

AN ACT concerning regulation.

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

Section 5. The Regulatory Sunset Act is amended by changing Section 4.18 and by adding Section 4.28 as follows:

(5 ILCS 80/4.18)

Sec. 4.18. Acts repealed January 1, 2008. The following Acts are repealed on January 1, 2008:

The Acupuncture Practice Act.

The Clinical Social Work and Social Work Practice Act.

The Home Medical Equipment and Services Provider License Act.

The Nursing and Advanced Practice Nursing Act.

The Illinois Petroleum Education and Marketing Act.

The Illinois Speech-Language Pathology and Audiology Practice Act.

The Marriage and Family Therapy Licensing Act.

The Nursing Home Administrators Licensing and Disciplinary Act.

The Pharmacy Practice Act of 1987.

The Physician Assistant Practice Act of 1987.

~~The Podiatric Medical Practice Act of 1987.~~

The Structural Pest Control Act.

(Source: P.A. 94-754, eff. 5-10-06.)

(5 ILCS 80/4.28 new)

Sec. 4.28. Act repealed on January 1, 2018. The following Act is repealed on January 1, 2018:

The Podiatric Medical Practice Act of 1987.

Section 10. The Podiatric Medical Practice Act of 1987 is amended by changing Sections 3, 5, 6, 7, 10, 11.5, 12, 14, 18, 21, 24, 25, 26, 27, 30, 31, 32, 33, 34, 35, 38, and 41 as follows:

(225 ILCS 100/3) (from Ch. 111, par. 4803)

(Section scheduled to be repealed on January 1, 2008)

Sec. 3. Exceptions. This Act does not prohibit:

(A) Any person licensed to practice medicine and surgery in all of its branches in this State under the Medical Practice Act of 1987 from engaging in the practice for which he or she is licensed.

(B) The practice of podiatric medicine by a person who is employed by the United States government or any bureau, division or agency thereof while in the discharge of the employee's official duties.

(C) The practice of podiatric medicine that is included in their program of study by students enrolled in any approved college of podiatric medicine or in refresher

courses approved by the Department.

(D) The practice of podiatric medicine by one who has applied in writing to the Department, in form and substance satisfactory to the Department, for a license as a podiatric physician and has complied with all the provisions under Section 10 ~~9~~ of this Act, except the passing of an examination to be eligible to receive such license, until the decision of the Department that the applicant has failed to pass the next available examination authorized by the Department or has failed to take the next available examination authorized by the Department, or the withdrawal of the application.

(E) The practice of podiatric medicine by one who is a podiatric physician under the laws of another state, territory of the United States or country as described in Section 18 of this Act, and has applied in writing to the Department, in form and substance satisfactory to the Department, for a license as a podiatric physician and who is qualified to receive such license under Section 13 or Section 9, until:

(1) the expiration of 6 months after the filing of such written application,

(2) the withdrawal of such application, or

(3) the denial of such application by the Department.

(F) The provision of emergency care without fee by a

podiatric physician assisting in an emergency as provided in Section 4.

An applicant for a license to practice podiatric medicine, practicing under the exceptions set forth in paragraphs (D) or (E), may use the title podiatric physician, podiatrist, doctor of podiatric medicine, or chiropodist as set forth in Section 5 of this Act.

(Source: P.A. 90-14, eff. 7-1-97; 90-76, eff. 12-30-97.)

(225 ILCS 100/5) (from Ch. 111, par. 4805)

(Section scheduled to be repealed on January 1, 2008)

Sec. 5. Definitions. As used in this Act:

(A) "Department" means the Department of Financial and Professional Regulation.

(B) "Secretary" "~~Director~~" means the Secretary ~~Director~~ of Financial and Professional Regulation.

(C) "Board" means the Podiatric Medical Licensing Board appointed by the Secretary ~~Director~~.

(D) "Podiatric medicine" or "podiatry" means the diagnosis, medical, physical, or surgical treatment of the ailments of the human foot, including amputations; provided that amputations of the human foot are limited to 10 centimeters proximal to the tibial talar articulation. "Podiatric medicine" or "podiatry" includes the provision of topical and local anesthesia and moderate and deep sedation, as defined by Department rule adopted under the Medical Practice Act of 1987 ~~with the~~

~~exception of administration of general anesthetics and the amputation of the human foot.~~ For the purposes of this Act, the terms podiatric medicine, podiatry and chiropody have the same definition.

(E) "Human foot" means the ankle and soft tissue which insert into the foot as well as the foot.

