

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 2477

Session of  
1978

INTRODUCED BY BENNETT, IRVIS, KLINGAMAN, W. D. HUTCHINSON,  
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MAY 23, 1978

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MAY 23, 1978

AN ACT

1 Defining optometry; relating to the right to practice optometry  
2 in the Commonwealth of Pennsylvania; making certain  
3 exceptions; granting the board certain powers and duties;  
4 providing for the means to carry out the provisions of this  
5 act; providing penalties for violations thereof; and  
6 repealing certain acts.

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1       Section 13.   Effective date.

2       The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4       Section 1.   Short title.

5       This act shall be known and may be cited as the "Optometric  
6 Practice and Licensure Act."

7       Section 2.   Learned health care profession.

8       The practice of optometry is declared to be a learned health  
9 care profession and healing art entitled to the same rights and  
10 privileges which are attached to and devolve upon other learned  
11 professions in this Commonwealth.

12      Section 3.   Definitions.

13      The following words and phrases when used in this act shall  
14 have, unless the context clearly indicates otherwise, the  
15 meanings given to them in this section:

16      "Board."   The State Board of Optometrical Examiners  
17 established pursuant to section 415, act of April 9, 1929  
18 (P.L.177, No.175), known as "The Administrative Code of 1929,"  
19 or any successor board.

20      "Advisory Committee on Continuing Professional Education."  
21 An advisory committee established by section 4 to make  
22 recommendations to the board relating to continuing professional  
23 education.

24      "Examination and diagnosis."   Any examination or diagnostic  
25 means or method, except surgery, compatible with optometric  
26 education and professional competence. The term shall encompass  
27 the use of diagnostic pharmaceutical agents classified as  
28 miotics, mydriatics, cycloplegics, topical anesthetics and dyes  
29 when applied topically to the eye, subject to the rules and  
30 regulations of the board, provided however that with respect to



1 optometrists licensed before March 1, 1974 only such  
2 optometrists who have satisfactorily completed a course in  
3 pharmacology as it applies to optometry, with particular  
4 emphasis on the topical application of diagnostic pharmaceutical  
5 agents to the eye, approved by the board shall be permitted to  
6 use diagnostic pharmaceutical agents topically in the practice  
7 of optometry.

8 "Treatment." The use of any and all preventive and  
9 corrective means and methods, except for drugs or surgery for  
10 aid to the human visual system and shall include the adapting,  
11 fitting or duplicating of any and all kinds of lenses and  
12 devices, contact lenses and prosthetic devices, and vision  
13 development and perceptual therapy or ocular exercise for aid to  
14 or enhancement of visual function.

15 "Practice of optometry." The use of any and all means or  
16 methods except surgery for the examination and diagnosis of the  
17 human visual system, and except for drugs and surgery the  
18 treatment of the human visual system.

19 "Optometrists." Any person who, following formal and  
20 recognized training in the art and science of optometry has  
21 received a doctor of optometry degree from an accredited  
22 institution and is qualified to seek or has acquired a license  
23 to practice the primary care professions of optometry. An  
24 optometrist shall be identified either by "Doctor of Optometry"  
25 or "Dr." followed by "Optometrists."

26 Section 4. Powers and duties of the board.

27 (a) The board shall have the following duties:

28 (1) To meet at least six times annually at a place  
29 within the Commonwealth determined by the board for the  
30 transaction of its business.



1           (2) To conduct at least two examinations annually for  
2 applicants for licensure to be held at such times and places  
3 as designated by the board.

4           (3) To record in the office of the board all licenses.

5           (4) To grant a license to practice optometry in this  
6 Commonwealth to any applicant for licensure who has passed  
7 the examination and otherwise complied with the provisions of  
8 this act.

9           (5) To provide, upon request, a certified copy or copies  
10 of any optometric license granted by the board.

11           (6) To appoint an Advisory Committee on Continuing  
12 Professional Education which shall consist of the Deputy  
13 Secretary of Higher Education or his designee and consultants  
14 who are optometric educators and optometric practitioners.

15       (b) The board shall have the following powers:

16           (1) To grant, refuse, revoke or suspend any license to  
17 practice optometry in this Commonwealth pursuant to the  
18 provisions of this act.

19           (2) To conduct investigations, discovery proceedings and  
20 hearings, to administer oaths or affirmations to witnesses,  
21 take testimony, issue subpoenas to compel attendance of  
22 witnesses or produce records and to exercise any and all  
23 powers granted by law or regulation governing administrative  
24 agency procedures. The board may authorize any member or  
25 members to exercise these powers.

26           (3) To employ, appoint or recommend for appointment such  
27 staff as is necessary to carry out the provisions of this  
28 act.

29           (4) To incur expenses, retain consultants, appoint  
30 committees from its own membership and appoint advisory



1 committees which may include nonboard members.

2 (5) To compensate at a rate fixed by the board, but not  
3 to exceed (\$75 per diem or \$1,000 annually) consultants and  
4 nonboard members of advisory committees.

5 (6) To authorize the payment of special reimbursements  
6 for the secretary of the board or any other designated member  
7 of the board for rendering special services authorized by the  
8 board.

