

1 AN ACT concerning regulation.

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

4 Section 5. The 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7 (Section scheduled to be repealed on December 31, 2010)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,
17 locale, facility, or institution other than:

18 (a) a facility licensed pursuant to the Ambulatory
19 Surgical Treatment Center Act;

20 (b) an institution licensed under the Hospital
21 Licensing Act; or

22 (c) an ambulatory surgical treatment center or
23 hospitalization or care facility maintained by the

1 State or any agency thereof, where such department or
2 agency has authority under law to establish and enforce
3 standards for the ambulatory surgical treatment
4 centers, hospitalization, or care facilities under its
5 management and control; or

6 (d) ambulatory surgical treatment centers,
7 hospitalization or care facilities maintained by the
8 Federal Government; or

9 (e) ambulatory surgical treatment centers,
10 hospitalization or care facilities maintained by any
11 university or college established under the laws of
12 this State and supported principally by public funds
13 raised by taxation.

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

17 (3) The conviction of a felony in this or any other
18 jurisdiction, except as otherwise provided in subsection B
19 of this Section, whether or not related to practice under
20 this Act, or the entry of a guilty or nolo contendere plea
21 to a felony charge.

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

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

26 (6) Obtaining any fee by fraud, deceit, or

1 misrepresentation.

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

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

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

11 (10) Making a false or misleading statement regarding
12 their skill or the efficacy or value of the medicine,
13 treatment, or remedy prescribed by them at their direction
14 in the treatment of any disease or other condition of the
15 body or mind.

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

18 (12) Disciplinary action of another state or
19 jurisdiction against a license or other authorization to
20 practice as a medical doctor, doctor of osteopathy, doctor
21 of osteopathic medicine or doctor of chiropractic, a
22 certified copy of the record of the action taken by the
23 other state or jurisdiction being prima facie evidence
24 thereof.

25 (13) Violation of any provision of this Act or of the
26 Medical Practice Act prior to the repeal of that Act, or

1 violation of the rules, or a final administrative action of
2 the Secretary, after consideration of the recommendation
3 of the Disciplinary Board.

4 (14) Violation of the prohibition against fee
5 splitting in Section 22.2 of this Act. ~~Dividing with anyone~~
6 ~~other than physicians with whom the licensee practices in a~~
7 ~~partnership, Professional Association, limited liability~~
8 ~~company, or Medical or Professional Corporation any fee,~~
9 ~~commission, rebate or other form of compensation for any~~
10 ~~professional services not actually and personally~~
11 ~~rendered. Nothing contained in this subsection prohibits~~
12 ~~persons holding valid and current licenses under this Act~~
13 ~~from practicing medicine in partnership under a~~
14 ~~partnership agreement, including a limited liability~~
15 ~~partnership, in a limited liability company under the~~
16 ~~Limited Liability Company Act, in a corporation authorized~~
17 ~~by the Medical Corporation Act, as an association~~
18 ~~authorized by the Professional Association Act, or in a~~
19 ~~corporation under the Professional Corporation Act or from~~
20 ~~pooling, sharing, dividing or apportioning the fees and~~
21 ~~monies received by them or by the partnership, corporation~~
22 ~~or association in accordance with the partnership~~
23 ~~agreement or the policies of the Board of Directors of the~~
24 ~~corporation or association. Nothing contained in this~~
25 ~~subsection prohibits 2 or more corporations authorized by~~
26 ~~the Medical Corporation Act, from forming a partnership or~~

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

16 (15) A finding by the Medical Disciplinary Board that
17 the registrant after having his or her license placed on
18 probationary status or subjected to conditions or
19 restrictions violated the terms of the probation or failed
20 to comply with such terms or conditions.

21 (16) Abandonment of a patient.

22 (17) Prescribing, selling, administering,
23 distributing, giving or self-administering any drug
24 classified as a controlled substance (designated product)
25 or narcotic for other than medically accepted therapeutic
26 purposes.

1 (18) Promotion of the sale of drugs, devices,
2 appliances or goods provided for a patient in such manner
3 as to exploit the patient for financial gain of the
4 physician.

5 (19) Offering, undertaking or agreeing to cure or treat
6 disease by a secret method, procedure, treatment or
7 medicine, or the treating, operating or prescribing for any
8 human condition by a method, means or procedure which the
9 licensee refuses to divulge upon demand of the Department.

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

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

19 (22) Wilful omission to file or record, or wilfully
20 impeding the filing or recording, or inducing another
21 person to omit to file or record, medical reports as
22 required by law, or wilfully failing to report an instance
23 of suspected abuse or neglect as required by law.

