



Rep. David E. Miller

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LRB096 04783 ASK 23478 a

1 AMENDMENT TO HOUSE BILL 496

2 AMENDMENT NO. _____. Amend House Bill 496 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Medical Practice Act of 1987 is amended by
5 changing Section 22 and adding Section 22.2 as follows:

6 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

7 (Section scheduled to be repealed on December 31, 2010)

8 Sec. 22. Disciplinary action.

9 (A) The Department may revoke, suspend, place on
10 probationary status, refuse to renew, or take any other
11 disciplinary action as the Department may deem proper with
12 regard to the license or visiting professor permit of any
13 person issued under this Act to practice medicine, or to treat
14 human ailments without the use of drugs and without operative
15 surgery upon any of the following grounds:

16 (1) Performance of an elective abortion in any place,

1 locale, facility, or institution other than:

2 (a) a facility licensed pursuant to the Ambulatory
3 Surgical Treatment Center Act;

4 (b) an institution licensed under the Hospital
5 Licensing Act; or

6 (c) an ambulatory surgical treatment center or
7 hospitalization or care facility maintained by the
8 State or any agency thereof, where such department or
9 agency has authority under law to establish and enforce
10 standards for the ambulatory surgical treatment
11 centers, hospitalization, or care facilities under its
12 management and control; or

13 (d) ambulatory surgical treatment centers,
14 hospitalization or care facilities maintained by the
15 Federal Government; or

16 (e) ambulatory surgical treatment centers,
17 hospitalization or care facilities maintained by any
18 university or college established under the laws of
19 this State and supported principally by public funds
20 raised by taxation.

21 (2) Performance of an abortion procedure in a wilful
22 and wanton manner on a woman who was not pregnant at the
23 time the abortion procedure was performed.

24 (3) The conviction of a felony in this or any other
25 jurisdiction, except as otherwise provided in subsection B
26 of this Section, whether or not related to practice under

1 this Act, or the entry of a guilty or nolo contendere plea
2 to a felony charge.

3 (4) Gross negligence in practice under this Act.

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

7 (6) Obtaining any fee by fraud, deceit, or
8 misrepresentation.

9 (7) Habitual or excessive use or abuse of drugs defined
10 in law as controlled substances, of alcohol, or of any
11 other substances which results in the inability to practice
12 with reasonable judgment, skill or safety.

13 (8) Practicing under a false or, except as provided by
14 law, an assumed name.

15 (9) Fraud or misrepresentation in applying for, or
16 procuring, a license under this Act or in connection with
17 applying for renewal of a license under this Act.

18 (10) Making a false or misleading statement regarding
19 their skill or the efficacy or value of the medicine,
20 treatment, or remedy prescribed by them at their direction
21 in the treatment of any disease or other condition of the
22 body or mind.

23 (11) Allowing another person or organization to use
24 their license, procured under this Act, to practice.

25 (12) Disciplinary action of another state or
26 jurisdiction against a license or other authorization to

1 practice as a medical doctor, doctor of osteopathy, doctor
2 of osteopathic medicine or doctor of chiropractic, a
3 certified copy of the record of the action taken by the
4 other state or jurisdiction being prima facie evidence
5 thereof.

6 (13) Violation of any provision of this Act or of the
7 Medical Practice Act prior to the repeal of that Act, or
8 violation of the rules, or a final administrative action of
9 the Secretary, after consideration of the recommendation
10 of the Disciplinary Board.

11 (14) Violation of the prohibition against fee
12 splitting in Section 22.2 of this Act. ~~Dividing with anyone~~
13 ~~other than physicians with whom the licensee practices in a~~
14 ~~partnership, Professional Association, limited liability~~
15 ~~company, or Medical or Professional Corporation any fee,~~
16 ~~commission, rebate or other form of compensation for any~~
17 ~~professional services not actually and personally~~
18 ~~rendered. Nothing contained in this subsection prohibits~~
19 ~~persons holding valid and current licenses under this Act~~
20 ~~from practicing medicine in partnership under a~~
21 ~~partnership agreement, including a limited liability~~
22 ~~partnership, in a limited liability company under the~~
23 ~~Limited Liability Company Act, in a corporation authorized~~
24 ~~by the Medical Corporation Act, as an association~~
25 ~~authorized by the Professional Association Act, or in a~~
26 ~~corporation under the Professional Corporation Act or from~~