(F) "Podiatric physician" means a physician licensed to practice podiatric medicine.

(G) "Postgraduate training" means a minimum one year postdoctoral structured and supervised educational experience approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association which includes residencies and preceptorships.

(Source: P.A. 90-76, eff. 12-30-97.)

(225 ILCS 100/6) (from Ch. 111, par. 4806)

(Section scheduled to be repealed on January 1, 2008)

Sec. 6. Powers and duties of the Department. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing acts and shall exercise such other powers and duties conferred by this Act.

The Secretary ~~Director~~ may promulgate rules consistent with the provisions of this Act, for the administration and enforcement thereof and may prescribe forms that shall be issued in connection therewith.

(Source: P.A. 90-76, eff. 12-30-97.)

(225 ILCS 100/7) (from Ch. 111, par. 4807)

(Section scheduled to be repealed on January 1, 2008)

Sec. 7. Creation of the Board. The Secretary ~~Director~~ shall appoint a Podiatric Medical Licensing Board as follows: 5 members must be actively engaged in the practice of podiatric medicine in this State for a minimum of 3 years and one member must be a member of the general public who is not licensed under this Act or a similar Act of another jurisdiction.

Members shall serve 3 year terms and serve until their successors are appointed and qualified. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 8 successive years.

A majority of Board members currently appointed shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise the rights and perform all of the duties of the Board.

In making appointments to the Board the Secretary ~~Director~~ shall give due consideration to recommendations by the Illinois Podiatric Medical Association and shall promptly give due notice to the Illinois Podiatric Medical Association of any vacancy in the membership of the Board.

Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of

the vacated term.

The Board shall annually elect a chairperson and vice-chairperson.

The membership of the Board should reasonably reflect representation from the geographic areas in this State.

Members of the Board shall be immune from suit in any action based upon any disciplinary proceedings or other activities performed in good faith as members of the Board.

The members of the Board may ~~shall each~~ receive as compensation a reasonable sum as determined by the Secretary ~~Director~~ for each day actually engaged in the duties of the office, and all legitimate and necessary expenses incurred in attending the meetings of the Board.

The Secretary ~~Director~~ may terminate the appointment of any member for cause that in the opinion of the Secretary ~~Director~~ reasonably justifies such termination.

The Secretary ~~Director~~ shall consider the recommendations of the Board on questions involving standards of professional conduct, discipline, and qualifications of candidates and licensees under this Act.

Notice of proposed rulemaking shall be transmitted to the Board and the Department shall review the response of the Board and any recommendations made in the response. The Department may, at any time, seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act.

(Source: P.A. 90-76, eff. 12-30-97.)

(225 ILCS 100/10) (from Ch. 111, par. 4810)

(Section scheduled to be repealed on January 1, 2008)

Sec. 10. Qualifications for licensure. A person shall be qualified for licensure as a podiatric physician:

(A) who has applied for licensure on forms prepared and furnished by the Department;

(B) who is at least 21 years of age;

(C) who has not engaged in or is not engaged in any practice or conduct that constitutes grounds for discipline under this Act, including without limitation grounds set forth in Section 24 of this Act, or rules adopted under this Act ~~is of good moral character. In determining moral character under this Section, the Department may take into consideration any felony conviction of the applicant, but such a conviction shall not operate as a bar to licensure;~~

(D) who is a graduate of an approved college of podiatric medicine and has attained the academic degree of doctor of podiatric medicine (D.P.M.);

(E) who has successfully completed an examination authorized by the Department; and

(F) who has successfully completed a minimum of one year postgraduate training as defined in Section 5 of this Act. The postgraduate training requirement shall be

effective July 1, 1992.

(Source: P.A. 89-387, eff. 8-20-95; 90-76, eff. 12-30-97.)

(225 ILCS 100/11.5)

(Section scheduled to be repealed on January 1, 2008)

Sec. 11.5. Unlicensed practice; violation; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice podiatry without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 ~~\$5,000~~ for each offense as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) The Department has the authority and power to investigate any and all unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(Source: P.A. 89-474, eff. 6-18-96.)

(225 ILCS 100/12) (from Ch. 111, par. 4812)

(Section scheduled to be repealed on January 1, 2008)

Sec. 12. Temporary license; qualifications and terms.

