
By: **Delegate Weldon**

Introduced and read first time: January 13, 2005

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Examiners in Optometry - Regulation of Optometric Care**

3 FOR the purpose of repealing a provision that requires the election of a treasurer by
4 the members of the State Board of Examiners in Optometry; requiring a
5 licensed optometrist to perform a certain examination and maintain certain
6 records consistent with certain standards; exempting certain optometry
7 students and certain graduates from certain licensing requirements; altering
8 certain qualifications and examination requirements for licensure; altering
9 certain licensing waiver requirements for applicants licensed in another state
10 applying for a license from the Board; requiring the Board to set continuing
11 education requirements by regulation; authorizing the Board to waive
12 continuing education requirements in documented cases of illness or other
13 undue hardship; repealing a provision that allows the Board to use certain funds
14 as matching funds; prohibiting the Board from reinstating certain expired
15 licenses unless certain requirements are met; requiring a licensed optometrist to
16 display a certain license at each location where the licensee practices optometry;
17 altering the conditions under which the Board may suspend or revoke a license
18 or reprimand a licensee; authorizing the Board to delegate certain hearing
19 duties to a certain committee; repealing a provision that requires a certain
20 Board order to be stayed in certain circumstances; repealing a certain provision
21 that relates to the choice of an ocular practitioner and the acceptance of reports
22 made by an ocular practitioner; authorizing certain optometrists to use a certain
23 title if the optometrists were certified on or before a certain date; requiring the
24 Board to set forth requirements for an optometrist's certification to administer
25 topical ocular diagnostic pharmaceutical agents in regulation; authorizing
26 certain certified licensed optometrists to administer certain agents for
27 diagnostic purposes but not for treatment; requiring the Board to collect and
28 report certain statistical information about certain adverse reactions to the
29 administration of certain agents by optometrists; altering the requirements for
30 certifying a licensed optometrist as a therapeutically certified optometrist;
31 requiring the Board to monitor the standards of quality for therapeutically
32 certified optometrists and optometric care and a peer review program; requiring
33 the Board to report to the Secretary of Health and Mental Hygiene on the
34 results of the peer review program; altering certain criminal penalties for
35 violating certain provisions of law; defining a certain term; altering certain

1 definitions; making certain stylistic changes; making certain technical changes;
2 providing for a delayed effective date for certain provisions of this Act; and
3 generally relating to the regulation of optometric care by the State Board of
4 Examiners in Optometry.

5 BY repealing and reenacting, with amendments,
6 Article - Health Occupations
7 Section 11-101, 11-202(a), 11-203, 11-301, 11-302, 11-304, 11-305, 11-307.1,
8 11-308(c), 11-309, 11-310, 11-311, 11-313, 11-315, 11-317, 11-318,
9 11-319, 11-402, 11-403, 11-404, 11-404.1, 11-404.3, 11-404.4, 11-504,
10 and 11-505
11 Annotated Code of Maryland
12 (2000 Replacement Volume and 2004 Supplement)

13 BY repealing
14 Article - Health Occupations
15 Section 11-208, 11-316, and 11-401
16 Annotated Code of Maryland
17 (2000 Replacement Volume and 2004 Supplement)

18 BY adding to
19 Article - Health Occupations
20 Section 11-208
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2004 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article - Health Occupations
25 Section 11-308(a)
26 Annotated Code of Maryland
27 (2000 Replacement Volume and 2004 Supplement)

28 BY renumbering
29 Article - Health Occupations
30 Section 11-404.2 and 11-405, respectively
31 to be Section 11-405 and 11-408, respectively
32 Annotated Code of Maryland
33 (2000 Replacement Volume and 2004 Supplement)

34 BY repealing and reenacting, with amendments,
35 Article - Health Occupations
36 Section 11-302 and 11-404
37 Annotated Code of Maryland
38 (2000 Replacement Volume and 2004 Supplement)

1 (As enacted by Section 1 of this Act)

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

4 **Article - Health Occupations**

5 11-101.

6 (a) In this title the following words have the meanings indicated.

7 (b) "Board" means the State Board of Examiners in Optometry.

8 (c) "Diagnostically certified optometrist" means a licensed optometrist who is
9 certified by the Board to administer topical ocular diagnostic pharmaceutical agents
10 to the extent permitted under [§ 11-404] § 11-403 of this title.

11 (d) "License" means, unless the context requires otherwise, a license issued by
12 the Board to practice optometry.

13 (e) "Licensed optometrist" means, unless the context requires otherwise, an
14 optometrist who is licensed by the Board to practice optometry.

15 (f) "Optometrist" means an individual who practices optometry.

16 (G) "OPTOMETRY STUDENT" MEANS AN INDIVIDUAL ENROLLED IN A SCHOOL
17 OR COLLEGE OF OPTOMETRY ACCREDITED BY AN AGENCY RECOGNIZED BY THE
18 BOARD.

19 [(g)] (H) (1) "Practice optometry" means:

20 (i) Subject to [§§ 11-404 and 11-404.2] §§ 11-403 AND 11-405 of this
21 title, to use any means known in the science of optics or eye care, except surgery:

22 1. To detect, diagnose, and subject to [§§ 11-404 and
23 11-404.2] §§ 11-403 AND 11-405 of this title, treat, subject to this title, any optical or
24 diseased condition in the human eye; or

25 2. To prescribe eyeglasses, lenses, or contact lenses to correct
26 any optical or visual condition in the human eye;

27 (ii) To give advice or direction on the fitness or adaptation of
28 eyeglasses or lenses to any individual for the correction or relief of a condition for
29 which eyeglasses or lenses are worn; or

30 (iii) To use or permit the use of any instrument, test card, [test type,
31 test eyeglasses, test lenses,] or other DIAGNOSTIC device to aid in:

32 1. [choosing] PRESCRIBING eyeglasses or lenses for an
33 individual to wear; OR

1 11-203.

