

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Regulatory Sunset Act is amended by changing Sections 4.27 and 4.37 and adding Section 4.27a as follows:

(5 ILCS 80/4.27)

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 Acts repealed on January 1, 2017. The following are repealed on January 1, 2017:

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

The Boiler and Pressure Vessel Repairer Regulation Act.

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

(Source: P.A. 99-78, eff. 7-20-15; 99-572, eff. 7-15-16.)

(5 ILCS 80/4.27a new)

Sec. 4.27a. Act repealed on December 31, 2017. The following Act is repealed on December 31, 2017:

The Medical Practice Act of 1987.

(5 ILCS 80/4.37)

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 Acts repealed on January 1, 2027. The following Act is repealed on January 1, 2027:

The Clinical Psychologist Licensing Act.

The Illinois Optometric Practice Act of 1987.

(Source: P.A. 99-572, eff. 7-15-16.)

(5 ILCS 80/4.26a rep.)

Section 10. The Regulatory Sunset Act is amended by repealing Section 4.26a.

Section 15. The Medical Practice Act of 1987 is amended by changing Section 21 as follows:

(225 ILCS 60/21) (from Ch. 111, par. 4400-21)

(Section scheduled to be repealed on December 31, 2016)

Sec. 21. License renewal; reinstatement; inactive status; disposition and collection of fees.

(A) Renewal. The expiration date and renewal period for each license issued under this Act shall be set by rule. The holder of a license may renew the license by paying the required fee. The holder of a license may also renew the license within 90 days after its expiration by complying with the requirements for renewal and payment of an additional fee. A license renewal within 90 days after expiration shall be effective retroactively to the expiration date.

The Department shall attempt to provide through electronic means ~~mail~~ to each licensee under this Act, ~~at his or her address of record~~, at least 60 days in advance of the expiration date of his or her license, a renewal notice. No

such license shall be deemed to have lapsed until 90 days after the expiration date and after the Department has attempted to provide such notice ~~has been mailed by the Department~~ as herein provided.

(B) Reinstatement. Any licensee who has permitted his or her license to lapse or who has had his or her license on inactive status may have his or her license reinstated by making application to the Department and filing proof acceptable to the Department of his or her fitness to have the license reinstated, including evidence certifying to active practice in another jurisdiction satisfactory to the Department, proof of meeting the continuing education requirements for one renewal period, and by paying the required reinstatement fee.

If the licensee has not maintained an active practice in another jurisdiction satisfactory to the Department, the Licensing Board shall determine, by an evaluation program established by rule, the applicant's fitness to resume active status and may require the licensee to complete a period of evaluated clinical experience and may require successful completion of a practical examination specified by the Licensing Board.

However, any registrant whose license has expired while he or she has been engaged (a) in Federal Service on active duty with the Army of the United States, the United States Navy, the Marine Corps, the Air Force, the Coast Guard, the Public Health

Service or the State Militia called into the service or training of the United States of America, or (b) in training or education under the supervision of the United States preliminary to induction into the military service, may have his or her license reinstated without paying any lapsed renewal fees, if within 2 years after honorable termination of such service, training, or education, he or she furnishes to the Department with satisfactory evidence to the effect that he or she has been so engaged and that his or her service, training, or education has been so terminated.

(C) Inactive licenses. Any licensee who notifies the Department, in writing on forms prescribed by the Department, may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status.

Any licensee requesting reinstatement from inactive status shall be required to pay the current renewal fee, provide proof of meeting the continuing education requirements for the period of time the license is inactive not to exceed one renewal period, and shall be required to reinstate his or her license as provided in subsection (B).

Any licensee whose license is in an inactive status shall not practice in the State of Illinois.

(D) Disposition of monies collected. All monies collected under this Act by the Department shall be deposited in the

Illinois State Medical Disciplinary Fund in the State Treasury, and used only for the following purposes: (a) by the Disciplinary Board and Licensing Board in the exercise of its powers and performance of its duties, as such use is made by the Department with full consideration of all recommendations of the Disciplinary Board and Licensing Board, (b) for costs directly related to persons licensed under this Act, and (c) for direct and allocable indirect costs related to the public purposes of the Department.

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

The State Comptroller shall order and the State Treasurer shall transfer an amount equal to \$1,100,000 from the Illinois State Medical Disciplinary Fund to the Local Government Tax Fund on each of the following dates: July 1, 2014, October 1, 2014, January 1, 2015, July 1, 2017, October 1, 2017, and January 1, 2018. These transfers shall constitute repayment of the \$6,600,000 transfer made under Section 6z-18 of the State Finance Act.