(A) Podiatric physicians otherwise qualified for licensure, with the exception of completion of one year of postgraduate training and the exception of the successful completion of the written practical examination required under Section 10, may be granted a one year temporary license to practice podiatric medicine provided that the applicant can demonstrate that he or she has been accepted and is enrolled in a recognized postgraduate training program during the period for which the temporary license is sought. Such temporary licenses shall be valid for one year from the date of issuance for the practice site issued and may be renewed once. In addition, an applicant may request a one-year extension pursuant to the rules of the Department. Such applicants shall apply in writing on those forms prescribed by the Department and shall submit with the application the required application fee. Other examination fees that may be required under Section 8 must also be paid by temporary licensees.

(B) Application for visiting professor permits shall be made to the Department in writing on forms prescribed by the Department and be accompanied by the required fee. Requirements for a visiting professor permit issued under this Section shall be determined by the Department by rule. Visiting professor permits shall be valid for one year from the date of issuance or until such time as the faculty appointment is terminated, whichever occurs first, and may be renewed once.

(Source: P.A. 90-76, eff. 12-30-97.)

(225 ILCS 100/14) (from Ch. 111, par. 4814)

(Section scheduled to be repealed on January 1, 2008)

Sec. 14. Continuing education requirement. Podiatric physicians licensed to practice in Illinois shall, as a requirement for renewal of license, complete continuing education at the rate of at least 50 ~~25~~ hours per year. Such hours shall be earned (1) from courses offered by sponsors validated by the Illinois Podiatric Medical Association Continuing Education Committee and approved by the Podiatric Medical Licensing Board; or (2) by continuing education activities as defined in the rules of the Department. Podiatric physicians shall, at the request of the Department, provide proof of having met the requirements of continuing education under this Section. The Department shall by rule provide an orderly process for the reinstatement of licenses which have not been renewed due to the licensee's failure to meet requirements of this Section. The requirements of continuing education may be waived by the Secretary ~~Director~~, upon recommendation by the Board, in whole or in part for such good cause, including but not limited to illness or hardship, as defined by the rules of the Department.

The Department shall establish by rule a means for the verification of completion of the continuing education required by this Section. This verification may be accomplished

through audits of records maintained by registrants; by requiring the filing of continuing education certificates with the Department; or by other means established by the Department.

(Source: P.A. 92-750, eff. 1-1-03.)

(225 ILCS 100/18) (from Ch. 111, par. 4818)

(Section scheduled to be repealed on January 1, 2008)

Sec. 18. Fees.

(a) The following fees are not refundable.

(1) The fee for a certificate of licensure is \$400. The fee for a temporary permit or Visiting Professor permit under Section 12 of this Act is \$250.

(2) In addition, applicants for any examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

(3) The fee for the renewal of a certificate of licensure shall be calculated at the rate of \$200 per year. The fee for the renewal of a temporary permit or Visiting Professor permit shall be calculated at the rate of \$125

per year.

(4) The fee for the restoration of a certificate of licensure other than from inactive status is \$100 plus payment of all lapsed renewal fees, but not to exceed \$910.

(5) The fee for the issuance of a duplicate certificate of licensure, for the issuance of a replacement certificate for a certificate which has been lost or destroyed or for the issuance of a certificate with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Department records when no duplicate certificate is issued.

(6) The fee for a certification of a licensee's record for any purpose is \$20.

(7) The fee to have the scoring of an examination administered by the Department reviewed and verified is \$20 plus any fees charged by the applicable testing service.

(8) The fee for a wall certificate showing licensure shall be the actual cost of producing such certificates.

(9) The fee for a roster of persons licensed as podiatric physicians in this State shall be the actual cost of producing such a roster.

(10) The annual fee for continuing education sponsors is \$1,000, however colleges, universities and State agencies shall be exempt from payment of this fee.

(b) Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the

financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or certificate or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary ~~Director~~ may waive the fines due under this Section in individual cases where the Secretary ~~Director~~ finds that the fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 92-146, eff. 1-1-02.)

(225 ILCS 100/21) (from Ch. 111, par. 4821)

(Section scheduled to be repealed on January 1, 2008)

Sec. 21. Advertising.

(A) Any podiatric physician may advertise the availability of podiatric medical services in the public media or on the premises where such services are rendered. Such advertising shall be limited to the following information:

(a) the podiatric medical services available;

(b) publication of the podiatric physician's name, title, office hours, address and telephone;

(c) information pertaining to areas of practice specialization, including appropriate board certification as approved by the Board in accordance with the rules for the administration of this Act or limitation of professional practice;

(d) information on usual and customary fees for routine podiatric medical services offered, which information shall include notification that fees may be adjusted due to complications or unforeseen circumstances;

(e) announcement of the opening of, change of, absence from, or return to business;

(f) announcement of additions to or deletions from professional podiatric staff;

(g) the issuance of business or appointment cards;

(h) other information about the podiatric physician, podiatric practice or the types of podiatric services that the podiatric physician offers to perform that a reasonable person might regard as relevant in determining whether to seek the podiatric physician's services.