2 (a) From among its members, the Board every 2 years shall elect a [president,
3 a secretary, and a treasurer] PRESIDENT AND A SECRETARY.

4 (b) The Board shall determine:

5 (1) The manner of election of officers; and

6 (2) The duties of each officer.

7 [11-208.

8 (a) A licensed optometrist shall perform a minimum optometric examination
9 which shall include:

10 (1) Reviewing a patient's history, past prescriptions and specifications
11 when available;

12 (2) Visual analysis;

13 (3) Ophthalmoscopy of internal eye;

14 (4) Tonometry without anesthetic when indicated or for a patient over 40
15 years of age;

16 (5) Muscle balance examination;

17 (6) Writing of lens formula and other prescription data when needed as
18 well as specific instructions for future care; and

19 (7) Subsequent progress evaluation when indicated.

20 (b) A licensed optometrist shall maintain thorough records of all testing
21 procedures, results, and case dispositions in accordance with § 4-403 of the Health -
22 General Article.

23 (c) A licensed optometrist shall have on hand all instrumentation and
24 equipment, in good working condition, required to carry out the procedures for the
25 minimum examination under this section.]

26 11-208.

27 A LICENSED OPTOMETRIST SHALL PERFORM AN EXAMINATION AND MAINTAIN
28 THOROUGH RECORDS CONSISTENT WITH CURRENT PROFESSIONAL STANDARDS FOR
29 THE PRACTICE OF OPTOMETRY.

30 11-301.

31 (a) Except as otherwise provided in this title, an individual shall be licensed
32 by the Board before the individual may practice optometry in this State.

1 (b) This section does not apply to [a student while participating in a residency
2 training program under the direct supervision of a licensed optometrist]:

3 (1) AN OPTOMETRY STUDENT WHILE PARTICIPATING IN A TRAINING
4 PROGRAM UNDER THE DIRECT SUPERVISION OF A LICENSED OPTOMETRIST; OR

5 (2) A GRADUATE:

6 (I) OF AN ACCREDITED OPTOMETRIC SCHOOL WHO IS AWAITING
7 THE RESULTS OF A LICENSING EXAMINATION TAKEN WITHIN THE PRECEDING 6
8 MONTHS; AND

9 (II) WHO IS DIRECTLY SUPERVISED BY A LICENSED OPTOMETRIST
10 OR A LICENSED PHYSICIAN.

11 11-302.

12 (a) To qualify for a license, an applicant shall be an individual who meets the
13 requirements of this section.

14 (b) The applicant shall be of good moral character.

15 (c) The applicant shall be at least 18 years old.

16 (d) [(1)] The applicant shall submit to the Board satisfactory evidence of
17 [scholastic and professional education that is at least equal to the current standards
18 set by the Board. However, an applicant who is licensed to practice optometry in any
19 other state shall submit satisfactory evidence of scholastic and professional education
20 that is at least equal to the standards set by the Board at the time of the applicant's
21 completion of scholastic and professional education] GRADUATION FROM AN
22 OPTOMETRIC SCHOOL OR COLLEGE THAT HAS BEEN ACCREDITED BY AN AGENCY
23 APPROVED BY THE BOARD.

24 [(2)] On written request, the Board shall provide information as to the
25 current scholastic and professional education standards that the Board sets. In the
26 case of an out-of-state applicant the Board shall provide information on the
27 educational and professional standards in effect at the time of an applicant's
28 completion of scholastic and professional education.]

29 (e) Except as otherwise provided in this subtitle, the applicant shall pass an
30 examination [given] APPROVED by the Board under this subtitle.

31 11-304.

32 (a) An applicant who otherwise qualifies for a license is entitled to be
33 examined as provided in this section.

34 [(b)] Periodically, but not more often than once every 6 months, the Board shall
35 give examinations to applicants at the times and places that the Board determines.

1 (c) The Board shall notify each qualified applicant of the time and place of
2 examination.

3 (d) (1) Except as otherwise provided in this subsection, the Board shall
4 determine the subjects, scope, form, and passing score for examinations administered
5 under this subtitle.

6 (2) The subjects examined shall include:

7 (i) The anatomy, physiology, and pathology of the human eye; and

8 (ii) The use of all instruments used for examination of the human
9 eye.

10 (3) The examination may include any subject that relates to optics and
11 optometry:

12 (i) Contained in any textbook; or

13 (ii) Taught at any accredited educational institution that teaches
14 optics, optometry, and other related subjects.

15 (e) (1) An applicant who fails the examination may take the next regularly
16 scheduled examination.

17 (2) The applicant shall pay to the Board a reexamination fee set by the
18 Board for each reexamination.]

19 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE APPLICANT
20 SHALL PASS AN EXAMINATION:

21 (1) ADMINISTERED BY AN AGENCY APPROVED BY THE BOARD; OR

22 (2) APPROVED BY THE BOARD.

23 (C) THE BOARD SHALL:

24 (1) REQUIRE ALL APPLICANTS TO PASS AN EXAMINATION OF
25 APPLICABLE MARYLAND LAW BEFORE ISSUANCE OF A LICENSE; AND

26 (2) DETERMINE SCOPE, FORM, AND PASSING SCORE FOR THE
27 MARYLAND LAW EXAMINATION.

28 11-305.

29 (a) Subject to the provisions of this section, the Board may [waive the
30 examination requirements of this title for] LICENSE an individual who is licensed to
31 practice optometry in any other state.

