

NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 800  
SENATE BILL 844

AN ACT TO REVISE ARTICLE 6, CHAPTER 90 OF THE GENERAL STATUTES,  
RELATING TO THE POWERS AND DUTIES OF THE NORTH CAROLINA STATE  
BOARD OF EXAMINERS IN OPTOMETRY.

The General Assembly of North Carolina enacts:

**Section. 1.** G.S. 90-117 is rewritten to read as follows:

"§ 90-117. **Officers; common seal** — The North Carolina State Board of Examiners in Optometry shall, at each annual meeting thereof, elect one of its members president and one secretary-treasurer. The common seal which has already been adopted by said Board, pursuant to law, shall be continued as the seal of said Board."

**Sec. 2.** There is hereby written a new section to be numbered G.S. 90-117.1 and to read as follows:

"§ 90-117.1. **Quorum; adjourned meetings.** — Three members of said Board shall constitute a quorum for the transaction of business and at any meeting of the Board; if three members are not present at the time and the place appointed for the meeting, those members of the Board present may adjourn from day to day until a quorum is present, and the action of the Board taken at any adjourned meeting thus had shall have the same force and effect as if had upon the day and at the hour of the meeting called and adjourned from day to day."

**Sec. 3.** There is hereby written a new section to be numbered G.S. 90-117.2 and to read as follows:

"§ 90-117.2. **Records and transcripts.** — The said Board shall keep a record of its transactions at all annual or special meetings and shall provide a record book in which shall be entered the names and proficiency of all persons to whom licenses may be granted under the provisions of law. The said book shall show, also, the license number and the date upon which such license was issued and shall show such other matters as in the opinion of the Board may be necessary or proper. Said book shall be deemed a book of record of said Board and a transcript of any entry therein or a certification that there is not entered therein the name, proficiency and license number or date of granting such license, certified under the hand of the secretary-treasurer, attested by the seal of the North Carolina State Board of Examiners in Optometry, shall be admitted as evidence in any court of this State when the same shall otherwise be competent."

**Sec. 4.** There is hereby written a new section to be numbered G.S. 90-117.3 and to read as follows:

"§ 90-117.3. **Annual and special meetings.** — The North Carolina State Board of Examiners in Optometry shall meet annually in June of each year at such place as may be determined by the Board, and at such other times and places as may be determined by action of the Board or by any three members thereof. Notice of the place of the annual meeting and of the time and place of any special or called meeting shall be given in writing, by registered or certified mail or personally, to each member of the Board at least 10 days prior to said meeting; provided the requirements of notice may be waived by any member of the Board. At the annual meeting or at any special or called meeting, the said Board shall have the power to conduct examination of

applicants and to transact such other business as may come before it, provided that in case of a special meeting, the purpose for which said meeting is called shall be stated in the notice."

**Sec. 5.** There is hereby written a new section to be numbered G.S. 90-117.4 and to read as follows:

**"§ 90-117.4. Judicial powers; additional data for records.** — The president of the North Carolina State Board of Examiners in Optometry, and/or the secretary-treasurer of said Board, shall have the power to administer oaths, issue subpoenas requiring the attendance of persons and the production of papers and records before said Board in any hearing, investigation or proceeding conducted by it. The sheriff or other proper official of any county of the State shall serve the process issued by said president or secretary-treasurer of said Board pursuant to its requirements and in the same manner as process issued by any court of record. The said Board shall pay for the service of all process, such fees as are provided by law for the service of like process in other cases.

Any person who shall neglect or refuse to obey any subpoena requiring him to attend and testify before said Board or to produce books, records or documents shall be guilty of a misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court.

The Board shall have the power, upon the production of any papers, records or data, to authorize certified copies thereof to be substituted in the permanent record of the matter in which such books, records or data shall have been introduced in evidence."

**Sec. 6.** There is hereby written a new section to be numbered G.S. 90-117.5 and to read as follows:

**"§ 90-117.5. Bylaws and regulations.** — The North Carolina State Board of Examiners in Optometry shall have the power to make necessary bylaws and regulations, not inconsistent with the provisions of this Article, regarding any matter referred to in this Article and for the purpose of facilitating the transaction of business by the said Board."