1 ~~pooling, sharing, dividing or apportioning the fees and~~
2 ~~monies received by them or by the partnership, corporation~~
3 ~~or association in accordance with the partnership~~
4 ~~agreement or the policies of the Board of Directors of the~~
5 ~~corporation or association. Nothing contained in this~~
6 ~~subsection prohibits 2 or more corporations authorized by~~
7 ~~the Medical Corporation Act, from forming a partnership or~~
8 ~~joint venture of such corporations, and providing medical,~~
9 ~~surgical and scientific research and knowledge by~~
10 ~~employees of these corporations if such employees are~~
11 ~~licensed under this Act, or from pooling, sharing,~~
12 ~~dividing, or apportioning the fees and monies received by~~
13 ~~the partnership or joint venture in accordance with the~~
14 ~~partnership or joint venture agreement. Nothing contained~~
15 ~~in this subsection shall abrogate the right of 2 or more~~
16 ~~persons, holding valid and current licenses under this Act,~~
17 ~~to each receive adequate compensation for concurrently~~
18 ~~rendering professional services to a patient and divide a~~
19 ~~fee; provided, the patient has full knowledge of the~~
20 ~~division, and, provided, that the division is made in~~
21 ~~proportion to the services performed and responsibility~~
22 ~~assumed by each.~~

23 (15) A finding by the Medical Disciplinary Board that
24 the registrant after having his or her license placed on
25 probationary status or subjected to conditions or
26 restrictions violated the terms of the probation or failed

1 to comply with such terms or conditions.

2 (16) Abandonment of a patient.

3 (17) Prescribing, selling, administering,
4 distributing, giving or self-administering any drug
5 classified as a controlled substance (designated product)
6 or narcotic for other than medically accepted therapeutic
7 purposes.

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

12 (19) Offering, undertaking or agreeing to cure or treat
13 disease by a secret method, procedure, treatment or
14 medicine, or the treating, operating or prescribing for any
15 human condition by a method, means or procedure which the
16 licensee refuses to divulge upon demand of the Department.

17 (20) Immoral conduct in the commission of any act
18 including, but not limited to, commission of an act of
19 sexual misconduct related to the licensee's practice.

20 (21) Wilfully making or filing false records or reports
21 in his or her practice as a physician, including, but not
22 limited to, false records to support claims against the
23 medical assistance program of the Department of Healthcare
24 and Family Services (formerly Department of Public Aid)
25 under the Illinois Public Aid Code.

26 (22) Wilful omission to file or record, or wilfully

1 impeding the filing or recording, or inducing another
2 person to omit to file or record, medical reports as
3 required by law, or wilfully failing to report an instance
4 of suspected abuse or neglect as required by law.

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

12 (24) Solicitation of professional patronage by any
13 corporation, agents or persons, or profiting from those
14 representing themselves to be agents of the licensee.

15 (25) Gross and wilful and continued overcharging for
16 professional services, including filing false statements
17 for collection of fees for which services are not rendered,
18 including, but not limited to, filing such false statements
19 for collection of monies for services not rendered from the
20 medical assistance program of the Department of Healthcare
21 and Family Services (formerly Department of Public Aid)
22 under the Illinois Public Aid Code.

23 (26) A pattern of practice or other behavior which
24 demonstrates incapacity or incompetence to practice under
25 this Act.

26 (27) Mental illness or disability which results in the

1 inability to practice under this Act with reasonable
2 judgment, skill or safety.

3 (28) Physical illness, including, but not limited to,
4 deterioration through the aging process, or loss of motor
5 skill which results in a physician's inability to practice
6 under this Act with reasonable judgment, skill or safety.

7 (29) Cheating on or attempt to subvert the licensing
8 examinations administered under this Act.

9 (30) Wilfully or negligently violating the
10 confidentiality between physician and patient except as
11 required by law.

12 (31) The use of any false, fraudulent, or deceptive
13 statement in any document connected with practice under
14 this Act.

15 (32) Aiding and abetting an individual not licensed
16 under this Act in the practice of a profession licensed
17 under this Act.

18 (33) Violating state or federal laws or regulations
19 relating to controlled substances, legend drugs, or
20 ephedra, as defined in the Ephedra Prohibition Act.

