



Sen. M. Maggie Crotty

Filed: 2/23/2006

09400SB2469sam003

LRB094 16641 RAS 56354 a

1 AMENDMENT TO SENATE BILL 2469

2 AMENDMENT NO. _____. Amend Senate Bill 2469, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Regulatory Sunset Act is amended by
6 changing Section 4.17 and by adding Section 4.27 as follows:

7 (5 ILCS 80/4.17)

8 Sec. 4.17. Acts repealed on January 1, 2007. The following
9 are repealed on January 1, 2007:

10 The Boiler and Pressure Vessel Repairer Regulation
11 Act.

12 The Structural Pest Control Act.

13 Articles II, III, IV, V, V 1/2, VI, VIIA, VIIB, VIIC,
14 XVII, XXXI, XXXI 1/4, and XXXI 3/4 of the Illinois
15 Insurance Code.

16 The Clinical Psychologist Licensing Act.

17 ~~The Illinois Optometric Practice Act of 1987.~~

18 The Medical Practice Act of 1987.

19 The Environmental Health Practitioner Licensing Act.

20 (Source: P.A. 92-837, eff. 8-22-02.)

21 (5 ILCS 80/4.27 new)

22 Sec. 4.27. Act repealed on January 1, 2017. The following
23 Act is repealed on January 1, 2017:

1 The Illinois Optometric Practice Act of 1987.

2 Section 10. The Illinois Optometric Practice Act of 1987 is
3 amended by changing Sections 3, 4.5, 5, 6, 7, 8, 9, 10, 11, 12,
4 13, 14, 15.1, 16, 17, 19, 20, 21, 23, 24, 25, 26.1, 26.2, 26.5,
5 26.6, 26.7, 26.8, 26.9, 26.10, 26.11, 26.12, 26.13, and 28 and
6 by adding Sections 11.5 and 15.2 as follows:

7 (225 ILCS 80/3) (from Ch. 111, par. 3903)

8 (Section scheduled to be repealed on January 1, 2007)

9 Sec. 3. Practice of optometry defined; referrals;
10 manufacture of lenses and prisms.

11 (a) The practice of optometry is defined as the employment
12 of any and all means for the examination, diagnosis, and
13 treatment of the human visual system, the human eye, and its
14 appendages without the use of surgery, including but not
15 limited to: the appropriate use of ~~diagnostic ocular~~
16 ~~pharmaceutical agents and therapeutic~~ ocular pharmaceutical
17 agents; refraction and other determinants of visual function;
18 prescribing corrective lenses or prisms; prescribing,
19 dispensing, or management of contact lenses; vision therapy;
20 visual rehabilitation; or any other procedures taught in
21 schools and colleges of optometry approved by the Department,
22 and not specifically restricted in this Act, subject to
23 demonstrated competency and training as required by the Board,
24 and pursuant to rule or regulation approved by the Board and
25 adopted by the Department.

26 A person shall be deemed to be practicing optometry within
27 the meaning of this Act who:

28 (1) In any way presents himself or herself to be
29 qualified to practice optometry.

30 (2) Performs refractions or employs any other
31 determinants of visual function.

32 (3) Employs any means for the adaptation of lenses or

1 prisms.

2 (4) Prescribes corrective lenses, prisms, vision
3 therapy, visual rehabilitation, or ocular pharmaceutical
4 agents.

5 (5) Prescribes or manages contact lenses for
6 refractive, cosmetic, or therapeutic purposes.

7 (6) Evaluates the need for, or prescribes, low vision
8 aids to partially sighted persons.

9 (7) Diagnoses or treats any ocular abnormality,
10 disease, or visual or muscular anomaly of the human eye or
11 visual system.

12 (8) Practices, or offers or attempts to practice,
13 optometry as defined in this Act either on his or her own
14 behalf or as an employee of a person, firm, or corporation,
15 whether under the supervision of his or her employer or
16 not.

17 Nothing in this Section shall be interpreted (i) to prevent
18 a person from functioning as an assistant under the direct
19 supervision of a person licensed by the State of Illinois to
20 practice optometry or medicine in all of its branches or (ii)
21 to prohibit visual screening programs that are conducted
22 without a fee (other than voluntary donations), by charitable
23 organizations acting in the public welfare under the
24 supervision of a committee composed of persons licensed by the
25 State of Illinois to practice optometry or persons licensed by
26 the State of Illinois to practice medicine in all of its
27 branches.

28 (b) When, in the course of providing optometric services to
29 any person, an optometrist licensed under this Act finds an
30 indication of a disease or condition of the eye which in his or
31 her professional judgment requires professional service
32 outside the scope of practice as defined in this Act, he or she
33 shall refer such person to a physician licensed to practice
34 medicine in all of its branches, or other appropriate health

1 care practitioner. Nothing in this Act shall preclude an
2 optometrist ~~who is therapeutically certified~~ from rendering
3 appropriate nonsurgical ~~ophthalmic~~ emergency care.

4 (c) Nothing contained in this Section shall prohibit a
5 person from manufacturing ophthalmic lenses and prisms or the
6 fabrication of contact lenses according to the specifications
7 prescribed by an optometrist or a physician licensed to
8 practice medicine in all of its branches, but shall
9 specifically prohibit the sale or delivery of ophthalmic
10 lenses, prisms, and contact lenses without a prescription
11 signed by an optometrist or a physician licensed to practice
12 medicine in all of its branches.

13 (d) Nothing in this Act shall restrict the filling of a
14 prescription by a pharmacist licensed under the Pharmacy
15 Practice Act of 1987.

16 (Source: P.A. 90-655, eff. 7-30-99; 91-141, eff. 7-16-99.)

17 (225 ILCS 80/4.5)

18 (Section scheduled to be repealed on January 1, 2007)

19 Sec. 4.5. Unlicensed practice; violation; civil penalty.

20 (a) Any person who practices, offers to practice, attempts
21 to practice, or holds oneself out to practice optometry without
22 being licensed under this Act or any individual or entity that
23 causes or attempts to cause a licensed optometrist or any other
24 person under that individual's or entity's control to violate
25 this Act or any other State or federal law or rule related to
26 the practice of optometry shall, in addition to any other
27 penalty provided by law, pay a civil penalty to the Department
28 in an amount not to exceed \$10,000 ~~\$5,000~~ for each offense as
29 determined by the Department. The civil penalty shall be
30 assessed by the Department after a hearing is held in
31 accordance with the provisions set forth in this Act regarding
32 the provision of a hearing for the discipline of a licensee.

33 (b) The Department has the authority and power to

1 investigate any and all unlicensed activity.

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

7 (Source: P.A. 93-754, eff. 7-16-04.)