**Sec. 7.** G.S. 90-118 is rewritten to read as follows:

**"§ 90-118. Examination and licensing of applicants; qualifications; causes for refusal to grant license; void licenses.** — (a) The North Carolina State Board of Examiners in Optometry shall grant licenses to practice optometry to such applicants who are graduates of an accredited optometric institution, who, in the opinion of a majority of the Board, shall undergo a satisfactory examination of proficiency in the knowledge and practice of optometry, subject, however, to the further provisions of this section and to the provisions of this Article.

(b) The applicant shall be of good moral character, at least 21 years of age at the time the application for examination is filed. The application shall be made to the said Board in writing and shall be accompanied by evidence satisfactory to said Board that the applicant is a person of good moral character, has an academic education, the standard of which shall be determined by the said Board; that he is a graduate of and has a diploma from an accredited optometric college or the optometric department of an accredited university or college recognized and approved as such by the said Board.

(c) The North Carolina State Board of Examiners in Optometry is authorized to conduct both written or oral and clinical examinations of such character as to thoroughly test the qualifications of the applicant, and may refuse to grant license to any person who, in its discretion, is found deficient in said examination, or to any person guilty of cheating, deception, or fraud during such examination, or whose examination discloses to the satisfaction of the Board, a deficiency in academic education. The Board may employ such optometrists found qualified therefor by the Board, in examining applicants for licenses as it deems appropriate.

(d) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect."

**Sec. 8.** There is hereby written a new section to be numbered G.S. 90-118.1 and to read as follows:

"§ 90-118.1. **Contents of original license.** — The original license granted by the North Carolina State Board of Examiners in Optometry shall bear a serial number, the full name of the applicant, the date of issuance and shall be signed by the president and a majority of the members of the said Board and attested by the seal of said Board and the secretary thereof. The certificate of renewal of license shall bear a serial number which need not be the serial number of the original license issued, the full name of the applicant and the date of issuance."

**Sec. 9.** There is hereby written a new section to be numbered G.S. 90-118.2 and to read as follows:

"§ 90-118.2. **Displaying license and current certificate renewal.** — The license and the current certificate of renewal of license to practice optometry issued, as herein provided, shall at all times be displayed in a conspicuous place in the office of the holder thereof and whenever requested the license and the current certificate of renewal shall be exhibited to or produced before the North Carolina State Board of Examiners in Optometry or to its authorized agents."

**Sec. 10.** There is hereby written a new section to be numbered G.S. 90-118.3 and to read as follows:

"§ 90-118.3. **Refusal to grant renewal of license.** — For nonpayment of fee or fees required by this Article, or for violation of any of the terms or provisions of G.S. 90-121, the North Carolina State Board of Examiners in Optometry may refuse to issue a certificate of renewal of license. As used herein the term 'license' shall include license, provisional license or intern permit."

**Sec. 11.** There is hereby written a new section to be numbered G.S. 90-118.4 and to read as follows:

"§ 90-118.4. **Duplicate licenses.** — When a person is a holder of a license to practice optometry in North Carolina or the holder of a certificate of renewal of license, he may make application to the North Carolina State Board of Examiners in Optometry for the issuance of a copy or a duplicate thereof accompanied by a reasonable fee set by the Board. Upon the filing of the application and the payment of the fee, the said Board shall issue a copy or duplicate."

**Sec. 12.** There is hereby written a new section to be numbered G.S. 90-118.5 and to read as follows:

"§ 90-118.5. **Licensing practitioners of other states.** — (a) The North Carolina State Board of Examiners in Optometry may, in its discretion, issue a license to practice optometry in this State without an examination other than clinical to a legal and ethical practitioner of optometry who moves into North Carolina from another state or territory of the United States, whose standard of requirements is equal to that of the State of North Carolina and in which such applicant has conducted a legal and ethical practice of optometry for at least five years, next preceding his or her removal and who has not, during his period of practice, been found guilty by the state regulatory agency charged with the responsibility therefor of the violation of the ethics of his profession, nor found guilty by a court of competent jurisdiction of the violation of the criminal laws of the state which issued a license to him, or of the criminal laws of the United States, or whose license to practice optometry has not been revoked or suspended by a duly constituted authority.