(B) It is unlawful for any podiatric physician licensed under this Act:

(1) to use ~~testimonials or~~ claims of superior quality of care to entice the public;

(2) to advertise in any way to practice podiatric medicine without causing pain or deformity; or

(3) to advertise or offer gifts as an inducement to secure patient patronage. Podiatric physicians may advertise or offer free examinations or free podiatric medical services; it shall be unlawful, however, for any podiatric physician to charge a fee to any patient or any third party payor for any podiatric medical service provided at the time that such free examination or free podiatric medical services are provided.

(C) This Act does not authorize the advertising of podiatric medical services when the offeror of such services is not a podiatric physician. Nor shall the podiatric physician use statements that contain false, fraudulent, deceptive or misleading material or guarantees of success, statements that play upon the vanity or fears of the public, or statements that promote or produce unfair competition.

(D) A licensee shall include in every advertisement for services regulated under this Act his or her title as provided by rule or the initials authorized under this Act.

(Source: P.A. 90-76, eff. 12-30-97; 91-310, eff. 1-1-00.)

(225 ILCS 100/24) (from Ch. 111, par. 4824)

(Section scheduled to be repealed on January 1, 2008)

Sec. 24. Grounds for disciplinary action. ~~Refusal to issue or suspension or revocation of license; grounds.~~ The Department may refuse to issue, may refuse to renew, may refuse to restore, may suspend, or may revoke any license, or may place on probation, reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 ~~\$5,000~~ for each violation upon anyone licensed under this Act for any of the following reasons:

(1) Making a material misstatement in furnishing information to the Department.

(2) Violations of this Act, or of the rules or regulations promulgated hereunder.

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the any United States or any state or territory of the United States ~~jurisdiction~~ that is ~~a felony or~~ a misdemeanor, of which an essential element is dishonesty, or of any crime that is directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining licenses, or violating any provision of this Act or the rules promulgated thereunder pertaining to advertising.

(5) Professional incompetence.

(6) Gross or repeated malpractice or negligence.

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

(8) Failing, within 30 ~~60~~ days, to provide information in response to a written request made by the Department.

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

(10) Habitual or excessive use of alcohol, narcotics, stimulants or other chemical agent or drug that results in the inability to practice podiatric medicine with reasonable judgment, skill or safety.

(11) Discipline by another United States jurisdiction if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(12) 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 rent or other remunerations paid to an individual, partnership, or corporation, by a licensee, for the lease, rental or use of space, owned or controlled, by the individual, partnership or corporation.

(13) A finding by the Podiatric Medical Licensing Board that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

(14) Abandonment of a patient.

(15) 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.

(16) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Report Act.

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

(18) Solicitation of professional services other than permitted advertising.

(19) The determination by a circuit court that a licensed podiatric physician is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. Such 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 Podiatric Medical Licensing Board to the Secretary ~~Director~~ that the licensee be allowed to resume his or her practice.

(20) Holding oneself out to treat human ailments under any name other than his or her own, or the impersonation of any other physician.

(21) Revocation or suspension or other action taken with respect to a podiatric medical license in another jurisdiction that would constitute disciplinary action under this Act.

(22) Promotion of the sale of drugs, devices, appliances or goods provided for a patient in such manner as to exploit the patient for financial gain of the podiatric physician.

(23) Gross, willful, and continued overcharging for professional services including filing false statements for collection of fees for those services, including, but not limited to, filing false statement 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 or other private or public third party payor.

(24) 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 neglected child as defined in the Abused and Neglected Child Reporting Act.

(25) Willfully making or filing false records or reports in the practice of podiatric medicine, 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.

(26) (Blank). ~~Mental illness or disability that results in the inability to practice with reasonable judgment, skill or safety.~~

(27) Immoral conduct in the commission of any act including, sexual abuse, sexual misconduct, or sexual exploitation, related to the licensee's practice.

(28) Violation of the Health Care Worker Self-Referral Act.

(29) Failure to report to the Department any adverse final action taken against him or her by another licensing jurisdiction (another state or a territory of the United States or a foreign state or country) by a peer review body, by any health care institution, by a professional society or association related to practice under this Act, by a governmental agency, by a law enforcement agency, or by a court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this Section.

