
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 770 Session of
1979

INTRODUCED BY COPPERSMITH, EARLY, MESSINGER, LINCOLN, ORLANDO,
LYNCH, HANKINS, O'CONNELL, MANBECK, SCHAEFER, LEWIS, MELLOW,
MURRAY, ZEMPRELLI, MOORE, HESS AND REIBMAN, MAY 22, 1979

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MARCH 24, 1980

AN ACT

1 Regulating the licensure and practice of optometry, making
2 repeals and providing penalties.

3 TABLE OF CONTENTS

4 Section 1. Short title.

5 Section 2. Definitions.

6 Section 3. Powers and duties of the board.

7 Section 4. Requirements for examination.

8 Section 5. Renewal of license.

9 Section 6. Exemptions and exceptions.

10 Section 7. Refusal, revocation or suspension of license.

11 Section 8. Violations and penalties.

12 Section 9. Fees and other moneys.

13 Section 10. Freedom of choice.

14 SECTION 11. TRANSITIONAL PROVISIONS.

<—

15 Section ~~11~~ 12. Repeals.

<—

16 Section ~~12~~ 13. Effective date.

<—

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

3 Section 1. Short title.

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

6 Section 2. Definitions.

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

10 "Advisory Committee on Continuing Professional Education."

11 An advisory committee established pursuant to section 3 to make
12 recommendations to the board relating to continuing professional
13 education.

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

18 "Examination and diagnosis." Any examination or diagnostic
19 means or method compatible with optometric education and
20 professional competence. The term shall encompass the use of
21 pharmaceutical agents for diagnostic purposes classified as
22 miotics, mydriatics, cycloplegics, topical anesthetics and dyes
23 when applied topically to the eye, WHICH PHARMACEUTICAL AGENTS <—
24 SHALL BE APPROVED BY THE SECRETARY OF HEALTH AND, subject to the
25 rules and regulations of the board, provided however that with
26 respect to optometrists licensed before March 1, 1974 only such
27 optometrists who have satisfactorily completed a course in
28 pharmacology as it applies to optometry, with particular
29 emphasis on the topical application of diagnostic pharmaceutical
30 agents to the eye, approved by the board shall be permitted to

1 use diagnostic pharmaceutical agents topically in the practice
2 of optometry.

3 "Optometrist." Any person who, following formal and
4 recognized training in the art and science of optometry has
5 received a doctor of optometry degree from an accredited
6 institution and is qualified to seek or has acquired a license
7 to practice the profession of optometry. An optometrist shall be
8 identified either by "Doctor of Optometry," "O.D.," or "Dr."
9 followed by "Optometrist."

10 "Practice of optometry." The use of any and all means or
11 methods for the examination, diagnosis and except for drugs or
12 surgery, treatment of conditions of the human visual system and
13 shall include the examination for, and adapting and fitting of,
14 any and all kinds and types of lenses. WHENEVER AN OPTOMETRIST <—
15 DURING THE COURSE OF AN EXAMINATION OF A PERSON SHALL DETERMINE
16 THE POSSIBILITY OF THE EXISTENCE OF A PATHOLOGICAL CONDITION,
17 SUCH OPTOMETRIST SHALL ADVISE THE PERSON OF SUCH OPINION AND
18 REFER SUCH PERSON TO A PHYSICIAN FOR FURTHER EVALUATION.

19 "Treatment." The use of any and all preventive and
20 corrective means and methods, except for drugs or surgery, for
21 aid to the human visual system and shall include but is not
22 limited to the adapting and fitting of any and all kinds and
23 types of lenses and devices and the provision of vision
24 developmental and perceptual therapy or ocular exercise for aid
25 to or enhancement of visual functions.

26 Section 3. 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 prescribe the subjects to be tested, develop <—
2 AUTHORIZE written and practical portions of the examination <—
3 and conduct examinations of qualified applicants for
4 licensure at least twice annually at such times and places as
5 designated by the board.

6 (3) To record all licenses in its office.