All earnings received from investment of monies in the Illinois State Medical Disciplinary Fund shall be deposited in the Illinois State Medical Disciplinary Fund and shall be used for the same purposes as fees deposited in such Fund.

(E) Fees. The following fees are nonrefundable.

(1) Applicants for any examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining the applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

(2) Before July 1, 2018, the fee for a license under Section 9 of this Act is \$700. Beginning on July 1, 2018, the fee for a license under Section 9 of this Act is \$500.

(3) Before July 1, 2018, the fee for a license under Section 19 of this Act is \$700. Beginning on July 1, 2018, the fee for a license under Section 19 of this Act is \$500.

(4) Before July 1, 2018, the fee for the renewal of a license for a resident of Illinois shall be calculated at the rate of \$230 per year, and beginning on July 1, 2018, the fee for the renewal of a license shall be \$167, except for licensees who were issued a license within 12 months of the expiration date of the license, before July 1, 2018, the fee for the renewal shall be \$230, and beginning on July 1, 2018 that fee will be \$167. Before July 1, 2018, the fee for the renewal of a license for a nonresident shall be calculated at the rate of \$460 per year, and

beginning on July 1, 2018, the fee for the renewal of a license for a nonresident shall be \$250, except for licensees who were issued a license within 12 months of the expiration date of the license, before July 1, 2018, the fee for the renewal shall be \$460, and beginning on July 1, 2018 that fee will be \$250.

(5) The fee for the reinstatement of a license other than from inactive status, is \$230. In addition, payment of all lapsed renewal fees not to exceed \$1,400 is required.

(6) The fee for a 3-year temporary license under Section 17 is \$230.

(7) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license which has been lost or destroyed, or for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Department records when no duplicate license is issued.

(8) The fee to be paid for a license record for any purpose is \$20.

(9) The fee to be paid to have the scoring of an examination, administered by the Department, reviewed and verified, is \$20 plus any fees charged by the applicable testing service.

(10) The fee to be paid by a licensee for a wall certificate showing his or her license shall be the actual

cost of producing the certificate as determined by the Department.

(11) The fee for a roster of persons licensed as physicians in this State shall be the actual cost of producing such a roster as determined by the Department.

(F) Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or permit or deny the application, without hearing. If, after termination or denial, the person seeks a license or permit, he or she shall apply to the Department for reinstatement or issuance of the license or permit and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for reinstatement of a license or permit to pay all expenses of processing this application. The Secretary may waive the fines

due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 97-622, eff. 11-23-11; 98-3, eff. 3-8-13; 98-1140, eff. 12-30-14.)

Section 20. The Illinois Optometric Practice Act of 1987 is amended by changing Sections 3, 9, 10, 11, 14, 15.1, 18, 20, 21, 24, 26.2, 26.6, 26.7, 26.8, 26.15, and 27 and by adding Sections 9.5, 15.3, and 30 as follows:

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

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

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

(a) The practice of optometry is defined as the employment of any and all means for the examination, diagnosis, and treatment of the human visual system, the human eye, and its appendages without the use of surgery, including, but not limited to: the appropriate use of ocular pharmaceutical agents; refraction and other determinants of visual function; prescribing corrective lenses or prisms; prescribing, dispensing, or management of contact lenses; vision therapy; visual rehabilitation; or any other procedures taught in schools and colleges of optometry approved by the Department, and not specifically restricted in this Act, subject to

demonstrated competency and training as required by the Board, and pursuant to rule or regulation approved by the Board and adopted by the Department.

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

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

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

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

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

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

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

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

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

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

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

(c) Nothing contained in this Section shall prohibit a person from manufacturing ophthalmic lenses and prisms or the fabrication of contact lenses according to the specifications prescribed by an optometrist or a physician licensed to practice medicine in all of its branches, but shall

specifically prohibit (1) the sale or delivery of ophthalmic lenses, prisms, and contact lenses without a prescription signed by an optometrist or a physician licensed to practice medicine in all of its branches and (2) the dispensing of contact lenses by anyone other than a licensed optometrist, licensed pharmacist, or a physician licensed to practice medicine in all of its branches. For the purposes of this Act, "contact lenses" include, but are not limited to, contact lenses with prescriptive power and decorative and plano power contact lenses. Nothing in this Section shall prohibit the sale of contact lenses by an optical firm or corporation primarily engaged in manufacturing or dealing in eyeglasses or contact lenses with an affiliated optometrist who practices and is licensed or has an ancillary registration for the location where the sale occurs.

