

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 Section 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 Acts repealed on January 1, 2017.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8 are repealed on January 1, 2017: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 Act repealed on January 1, 2027.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17 Act is repealed on January 1, 2027: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3 (Section scheduled to be repealed on January 1, 2017)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 Nothing in this Section shall be interpreted (A) ~~(i)~~ to
19 prevent a person from functioning as an assistant under the
20 direct supervision of a person licensed by the State of
21 Illinois to practice optometry or medicine in all of its
22 branches or (B) ~~(ii)~~ to prohibit visual screening programs that
23 are conducted without a fee (other than voluntary donations),
24 by charitable organizations acting in the public welfare under
25 the supervision of a committee composed of persons licensed by
26 the State of Illinois to practice optometry or persons licensed

1 by the State of Illinois to practice medicine in all of its
2 branches.

3 (b) When, in the course of providing optometric services to
4 any person, an optometrist licensed under this Act finds an
5 indication of a disease or condition of the eye which in his or
6 her professional judgment requires professional service
7 outside the scope of practice as defined in this Act, he or she
8 shall refer such person to a physician licensed to practice
9 medicine in all of its branches, or other appropriate health
10 care practitioner. Nothing in this Act shall preclude an
11 optometrist from rendering appropriate nonsurgical emergency
12 care.

13 (c) Nothing contained in this Section shall prohibit a
14 person from manufacturing ophthalmic lenses and prisms or the
15 fabrication of contact lenses according to the specifications
16 prescribed by an optometrist or a physician licensed to
17 practice medicine in all of its branches, but shall
18 specifically prohibit (1) the sale or delivery of ophthalmic
19 lenses, prisms, and contact lenses without a prescription
20 signed by an optometrist or a physician licensed to practice
21 medicine in all of its branches and (2) the dispensing of
22 contact lenses by anyone other than a licensed optometrist,
23 licensed pharmacist, or a physician licensed to practice
24 medicine in all of its branches. For the purposes of this Act,
25 "contact lenses" include, but are not limited to, contact
26 lenses with prescriptive power and decorative and plano power

1 contact lenses. Nothing in this Section shall prohibit the sale
2 of contact lenses by an optical firm or corporation primarily
3 engaged in manufacturing or dealing in eyeglasses or contact
4 lenses with an affiliated optometrist who practices and is
5 licensed or has an ancillary registration for the location
6 where the sale occurs.

7 (d) Nothing in this Act shall restrict the filling of a
8 prescription by a pharmacist licensed under the Pharmacy
9 Practice Act.

10 (e) Nothing in this Act shall be construed to restrict the
11 dispensing and sale by an optometrist of ocular devices, such
12 as contact lenses, that contain and deliver ocular
13 pharmaceutical agents permitted for use or prescription under
14 this Act.

15 (f) Nothing in this Act shall prohibit an optometrist from:
16 (1) the probing, dilation, and irrigation of the lacrimal ducts
17 or insertion and removal of lacrimal plugs; (2) removal of a
18 superficial foreign body; (3) suture removal; (4) removal of
19 eyelashes; (5) removal, destruction, or drainage of
20 superficial lesions and conjunctival cysts, including
21 chalazion; (6) corneal debridement, culture, scrape, or
22 anterior puncture, not including removal of pterygium, corneal
23 biopsy, or corneal neoplasias; and (7) corneal shaping with
24 external devices, such as contact lenses.

25 Removal, destruction, or drainage of superficial lesions
26 and conjunctival cysts and corneal debridement, culture,

1 scrape, or anterior puncture are only permitted by an
2 optometrist who meets the educational requirements established
3 by the Department in rule, which shall include both clinical
4 training and didactic education.

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, which shall include both
22 clinical training and didactic education. Retrobulbar,
23 intraocular, and botulinum injections are not permitted.
24 Intramuscular injections may be administered by injection may
25 ~~be~~ used only for the treatment of 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 or other health care provider licensed
15 to practice under Illinois 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. The Department may issue a license, upon payment
13 of the required fee and recommendation of the Board, to an
14 individual applicant who is licensed in any foreign country or
15 province whose standards, in the opinion of the Board or
16 Department, if the requirements for licensure in the
17 jurisdiction in which the applicant was licensed, were, at the
18 date of his or her licensure, substantially equivalent to the
19 requirements then in force in this State; or if the applicant
20 possesses individual qualifications and skills which
21 demonstrate substantial equivalence to current Illinois
22 requirements.

23 Applicants have 3 years from the date of application to
24 complete the application process. If the process has not been
25 completed in 3 years, the application shall be denied, the fee

1 forfeited and the applicant must reapply and meet the
2 requirements in effect at the time of reapplication.

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

4 (225 ILCS 80/20) (from Ch. 111, par. 3920)

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

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

23 Moneys in the Fund may be transferred to the Professions
24 Indirect Cost Fund as authorized under Section 2105-300 of the
25 Department of Professional Regulation Law (20 ILCS

1 2105/2105-300).

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

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

8 (225 ILCS 80/21) (from Ch. 111, par. 3921)

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

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

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

15 (225 ILCS 80/24) (from Ch. 111, par. 3924)

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

17 Sec. 24. Grounds for disciplinary action.

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

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

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

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 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.

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

1 unprofessional conduct of a character likely to deceive,
2 defraud, or harm the public.

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

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

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

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

16 (13) Abandonment of a patient.

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

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

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

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

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

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

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

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

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

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

26 (24) Immoral conduct in the commission of any act, such

1 as sexual abuse, sexual misconduct or sexual exploitation,
2 related to the licensee's practice.

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

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

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

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

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

1 optometry, when the employer or superior persists in that
2 violation.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (225 ILCS 80/26.2) (from Ch. 111, par. 3926.2)

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

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

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

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

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

8 (225 ILCS 80/26.6) (from Ch. 111, par. 3926.6)

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

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

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

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

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

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

11 (225 ILCS 80/26.7) (from Ch. 111, par. 3926.7)

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

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

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

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

11 (225 ILCS 80/26.8) (from Ch. 111, par. 3926.8)

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

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

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

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

6 (225 ILCS 80/26.15) (from Ch. 111, par. 3926.15)

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

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

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

19 (225 ILCS 80/27) (from Ch. 111, par. 3927)

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

21 Sec. 27. Administrative Procedure Act. The Illinois
22 Administrative Procedure Act is hereby expressly adopted and
23 incorporated herein as if all of the provisions of that Act
24 were included in this Act, except that the provision of

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

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

10 (225 ILCS 80/30 new)

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

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

3 Section 99. Effective date. This Act takes effect January
4 1, 2017.