
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 645

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DONATUCCI AND LINTON, APRIL 6, 1983

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, APRIL 6, 1983

AN ACT

1 Relating to ophthalmic dispensing; requiring licensing of
2 persons; and providing for injunctions and penalties.

3 It is the purpose of this act to provide for the regulation
4 of persons offering ophthalmic dispensing services to the public
5 in order to safeguard public health, safety and welfare; to
6 protect the public by assuring that providers of ophthalmic
7 dispensing services and products meet minimum standards of
8 competence; and to insure that competent providers of these
9 services and products are available in adequate numbers.

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21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Short title.

24 This act shall be known and may be cited as the Ophthalmic
25 Dispensing Act.

26 Section 2. Definitions.

27 The following words and phrases when used in this act shall
28 have the meanings given to them in this section unless the
29 context clearly indicates otherwise:

30 "Apprentice." A person who holds a certificate of

1 apprenticeship issued in accordance with this act.

2 "Board." The State Board of Ophthalmic Dispensing.

3 "Commissioner." The Commissioner of Professional and
4 Occupational Affairs.

5 "Contact lens technician." A person who, pursuant to written
6 prescription or order from a licensed physician, licensed
7 optometrist or licensed osteopath for contact lenses, performs
8 one or more of the following functions:

9 (1) Measures the curvature of the front surface of the
10 cornea of the eye with the aid of a keratometer,
11 ophthalmometer or other similar device.

12 (2) Fits or adapts contact lenses, with or without the
13 use of trial lenses or fluorescein, and dispenses contact
14 lenses to the intended user.

15 (3) Instructs the intended user in the proper use and
16 handling of contact lenses.

17 "Department." The Department of State.

18 "Dispensing optician." A person who fills prescriptions of
19 licensed physicians, licensed optometrists or licensed
20 osteopaths for ophthalmic lenses; who in interpreting these
21 prescriptions takes measurements to determine size and shape of
22 lenses, frames or lens forms best suited to the wearer's needs;
23 who provides duplicate or replacement lenses without
24 prescription; who repairs and reproduces previously prepared
25 ophthalmic lenses and frames without prescription; who prepares
26 and delivers work orders to technicians engaged in grinding
27 lenses and fabricating eyewear; and who verifies the accuracy of
28 ophthalmic lenses and who adjusts and dispenses lenses,
29 specially fabricated optical devices, frames and appurtenances
30 thereof to the intended wearer.

1 "Licensed contact lens technician." A contact lens
2 technician who holds a license issued in accordance with this
3 act.

4 "Licensed dispensing optician." A dispensing optician who
5 holds a license issued in accordance with this act.

6 "Ophthalmic dispensing." The design, verification and
7 delivery to the intended wearer of lenses, frames and other
8 specially fabricated optical devices upon prescription or the
9 dispensing of replacement lenses. The term includes, but is not
10 limited to, prescription analysis and interpretation; the taking
11 of measurements to determine the size, shape and specifications
12 of the lenses, frames, contact lenses or lens forms best suited
13 to the wearer's needs; the preparation and delivery of work
14 orders to laboratory technicians engaged in grinding lenses and
15 fabricating eyewear; the adjustment of lenses or frames to the
16 intended wearer's face or eyes; and the adjustment, replacement,
17 repair and reproduction of previously prepared ophthalmic
18 lenses, frames or other specially fabricated ophthalmic devices.

19 "Prescription." A written or verbal direction from a
20 licensed physician or optometrist for lenses and consists of the
21 refractive power and, when necessary, the vertex distance, the
22 cylinder axis and prism. A prescription for contact lenses shall
23 also specify "for contact lenses."

24 "Supervision." The supervision of direction and control
25 through personal inspection and evaluation of work and the
26 provision of such consultation and instruction as may be needed.

27 Section 3. Creation of board.

28 (a) There is hereby created a departmental administrative
29 board to be known as the State Board of Dispensing Opticians
30 which shall be in the Bureau of Professional and Occupational

1 Affairs of the Department of State. It shall consist of seven
2 members, all of whom shall be residents of this Commonwealth and
3 two of whom shall be chosen as representatives of the public
4 interest. The remaining five members shall be two dispensing
5 opticians, two contact lens technicians and one owner of an
6 ophthalmic dispensing retail place of business. The first
7 appointments shall be qualified to receive licensure under this
8 act provided they have had at least five years working
9 experience in this Commonwealth as dispensing opticians or
10 contact lens technicians, as the case may be. The members of the
11 board should be chosen so they are geographically
12 representative.