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

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

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

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

20 (2) To conduct hearings, investigations and discovery
21 proceedings; to administer oaths or affirmations to
22 witnesses, take testimony, issue subpoenas to compel
23 attendance of witnesses or the production of records; to
24 exercise all powers granted by law or regulation in
25 accordance with the general rules of administrative practice
26 and procedure. The board or its designated hearing examiner
27 shall exercise the powers enumerated in this paragraph with
28 regard to both licensed doctors of optometry and persons
29 practicing optometry without a license.

30 (3) To obtain injunctions from a court of competent

1 jurisdiction against persons practicing optometry in
2 violation of this act when such practice constitutes a threat
3 to the health and welfare of the public; provided that the
4 board or its designated hearing examiner shall conduct a
5 hearing as otherwise required by this section within 30 days
6 of the injunction date. The chairperson of the board shall
7 exercise this power whenever the board is not in session.

8 (4) To recommend to the Commissioner of Professional and
9 Occupational Affairs such staff as is necessary to carry out
10 the provisions of this act.

11 (5) To incur expenses, retain consultants, appoint
12 committees from its own membership and appoint advisory
13 committees which may include nonboard members.

14 (6) To compensate at a rate fixed by the board,
15 consultants and nonboard members of advisory committees.

16 (7) To authorize the payment of special reimbursements
17 for the secretary of the board or any other designated member
18 of the board for rendering special services authorized by the
19 board.

20 (8) To use qualified board hearing examiners to conduct
21 hearings and prepare adjudications for final review and
22 approval by the board, including disciplinary sanctions.
23 Nothing shall prohibit the board or a designated board member
24 from conducting such hearings.

25 (9) To establish and administer a records system which
26 records shall be open to public inspection during the regular
27 business hours of the board.

28 (10) To hold meetings, other than required by subsection
29 (a), for the conduct of its business upon giving public
30 notice of such meetings.

1 (11) In consultation with the Council on Optometric
2 Education or its successor and the appropriate regional
3 accrediting body recognized by the United States Department
4 of Education, to approve those optometric educational
5 institutions in the United States and Canada which are
6 accredited for the purposes of this act.

7 (12) In consultation with the Advisory Committee on
8 Continuing Professional Education, to establish and approve
9 by rule and regulation courses of continuing professional
10 optometric education. Only those educational programs as are
11 available to all licensees on a reasonable nondiscriminatory
12 fee basis shall be approved. Programs to be held within or
13 ~~without~~ OUTSIDE OF the Commonwealth may receive approval. The <—
14 number of required hours of study may not exceed those that
15 are available at approved courses held within the
16 Commonwealth during the applicable license renewal period. In
17 cases of certified illness or undue hardship, the board is
18 empowered to waive the continuing education requirement.

19 (13) To certify, upon the written request of a licensee
20 and payment of the prescribed fee, that the licensee is
21 qualified for licensure and the practice of optometry in this
22 Commonwealth.

23 (14) To promulgate all rules and regulations necessary
24 to carry out the purposes of this act. THE PROPOSED RULES AND <—
25 REGULATIONS SHALL BE SUBMITTED TO THE SECRETARY OF THE SENATE
26 AND THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES WHO SHALL
27 CAUSE THE RULES OR REGULATIONS TO BE PRINTED AND DISTRIBUTED
28 AMONG ALL MEMBERS OF BOTH CHAMBERS IN THE SAME MANNER AS A
29 REORGANIZATION PLAN. IF BOTH BODIES FAIL TO ACT WITHIN 60
30 DAYS OF RECEIPT OF SUCH RULES OR REGULATIONS, OR WITHIN TEN