(b) Application for license to be issued under the provisions of this section shall be accompanied by a certificate from the optometry board or like board of the state from which said applicant removed, certifying that the applicant is the legal holder of a license to practice optometry in that state, and for a period of five years immediately preceding the application has engaged in the practice of optometry; is of good moral character and that during the period of his practice no charges have been filed with said board against the applicant for the violation of the criminal laws of the state or the United States, or for the violation of the ethics of the profession of optometry.

(c) Application for a license under this section shall be made to the North Carolina State Board of Examiners in Optometry within six months of the date of the issuance of the certificate hereinbefore required, and said certificate shall be accompanied by the diploma or other evidence of the graduation from an accredited, recognized and approved optometry college, school or optometry department of a college or university.

(d) Any license issued upon the application of any optometrist from any other state or territory shall be subject to all of the provisions of this Article with reference to the license issued by the North Carolina State Board of Examiners in Optometry upon examination of applicants and the rights and privileges to practice the profession of optometry under any license so issued shall be subject to the same duties, obligations, restrictions and the conditions as imposed by this Article on optometrists originally examined by the North Carolina State Board of Examiners in Optometry."

**Sec. 13.** There is hereby written a new section to be numbered G.S. 90-118.6 and to read as follows:

**"§ 90-118.6. Certificate issued to optometrist moving out of State.** — Any optometrist duly licensed by the North Carolina State Board of Examiners in Optometry, desiring to move from North Carolina to another state, territory or foreign country, if a holder of a certificate of renewal of license from said Board, upon application to said Board and the payment to it of the fee in this Article provided, shall be issued a certificate showing his full name and address, the date of license originally issued to him, the date and number of his renewal of license, and whether any charges have been filed with the Board against him. The Board may provide forms for such certificate, requiring such additional information as it may determine proper."

**Sec. 14.** There is hereby written a new section to be numbered G.S. 90-118.7 and to read as follows:

**"§ 90-118.7. Licensing former optometrists who have moved back into State or resumed practice.** — Any person who shall have been licensed by the North Carolina State Board of Examiners in Optometry to practice optometry in this State who shall have retired from practice or who shall have moved from the State and shall have returned to the State, may, upon a satisfactory showing to said Board of his proficiency in the profession of optometry and his good moral character during the period of his retirement, or absence from the State, be granted by said Board a license to resume the practice of optometry upon making application to the said Board in such form as it may require. The license to resume practice, after issuance thereof, shall be subject to all the provisions of this Article."

**Sec. 15.** There is hereby written a new section to be numbered G.S. 90-118.8 and to read as follows:

**"§ 90-118.8. Provisional license.** — (a) The North Carolina State Board of Examiners in Optometry may, subject to its rules and regulations, issue a provisional license to practice optometry to any person who is licensed to practice optometry anywhere in the United States or in any country, territory or other recognized jurisdiction, if the Board shall determine that said licensing jurisdiction imposed upon said person requirements for licensure no less exacting than those imposed by this State. A provisional licensee may engage in the practice of optometry only in strict accordance with the terms, conditions and limitations of his license and with the rules and regulations of the Board pertaining to provisional license.

(b) A provisional license shall be valid until the date of the announcement of the results of the next succeeding Board examination of candidates for licensure to practice optometry in this State, unless the same shall be earlier revoked or suspended by the Board.

(c) No person who has failed an examination conducted by the North Carolina State Board of Examiners in Optometry shall be eligible to receive a provisional license.

(d) Any person desiring to secure a provisional license shall make application therefor in the manner and form prescribed by the rules and regulations of the Board and shall pay the fee prescribed in G.S. 90-123.

