



Sen. Ira I. Silverstein

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LRB096 04135 ASK 23480 a

1 AMENDMENT TO SENATE BILL 69

2 AMENDMENT NO. _____. Amend Senate Bill 69, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Medical Practice Act of 1987 is amended by
6 changing Section 22 and adding Section 22.2 as follows:

7 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

8 (Section scheduled to be repealed on December 31, 2010)

9 Sec. 22. Disciplinary action.

10 (A) The Department may revoke, suspend, place on
11 probationary status, refuse to renew, or take any other
12 disciplinary action as the Department may deem proper with
13 regard to the license or visiting professor permit of any
14 person issued under this Act to practice medicine, or to treat
15 human ailments without the use of drugs and without operative
16 surgery upon any of the following grounds:

1 (1) Performance of an elective abortion in any place,
2 locale, facility, or institution other than:

3 (a) a facility licensed pursuant to the Ambulatory
4 Surgical Treatment Center Act;

5 (b) an institution licensed under the Hospital
6 Licensing Act; or

7 (c) an ambulatory surgical treatment center or
8 hospitalization or care facility maintained by the
9 State or any agency thereof, where such department or
10 agency has authority under law to establish and enforce
11 standards for the ambulatory surgical treatment
12 centers, hospitalization, or care facilities under its
13 management and control; or

14 (d) ambulatory surgical treatment centers,
15 hospitalization or care facilities maintained by the
16 Federal Government; or

17 (e) ambulatory surgical treatment centers,
18 hospitalization or care facilities maintained by any
19 university or college established under the laws of
20 this State and supported principally by public funds
21 raised by taxation.

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

25 (3) The conviction of a felony in this or any other
26 jurisdiction, except as otherwise provided in subsection B

1 of this Section, whether or not related to practice under
2 this Act, or the entry of a guilty or nolo contendere plea
3 to a felony charge.

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

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

8 (6) Obtaining any fee by fraud, deceit, or
9 misrepresentation.

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

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

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

19 (10) Making a false or misleading statement regarding
20 their skill or the efficacy or value of the medicine,
21 treatment, or remedy prescribed by them at their direction
22 in the treatment of any disease or other condition of the
23 body or mind.

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

26 (12) Disciplinary action of another state or

1 jurisdiction against a license or other authorization to
2 practice as a medical doctor, doctor of osteopathy, doctor
3 of osteopathic medicine or doctor of chiropractic, a
4 certified copy of the record of the action taken by the
5 other state or jurisdiction being prima facie evidence
6 thereof.

7 (13) Violation of any provision of this Act or of the
8 Medical Practice Act prior to the repeal of that Act, or
9 violation of the rules, or a final administrative action of
10 the Secretary, after consideration of the recommendation
11 of the Disciplinary Board.

12 (14) Violation of the prohibition against fee
13 splitting in Section 22.2 of this Act. ~~Dividing with anyone~~
14 ~~other than physicians with whom the licensee practices in a~~
15 ~~partnership, Professional Association, limited liability~~
16 ~~company, or Medical or Professional Corporation any fee,~~
17 ~~commission, rebate or other form of compensation for any~~
18 ~~professional services not actually and personally~~
19 ~~rendered. Nothing contained in this subsection prohibits~~
20 ~~persons holding valid and current licenses under this Act~~
21 ~~from practicing medicine in partnership under a~~
22 ~~partnership agreement, including a limited liability~~
23 ~~partnership, in a limited liability company under the~~
24 ~~Limited Liability Company Act, in a corporation authorized~~
25 ~~by the Medical Corporation Act, as an association~~
26 ~~authorized by the Professional Association Act, or in a~~

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

24 (15) A finding by the Medical Disciplinary Board that
25 the registrant after having his or her license placed on
26 probationary status or subjected to conditions or

1 restrictions violated the terms of the probation or failed
2 to comply with such terms or conditions.

3 (16) Abandonment of a patient.

4 (17) Prescribing, selling, administering,
5 distributing, giving or self-administering any drug
6 classified as a controlled substance (designated product)
7 or narcotic for other than medically accepted therapeutic
8 purposes.

9 (18) Promotion of the sale of drugs, devices,
10 appliances or goods provided for a patient in such manner
11 as to exploit the patient for financial gain of the
12 physician.

13 (19) Offering, undertaking or agreeing to cure or treat
14 disease by a secret method, procedure, treatment or
15 medicine, or the treating, operating or prescribing for any
16 human condition by a method, means or procedure which the
17 licensee refuses to divulge upon demand of the Department.