21 (34) Failure to report to the Department any adverse
22 final action taken against them by another licensing
23 jurisdiction (any other state or any territory of the
24 United States or any foreign state or country), by any peer
25 review body, by any health care institution, by any
26 professional society or association related to practice

1 under this Act, by any governmental agency, by any law
2 enforcement agency, or by any court for acts or conduct
3 similar to acts or conduct which would constitute grounds
4 for action as defined in this Section.

5 (35) Failure to report to the Department surrender of a
6 license or authorization to practice as a medical doctor, a
7 doctor of osteopathy, a doctor of osteopathic medicine, or
8 doctor of chiropractic in another state or jurisdiction, or
9 surrender of membership on any medical staff or in any
10 medical or professional association or society, while
11 under disciplinary investigation by any of those
12 authorities or bodies, for acts or conduct similar to acts
13 or conduct which would constitute grounds for action as
14 defined in this Section.

15 (36) Failure to report to the Department any adverse
16 judgment, settlement, or award arising from a liability
17 claim related to acts or conduct similar to acts or conduct
18 which would constitute grounds for action as defined in
19 this Section.

20 (37) Failure to provide ~~transfer~~ copies of medical
21 records as required by law.

22 (38) Failure to furnish the Department, its
23 investigators or representatives, relevant information,
24 legally requested by the Department after consultation
25 with the Chief Medical Coordinator or the Deputy Medical
26 Coordinator.

1 (39) Violating the Health Care Worker Self-Referral
2 Act.

3 (40) Willful failure to provide notice when notice is
4 required under the Parental Notice of Abortion Act of 1995.

5 (41) Failure to establish and maintain records of
6 patient care and treatment as required by this law.

7 (42) Entering into an excessive number of written
8 collaborative agreements with licensed advanced practice
9 nurses resulting in an inability to adequately collaborate
10 ~~and provide medical direction.~~

11 (43) Repeated failure to adequately collaborate with
12 ~~or provide medical direction to~~ a licensed advanced
13 practice nurse.

14 Except for actions involving the ground numbered (26), all
15 proceedings to suspend, revoke, place on probationary status,
16 or take any other disciplinary action as the Department may
17 deem proper, with regard to a license on any of the foregoing
18 grounds, must be commenced within 5 years next after receipt by
19 the Department of a complaint alleging the commission of or
20 notice of the conviction order for any of the acts described
21 herein. Except for the grounds numbered (8), (9), (26), and
22 (29), no action shall be commenced more than 10 years after the
23 date of the incident or act alleged to have violated this
24 Section. For actions involving the ground numbered (26), a
25 pattern of practice or other behavior includes all incidents
26 alleged to be part of the pattern of practice or other behavior

1 that occurred or a report pursuant to Section 23 of this Act
2 received within the 10-year period preceding the filing of the
3 complaint. In the event of the settlement of any claim or cause
4 of action in favor of the claimant or the reduction to final
5 judgment of any civil action in favor of the plaintiff, such
6 claim, cause of action or civil action being grounded on the
7 allegation that a person licensed under this Act was negligent
8 in providing care, the Department shall have an additional
9 period of 2 years from the date of notification to the
10 Department under Section 23 of this Act of such settlement or
11 final judgment in which to investigate and commence formal
12 disciplinary proceedings under Section 36 of this Act, except
13 as otherwise provided by law. The time during which the holder
14 of the license was outside the State of Illinois shall not be
15 included within any period of time limiting the commencement of
16 disciplinary action by the Department.

17 The entry of an order or judgment by any circuit court
18 establishing that any person holding a license under this Act
19 is a person in need of mental treatment operates as a
20 suspension of that license. That person may resume their
21 practice only upon the entry of a Departmental order based upon
22 a finding by the Medical Disciplinary Board that they have been
23 determined to be recovered from mental illness by the court and
24 upon the Disciplinary Board's recommendation that they be
25 permitted to resume their practice.

26 The Department may refuse to issue or take disciplinary

1 action concerning the license of any person who fails to file a
2 return, or to pay the tax, penalty or interest shown in a filed
3 return, or to pay any final assessment of tax, penalty or
4 interest, as required by any tax Act administered by the
5 Illinois Department of Revenue, until such time as the
6 requirements of any such tax Act are satisfied as determined by
7 the Illinois Department of Revenue.