8 (225 ILCS 80/5) (from Ch. 111, par. 3905)

9 (Section scheduled to be repealed on January 1, 2007)

10 Sec. 5. Title and designation of licensed optometrists.
11 Every person to whom a valid existing license as an optometrist
12 has been issued under this Act, shall be designated
13 professionally as an "optometrist" and not otherwise, and any
14 such licensed optometrist may, in connection with the practice
15 of his or her profession, use the title or designation of
16 "optometrist", and, if entitled by degree from a college or
17 university recognized by the Department of Financial and
18 Professional Regulation, may use the title of "Doctor of
19 Optometry", or the abbreviation "O.D.". When the name of such
20 licensed optometrist is used professionally in oral, written,
21 or printed announcements, prescriptions, professional cards,
22 or publications for the information of the public, and is
23 preceded by the title "Doctor" or the abbreviation "Dr.", the
24 explanatory designation of "optometrist", "optometry", or
25 "Doctor of Optometry" shall be added immediately following such
26 title and name. When such announcement, prescription,
27 professional care or publication is in writing or in print,
28 such explanatory addition shall be in writing, type, or print
29 not less than one-half the size of that used in said name and
30 title. No person other than the holder of a valid existing
31 license under this Act shall use the title and designation of
32 "Doctor of Optometry", "O.D.", or "optometrist", either
33 directly or indirectly in connection with his or her profession

1 or business.

2 (Source: P.A. 89-702, eff. 7-1-97.)

3 (225 ILCS 80/6) (from Ch. 111, par. 3906)

4 (Section scheduled to be repealed on January 1, 2007)

5 Sec. 6. Display of license ~~or certificate~~; change of
6 address; record of examinations and prescriptions. Every
7 holder of a license ~~or certificate~~ under this Act shall display
8 such license ~~or certificate~~ on a conspicuous place in the
9 office or offices wherein such holder practices optometry and
10 every holder shall, whenever requested, exhibit such license ~~or~~
11 ~~certificate~~ to any representative of the Department, and shall
12 notify the Department of the address or addresses and of every
13 change thereof, where such holder shall practice optometry.

14 Every licensed optometrist shall keep a record of
15 examinations made and prescriptions issued, which record shall
16 include the names of persons examined and for whom
17 prescriptions were prepared, and shall be signed by the
18 licensed optometrist and retained by him in the office in which
19 such professional service was rendered. Such records shall be
20 preserved by the optometrist for a period designated by the
21 Department. A copy of such records shall be provided, upon
22 written request, to the person examined, or his or her
23 designee.

24 (Source: P.A. 91-141, eff. 7-16-99.)

25 (225 ILCS 80/7) (from Ch. 111, par. 3907)

26 (Section scheduled to be repealed on January 1, 2007)

27 Sec. 7. Additional licenses ~~and certificates~~. Upon proper
28 application and payment of the prescribed fee, additional
29 licenses ~~and certificates~~ may be issued to active practitioners
30 who are engaged in the practice of optometry at more than one
31 address. A license must be displayed at each location where the
32 licensee engages in the practice of optometry. Nothing

1 contained herein, however, shall be construed to require a
2 licensed optometrist in active practice to obtain an additional
3 license ~~or certificate~~ for the purpose of serving on the staff
4 of a hospital or an institution that receives no fees (other
5 than entrance registration fees) for the services rendered by
6 the optometrist and for which the optometrist receives no fees
7 or compensation directly or indirectly for such services
8 rendered. Nothing contained herein shall be construed to
9 require a licensed optometrist to obtain an additional license
10 ~~or certificate~~ for the purpose of rendering necessary
11 optometric services for his or her patients confined to their
12 homes, hospitals or institutions, or to act in an advisory
13 capacity, with or without remuneration, in any industry, school
14 or institution.

15 (Source: P.A. 89-702, eff. 7-1-97.)

16 (225 ILCS 80/8) (from Ch. 111, par. 3908)

17 (Section scheduled to be repealed on January 1, 2007)

18 Sec. 8. Permitted activities. This Act does not prohibit:

19 (1) Any person licensed in this State under any other Act
20 from engaging in the practice for which he or she is licensed.

21 (2) The practice of optometry by a person who is employed
22 by the United States government or any bureau, division or
23 agency thereof while in the discharge of the employee's
24 official duties.

25 (3) The practice of optometry that is included in their
26 program of study by students enrolled in schools of optometry
27 or in continuing education ~~refresher~~ courses approved by the
28 Department.

29 (4) Persons, firms, and corporations who manufacture or
30 deal in eye glasses or spectacles in a store, shop, or other
31 permanently established place of business, and who neither
32 practice nor attempt to practice optometry from engaging the
33 services of one or more licensed optometrists, nor prohibit any

1 such licensed optometrist when so engaged, to practice
2 optometry as defined in Section 3 of this Act, when the person,
3 or firm, or corporation so conducts his or her or its business
4 in a permanently established place and in such manner that his
5 or her or its activities, in any department in which such
6 optometrist is engaged, insofar as the practice of optometry is
7 concerned, are in keeping with the limitations imposed upon
8 individual practitioners of optometry by subparagraphs 17, 23,
9 26, 27, 28, 29, and 30 of Section 24 of this Act; provided,
10 that such licensed optometrist or optometrists shall not be
11 exempt, by reason of such relationship, from compliance with
12 the provisions of this Act as prescribed for individual
13 practitioners of optometry.

14 (Source: P.A. 89-702, eff. 7-1-97.)

15 (225 ILCS 80/9) (from Ch. 111, par. 3909)

16 (Section scheduled to be repealed on January 1, 2007)

17 Sec. 9. Definitions. In this Act:

18 (1) "Department" means the Department of Financial and
19 Professional Regulation.

20 (2) "Secretary Director" means the Secretary Director
21 of Financial and Professional Regulation.

22 (3) "Board" means the Illinois Optometric Licensing
23 and Disciplinary Board appointed by the Secretary
24 Director.

25 (4) "License" means the document issued by the
26 Department authorizing the person named thereon to
27 practice optometry.

28 (5) (Blank). "~~Certificate~~" ~~means the document issued~~
29 ~~by the Department authorizing the person named thereon as a~~
30 ~~certified optometrist qualified to use diagnostic topical~~
31 ~~ocular pharmaceutical agents or therapeutic ocular~~
32 ~~pharmaceutical agents.~~

33 (6) "Direct supervision" means supervision of any

1 person assisting an optometrist, requiring that the
2 optometrist authorize the procedure, remain in the
3 facility while the procedure is performed, approve the work
4 performed by the person assisting before dismissal of the
5 patient, but does not mean that the optometrist must be
6 present with the patient, during the procedure.

7 (Source: P.A. 89-140, eff. 1-1-96; 89-702, eff. 7-1-97.)

8 (225 ILCS 80/10) (from Ch. 111, par. 3910)

9 (Section scheduled to be repealed on January 1, 2007)

10 Sec. 10. Powers and duties of Department; rules; report.
11 The Department shall exercise the powers and duties prescribed
12 by the Civil Administrative Code of Illinois for the
13 administration of Licensing Acts and shall exercise such other
14 powers and duties necessary for effectuating the purpose of
15 this Act.

16 The Secretary ~~Director~~ shall promulgate Rules consistent
17 with the provisions of this Act, for the administration and
18 enforcement thereof and may prescribe forms that shall be
19 issued in connection therewith. The rules shall include
20 standards and criteria for licensure and certification, and
21 professional conduct and discipline.