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

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

(f) On and after January 1, 2018, nothing in this Act shall prohibit an optometrist who is certified by a school of optometry approved by the Department from performing advanced

optometric procedures, pursuant to educational requirements established by rule, that are consistent with the recommendations of the Collaborative Optometric/Ophthalmological Task Force created in Section 15.3 of this Act and that are taught (1) at an accredited, private 4-year school of optometry that is located in a city in Illinois with a population in excess of 1,500,000, or (2) at a school of optometry with a curriculum that is substantially similar to the curriculum taught at the school of optometry described in item (1) of this subsection. Advanced optometric procedures do not include the use of lasers.

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

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

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

Sec. 9. Definitions. In this Act:

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

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

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

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

(5) (Blank).

(6) "Direct supervision" means supervision of any person assisting an optometrist, requiring that the optometrist authorize the procedure, remain in the facility while the procedure is performed, approve the work performed by the person assisting before dismissal of the patient, but does not mean that the optometrist must be present with the patient, during the procedure. For the dispensing of contact lenses, "direct supervision" means that the optometrist is responsible for training the person assisting the optometrist in the dispensing or sale of contact lenses, but does not mean that the optometrist must be present in the facility where he or she practices under a license or ancillary registration at the time the contacts are dispensed or sold.

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

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

(225 ILCS 80/9.5 new)

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

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

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

Sec. 10. Powers and duties of Department; rules; report. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of Licensing Acts and shall exercise such other powers and duties necessary for effectuating the purpose of this Act.

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

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

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

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

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

Sec. 11. Optometric Licensing and Disciplinary Board. The Secretary shall appoint an Illinois Optometric Licensing and Disciplinary Board as follows: Seven persons who shall be appointed by and shall serve in an advisory capacity to the Secretary. Five members must be lawfully and actively engaged in the practice of optometry in this State, one member shall be a licensed optometrist, with a full-time faculty appointment with the Illinois College of Optometry, and one member must be a member of the public who shall be a voting member and is not licensed under this Act, or a similar Act of another jurisdiction, or have any connection with the profession. Neither the public member nor the faculty member shall participate in the preparation or administration of the examination of applicants for licensure.

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

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

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

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

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

The members of the Board shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the Board.

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

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

Without, in any manner, limiting the power of the Department to conduct investigations, the Board may recommend to the Secretary that one or more licensed optometrists be selected by the Secretary to conduct or assist in any

investigation pursuant to this Act. Such licensed optometrist may receive remuneration as determined by the Secretary.

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

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

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

Sec. 14. A person shall be qualified for initial licensure as an optometrist if that person has applied in writing in form and substance satisfactory to the Department and who:

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

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

(3) (blank); and

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

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

(225 ILCS 80/15.1)

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

Sec. 15.1. Diagnostic and therapeutic authority.

(a) For purposes of the Act, "ocular pharmaceutical agents" means topical anesthetics, topical mydriatics, topical cycloplegics, topical miotics and mydriatic reversing agents, anti-infective agents, anti-allergy agents, anti-glaucoma agents (except oral carbonic anhydrase inhibitors, which may be prescribed only in a quantity sufficient to provide treatment for up to 30 days ~~72 hours~~), anti-inflammatory agents (except oral steroids, which may be prescribed only in a quantity sufficient to provide treatment for up to 7 days), over-the-counter agents, analgesic agents, anti-dry eye agents, and agents for the treatment of hypotrichosis.

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

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

(a-5) Ocular pharmaceutical agents administered by injection may be used only for the treatment of anaphylaxis.

(a-10) Oral pharmaceutical agents may be prescribed for a child under 5 years of age only in consultation with a physician licensed to practice medicine in all its branches.

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

(b) A licensed optometrist may remove superficial foreign bodies from the human eye and adnexa and may give orders for patient care to a nurse or other health care provider licensed to practice under Illinois law.

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

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

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

(d) The Secretary of Financial and Professional Regulation shall notify the Director of Public Health as to the categories of ocular pharmaceutical agents permitted for use by an optometrist. The Director of Public Health shall in turn notify every licensed pharmacist in the State of the categories of ocular pharmaceutical agents that can be utilized and prescribed by an optometrist.

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

(225 ILCS 80/15.3 new)

Sec. 15.3. The Collaborative Optometric/Ophthalmological Task Force. In order to protect the public and provide quality care, a Collaborative Optometric/Ophthalmological Task Force is established. This Task Force shall collaboratively develop minimum educational requirements for an optometrist to perform advanced optometric procedures. Advanced optometric procedures do not include the use of lasers.