8 The Department, upon the recommendation of the
9 Disciplinary Board, shall adopt rules which set forth standards
10 to be used in determining:

11 (a) when a person will be deemed sufficiently
12 rehabilitated to warrant the public trust;

13 (b) what constitutes dishonorable, unethical or
14 unprofessional conduct of a character likely to deceive,
15 defraud, or harm the public;

16 (c) what constitutes immoral conduct in the commission
17 of any act, including, but not limited to, commission of an
18 act of sexual misconduct related to the licensee's
19 practice; and

20 (d) what constitutes gross negligence in the practice
21 of medicine.

22 However, no such rule shall be admissible into evidence in
23 any civil action except for review of a licensing or other
24 disciplinary action under this Act.

25 In enforcing this Section, the Medical Disciplinary Board,
26 upon a showing of a possible violation, may compel any

1 individual licensed to practice under this Act, or who has
2 applied for licensure or a permit pursuant to this Act, to
3 submit to a mental or physical examination, or both, as
4 required by and at the expense of the Department. The examining
5 physician or physicians shall be those specifically designated
6 by the Disciplinary Board. The Medical Disciplinary Board or
7 the Department may order the examining physician to present
8 testimony concerning this mental or physical examination of the
9 licensee or applicant. No information shall be excluded by
10 reason of any common law or statutory privilege relating to
11 communication between the licensee or applicant and the
12 examining physician. The individual to be examined may have, at
13 his or her own expense, another physician of his or her choice
14 present during all aspects of the examination. Failure of any
15 individual to submit to mental or physical examination, when
16 directed, shall be grounds for suspension of his or her license
17 until such time as the individual submits to the examination if
18 the Disciplinary Board finds, after notice and hearing, that
19 the refusal to submit to the examination was without reasonable
20 cause. If the Disciplinary Board finds a physician unable to
21 practice because of the reasons set forth in this Section, the
22 Disciplinary Board shall require such physician to submit to
23 care, counseling, or treatment by physicians approved or
24 designated by the Disciplinary Board, as a condition for
25 continued, reinstated, or renewed licensure to practice. Any
26 physician, whose license was granted pursuant to Sections 9,

1 17, or 19 of this Act, or, continued, reinstated, renewed,
2 disciplined or supervised, subject to such terms, conditions or
3 restrictions who shall fail to comply with such terms,
4 conditions or restrictions, or to complete a required program
5 of care, counseling, or treatment, as determined by the Chief
6 Medical Coordinator or Deputy Medical Coordinators, shall be
7 referred to the Secretary for a determination as to whether the
8 licensee shall have their license suspended immediately,
9 pending a hearing by the Disciplinary Board. In instances in
10 which the Secretary immediately suspends a license under this
11 Section, a hearing upon such person's license must be convened
12 by the Disciplinary Board within 15 days after such suspension
13 and completed without appreciable delay. The Disciplinary
14 Board shall have the authority to review the subject
15 physician's record of treatment and counseling regarding the
16 impairment, to the extent permitted by applicable federal
17 statutes and regulations safeguarding the confidentiality of
18 medical records.

19 An individual licensed under this Act, affected under this
20 Section, shall be afforded an opportunity to demonstrate to the
21 Disciplinary Board that they can resume practice in compliance
22 with acceptable and prevailing standards under the provisions
23 of their license.

24 The Department may promulgate rules for the imposition of
25 fines in disciplinary cases, not to exceed \$10,000 for each
26 violation of this Act. Fines may be imposed in conjunction with

1 other forms of disciplinary action, but shall not be the
2 exclusive disposition of any disciplinary action arising out of
3 conduct resulting in death or injury to a patient. Any funds
4 collected from such fines shall be deposited in the Medical
5 Disciplinary Fund.

6 (B) The Department shall revoke the license or visiting
7 permit of any person issued under this Act to practice medicine
8 or to treat human ailments without the use of drugs and without
9 operative surgery, who has been convicted a second time of
10 committing any felony under the Illinois Controlled Substances
11 Act or the Methamphetamine Control and Community Protection
12 Act, or who has been convicted a second time of committing a
13 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois
14 Public Aid Code. A person whose license or visiting permit is
15 revoked under this subsection B of Section 22 of this Act shall
16 be prohibited from practicing medicine or treating human
17 ailments without the use of drugs and without operative
18 surgery.

