



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1504

Introduced 2/20/2015, by Sen. Jennifer Bertino-Tarrant

SYNOPSIS AS INTRODUCED:

225 ILCS 80/12	from Ch. 111, par. 3912
225 ILCS 80/16	from Ch. 111, par. 3916
225 ILCS 80/22	from Ch. 111, par. 3922
225 ILCS 80/24	from Ch. 111, par. 3924

Amends the Illinois Optometric Practice Act of 1987. Removes provisions allowing for a limited one year optometry practice license for applicants in a residency program. Requires the Department of Financial and Professional Regulation to audit applicants within 12 months of renewal of license to ensure compliance with continuing education requirements, unless other means are used to verify total compliance. Allows the use of testimonials in advertisements of optometric services. Allows licensees to use the words "hospital", "school", and "university" in connection with the place where optometry may be practiced or demonstrated if the licensee is employed by and practicing at a location that is licensed as a hospital or accredited as a school or university. Makes other changes.

LRB099 09248 MLM 29452 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Illinois Optometric Practice Act of 1987 is
5 amended by changing Sections 12, 16, 22, and 24 as follows:

6 (225 ILCS 80/12) (from Ch. 111, par. 3912)

7 (Section scheduled to be repealed on January 1, 2017)

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

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

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

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

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

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

17 (225 ILCS 80/16) (from Ch. 111, par. 3916)

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

19 Sec. 16. Renewal, reinstatement or restoration of
20 licenses; military service. The expiration date and renewal
21 period for each license issued under this Act shall be set by
22 rule.

23 All renewal applicants shall provide proof of having met
24 the requirements of continuing education set forth in the rules
25 of the Department. The Department shall, by rule, provide for

1 an orderly process for the reinstatement of licenses which have
2 not been renewed due to failure to meet the continuing
3 education requirements. The continuing education requirement
4 may be waived for such good cause, including but not limited to
5 illness or hardship, as defined by rules of the Department.

6 The Department shall establish by rule a means for the
7 verification of completion of the continuing education
8 required by this Section. This verification may be accomplished
9 through audits of records maintained by registrants; by
10 requiring the filing of continuing education certificates with
11 the Department; or by other means established by the
12 Department. Unless other means are used to verify total
13 compliance, the Department shall conduct an audit within 12
14 months following each renewal period to ensure compliance with
15 all continuing education requirements. Violations shall be
16 prosecuted within 18 months following the close of the renewal
17 period.

18 Any licensee seeking renewal of his or her license during
19 the renewal cycle beginning April 1, 2008 must first complete a
20 tested educational course in the use of oral pharmaceutical
21 agents for the management of ocular conditions, as approved by
22 the Board.

23 Any optometrist who has permitted his or her license to
24 expire or who has had his or her license on inactive status may
25 have his or her license restored by making application to the
26 Department and filing proof acceptable to the Department of his

1 or her fitness to have his or her license restored and by
2 paying the required fees. Such proof of fitness may include
3 evidence certifying to active lawful practice in another
4 jurisdiction and must include proof of the completion of the
5 continuing education requirements specified in the rules for
6 the preceding license renewal period that has been completed
7 during the 2 years prior to the application for license
8 restoration.

9 The Department shall determine, by an evaluation program
10 established by rule, his or her fitness for restoration of his
11 or her license and shall establish procedures and requirements
12 for such restoration.

13 However, any optometrist whose license expired while he or
14 she was (1) in Federal Service on active duty with the Armed
15 Forces of the United States, or the State Militia called into
16 service or training, or (2) in training or education under the
17 supervision of the United States preliminary to induction into
18 the military service, may have his or her license restored
19 without paying any lapsed renewal fees if within 2 years after
20 honorable termination of such service, training, or education,
21 he or she furnishes the Department with satisfactory evidence
22 to the effect that he or she has been so engaged and that his or
23 her service, training, or education has been so terminated.

24 All licenses without "Therapeutic Certification" on March
25 31, 2006 shall be placed on non-renewed status and may only be
26 renewed after the licensee meets those requirements

1 established by the Department that may not be waived. All
2 licensees on March 31, 2010 without a certification of
3 completion of an oral pharmaceutical course as required by this
4 Section shall be placed on non-renewed status and may only be
5 renewed after the licensee meets those requirements
6 established by the Department that may not be waived.

7 (Source: P.A. 95-242, eff. 1-1-08; 96-270, eff. 1-1-10.)

8 (225 ILCS 80/22) (from Ch. 111, par. 3922)

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

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

16 It is unlawful for any person licensed under this Act to
17 use ~~testimonials or~~ claims of superior quality of care to
18 entice the public.

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

20 (225 ILCS 80/24) (from Ch. 111, par. 3924)

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

22 Sec. 24. Grounds for disciplinary action.

23 (a) The Department may refuse to issue or to renew, or may
24 revoke, suspend, place on probation, reprimand or take other

1 disciplinary or non-disciplinary action as the Department may
2 deem appropriate, including fines not to exceed \$10,000 for
3 each violation, with regard to any license for any one or
4 combination of the causes set forth in subsection (a-3) of this
5 Section. All fines collected under this Section shall be
6 deposited in the Optometric Licensing and Disciplinary Board
7 Fund.

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

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.

26 (7) Failing, within 60 days, to provide information in

1 response to a written request made by the Department that
2 has been sent by certified or registered mail to the
3 licensee's last known address.

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

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

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

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

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

20 (13) Abandonment of a patient.

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

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

26 (16) Physical illness, including but not limited to,

1 deterioration through the aging process, or loss of motor
2 skill, mental illness, or disability that results in the
3 inability to practice the profession with reasonable
4 judgment, skill, or safety.

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

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

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

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

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

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

1 Child Reporting Act.

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

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

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

11 (26) Promotion of the sale of drugs, devices,
12 appliances or goods provided for a client or patient in
13 such manner as to exploit the patient or client for
14 financial gain of the licensee.

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

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

25 (29) Continuance of an optometrist in the employ of any
26 person, firm or corporation, or as an assistant to any

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

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

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

17 (32) Willfully making or filing false records or
18 reports in the practice of optometry, including, but not
19 limited to false records to support claims against 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 (33) Gross and willful overcharging for professional
24 services including filing false statements for collection
25 of fees for which services are not rendered, including, but
26 not limited to filing false statements for collection of

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

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

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

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

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

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

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

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

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

16 (Source: P.A. 96-378, eff. 1-1-10; 96-608, eff. 8-24-09;
17 96-1000, eff. 7-2-10; 97-1028, eff. 1-1-13.)