(e) A provisional licensee shall be subject to those various disciplinary measures and penalties set forth in G.S. 90-121 upon a determination of the Board that said provisional licensee has violated any of the terms or provisions of this Article."

**Sec. 16.** There is hereby written a new section to be numbered G.S. 90-118.9 and to read as follows:

**"§ 90-118.9. Intern permit** — The North Carolina State Board of Examiners in Optometry may, in the exercise of the discretion of said Board, issue to a person who is not licensed to practice optometry in this State and who is a graduate of an optometry school, college, or institution approved by said Board, an intern permit authorizing such person to practice optometry under the supervision or direction of an optometrist duly licensed to practice in this State, subject to the following particular conditions:

- (1) An intern permit shall be valid for no more than one year from the date of issue thereof; provided, however, that the Board may, in its discretion, renew such permit for not more than three additional one-year periods; and provided, further, that no person shall be granted an intern permit or intern permits embracing or covering an aggregate time span of more than 48 calendar months;
- (2) The holder of a valid intern permit may practice optometry only under the supervision or direction of one or more optometrists duly licensed to practice in this State;
- (3) The holder of a valid intern permit may practice optometry only (i) as an employee in a hospital, sanatorium, or a like institution which is licensed or approved by the State of North Carolina and approved by the North Carolina State Board of Examiners in Optometry; or (ii) as an employee of the State of North Carolina or an agency or political subdivision thereof, or any other governmental entity within the State of North Carolina, when said employment is approved by the North Carolina State Board of Examiners in Optometry;
- (4) The holder of a valid intern permit shall receive no fee or fees or compensation of any kinds or nature for optometric services rendered by him other than such salary or compensation as might be paid to him by the entity specified in subdivision (3) above wherein or for which said services are rendered;
- (5) The holder of a valid intern permit shall not, during the term of said permit or any renewal thereof, change the place of his internship without first securing the written approval of the North Carolina State Board of Examiners in Optometry;
- (6) The practice of optometry by the holder of a valid intern permit shall be strictly limited to the confines of and to the registered patients of the hospital, sanatorium or institution to which he is attached or to the persons officially served by the governmental entity by whom he is employed;
- (7) Any person seeking an intern permit shall first file with the North Carolina State Board of Examiners in Optometry such papers and documents as are required by said Board, together with the application fee authorized by G.S. 90-123. A fee authorized by G.S. 90-123 shall be paid for any renewal of said intern permit; Such person shall further supply to the Board such other documents, materials, or information as the Board may request;
- (8) Any person seeking an intern permit or who is the holder of a valid intern permit shall comply with such limitations as the North Carolina State Board of Examiners in Optometry may place or cause to be placed, in writing, upon such permit, and shall comply with such rules and regulations as the Board

might promulgate relative to the issuance and maintenance of said permit in the practice of optometry relative to the same;

- (9) The holder of an intern permit shall be subject to the provisions of G.S. 90-121."

**Sec. 17.** There is hereby written a new section to be numbered G.S. 90-118.10 and to read as follows:

**"§ 90-118.10. Annual renewal of licenses.** — Since the laws of North Carolina now in force provide for the annual renewal of any license issued by the North Carolina State Board of Examiners in Optometry, it is hereby declared to be the policy of this State, that all licenses heretofore issued by the North Carolina State board of Examiners in Optometry, or hereafter issued by said Board are subject to annual renewal and the exercise of any privilege granted by any license heretofore issued or hereafter issued by the North Carolina State Board of Examiners in Optometry is subject to the issuance on or before the first day of January of each year of a certificate of renewal of license.

On or before the first day of January of each year, each optometrist engaged in the practice of optometry in North Carolina shall make application to the North Carolina State Board of Examiners in Optometry and receive from said Board, subject to the further provisions of this section and of this Article, a certificate of renewal of said license.

The application shall show the serial number of the applicant's license, his full name, address and the county in which he has practiced during the preceding year, the date of the original issuance of license to said applicant and such other information as the said Board from time to time may prescribe by regulation.