32 (b) The Board may [grant a waiver] LICENSE AN INDIVIDUAL WHO IS
33 LICENSED IN ANOTHER STATE under this section only if the applicant:

1 (1) Pays the application fee required by the Board under § 11-303 of this
2 subtitle; AND

3 (2) Provides [adequate] SUFFICIENT evidence that the applicant:

4 (i) Meets the qualifications otherwise required by this title,
5 [including, for 3 years before applying,] INCLUDING the continuing education
6 requirements of the [other state in which the applicant has been practicing
7 optometry, or, if the other state does not have any continuing education requirement,
8 the applicant shall meet the equivalent of 3 years of the continuing education
9 requirements of this subtitle in courses approved by the] Board;

10 (ii) Meets the terms and conditions that the Board establishes in
11 subsections (c) and (d) of this section;

12 (iii) [At the time the applicant was licensed in the other state, was
13 qualified to take the examination that then was required by the laws of this State]
14 QUALIFIED FOR A LICENSE IN ANOTHER STATE BY PASSING AN EXAMINATION THAT
15 IS EQUIVALENT TO THE EXAMINATION APPROVED BY THE BOARD; and

16 (iv) [Qualified for a license in the other state by passing an
17 examination given by the board of optometry in that state;

18 (3) Presents a copy of the license, certified by the issuing board; and

19 (4) Has not failed an examination given by the Board within the previous
20 5 years] IS ACTIVELY PRACTICING OPTOMETRY AT THE TIME OF APPLICATION.

21 (c) [(1) The Board may waive the examination requirements of this subtitle
22 for an applicant who:

23 (i) If so required by the Board under subsection (d) of this section,
24 passes an examination administered by the Board; and

25 (ii) For 3 years immediately before applying, has practiced
26 optometry actively.

27 (2)] The Board may waive the requirement of practicing optometry
28 actively for an applicant who [for 3 years] AT THE TIME OF APPLICATION:

29 [(i) (1) [Was] IS teaching optometry; OR

30 [(ii) (2) [Was] IS a military optometrist[;

31 [(iii) Was a supervisor or administrative optometrist; or

32 [(iv) Was a researcher in optometry].

33 [(d) (1) Within 1 year of receipt of an application, the Board may require that
34 the applicant pass an examination.

1 (2) The Board shall determine the scope, form, and passing score for
2 examinations under this section.]

3 11-307.1.

4 (a) An applicant for a limited license shall submit to the Board:

5 (1) An application on the form the Board requires; [and]

6 (2) A written confirmation of participation from the institution in which
7 the applicant intends to participate in a postgraduate teaching, research, or training
8 program;

9 (3) THE LIMITED LICENSE FEE SET BY THE BOARD; AND

10 (4) PROOF OF AN ACTIVE LICENSE TO PRACTICE OPTOMETRY IN
11 ANOTHER STATE.

12 (b) The Board may waive the examination requirements of this subtitle and
13 issue a limited license to practice optometry to an individual who:

14 (1) IS LICENSED TO PRACTICE OPTOMETRY IN ANOTHER STATE AT THE
15 TIME OF APPLICATION;

16 [(1)] (2) Is [qualified for] ENGAGED IN a postgraduate teaching,
17 research, or training position; AND

18 [(2)] (3) Is applying to participate in a postgraduate teaching, research,
19 or training program approved by the Board under this subsection[;

20 (3) Is eligible to sit for the Maryland licensure examination;

21 (4) Is licensed, at the time of application, to practice optometry in
22 another state; and

23 (5) Pays the fee set by the Board].

24 (c) A limited license authorizes the licensee for 1 year to practice optometry
25 only:

26 (1) At the institution that has been approved by the Board and is
27 designated on the individual's license;

28 (2) At other institutions that are affiliated with the designated
29 institution; and

30 (3) On the patients of the designated institution or its affiliates.

31 (d) The Board may renew a limited license once for an additional 1-year term
32 if the holder:

- 1 (1) Otherwise meets the requirements of this section;
- 2 (2) Submits a renewal application to the Board on the form that the
3 Board requires; and
- 4 (3) Pays to the Board the limited license renewal fee set by the Board.

5 11-308.

6 (a) A license expires on the date set by the Board, unless the license is
7 renewed for an additional term as provided in this section. A license may not be
8 renewed for a term longer than 2 years.

9 (c) Before the license expires, a licensee periodically may renew it for an
10 additional 2-year term, if the licensee:

- 11 (1) Otherwise is entitled to be licensed;
- 12 (2) Pays to the Board a renewal fee set by the Board; and
- 13 (3) Submits to the Board:
- 14 (i) A renewal application on the form that the Board requires; and
- 15 (ii) Satisfactory evidence of compliance with the continuing
16 education requirements set [under this subtitle for license renewal] BY THE BOARD.
17 11-309.

18 (a) In addition to any other qualifications and requirements established by
19 the Board, the Board shall establish BY REGULATION continuing education
20 requirements as a condition to the renewal of licenses and certificates under this title.

21 [(b) (1) The continuing education required by the Board shall be in courses
22 approved by the Board.

23 (2) The Board may not require a nontherapeutically certified optometrist
24 to attend more than 50 hours in any licensing period.

25 (3) The Board shall require a therapeutically certified optometrist to
26 attend at least 50 hours of continuing education in a licensing period.

27 (4) (i) In each licensing period, a therapeutically certified optometrist
28 shall attend 30 hours of continuing education on the use and management of
29 therapeutic pharmaceutical agents.

30 (ii) The 30 hours of continuing education required under
31 subparagraph (i) of this paragraph shall be counted toward the total number of
32 required hours of continuing education in a licensing period.

