

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 Illinois Optometric Practice Act of 1987 is
5 amended by changing Sections 12, 22, and 24 as follows:

6 (225 ILCS 80/12) (from Ch. 111, par. 3912)

7 (Section scheduled to be repealed on January 1, 2017)

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

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

22 ~~Applicants who meet all other conditions for licensure and~~
23 ~~who will be practicing optometry in a residency program~~

1 ~~approved by the Board may apply for and receive a limited one~~
2 ~~year license to practice optometry as a resident in the~~
3 ~~program. The holder of a valid one year residency license may~~
4 ~~perform those acts prescribed by and incidental to the~~
5 ~~residency license holder's program of residency training, with~~
6 ~~the same privileges and responsibilities as a fully licensed~~
7 ~~optometrist, but may not otherwise engage in the practice of~~
8 ~~optometry in this State, unless fully licensed under this Act.~~

9 ~~The Department may revoke a one year residency license upon~~
10 ~~proof that the residency license holder has engaged in the~~
11 ~~practice of optometry in this State outside of his or her~~
12 ~~residency program or if the residency license holder fails to~~
13 ~~supply the Department, within 10 days after its request, with~~
14 ~~information concerning his or her current status and activities~~
15 ~~in the residency program.~~

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

17 (225 ILCS 80/22) (from Ch. 111, par. 3922)

18 (Section scheduled to be repealed on January 1, 2017)

19 Sec. 22. Any person licensed under this Act may advertise
20 the availability of professional services in the public media
21 or on the premises where such professional services are
22 rendered provided that such advertising is truthful and not
23 misleading and is in conformity with rules promulgated by the
24 Department.

25 It is unlawful for any person licensed under this Act to

1 use ~~testimonials or~~ claims of superior quality of care to
2 entice the public.

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

4 (225 ILCS 80/24) (from Ch. 111, par. 3924)

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

6 Sec. 24. Grounds for disciplinary action.

7 (a) The Department may refuse to issue or to renew, or may
8 revoke, suspend, place on probation, reprimand or take other
9 disciplinary or non-disciplinary action as the Department may
10 deem appropriate, including fines not to exceed \$10,000 for
11 each violation, with regard to any license for any one or
12 combination of the causes set forth in subsection (a-3) of this
13 Section. All fines collected under this Section shall be
14 deposited in the Optometric Licensing and Disciplinary Board
15 Fund.

16 (a-3) Grounds for disciplinary action include the
17 following:

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

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

25 (3) Making any misrepresentation for the purpose of

1 obtaining a license.

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

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

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

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

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

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

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

24 (11) Violation of the prohibition against fee
25 splitting in Section 24.2 of this Act.

26 (12) A finding by the Department that the licensee,

1 after having his or her license placed on probationary
2 status has violated the terms of probation.

3 (13) Abandonment of a patient.

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

7 (15) Willfully failing to report an instance of
8 suspected abuse or neglect as required by law.

9 (16) Physical illness, including but not limited to,
10 deterioration through the aging process, or loss of motor
11 skill, mental illness, or disability that results in the
12 inability to practice the profession with reasonable
13 judgment, skill, or safety.

14 (17) Solicitation of professional services other than
15 permitted advertising.

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

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

26 (20) A finding that licensure has been applied for or

1 obtained by fraudulent means.

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

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

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

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

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

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

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

1 (28) Use by a licensed optometrist of the word
2 "infirmary", "hospital", "school", "university", in
3 English or any other language, in connection with the place
4 where optometry may be practiced or demonstrated unless the
5 licensee is employed by and practicing at a location that
6 is licensed as a hospital or accredited as a school or
7 university.

8 (29) Continuance of an optometrist in the employ of any
9 person, firm or corporation, or as an assistant to any
10 optometrist or optometrists, directly or indirectly, after
11 his or her employer or superior has been found guilty of
12 violating or has been enjoined from violating the laws of
13 the State of Illinois relating to the practice of
14 optometry, when the employer or superior persists in that
15 violation.

16 (30) The performance of optometric service in
17 conjunction with a scheme or plan with another person, firm
18 or corporation known to be advertising in a manner contrary
19 to this Act or otherwise violating the laws of the State of
20 Illinois concerning the practice of optometry.

21 (31) Failure to provide satisfactory proof of having
22 participated in approved continuing education programs as
23 determined by the Board and approved by the Secretary.
24 Exceptions for extreme hardships are to be defined by the
25 rules of the Department.

26 (32) Willfully making or filing false records or

1 reports in the practice of optometry, including, but not
2 limited to false records to support claims against the
3 medical assistance program of the Department of Healthcare
4 and Family Services (formerly Department of Public Aid)
5 under the Illinois Public Aid Code.

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

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

17 (35) Violation of the Health Care Worker Self-Referral
18 Act.

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

26 (a-5) In enforcing this Section, the Board upon a showing

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

23 If the Board finds an individual unable to practice because
24 of the reasons set forth in this Section, the Board shall
25 require such individual to submit to care, counseling, or
26 treatment by physicians or clinical psychologists approved or

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

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

25 (Source: P.A. 96-378, eff. 1-1-10; 96-608, eff. 8-24-09;
26 96-1000, eff. 7-2-10; 97-1028, eff. 1-1-13.)