1 LEGISLATIVE DAYS AFTER RECEIPT, WHICHEVER SHALL LAST OCCUR,
2 RULES OR REGULATIONS ADOPTED BY THE BOARD SHALL BE
3 PROMULGATED PURSUANT TO THE PROVISIONS OF THE ACT OF JULY 31,
4 1968 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH
5 DOCUMENTS LAW AND 45 PA.C.S. PART II (RELATING TO PUBLICATION
6 AND EFFECTIVENESS OF COMMONWEALTH DOCUMENTS). IF EITHER
7 CHAMBER DISAPPROVES ANY RULE OR REGULATION, SUCH INFORMATION
8 SHALL BE CERTIFIED BY THE SPEAKER OF THE HOUSE OF
9 REPRESENTATIVES OR PRESIDENT PRO TEMPORE OF THE SENATE TO THE
10 BOARD, ANY SUCH RULE OR REGULATION SHALL NOT BE PROMULGATED
11 AS A FINAL RULE OR REGULATION.

12 (15) TO ADMINISTER AND ENFORCE THE LAWS OF THE
13 COMMONWEALTH RELATING TO THOSE ACTIVITIES INVOLVING OPTOMETRY
14 FOR WHICH LICENSING IS REQUIRED UNDER THIS ACT AND TO
15 INSTRUCT AND REQUIRE ITS AGENTS TO BRING PROSECUTIONS FOR
16 UNAUTHORIZED AND UNLAWFUL PRACTICE.

17 Section 4. Requirements for examination.

18 (a) A person holding a Doctor of Optometry degree from an
19 accredited optometric educational institution in the United
20 States or Canada, who furnishes the board with evidence that he
21 is at least 21 years of age, has completed the educational
22 requirements prescribed by the board AND is of good moral <—
23 character, is not addicted in the use of alcohol or narcotics or
24 other habit-forming drugs and who pays the fee may apply to the
25 board for examination for licensure.

26 ~~(b) The board shall establish by rule or regulation~~ <—
27 ~~procedures for examination and all other matters related to the~~
28 ~~proficiency of applicants for licensure.~~

29 ~~(c)~~ (B) The board may establish further requirements to be <—
30 met by optometric graduates from unaccredited schools or

1 colleges of optometry before granting such graduates the right
2 to take an examination.

3 ~~(d)~~ (C) An applicant who knowingly makes a false statement <—
4 of fact in an application for examination shall be deemed to
5 have violated this act and shall be subject to the penalties set
6 forth herein.

7 Section 5. Renewal of license.

8 (a) A person licensed by the board shall apply for renewal
9 of such license by such methods as the board shall determine by
10 regulation, provided that such renewal period shall not exceed
11 two years.

12 (b) Beginning with the year 1982 license shall not be
13 renewed by the board unless the optometrist applying for renewal
14 submits proof to the board that during the two calendar years
15 immediately preceding his application he has satisfactorily
16 completed a minimum of 24 hours of continuing professional
17 optometric education approved by the board.

18 Section 6. Exemptions and exceptions.

19 (a) The licensure requirements of this act shall not apply
20 ~~to optometry officers in the medical service of the armed forces~~ <—
21 TO: <—

22 (1) OPTOMETRY OFFICERS IN THE MEDICAL SERVICE OF THE
23 ARMED FORCES of the United States, the United States Public
24 Health Service, the Veterans' Administration or optometrists
25 employed in Federal service, while in discharge of their
26 official duties; OR <—

27 (2) PERSONS SELLING SPECTACLES AND EYEGLASSES BUT WHO DO
28 NOT ASSUME, DIRECTLY OR INDIRECTLY, TO ADAPT THEM TO THE EYE,
29 OR TO PRACTICE OR PROFESS TO PRACTICE OPTOMETRY.

30 (b) The board shall permit externs, who are fourth year

1 optometric students, to perform procedures and tests for the
2 sole purpose of instruction and experience under the direct
3 supervision and control of an optometrist licensed in this
4 Commonwealth. Nothing contained in this act shall be construed
5 to entitle an extern to practice optometry.