1 (c) At the time a licensee applies for license renewal, the licensee shall submit
2 to the Board, on a form provided by the Board, a certification that the licensee has
3 attended the required courses.

4 (d) The Board may refuse to renew the license of a licensee who has failed:

5 (1) To attend the required courses; or

6 (2) To submit certification of attendance at the required courses.

7 (e)] (B) The Board may waive the continuing education requirements in
8 DOCUMENTED cases of illness or other undue hardship on the licensee.

9 [(f) The Board may use any funds allocated to it for continuing education as
10 State funds to match federal funds for providing continuing education.]

11 11-310.

12 (a) (1) The Board shall place a licensee on inactive status, if the licensee
13 submits to the Board:

14 (i) An application for inactive status on the form required by the
15 Board; and

16 (ii) The inactive status fee set by the Board.

17 (2) The Board shall issue a license to an individual who is on inactive
18 status if the individual:

19 (i) Meets any continuing education requirements set by the Board;
20 and

21 (ii) Pays to the Board the reinstatement fee set by the Board.

22 (b) The Board may reinstate the license of an optometrist whose license has
23 been expired for less than 5 years and who has not been put on inactive status, if the
24 optometrist:

25 (1) Has met the continuing education requirements set by the Board;

26 (2) Meets the renewal requirements of § 11-308 of this subtitle; and

27 (3) Pays to the Board the reinstatement fee set by the Board.

28 (c) The Board may not reinstate the license of an optometrist whose license
29 has been expired for 5 years or more and who has not been put on inactive status,
30 unless the optometrist:

31 (1) [Passes an examination administered by the Board; and

1 (2) Otherwise meets the requirements of subsection (b) of this section]
2 SUCCESSFULLY COMPLETES CONTINUING EDUCATION REQUIREMENTS SET BY THE
3 BOARD;

4 (2) COMPLETES A PERIOD OF SUPERVISED PRACTICE APPROVED BY THE
5 BOARD; AND

6 (3) PAYS TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

7 11-311.

8 [(a) Each licensee shall display the license OR A COPY OF THE LICENSE
9 conspicuously [in the office of the licensee] AT EACH LOCATION WHERE THE
10 LICENSEE PRACTICES OPTOMETRY.

11 [(b) A licensee practicing optometry away from the licensee's office shall give to
12 the patient a statement that contains the licensee's home address, license number,
13 and signature.]

14 11-313.

15 Subject to the hearing provisions of § 11-315 of this subtitle, the Board, on the
16 affirmative vote of a majority of its members then serving, may deny a license to any
17 applicant, reprimand any licensee, place any licensee on probation, or suspend or
18 revoke a license if the applicant or licensee:

19 (1) Fraudulently or deceptively obtains or attempts to obtain a license
20 for the applicant or licensee or for another;

21 (2) Fraudulently or deceptively uses a license;

22 (3) Is convicted of or pleads guilty or nolo contendere to a felony or to a
23 crime involving moral turpitude, whether or not any appeal or other proceeding is
24 pending to have the conviction or plea set aside;

25 (4) Abandons a patient;

26 (5) Provides professional services while:

27 (i) Under the influence of alcohol; or

28 (ii) Using any narcotic or controlled dangerous substance, as
29 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
30 therapeutic amounts or without valid medical indication;

31 (6) Promotes the sale of devices, appliances, or goods to a patient so as to
32 exploit the patient for financial gain;

33 (7) [Willfully] KNOWINGLY makes or files a false report or record in the
34 practice of optometry;

- 1 (8) [Willfully] KNOWINGLY fails to file or record any optometric report
2 as required by law;
- 3 (9) [Willfully] KNOWINGLY impedes or obstructs the filing or recording
4 of any optometric report as required by law;
- 5 (10) [Willfully] KNOWINGLY induces another to fail to file or record any
6 optometric report as required by law;
- 7 (11) Fails to provide details of the optometric record of a patient to a
8 physician or another optometrist on proper request by the patient;
- 9 (12) [Employs another person as a solicitor of business] FAILS TO
10 MAINTAIN ADEQUATE PATIENT RECORDS;
- 11 (13) Splits or agrees to split a fee for optometric services with any person
12 for bringing or referring a patient;
- 13 (14) Makes a willful misrepresentation in treatment;
- 14 (15) Aids an unauthorized person in the practice of optometry;
- 15 (16) [Grossly and willfully:
- 16 (i) Overcharges for optometric services; or
- 17 (ii) Submits] KNOWINGLY SUBMITS false statements to collect fees
18 for which services are not provided;
- 19 (17) Behaves immorally in the practice of optometry;
- 20 (18) Is professionally, physically or mentally incompetent;
- 21 (19) Advertises OR SOLICITS in a false or misleading manner;
- 22 (20) Has had a license to practice optometry denied, suspended or revoked
23 in another state for an act which would be grounds for disciplinary action under this
24 section;
- 25 (21) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY, BY
26 ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES, OR BY THE U.S.
27 DEPARTMENT OF VETERANS AFFAIRS OR CONVICTED BY A COURT OF ANY STATE OR
28 COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION
29 UNDER THIS SECTION;
- 30 [(21)] (22) [Has violated] VIOLATES any provision of this title;
- 31 [(22)] (23) Violates any rule or regulation adopted by the Board;
- 32 [(23)] (24) Commits an act of unprofessional conduct in the practice of
33 optometry;

1 [(24)] (25) Refuses, withholds from, denies, or discriminates against an
2 individual with regard to the provision of professional services for which the licensee
3 is licensed and qualified to render because the individual is HIV positive;