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 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.

Upon receipt of a written communication from the Secretary of Human Services, the Director of Healthcare and Family Services (formerly Director of Public Aid), or the Director of

Public Health that continuation of practice of a person licensed under this Act constitutes an immediate danger to the public, the Secretary ~~Director~~ may immediately suspend the license of such person without a hearing. In instances in which the Secretary ~~Director~~ immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Board within 15 days after such suspension and completed without appreciable delay, such hearing held to determine whether to recommend to the Secretary ~~Director~~ that the person's license be revoked, suspended, placed on probationary status or reinstated, or such person be subject to other disciplinary action. In such hearing, the written communication and any other evidence submitted therewith may be introduced as evidence against such person; provided, however, the person or his counsel shall have the opportunity to discredit or impeach such evidence and submit evidence rebutting the same.

Except for fraud in procuring a license, all ~~All~~ proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 ~~3~~ years after receipt by the Department of a complaint alleging the commission of or notice of the conviction order for any of the acts described in this Section. Except for the grounds set forth in items (8), (9), (26), and (29) of this Section ~~fraud in procuring a~~

~~license~~, no action shall be commenced more than 10 ~~5~~ years after the date of the incident or act alleged to have been a violation of this Section. In the event of the settlement of any claim or cause of action in favor of the claimant or the reduction to final judgment of any civil action in favor of the plaintiff, such claim, cause of action, or civil action being grounded on the allegation that a person licensed under this Act was negligent in providing care, the Department shall have an additional period of 2 years ~~one year~~ from the date of notification to the Department under Section 26 of this Act of such settlement or final judgment in which to investigate and commence formal disciplinary proceedings under Section 24 of this Act, except as otherwise provided by law. The time during which the holder of the license was outside the State of Illinois shall not be included within any period of time limiting the commencement of disciplinary action by the Department.

In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the 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. The examining physicians shall be specifically designated by the Board or Department. 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 this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary ~~Director~~ for a determination as to whether the

individual shall have his or her license suspended immediately, pending a hearing by the Department.

In instances in which the Secretary ~~Director~~ immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 ~~15~~ days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(Source: P.A. 89-507, eff. 7-1-97; 90-76, eff. 12-30-97; revised 12-15-05.)

(225 ILCS 100/25) (from Ch. 111, par. 4825)

(Section scheduled to be repealed on January 1, 2008)

Sec. 25. Violations - Injunction - Cease and desist order.

A. If any person violates the provision of this Act, the Secretary ~~Director~~ may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, petition, for an order enjoining such violation or

for an order enforcing compliance with this Act. Upon the filing of a verified petition in such court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

B. If any person shall practice as a podiatric physician or hold himself out as a podiatric physician without being licensed under the provisions of this Act then any licensed podiatric physician, any interested party or any person injured thereby may, in addition to the Secretary ~~Director~~, petition for relief as provided in subsection A of this Section.

C. Whenever in the opinion of the Department any person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued forthwith.

(Source: P.A. 85-918.)

(225 ILCS 100/26) (from Ch. 111, par. 4826)

(Section scheduled to be repealed on January 1, 2008)

Sec. 26. Reports relating to professional conduct and capacity.

(A) The Board shall by rule provide for the reporting to it of all instances in which a podiatric physician licensed under this Act who is impaired by reason of age, drug or alcohol abuse or physical or mental impairment, is under supervision and, where appropriate, is in a program of rehabilitation. Reports shall be strictly confidential and may be reviewed and considered only by the members of the Board, or by authorized staff of the Department as provided by the rules of the Board. Provisions shall be made for the periodic report of the status of any such podiatric physician not less than twice annually in order that the Board shall have current information upon which to determine the status of any such podiatric physician. Such initial and periodic reports of impaired physicians shall not be considered records within the meaning of the State Records Act and shall be disposed of, following a determination by the Board that such reports are no longer required, in a manner and at such time as the Board shall determine by rule. The filing of such reports shall be construed as the filing of a report for the purposes of subsection (C) of this Section. Failure to file a report under this Section shall be a Class A misdemeanor.