13 (b) The Governor shall appoint the members to serve on the
14 board. The commissioner shall serve as an ex officio member of
15 the board. In appointing persons to fill vacancies in the five
16 board positions designated to be held by licensed opticians, the
17 Governor should select opticians who reside in different regions
18 of this Commonwealth in an effort to provide Statewide
19 representation on the board. The Pennsylvania Society of
20 Dispensing Opticians shall submit a list of names and addresses
21 of qualified opticians willing to serve on the board for the
22 Governor's consideration prior to the making of an appointment
23 to fill a vacancy.

24 (c) The term of office of a member shall be three years. Of
25 the optician members of the board first appointed, one
26 dispensing optician shall serve a term of two years and the
27 other dispensing optician shall serve a term of one year; one
28 contact lens technician shall serve a term of three years and
29 the other shall serve a term of two years; and the owner
30 appointed shall serve a term of three years. A member appointed

1 to fill a vacancy occurring otherwise than by expiration of a
2 term shall be appointed for the remainder of the unexpired term.

3 (d) A member of the board shall be eligible for
4 reappointment. A member shall not be appointed to serve more
5 than two consecutive terms. A member shall receive reimbursement
6 for reasonable expenses incurred while engaged in the discharge
7 of official duties and a \$30 per diem allowance.

8 (e) The board shall meet at least twice a year and may hold
9 additional meetings whenever necessary, subject to the approval
10 of the commissioner, to discharge its duties. The location of
11 the meetings shall be determined by the board, subject to the
12 approval of the commissioner, but shall be within this
13 Commonwealth.

14 Section 4. Powers and duties of board.

15 (a) The board shall elect annually from its membership a
16 chairman, vice chairman and secretary. The board shall pass upon
17 the qualifications of applicants for licensure, insure the
18 conduct of examinations, issue and renew licenses to dispensing
19 opticians or contact lens technicians who qualify under this
20 act, and, in proper cases, suspend or revoke the license of a
21 dispensing optician or contact lens technician. The board may
22 refuse, revoke or suspend a license of a dispensing optician or
23 contact lens technician pursuant to this act, conduct
24 investigations, including the power to issue subpoenas, and hold
25 hearings upon charges or information indicating violation of
26 this act or regulations promulgated pursuant thereto. The board
27 shall maintain a record listing the name of every living
28 dispensing optician or contact lens technician licensed to
29 practice in this Commonwealth, the last known place of business,
30 the last known place of residence and the date and number of the

1 license of the licensee.

2 (b) The board may promulgate rules and regulations not
3 inconsistent with law which it deems necessary for the
4 performance of its duties and the proper administration of this
5 act.

6 Section 5. License required.

7 (a) It is unlawful one year after the effective date of this
8 act for any person to practice or to indicate an ability to
9 practice ophthalmic dispensing unless licensed under this act.

10 (b) The licensure of dispensing opticians or contact lens
11 technicians shall extend only to individuals. A license shall
12 not be issued to a partnership, unincorporated association,
13 corporation or similar business organization.

14 (c) A person shall not use the title "certified dispensing
15 optician" or "certified contact lens technician" or "dispensing
16 optician" or a title set forth in this act as it relates to the
17 practice of ophthalmic dispensing unless licensed and the
18 license is in good standing in accordance with the requirements
19 set forth in this act. A person or health care institution,
20 health care service, health care provider or health plan or
21 other institution or individual holding itself out to the public
22 as providing ophthalmic dispensing services shall not offer the
23 services and use the title unless the ophthalmic dispensing
24 services are provided under the supervision of a person licensed
25 under this act.

26 Section 6. Persons and practices not affected.

27 This act shall not be construed as preventing or restricting
28 the practices, services or activities of:

29 (1) A person licensed in this Commonwealth in accordance
30 with the provisions of another law of this Commonwealth from

engaging in the profession or occupation for which licensed.

(2) The sale or manufacture of ready-to-wear eyeglasses or spectacles which sale or manufacturing is hereby specifically excluded from this act.

(3) A person pursuing a course of study leading to a degree or certificate in ophthalmic dispensing at an accredited or approved educational program provided the activities and services are part of a supervised course of study and the person is designated by a title which clearly indicates the status of student or trainee and not licensed dispensing optician or contact lens technician.

(4) A person fulfilling the apprenticeship requirements of this act provided the activities and services constitute a part of the apprenticeship necessary to meet the requirements of the program.