19 (C) The Medical Disciplinary Board shall recommend to the
20 Department civil penalties and any other appropriate
21 discipline in disciplinary cases when the Board finds that a
22 physician willfully performed an abortion with actual
23 knowledge that the person upon whom the abortion has been
24 performed is a minor or an incompetent person without notice as
25 required under the Parental Notice of Abortion Act of 1995.
26 Upon the Board's recommendation, the Department shall impose,

1 for the first violation, a civil penalty of \$1,000 and for a
2 second or subsequent violation, a civil penalty of \$5,000.

3 (Source: P.A. 94-556, eff. 9-11-05; 94-677, eff. 8-25-05;
4 95-331, eff. 8-21-07.)

5 (225 ILCS 60/22.2 new)

6 (Section scheduled to be repealed on December 31, 2010)

7 Sec. 22.2. Prohibition against fee splitting.

8 (a) A licensee under this Act may not directly or
9 indirectly divide, share or split any professional fee or other
10 form of compensation for professional services with anyone in
11 exchange for a referral or otherwise, other than as provided in
12 this Section 22.2.

13 (b) Nothing contained in this Section abrogates the right
14 of 2 or more licensed health care workers as defined in the
15 Health Care Worker Self-referral Act to each receive adequate
16 compensation for concurrently rendering services to a patient
17 and to divide the fee for such service, whether or not the
18 worker is employed, provided that the patient has full
19 knowledge of the division and the division is made in
20 proportion to the actual services personally performed and
21 responsibility assumed by each licensee consistent with his or
22 her license, except as prohibited by law.

23 (c) Nothing contained in this Section prohibits a licensee
24 under this Act from practicing medicine through or within any
25 form of legal entity authorized to conduct business in this

1 State or from pooling, sharing, dividing, or apportioning the
2 professional fees and other revenues in accordance with the
3 agreements and policies of the entity provided:

4 (1) each owner of the entity is licensed under this
5 Act;

6 (2) the entity is organized under the Medical
7 Corporation Act, the Professional Services Corporation
8 Act, the Professional Association Act, or the Limited
9 Liability Company Act;

10 (3) the entity is allowed by Illinois law to provide
11 physician services or employ physicians such as a licensed
12 hospital or hospital affiliate or licensed ambulatory
13 surgical treatment center owned in full or in part by
14 Illinois-licensed physicians; or

15 (4) the entity is a combination or joint venture of the
16 entities authorized under this subsection (c).

17 (d) Nothing contained in this Section prohibits a licensee
18 under this Act from paying a fair market value fee to any
19 person or entity whose purpose is to perform billing,
20 administrative preparation, or collection services based upon
21 a percentage of professional service fees billed or collected,
22 a flat fee, or any other arrangement that directly or
23 indirectly divides professional fees, for the administrative
24 preparation of the licensee's claims or the collection of the
25 licensee's charges for professional services, provided that:

26 (i) the licensee or the licensee's practice under

1 subsection (c) of this Section at all times controls the
2 amount of fees charged and collected; and

3 (ii) all charges collected are paid directly to the
4 licensee or the licensee's practice or are deposited
5 directly into an account in the name of and under the sole
6 control of the licensee or the licensee's practice or
7 deposited into a "Trust Account" by a licensed collection
8 agency in accordance with the requirements of Section 8(c)
9 of the Illinois Collection Agency Act.

10 (e) Nothing contained in this Section prohibits the
11 granting of a security interest in the accounts receivable or
12 fees of a licensee under this Act or the licensee's practice
13 for bona fide advances made to the licensee or licensee's
14 practice provided the licensee retains control and
15 responsibility for the collection of the accounts receivable
16 and fees.

17 (f) Excluding payments that may be made to the owners of or
18 licensees in the licensee's practice under subsection (c), a
19 licensee under this Act may not divide, share or split a
20 professional service fee with, or otherwise directly or
21 indirectly pay a percentage of the licensee's professional
22 service fees, revenues or profits to anyone for: (i) the
23 marketing or management of the licensee's practice, (ii)
24 including the licensee or the licensee's practice on any
25 preferred provider list, (iii) allowing the licensee to
26 participate in any network of health care providers, (iv)

1 negotiating fees, charges or terms of service or payment on
2 behalf of the licensee, or (v) including the licensee in a
3 program whereby patients or beneficiaries are provided an
4 incentive to use the services of the licensee.

5 (g) Nothing contained in this Section prohibits the payment
6 of rent or other remuneration paid at fair market value to an
7 individual, partnership, or corporation by a licensee for the
8 lease, rental, or use of space, staff, administrative services,
9 or equipment owned or controlled by the individual,
10 partnership, or corporation, or the receipt thereof by a
11 licensee.