24 (23) Being named as a perpetrator in an indicated
25 report by the Department of Children and Family Services
26 under the Abused and Neglected Child Reporting Act, and

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

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

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

16 (26) A pattern of practice or other behavior which
17 demonstrates incapacity or incompetence to practice under
18 this Act.

19 (27) Mental illness or disability which results in the
20 inability to practice under this Act with reasonable
21 judgment, skill or safety.

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

26 (29) Cheating on or attempt to subvert the licensing

1 examinations administered under this Act.

2 (30) Wilfully or negligently violating the
3 confidentiality between physician and patient except as
4 required by law.

5 (31) The use of any false, fraudulent, or deceptive
6 statement in any document connected with practice under
7 this Act.

8 (32) Aiding and abetting an individual not licensed
9 under this Act in the practice of a profession licensed
10 under this Act.

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

14 (34) Failure to report to the Department any adverse
15 final action taken against them by another licensing
16 jurisdiction (any other state or any territory of the
17 United States or any foreign state or country), by any peer
18 review body, by any health care institution, by any
19 professional society or association related to practice
20 under this Act, by any governmental agency, by any law
21 enforcement agency, or by any court for acts or conduct
22 similar to acts or conduct which would constitute grounds
23 for action as defined in this Section.

24 (35) Failure to report to the Department surrender of a
25 license or authorization to practice as a medical doctor, a
26 doctor of osteopathy, a doctor of osteopathic medicine, or

1 doctor of chiropractic in another state or jurisdiction, or
2 surrender of membership on any medical staff or in any
3 medical or professional association or society, while
4 under disciplinary investigation by any of those
5 authorities or bodies, for acts or conduct similar to acts
6 or conduct which would constitute grounds for action as
7 defined in this Section.

8 (36) Failure to report to the Department any adverse
9 judgment, settlement, or award arising from a liability
10 claim related to acts or conduct similar to acts or conduct
11 which would constitute grounds for action as defined in
12 this Section.

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

15 (38) Failure to furnish the Department, its
16 investigators or representatives, relevant information,
17 legally requested by the Department after consultation
18 with the Chief Medical Coordinator or the Deputy Medical
19 Coordinator.

20 (39) Violating the Health Care Worker Self-Referral
21 Act.

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

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

26 (42) Entering into an excessive number of written

1 collaborative agreements with licensed advanced practice
2 nurses resulting in an inability to adequately collaborate
3 ~~and provide medical direction.~~

4 (43) Repeated failure to adequately collaborate with
5 ~~or provide medical direction to~~ a licensed advanced
6 practice nurse.

7 Except for actions involving the ground numbered (26), all
8 proceedings to suspend, revoke, place on probationary status,
9 or take any other disciplinary action as the Department may
10 deem proper, with regard to a license on any of the foregoing
11 grounds, must be commenced within 5 years next after receipt by
12 the Department of a complaint alleging the commission of or
13 notice of the conviction order for any of the acts described
14 herein. Except for the grounds numbered (8), (9), (26), and
15 (29), no action shall be commenced more than 10 years after the
16 date of the incident or act alleged to have violated this
17 Section. For actions involving the ground numbered (26), a
18 pattern of practice or other behavior includes all incidents
19 alleged to be part of the pattern of practice or other behavior
20 that occurred or a report pursuant to Section 23 of this Act
21 received within the 10-year period preceding the filing of the
22 complaint. In the event of the settlement of any claim or cause
23 of action in favor of the claimant or the reduction to final
24 judgment of any civil action in favor of the plaintiff, such
25 claim, cause of action or civil action being grounded on the
26 allegation that a person licensed under this Act was negligent

1 in providing care, the Department shall have an additional
2 period of 2 years from the date of notification to the
3 Department under Section 23 of this Act of such settlement or
4 final judgment in which to investigate and commence formal
5 disciplinary proceedings under Section 36 of this Act, except
6 as otherwise provided by law. The time during which the holder
7 of the license was outside the State of Illinois shall not be
8 included within any period of time limiting the commencement of
9 disciplinary action by the Department.

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

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

1 The Department, upon the recommendation of the
2 Disciplinary Board, shall adopt rules which set forth standards
3 to be used in determining:

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

6 (b) what constitutes dishonorable, unethical or
7 unprofessional conduct of a character likely to deceive,
8 defraud, or harm the public;

9 (c) what constitutes immoral conduct in the commission
10 of any act, including, but not limited to, commission of an
11 act of sexual misconduct related to the licensee's
12 practice; and

13 (d) what constitutes gross negligence in the practice
14 of medicine.