Section 7. Requirements for licensure.

Upon filing timely application with the board upon forms approved by the board and payment of an examination fee of \$50, any person desiring to qualify for licensing as a dispensing optician or as a contact lens technician shall be permitted to take an examination for licensing provided that he submits with his application evidence satisfactory to the board that:

(1) He is a citizen of the United States of America or has applied for citizenship.

(2) He is at least 18 years of age.

(3) He is of good moral character.

(4) He is a graduate of an accredited high school or has completed the full equivalent of a grammar school and a four year high school course.

(5) In the case of an applicant for licensing as a

1 dispensing optician, he has had at least one year of
2 practical training and experience in the work of a dispensing
3 optician under the direct supervision and control of a
4 licensed physician, a licensed optometrist, a licensed
5 osteopath or a licensed dispensing optician or, in lieu of
6 the practical training experience, he has successfully
7 completed the prescribed course in opticianry for dispensing
8 opticians in a college, university or other institution of
9 learning, which course should have been officially approved
10 by the board.

11 (6) In the case of an applicant for licensing as a
12 contact lens technician, he has had at least two years of
13 practical training and experience in the work of a contact
14 lens technician under the direct supervision and control of a
15 licensed physician, a licensed optometrist, a licensed
16 osteopath or a licensed contact lens technician or, in lieu
17 of the practical training experience, he has successfully
18 completed the prescribed course of opticianry for contact
19 lens technicians in a college, university or other
20 institution of learning, which course should have been
21 officially approved by the board.

22 Section 8. Examinations.

23 (a) The examination for licensing shall be conducted at
24 least twice a year, and at other times the board may determine
25 is necessary, at the times and places the board determines. The
26 examination shall be conducted by an independent professional
27 testing organization selected by the board with the approval of
28 the board and shall be devised in form and substance so as to
29 evaluate fairly the applicant's qualification to engage in the
30 practice of a dispensing optician or of a contact lens

1 technician, or both.

2 (b) The license examination for a dispensing optician shall
3 be confined to the knowledge that is essential to practice as a
4 dispensing optician and shall show proficiency in the following
5 subjects: prescription interpretation and analysis; selection of
6 frames, adjustment of spectacles and eyeglasses to the human
7 countenance; the use of lensometers, distometers and equivalent
8 instruments; and the taking of pupillary and facial
9 measurements. The examination shall be in part written in the
10 English language and in part by practical demonstration of
11 knowledge.

12 (c) The license examination for a contact lens technician
13 shall be confined to the knowledge that is essential to practice
14 as a contact lens technician and shall show proficiency in the
15 following subjects: contact lens practice and theory; the use of
16 a keratometer and other devices necessary to interpret, fit and
17 dispense the physician's, optometrist's or osteopath's
18 prescription for contact lenses; and ocular anatomy. This
19 examination shall be in part written in the English language and
20 in part by practical demonstration of knowledge.

21 Section 9. Waiver of written examination requirements.

22 (a) The board shall waive the written dispensing optician
23 examination requirement and grant a license to any applicant
24 who:

25 (1) Holds a currently valid ophthalmic dispensing
26 license in another state.

27 (2) Holds a certificate as a certified optician from the
28 American Board of Opticianry at the effective date of this
29 act if the board has reviewed the qualifications for the
30 certificate and determined that they are at least equal to

1 the examination and requirements that the board administers
2 under section 8.

3 (3) Holds a certificate as a certified dispenser from
4 the Pennsylvania Society of Dispensing Opticians at the
5 effective date of this act if the board has reviewed the
6 qualifications for the certificate and determined that they
7 are at least equal to the examination and requirements that
8 the board administers under section 8.

9 (4) Has been engaged in ophthalmic dispensing for a
10 period of one year prior to the effective date of this act.

11 (b) The board shall waive the written contact lens
12 examination requirement and grant a license to any applicant
13 who:

14 (1) Is currently licensed to dispense contact lenses in
15 another state.

16 (2) Has passed the Contact Lens Registry Examination of
17 the National Committee of Contact Lens Examiners at the
18 effective date of this act if the board has reviewed the
19 examination and determined that it is at least equal to the
20 examination that the board administers under section 9.

21 (3) Has been engaged in contact lens dispensing for a
22 period of one year prior to the effective date of this act.

