94-787, eff. 5-19-06.)

16 (225 ILCS 80/15.1)

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

18 Sec. 15.1. Diagnostic and therapeutic authority.

19 (a) For purposes of the Act, "ocular pharmaceutical agents"  
20 means topical anesthetics, topical mydriatics, topical  
21 cycloplegics, topical miotics and mydriatic reversing agents,  
22 anti-infective agents, anti-allergy agents, anti-glaucoma  
23 agents (except oral carbonic anhydrase inhibitors, which may be  
24 prescribed only in a quantity sufficient to provide treatment  
25 for up to 72 hours), anti-inflammatory agents (except oral

1 steroids), over-the-counter agents, analgesic agents, anti-dry  
2 eye agents, and agents for the treatment of hypotrichosis.

3 (a-3) In addition to ocular pharmaceutical agents that fall  
4 within the categories set forth in subsection (a) of this  
5 Section, the Board may add a pharmaceutical agent approved by  
6 the FDA or class of agents for the purpose of the diagnosis or  
7 treatment of conditions of the eye and adnexa after  
8 consideration of the agent's systemic effects, side effects,  
9 and the use of the agent within the practice of optometry. The  
10 Board shall consider requests for additional agents and make  
11 recommendations within 90 days after the receipt of the  
12 request.

13 Within 45 days after the Board's recommendation to the  
14 Department of a pharmaceutical agent or class of agents, the  
15 Department shall promulgate rules necessary to allow for the  
16 prescribing or administering of the pharmaceutical agent or  
17 class of agents under this Act.

18 (a-5) Ocular pharmaceutical agents may be administered by  
19 subcutaneous, subconjunctival, and intramuscular injections by  
20 an optometrist who meets the educational requirements  
21 established by the Department by rule. Intravenous injections  
22 are permitted for fluorescein angiography only. Retrobulbar,  
23 intraocular, and botulinum injections are not permitted  
24 ~~administered by injection may be used only for the treatment of~~  
25 ~~anaphylaxis.~~

26 (a-10) Oral pharmaceutical agents may be prescribed for a

1 child under 5 years of age only in consultation with a  
2 physician licensed to practice medicine in all its branches.

3 (a-15) The authority to prescribe a Schedule III, IV, or V  
4 controlled substance shall include analgesic agents only in a  
5 quantity sufficient to provide treatment for up to 72 hours.  
6 The prescription of a Schedule II controlled substance is  
7 prohibited, except for Dihydrocodeinone (Hydrocodone) with one  
8 or more active, non-narcotic ingredients only in a quantity  
9 sufficient to provide treatment for up to 72 hours, and only if  
10 such formulations of Dihydrocodeinone are reclassified as  
11 Schedule II by federal regulation.

12 (b) A licensed optometrist may remove superficial foreign  
13 bodies from the human eye and adnexa and may give orders for  
14 patient care to a nurse licensed to practice under Illinois  
15 law.

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

19 (1) grave or repeated misuse of any ocular  
20 pharmaceutical agent; and

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

24 (d) The Secretary of Financial and Professional Regulation  
25 shall notify the Director of Public Health as to the categories  
26 of ocular pharmaceutical agents permitted for use by an

1 optometrist. The Director of Public Health shall in turn notify  
2 every licensed pharmacist in the State of the categories of  
3 ocular pharmaceutical agents that can be utilized and  
4 prescribed by an optometrist.

5 (Source: P.A. 97-170, eff. 7-22-11; 98-1111, eff. 8-26-14.)

6 (225 ILCS 80/18) (from Ch. 111, par. 3918)

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

8 Sec. 18. Endorsement. The Department may, in its  
9 discretion, license as an optometrist, without examination on  
10 payment of the required fee, an applicant who is so licensed  
11 under the laws of another state or U.S. jurisdiction of the  
12 United States and has no disciplinary action taken against his  
13 or her license in any jurisdiction. The Department may issue a  
14 license, upon payment of the required fee and recommendation of  
15 the Board, to an individual applicant who is licensed in any  
16 foreign country or province whose standards, in the opinion of  
17 the Board or Department, if the requirements for licensure in  
18 the jurisdiction in which the applicant was licensed, were, at  
19 the date of his or her licensure, substantially equivalent to  
20 the requirements then in force in this State; or if the  
21 applicant possesses individual qualifications and skills which  
22 demonstrate substantial equivalence to current Illinois  
23 requirements.