9 (7) To adopt a seal which shall authenticate all board  
10 proceedings and records and shall be received as evidence in  
11 all courts of this Commonwealth.

12 (8) To establish and administer a records system which  
13 records shall be open to public inspection during the regular  
14 business hours of the board.

15 (9) To hold meetings, other than required by subsection  
16 (a), for the conduct of its business upon giving public  
17 notice of such meetings.

18 (10) In consultation with the Council on Optometric  
19 Education or its successor and the appropriate regional  
20 accrediting body recognized by the United States Office of  
21 Education, to approve those optometric educational  
22 institutions in the United States and Canada which are  
23 accredited for the purposes of this act.

24 (11) In consultation with the Advisory Committee on  
25 Continuing Professional Education, to establish and approve  
26 by rule and regulation courses of continuing professional  
27 optometric education.

28 (12) To certify, upon the written request of a licensee  
29 and payment of the prescribed fee, that the licensee is  
30 qualified for licensure and the practice of optometry in this



1 Commonwealth.

2 (13) To promulgate and to adopt all rules and  
3 regulations necessary to carry out the purposes of this act.

4 Section 5. Requirements for examination.

5 (a) Any person who holds a Doctor of Optometry degree from  
6 an accredited optometric educational institution in the United  
7 States or Canada, who furnishes the board with evidence that the  
8 applicant is at least 21 years of age, has completed the  
9 educational requirements prescribed by the board, is of good  
10 moral character, is not addicted in the use of alcohol or  
11 narcotics or other habit-forming drugs and who pays any  
12 applicable fee may apply to the board for examination for  
13 licensure.

14 (b) The board shall establish by rule or regulation  
15 procedures for examination and all other matters related to the  
16 proficiency of applicants for licensure.

17 (c) The board, in addition to the requirements of subsection  
18 (a) without regard to the question of accreditation and  
19 subsection (b), may establish further requirements to be met by  
20 foreign optometric graduates before granting such graduates the  
21 right to take an examination.

22 (d) Any applicant who knowingly makes a false statement of  
23 fact in an application for examination shall be deemed to have  
24 violated this act and shall be subject to the penalties set  
25 forth in section 9(b).

26 Section 6. Renewal of license.

27 (a) Every person licensed by the board shall apply for  
28 renewal of that license biennially or as otherwise provided by  
29 law. The procedures for license renewal shall be established by  
30 the board.



1 (b) No license shall be renewed by the board unless the  
2 optometrist applying for renewal submits proof to the board that  
3 during the two calendar years immediately preceding his  
4 application he has satisfactorily completed a minimum of 24  
5 hours of continuing professional optometric education approved  
6 by the board.

7 Section 7. Exemptions and exceptions.

8 (a) The licensure requirements of this act shall not apply  
9 to optometry officers in the medical service of the armed forces  
10 of the United States, the United States Public Health Service,  
11 the Veterans' Administration or optometrists employed in Federal  
12 service, while in discharge of their official duties.

13 (b) The board may permit externs and preceptees to practice  
14 optometry in this Commonwealth under the direct supervision and  
15 control of an optometrist licensed in this Commonwealth.

16 (c) The board may, upon written application and payment of  
17 the regular examination fee, issue a license without an  
18 examination, other than clinical, to any applicant who:

19 (1) Is at least 21 years of age.

20 (2) Has passed a standard examination in optometry in  
21 any other state or all parts of the examination given by the  
22 National Board of Examiners in Optometry, provided that the  
23 standards of the other state or the national board are, in  
24 the opinion of the board, equal to the standards of this  
25 Commonwealth.

26 (3) In the case of an applicant licensed in another  
27 state, the applicant has practiced in the state in which he  
28 is presently licensed for a minimum of five years immediately  
29 preceding application.

30 (d) Nothing in this section shall prohibit the board from



1 imposing additional educational requirements as a requisite for  
2 licensure.

3 (e) The provisions of this act shall not apply to physicians  
4 licensed under the laws of this Commonwealth.

5 Section 8. Refusal, revocation or suspension of license.

6 (a) The board shall have the power to refuse, revoke or  
7 suspend a license to practice optometry in this Commonwealth  
8 for:

9 (1) Failure of an applicant for licensure to demonstrate  
10 the necessary qualifications as provided in this act or the  
11 rules and regulations of the board.

12 (2) Failure to permanently display in any location in  
13 which he practices a license or a certified copy of a license  
14 issued by the board.

15 (3) Practice of deceit or fraud in obtaining a license  
16 to practice optometry.

17 (4) Making misleading, deceptive, untrue or fraudulent  
18 representations or advertisements in the practice of  
19 optometry.

20 (5) Conviction of a felony or a crime involving moral  
21 turpitude. Conviction shall include a finding or verdict of  
22 guilt, an admission of guilt or a plea of nolo contendere.

23 (6) Revocation, suspension or refusal to grant a license  
24 to practice optometry, or imposition of other disciplinary  
25 action, by the proper licensing authority of another state,  
26 territory or country.