22 The Department shall consult with the Board in promulgating
23 rules. Notice of proposed rulemaking shall be transmitted to
24 the Board and the Department shall review the Board's responses
25 and any recommendations made therein. The Department shall
26 notify the Board in writing with explanations of deviations
27 from the Board's recommendations and responses. The Department
28 may solicit the advice of the Board on any matter relating to
29 the administration and enforcement of this Act.

30 (Source: P.A. 89-702, eff. 7-1-97.)

31 (225 ILCS 80/11) (from Ch. 111, par. 3911)

32 (Section scheduled to be repealed on January 1, 2007)

1 Sec. 11. Optometric Licensing and Disciplinary Board. The
2 Secretary ~~Director~~ shall appoint an Illinois Optometric
3 Licensing and Disciplinary Board as follows: Seven persons who
4 shall be appointed by and shall serve in an advisory capacity
5 to the Secretary ~~Director~~. Five members must be lawfully and
6 actively engaged in the practice of optometry in this State,
7 one member shall be a licensed optometrist ~~who is a member,~~
8 with a full-time faculty appointment with the Illinois College
9 of Optometry, and one member must be a member of the public who
10 shall be a voting member and is not licensed under this Act, or
11 a similar Act of another jurisdiction, or have any connection
12 with the profession. Neither the public member nor the faculty
13 member shall participate in the preparation or administration
14 of the examination of applicants for licensure or
15 certification.

16 Members shall serve 4-year terms and until their successors
17 are appointed and qualified. No member shall be appointed to
18 the Board for more than 2 successive 4-year terms, not counting
19 any partial terms when appointed to fill the unexpired portion
20 of a vacated term. Appointments to fill vacancies shall be made
21 in the same manner as original appointments, for the unexpired
22 portion of the vacated term. ~~Initial terms shall begin upon the~~
23 ~~effective date of this Act. Board members in office on that~~
24 ~~date may be appointed to specific terms as indicated herein.~~

25 The Board shall annually elect a chairperson and a
26 vice-chairperson, both of whom shall be licensed optometrists.

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

29 A majority of the Board members currently appointed shall
30 constitute a quorum. A vacancy in the membership of the Board
31 shall not impair the right of a quorum to perform all of the
32 duties of the Board.

33 The Secretary ~~Director~~ may terminate the appointment of any
34 member for cause.

1 The Secretary ~~Director~~ shall give due consideration to all
2 recommendations of the Board, and in the event that the
3 Secretary ~~Director~~ disagrees with or takes action contrary to
4 the recommendation of the Board, he or she shall provide the
5 Board with a written and specific explanation of this action.
6 None of the functions, powers or duties of the Department with
7 respect to policy matters relating to licensure, discipline,
8 and examination, including the promulgation of such rules as
9 may be necessary for the administration of this Act, shall be
10 exercised by the Department except upon review of the Board.

11 Without, in any manner, limiting the power of the
12 Department to conduct investigations, the Board may recommend
13 to the Secretary ~~Director~~ that one or more licensed
14 optometrists be selected by the Secretary ~~Director~~ to conduct
15 or assist in any investigation pursuant to this Act. Such
16 licensed optometrist may receive remuneration as determined by
17 the Secretary ~~Director~~.

18 (Source: P.A. 91-141, eff. 7-16-99.)

19 (225 ILCS 80/11.5 new)

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

21 Sec. 11.5. Optometric coordinator. The Secretary shall,
22 upon consultation with the Board and with consideration of
23 credentials and experience commensurate with the requirements
24 of the position, select an optometric coordinator who shall not
25 be a member of the Board. The optometric coordinator shall be
26 an optometrist licensed to practice in Illinois and shall be
27 employed by the Department contractually or in conformance with
28 the Personnel Code. The optometric coordinator shall be the
29 chief enforcement officer of this Act and shall serve at the
30 will of the Board.

31 (225 ILCS 80/12) (from Ch. 111, par. 3912)

32 (Section scheduled to be repealed on January 1, 2007)

1 Sec. 12. Applications for licenses ~~and certificates~~.
2 Applications for original licenses ~~and certificates~~ shall be
3 made to the Department in writing or electronically on forms
4 prescribed by the Department and shall be accompanied by the
5 required fee, which shall not be refundable. Any such
6 application shall require such information as in the judgment
7 of the Department will enable the Department to pass on the
8 qualifications of the applicant for a license ~~or certificate~~.

9 ~~An applicant for initial licensure in Illinois shall apply~~
10 ~~for and be qualified to receive and shall maintain~~
11 ~~certification to use diagnostic and therapeutic ocular~~
12 ~~pharmaceuticals.~~

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

19 Applicants who meet all other conditions for licensure and
20 who will be practicing optometry in a residency program
21 approved by the Board may apply for and receive a limited one
22 year license to practice optometry as a resident in the
23 program. The holder of a valid one-year residency license may
24 perform those acts prescribed by and incidental to the
25 residency license holder's program of residency training, with
26 the same privileges and responsibilities as a fully licensed
27 optometrist, but may not otherwise engage in the practice of
28 optometry in this State, unless fully licensed under this Act.
29 ~~A licensee who receives a limited license under this Section~~
30 ~~shall have the same privileges and responsibilities as a~~
31 ~~therapeutically certified licensee.~~

32 The Department may revoke a one-year residency license upon
33 proof that the residency license holder has engaged in the
34 practice of optometry in this State outside of his or her

1 residency program or if the residency license holder fails to
2 supply the Department, within 10 days after its request, with
3 information concerning his or her current status and activities
4 in the residency program.

5 (Source: P.A. 91-141, eff. 7-16-99; 92-451, eff. 8-21-01.)

6 (225 ILCS 80/13) (from Ch. 111, par. 3913)

7 (Section scheduled to be repealed on January 1, 2007)

8 Sec. 13. Examination of applicants. The Department shall
9 promulgate rules establishing examination requirements for
10 applicants as optometrists. The examination shall accurately
11 evaluate the applicant's ability to perform to the minimum
12 standards of the practice of optometry ~~of applicants shall be~~
13 ~~of a character to give a fair test of the qualifications of the~~
14 ~~applicant to practice optometry.~~

15 Applicants for examination shall be required to pay, either
16 to the Department or the designated testing service, a fee
17 covering the cost of providing the examination. ~~Failure to~~
18 ~~appear for the examination on the scheduled date, at the time~~
19 ~~and place specified, after the applicant's application for~~
20 ~~examination has been received and acknowledged by the~~
21 ~~Department or the designated testing service, shall result in~~
22 ~~the forfeiture of the examination fee.~~

23 The Department may employ consultants for the purpose of
24 preparing and conducting examinations.

25 (Source: P.A. 89-702, eff. 7-1-97.)