23 (c) Other persons with experience in ophthalmic dispensing
24 may be issued a license to engage in ophthalmic dispensing
25 without examination provided they file an application with the
26 board for temporary waiver of the examination requirement within
27 one year from the effective date of this act, but they shall be
28 required to pass the written qualifying examination before the
29 first renewal of their license.

30 Section 10. Licenses.

Each applicant who successfully completes the examination for licensing as a dispensing optician or a contact lens technician shall, upon payment of a license fee of \$10, receive a license as a dispensing optician or as a contact lens technician, as the case may be, from the board. The license shall be recorded in the office of the commissioner in a record book to be properly kept for that purpose and shall be open to public inspection. A certified copy of the record shall be received as evidence in all courts of this Commonwealth in the trial of any case.

Section 11. Unsuccessful applicants.

An unsuccessful applicant may, upon written request to the board, see his graded examination. The results of any examination required under this act must be provided to the applicant within 60 days of the taking of the examination.

Section 12. Renewal of license.

Licenses under this act shall be subject to renewal every three years and shall expire unless the licensee submits an application for renewal in the manner prescribed by the board. The application shall be accompanied by a renewal fee and evidence that the applicant has, during the three-year period, completed continuing education as follows:

(1) For dispensing opticians, the applicant must meet the continuing education requirement of the American Board of Opticianry (ABO) Registry or nine hours of continuing education in spectacle dispensing if the board has reviewed the continuing education program and the ABO Registry and determined that they meet the board's criteria.

(2) For contact lens technicians, the applicant must meet the continuing education requirement of the Registry of the National Committee of Contact Lens Examiners or 15 hours

1 of continuing education in contact lens dispensing if the
2 board has reviewed the continuing education program and
3 determined that it meets the board's criteria.

4 (3) For dispensing opticians and contact lens
5 technicians, the applicant must meet both of the requirements
6 contained in paragraphs (1) and (2).

7 (4) Verified attendance at or participation in any
8 formal educational program contributing to the advancement,
9 extension or enhancement of professional skills and knowledge
10 in the practice of ophthalmic dispensing which is sponsored
11 or conducted by any nonprofit or for-profit entity that meets
12 the department's criteria shall constitute approved
13 continuing education.

14 Section 13. Licensing of apprentices and other ancillary
15 personnel.

16 (a) Persons licensed under this act may utilize apprentices
17 to engage in ophthalmic dispensing when the apprentices are
18 under their supervision and at the same location where the
19 licensed person dispenses, but no licensed ophthalmic dispenser
20 may supervise more than three apprentices. Apprentices may be
21 employed upon submission of an application for licensure to the
22 board. Dispensing optician apprentices must be supervised by a
23 licensed dispensing optician and contact lens technician
24 apprentices must be supervised by a licensed contact lens
25 technician.

26 (b) An apprentice may take the license examination at any
27 time during his apprenticeship.

28 (c) Persons licensed under this act may employ other
29 ancillary personnel to assist in fashion consulting, to perform
30 clerical and office duties and to assist in making minor repairs

1 and to perform lab work. The personnel need not be licensed as
2 apprentices.

3 Section 14. Temporary license.

4 The board may authorize the issuance, upon recommendation of
5 the commissioner, a temporary license to qualify dispensing
6 opticians or contact lens technicians who would immediately
7 qualify for the taking of an examination for a license, but are
8 in this Commonwealth for a temporary basis, or have not yet had
9 an opportunity to take the examination to procure a license, and
10 whose immediate employment depends upon having a license issued
11 by the board. The license shall be valid only until the results
12 are published from the examination taken at the next regular
13 examination date but in no case exceeding seven months following
14 the date of issuance.

15 Section 15. Special provision.

16 Contact lenses may be dispensed only upon the prescription of
17 a licensed physician or optometrist for contact lenses except
18 that contact lenses may be duplicated on the original
19 prescription of record.

20 Section 16. Causes for denial, suspension or revocation of
21 license.

22 The board may deny, suspend or revoke licensing or impose
23 conditions of probation upon a licensee for any of the following
24 causes:

25 (1) Obtaining a license by fraud or deceit.

26 (2) Use of the term "doctor," "physician" or "clinic,"
27 or any derivation thereof, as part of the firm name under
28 which the licensee fits and sells ophthalmic devices unless
29 authorized by law.

30 (3) Fraud or misrepresentation in the repair, fitting or

1 selling of ophthalmic devices.

2 (4) The employment, to perform any act covered by this
3 act, of a person known to the employer whose license is
4 suspended or who does not possess a valid license issued
5 under this act.