24 Applicants have 3 years from the date of application to  
25 complete the application process. If the process has not been



1 completed in 3 years, the application shall be denied, the fee  
2 forfeited and the applicant must reapply and meet the  
3 requirements in effect at the time of reapplication.

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

5 (225 ILCS 80/20) (from Ch. 111, par. 3920)

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

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

24 Moneys in the Fund may be transferred to the Professions  
25 Indirect Cost Fund as authorized under Section 2105-300 of the

1 Department of Professional Regulation Law (20 ILCS  
2 2105/2105-300).

3 Money in the Optometric Licensing and Disciplinary Board  
4 Fund may be invested and reinvested, with all earnings received  
5 from such investment to be deposited in the Optometric  
6 Licensing and Disciplinary Board Fund and used for the same  
7 purposes as fees deposited in such fund.

8 (Source: P.A. 94-787, eff. 5-19-06.)

9 (225 ILCS 80/21) (from Ch. 111, par. 3921)

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

11 Sec. 21. The Department shall maintain a roster of the  
12 names and addresses of all licensees ~~and of all persons whose~~  
13 ~~licenses have been suspended or revoked.~~ This roster shall be  
14 available upon written request and payment of the required fee.

15 (Source: P.A. 94-787, eff. 5-19-06.)

16 (225 ILCS 80/24) (from Ch. 111, par. 3924)

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

18 Sec. 24. Grounds for disciplinary action.

19 (a) The Department may refuse to issue or to renew, or may  
20 revoke, suspend, place on probation, reprimand or take other  
21 disciplinary or non-disciplinary action as the Department may  
22 deem appropriate, including fines not to exceed \$10,000 for  
23 each violation, with regard to any license for any one or  
24 combination of the causes set forth in subsection (a-3) of this

1 Section. All fines collected under this Section shall be  
2 deposited in the Optometric Licensing and Disciplinary Board  
3 Fund. Any fine imposed shall be payable within 60 days after  
4 the effective date of the order imposing the fine.

5 (a-3) Grounds for disciplinary action include the  
6 following:

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

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

14 (3) Making any misrepresentation for the purpose of  
15 obtaining a license.

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

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

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

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

1           (8) Engaging in dishonorable, unethical, or  
2 unprofessional conduct of a character likely to deceive,  
3 defraud, or harm the public.

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

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

12           (11) Violation of the prohibition against fee  
13 splitting in Section 24.2 of this 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 abuse or neglect as required by law.

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

1 judgment, skill, or safety.

2 (17) Solicitation of professional services other than  
3 permitted advertising.

4 (18) Failure to provide a patient with a copy of his or  
5 her record or prescription in accordance with federal law.

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

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

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

18 (22) Being named as a perpetrator in an indicated  
19 report by the Department of Children and Family Services  
20 under the Abused and Neglected Child Reporting Act, and  
21 upon proof by clear and convincing evidence that the  
22 licensee has caused a child to be an abused child or a  
23 neglected child as defined in the Abused and Neglected  
24 Child Reporting Act.

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

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

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

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

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

15          (28) Use by a licensed optometrist of the word  
16          "infirmary", "hospital", "school", "university", in  
17          English or any other language, in connection with the place  
18          where optometry may be practiced or demonstrated unless the  
19          licensee is employed by and practicing at a location that  
20          is licensed as a hospital or accredited as a school or  
21          university.

22          (29) Continuance of an optometrist in the employ of any  
23          person, firm or corporation, or as an assistant to any  
24          optometrist or optometrists, directly or indirectly, after  
25          his or her employer or superior has been found guilty of  
26          violating or has been enjoined from violating the laws of

1 the State of Illinois relating to the practice of  
2 optometry, when the employer or superior persists in that  
3 violation.

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

9 (31) Failure to provide satisfactory proof of having  
10 participated in approved continuing education programs as  
11 determined by the Board and approved by the Secretary.  
12 Exceptions for extreme hardships are to be defined by the  
13 rules of the Department.

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

20 (33) Gross and willful overcharging for professional  
21 services including filing false statements for collection  
22 of fees for which services are not rendered, including, but  
23 not limited to filing false statements for collection of  
24 monies for services not rendered from the medical  
25 assistance program of the Department of Healthcare and  
26 Family Services (formerly Department of Public Aid) under

1 the Illinois Public Aid Code.