4 [(25)] (26) [Willfully] KNOWINGLY engages in conduct that is likely to
5 deceive, defraud, or harm the public;

6 [(26)] (27) Knowingly fails to report suspected child abuse in violation of
7 § 5-704 of the Family Law Article; [or]

8 [(27)] (28) Engages in conduct which [exhibits an inappropriate
9 standard of care] IS INCONSISTENT WITH PROFESSIONAL STANDARDS FOR THE
10 PRACTICE OF OPTOMETRY;

11 (29) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED
12 BY THE BOARD;

13 (30) WAS SUBJECT TO AN INVESTIGATION OR DISCIPLINARY ACTION BY A
14 LICENSING OR DISCIPLINARY AUTHORITY OR WAS CONVICTED BY A COURT OF ANY
15 STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY
16 ACTION UNDER THIS SECTION AND THE LICENSEE:

17 (I) SURRENDERED THE LICENSE ISSUED BY THE STATE OR
18 COUNTRY TO THE STATE OR COUNTRY; OR

19 (II) ALLOWED THE LICENSE ISSUED BY THE STATE OR COUNTRY TO
20 EXPIRE OR LAPSE;

21 (31) ADMINISTERS DIAGNOSTIC PHARMACEUTICAL AGENTS WITHOUT
22 PROPER CERTIFICATION; OR

23 (32) ADMINISTERS OR PRESCRIBES THERAPEUTIC PHARMACEUTICAL
24 AGENTS INCLUDING COMANAGEMENT OF GLAUCOMA WITHOUT PROPER
25 CERTIFICATION.

26 11-315.

27 (a) Except as otherwise provided in the Administrative Procedure Act, before
28 the Board takes any action under § 11-313 of this subtitle, it shall give the licensee
29 against whom the action is contemplated an opportunity for a hearing before the
30 Board.

31 (b) The Board shall give notice and hold the hearing in accordance with the
32 Administrative Procedure Act.

33 (c) The individual may be represented at the hearing by counsel.

34 (D) (1) IN ADDITION TO ANY DELEGATION AUTHORITY PROVIDED IN § 10-205
35 OF THE STATE GOVERNMENT ARTICLE, THE PRESIDENT OF THE BOARD MAY

1 DELEGATE AUTHORITY TO CONDUCT A HEARING TO A COMMITTEE CONSISTING OF
2 THREE OR MORE BOARD MEMBERS.

3 (2) THE COMMITTEE SHALL:

4 (I) HOLD AN EVIDENTIARY HEARING; AND

5 (II) RECOMMEND A DECISION FOR CONSIDERATION BY A QUORUM
6 OF THE BOARD, WHICH MAY INCLUDE MEMBERS OF THE COMMITTEE.

7 (3) THE COMMITTEE SHALL GIVE EACH PARTY NOTICE OF THE
8 OPPORTUNITY TO FILE EXCEPTIONS AND PRESENT ARGUMENT TO THE BOARD
9 REGARDING THE RECOMMENDATION OF THE COMMITTEE.

10 [(d)] (E) The Board may issue subpoenas in connection with any
11 investigation of charges under § 11-313 of this subtitle or proceeding under this
12 section.

13 [(e)] (F) If after due notice the individual against whom the action is
14 contemplated fails or refuses to appear, nevertheless the Board may hear and
15 determine the matter.

16 [11-316.

17 (a) If the Board finds that there are grounds under § 11-313 of this subtitle for
18 action, the Board shall pass an order in accordance with the Administrative
19 Procedure Act.

20 (b) If the Board finds that there are no grounds under § 11-313 of this subtitle
21 for action, the Board:

22 (1) Immediately shall dismiss the charges and exonerate the licensee;

23 (2) Shall expunge all records that relate to the charges; and

24 (3) May not take any further action on the charges.]

25 [11-317.] 11-316.

26 (a) The Board shall include in any order of suspension or revocation the
27 specific terms and conditions of the suspension or revocation.

28 (b) [Except as provided in § 11-318(c) of this subtitle for a stay pending
29 review, when] WHEN the Board files an order of suspension or revocation, it is
30 effective, in accordance with its terms and conditions, immediately.

31 (c) The Board shall keep a copy of each order of suspension or revocation as a
32 permanent record.

1 [11-318.] 11-317.

2 (a) Except as provided in this section for an action under § 11-313 of this
3 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
4 defined in the Administrative Procedure Act, may:

5 (1) Appeal that decision to the Board of Review; and

6 (2) Then take any further appeal allowed by the Administrative
7 Procedure Act.

8 (b) (1) Any person aggrieved by a final decision of the Board under § 11-313
9 of this subtitle may not appeal to the Secretary or Board of Review but may take a
10 direct judicial appeal.

11 (2) The appeal shall be made as provided for judicial review of final
12 decisions in the Administrative Procedure Act.

13 [(c) If an optometrist seeks judicial review of an order of suspension or
14 revocation by the Board, the order shall be stayed until the optometrist's judicial
15 remedies are exhausted.]

16 [11-319.] 11-318.

17 The Board may reinstate the license of any individual whose license has been
18 suspended or revoked under this title only in accordance with:

19 (1) The terms and conditions of the order of suspension or revocation;

20 (2) An order of reinstatement issued by the Board; or

21 (3) A final judgment in any proceeding for review.

22 [11-401.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) "Governmental unit" means any board, commission, authority,
25 department, or other administrative agency of this State, a county, or a municipality.

26 (3) "Ocular practitioner" means any practitioner who is authorized to
27 provide services within the scope of optometry.