12 Section 10. The Illinois Optometric Practice Act of 1987 is
13 amended by changing Section 24 and by adding Section 24.2 as
14 follows:

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 action as the Department may deem proper,
21 including fines not to exceed \$10,000 for each violation, with
22 regard to any license for any one or combination of the
23 following causes:

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

1 hereunder.

2 (2) Conviction of or entry of a plea of guilty to any
3 crime under the laws of any U.S. jurisdiction thereof that
4 is a felony or that is a misdemeanor of which an essential
5 element is dishonesty, or any crime that is directly
6 related to the practice of the profession.

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

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

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

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

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

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

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

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

5 (11) Violation of the prohibition against fee
6 splitting in Section 24.2 of this Act. ~~Directly or~~
7 ~~indirectly giving to or receiving from any person, firm,~~
8 ~~corporation, partnership, or association any fee,~~
9 ~~commission, rebate, or other form of compensation for any~~
10 ~~professional services not actually or personally rendered.~~
11 ~~This shall not be deemed to include (i) rent or other~~
12 ~~remunerations paid to an individual, partnership, or~~
13 ~~corporation by an optometrist for the lease, rental, or use~~
14 ~~of space, owned or controlled, by the individual,~~
15 ~~partnership, corporation or association, and (ii) the~~
16 ~~division of fees between an optometrist and related~~
17 ~~professional service providers with whom the optometrist~~
18 ~~practices in a professional corporation organized under~~
19 ~~Section 3.6 of the Professional Service Corporation Act.~~

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

23 (13) Abandonment of a patient.

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

1 (15) Willfully failing to report an instance of
2 suspected child abuse or neglect as required by the Abused
3 and Neglected Child Reporting Act.

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

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

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

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

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

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

25 (22) Being named as a perpetrator in an indicated
26 report by the Department of Children and Family Services

1 under the Abused and Neglected Child Reporting Act, and
2 upon proof by clear and convincing evidence that the
3 licensee has caused a child to be an abused child or a
4 neglected child as defined in the Abused and Neglected
5 Child Reporting Act.

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

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

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

15 (26) Promotion of the sale of drugs, devices,
16 appliances or goods provided for a client or patient in
17 such manner as to exploit the patient or client for
18 financial gain of the licensee.

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

22 (28) Use by a licensed optometrist of the word
23 "infirmary", "hospital", "school", "university", in
24 English or any other language, in connection with the place
25 where optometry may be practiced or demonstrated.

26 (29) Continuance of an optometrist in the employ of any

1 person, firm or corporation, or as an assistant to any
2 optometrist or optometrists, directly or indirectly, after
3 his or her employer or superior has been found guilty of
4 violating or has been enjoined from violating the laws of
5 the State of Illinois relating to the practice of
6 optometry, when the employer or superior persists in that
7 violation.

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

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

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

24 (33) Gross and willful overcharging for professional
25 services including filing false statements for collection
26 of fees for which services are not rendered, including, but

1 not limited to filing false statements for collection of
2 monies for services not rendered from the medical
3 assistance program of the Department of Healthcare and
4 Family Services (formerly Department of Public Aid) under
5 the Illinois Public Aid Code.

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

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

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

18 (a-5) In enforcing this Section, the Board upon a showing
19 of a possible violation, may compel any individual licensed to
20 practice under this Act, or who has applied for licensure or
21 certification pursuant to this Act, to submit to a mental or
22 physical examination, or both, as required by and at the
23 expense of the Department. The examining physicians or clinical
24 psychologists shall be those specifically designated by the
25 Board. The Board or the Department may order the examining
26 physician or clinical psychologist to present testimony

1 concerning this mental or physical examination of the licensee
2 or applicant. No information shall be excluded by reason of any
3 common law or statutory privilege relating to communications
4 between the licensee or applicant and the examining physician
5 or clinical psychologist. Eye examinations may be provided by a
6 licensed optometrist. The individual to be examined may have,
7 at his or her own expense, another physician of his or her
8 choice present during all aspects of the examination. Failure
9 of any individual to submit to a mental or physical
10 examination, when directed, shall be grounds for suspension of
11 a license until such time as the individual submits to the
12 examination if the Board finds, after notice and hearing, that
13 the refusal to submit to the examination was without reasonable
14 cause.