27 (7) Inability to practice optometry with reasonable  
28 skill and safety to patients by reason of illness,  
29 drunkenness, excessive use of drugs, narcotics, chemicals or  
30 other type of material or as a result of any mental or



1 physical condition.

2 (8) Violation of a regulation or order promulgated by  
3 the board in a previous disciplinary proceeding for that  
4 licensee or applicant for license.

5 (9) Knowingly aiding, assisting, procuring or advising  
6 an unlicensed person, or person who is in violation of this  
7 act or the rules and regulations of the board, to practice  
8 optometry.

9 (10) Being guilty of immoral or unprofessional conduct.  
10 Unprofessional conduct shall include any departure from, or  
11 failure to conform to, the acceptable and prevailing  
12 standards of optometric practice in rendering professional  
13 service to a patient. Actual injury to a patient need not be  
14 established.

15 (b) When the board finds that the license of any person may  
16 be refused, revoked or suspended under the terms of subsection  
17 (a), the board may:

18 (1) Refuse, revoke or suspend a license.

19 (2) Administer a public or private reprimand.

20 (3) Limit or otherwise restrict the licensees practice  
21 under this act.

22 (4) Suspend any enforcement under this subsection and  
23 place an optometrist on probation, with the right to vacate  
24 the probationary order and impose the enforcement.

25 (c) Any person affected by any action of the board under  
26 this section shall be afforded an opportunity to demonstrate  
27 that he is no longer in violation of this section.

28 (d) Any person may make a complaint of violation of the  
29 provisions of this act or the rules and regulations of the board  
30 by filing a written statement under oath with the secretary of



1 the board. The board shall make a preliminary investigation into  
2 each complaint, after which, if the board is satisfied that the  
3 complaint is not frivolous, the board shall hear the complaint  
4 under the rules or procedures to be established by the board. A  
5 record of such hearing, and any findings, shall be kept and  
6 shall be open to public inspection. If the person filing the  
7 complaint is a member of the board, he shall disqualify himself  
8 from participating as a member of the board in all proceedings  
9 related to the complaint which he filed.

10 (e) All actions of the board shall be taken subject to the  
11 right of notice, hearing, adjudication and appeal accorded by  
12 law.

#### 13 Section 9. Violations and penalties.

14 (a) (1) It is unlawful for any person in the Commonwealth  
15 to practice optometry or pretend to have a knowledge of any  
16 branch or branches of optometry or to hold himself forth as a  
17 practitioner of optometry, unless he has fulfilled the  
18 requirements of this act and received a license to practice  
19 optometry in this Commonwealth.

20 (2) Any person convicted of practicing optometry without  
21 a license shall be guilty of a misdemeanor and shall, on  
22 first offense, be subject to a fine of not more than \$1,000  
23 or imprisonment for not more than six months, or both.  
24 Conviction on each additional offense shall result in a fine  
25 of not less than \$2,000 and imprisonment of not less than six  
26 months or more than one year.

27 (b) Any person convicted of violating any of the provisions  
28 of this act, other than of subsection (a), is guilty of a  
29 summary offense and shall be fined not more than \$500.

#### 30 Section 10. Fees and other moneys.



1 (a) The board shall have the power to fix or change fees for  
2 examination, biennial and late biennial license renewal,  
3 verification of licensure or grades to other jurisdictions,  
4 initial and renewal certified copies of licenses.

5 (b) All moneys collected under the provisions of this act  
6 shall be paid into a designated account and disbursed according  
7 to law.

8 Section 11. Provision of services and reimbursement.

9 Any State or municipal board, commission, department,  
10 institution, agency or bureau, including public schools,  
11 expending public money for any purpose involving eye care; as  
12 well as any policy of insurance, self-insured sickness, health  
13 and/or welfare plan, providing benefits or medical or health  
14 service contract providing for payment or reimbursement for any  
15 eye care service, shall grant the recipients or beneficiaries  
16 the freedom to choose a duly licensed optometrist or a duly  
17 licensed physician as the provider of eye care which is within  
18 the scope of the practice of optometry as defined in this act;  
19 and, shall pay for such eye care the same payment or  
20 reimbursement whether the care is provided by a duly licensed  
21 physician or by a duly licensed optometrist. Whenever programs,  
22 policies, plans or contracts which pay on the basis of usual,  
23 customary and reasonable charges or on some similar basis are  
24 used, only that method of determining the amount of  
25 reimbursement shall be utilized.

26 Section 12. Repeals.

27 (a) The act of March 30, 1917 (P.L.21, No.10), referred to  
28 as the Optometry Practice Law, is repealed.

29 (b) The act of April 23, 1923 (P.L.81, No.56), entitled "An  
30 act to empower and authorize any school or college or



1 institution of optometry, incorporated under the laws of  
2 Pennsylvania, organized, operated and conducted not for profit,  
3 which has a prescribed course of study, to confer and degree  
4 certifying to the completion of such prescribed courts of  
5 study," is repealed.

6 (c) Any acts or part of acts inconsistent with the  
7 provisions of this act are repealed to the extent of the  
8 inconsistency.

9 Section 13. Effective date.

10 This act shall take effect in 60 days.