28 (b) (1) Except as provided in this subsection, a governmental unit may not
29 interfere with the complete freedom of the public to choose any ocular practitioner.

30 (2) A governmental unit may make an agreement under which an ocular
31 practitioner is to provide optometric services to the employees of a governmental unit.

32 (c) A governmental unit shall honor and accept any report, statement, or
33 service made or provided by a licensed optometrist within the scope of optometry to

1 the same extent as if the report, statement, or service was made or provided by a
2 physician.]

3 [11-402.] 11-401.

4 (a) If, while providing optometric services to a patient, an optometrist or
5 diagnostically certified optometrist detects or diagnoses an active eye pathology
6 which the optometrist is not licensed or certified to treat under [§ 11-404 or §
7 11-404.2] § 11-403 OR § 11-405 of this subtitle, the optometrist shall refer the patient
8 to:

9 (1) An ophthalmologist or a therapeutically certified optometrist, as
10 appropriate;

11 (2) The patient's physician;

12 (3) A physician if required under a managed care contract; or

13 (4) A hospital emergency room or ambulatory surgical center if
14 necessary.

15 (b) If, while providing optometric services to a patient, a therapeutically
16 certified optometrist diagnoses an active eye pathology that the optometrist is not
17 certified to treat under [§ 11-404.2] § 11-405 of this subtitle, the optometrist shall
18 refer the patient to:

19 (1) An ophthalmologist;

20 (2) The patient's physician;

21 (3) A physician if required under a managed care contract; or

22 (4) A hospital emergency room if necessary.

23 [11-403.] 11-402.

24 (a) A licensed optometrist may:

25 (1) Use the title "optometrist";

26 (2) If the optometrist holds the degree of doctor of [optics or doctor of]
27 optometry from [a] AN ACCREDITED college or university [authorized to give the
28 degree], use the title "Doctor" or the abbreviations "Dr." WITH THE DESIGNATION
29 "OPTOMETRIST" or "O.D." with the optometrist's name;

30 (3) If the optometrist is certified under [§ 11-404] § 11-403 of this
31 subtitle ON OR BEFORE OCTOBER 1, 2006, use the title "diagnostically certified
32 optometrist"; and

33 (4) If the optometrist is certified under [§ 11-404.1] § 11-404 of this
34 subtitle, use the title "therapeutically certified optometrist".

1 (b) Except as otherwise provided in this section, a licensed optometrist may
2 not attach to the optometrist's name or use as a title[:

3 (1) The] THE words or abbreviations ["Doctor", "Dr.,"] "M.D.",
4 "physician", [or] "surgeon", or [any other word or abbreviation that suggests that the
5 optometrist practices medicine; or

6 (2) Any word or abbreviation that suggests that the optometrist treats
7 diseases or injuries of the human eye, including the words "eye specialist", "eyesight
8 specialist", "oculist", or] "ophthalmologist".

9 [11-404.] 11-403.

10 (a) Unless certified under this section, a licensed optometrist may not
11 administer a topical ocular diagnostic pharmaceutical agent to a patient.

12 (b) The Board shall certify a licensed optometrist as qualified to administer
13 topical ocular diagnostic pharmaceutical agents if the licensed optometrist submits to
14 the Board evidence satisfactory to the Board that the licensed optometrist[:

15 (1) Meets the educational requirements that the Board establishes for
16 certification of qualification to administer topical ocular diagnostic pharmaceutical
17 agents; and

18 (2) Has within 7 years before certification completed a course in
19 pharmacology that meets the requirements of subsection (c) of this section.

20 (c) The course in pharmacology required by subsection (b) of this section shall:

21 (1) Be of at least the length that the Board establishes but not less than
22 70 course hours;

23 (2) Place emphasis on:

24 (i) Topical application of ocular diagnostic pharmaceutical agents
25 for the purpose of examining and analyzing ocular functions; and

26 (ii) Allergic reactions to ocular diagnostic pharmaceutical agents;
27 and

28 (3) Be given by an institution that is:

29 (i) Accredited by a regional or professional accrediting
30 organization that is recognized or approved by the United States Commissioner of
31 Education; and

32 (ii) Approved by the Board.

33 (d) The Board shall revoke the certification of qualification to administer
34 topical ocular diagnostic pharmaceutical agents of any licensed optometrist who does

1 not annually take a course of study, approved by the Board, that relates to the use of
2 those agents.

3 (e) Certification of qualification under this section authorizes the] HAS MET
4 THE REQUIREMENTS SET FORTH IN REGULATION.

5 (C) THE licensed optometrist who is certified under this section IS
6 AUTHORIZED to administer a topical ocular diagnostic pharmaceutical agent to a
7 patient for diagnostic purposes but not for purposes of treatment.

8 [(f)] (D) Except as expressly authorized under this section for diagnostic
9 purposes or under [§ 11-404.1] § 11-404 of this subtitle for therapeutic purposes, an
10 optometrist may not administer drugs or medicine to any patient.

11 [(g)] (E) The [Department] BOARD shall collect and report statistical
12 information on the incidences of [negative] ADVERSE reactions to the administration
13 [by optometrists] of topical ocular diagnostic pharmaceutical agents BY
14 OPTOMETRISTS.

15 [11-404.1.] 11-404.

16 (a) Unless certified under this section, a licensed optometrist may not
17 administer or prescribe any therapeutic pharmaceutical agents or remove superficial
18 foreign bodies from a human eye, adnexa, or lacrimal system.