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

9 (1) ~~Is~~ IS at least 21 years of age; AND <—

10 (2) ~~Has~~ (I) HAS passed a standard examination in <—

11 optometry in any other state or all parts of the
12 examination given by the National Board of Examiners in
13 Optometry, provided that the standards of the other state
14 or the National Board are, ~~in the opinion of the board,~~ <—

15 equal to OR EXCEED the standards of this Commonwealth; OR <—

16 ~~(3)—Is~~ (II) IS licensed in another state and has <—

17 practiced in that state for a minimum of ~~five~~ FOUR years <—

18 immediately preceding application.

19 (d) Nothing in this section shall prohibit the board from
20 imposing additional UNIFORM educational requirements as a <—
21 requisite for licensure.

22 (e) Nothing in this act shall prohibit the sale, duplication
23 and reproduction or dispensing of frames, lenses, spectacles or
24 eyeglasses and related optical appurtenances by any person
25 provided that no such person shall change or modify an original
26 lens power except on a signed written order of a licensed doctor
27 of optometry or licensed physician and surgeon.

28 (f) The provisions of this act shall not apply to physicians
29 licensed under the laws of this Commonwealth.

30 Section 7. Refusal, revocation or suspension of license.

1 (a) The board shall have the power to refuse, revoke or
2 suspend a license to practice optometry in this Commonwealth
3 for:

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

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

10 (3) Use of deceit or fraud in obtaining a license or in
11 the practice of optometry.

12 (4) Making misleading, deceptive, untrue or fraudulent
13 representations or advertisements in the practice of
14 optometry.

15 (5) Conviction of a felony or a crime involving moral
16 turpitude. Conviction shall include a finding or verdict of
17 guilt, an admission of guilt or a plea of ~~non~~ NOLO <—
18 contendere.

19 (6) Revocation, suspension or refusal to grant a license
20 to practice optometry, or imposition of other disciplinary
21 action, by the proper licensing authority of another state,
22 territory or country.

23 (7) Inability to practice optometry with reasonable
24 skill and safety to patients by reason of incompetence,
25 illness, drunkenness, excessive use of drugs, narcotics,
26 chemicals or other type of material, or as a result of any
27 mental or physical condition.

28 (8) Violation of a regulation promulgated or order
29 issued by the board in a previous disciplinary proceeding
30 against that licensee or applicant for licensure.

1 (9) Knowingly aiding, assisting, procuring or advising
2 an unlicensed person, or person who is in violation of this
3 act, or the rules and regulations of the board, to practice
4 optometry.

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

11 (b) When the board finds that the license of a person may be
12 refused, revoked or suspended the board may:

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

14 (2) Administer a public or private reprimand.

15 (3) Limit or otherwise restrict the licensee's practice
16 under this act.

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

20 (c) A person affected by any action of the board under this
21 section shall be afforded an opportunity to demonstrate that he
22 is no longer in violation of this section.

23 (d) A person may complain of a violation of the provisions
24 of this act or the rules and regulations of the board by filing
25 a written complaint with the secretary of the board. The board
26 shall decide either to dismiss the case, issue an injunction, or
27 hold a hearing in accordance with the general rules of
28 administrative practice and procedure. If the person filing the
29 complaint is a member of the board, he shall disqualify himself
30 from participating as a member of the board in all procedures

1 related to the complaint which he filed.

2 (e) Actions of the board shall be taken subject to the right
3 of notice, hearing, adjudication and appeal accorded by law.

4 Section 8. Violations and penalties.

5 (a) (1) It is unlawful for any person in the Commonwealth to
6 engage in the practice of optometry or pretend to have a
7 knowledge of any branch or branches of the practice of
8 optometry or to hold himself forth as a practitioner of
9 optometry, unless he has fulfilled the requirements of this
10 act and received a license to practice optometry in this
11 Commonwealth.

12 (2) A person ~~found to be guilty~~ CONVICTED of practicing <—
13 optometry without a license ~~as a result of court action or as~~ <—
14 ~~a result of board action~~ shall be guilty of a misdemeanor and
15 shall, on first offense, be subject to a fine of not more
16 than \$1,000 or imprisonment of not more than six months, or
17 both. Conviction on each additional offense shall result in a
18 fine of not less than \$2,000 and imprisonment of not less
19 than six months or more than one year.