The Collaborative Optometric/Ophthalmological Task Force shall be comprised of a representative of a statewide organization representing optometry, a representative of a statewide organization representing ophthalmology, a representative of a statewide organization representing physicians licensed to practice medicine in all of its branches, a representative of an accredited, private 4-year school of optometry located in a city in Illinois with a population of more than 1,500,000 persons. The Department shall

provide administrative support to the Collaborative Optometric/Ophthalmological Task Force. The Task Force shall meet at least monthly.

No later than September 1, 2017, the statewide organization representing ophthalmology shall provide to the Collaborative Optometric/Ophthalmological Task Force its recommended minimum educational requirements for a licensed optometrist to obtain a certification to perform advanced optometric procedures.

No later than January 1, 2018, the Department, in direct consultation with the Collaborative Optometric/Ophthalmological Task Force, shall propose rules for adoption that are consistent with the Task Force's recommendations, or recommend legislation to the General Assembly, providing educational requirements that must be met for an optometrist to obtain certification from a school of optometry approved by the Department to perform advanced optometric procedures as taught (1) at an accredited, private 4-year school of optometry that is located in a city in Illinois with a population in excess of 1,500,000, or (2) at a school of optometry with a curriculum that is substantially similar to the curriculum taught at the school of optometry described in item (1) of this paragraph.

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

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

Sec. 18. Endorsement. The Department may, in its

discretion, license as an optometrist, without examination on payment of the required fee, an applicant who is so licensed under the laws of another state or U.S. jurisdiction of the United States. The Department may issue a license, upon payment of the required fee and recommendation of the Board, to an individual applicant who is licensed in any foreign country or province whose standards, in the opinion of the Board or Department, if the requirements for licensure in the jurisdiction in which the applicant was licensed, were, at the date of his or her licensure, substantially equivalent to the requirements then in force in this State; or if the applicant possesses individual qualifications and skills which demonstrate substantial equivalence to current Illinois requirements.

Applicants have 3 years from the date of application to complete the application process. If the process has not been completed in 3 years, the application shall be denied, the fee forfeited and the applicant must reapply and meet the requirements in effect at the time of reapplication.

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

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

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

Sec. 20. Fund. All moneys received by the Department pursuant to this Act shall be deposited in the Optometric Licensing and Disciplinary Board Fund, which is hereby created

as a special fund in the State Treasury, and shall be used for the administration of this Act, including: (a) by the Board and Department in the exercise of its powers and performance of its duties, ~~as such use is made by the Department with full consideration of all recommendations of the Board;~~ (b) for costs directly related to license renewal of persons licensed under this Act; and (c) for direct and allocable indirect costs related to the public purposes of the Department of Financial and Professional Regulation. Subject to appropriation, moneys in the Optometric Licensing and Disciplinary Board Fund may be used for the Optometric Education Scholarship Program administered by the Illinois Student Assistance Commission pursuant to Section 65.70 of the Higher Education Student Assistance Act.

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

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

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

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

Sec. 21. The Department shall maintain a roster of the names and addresses of all licensees ~~and of all persons whose licenses have been suspended or revoked~~. This roster shall be available upon written request and payment of the required fee. (Source: P.A. 94-787, eff. 5-19-06.)

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

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

Sec. 24. Grounds for disciplinary action.

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including fines not to exceed \$10,000 for each violation, with regard to any license for any one or combination of the causes set forth in subsection (a-3) of this Section. All fines collected under this Section shall be deposited in the Optometric Licensing and Disciplinary Board Fund. Any fine imposed shall be payable within 60 days after the effective date of the order imposing the fine.

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

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

(2) Conviction of or entry of a plea of guilty to any crime under the laws of any U.S. jurisdiction thereof that

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

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

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

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

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

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

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

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

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

set forth herein.

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

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

(13) Abandonment of a patient.

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

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

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

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

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

(19) Conviction by any court of competent jurisdiction, either within or without this State, of any violation of any law governing the practice of optometry, conviction in this or another State of any crime that is a felony under the laws of this State or conviction of a

felony in a federal court, if the Department determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust.

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

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

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

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

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

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

(26) Promotion of the sale of drugs, devices, appliances or goods provided for a client or patient in such manner as to exploit the patient or client for

financial gain of the licensee.

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

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

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

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

(31) Failure to provide satisfactory proof of having participated in approved continuing education programs as

determined by the Board and approved by the Secretary. Exceptions for extreme hardships are to be defined by the rules of the Department.