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

21 (21) Wilfully making or filing false records or reports
22 in his or her practice as a physician, including, but not
23 limited to, false records to support claims against the
24 medical assistance program of the Department of Healthcare
25 and Family Services (formerly Department of Public Aid)
26 under the Illinois Public Aid Code.

1 (22) Wilful omission to file or record, or wilfully
2 impeding the filing or recording, or inducing another
3 person to omit to file or record, medical reports as
4 required by law, or wilfully failing to report an instance
5 of suspected abuse or neglect as required by law.

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

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

16 (25) Gross and wilful and continued overcharging for
17 professional services, including filing false statements
18 for collection of fees for which services are not rendered,
19 including, but not limited to, filing such false statements
20 for collection of monies for services not rendered from the
21 medical assistance program of the Department of Healthcare
22 and Family Services (formerly Department of Public Aid)
23 under the Illinois Public Aid Code.

24 (26) A pattern of practice or other behavior which
25 demonstrates incapacity or incompetence to practice under
26 this Act.

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

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

8 (29) Cheating on or attempt to subvert the licensing
9 examinations administered under this Act.

10 (30) Wilfully or negligently violating the
11 confidentiality between physician and patient except as
12 required by law.

13 (31) The use of any false, fraudulent, or deceptive
14 statement in any document connected with practice under
15 this Act.

16 (32) Aiding and abetting an individual not licensed
17 under this Act in the practice of a profession licensed
18 under this Act.

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

22 (34) Failure to report to the Department any adverse
23 final action taken against them by another licensing
24 jurisdiction (any other state or any territory of the
25 United States or any foreign state or country), by any peer
26 review body, by any health care institution, by any

1 professional society or association related to practice
2 under this Act, by any governmental agency, by any law
3 enforcement agency, or by any court for acts or conduct
4 similar to acts or conduct which would constitute grounds
5 for action as defined in this Section.

6 (35) Failure to report to the Department surrender of a
7 license or authorization to practice as a medical doctor, a
8 doctor of osteopathy, a doctor of osteopathic medicine, or
9 doctor of chiropractic in another state or jurisdiction, or
10 surrender of membership on any medical staff or in any
11 medical or professional association or society, while
12 under disciplinary investigation by any of those
13 authorities or bodies, for acts or conduct similar to acts
14 or conduct which would constitute grounds for action as
15 defined in this Section.

16 (36) Failure to report to the Department any adverse
17 judgment, settlement, or award arising from a liability
18 claim related to acts or conduct similar to acts or conduct
19 which would constitute grounds for action as defined in
20 this Section.

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

23 (38) Failure to furnish the Department, its
24 investigators or representatives, relevant information,
25 legally requested by the Department after consultation
26 with the Chief Medical Coordinator or the Deputy Medical

1 Coordinator.

2 (39) Violating the Health Care Worker Self-Referral
3 Act.

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

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

8 (42) Entering into an excessive number of written
9 collaborative agreements with licensed advanced practice
10 nurses resulting in an inability to adequately collaborate
11 ~~and provide medical direction.~~

12 (43) Repeated failure to adequately collaborate with
13 ~~or provide medical direction to~~ a licensed advanced
14 practice nurse.

15 Except for actions involving the ground numbered (26), all
16 proceedings to suspend, revoke, place on probationary status,
17 or take any other disciplinary action as the Department may
18 deem proper, with regard to a license on any of the foregoing
19 grounds, must be commenced within 5 years next after receipt by
20 the Department of a complaint alleging the commission of or
21 notice of the conviction order for any of the acts described
22 herein. Except for the grounds numbered (8), (9), (26), and
23 (29), no action shall be commenced more than 10 years after the
24 date of the incident or act alleged to have violated this
25 Section. For actions involving the ground numbered (26), a
26 pattern of practice or other behavior includes all incidents

1 alleged to be part of the pattern of practice or other behavior
2 that occurred or a report pursuant to Section 23 of this Act
3 received within the 10-year period preceding the filing of the
4 complaint. In the event of the settlement of any claim or cause
5 of action in favor of the claimant or the reduction to final
6 judgment of any civil action in favor of the plaintiff, such
7 claim, cause of action or civil action being grounded on the
8 allegation that a person licensed under this Act was negligent
9 in providing care, the Department shall have an additional
10 period of 2 years from the date of notification to the
11 Department under Section 23 of this Act of such settlement or
12 final judgment in which to investigate and commence formal
13 disciplinary proceedings under Section 36 of this Act, except
14 as otherwise provided by law. The time during which the holder
15 of the license was outside the State of Illinois shall not be
16 included within any period of time limiting the commencement of
17 disciplinary action by the Department.

