

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 496
HOUSE BILL 292

AN ACT TO AMEND CHAPTER 90, ARTICLE 6 OF THE GENERAL STATUTES
RELATING TO OPTOMETRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-116 is rewritten to read as follows:

"§ 90-116. Board of Examiners in Optometry. — In order to properly regulate the practice of optometry, there is established a North Carolina State Board of Examiners in Optometry, which shall consist of five regularly graduated optometrists who have been engaged in the practice of optometry in this State for at least five years and two members to represent the public at large.

No public member shall at any time be a health care provider, be related to or be the spouse of a health care provider, or have any pecuniary interest in the profitability of a health care provider. For purposes of this section, the term 'health care provider' shall have the same meaning as provided in G.S. 58-254.20(4). The Governor shall appoint the two public members not later than July 1, 1981.

The optometric members of the board shall be appointed by the Governor from a list provided by the North Carolina State Optometric Society. For each vacancy, the society must submit at least three names to the Governor. The society shall establish procedures for the nomination and election of optometrist members of the board. These procedures shall be adopted under the rule-making procedures described in Article 2, Chapter 150A of the General Statutes, and notice of the proposed procedures shall be given to all licensed optometrists residing in North Carolina. Such procedures shall not conflict with the provisions of this section. Every optometrist with a current North Carolina license residing in the State shall be eligible to vote in all such elections, and the list of licensed optometrists shall constitute the registration list for elections. Any decision of the society relative to the conduct of such elections may be challenged by civil action in the Wake County Superior Court. A challenge must be filed not later than 30 days after the society has rendered the decision in controversy, and all such cases shall be heard de novo.

All board members serving on June 30, 1981, shall be eligible to complete their respective terms. No member appointed to a term on or after July 1, 1981, shall serve more than two complete consecutive five-year terms, except that each member shall serve until his successor is chosen and qualifies.

The Governor may remove any member for good cause shown. Any vacancy in the optometrist membership of the board shall be filled for the period of the unexpired term by the Governor from a list of at least three names submitted by the North Carolina State Optometric Society Executive Council. Any vacancy in the public membership of the board shall be filled by the Governor for the unexpired term."

Sec. 2. G.S. 90-117.1 is amended by rewriting lines 1 through 4 to read as follows:

"§ 90-117.1. Quorum; adjourned meetings. — A majority of the members of said board shall constitute a quorum for the transaction of business. If a majority of members are not present at the time and the place appointed for a board meeting, those members of the board in attendance may adjourn."

Sec. 3. G.S. 90-117.3 is amended on line 4 by deleting the words "any three" and substituting therefor the words "a majority of the".

Sec. 4. G.S. 90-1 18(b) is amended by rewriting line 1 to read as follows:

"(b) The applicant shall be of good moral character and at least 18 years of age".

Sec. 5. G.S. 90-1 18(b) is further amended on line 4 by deleting the comma appearing between the words "character" and "has" and substituting therefor a semicolon, and by adding at the end of line 5 the word "and".

Sec. 6. Subsection (a) of G.S. 90-118.5 is rewritten to read as follows:

"(a) If an applicant for licensure is already licensed in another state in optometry, the North Carolina State Board of Examiners in Optometry shall issue a license to practice optometry to the applicant without examination other than a clinical practicum examination upon evidence that:

- (1) the applicant is currently an active, competent practitioner in good standing, and
- (2) the applicant has practiced at least three out of the five years immediately preceding his or her application, and
- (3) the applicant currently holds a valid license in another state, and
- (4) no disciplinary proceeding or unresolved complaint is pending anywhere at the time a license is to be issued by this State, and
- (5) the licensure requirements in the other state are equivalent to or higher than those required by this State."

Sec. 7. G.S. 90-118.5(b) is amended on line 5 by deleting the word "five" and substituting therefor the words "at least three out of five".

Sec. 8. G.S. 90-118.8(e) is amended on line 2 by deleting the citation "G.S. 90-121.1" and substituting therefor the citation "G.S. 90-121.2".

Sec. 9. G.S. 90-118.9(9) is amended by deleting the citation "G.S. 90-121" and substituting therefor the citation "G.S. 90-121.2".

Sec. 10. The title of G.S. 90-118.11 is rewritten to read as follows:

"§ 90-118.11. Unauthorized practice; penalty for violation of Article."

Sec. 11. G.S. 90-121.1 is amended by adding a new sentence at the end thereof to read as follows:

"Actions under this section shall be commenced in the judicial district in which the respondent resides or has his principal place of business."

Sec. 12. Subdivisions (8), (18) and (20) of G.S. 90-121.2(a) are hereby repealed.

Sec. 13. G.S. 90-121.2(a)(15) is amended by rewriting line 3 to read as follows:

"patients, including false or misleading advertising;"

Sec. 14. Article 6 of Chapter 90 of the General Statutes is amended by adding a new section at the end thereof to read as follows:

"§ 90-127.3. Copy of prescription furnished on request. — All persons licensed or registered under this Chapter shall upon request give each patient having received an eye examination a copy of his spectacle prescription. No person, firm or corporation licensed or registered under Article 17 of this Chapter shall fill a prescription or dispense lenses, other than spectacle lenses, unless the prescription specifically states on its face that the prescriber intends it to be for contact lenses and includes the type and specifications of the contact lenses being prescribed. The prescriber shall state the expiration date on the face of every prescription, and the expiration date shall be no earlier than 365 days after the examination date.

Any person, firm or corporation that dispenses contact lenses on the prescription of a practitioner licensed under Articles 1 or 6 of this Chapter shall, at the time of delivery of the lenses, inform the recipient both orally and in writing that he return to the prescriber for insertion of the lens, instruction on lens insertion and care, and to ascertain the accuracy and suitability of the prescribed lens. The statement shall also state that if the recipient does not

return to the prescriber after delivery of the lens for the purposes stated above, the prescriber shall not be responsible for any damages or injury resulting from the prescribed lens, except that this sentence does not apply if the dispenser and the prescriber are the same person.

Prescriptions filled pursuant to this section shall be kept on file by the prescriber and the person filling the prescription for at least 24 months after the prescription is filled."

Sec. 15. G.S. 143-34.12 is amended by deleting line 6, which reads as follows:

"Chapter 90, Article 6, entitled 'Optometry'."

Sec. 16. This act is effective upon ratification, except that Section 1 and Section 14 of this act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 3rd day of June, 1981.