

AN ACT concerning regulation.

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

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

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

(Section scheduled to be repealed on January 1, 2017)

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

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

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

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

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

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

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

(Section scheduled to be repealed on January 1, 2017)

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

It is unlawful for any person licensed under this Act to

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

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

(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.

(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 may refuse to issue or 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 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 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 finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

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

designated by the 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. 96-378, eff. 1-1-10; 96-608, eff. 8-24-09; 96-1000, eff. 7-2-10; 97-1028, eff. 1-1-13.)