18 The entry of an order or judgment by any circuit court
19 establishing that any person holding a license under this Act
20 is a person in need of mental treatment operates as a
21 suspension of that license. That person may resume their
22 practice only upon the entry of a Departmental order based upon
23 a finding by the Medical Disciplinary Board that they have been
24 determined to be recovered from mental illness by the court and
25 upon the Disciplinary Board's recommendation that they be
26 permitted to resume their practice.

1 The Department may refuse to issue or take disciplinary
2 action concerning the license of any person who fails to file a
3 return, or to pay the tax, penalty or interest shown in a filed
4 return, or to pay any final assessment of tax, penalty or
5 interest, as required by any tax Act administered by the
6 Illinois Department of Revenue, until such time as the
7 requirements of any such tax Act are satisfied as determined by
8 the Illinois Department of Revenue.

9 The Department, upon the recommendation of the
10 Disciplinary Board, shall adopt rules which set forth standards
11 to be used in determining:

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

14 (b) what constitutes dishonorable, unethical or
15 unprofessional conduct of a character likely to deceive,
16 defraud, or harm the public;

17 (c) what constitutes immoral conduct in the commission
18 of any act, including, but not limited to, commission of an
19 act of sexual misconduct related to the licensee's
20 practice; and

21 (d) what constitutes gross negligence in the practice
22 of medicine.

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

26 In enforcing this Section, the Medical Disciplinary Board,

1 upon a showing of a possible violation, may compel any
2 individual licensed to practice under this Act, or who has
3 applied for licensure or a permit pursuant to this Act, to
4 submit to a mental or physical examination, or both, as
5 required by and at the expense of the Department. The examining
6 physician or physicians shall be those specifically designated
7 by the Disciplinary Board. The Medical Disciplinary Board or
8 the Department may order the examining physician to present
9 testimony concerning this mental or physical examination of the
10 licensee or applicant. No information shall be excluded by
11 reason of any common law or statutory privilege relating to
12 communication between the licensee or applicant and the
13 examining physician. The individual to be examined may have, at
14 his or her own expense, another physician of his or her choice
15 present during all aspects of the examination. Failure of any
16 individual to submit to mental or physical examination, when
17 directed, shall be grounds for suspension of his or her license
18 until such time as the individual submits to the examination if
19 the Disciplinary Board finds, after notice and hearing, that
20 the refusal to submit to the examination was without reasonable
21 cause. If the Disciplinary Board finds a physician unable to
22 practice because of the reasons set forth in this Section, the
23 Disciplinary Board shall require such physician to submit to
24 care, counseling, or treatment by physicians approved or
25 designated by the Disciplinary Board, as a condition for
26 continued, reinstated, or renewed licensure to practice. Any

1 physician, whose license was granted pursuant to Sections 9,
2 17, or 19 of this Act, or, continued, reinstated, renewed,
3 disciplined or supervised, subject to such terms, conditions or
4 restrictions who shall fail to comply with such terms,
5 conditions or restrictions, or to complete a required program
6 of care, counseling, or treatment, as determined by the Chief
7 Medical Coordinator or Deputy Medical Coordinators, shall be
8 referred to the Secretary for a determination as to whether the
9 licensee shall have their license suspended immediately,
10 pending a hearing by the Disciplinary Board. In instances in
11 which the Secretary immediately suspends a license under this
12 Section, a hearing upon such person's license must be convened
13 by the Disciplinary Board within 15 days after such suspension
14 and completed without appreciable delay. The Disciplinary
15 Board shall have the authority to review the subject
16 physician's record of treatment and counseling regarding the
17 impairment, to the extent permitted by applicable federal
18 statutes and regulations safeguarding the confidentiality of
19 medical records.

20 An individual licensed under this Act, affected under this
21 Section, shall be afforded an opportunity to demonstrate to the
22 Disciplinary Board that they can resume practice in compliance
23 with acceptable and prevailing standards under the provisions
24 of their license.

25 The Department may promulgate rules for the imposition of
26 fines in disciplinary cases, not to exceed \$10,000 for each

1 violation of this Act. Fines may be imposed in conjunction with
2 other forms of disciplinary action, but shall not be the
3 exclusive disposition of any disciplinary action arising out of
4 conduct resulting in death or injury to a patient. Any funds
5 collected from such fines shall be deposited in the Medical
6 Disciplinary Fund.

7 (B) The Department shall revoke the license or visiting
8 permit of any person issued under this Act to practice medicine
9 or to treat human ailments without the use of drugs and without
10 operative surgery, who has been convicted a second time of
11 committing any felony under the Illinois Controlled Substances
12 Act or the Methamphetamine Control and Community Protection
13 Act, or who has been convicted a second time of committing a
14 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois
15 Public Aid Code. A person whose license or visiting permit is
16 revoked under this subsection B of Section 22 of this Act shall
17 be prohibited from practicing medicine or treating human
18 ailments without the use of drugs and without operative
19 surgery.