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

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

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

1 licensee shall have their license suspended immediately,
2 pending a hearing by the Disciplinary Board. In instances in
3 which the Secretary immediately suspends a license under this
4 Section, a hearing upon such person's license must be convened
5 by the Disciplinary Board within 15 days after such suspension
6 and completed without appreciable delay. The Disciplinary
7 Board shall have the authority to review the subject
8 physician's record of treatment and counseling regarding the
9 impairment, to the extent permitted by applicable federal
10 statutes and regulations safeguarding the confidentiality of
11 medical records.

12 An individual licensed under this Act, affected under this
13 Section, shall be afforded an opportunity to demonstrate to the
14 Disciplinary Board that they can resume practice in compliance
15 with acceptable and prevailing standards under the provisions
16 of their license.

17 The Department may promulgate rules for the imposition of
18 fines in disciplinary cases, not to exceed \$10,000 for each
19 violation of this Act. Fines may be imposed in conjunction with
20 other forms of disciplinary action, but shall not be the
21 exclusive disposition of any disciplinary action arising out of
22 conduct resulting in death or injury to a patient. Any funds
23 collected from such fines shall be deposited in the Medical
24 Disciplinary Fund.

25 (B) The Department shall revoke the license or visiting
26 permit of any person issued under this Act to practice medicine

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

12 (C) The Medical Disciplinary Board shall recommend to the
13 Department civil penalties and any other appropriate
14 discipline in disciplinary cases when the Board finds that a
15 physician willfully performed an abortion with actual
16 knowledge that the person upon whom the abortion has been
17 performed is a minor or an incompetent person without notice as
18 required under the Parental Notice of Abortion Act of 1995.
19 Upon the Board's recommendation, the Department shall impose,
20 for the first violation, a civil penalty of \$1,000 and for a
21 second or subsequent violation, a civil penalty of \$5,000.

22 (Source: P.A. 94-556, eff. 9-11-05; 94-677, eff. 8-25-05;
23 95-331, eff. 8-21-07.)

24 (225 ILCS 60/22.2 new)

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

1 Sec. 22.2. Prohibition against fee splitting.

2 (a) A licensee under this Act may not directly or
3 indirectly divide, share or split any professional fee or other
4 form of compensation for professional services with anyone in
5 exchange for a referral or otherwise, other than as provided in
6 this Section 22.2.

7 (b) Nothing contained in this Section abrogates the right
8 of 2 or more licensed health care workers as defined in the
9 Health Care Worker Self-referral Act to each receive adequate
10 compensation for concurrently rendering services to a patient
11 and to divide the fee for such service, provided that the
12 patient has full knowledge of the division and the division is
13 made in proportion to the actual services personally performed
14 and responsibility assumed by each licensee consistent with his
15 or her license, except as prohibited by law.

16 (c) Nothing contained in this Section prohibits a licensee
17 under this Act from practicing medicine through or within any
18 form of legal entity authorized to conduct business in this
19 State or from pooling, sharing, dividing, or apportioning the
20 professional fees and other revenues in accordance with the
21 agreements and policies of the entity provided:

22 (1) each owner of the entity is licensed under this
23 Act;

24 (2) the entity is organized under the Medical
25 Corporation Act, the Professional Services Corporation
26 Act, the Professional Association Act, or the Limited

1 Liability Company Act;

2 (3) the entity is allowed by Illinois law to provide
3 physician services or employ physicians such as a licensed
4 hospital or hospital affiliate or licensed ambulatory
5 surgical treatment center owned in full or in part by
6 Illinois-licensed physicians; or

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

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

18 (i) the licensee or the licensee's practice under
19 subsection (c) of this Section at all times controls the
20 amount of fees charged and collected; and

21 (ii) all charges collected are paid directly to the
22 licensee or the licensee's practice or are deposited
23 directly into an account in the name of and under the sole
24 control of the licensee or the licensee's practice or
25 deposited into a "Trust Account" by a licensed collection
26 agency in accordance with the requirements of Section 8(c)

1 of the Illinois Collection Agency Act.

2 (e) Nothing contained in this Section prohibits the
3 granting of a security interest in the accounts receivable or
4 fees of a licensee under this Act or the licensee's practice
5 for bona fide advances made to the licensee or licensee's
6 practice provided the licensee retains control and
7 responsibility for the collection of the accounts receivable
8 and fees.