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

5 (35) Violation of the Health Care Worker Self-Referral  
6 Act.

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

14 (a-5) In enforcing this Section, the Board or Department,  
15 upon a showing of a possible violation, may compel any  
16 individual licensed to practice under this Act, or who has  
17 applied for licensure or certification pursuant to this Act, to  
18 submit to a mental or physical examination, or both, as  
19 required by and at the expense of the Department. The examining  
20 physicians or clinical psychologists shall be those  
21 specifically designated by the Department ~~Board~~. The Board or  
22 the Department may order the examining physician or clinical  
23 psychologist to present testimony concerning this mental or  
24 physical examination of the licensee or applicant. No  
25 information shall be excluded by reason of any common law or  
26 statutory privilege relating to communications between the



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

12 If the Board or Department finds an individual unable to  
13 practice because of the reasons set forth in this Section, the  
14 Board or Department shall require such individual to submit to  
15 care, counseling, or treatment by physicians or clinical  
16 psychologists approved or designated by the Department Board,  
17 as a condition, term, or restriction for continued, reinstated,  
18 or renewed licensure to practice, or in lieu of care,  
19 counseling, or treatment, the Board may recommend to the  
20 Department to file a complaint to immediately suspend, revoke,  
21 or otherwise discipline the license of the individual, or the  
22 Board may recommend to the Department to file a complaint to  
23 suspend, revoke, or otherwise discipline the license of the  
24 individual. Any individual whose license was granted pursuant  
25 to this Act, or continued, reinstated, renewed, disciplined, or  
26 supervised, subject to such conditions, terms, or

1 restrictions, who shall fail to comply with such conditions,  
2 terms, or restrictions, shall be referred to the Secretary for  
3 a determination as to whether the individual shall have his or  
4 her license suspended immediately, pending a hearing by the  
5 Board.

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

15 (Source: P.A. 99-43, eff. 1-1-16.)

16 (225 ILCS 80/26.2) (from Ch. 111, par. 3926.2)

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

18 Sec. 26.2. Investigation; notice. The Department may  
19 investigate the actions of any applicant or of any person or  
20 persons holding or claiming to hold a license. The Department  
21 shall, before suspending, revoking, placing on probationary  
22 status, or taking any other disciplinary action as the  
23 Department may deem proper with regard to any license, at least  
24 30 days prior to the date set for the hearing, notify the  
25 accused in writing of any charges made and the time and place

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

1 of the Secretary after having first received the recommendation  
2 of the Board, the accused person's license may be suspended,  
3 revoked, placed on probationary status, or whatever  
4 disciplinary action as the Secretary may deem proper, including  
5 limiting the scope, nature, or extent of said person's  
6 practice, without a hearing, if the act or acts charged  
7 constitute sufficient grounds for such action under this Act.

8 (Source: P.A. 94-787, eff. 5-19-06.)

9 (225 ILCS 80/26.6) (from Ch. 111, par. 3926.6)

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

11 Sec. 26.6. Findings of fact, conclusions of law, and  
12 recommendations. At the conclusion of the hearing the Board  
13 shall present to the Secretary a written report of its findings  
14 of fact, conclusions of law and recommendations. ~~The report~~  
15 ~~shall contain a finding whether or not the accused person~~  
16 ~~violated this Act or failed to comply with the conditions~~  
17 ~~required in this Act. The Board shall specify the nature of the~~  
18 ~~violation or failure to comply, and shall make its~~  
19 ~~recommendations to the Secretary.~~

20 The report of findings of fact, conclusions of law and  
21 recommendations of the Board shall be the basis for the  
22 Department's order. If the Secretary disagrees in any regard  
23 with the report of the Board, the Secretary may issue an order  
24 in contravention thereof. The Secretary shall ~~provide within 60~~  
25 ~~days of taking such action a written report to the Board on any~~

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

7 At any point in any investigation or disciplinary  
8 proceeding provided for in this Act, both parties may agree to  
9 a negotiated consent order. The consent order shall be final  
10 upon the signature of the Secretary.

11 (Source: P.A. 94-787, eff. 5-19-06.)