26 (225 ILCS 80/14) (from Ch. 111, par. 3914)

27 (Section scheduled to be repealed on January 1, 2007)

28 Sec. 14. A person shall be qualified for initial licensure
29 as an optometrist if that person has applied in writing in form
30 and substance satisfactory to the Department and who:

31 (1) has not been convicted of any of the provisions of
32 Section 24 of this Act which would be grounds for discipline

1 under this Act;

2 (2) has graduated, after January 1, 1994, from a program of
3 optometry education approved by the Department or has
4 graduated, prior to January 1, 1994, and has met substantially
5 equivalent criteria established by the Department;

6 (3) (blank); and

7 (4) has met all examination requirements including the
8 passage of a nationally recognized examination authorized by
9 the Department. Each applicant shall be tested on theoretical
10 knowledge and clinical practice skills.

11 (Source: P.A. 89-387, eff. 8-20-95.)

12 (225 ILCS 80/15.1)

13 (Section scheduled to be repealed on January 1, 2007)

14 Sec. 15.1. Diagnostic and therapeutic authority
15 certification.

16 (a) For purposes of the Act, "ocular pharmaceutical agents"
17 means topical anesthetics, topical mydriatics, topical
18 cycloplegics, topical miotics, topical anti-infective agents,
19 topical anti-allergy agents, topical anti-glaucoma agents,
20 topical anti-inflammatory agents, topical anesthetic agents,
21 over-the-counter agents, non-narcotic oral analgesic agents,
22 and mydriatic reversing agents when used for diagnostic or
23 therapeutic purposes.

24 (b) A licensed optometrist may remove superficial foreign
25 bodies from the human eye and adnexa and may give orders for
26 patient care to a nurse licensed to practice under Illinois
27 law.

28 (c) An optometrist's license shall be revoked or suspended
29 by the Department upon recommendation of the Board based upon
30 either of the following causes:

31 (1) grave or repeated misuse of any ocular
32 pharmaceutical agent; and

33 (2) the use of any agent or procedure in the course of

1 optometric practice by an optometrist not properly
2 authorized under this Act.

3 (d) The Secretary of Financial and Professional Regulation
4 shall notify the Director of Public Health as to the categories
5 of ocular pharmaceutical agents permitted for use by an
6 optometrist. The Director of Public Health shall in turn notify
7 every licensed pharmacist in the State of the categories of
8 ocular pharmaceutical agents that can be utilized and
9 prescribed by an optometrist. Any licensed optometrist may
10 apply to the Department, in the form the Department may
11 prescribe, for a certificate to use diagnostic topical ocular
12 pharmaceutical agents and the Department shall certify the
13 applicant if:

14 ~~(1) the applicant has received appropriate training~~
15 ~~and certification from a properly accredited institution~~
16 ~~of higher learning for the certificate; and~~

17 ~~(2) the applicant has demonstrated training and~~
18 ~~competence to use diagnostic topical ocular pharmaceutical~~
19 ~~agents as required by the Board pursuant to rule or~~
20 ~~regulation approved by the Board and adopted by the~~
21 ~~Department.~~

22 ~~A certificate to use topical ocular pharmaceutical agents~~
23 ~~for diagnostic purposes previously issued by the Department~~
24 ~~that is current and valid on the effective date of this~~
25 ~~amendatory Act of 1995 is valid until its expiration date and~~
26 ~~entitles the holder of the certificate to use diagnostic~~
27 ~~topical ocular pharmaceutical agents as provided in this Act.~~

28 ~~(b) Any licensed optometrist may apply to the Department,~~
29 ~~in the form the Department may prescribe, for a certificate to~~
30 ~~use therapeutic ocular pharmaceutical agents and the~~
31 ~~Department shall certify the applicant if:~~

32 ~~(1) the applicant has received a certificate to use~~
33 ~~diagnostic topical ocular pharmaceutical agents under~~
34 ~~subsection (a);~~

1 ~~(2) the applicant has received appropriate training~~
2 ~~and certification from a properly accredited institution~~
3 ~~of higher learning for the certificate; and~~

4 ~~(3) the applicant has demonstrated training and~~
5 ~~competence to use therapeutic ocular pharmaceutical agents~~
6 ~~as required by the Board pursuant to rule or regulation~~
7 ~~approved by the Board and adopted by the Department.~~

8 ~~All applicants for license renewal after January 1, 2006~~
9 ~~must apply for and maintain certification to use therapeutic~~
10 ~~ocular pharmaceutical agents.~~

11 ~~(e) For purposes of the Act, "diagnostic topical ocular~~
12 ~~pharmaceutical agents" means anesthetics, mydriatics,~~
13 ~~cycloplegics, and miotics used for diagnostic purposes as~~
14 ~~defined by the Board pursuant to rule approved by the Board and~~
15 ~~adopted by the Department.~~

16 ~~(d) For the purposes of the Act, "therapeutic ocular~~
17 ~~pharmaceutical agents" means the following when used for~~
18 ~~diagnostic or therapeutic purposes: topical anti infective~~
19 ~~agents, topical anti allergy agents, topical anti glaucoma~~
20 ~~agents, topical anti-inflammatory agents, topical anesthetic~~
21 ~~agents, over the counter agents, non-narcotic oral analgesic~~
22 ~~agents, and mydriatic reversing agents.~~

23 ~~(c) A licensed optometrist who is therapeutically~~
24 ~~certified may remove superficial foreign bodies from the human~~
25 ~~eye and adnexa.~~

26 ~~(e 5) A licensed optometrist who is therapeutically~~
27 ~~certified may give orders for patient care related to the use~~
28 ~~of therapeutic ocular pharmaceutical agents to a nurse licensed~~
29 ~~to practice under Illinois law.~~

30 ~~(f) An optometrist's certificate to use diagnostic topical~~
31 ~~ocular pharmaceutical agents shall be revoked or suspended by~~
32 ~~the Department upon recommendation of the Board based on the~~
33 ~~misuse of any diagnostic topical ocular pharmaceutical agent.~~

34 ~~(g) An optometrist's certificate to use therapeutic ocular~~

1 ~~pharmaceutical agents shall be revoked or suspended by the~~
2 ~~Department upon recommendation of the Board based on the misuse~~
3 ~~of any therapeutic ocular pharmaceutical agent.~~

4 ~~(h) An optometrist's license shall be revoked or suspended~~
5 ~~by the Department upon recommendation of the Board based upon~~
6 ~~either of the following causes:~~

7 ~~(1) grave or repeated misuse of any diagnostic or~~
8 ~~therapeutic ocular pharmaceutical agent; and~~

9 ~~(2) the use of any agent or procedure in the course of~~
10 ~~optometric practice by an optometrist not properly~~
11 ~~certified under this Section.~~

12 ~~(i) The provisions of Sections 26.2, 26.3, 26.5, 26.10,~~
13 ~~26.11, 26.14, and 26.15 of this Act shall apply to all~~
14 ~~disciplinary proceedings brought under this Section.~~