20 (C) The Medical Disciplinary Board shall recommend to the
21 Department civil penalties and any other appropriate
22 discipline in disciplinary cases when the Board finds that a
23 physician willfully performed an abortion with actual
24 knowledge that the person upon whom the abortion has been
25 performed is a minor or an incompetent person without notice as
26 required under the Parental Notice of Abortion Act of 1995.

1 Upon the Board's recommendation, the Department shall impose,
2 for the first violation, a civil penalty of \$1,000 and for a
3 second or subsequent violation, a civil penalty of \$5,000.

4 (Source: P.A. 94-556, eff. 9-11-05; 94-677, eff. 8-25-05;
5 95-331, eff. 8-21-07.)

6 (225 ILCS 60/22.2 new)

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

8 Sec. 22.2. Prohibition against fee splitting.

9 (a) A licensee under this Act may not directly or
10 indirectly divide, share or split any professional fee or other
11 form of compensation for professional services with anyone in
12 exchange for a referral or otherwise, other than as provided in
13 this Section 22.2.

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

24 (c) Nothing contained in this Section prohibits a licensee
25 under this Act from practicing medicine through or within any

1 form of legal entity authorized to conduct business in this
2 State or from pooling, sharing, dividing, or apportioning the
3 professional fees and other revenues in accordance with the
4 agreements and policies of the entity provided:

5 (1) each owner of the entity is licensed under this
6 Act;

7 (2) the entity is organized under the Medical
8 Corporation Act, the Professional Services Corporation
9 Act, the Professional Association Act, or the Limited
10 Liability Company Act;

11 (3) the entity is allowed by Illinois law to provide
12 physician services or employ physicians such as a licensed
13 hospital or hospital affiliate or licensed ambulatory
14 surgical treatment center owned in full or in part by
15 Illinois-licensed physicians; or

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

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

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

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

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

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

1 participate in any network of health care providers, (iv)
2 negotiating fees, charges or terms of service or payment on
3 behalf of the licensee, or (v) including the licensee in a
4 program whereby patients or beneficiaries are provided an
5 incentive to use the services of the licensee.

6 (g) Nothing contained in this Section prohibits the payment
7 of rent or other remuneration paid at fair market value to an
8 individual, partnership, or corporation by a licensee for the
9 lease, rental, or use of space, staff, administrative services,
10 or equipment owned or controlled by the individual,
11 partnership, or corporation, or the receipt thereof by a
12 licensee.

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

16 (225 ILCS 80/24) (from Ch. 111, par. 3924)

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

18 Sec. 24. Grounds for disciplinary action.

19 (a) The Department may refuse to issue or to renew, or may
20 revoke, suspend, place on probation, reprimand or take other
21 disciplinary action as the Department may deem proper,
22 including fines not to exceed \$10,000 for each violation, with
23 regard to any license for any one or combination of the
24 following causes:

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

3 (2) Conviction of or entry of a plea of guilty to any
4 crime under the laws of any U.S. jurisdiction thereof that
5 is a felony or that is a misdemeanor of which an essential
6 element is dishonesty, or any crime that is directly
7 related to the practice of the profession.

8 (3) Making any misrepresentation for the purpose of
9 obtaining a license.

10 (4) Professional incompetence or gross negligence in
11 the practice of optometry.

12 (5) Gross malpractice, prima facie evidence of which
13 may be a conviction or judgment of malpractice in any court
14 of competent jurisdiction.

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

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

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

24 (9) Habitual or excessive use or addiction to alcohol,
25 narcotics, stimulants or any other chemical agent or drug
26 that results in the inability to practice with reasonable

1 judgment, skill, or safety.

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

6 (11) Violation of the prohibition against fee
7 splitting in Section 24.2 of this Act. ~~Directly or~~
8 ~~indirectly giving to or receiving from any person, firm,~~
9 ~~corporation, partnership, or association any fee,~~
10 ~~commission, rebate, or other form of compensation for any~~
11 ~~professional services not actually or personally rendered.~~
12 ~~This shall not be deemed to include (i) rent or other~~
13 ~~remunerations paid to an individual, partnership, or~~
14 ~~corporation by an optometrist for the lease, rental, or use~~
15 ~~of space, owned or controlled, by the individual,~~
16 ~~partnership, corporation or association, and (ii) the~~
17 ~~division of fees between an optometrist and related~~
18 ~~professional service providers with whom the optometrist~~
19 ~~practices in a professional corporation organized under~~
20 ~~Section 3.6 of the Professional Service Corporation Act.~~

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

24 (13) Abandonment of a patient.