If the application for such renewal certificate, accompanied by the fee required by this Article, is not received by the Board before April 1 of each year, an additional fee of ten dollars (\$10.00) shall be charged for renewal certificate. If such application, accompanied by the renewal fee is not received by the Board before March 31 of each year, every person thereafter continuing to practice optometry without having applied for a certificate of renewal shall be guilty of the unauthorized practice of optometry and shall be subject to the penalties prescribed by G.S. 90-118.11."

**Sec. 18.** There is hereby written a new section to be numbered G.S. 90-118.11 and to read as follows:

**"§ 90-118.11. Unauthorized practice; penalty.** — If any person shall practice or attempt to practice optometry in this State without first having passed the examination and obtained a license from the North Carolina State Board of Examiners in Optometry; or without having obtained a provisional license from said Board; or if he shall practice optometry after March 31 of each year without applying for a certificate of renewal of license, as provided in G.S. 90-118.10; or shall practice or attempt to practice optometry while his license is revoked, or suspended, or when a certificate of renewal of license has been refused, or shall violate any of the provisions of this Article for which no specific penalty has been provided, or shall practice or attempt to practice, optometry in violation of the provisions of this Article; or shall practice optometry under any name other than his own name, said person shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or imprisonment, or both, in the discretion of the court. Each day's violation of this Article shall constitute a separate offense."

**Sec. 19.** G.S. 90-120 is rewritten to read as follows:

**"§ 90-120. Board may enjoin illegal practices.** — In view of the fact that the illegal practice of optometry imminently endangers the public health and welfare, and is a public nuisance, the North Carolina State Board of Examiners in Optometry may, if it shall find that any person is violating any of the provisions of this Article, apply to the superior court for a temporary or permanent restraining order or injunction to restrain such person from continuing such illegal practices. If upon such application, it shall appear to the court that such person has violated, or

is violating, the provisions of this Article, the court shall issue an order restraining any further violating thereof. All such actions by the Board for injunctive relief shall be governed by the provisions of Article 37 of the Chapter on 'Civil Procedure': Provided, such injunctive relief may be granted regardless of whether criminal prosecution has been or may be instituted under the provisions of G.S. 90-122.1."

**Sec. 20.** G.S. 90-121 is rewritten to read as follows:

**"§ 90-121. Rules and regulations; discipline, suspension, revocation and regrant of certificate.** — (a) The Board shall have the power to make, adopt, and promulgate such rules and regulations, including rules of ethics, as may be necessary and proper for the regulation of the practice of the profession of optometry and for the performance of its duties. The Board shall have jurisdiction and power to hear and determine all complaints, allegations, charges of malpractice, corrupt or unprofessional conduct, and of the violation of the rules and regulations, including rules of ethics, made against any optometrist licensed to practice in North Carolina. The Board shall also have the power and authority to:

- (i) Refuse to issue a license to practice optometry;
- (ii) Refuse to issue a certificate of renewal of a license to practice optometry;
- (iii) Revoke or suspend a license to practice optometry; and
- (iv) Invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper; in any instance or instances in which the Board is satisfied that such applicant or licensee:
  - (1) Has engaged in any act or acts of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license or the renewal thereof;
  - (2) Is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs his ability to practice optometry;
  - (3) Has been convicted of any of the criminal provisions of this Article or has entered a plea of guilty or nolo contendere to any charge or charges arising therefrom;
  - (4) Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;
  - (5) Has been convicted of or entered a plea of guilty or nolo contendere to any charge of violation of any State or federal narcotic or barbiturate law;
  - (6) Has engaged in any act or practice violative of any of the provisions of this Article or violative of any of the rules and regulations promulgated and adopted by the Board, or has aided, abetted or assisted any other person or entity in the violation of the same;
  - (7) Is mentally, emotionally, or physically unfit to practice optometry or is afflicted with such a physical or mental disability as to be deemed dangerous to the health and welfare of his patients. An adjudication of mental incompetency in a court of competent jurisdiction or a determination thereof by other lawful means shall be conclusive proof of unfitness to practice optometry unless or until such person shall have been subsequently lawfully declared to be mentally competent;

