
By: Delegate Arnick

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Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Opticians**

3 FOR the purpose of establishing a State Board of Opticians; providing for the
4 membership, powers, and duties of the Board; requiring an individual to be licensed
5 before that individual may practice as an optician in the State; establishing
6 requirements that must be met to be licensed; providing for the issuance, scope,
7 term, renewal, and reinstatement of the license; authorizing the Board to deny a
8 license to any applicant, reprimand any licensee, or suspend or revoke a license
9 under certain circumstances; providing for hearings under certain circumstances;
10 prohibiting certain acts and providing penalties for violations of the prohibitions;
11 defining certain terms; and generally relating to the licensure of individuals who
12 practice as opticians in the State.

13 BY adding to

14 Article - Business Regulation
15 Section 20-101 through 20-502, inclusive, to be under the new title "Title 20.
16 Opticians"
17 Annotated Code of Maryland
18 (1992 Volume and 1996 Supplement)

19 BY adding to

20 Article - State Government
21 Section 8-403(p)
22 Annotated Code of Maryland
23 (1995 Replacement Volume and 1996 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Business Regulation**

2 TITLE 20. OPTICIANS.

3 SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

4 20-101.

5 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 (B) "BOARD" MEANS THE STATE BOARD OF OPTICIANS.

7 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR, LICENSING, AND
8 REGULATION.

9 (D) "LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO PRACTICE AS AN
10 OPTICIAN.

11 (E) "LICENSED OPTICIAN" MEANS AN OPTICIAN WHO IS LICENSED BY THE
12 BOARD TO PRACTICE AS AN OPTICIAN.

13 (F) "OPTICIAN" MEANS AN INDIVIDUAL WHO:

14 (1) PREPARES OR DISPENSES EYEGLASSES, SPECTACLES, LENSES, OR
15 RELATED APPURTENANCES, FOR THE INTENDED WEARERS OR USERS, ON
16 PRESCRIPTIONS FROM LICENSED PHYSICIANS OR LICENSED OPTOMETRISTS;

17 (2) DUPLICATES OR REPRODUCES PREVIOUSLY PREPARED
18 EYEGLASSES, SPECTACLES, LENSES, OR RELATED APPURTENANCES; OR

19 (3) IN ACCORDANCE WITH PRESCRIPTIONS, DUPLICATIONS, OR
20 REPRODUCTIONS DESCRIBED IN ITEMS (1) AND (2) OF THIS SUBSECTION, MEASURES,
21 ADAPTS, FITS, AND ADJUSTS EYEGLASSES, SPECTACLES, LENSES, OR
22 APPURTENANCES TO FIT THE HUMAN FACE.

23 20-102.

24 THIS TITLE DOES NOT APPLY TO:

25 (1) A LICENSED PHYSICIAN OR LICENSED OPTOMETRIST;

26 (2) AN INDIVIDUAL, PARTNERSHIP, OR CORPORATION ENGAGED IN
27 SUPPLYING OPHTHALMIC PRESCRIPTIONS AND SUPPLIES EXCLUSIVELY TO
28 LICENSED PHYSICIANS, LICENSED OPTOMETRISTS, LICENSED OPTICIANS, OR
29 OPTICAL SCIENTISTS;

30 (3) A PERSON WHO DOES NOT REPRESENT TO THE PUBLIC THAT THE
31 PERSON IS AN "OPTICIAN" AND WHO WORKS EXCLUSIVELY UNDER THE DIRECT
32 SUPERVISION AND CONTROL OF A LICENSED PHYSICIAN, LICENSED OPTOMETRIST,
33 OR LICENSED OPTICIAN AND IN THE SAME LOCATION; OR

34 (4) THE SALE OF SPECTACLES, EYEGLASSES, MAGNIFYING GLASSES,
35 GOGGLES, SUNGLASSES, TELESCOPES, OR BINOCULARS THAT ARE PREASSEMBLED
36 AND SOLD AS MERCHANDISE.

3

1 SUBTITLE 2. STATE BOARD OF OPTICIANS.

2 20-201.

3 THERE IS A STATE BOARD OF OPTICIANS IN THE DEPARTMENT.

4 20-202.

5 (A) (1) THE BOARD CONSISTS OF FIVE MEMBERS.

6 (2) OF THE FIVE MEMBERS:

7 (I) THREE SHALL BE LICENSED OPTICIANS;

8 (II) ONE SHALL BE A LICENSED OPHTHALMOLOGIST; AND

9 (III) ONE SHALL BE A CONSUMER MEMBER.