15 ~~(j) The Director may temporarily suspend a certificate to~~
16 ~~use diagnostic topical ocular pharmaceuticals or a certificate~~
17 ~~to use therapeutic ocular pharmaceuticals or a license to~~
18 ~~practice optometry, without a hearing, simultaneously with the~~
19 ~~institution of proceedings for a hearing based upon a violation~~
20 ~~of subsection (f), (g), or (h) of this Section, if the Director~~
21 ~~finds that evidence in his or her possession indicates that the~~
22 ~~continued use of diagnostic topical ocular pharmaceuticals, or~~
23 ~~therapeutic ocular pharmaceuticals, or continued practice of~~
24 ~~optometry would constitute an immediate danger to the public.~~
25 ~~In the event that the Director temporarily suspends a~~
26 ~~certificate to use diagnostic topical ocular pharmaceuticals,~~
27 ~~therapeutic ocular pharmaceuticals, or a license to practice~~
28 ~~optometry without a hearing, a hearing by the Board shall be~~
29 ~~commenced within 15 days after suspension has occurred, and~~
30 ~~concluded without appreciable delay.~~

31 ~~(k) The Director of the Department of Professional~~
32 ~~Regulation shall notify the Director of the Department of~~
33 ~~Public Health as to the categories of ocular pharmaceutical~~
34 ~~agents permitted for use by an optometrist. The Director of the~~

1 ~~Department of Public Health shall in turn notify every licensed~~
2 ~~pharmacist in the State of the categories of ocular~~
3 ~~pharmaceutical agents that can be utilized and prescribed by an~~
4 ~~optometrist.~~

5 ~~(1) Nothing in this Act prohibits the use of diagnostic~~
6 ~~topical ocular pharmaceutical agents or therapeutic ocular~~
7 ~~pharmaceutical agents in the practice of optometry by~~
8 ~~optometrists certified for such use under this Section.~~

9 (Source: P.A. 90-73, eff. 7-8-97; 91-141, eff. 7-16-99.)

10 (225 ILCS 80/15.2 new)

11 (Section scheduled to be repealed on January 1, 2007)

12 Sec. 15.2. Limited optometry license. Any licensed
13 optometrist who (i) was originally licensed under a predecessor
14 Act prior to 1965 and (ii) was not certified to use therapeutic
15 ocular pharmaceutical agents as of January 1, 2006, shall, upon
16 application and payment of a non-prorated fee of \$200, be
17 issued a limited optometry license by the Department to
18 practice optometry until January 1, 2007, as provided for in
19 this Section.

20 A limited optometry licensee may not diagnose or treat eye
21 disease, remove foreign bodies from the eye, or use or
22 prescribe pharmaceutical agents, but shall have all other
23 rights and responsibilities of a licensee under this Act.

24 This Section is repealed on January 1, 2007.

25 (225 ILCS 80/16) (from Ch. 111, par. 3916)

26 (Section scheduled to be repealed on January 1, 2007)

27 Sec. 16. Renewal, reinstatement or restoration of
28 licenses; military service. The expiration date and renewal
29 period for each license ~~and certificate~~ issued under this Act
30 shall be set by rule.

31 All renewal applicants shall provide proof of having met
32 the requirements of continuing education set forth in the rules

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

7 The Department shall establish by rule a means for the
8 verification of completion of the continuing education
9 required by this Section. This verification may be accomplished
10 through audits of records maintained by registrants; by
11 requiring the filing of continuing education certificates with
12 the Department; or by other means established by the
13 Department.

14 Any optometrist who has permitted his or her license to
15 expire or who has had his or her license on inactive status may
16 have his or her license restored by making application to the
17 Department and filing proof acceptable to the Department of his
18 or her fitness to have his or her license restored and by
19 paying the required fees. Such proof of fitness may include
20 evidence certifying to active lawful practice in another
21 jurisdiction and must include proof of the completion of the
22 continuing education requirements specified in the rules for
23 the preceding license renewal period ~~for the applicant's level~~
24 ~~of certification~~ that has been completed during the 2 years
25 prior to the application for license restoration.

26 The Department shall determine, by an evaluation program
27 established by rule, his or her fitness for restoration of his
28 or her license and shall establish procedures and requirements
29 for such restoration.

30 However, any optometrist whose license expired while he or
31 she was (1) in Federal Service on active duty with the Armed
32 Forces of the United States, or the State Militia called into
33 service or training, or (2) in training or education under the
34 supervision of the United States preliminary to induction into

1 the military service, may have his or her license restored
2 without paying any lapsed renewal fees if within 2 years after
3 honorable termination of such service, training, or education,
4 he or she furnishes the Department with satisfactory evidence
5 to the effect that he or she has been so engaged and that his or
6 her service, training, or education has been so terminated.

7 (Source: P.A. 92-451, eff. 8-21-01; 92-750, eff. 1-1-03.)

8 (225 ILCS 80/17) (from Ch. 111, par. 3917)

9 (Section scheduled to be repealed on January 1, 2007)

10 Sec. 17. Inactive status. Any optometrist who notifies the
11 Department in writing on forms prescribed by the Department,
12 may elect to place his or her license on an inactive status and
13 shall be excused from payment of renewal fees until he or she
14 notifies the Department in writing of his intent to restore his
15 or her license.

16 Any optometrist requesting restoration from inactive
17 status shall be required to pay the current renewal fee, to
18 provide proof of completion of the continuing education
19 requirements specified in the rules for the preceding license
20 renewal period ~~for the applicant's level of certification~~ that
21 has been completed during the 2 years prior to the application
22 for restoration, and to restore his or her license as provided
23 by rule of the Department. All licenses without "Therapeutic
24 Certification" that are on inactive status as of March 31, 2006
25 shall be placed on non-renewed status and may only be restored
26 after the licensee meets those requirements established by the
27 Department.

28 Any optometrist whose license is in an inactive status
29 shall not practice optometry in the State of Illinois.

30 Any licensee who shall practice while his or her license is
31 lapsed or on inactive status shall be considered to be
32 practicing without a license which shall be grounds for
33 discipline under Section 24 subsection (a) of this Act.

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

2 (225 ILCS 80/19) (from Ch. 111, par. 3919)

3 (Section scheduled to be repealed on January 1, 2007)

4 Sec. 19. Fees. The Department shall provide by rule, for a
5 schedule of fees to be paid for licenses or certificates of
6 registration by all applicants.

7 ~~The (a) Except as provided in paragraph (b) below, the fees~~
8 ~~for the administration and enforcement of this Act, including~~
9 ~~but not limited to, original licensure and certification,~~
10 ~~renewal and restoration, shall be set by rule. The fees shall~~
11 ~~not be refundable.~~

12 ~~(b) Applicants for examination shall be required to pay,~~
13 ~~either to the Department or the designated testing service, a~~
14 ~~fee covering the cost of initial screening to determine~~
15 ~~eligibility and for providing the examination. Failure to~~
16 ~~appear for the examination on the scheduled date at the time~~
17 ~~and place specified, after the applicant's application for~~
18 ~~examination has been received and acknowledged by the~~
19 ~~Department or the designated testing service, shall result in~~
20 ~~the forfeiture of the examination fee.~~

21 (Source: P.A. 89-702, eff. 7-1-97.)