19 (b) [(1) Except as provided in paragraph (2) of this subsection, the] THE
20 Board shall certify a licensed optometrist as a therapeutically certified optometrist if
21 the licensed optometrist submits to the Board evidence satisfactory to the Board that
22 the licensed optometrist:

23 [(i) Has successfully completed at least 110 hours of a therapeutic
24 pharmaceutical agents course approved by the Board;

25 [(ii)] (1) (I) Has successfully passed a pharmacology
26 examination relating to the treatment and management of ocular disease, which is
27 [prepared, administered, and graded] ADMINISTERED by the [National Board of
28 Examiners in Optometry or any other nationally recognized optometric organization
29 as approved by the Secretary] BOARD OR AN AGENCY APPROVED BY THE BOARD; and

30 (II) HAS A CURRENT CPR CERTIFICATION; AND

31 [(iii) Is currently certified by the Board to administer topical ocular
32 diagnostic pharmaceutical agents under § 11-404 of this subtitle.

33 (2) (i) Except as provided in subparagraph (ii) of this paragraph, an
34 optometrist who has graduated on or after July 1, 1992 from an accredited school of
35 optometry recognized by the Board is not subject to the requirements of paragraph (1)
36 of this subsection.

1 (ii) If an optometrist who has graduated on or after July 1, 1992
 2 from an accredited school of optometry recognized by the Board is not certified under
 3 this section within 3 years of graduation, the optometrist shall successfully complete
 4 a therapeutic pharmaceutical agents course and successfully pass a pharmacology
 5 exam under paragraph (1) of this subsection before the Board may certify the
 6 optometrist.]

7 (2) (I) HAS APPLIED FOR A THERAPEUTIC LICENSE WITHIN 3 YEARS
 8 OF GRADUATION FROM AN ACCREDITED SCHOOL OR COLLEGE OF OPTOMETRY;

9 (II) HAS SUCCESSFULLY COMPLETED AT LEAST 110 HOURS OF
 10 CONTINUING EDUCATION IN THE TREATMENT AND MANAGEMENT OF OCULAR
 11 DISEASE RECOGNIZED BY THE BOARD WITHIN 3 YEARS OF APPLICATION; OR

12 (III) 1. HAS AN ACTIVE LICENSE FOR THERAPEUTIC OPTOMETRY;

13 2. HAS BEEN PRACTICING ACTIVELY IN ANOTHER STATE
 14 IMMEDIATELY BEFORE SUBMITTING AN APPLICATION; AND

15 3. MEETS THE CURRENT THERAPEUTIC CONTINUING
 16 EDUCATION REQUIREMENTS OF THE BOARD FOR THERAPEUTIC CERTIFICATION.

17 [11-404.3.] 11-406.

18 (a) [The Maryland Optometric Association and the Maryland Society of Eye
 19 Physicians and Surgeons shall recommend to the Secretary quality assurance
 20 guidelines for therapeutically certified optometrists and optometric care.

21 (b) (1) After considering the recommendations of the Maryland Optometric
 22 Association and the Maryland Society of Eye Physicians and Surgeons, the Secretary
 23 shall adopt regulations that establish:

24 (i)] THE BOARD SHALL MONITOR:

25 (1) Standards of quality for therapeutically certified optometrists and
 26 optometric care;

27 [(ii)] (2) An ongoing quality assurance AND PEER REVIEW
 28 program that includes the monitoring and study of the joint management of primary
 29 open-angle glaucoma patients under [§ 11-404.2(c)] § 11-405(C) of this subtitle; AND

30 [(iii)] A program to evaluate the cost of optometric care; and

31 [(iv)] (3) A plan to monitor complaint investigation.

32 [(2) The regulations shall require the Board to:]

33 (B) THE BOARD SHALL:

34 [(i)] (1) Conduct a continuing study and investigation of
 35 therapeutically certified optometrists to ensure the quality of care they provide; and

1 [(ii) (2) Report to the Secretary, as the Secretary requires, on the
2 results of the Board's [study and investigation] PEER REVIEW PROGRAM.

3 [(3) The Board's study and investigation shall include:

4 (i) A peer review program; and

5 (ii) A review of patient optometric records that includes the
6 collection and evaluation of data on the drugs being prescribed and administered and
7 the appropriateness of treatment by therapeutically certified optometrists.]

8 [11-404.4.] 11-407.

9 (a) (1) In this section the following words have the meanings indicated.

10 (2) "Replacement contact lens prescription" means a prescription
11 prepared by a licensed optometrist containing the information specified in this section
12 and written expressly for the purpose of providing lenses which have already been
13 properly fitted.

14 (3) "Immediate follow-up care" is that period of contact lens fitting time
15 required to reach a contact lens prescription that is appropriate to the documented
16 clinical needs of the patient.

17 (b) A licensed optometrist shall ensure that each replacement contact lens
18 prescription that the licensed optometrist prescribes for contact lenses:

19 (1) Contains all the information necessary for the replacement contact
20 lens prescription to be properly dispensed, including but not limited to the:

21 (i) Lens manufacturer;

22 (ii) Type of lens;

23 (iii) Power of the lens, including plano or zero-powered contact
24 lenses;

25 (iv) Base curve;

26 (v) Lens size;

27 (vi) Name of the patient;

28 (vii) Date the prescription was given to the patient;

29 (viii) Name and office location of the licensed optometrist who
30 writes the replacement contact lens prescription; and

31 (ix) Expiration date of the replacement contact lens prescription;
32 and

1 (2) Is reduced to writing and placed in the patient's permanent file.

2 (c) (1) (i) After a licensed optometrist releases the patient from
3 immediate follow-up care, the patient may request the replacement contact lens
4 prescription from the licensed optometrist.

5 (ii) If, after examination, the patient's prescription has not changed
6 since the last examination, a licensed optometrist shall comply with the provisions of
7 paragraph (2) of this subsection without requiring the patient to purchase contact
8 lenses or to undergo immediate follow-up care.