20 (b) A person convicted of violating a provision of this act,
21 other than of subsection (a), is guilty of a summary offense and
22 shall be fined not more than \$500.

23 Section 9. Fees and other moneys.

24 (a) The board shall have the power to fix or change fees for
25 examination, biennial ~~and late biennial~~ license renewal, <—
26 verification of licensure or grades to other jurisdictions,
27 initial and renewal certified copies of licenses, and biennial
28 renewal of branch offices.

29 (b) Moneys collected under the provisions of this act shall
30 be paid into a designated account and disbursed according to

1 law.

2 Section 10. Freedom of choice.

3 Any State or municipal board, commission, department,
4 institution, agency or bureau including public schools,
5 expending public money for any purpose involving eye care which
6 is within the scope of the practice of optometry shall not deny
7 the recipients or beneficiaries the freedom to choose an
8 optometrist or a physician and shall make the same reimbursement
9 whether the service is provided by an optometrist or a
10 physician: PROVIDED, THAT WHENEVER PROGRAMS, POLICIES, PLANS OR <—
11 CONTRACTS WHICH PAY ON THE BASIS OF USUAL, CUSTOMARY AND
12 REASONABLE CHARGES OR ON SOME SIMILAR BASIS ARE USED, ONLY THE
13 METHOD OF DETERMINING THE AMOUNT OF REIMBURSEMENT SHALL BE THE
14 SAME.

15 SECTION 11. TRANSITIONAL PROVISIONS.

16 (A) NOTWITHSTANDING ITS REPEAL PURSUANT TO SECTION 12(A),
17 ALL VALID LICENSES ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS
18 ACT UNDER THE PROVISIONS OF THE ACT OF MARCH 30, 1917 (P.L.21,
19 NO.10), REFERRED TO AS THE OPTOMETRY PRACTICE LAW SHALL CONTINUE
20 WITH FULL FORCE AND VALIDITY DURING THE PERIOD FOR WHICH ISSUED.
21 FOR THE SUBSEQUENT LICENSE PERIOD, AND EACH LICENSE PERIOD
22 THEREAFTER, THE BOARD SHALL RENEW SUCH LICENSES WITHOUT
23 REQUIRING ANY LICENSE EXAMINATION TO BE TAKEN. HOWEVER,
24 APPLICANTS FOR RENEWAL OR HOLDERS OF SUCH LICENSES SHALL BE
25 SUBJECT TO ALL OTHER PROVISIONS OF THIS ACT.

26 (B) ALL PROCEEDINGS IN PROGRESS ON THE EFFECTIVE DATE OF
27 THIS ACT SHALL CONTINUE TO PROCEED UNDER THE FORMER TERMS OF THE
28 ACT UNDER WHICH THEY WERE ORIGINALLY BROUGHT.

29 (C) ALL OFFENSES ALLEGED TO HAVE OCCURRED PRIOR TO THE
30 EFFECTIVE DATE OF THIS ACT SHALL BE PROCESSED UNDER THE FORMER

1 OPTOMETRY PRACTICE LAW.

2 Section ~~11~~ 12. Repeals. <—

3 (a) The act of March 30, 1917 (P.L.21, No.10), entitled "An
4 act defining optometry; and relating to the right to practice
5 optometry in the Commonwealth of Pennsylvania, and making
6 certain exceptions; and providing a Board of Optometrical
7 Education, Examination, and Licensure, and means and methods
8 whereby the right to practice optometry may be obtained; and
9 providing for the means to carry out the provisions of this act;
10 and providing for revocation or suspension of licenses given by
11 said board, and providing penalties for violations thereof; and
12 repealing all acts or parts of acts inconsistent therewith," is
13 repealed.

14 (b) All acts or parts of acts are repealed which are
15 inconsistent herewith.

16 Section ~~12~~ 13. Effective date. <—

17 This act shall take effect in 60 days.