(A-5) The following persons and entities shall report to

the Department or the Board in the instances and under the conditions set forth in this subsection (A-5):

(1) Any administrator or officer of any hospital, nursing home or other health care agency or facility who has knowledge of any action or condition which reasonably indicates to him or her that a licensed podiatric physician practicing in such hospital, nursing home or other health care agency or facility is habitually intoxicated or addicted to the use of habit forming drugs, or is otherwise impaired, to the extent that such intoxication, addiction, or impairment adversely affects such podiatric physician's professional performance, or has knowledge that reasonably indicates to him or her that any podiatric physician unlawfully possesses, uses, distributes or converts habit-forming drugs belonging to the hospital, nursing home or other health care agency or facility for such podiatric physician's own use or benefit, shall promptly file a written report thereof to the Department. The report shall include the name of the podiatric physician, the name of the patient or patients involved, if any, a brief summary of the action, condition or occurrence that has necessitated the report, and any other information as the Department may deem necessary. The Department shall provide forms on which such reports shall be filed.

(2) The president or chief executive officer of any association or society of podiatric physicians licensed

under this Act, operating within this State shall report to the Board when the association or society renders a final determination relating to the professional competence or conduct of the podiatric physician.

(3) Every insurance company that offers policies of professional liability insurance to persons licensed under this Act, or any other entity that seeks to indemnify the professional liability of a podiatric physician licensed under this Act, shall report to the Board the settlement of any claim or cause of action, or final judgment rendered in any cause of action that alleged negligence in the furnishing of medical care by such licensed person when such settlement or final judgement is in favor of the plaintiff.

(4) The State's Attorney of each county shall report to the Board all instances in which a person licensed under this Act is convicted or otherwise found guilty of the commission of any felony.

(5) All agencies, boards, commissions, departments, or other instrumentalities of the government of the State of Illinois shall report to the Board any instance arising in connection with the operations of such agency, including the administration of any law by such agency, in which a podiatric physician licensed under this Act has either committed an act or acts that may be a violation of this Act or that may constitute unprofessional conduct related

directly to patient care or that indicates that a podiatric physician licensed under this Act may be mentally or physically disabled in such a manner as to endanger patients under that physician's care.

(B) All reports required by this Act shall be submitted to the Board in a timely fashion. The reports shall be filed in writing within 60 days after a determination that a report is required under this Act. All reports shall contain the following information:

(1) The name, address and telephone number of the person making the report.

(2) The name, address and telephone number of the podiatric physician who is the subject of the report.

(3) The name or other means of identification of any patient or patients whose treatment is a subject of the report, provided, however, no medical records may be revealed without the written consent of the patient or patients.

(4) A brief description of the facts that gave rise to the issuance of the report, including the dates of any occurrences deemed to necessitate the filing of the report.

(5) If court action is involved, the identity of the court in which the action is filed, along with the docket number and date of filing of the action.

(6) Any further pertinent information that the reporting party deems to be an aid in the evaluation of the

report.

Nothing contained in this Section shall waive or modify the confidentiality of medical reports and committee reports to the extent provided by law. Any information reported or disclosed shall be kept for the confidential use of the Board, the Board's attorneys, the investigative staff and other authorized Department staff, as provided in this Act, and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure.

(C) Any individual or organization acting in good faith, and not in a willful and wanton manner, in complying with this Act by providing any report or other information to the Board, or assisting in the investigation or preparation of such information, or by participating in proceedings of the Board, or by serving as a member of the Board, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(D) Members of the Board, the Board's attorneys, the investigative staff, other podiatric physicians retained under contract to assist and advise in the investigation, and other authorized Department staff shall be indemnified by the State for any actions occurring within the scope of services on the Board, done in good faith and not willful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that he or she would have a conflict of

interest in such representation or that the actions complained of were not in good faith or were willful and wanton.

Should the Attorney General decline representation, the member shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were wilful and wanton. The member must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification. The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent the member.

(E) Upon the receipt of any report called for by this Act, other than those reports of impaired persons licensed under this Act required pursuant to the rules of the Board, the Board shall notify in writing, by certified mail, the podiatric physician who is the subject of the report. Such notification shall be made within 30 days of receipt by the Board of the report.

The notification shall include a written notice setting forth the podiatric physician's right to examine the report. Included in such notification shall be the address at which the file is maintained, the name of the custodian of the reports,

and the telephone number at which the custodian may be reached. The podiatric physician who is the subject of the report shall be permitted to submit a written statement responding, clarifying, adding to, or proposing the amending of the report previously filed. The statement shall become a permanent part of the file and must be received by the Board no more than 30 days after the date on which the podiatric physician was notified of the existence of the original report.

The Board shall review all reports received by it, together with any supporting information and responding statements submitted by persons who are the subject of reports. The review by the Board shall be in a timely manner but in no event shall the Board's initial review of the material contained in each disciplinary file be less than 61 days nor more than 180 days after the receipt of the initial report by the Board.