22 (225 ILCS 80/20) (from Ch. 111, par. 3920)

23 (Section scheduled to be repealed on January 1, 2007)

24 Sec. 20. Fund. All moneys received by the Department
25 pursuant to this Act shall be deposited in the Optometric
26 Licensing and Disciplinary Board Fund, which is hereby created
27 as a special fund in the State Treasury, and shall be used for
28 the administration of this Act, including: (a) by the Board in
29 the exercise of its powers and performance of its duties, as
30 such use is made by the Department with full consideration of
31 all recommendations of the Board; (b) for costs directly
32 related to license renewal of persons licensed under this Act;

1 and (c) for direct and allocable indirect costs related to the
2 public purposes of the Department of Financial and Professional
3 Regulation. Subject to appropriation, moneys in the Optometric
4 Licensing and Disciplinary Board Fund may be used for the
5 Optometric Education Scholarship Program administered by the
6 Illinois Student Assistance Commission pursuant to Section
7 65.70 of the Higher Education Student Assistance Act.

8 Moneys in the Fund may be transferred to the Professions
9 Indirect Cost Fund as authorized under Section 2105-300 of the
10 Department of Professional Regulation Law (20 ILCS
11 2105/2105-300).

12 Money in the Optometric Licensing and Disciplinary Board
13 Fund may be invested and reinvested, with all earnings received
14 from such investment to be deposited in the Optometric
15 Licensing and Disciplinary Board Fund and used for the same
16 purposes as fees deposited in such fund.

17 ~~Any monies in the Optometric Examining and Disciplinary~~
18 ~~Board Fund on the effective date of this Act shall be~~
19 ~~transferred to the Optometric Licensing and Disciplinary Board~~
20 ~~Fund.~~

21 ~~Any obligations of the Optometric Examining and~~
22 ~~Disciplinary Board Fund unpaid on the effective date of this~~
23 ~~Act shall be paid from the Optometric Licensing and~~
24 ~~Disciplinary Board Fund.~~

25 (Source: P.A. 91-239, eff. 1-1-00; 92-569, eff. 6-26-02.)

26 (225 ILCS 80/21) (from Ch. 111, par. 3921)

27 (Section scheduled to be repealed on January 1, 2007)

28 Sec. 21. The Department shall maintain a roster of the
29 names and addresses of all licensees ~~and certificate holders~~
30 and of all persons whose licenses ~~or certificates~~ have been
31 suspended or revoked. This roster shall be available upon
32 written request and payment of the required fee.

33 (Source: P.A. 85-896.)

1 (225 ILCS 80/23) (from Ch. 111, par. 3923)

2 (Section scheduled to be repealed on January 1, 2007)

3 Sec. 23. Practice by corporations. No license shall be
4 issued by the Department to any corporation that (i) has a
5 stated purpose that includes, or (ii) practices or holds itself
6 out as available to practice, optometry or any of the functions
7 described in Section 3 of the Act, ~~unless it is organized under~~
8 ~~the Professional Service Corporation Act.~~

9 (Source: P.A. 89-702, eff. 7-1-97.)

10 (225 ILCS 80/24) (from Ch. 111, par. 3924)

11 (Section scheduled to be repealed on January 1, 2007)

12 Sec. 24. Grounds for disciplinary action.

13 (a) The Department may refuse to issue or to renew, or may
14 revoke, suspend, place on probation, reprimand or take other
15 disciplinary action as the Department may deem proper,
16 including fines not to exceed \$10,000 ~~\$5,000~~ for each
17 violation, with regard to any license ~~or certificate~~ for any
18 one or combination of the following causes:

19 (1) Violations of this Act, or of the rules promulgated
20 hereunder.

21 (2) Conviction of or entry of a plea of guilty to any
22 crime under the laws of any U.S. jurisdiction thereof that
23 is a felony or that is a misdemeanor of which an essential
24 element is dishonesty, or ~~of~~ any crime that is directly
25 related to the practice of the profession.

26 (3) Making any misrepresentation for the purpose of
27 obtaining a license ~~or certificate~~.

28 (4) Professional incompetence or gross negligence in
29 the practice of optometry.

30 (5) Gross malpractice, prima facie evidence of which
31 may be a conviction or judgment of malpractice in any court
32 of competent jurisdiction.

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

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

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

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

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

18 (11) Directly or indirectly giving to or receiving from
19 any person, firm, corporation, partnership, or association
20 any fee, commission, rebate, or other form of compensation
21 for any professional services not actually or personally
22 rendered. This shall not be deemed to include (i) rent or
23 other remunerations paid to an individual, partnership, or
24 corporation by an optometrist for the lease, rental, or use
25 of space, owned or controlled, by the individual,
26 partnership, corporation or association, and (ii) the
27 division of fees between an optometrist and related
28 professional service providers with whom the optometrist
29 practices in a professional corporation organized under
30 Section 3.6 of the Professional Service Corporation Act.

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

34 (13) Abandonment of a patient.

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

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

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

12 (17) Solicitation of professional services other than
13 permitted advertising.

14 (18) Failure to provide a patient with a copy of his or
15 her record or prescription in accordance with federal law
16 ~~upon the written request of the patient.~~

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

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

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

29 (22) Being named as a perpetrator in an indicated
30 report by the Department of Children and Family Services
31 under the Abused and Neglected Child Reporting Act, and
32 upon proof by clear and convincing evidence that the
33 licensee has caused a child to be an abused child or a
34 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.

22 (29) Continuance of an optometrist in the employ of any
23 person, firm or corporation, or as an assistant to any
24 optometrist or optometrists, directly or indirectly, after
25 his or her employer or superior has been found guilty of
26 violating or has been enjoined from violating the laws of
27 the State of Illinois relating to the practice of
28 optometry, when the employer or superior persists in that
29 violation.

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

1 (31) Failure to provide satisfactory proof of having
2 participated in approved continuing education programs as
3 determined by the Board and approved by the Secretary
4 ~~Director~~. Exceptions for extreme hardships are to be
5 defined by the rules of the Department.

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

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

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

23 (35) Violation of the Health Care Worker Self-Referral
24 Act.

25 The Department may refuse to issue or may suspend the
26 license ~~or certificate~~ of any person who fails to file a
27 return, or to pay the tax, penalty or interest shown in a filed
28 return, or to pay any final assessment of the tax, penalty or
29 interest, as required by any tax Act administered by the
30 Illinois Department of Revenue, until such time as the
31 requirements of any such tax Act are satisfied.

32 (a-5) In enforcing this Section, the Board upon a showing
33 of a possible violation, may compel any individual licensed to
34 practice under this Act, or who has applied for licensure or

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

21 If the Board finds an individual unable to practice because
22 of the reasons set forth in this Section, the Board shall
23 require such individual to submit to care, counseling, or
24 treatment by physicians or clinical psychologists approved or
25 designated by the Board, as a condition, term, or restriction
26 for continued, reinstated, or renewed licensure to practice, or
27 in lieu of care, counseling, or treatment, the Board may
28 recommend to the Department to file a complaint to immediately
29 suspend, revoke, or otherwise discipline the license of the
30 individual, or the Board may recommend to the Department to
31 file a complaint to suspend, revoke, or otherwise discipline
32 the license of the individual. Any individual whose license was
33 granted pursuant to this Act, or continued, reinstated,
34 renewed, disciplined, or supervised, subject to such

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

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

15 (Source: P.A. 89-702, eff. 7-1-97; 90-230, eff. 1-1-98; 90-655,
16 eff. 7-30-98; revised 12-15-05.)