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

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

1 (225 ILCS 80/24) (from Ch. 111, par. 3924)

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

3 Sec. 24. Grounds for disciplinary action.

4 (a) The Department may refuse to issue or to renew, or may
5 revoke, suspend, place on probation, reprimand or take other
6 disciplinary action as the Department may deem proper,
7 including fines not to exceed \$10,000 for each violation, with
8 regard to any license for any one or combination of the
9 following causes:

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

12 (2) Conviction of or entry of a plea of guilty to any
13 crime under the laws of any U.S. jurisdiction thereof that
14 is a felony or that is a misdemeanor of which an essential
15 element is dishonesty, or any crime that is directly
16 related to the practice of the profession.

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

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

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

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

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

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

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

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

16 (11) Violation of the prohibition against fee
17 splitting in Section 24.2 of this Act. ~~Directly or~~
18 ~~indirectly giving to or receiving from any person, firm,~~
19 ~~corporation, partnership, or association any fee,~~
20 ~~commission, rebate, or other form of compensation for any~~
21 ~~professional services not actually or personally rendered.~~
22 ~~This shall not be deemed to include (i) rent or other~~
23 ~~remunerations paid to an individual, partnership, or~~
24 ~~corporation by an optometrist for the lease, rental, or use~~
25 ~~of space, owned or controlled, by the individual,~~
26 ~~partnership, corporation or association, and (ii) the~~

~~1 division of fees between an optometrist and related
2 professional service providers with whom the optometrist
3 practices in a professional corporation organized under
4 Section 3.6 of the Professional Service Corporation Act.~~

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

8 (13) Abandonment of a patient.

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

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

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

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

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

24 (19) Conviction by any court of competent
25 jurisdiction, either within or without this State, of any
26 violation of any law governing the practice of optometry,

1 conviction in this or another State of any crime that is a
2 felony under the laws of this State or conviction of a
3 felony in a federal court, if the Department determines,
4 after investigation, that such person has not been
5 sufficiently rehabilitated to warrant the public trust.

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

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

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

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

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

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

26 (26) Promotion of the sale of drugs, devices,

1 appliances or goods provided for a client or patient in
2 such manner as to exploit the patient or client for
3 financial gain of the licensee.

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

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

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

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

24 (31) Failure to provide satisfactory proof of having
25 participated in approved continuing education programs as
26 determined by the Board and approved by the Secretary.

1 Exceptions for extreme hardships are to be defined by the
2 rules of the Department.

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

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

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

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

22 The Department may refuse to issue or may suspend the
23 license of any person who fails to file a return, or to pay the
24 tax, penalty or interest shown in a filed return, or to pay any
25 final assessment of the tax, penalty or interest, as required
26 by any tax Act administered by the Illinois Department of

1 Revenue, until such time as the requirements of any such tax
2 Act are satisfied.

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

26 If the Board finds an individual unable to practice because

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

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

1 licensee be allowed to resume his or her practice.

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

3 (225 ILCS 80/24.2 new)

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

5 Sec. 24.2. Prohibition against fee splitting.

6 (a) A licensee under this Act may not directly or
7 indirectly divide, share or split any professional fee or other
8 form of compensation for professional services with anyone in
9 exchange for a referral or otherwise, other than as provided in
10 this Section 24.2.

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

21 (c) Nothing contained in this Section prohibits a licensee
22 under this Act from practicing optometry through or within any
23 form of legal entity authorized to conduct business in this
24 State or from pooling, sharing, dividing, or apportioning the
25 professional fees and other revenues in accordance with the

1 agreements and policies of the entity provided:

2 (1) each owner of the entity is licensed under this
3 Act;

4 (2) the entity is organized under the Professional
5 Services Corporation Act, the Professional Association
6 Act, or the Limited Liability Company Act;

7 (3) the entity is allowed by Illinois law to provide
8 optometric services or employ optometrists such as a
9 licensed hospital or hospital affiliate or licensed
10 ambulatory surgical treatment center owned in full or in
11 part by Illinois-licensed physicians or in accordance with
12 Section 8 of this Act; or

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

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

24 (i) the licensee or the licensee's practice under
25 subsection (c) at all times controls the amount of fees
26 charged and collected; and

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

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

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

1 program whereby patients or beneficiaries are provided an
2 incentive to use the services of the licensee.

3 (g) Nothing contained in this Section prohibits the payment
4 of rent or other remunerations paid to an individual,
5 partnership, or corporation by a licensee for the lease,
6 rental, or use of space, owned or controlled by the individual,
7 partnership, corporation, or association.

8 (h) Nothing contained in this Section prohibits the
9 payment, at no more than fair market value, to an individual,
10 partnership, or corporation by a licensee for the use of staff,
11 administrative services, franchise agreements, marketing
12 required by franchise agreements, or equipment owned or
13 controlled by the individual, partnership, or corporation, or
14 the receipt thereof by a licensee.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.