25 (14) Willfully making or filing false records or
26 reports in his or her practice, including but not limited

1 to false records filed with State agencies or departments.

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

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

10 (17) Solicitation of professional services other than
11 permitted advertising.

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

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

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

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

26 (22) Being named as a perpetrator in an indicated

1 report by the Department of Children and Family Services
2 under the Abused and Neglected Child Reporting Act, and
3 upon proof by clear and convincing evidence that the
4 licensee has caused a child to be an abused child or a
5 neglected child as defined in the Abused and Neglected
6 Child Reporting Act.

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

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

12 (25) Maintaining a professional relationship with any
13 person, firm, or corporation when the optometrist knows, or
14 should know, that such person, firm, or corporation is
15 violating this Act.

16 (26) Promotion of the sale of drugs, devices,
17 appliances or goods provided for a client or patient in
18 such manner as to exploit the patient or client for
19 financial gain of the licensee.

20 (27) Using the title "Doctor" or its abbreviation
21 without further qualifying that title or abbreviation with
22 the word "optometry" or "optometrist".

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

1 (29) Continuance of an optometrist in the employ of any
2 person, firm or corporation, or as an assistant to any
3 optometrist or optometrists, directly or indirectly, after
4 his or her employer or superior has been found guilty of
5 violating or has been enjoined from violating the laws of
6 the State of Illinois relating to the practice of
7 optometry, when the employer or superior persists in that
8 violation.

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

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

19 (32) Willfully making or filing false records or
20 reports in the practice of optometry, including, but not
21 limited to false records to support claims against the
22 medical assistance program of the Department of Healthcare
23 and Family Services (formerly Department of Public Aid)
24 under the Illinois Public Aid Code.

25 (33) Gross and willful overcharging for professional
26 services including filing false statements for collection

1 of fees for which services are not rendered, including, but
2 not limited to filing false statements for collection of
3 monies for services not rendered from the medical
4 assistance program of the Department of Healthcare and
5 Family Services (formerly Department of Public Aid) under
6 the Illinois Public Aid Code.

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

10 (35) Violation of the Health Care Worker Self-Referral
11 Act.

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

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

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

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

1 the license of the individual. Any individual whose license was
2 granted pursuant to this Act, or continued, reinstated,
3 renewed, disciplined, or supervised, subject to such
4 conditions, terms, or restrictions, who shall fail to comply
5 with such conditions, terms, or restrictions, shall be referred
6 to the Secretary for a determination as to whether the
7 individual shall have his or her license suspended immediately,
8 pending a hearing by the Board.

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

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

19 (225 ILCS 80/24.2 new)

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

21 Sec. 24.2. Prohibition against fee splitting.

22 (a) A licensee under this Act may not directly or
23 indirectly divide, share or split any professional fee or other
24 form of compensation for professional services with anyone in
25 exchange for a referral or otherwise, other than as provided in

1 this Section 24.2.

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

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

18 (1) each owner of the entity is licensed under this
19 Act;

20 (2) the entity is organized under the Professional
21 Services Corporation Act, the Professional Association
22 Act, or the Limited Liability Company Act;

23 (3) the entity is allowed by Illinois law to provide
24 optometric services or employ optometrists such as a
25 licensed hospital or hospital affiliate or licensed
26 ambulatory surgical treatment center owned in full or in

1 part by Illinois-licensed physicians; or

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

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

13 (i) the licensee or the licensee's practice under
14 subsection (c) at all times controls the amount of fees
15 charged and collected; and

16 (ii) all charges collected are paid directly to the
17 licensee or the licensee's practice or are deposited
18 directly into an account in the name of and under the sole
19 control of the licensee or the licensee's practice or
20 deposited into a "Trust Account" by a licensed collection
21 agency in accordance with the requirements of Section 8(c)
22 of the Illinois Collection Agency Act.

23 (e) Nothing contained in this Section prohibits the
24 granting of a security interest in the accounts receivable or
25 fees of a licensee under this Act or the licensee's practice
26 for bona fide advances made to the licensee or licensee's

1 practice provided the licensee retains control and
2 responsibility for the collection of the accounts receivable
3 and fees.

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

18 (g) Nothing contained in this Section prohibits the payment
19 of rent or other remuneration paid at fair market value to an
20 individual, partnership, or corporation by a licensee for the
21 lease, rental, or use of space, staff, administrative services,
22 or equipment owned or controlled by the individual,
23 partnership, or corporation, or the receipt thereof by a
24 licensee.

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".