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

1 granted pursuant to this Act, or continued, reinstated,
2 renewed, disciplined, or supervised, subject to such
3 conditions, terms, or restrictions, who shall fail to comply
4 with such conditions, terms, or restrictions, shall be referred
5 to the Secretary for a determination as to whether the
6 individual shall have his or her license suspended immediately,
7 pending a hearing by the Board.

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

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

18 (225 ILCS 80/24.2 new)

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

20 Sec. 24.2. Prohibition against fee splitting.

21 (a) A licensee under this Act may not directly or
22 indirectly divide, share or split any professional fee or other
23 form of compensation for professional services with anyone in
24 exchange for a referral or otherwise, other than as provided in
25 this Section 24.2.

1 (b) Nothing contained in this Section abrogates the right
2 of 2 or more licensed health care workers as defined in the
3 Health Care Worker Self-referral Act to each receive adequate
4 compensation for concurrently rendering services to a patient
5 and to divide the fee for such service, whether or not the
6 worker is employed, provided that the patient has full
7 knowledge of the division and the division is made in
8 proportion to the actual services personally performed and
9 responsibility assumed by each licensee consistent with his or
10 her license, except as prohibited by law.

11 (c) Nothing contained in this Section prohibits a licensee
12 under this Act from practicing optometry through or within any
13 form of legal entity authorized to conduct business in this
14 State or from pooling, sharing, dividing, or apportioning the
15 professional fees and other revenues in accordance with the
16 agreements and policies of the entity provided:

17 (1) each owner of the entity is licensed under this
18 Act;

19 (2) the entity is organized under the Professional
20 Services Corporation Act, the Professional Association
21 Act, or the Limited Liability Company Act;

22 (3) the entity is allowed by Illinois law to provide
23 optometric services or employ optometrists such as a
24 licensed hospital or hospital affiliate or licensed
25 ambulatory surgical treatment center owned in full or in
26 part by Illinois-licensed physicians; or

1 (4) the entity is a combination or joint venture of the
2 entities authorized under this subsection (c).

3 (d) Nothing contained in this Section prohibits a licensee
4 under this Act from paying a fair market value fee to any
5 person or entity whose purpose is to perform billing,
6 administrative preparation, or collection services based upon
7 a percentage of professional service fees billed or collected,
8 a flat fee, or any other arrangement that directly or
9 indirectly divides professional fees, for the administrative
10 preparation of the licensee's claims or the collection of the
11 licensee's charges for professional services, provided that:

12 (i) the licensee or the licensee's practice under
13 subsection (c) at all times controls the amount of fees
14 charged and collected; and

15 (ii) all charges collected are paid directly to the
16 licensee or the licensee's practice or are deposited
17 directly into an account in the name of and under the sole
18 control of the licensee or the licensee's practice or
19 deposited into a "Trust Account" by a licensed collection
20 agency in accordance with the requirements of Section 8(c)
21 of the Illinois Collection Agency Act.

22 (e) Nothing contained in this Section prohibits the
23 granting of a security interest in the accounts receivable or
24 fees of a licensee under this Act or the licensee's practice
25 for bona fide advances made to the licensee or licensee's
26 practice provided the licensee retains control and

1 responsibility for the collection of the accounts receivable
2 and fees.

3 (f) Excluding payments that may be made to the owners of or
4 licensees in the licensee's practice under subsection (c), a
5 licensee under this Act may not divide, share or split a
6 professional service fee with, or otherwise directly or
7 indirectly pay a percentage of the licensee's professional
8 service fees, revenues or profits to anyone for: (i) the
9 marketing or management of the licensee's practice, (ii)
10 including the licensee or the licensee's practice on any
11 preferred provider list, (iii) allowing the licensee to
12 participate in any network of health care providers, (iv)
13 negotiating fees, charges or terms of service or payment on
14 behalf of the licensee, or (v) including the licensee in a
15 program whereby patients or beneficiaries are provided an
16 incentive to use the services of the licensee.

17 (g) Nothing contained in this Section prohibits the payment
18 of rent or other remuneration paid at fair market value to an
19 individual, partnership, or corporation by a licensee for the
20 lease, rental, or use of space, staff, administrative services,
21 or equipment owned or controlled by the individual,
22 partnership, or corporation, or the receipt thereof by a
23 licensee.

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."