

AN ACT concerning aging.

**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 Section 24 as follows:

(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(Section scheduled to be repealed on January 1, 2017)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 action as the Department may deem proper, including fines not to exceed \$10,000 for each violation, with regard to any license for any one or combination of the following causes:

(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) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for any professional services not actually or personally

rendered. This shall not be deemed to include (i) rent or other remunerations paid to an individual, partnership, or corporation by an optometrist for the lease, rental, or use of space, owned or controlled, by the individual, partnership, corporation or association, and (ii) the division of fees between an optometrist and related professional service providers with whom the optometrist practices in a professional corporation organized under Section 3.6 of the Professional Service Corporation 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 ~~child~~ abuse or neglect as required by law ~~the Abused and Neglected Child Reporting Act~~.

(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.

(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. 94-787, eff. 5-19-06.)

Section 10. The Elder Abuse and Neglect Act is amended by changing Section 4 as follows:

(320 ILCS 20/4) (from Ch. 23, par. 6604)

Sec. 4. Reports of abuse or neglect.

(a) Any person who suspects the abuse, neglect, financial exploitation, or self-neglect of an eligible adult may report this suspicion to an agency designated to receive such reports under this Act or to the Department.

(a-5) If any mandated reporter has reason to believe that an eligible adult, who because of dysfunction is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under this Act or to the Department. Whenever a mandated reporter is required to report under this Act in his or her capacity as a member of the

staff of a medical or other public or private institution, facility, board and care home, or agency, he or she shall make a report to an agency designated to receive such reports under this Act or to the Department in accordance with the provisions of this Act and may also notify the person in charge of the institution, facility, board and care home, or agency or his or her designated agent that the report has been made. Under no circumstances shall any person in charge of such institution, facility, board and care home, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under this Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by this Act.

(a-7) A person making a report under this Act in the belief that it is in the alleged victim's best interest shall be immune from criminal or civil liability or professional disciplinary action on account of making the report, notwithstanding any requirements concerning the confidentiality of information with respect to such eligible adult which might otherwise be applicable.

(a-9) Law enforcement officers shall continue to report incidents of alleged abuse pursuant to the Illinois Domestic Violence Act of 1986, notwithstanding any requirements under this Act.

(b) Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under this Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability in any civil, criminal or other proceeding brought in consequence of making such report or assessment or on account of submitting or otherwise disclosing such photographs or x-rays to any agency designated to receive reports of alleged or suspected abuse or neglect. Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under this Act shall, in the good faith performance of those services, have immunity from any civil, criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services. For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, neglect, or financial exploitation shall be presumed.

(c) The identity of a person making a report of alleged or suspected abuse or neglect under this Act may be disclosed by the Department or other agency provided for in this Act only with such person's written consent or by court order.

(d) The Department shall by rule establish a system for filing and compiling reports made under this Act.

(e) Any physician who willfully fails to report as required by this Act shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with subdivision (A) (22) of Section 22 of the Medical Practice Act of 1987. Any dentist or dental hygienist who willfully fails to report as required by this Act shall be referred to the Department of Professional Regulation for action in accordance with paragraph 19 of Section 23 of the Illinois Dental Practice Act. Any optometrist who willfully fails to report as required by this Act shall be referred to the Department of Financial and Professional Regulation for action in accordance with paragraph (15) of subsection (a) of Section 24 of the Illinois Optometric Practice Act of 1987. Any other mandated reporter required by this Act to report suspected abuse, neglect, or financial exploitation who willfully fails to report the same is guilty of a Class A misdemeanor.

(Source: P.A. 93-300, eff. 1-1-04; 93-301, eff. 1-1-04; 94-1064, eff. 1-1-07.)