

**148.603 GROUNDS FOR DISCIPLINARY ACTION.**

The board may refuse to grant a license or may impose disciplinary action as described in section 148.607 against any optometrist for the following:

(1) failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or in rules of the board. The burden of proof shall be on the applicant to demonstrate the qualifications or the satisfaction of the requirements;

(2) obtaining a license by fraud or cheating, or attempting to subvert the licensing examination process. Conduct which subverts or attempts to subvert the licensing examination process includes, but is not limited to: (i) conduct which violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination; (ii) conduct which violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or (iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf;

(3) conviction, during the previous five years, of a felony or gross misdemeanor, reasonably related to the practice of optometry. Conviction as used in this section shall include a conviction of an offense which if committed in this state would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered thereon;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's optometry license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction;

(5) advertising which is false or misleading, which violates any rule of the board, or which claims without substantiation the positive cure of any disease;

(6) violating a rule adopted by the board or an order of the board, a state or federal law, which relates to the practice of optometry, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or practice of optometry which is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, which in any of the cases, proof of actual injury need not be established;

(8) failure to supervise an optometrist's assistant or failure to supervise an optometrist under any agreement with the board;

(9) aiding or abetting an unlicensed person in the practice of optometry, except that it is not a violation of this section for an optometrist to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of that person's license or registration or delegated authority;

(10) adjudication as mentally incompetent, mentally ill, or developmentally disabled, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state. Such

adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise;

(11) engaging in unprofessional conduct which includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing practice in which case actual injury to a patient need not be established;

(12) inability to practice optometry with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to sections 144.291 to 144.298 or to furnish a medical record or report required by law;

(15) fee splitting, including without limitation:

(i) paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of patients or the prescription of drugs or devices; and

(ii) dividing fees with another optometrist, other health care provider, or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional and the optometrist has disclosed the terms of the division;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;

(18) prescribing a drug or device for other than accepted therapeutic or experimental or investigative purposes authorized by the state or a federal agency;

(19) engaging in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient;

(20) failure to make reports as required by section 148.604 or to cooperate with an investigation of the board as required by section 148.606;

(21) knowingly providing false or misleading information that is directly related to the care of a patient; and

(22) practice of a board-regulated profession under lapsed or nonrenewed credentials.

**History:** 2000 c 413 s 2; 2003 c 66 s 3; 2015 c 71 art 10 s 10