When the Board makes its initial review of the materials contained within its disciplinary files the Board shall, in writing, make a determination as to whether there are sufficient facts to warrant further investigation or action. Failure to make such determination within the time provided shall be deemed to be a determination that there are not sufficient facts to warrant further investigation or action.

Should the Board find that there are not sufficient facts to warrant further investigation, or action, the report shall be accepted for filing and the matter shall be deemed closed and so reported.

The individual or entity filing the original report or complaint and the podiatric physician who is the subject of the report or complaint shall be notified in writing by the Board of any final action on their report or complaint.

(F) The Board shall prepare on a timely basis, but in no event less than once every other month, a summary report of final disciplinary actions taken upon disciplinary files maintained by the Board. The summary reports shall be made available on the Department's web site ~~sent by the Board to such institutions, associations and individuals as the Director may determine.~~

(G) Any violation of this Section shall be a Class A misdemeanor.

(H) If any such podiatric physician violates the provisions of this Section, an action may be brought in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, for an order enjoining such violation or for an order enforcing compliance with this Section. Upon filing of a verified petition in such court, the court may issue a temporary restraining order without notice or bond and may preliminarily or permanently enjoin such violation, and if it is established that such podiatric physician has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this paragraph shall be in addition to, and not in lieu of, all other remedies and penalties provided for by this Section.

(Source: P.A. 90-14, eff. 7-1-97; 90-76, eff. 12-30-97.)

(225 ILCS 100/27) (from Ch. 111, par. 4827)

(Section scheduled to be repealed on January 1, 2008)

Sec. 27. Investigations; notice and hearing. The Department may investigate the actions of any applicant or of any person or persons holding or claiming to hold a license. The Department shall, before suspending, revoking, placing on probationary status or taking any other disciplinary action as the Department may deem proper with regard to any licensee, at least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made and the time and place for a hearing of the charges before the Board, direct him or her to file his or her written answer thereto to the Board under oath within 20 days after the service on him or her of such notice and inform her or him that if he or she fails to file such answer default will be taken against him or her and his or her license may be revoked, suspended, placed on probationary status, or subject to other disciplinary action, including limiting the scope, nature, or extent of his or her practice as the Department may deem proper.

In case the accused person, after receiving notice fails to file an answer, his or her license may, in the discretion of the Secretary ~~Director~~ having received the recommendation of the Board, be suspended, revoked, or placed on probationary status or the Secretary ~~Director~~ may take whatever disciplinary

action as he or she may deem proper including limiting the scope, nature, or extent of the accused person's practice without a hearing if the act or acts charged constitute sufficient grounds for such action under this Act.

Such written notice may be served by personal delivery or certified or registered mail to the respondent at the address on record with ~~of his or her last notification to~~ the Department. At the time and place fixed in the notice, the Board shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence and argument as may be pertinent to the charges or to the defense thereto. The Board may continue such hearing from time to time.

(Source: P.A. 90-76, eff. 12-30-97.)

(225 ILCS 100/30) (from Ch. 111, par. 4830)

(Section scheduled to be repealed on January 1, 2008)

Sec. 30. Witness; subpoenas. The Department shall have the power to subpoena and bring before it any person in this State and to take testimony, either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in civil cases in circuit courts of this State.

The Secretary ~~Director~~, and any member of the Board, shall each have the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct under this

Act, and any other oaths required or authorized to be administered by the Department hereunder.

(Source: P.A. 90-76, eff. 12-30-97.)

(225 ILCS 100/31) (from Ch. 111, par. 4831)

(Section scheduled to be repealed on January 1, 2008)

Sec. 31. Notice of hearing - Findings and recommendations. At the conclusion of the hearing the Board shall present to the Secretary ~~Director~~ a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary ~~Director~~.

The report of findings of fact, conclusions of law and recommendations of the Board shall be the basis for the Department's order or refusal or for the granting of a license. If the Secretary ~~Director~~ disagrees in any regard with the report of the Board, the Secretary ~~Director~~ may issue an order in contravention thereof. The Secretary ~~Director~~ shall provide a written report to the Board on any deviation, and shall specify with particularity the reasons for such action in the final order. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and finding are not a bar to a

criminal prosecution brought for the violation of this Act.

(Source: P.A. 85-918.)

(225 ILCS 100/32) (from Ch. 111, par. 4832)

(Section scheduled to be repealed on January 1, 2008)

Sec. 32. Board - Rehearing. In any case involving the refusal to issue, renew or discipline of a license, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after such service, the respondent may present to the Department a motion in writing for a rehearing, which motion shall specify the particular grounds therefor.