17 (225 ILCS 80/25) (from Ch. 111, par. 3925)

18 (Section scheduled to be repealed on January 1, 2007)

19 Sec. 25. Returned checks; fines. Any person who delivers a
20 check or other payment to the Department that is returned to
21 the Department unpaid by the financial institution upon which
22 it is drawn shall pay to the Department, in addition to the
23 amount already owed to the Department, a fine of \$50. The fines
24 imposed by this Section are in addition to any other discipline
25 provided under this Act for unlicensed practice or practice on
26 a nonrenewed license. The Department shall notify the person
27 that payment of fees and fines shall be paid to the Department
28 by certified check or money order within 30 calendar days of
29 the notification. If, after the expiration of 30 days from the
30 date of the notification, the person has failed to submit the
31 necessary remittance, the Department shall automatically
32 terminate the license ~~or certificate~~ or deny the application,
33 without hearing. If, after termination or denial, the person

1 seeks a license ~~or certificate~~, he or she shall apply to the
2 Department for restoration or issuance of the license ~~or~~
3 ~~certificate~~ and pay all fees and fines due to the Department.
4 The Department may establish a fee for the processing of an
5 application for restoration of a license ~~or certificate~~ to pay
6 all expenses of processing this application. The Secretary
7 ~~Director~~ may waive the fines due under this Section in
8 individual cases where the Secretary ~~Director~~ finds that the
9 fines would be unreasonable or unnecessarily burdensome.

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

11 (225 ILCS 80/26.1) (from Ch. 111, par. 3926.1)

12 (Section scheduled to be repealed on January 1, 2007)

13 Sec. 26.1. Injunctions; criminal offenses; cease and
14 desist orders.

15 (a) If any person violates the provision of this Act, the
16 Secretary ~~Director~~ may, in the name of the People of the State
17 of Illinois, through the Attorney General of the State of
18 Illinois, or the State's Attorney of any county in which the
19 action is brought, petition for an order enjoining such
20 violation or for an order enforcing compliance with this Act.
21 Upon the filing of a verified petition in court, the court may
22 issue a temporary restraining order, without notice or bond,
23 and may preliminarily and permanently enjoin such violation,
24 and if it is established that such person has violated or is
25 violating the injunction, the Court may punish the offender for
26 contempt of court. Proceedings under this Section shall be in
27 addition to, and not in lieu of, all other remedies and
28 penalties provided by this Act.

29 (b) If any person shall practice as an optometrist or hold
30 himself or herself out as an optometrist without being licensed
31 under the provisions of this Act then any licensed optometrist,
32 any interested party or any person injured thereby may, in
33 addition to the Secretary ~~Director~~, petition for relief as

1 provided in subsection (a) of this Section.

2 Whoever knowingly practices or offers to practice
3 optometry in this State without being licensed for that purpose
4 shall be guilty of a Class A misdemeanor and for each
5 subsequent conviction, shall be guilty of a Class 4 felony.
6 Notwithstanding any other provision of this Act, all criminal
7 fines, monies, or other property collected or received by the
8 Department under this Section or any other State or federal
9 statute, including, but not limited to, property forfeited to
10 the Department under Section 505 of the Illinois Controlled
11 Substances Act or Section 85 of the Methamphetamine Control and
12 Community Protection Act, shall be deposited into the
13 Optometric Licensing and Disciplinary Board Fund ~~Professional~~
14 ~~Regulation Evidence Fund~~.

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

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

25 (225 ILCS 80/26.2) (from Ch. 111, par. 3926.2)

26 (Section scheduled to be repealed on January 1, 2007)

27 Sec. 26.2. Investigation; notice. The Department may
28 investigate the actions of any applicant or of any person or
29 persons holding or claiming to hold a license. The Department
30 shall, before suspending, revoking, placing on probationary
31 status, or taking any other disciplinary action as the
32 Department may deem proper with regard to any license ~~or~~
33 ~~certificate~~, at least 30 days prior to the date set for the

1 hearing, notify the accused in writing of any charges made and
2 the time and place for a hearing of the charges before the
3 Board, direct him or her to file his or her written answer to
4 the Board under oath within 20 days after the service on him or
5 her of the notice and inform him or her that if he or she fails
6 to file an answer default will be taken against him or her and
7 his or her license ~~or certificate~~ may be suspended, revoked,
8 placed on probationary status, or have other disciplinary
9 action, including limiting the scope, nature or extent of his
10 or her practice, as the Department may deem proper taken with
11 regard thereto. Such written notice may be served by personal
12 delivery or certified delivery or certified or registered mail
13 to the Department. In case the person fails to file an answer
14 after receiving notice, his or her license ~~or certificate~~ may,
15 in the discretion of the Department, be suspended, revoked, or
16 placed on probationary status, or the Department may take
17 whatever disciplinary action deemed proper, including limiting
18 the scope, nature, or extent of the person's practice or the
19 imposition of a fine, without a hearing, if the act or acts
20 charged constitute sufficient grounds for such action under
21 this Act. At the time and place fixed in the notice, the
22 Department shall proceed to hear the charges and the parties or
23 their counsel shall be accorded ample opportunity to present
24 such statements, testimony, evidence and argument as may be
25 pertinent to the charges or to their defense. The Department
26 may continue the hearing from time to time. At the discretion
27 of the Secretary ~~Director~~ after having first received the
28 recommendation of the Board, the accused person's license may
29 be suspended, revoked, placed on probationary status, or
30 whatever disciplinary action as the Secretary ~~Director~~ may deem
31 proper, including limiting the scope, nature, or extent of said
32 person's practice, without a hearing, if the act or acts
33 charged constitute sufficient grounds for such action under
34 this Act.

1 (Source: P.A. 89-702, eff. 7-1-97.)

2 (225 ILCS 80/26.5) (from Ch. 111, par. 3926.5)

3 (Section scheduled to be repealed on January 1, 2007)

4 Sec. 26.5. Subpoena; oaths. The Department shall have power
5 to subpoena and bring before it any person in this State and to
6 take testimony either orally or by deposition or both, with the
7 same fees and mileage and in the same manner as prescribed by
8 law in judicial proceedings in civil cases in circuit courts of
9 this State.

10 The Secretary ~~Director~~, the hearing officer and any member
11 of the Board designated by the Secretary ~~Director~~ shall each
12 have power to administer oaths to witnesses at any hearing
13 which the Department is authorized to conduct under this Act,
14 and any other oaths required or authorized to be administered
15 by the Department hereunder.

16 (Source: P.A. 89-702, eff. 7-1-97.)