10 (3) THE GOVERNOR SHALL APPOINT THE OPTICIAN MEMBERS, WITH
11 THE ADVICE OF THE SECRETARY, FROM A LIST OF AT LEAST THREE NAMES FOR
12 EACH VACANCY SUBMITTED TO THE GOVERNOR BY THE OPTICIANS ASSOCIATION
13 OF MARYLAND.

14 (4) THE GOVERNOR SHALL APPOINT THE OPHTHALMOLOGIST MEMBER,
15 WITH THE ADVICE OF THE SECRETARY, FROM A LIST OF AT LEAST THREE NAMES
16 SUBMITTED TO THE GOVERNOR BY THE MEDICAL AND CHIRURGICAL FACULTY OF
17 THE STATE OF MARYLAND.

18 (5) THE GOVERNOR SHALL APPOINT THE CONSUMER MEMBER WITH
19 THE ADVICE OF THE SECRETARY AND THE ADVICE AND CONSENT OF THE SENATE.

20 (B) (1) EACH OPTICIAN MEMBER OF THE BOARD SHALL HAVE AT LEAST 5
21 YEARS' EXPERIENCE AS AN OPTICIAN BEFORE APPOINTMENT TO THE BOARD.

22 (2) THE OPHTHALMOLOGIST MEMBER OF THE BOARD SHALL HAVE
23 PRACTICED OPHTHALMOLOGY FOR AT LEAST 5 YEARS BEFORE APPOINTMENT TO
24 THE BOARD.

25 (C) (1) THE CONSUMER MEMBER OF THE BOARD:

26 (I) SHALL BE A MEMBER OF THE GENERAL PUBLIC;

27 (II) MAY NOT BE A LICENSEE OR OTHERWISE SUBJECT TO
28 REGULATION BY THE BOARD; AND

29 (III) MAY NOT HAVE HAD WITHIN 2 YEARS BEFORE APPOINTMENT
30 A SUBSTANTIAL FINANCIAL INTEREST IN A PERSON REGULATED BY THE BOARD.

31 (2) WHILE A MEMBER OF THE BOARD, THE CONSUMER MEMBER MAY
32 NOT HAVE A SUBSTANTIAL FINANCIAL INTEREST IN A PERSON REGULATED BY THE
33 BOARD.

34 (D) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE
35 THE OATH REQUIRED BY ARTICLE I, SECTION 9 OF THE STATE CONSTITUTION.

36 (E) (1) THE TERM OF A MEMBER IS 4 YEARS.

4

1 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
2 TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 1997.

3 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
4 SUCCESSOR IS APPOINTED AND QUALIFIES.

5 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
6 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
7 QUALIFIES.

8 (F) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
9 MISCONDUCT.

10 20-203.

11 (A) FROM AMONG ITS MEMBERS, THE BOARD ANNUALLY SHALL ELECT A
12 CHAIRMAN AND A VICE CHAIRMAN.

13 (B) THE BOARD SHALL DETERMINE THE MANNER OF ELECTION OF
14 OFFICERS.

15 20-204.

16 (A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A
17 QUORUM.

18 (B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS
19 MEETINGS.

20 (C) EACH MEMBER OF THE BOARD IS ENTITLED TO:

21 (1) COMPENSATION FOR EACH DAY ON WHICH THE MEMBER IS
22 ENGAGED IN THE DUTIES OF THE MEMBER'S OFFICE IN ACCORDANCE WITH THE
23 STATE BUDGET; AND

24 (2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE
25 TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

26 (D) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
27 BUDGET.

28 20-205.

29 (A) THE BOARD MAY:

30 (1) ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS
31 TITLE;

32 (2) ADMINISTER OATHS;

33 (3) HOLD HEARINGS;

34 (4) TAKE TESTIMONY;

35 (5) ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES TO
36 TESTIFY OR TO PRODUCE EVIDENCE; AND

5

1 (6) INVESTIGATE ANY COMPLAINT THAT ALLEGES FACTS THAT
2 CONSTITUTE A VIOLATION OF THIS TITLE.

3 (B) THE BOARD SHALL:

4 (1) KEEP A CURRENT LIST OF ALL LICENSED OPTICIANS;

5 (2) KEEP A RECORD OF ITS PROCEEDINGS; AND

6 (3) ADOPT AN OFFICIAL SEAL.

7 20-206.

8 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD MAY SET
9 REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND ITS OTHER
10 SERVICES.

11 (B) REVENUES GENERATED BY THE BOARD SHALL BE AT LEAST EQUAL TO
12 EXPENSES INCURRED BY THE BOARD.

13 (C) THE BOARD SHALL PAY ALL MONEY COLLECTED UNDER THIS TITLE INTO
14 THE GENERAL FUND OF THE STATE.