- (8) Has employed or procured any person to obtain or solicit professional patronage or has personally solicited professional patronage;
- (9) Has permitted the use of his name, diploma or license by another person either in the illegal practice of optometry or in attempting to fraudulently obtain a license to practice optometry;
- (10) Has engaged in such immoral conduct as to discredit the optometry profession;
- (11) Has obtained or collected or attempted to obtain or collect any fee through fraud, misrepresentation, or deceit;
- (12) Has been negligent in the practice of optometry;
- (13) Has employed a person not licensed in this State to do or perform any act of service, or has aided, abetted or assisted any such unlicensed person to do or perform any act or service which under this Article can lawfully be done or performed only by an optometrist licensed in this State;
- (14) Is incompetent in the practice of optometry;
- (15) Has practiced any fraud, deceit or misrepresentation upon the public or upon any individual in an effort to acquire or retain any patient or patients;
- (16) Has made fraudulent or misleading statements pertaining to his skill, knowledge, or method of treatment or practice;
- (17) Has committed any fraudulent or misleading acts in the practice of optometry;
- (18) Has, directly or indirectly, advertised in any manner for professional patronage or business; provided, however, that it shall not be considered advertising for an optometrist, duly licensed to practice in this State, to place his name, office address, telephone number, and office hours in an approved register or other publication, or to place his name, followed by the word, "Optometrist", on the door or window of his office, or to place his name before the public in any other manner expressly approved by the Board;
- (19) Has, in the practice of optometry, committed an act or acts constituting malpractice;
- (20) Has used or permitted another to use his name, as an optometrist, in promoting the sale or advertisement of any product or services;
- (21) Has permitted an optometric assistant in his employ or under his supervision to do or perform any act or acts violative to this Article or of the rules and regulations promulgated by the Board;
- (22) Has wrongfully or fraudulently or falsely held himself out to be or represented himself to be qualified as a specialist in any branch of optometry;
- (23) Has persistently maintained, in the practice of optometry, unsanitary offices, practices, or techniques;
- (24) Is a menace to the public health by reason of having a serious communicable disease;

(25) Has engaged in any unprofessional conduct as the same may be from time to time defined by the rules and regulations of the Board.

(b) If any person engages in or attempts to engage in the practice of optometry while his license is suspended, his license to practice optometry in the State of North Carolina may be permanently revoked.

(c) The Board may, on its own motion, initiate the appropriate legal proceedings against any person, firm or corporation when it is made to appear to the Board that such person, firm or corporation has violated any of the provisions of this Article.

(d) The Board may appoint, employ or retain an investigator or investigators for the purpose of examining or inquiring into any practices committed in this State that might violate any of the provisions of this Article or any of the rules and regulations promulgated by the Board.

(e) The Board may employ or retain legal counsel for such matters and purposes as may seem fit and proper to said Board.

(f) As used in this section the term 'licensee' includes licensees, provisional licensees and holders of intern permits, and the term 'license' includes license, provisional license and intern permit."

**Sec. 21.** There is hereby written a new section to be numbered G.S. 90-121.1 and to read as follows:

"**§ 90-121.1. Hearings.** — (a) The Board shall grant any person whose license is affected the right to be heard before the Board, before any of the following action is finally taken, the effect of which would be:

- (1) To deny permission to take an examination for licensing for which application has been duly made; or
- (2) To deny a license after examination for any cause other than failure to pass an examination; or
- (3) To withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee; or
- (4) To suspend a license; or
- (5) To revoke a license; or
- (6) To revoke or suspend a provisional license or an intern permit; or
- (7) To invoke any other disciplinary measures, censure, or probative terms against a licensee, a provisional licensee, or an intern.

(b) Proceedings under this section shall be conducted in accordance with the provisions of Chapter 150 of the General Statutes of North Carolina.