12 (225 ILCS 80/26.7) (from Ch. 111, par. 3926.7)

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

14 Sec. 26.7. Hearing officer. Notwithstanding the provisions  
15 of Section 26.6 of this Act, the Secretary shall have the  
16 authority to appoint any attorney duly licensed to practice law  
17 in the State of Illinois to serve as the hearing officer in any  
18 action for discipline of a license. ~~The Secretary shall notify~~  
19 ~~the Board of any such appointment.~~ The hearing officer shall  
20 have full authority to conduct the hearing. The Board shall  
21 have the right to have at least one member present at any  
22 hearing conducted by such hearing officer. The hearing officer  
23 shall report his or her findings of fact, conclusions of law  
24 and recommendations to the Board and the Secretary. The Board  
25 shall ~~have 60 days from receipt of the report to~~ review the

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

11 (Source: P.A. 94-787, eff. 5-19-06.)

12 (225 ILCS 80/26.8) (from Ch. 111, par. 3926.8)

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

14 Sec. 26.8. Service of report; rehearing; order. In any case  
15 involving the discipline of a license, a copy of the Board's  
16 and hearing officer's report shall be served upon the  
17 respondent by the Department, either personally or as provided  
18 in this Act for the service of the notice of hearing. Within 20  
19 days after such service, the respondent may present to the  
20 Department a motion in writing for a rehearing, which motion  
21 shall specify the particular grounds therefor. If no motion for  
22 rehearing is filed, then upon the expiration of the time  
23 specified for filing such a motion, or if a motion for  
24 rehearing is denied, then upon such denial the Secretary may  
25 enter an order in accordance with this Act. If the respondent

1 shall order from the reporting service, and pay for a  
2 transcript of the record within the time for filing a motion  
3 for rehearing, the 20 day period within which such a motion may  
4 be filed shall commence upon the delivery of the transcript to  
5 the respondent.

6 (Source: P.A. 94-787, eff. 5-19-06.)

7 (225 ILCS 80/26.15) (from Ch. 111, par. 3926.15)

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

9 Sec. 26.15. Certification of record. The Department shall  
10 not be required to certify any record to the Court or file any  
11 answer in court or otherwise appear in any court in a judicial  
12 review proceeding, unless and until the Department has received  
13 from the plaintiff there is filed in the court, with the  
14 complaint, a receipt from the Department acknowledging payment  
15 of the costs of furnishing and certifying the record, which  
16 costs shall be determined by the Department. Failure on the  
17 part of the plaintiff to file a receipt in Court shall be  
18 grounds for dismissal of the action.

19 (Source: P.A. 87-1031.)

20 (225 ILCS 80/27) (from Ch. 111, par. 3927)

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

22 Sec. 27. Administrative Procedure Act. The Illinois  
23 Administrative Procedure Act is hereby expressly adopted and  
24 incorporated herein as if all of the provisions of that Act

1 were included in this Act, except that the provision of  
2 subsection (d) of Section 10-65 of the Illinois Administrative  
3 Procedure Act that provides that at hearings the licensee has  
4 the right to show compliance with all lawful requirements for  
5 retention, continuation or renewal of the license is  
6 specifically excluded. ~~For the purpose of this Act the notice~~  
7 ~~required under Section 10-25 of the Administrative Procedure~~  
8 ~~Act is deemed sufficient when mailed to the last known address~~  
9 ~~of a party.~~

10 (Source: P.A. 88-45.)

11 (225 ILCS 80/30 new)

12 Sec. 30. Confidentiality. All information collected by the  
13 Department in the course of an examination or investigation of  
14 a licensee or applicant, including, but not limited to, any  
15 complaint against a license filed with the Department and  
16 information collected to investigate any such complaint, shall  
17 be maintained for the confidential use of the Department and  
18 shall not be disclosed. The Department may not disclose the  
19 information to anyone other than law enforcement officials,  
20 other regulatory agencies that have an appropriate regulatory  
21 interest as determined by the Secretary, or a party presenting  
22 a lawful subpoena to the Department. Information and documents  
23 disclosed to a federal, State, county, or local law enforcement  
24 agency shall not be disclosed by the agency for any purpose to  
25 any other agency or person. A formal complaint filed against a



1 licensee by the Department or any order issued by the  
2 Department against a licensee or applicant shall be a public  
3 record, except as otherwise prohibited by law.

4       Section 99. Effective date. This Act takes effect upon  
5 becoming law, except that the provisions changing Sections 3  
6 and 15.1 of the Illinois Optometric Practice Act of 1987 and  
7 adding Section 15.3 of the Illinois Optometric Practice Act of  
8 1987 take effect on January 1, 2017.

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