6 (5) Violating or permitting, with notice or knowledge of
7 its commission, the violation by any licensed employee of any
8 provision of this act or any rules or regulations promulgated
9 under this act.

10 (6) Any known cause which would be grounds for denial of
11 an application for licensing.

12 (7) Being enjoined from violating any provision of the
13 act of December 17, 1968 (P.L.1224, No.387), known as the
14 Unfair Trade Practices and Consumer Protection Law, or being
15 subject to a final order of the Federal Trade Commission, the
16 Pennsylvania Department of Health or the Food and Drug
17 Administration of the United States Department of Health and
18 Human Services concerning the sale or offering for sale of
19 unsafe, unhealthful or worthless ophthalmic devices or for
20 engaging in conduct which has the tendency to mislead or
21 deceive.

22 Section 17. Notice of denial of license.

23 Upon denial of an application for licensing, the board shall
24 notify the applicant in writing, stating:

25 (1) The reason for denial.

26 (2) That the applicant has a right to a hearing and
27 adjudication before the board and the further right of appeal
28 therefrom in accordance with Title 2 of the Pennsylvania
29 Consolidated Statutes (relating to administrative law and
30 procedure).

1 Section 18. Consumer complaints, investigations and
2 proceedings.

3 (a) Responsibility for the resolution of complaints about
4 products and services provided by persons licensed under this
5 act shall be assigned to the board.

6 (b) The commissioner or the Attorney General shall initiate
7 any disciplinary investigations and proceedings for violation of
8 this act and the board shall suspend, revoke or impose
9 probationary conditions upon any licensee violating this act.

10 Section 19. Unlawful acts.

11 It is unlawful for any person:

12 (1) To sell or barter or offer to sell or barter any
13 license issued by the board.

14 (2) To purchase or procure by barter any license issued
15 by the board with the intent to use the license as evidence
16 of the holder's qualification to practice the fitting and
17 selling of ophthalmic devices.

18 (3) To alter in any manner a license issued by the
19 board.

20 (4) To use or attempt to use any license issued by the
21 board which has been purchased, fraudulently issued,
22 counterfeited or materially altered as a valid license.

23 (5) To engage in the practice of fitting and selling
24 ophthalmic devices under an assumed name unless licensed in
25 accordance with law.

26 (6) To willfully make any false statement in a material
27 regard in an application for an examination before the board
28 for a license.

29 (7) To engage in the practice of fitting and selling
30 ophthalmic devices in this Commonwealth without having at the

1 time of so doing a valid, unrevoked and unexpired license or
2 temporary license.

3 (8) To advertise by displaying a sign or otherwise or
4 hold oneself to be a person engaged in the business of
5 selling or the practices of fitting and selling ophthalmic
6 devices without having at the time of so doing a valid,
7 unrevoked license.

8 Section 20. Injunctions.

9 In addition to other proceedings provided for in this act,
10 whenever any person has engaged or is about to engage in any act
11 or practice which constitutes an offense under this act, the
12 court of common pleas for the county wherein the acts or
13 practices take place or are about to take place, or the
14 Commonwealth Court, may issue an injunction or other appropriate
15 order restraining the conduct on application of the
16 commissioner, the Attorney General or the district attorney of
17 the county.

18 Section 21. Exemption from other licensing.

19 Licensing under this act exempts the licensee from the
20 necessity of obtaining a license under the act of April 14, 1972
21 (P.L.233, No.64), known as The Controlled Substance, Drug,
22 Device and Cosmetic Act, and the rules and regulations
23 promulgated thereunder.

24 Section 22. Fees.

25 (a) Although this act establishes certain fees, the board
26 may change the fees upon good cause and establish other fees as
27 are necessary to the administration of this act.

28 (b) The fees shall be collected by the board through the
29 Bureau of Professional and Occupational Affairs and shall be
30 paid into the Professional Licensure Augmentation Account

1 established pursuant to and for use in accordance with the act
2 of July 1, 1978 (P.L.700, No.124), known as the Bureau of
3 Professional and Occupational Affairs Fee Act.

4 Section 23. Appropriation.

5 The sum of \$75,000, or as much thereof as may be necessary,
6 is hereby appropriated from the Professional Licensure
7 Augmentation Account within the General Fund to the Bureau of
8 Professional and Occupational Affairs in the Department of State
9 for the establishment and operation of the State Board of
10 Ophthalmic Dispensing.

11 Section 24. Effective date.

12 This act shall take effect in 60 days.