17 (225 ILCS 80/26.6) (from Ch. 111, par. 3926.6)

18 (Section scheduled to be repealed on January 1, 2007)

19 Sec. 26.6. Findings of fact, conclusions of law, and
20 recommendations. At the conclusion of the hearing the Board
21 shall present to the Secretary ~~Director~~ a written report of its
22 findings of fact, conclusions of law and recommendations. The
23 report shall contain a finding whether or not the accused
24 person violated this Act or failed to comply with the
25 conditions required in this Act. The Board shall specify the
26 nature of the violation or failure to comply, and shall make
27 its recommendations to the Secretary ~~Director~~.

28 The report of findings of fact, conclusions of law and
29 recommendations of the Board shall be the basis for the
30 Department's order. If the Secretary ~~Director~~ disagrees in any
31 regard with the report of the Board, the Secretary ~~Director~~ may
32 issue an order in contravention thereof. The Secretary ~~Director~~

1 shall provide within 60 days of taking such action a written
2 report to the Board on any such deviation, and shall specify
3 with particularity the reasons for said action in the final
4 order. The finding is not admissible in evidence against the
5 person in a criminal prosecution brought for the violation of
6 this Act, but the hearing and findings are not a bar to a
7 criminal prosecution brought for the violation of this Act.

8 (Source: P.A. 89-702, eff. 7-1-97.)

9 (225 ILCS 80/26.7) (from Ch. 111, par. 3926.7)

10 (Section scheduled to be repealed on January 1, 2007)

11 Sec. 26.7. Hearing officer. Notwithstanding the provisions
12 of Section 26.6 of this Act, the Secretary ~~Director~~ shall have
13 the authority to appoint any attorney duly licensed to practice
14 law in the State of Illinois to serve as the hearing officer in
15 any action for discipline of a license. The Secretary ~~Director~~
16 shall notify the Board of any such appointment. The hearing
17 officer shall have full authority to conduct the hearing. The
18 Board shall have the right to have at least one member present
19 at any hearing conducted by such hearing officer. The hearing
20 officer shall report his or her findings of fact, conclusions
21 of law and recommendations to the Board and the Secretary
22 ~~Director~~. The Board shall have 60 days from receipt of the
23 report to review the report of the hearing officer and present
24 its findings of fact, conclusions of law and recommendations to
25 the Secretary ~~Director~~. If the Board fails to present its
26 report within the 60 day period, the Secretary ~~Director~~ shall
27 issue an order based on the report of the hearing officer. If
28 the Secretary ~~Director~~ disagrees in any regard with the report
29 of the Board or hearing officer, he or she may issue an order
30 in contravention thereof. The Secretary ~~Director~~ shall provide
31 a written explanation to the Board on any such deviation, and
32 shall specify with particularity the reasons for such action in
33 the final order.

1 (Source: P.A. 89-702, eff. 7-1-97.)

2 (225 ILCS 80/26.8) (from Ch. 111, par. 3926.8)

3 (Section scheduled to be repealed on January 1, 2007)

4 Sec. 26.8. Service of report; rehearing; order. In any case
5 involving the discipline of a license, a copy of the Board's
6 report shall be served upon the respondent by the Department,
7 either personally or as provided in this Act for the service of
8 the notice of hearing. Within 20 days after such service, the
9 respondent may present to the Department a motion in writing
10 for a rehearing, which motion shall specify the particular
11 grounds therefor. If no motion for rehearing is filed, then
12 upon the expiration of the time specified for filing such a
13 motion, or if a motion for rehearing is denied, then upon such
14 denial the Secretary ~~Director~~ may enter an order in accordance
15 with this Act. If the respondent shall order from the reporting
16 service, and pay for a transcript of the record within the time
17 for filing a motion for rehearing, the 20 day period within
18 which such a motion may be filed shall commence upon the
19 delivery of the transcript to the respondent.

20 (Source: P.A. 89-702, eff. 7-1-97.)

21 (225 ILCS 80/26.9) (from Ch. 111, par. 3926.9)

22 (Section scheduled to be repealed on January 1, 2007)

23 Sec. 26.9. Substantial justice; rehearing. Whenever the
24 Secretary ~~Director~~ is satisfied that substantial justice has
25 not been done in the revocation, suspension or refusal to issue
26 or renew a license, the Secretary ~~Director~~ may order a
27 rehearing by the same or another hearing officer or by the
28 Board.

29 (Source: P.A. 89-702, eff. 7-1-97.)

30 (225 ILCS 80/26.10) (from Ch. 111, par. 3926.10)

31 (Section scheduled to be repealed on January 1, 2007)

1 Sec. 26.10. Order or certified copy as prima facie proof.
2 An order or a certified copy thereof, over the seal of the
3 Department and purporting to be signed by the Secretary
4 ~~Director~~, shall be prima facie proof that:

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

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

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

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

12 (225 ILCS 80/26.11) (from Ch. 111, par. 3926.11)

13 (Section scheduled to be repealed on January 1, 2007)

14 Sec. 26.11. At any time after the suspension or revocation
15 of any license ~~or certificate~~ the Department may restore it to
16 the accused person, unless after an investigation and a
17 hearing, the Department determines that restoration is not in
18 the public interest.

19 (Source: P.A. 85-896.)

20 (225 ILCS 80/26.12) (from Ch. 111, par. 3926.12)

21 (Section scheduled to be repealed on January 1, 2007)

22 Sec. 26.12. Upon the revocation or suspension of any
23 license ~~or certificate~~, the licensee ~~or certificate holder~~
24 shall forthwith surrender the license to the Department and if
25 the licensee fails to do so, the Department shall have the
26 right to seize the license ~~or certificate~~.

27 (Source: P.A. 85-896.)

28 (225 ILCS 80/26.13) (from Ch. 111, par. 3926.13)

29 (Section scheduled to be repealed on January 1, 2007)

30 Sec. 26.13. Temporary suspension. The Secretary ~~Director~~
31 may temporarily suspend the license ~~or certificate~~ of an

1 optometrist without a hearing, simultaneously with the
2 institution of proceedings for a hearing provided for in
3 Section 26.2 of this Act, if the Secretary ~~Director~~ finds that
4 evidence in his or her possession indicates that continuation
5 in practice would constitute an imminent danger to the public.
6 In the event that the Secretary ~~Director~~ suspends, temporarily,
7 this license ~~or certificate~~ without a hearing, a hearing by the
8 Department must be held within 30 days after such suspension
9 has occurred, and be concluded without appreciable delay.

10 (Source: P.A. 89-702, eff. 7-1-97.)

11 (225 ILCS 80/28) (from Ch. 111, par. 3928)

12 (Section scheduled to be repealed on January 1, 2007)

13 Sec. 28. It is declared to be the public policy of this
14 State, pursuant to paragraphs (h) and (i) of Section 6 of
15 Article VII of the Illinois Constitution of 1970, that any
16 power or function set forth in this Act to be exercised by the
17 State is an exclusive State power or function. Such power or
18 function shall not be exercised concurrently, either directly
19 ~~director~~ or indirectly, by any unit of local government,
20 including home rule units, except as otherwise provided in this
21 Act.

22 (Source: P.A. 85-896.)

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