15 SUBTITLE 3. LICENSING.

16 20-301.

17 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL SHALL BE
18 LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE AS AN OPTICIAN
19 IN THE STATE.

20 20-302.

21 (A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE AN INDIVIDUAL
22 WHO MEETS THE REQUIREMENTS OF THIS SECTION.

23 (B) THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.

24 (C) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

25 (D) THE APPLICANT SHALL MEET THE EDUCATIONAL, PROFESSIONAL, AND
26 EXPERIENCE REQUIREMENTS SET BY THE BOARD.

27 (E) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE APPLICANT
28 SHALL PASS AN EXAMINATION GIVEN BY THE BOARD UNDER THIS SUBTITLE.

29 20-303.

30 TO APPLY FOR A LICENSE, AN APPLICANT SHALL:

31 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE
32 BOARD REQUIRES; AND

33 (2) PAY TO THE BOARD THE APPLICATION FEE SET BY THE BOARD.

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1 20-304.

2 (A) AN APPLICANT WHO OTHERWISE QUALIFIES FOR A LICENSE IS ENTITLED
3 TO BE EXAMINED AS PROVIDED IN THIS SECTION.

4 (B) THE BOARD SHALL OFFER EXAMINATIONS TO APPLICANTS AT THE TIMES
5 AND PLACES THAT THE BOARD DETERMINES.

6 (C) THE BOARD SHALL NOTIFY EACH QUALIFIED APPLICANT OF THE TIME
7 AND PLACE OF EXAMINATION.

8 (D) THE BOARD SHALL DETERMINE THE SUBJECTS, SCOPE, AND FORM OF
9 AND PASSING SCORE FOR EXAMINATIONS GIVEN UNDER THIS SUBTITLE.

10 20-305.

11 THE BOARD SHALL ISSUE A LICENSE TO ANY APPLICANT WHO:

12 (1) MEETS THE REQUIREMENTS OF THIS TITLE; AND

13 (2) PAYS TO THE BOARD THE LICENSE FEE SET BY THE BOARD.

14 20-306.

15 A LICENSE AUTHORIZES THE LICENSEE TO PRACTICE AS AN OPTICIAN WHILE
16 THE LICENSE IS IN EFFECT.

17 20-307.

18 (A) A LICENSE EXPIRES ON THE DATE SET BY THE BOARD UNLESS THE
19 LICENSE IS RENEWED FOR AN ADDITIONAL TERM AS PROVIDED IN THIS SECTION.

20 (B) AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD SHALL SEND
21 TO THE LICENSEE, BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE
22 LICENSEE, A RENEWAL NOTICE THAT STATES:

23 (1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

24 (2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE
25 RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE
26 THE LICENSE EXPIRES; AND

27 (3) THE AMOUNT OF THE RENEWAL FEE.

28 (C) BEFORE THE LICENSE EXPIRES, A LICENSEE PERIODICALLY MAY RENEW
29 IT FOR AN ADDITIONAL TERM IF THE LICENSEE:

30 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

31 (2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM
32 THAT THE BOARD REQUIRES; AND

33 (3) PAYS TO THE BOARD THE RENEWAL FEE SET BY THE BOARD.

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1 (D) THE BOARD SHALL RENEW THE LICENSE OF AND ISSUE A RENEWAL
2 CERTIFICATE TO EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS
3 SECTION.

4 20-308.

5 (A) (1) THE BOARD SHALL PLACE A LICENSEE ON INACTIVE STATUS IF THE
6 LICENSEE:

7 (I) SUBMITS TO THE BOARD AN APPLICATION FOR INACTIVE
8 STATUS ON THE FORM THAT THE BOARD REQUIRES; AND

9 (II) PAYS TO THE BOARD THE INACTIVE STATUS FEE SET BY THE
10 BOARD.

11 (2) THE BOARD SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO IS ON
12 INACTIVE STATUS IF THE INDIVIDUAL:

13 (I) MEETS ANY REQUIREMENTS FOR REINSTATEMENT SET BY THE
14 BOARD; AND

15 (II) PAYS TO THE BOARD THE REINSTATEMENT FEE SET BY THE
16 BOARD.

17 (B) (1) THE BOARD MAY REINSTATE THE LICENSE OF AN OPTICIAN WHOSE
18 LICENSE HAS BEEN EXPIRED FOR LESS THAN 5 YEARS AND WHO HAS NOT BEEN
19 PLACED ON INACTIVE STATUS, IF THE OPTICIAN:

20 (I) MEETS ANY REQUIREMENTS FOR REINSTATEMENT SET BY THE
21 BOARD;

22 (II) MEETS THE RENEWAL REQUIREMENTS OF § 20-307 OF THIS
23 SUBTITLE; AND

24 (III) PAYS TO THE BOARD THE REINSTATEMENT FEE SET BY THE
25 BOARD.