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

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

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

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

The Department shall ~~may~~ refuse to issue or shall ~~may~~ suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of the tax, penalty or interest,

as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(a-5) In enforcing this Section, the Board or Department, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure or certification pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physicians or clinical psychologists shall be those specifically designated by the Department Board. The Board or the Department may order the examining physician or clinical psychologist to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician or clinical psychologist. Eye examinations may be provided by a licensed optometrist. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of a license until such time as the individual submits to the examination if the Board or Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable

cause.

If the Board or Department finds an individual unable to practice because of the reasons set forth in this Section, the Board or Department shall require such individual to submit to care, counseling, or treatment by physicians or clinical psychologists approved or designated by the Department Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice, or in lieu of care, counseling, or treatment, the Board may recommend to the Department to file a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual, or the Board may recommend to the Department to file a complaint to suspend, revoke, or otherwise discipline the license of the individual. Any individual whose license was granted pursuant to this Act, or continued, reinstated, renewed, disciplined, or supervised, subject to such conditions, terms, or restrictions, who shall fail to comply with such conditions, terms, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Board.

(b) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. The suspension will end only upon a finding by a court that the patient is no

longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice.

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

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

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

Sec. 26.2. Investigation; notice. The Department may investigate the actions of any applicant or of any person or persons holding or claiming to hold a license. The Department shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license, at least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made and the time and place for a hearing of the charges before the Board, direct him or her to file his or her written answer to the Board under oath within 20 days after the service on him or her of the notice and inform him or her that if he or she fails to file an answer default will be taken against him or her and his or her license may be suspended, revoked, placed on probationary status, or have other disciplinary action, including limiting the scope, nature or extent of his or her practice, as the Department may deem proper taken with regard thereto. The ~~Such~~ written notice and any notice in the subsequent proceeding may be served by

personal delivery or by regular or certified ~~delivery or certified or registered~~ mail to the applicant's or licensee's address of record ~~Department~~. In case the person fails to file an answer after receiving notice, his or her license may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence and argument as may be pertinent to the charges or to their defense. The Department may continue the hearing from time to time. At the discretion of the Secretary after having first received the recommendation of the Board, the accused person's license may be suspended, revoked, placed on probationary status, or whatever disciplinary action as the Secretary may deem proper, including limiting the scope, nature, or extent of said person's practice, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

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

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

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

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

The report of findings of fact, conclusions of law and recommendations of the Board shall be the basis for the Department's order. If the Secretary disagrees in any regard with the report of the Board, the Secretary may issue an order in contravention thereof. ~~The Secretary shall provide within 60 days of taking such action a written report to the Board on any such deviation, and shall~~ specify with particularity the reasons for said action in the final order. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and findings are not a bar to a criminal prosecution brought for the violation of this Act.

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

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

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

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

Sec. 26.7. Hearing officer. Notwithstanding the provisions of Section 26.6 of this Act, the Secretary shall have the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for discipline of a license. ~~The Secretary shall notify the Board of any such appointment.~~ The hearing officer shall have full authority to conduct the hearing. The Board shall have the right to have at least one member present at any hearing conducted by such hearing officer. The hearing officer shall report his or her findings of fact, conclusions of law and recommendations to the Board and the Secretary. The Board shall ~~have 60 days from receipt of the report to~~ review the report of the hearing officer and present its findings of fact, conclusions of law and recommendations to the Secretary. ~~If the Board fails to present its report within the 60 day period, the Secretary shall issue an order based on the report of the hearing officer.~~ If the Secretary disagrees in any regard with the report of the Board or hearing officer, he or she may issue an order in contravention thereof. The Secretary shall ~~provide a written explanation to the Board on any such deviation, and shall~~ specify with particularity the reasons for such action in the final order.

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

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

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

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

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

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

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

Sec. 26.15. Certification of record. The Department shall

not be required to certify any record to the Court or file any answer in court or otherwise appear in any court in a judicial review proceeding, unless and until the Department has received from the plaintiff there is filed in the court, with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to file a receipt in Court shall be grounds for dismissal of the action.

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

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

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

Sec. 27. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation or renewal of the license is specifically excluded. ~~For the purpose of this Act the notice required under Section 10-25 of the Administrative Procedure Act is deemed sufficient when mailed to the last known address of a party.~~

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

(225 ILCS 80/30 new)

Sec. 30. Confidentiality. All information collected by the Department in the course of an examination or investigation of a licensee or applicant, including, but not limited to, any complaint against a license filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.

Section 99. Effective date. This Section and Sections 5, 10, and 15 take effect upon becoming law. Section 20 takes effect on January 1, 2017, except that the provisions of Section 20 that add Section 15.3 to the Illinois Optometric Practice Act of 1987 take effect upon becoming law.