(c) In lieu of or as a part of such hearings and subsequent proceedings the Board is authorized and empowered to enter any consent order relative to the discipline, censure, or probation of a licensee, an intern, or an applicant for a license, or relative to the revocation or suspension of a license, provisional license, or intern permit.

(d) Following the service of the notice of hearing as required by Chapter 150, the Board and the person upon whom such notice is served shall have the right to conduct adverse examinations, take depositions, and engage in such further discovery proceedings as are permitted by the laws of this State in civil matters.

The Board is hereby authorized and empowered to issue such orders, commissions, notices, subpoenas, or other process as might be necessary or proper to effect the purposes of this subsection; provided, however, that no member of the Board shall be subject to examination hereunder."

**Sec. 22.** There is hereby written a new section to be numbered G.S. 90-121.2 and to read as follows:

"§ 90-121.2. **Restoration of revoked license.** — Whenever any optometrist has been deprived of his license, the North Carolina State Board of Examiners in Optometry in its discretion, may restore said license upon due notice being given and hearing had, and satisfactory evidence produced or proper reformation of the licentiate, before restoration."

**Sec. 23.** G.S. 90-122 is rewritten to read as follows:

"§ 90-122. **Compensation and expenses of Board.** — Each member of the North Carolina State Board of Examiners in Optometry shall receive as compensation for his services in the performance of his duties under this Article a sum not exceeding twenty dollars (\$20.00) for each day actually engaged in the performance of the duties of his office, said per diem to be fixed by said Board, and all legitimate and necessary expenses incurred in attending meetings of the said Board.

The secretary-treasurer shall, as compensation for his services, both as secretary-treasurer of the Board and a member thereof, be allowed a reasonable annual salary to be fixed by the Board and shall, in addition thereto, receive all legitimate and necessary expenses incurred by him in attending meetings of the Board and in the discharge of the duties of his office.

All per diem allowances and all expenses paid as herein provided shall be paid upon voucher drawn by the secretary-treasurer of the Board who shall likewise draw voucher payable to himself for the salary fixed for him by the Board.

The Board is authorized and empowered to expend from funds collected hereunder such additional sum or sums as it may determine necessary in the administration and enforcement of this Article, and employ such personnel as it may deem requisite to assist in carrying out the administrative functions required by this Article and by the Board."

**Sec. 24.** There is hereby written a new section to be numbered G.S. 90-122.1 and to read as follows:

"§ 90-122.1. **Rules and regulations of Board; violation a misdemeanor.** — Rules and regulations adopted by the Board shall become effective 30 days after passage, and the same may be proven, as evidence, by the president and/or the secretary-treasurer of the Board, and/or by certified copy under the hand and seal of the secretary-treasurer. A certified copy of any rule or regulation shall be receivable in all courts as prima facie evidence thereof if otherwise competent, and any person, firm, or corporation violating any such rule or regulation shall be guilty of a misdemeanor, subject to a fine of not more than two hundred dollars (\$200.00) or imprisonment for not more than 90 days for each offense, and each day that this section is violated shall be considered a separate offense.

The Board shall issue every two years to each licensed optometrist a compilation or supplement of the Optometric Practice Act and the Board Rules and Regulations, and upon written request by such licensed optometrist, a directory of optometrists."

**Sec. 25.** G.S. 90-124 is rewritten to read as follows:

"§ 90-124. **Free choice by patient guaranteed.** — No agency of the State, county or municipality, nor any commission or clinic, nor any board administering relief, social security, health insurance or health service under the laws of the State of North Carolina shall deny to the recipients or beneficiaries of their aid or services the freedom to choose a duly licensed optometrist or duly licensed physician as the provider of care or services which are within the scope of practice of the profession of optometry as defined in this Chapter."

**Sec. 26.** The following sections as they now appear in Volume 2C of the General Statutes of North Carolina are hereby repealed, to wit: G.S. 90-126; G.S. 90-126.1; G.S. 90-127.1; and G.S. 90-128.

**Sec. 27.** This act shall be in full force and effect on July 1, 1973.

In the General Assembly read three times and ratified, this the 24th day of May, 1973.