26 (2) THE BOARD MAY NOT REINSTATE THE LICENSE OF AN OPTICIAN
27 WHOSE LICENSE HAS BEEN EXPIRED FOR 5 YEARS OR MORE AND WHO HAS NOT
28 BEEN PLACED ON INACTIVE STATUS, UNLESS THE OPTICIAN:

29 (I) PASSES AN EXAMINATION ADMINISTERED BY THE BOARD;
30 AND

31 (II) OTHERWISE MEETS THE REQUIREMENTS OF PARAGRAPH (1)
32 OF THIS SUBSECTION.

33 20-309.

34 EACH LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY IN THE OFFICE
35 OR OPTICAL ESTABLISHMENT OF THE LICENSEE.

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1 20-310.

2 SUBJECT TO THE HEARING PROVISIONS OF § 20-311 OF THIS SUBTITLE, THE
3 BOARD MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY LICENSEE, OR
4 SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

5 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
6 OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

7 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE; OR

8 (3) WILLFULLY VIOLATES ANY PROVISION OF THIS TITLE OR ANY
9 REGULATION ADOPTED UNDER THIS TITLE.

10 20-311.

11 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE
12 GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER §
13 20-310 OF THIS SUBTITLE, IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE
14 ACTION IS CONTEMPLATED AN OPPORTUNITY FOR THE HEARING BEFORE THE
15 BOARD.

16 (B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN
17 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

18 (C) THE INDIVIDUAL MAY BE REPRESENTED BY COUNSEL AT THE HEARING.

19 (D) IF AFTER DUE NOTICE THE INDIVIDUAL AGAINST WHOM THE ACTION IS
20 CONTEMPLATED FAILS TO APPEAR, NEVERTHELESS THE BOARD MAY HEAR AND
21 DETERMINE THE MATTER.

22 20-312.

23 ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A
24 CONTESTED CASE, AS DEFINED IN § 10-201 OF THE STATE GOVERNMENT ARTICLE,
25 MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-215 AND 10-216 OF THE STATE
26 GOVERNMENT ARTICLE.

27 SUBTITLE 4. PROHIBITED ACTS; PENALTIES.

28 20-401.

29 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY NOT
30 PRACTICE, OFFER TO PRACTICE, OR ATTEMPT TO PRACTICE AS AN OPTICIAN IN THE
31 STATE UNLESS LICENSED BY THE BOARD.

32 20-402.

33 AN OPTICIAN OR ANY OTHER PERSON NOT OTHERWISE AUTHORIZED BY LAW
34 MAY NOT MAKE, ISSUE, OR ALTER OPTICAL PRESCRIPTIONS, OR PRACTICE OCULAR
35 REFRACTION, ORTHOPTICS, OR VISUAL TRAINING, OR FIT CONTACT LENSES EXCEPT
36 ON THE PRESCRIPTION OF AN OPHTHALMOLOGIST OR OPTOMETRIST AND UNDER
37 THE DIRECTION OF AN OPHTHALMOLOGIST OR OPTOMETRIST, OR ADVERTISE OR
38 OFFER TO SO DO IN ANY MANNER.

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1 20-403.

2 A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES ANY PROVISION OF
3 THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A
4 FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

5 SUBTITLE 5. SHORT TITLE; TERMINATION OF TITLE.

6 20-501.

7 THIS TITLE IS THE MARYLAND OPTICIANS ACT.

8 20-502.

9 SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE
10 MARYLAND PROGRAM EVALUATION ACT, THIS TITLE AND ALL REGULATIONS
11 ADOPTED UNDER THIS TITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER
12 OCTOBER 1, 2007.

13 **Article - State Government**

14 8-403.

15 (P) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (E) OF THIS SECTION,
16 ON OR BEFORE OCTOBER 1, 2006, AN EVALUATION SHALL BE MADE OF THE STATE
17 BOARD OF OPTICIANS ESTABLISHED UNDER THE BUSINESS REGULATION ARTICLE
18 AND THE REGULATIONS THAT RELATE TO THE STATE BOARD OF OPTICIANS.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the terms for the initial
20 members of the State Board of Opticians shall expire as follows:

21 (1) One member in 1999;

22 (2) Two members in 2000; and

23 (3) Two members in 2001.

24 SECTION 3. AND BE IT FURTHER ENACTED, That the requirements for
25 licensure of opticians established by this Act shall take effect October 1, 1998.

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 1997.