9 (2) (i) Upon the request of a patient of a licensed optometrist, and
10 without cost to the patient, the licensed optometrist shall provide the patient's
11 replacement contact lens prescription to the patient or the patient's designee.

12 (ii) In responding to a request under paragraph (1)(i) of this
13 subsection, a licensed optometrist shall transmit the contact lens prescription by
14 mail, telephone, facsimile, [e-mail] ELECTRONIC MAIL, or any other means of
15 communication that will, under normal circumstances, result in the designee
16 receiving the information within 7 business days after the patient's request.

17 (iii) The replacement contact lens prescription that the licensed
18 optometrist provides the patient under subparagraph (i) of this paragraph:

19 1. Shall contain the information necessary for the proper
20 duplication of the current prescription of the patient;

21 2. Shall contain, subject to the provisions of subsection (d) of
22 this section, an expiration date for the replacement contact lens prescription of not
23 more than 24 months from the time the patient was first examined; and

24 3. May contain wearing guidelines or specific instructions for
25 use of the contact lenses by the patient, or both.

26 (d) The licensed optometrist shall enter into the patient's medical record the
27 valid clinical reasons for a shorter expiration date and shall provide the patient with
28 a written and oral explanation of the clinical reasons for a shorter expiration date.

29 (e) When a patient's prescription is dispensed by a person other than the
30 licensed optometrist or a person associated directly or indirectly with the licensed
31 optometrist, the licensed optometrist is not liable for any injury to or condition of a
32 patient caused solely by the negligence of the dispenser.

33 (f) A licensed optometrist who releases a replacement contact lens
34 prescription to a patient may provide the patient with a written statement that
35 wearing improperly fitted contact lenses may cause harm to the patient's eyes and
36 that the patient should have an eye examination if there are any changes in the
37 patient's vision, including pain or vision loss.

1 (g) (1) A licensed optometrist who fills or provides a contact lens
2 prescription shall maintain a record of that prescription in accordance with § 4-403 of
3 the Health - General Article.

4 (2) A person other than a licensed optometrist who fills a contact lens
5 prescription shall maintain a record of that prescription for 5 years.

6 (h) The Board may impose a civil fine of no more than [\$1,000] \$5,000 on a
7 licensed optometrist who fails to provide a replacement contact lens prescription or
8 who [knowingly] dispenses contact lenses without a valid and unexpired replacement
9 contact lens prescription, or who otherwise fails to comply with this title.

10 11-504.

11 (a) Knowingly selling or dispensing contact lenses or replacement contact
12 lenses without a valid and unexpired prescription or replacement contact lens
13 prescription shall be considered a violation of this title.

14 (b) The Board shall investigate any alleged violation of this section or [§
15 11-404.4] § 11-407 of this title and may, notwithstanding § 11-205 of this title:

16 (1) Issue subpoenas, administer oaths, and examine witnesses; and

17 (2) Enforce any provision of this title by injunction or other appropriate
18 proceedings.

19 (c) An action under this section is in addition to and not instead of criminal
20 prosecution under § 11-505 of this subtitle.

21 11-505.

22 A person who violates any provision of this title is guilty of a misdemeanor and
23 on conviction is subject to a fine not exceeding [\$500] \$5,000 or imprisonment not
24 exceeding [6 months] 3 YEARS or both.

25 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 11-404.2 and
26 11-405, respectively, of Article - Health Occupations of the Annotated Code of
27 Maryland be renumbered to be Section(s) 11-405 and 11-408, respectively.

28 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
29 read as follows:

30 **Article - Health Occupations**

31 11-302.

32 (a) To qualify for a license, an applicant shall be an individual who meets the
33 requirements of this section.

34 (b) The applicant shall be of good moral character.

1 (c) The applicant shall be at least 18 years old.

2 (d) The applicant shall submit to the Board satisfactory evidence of
3 graduation from an optometric school or college that has been accredited by an agency
4 approved by the Board.

5 (E) THE APPLICANT SHALL BE CERTIFIED AS A THERAPEUTICALLY
6 CERTIFIED OPTOMETRIST UNDER § 11-404 OF THIS TITLE.

7 [(e)] (F) Except as otherwise provided in this subtitle, the applicant shall pass
8 an examination approved by the Board under this subtitle.

9 11-404.

10 (a) Unless certified under this section, a licensed optometrist may not
11 administer or prescribe any therapeutic pharmaceutical agents or remove superficial
12 foreign bodies from a human eye, adnexa, or lacrimal system.

13 (b) The Board shall certify [a licensed] AN optometrist as a therapeutically
14 certified optometrist if the [licensed] optometrist submits to the Board evidence
15 satisfactory to the Board that the [licensed] optometrist:

16 (1) (i) Has successfully passed a pharmacology examination relating
17 to the treatment and management of ocular disease, which is administered by the
18 Board or an agency approved by the Board; and

19 (ii) Has a current CPR certification; and

20 (2) (i) Has applied for a therapeutic license within 3 years of
21 graduation from an accredited school or college of optometry;

22 (ii) Has successfully completed at least 110 hours of continuing
23 education in the treatment and management of ocular disease recognized by the
24 Board within 3 years of application; or

25 (iii) 1. Has an active license for therapeutic optometry;

26 2. Has been practicing actively in another state immediately
27 before submitting an application; and

28 3. Meets the current therapeutic continuing education
29 requirements of the Board for therapeutic certification.

30 SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act
31 shall take effect October 1, 2007.

32 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
33 Section 4 of this Act, this Act shall take effect October 1, 2005.