If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial the Secretary ~~Director~~ may enter an order in accordance with recommendations of the Board except as provided in Section 31 of this Act. If the respondent shall order from the reporting service, and pay for a transcript of the record within the time for filing a motion for rehearing, the 20 day period within which such a motion may be filed shall commence upon the delivery of the transcript to the respondent.

(Source: P.A. 85-918.)

(225 ILCS 100/33) (from Ch. 111, par. 4833)

(Section scheduled to be repealed on January 1, 2008)

Sec. 33. Secretary ~~Director~~ - Rehearing. Whenever the Secretary ~~Director~~ is satisfied that substantial justice has not been done in the revocation, suspension or refusal to issue or renew a license, the Secretary ~~Director~~ may order a rehearing by the same or another hearing officer or Board.

(Source: P.A. 85-918.)

(225 ILCS 100/34) (from Ch. 111, par. 4834)

(Section scheduled to be repealed on January 1, 2008)

Sec. 34. Appointment of a hearing officer. Notwithstanding the provisions of Section 32 of this Act, the Secretary ~~Director~~ shall have the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, renew or discipline of a license.

The Secretary ~~Director~~ shall notify the Board of any such appointment. The hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings of fact, conclusions of law and recommendations to the Board and the Secretary ~~Director~~. The Board shall ~~have 60 days from receipt of the report to~~ review the report of the hearing officer and present their findings of fact, conclusions of law and recommendations to the ~~Board and the~~ Secretary ~~Director~~. ~~The Board shall have 60 days after receipt of the report to review the report of the hearing officer and present~~

~~its findings of fact, conclusions of law, and recommendations to the Director.~~ If the Board fails to present its report ~~within the 60 day period,~~ the Secretary ~~Director~~ may issue an order based on the report of the hearing officer. If the Secretary ~~Director~~ disagrees in any regard with the report of the Board or hearing officer, he or she may issue an order in contravention thereof. The Secretary ~~Director~~ shall provide an ~~a written~~ explanation to the Board on any such deviation, and shall specify with particularity the reasons for such action in the final order.

(Source: P.A. 90-76, eff. 12-30-97.)

(225 ILCS 100/35) (from Ch. 111, par. 4835)

(Section scheduled to be repealed on January 1, 2008)

Sec. 35. Order or certified copy; prima facie proof. An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary ~~Director~~, shall be prima facie proof that:

(a) the signature is the genuine signature of the Secretary ~~Director~~;

(b) the Secretary ~~Director~~ is duly appointed and qualified; and

(c) the Board and the members thereof are qualified to act.

(Source: P.A. 91-357, eff. 7-29-99.)

(225 ILCS 100/38) (from Ch. 111, par. 4838)

(Section scheduled to be repealed on January 1, 2008)

Sec. 38. Temporary suspension of a license. The Secretary ~~Director~~ may temporarily suspend the license of a podiatric physician without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 27 of this Act, if the Secretary ~~Director~~ finds that evidence in his or her possession indicates that a podiatric physician's continuation in practice would constitute an imminent danger to the public. In the event that the Secretary ~~Director~~ suspends, temporarily, this license of a podiatric physician without a hearing, a hearing by the Board must be held within 30 days after such suspension has occurred and shall be concluded without appreciable delay.

(Source: P.A. 90-76, eff. 12-30-97.)

(225 ILCS 100/41) (from Ch. 111, par. 4841)

(Section scheduled to be repealed on January 1, 2008)

Sec. 41. Violations. Any person who is found to have violated any provisions of this Act is guilty of a Class A misdemeanor. All criminal fines, monies, or other property collected or received by the Department under this Section or any other State or federal statute, including, but not limited to, property forfeited to the Department under Section 505 of The Illinois Controlled Substances Act or Section 85 of the Methamphetamine Control and Community Protection Act, shall be

deposited into the Professional Regulation Evidence Fund.

The Board, with the advice of the Secretary ~~Director~~ and attorneys for the Department, may establish by rule a schedule of fines payable by those who have violated any provisions of this Act.

Fines assessed and collected for violations of this Act shall be deposited in the Illinois State Podiatric Medical Disciplinary Fund.

(Source: P.A. 94-556, eff. 9-11-05.)

(225 ILCS 100/13 rep.)

Section 15. The Podiatric Medical Practice Act of 1987 is amended by repealing Section 13.

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