Article 6.

Optometry.

§ 90-114. Optometry defined.

Any one or any combination of the following practices shall constitute the practice of optometry:

(1) The examination of the human eye by any method, other than surgery, to diagnose, to treat, or to refer for consultation or treatment any abnormal condition of the human eye and its adnexa; or

(2) The employment of instruments, devices, pharmaceutical agents and procedures, other than surgery, intended for the purposes of investigating, examining, treating, diagnosing or correcting visual defects or abnormal conditions of the human eye or its adnexa; or

(3) The prescribing and application of lenses, devices containing lenses, prisms, contact lenses, orthoptics, vision training, pharmaceutical agents, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa. (1909, c. 444, s. 1; C.S., s. 6687; 1923, c. 42, s. 1; 1977, c. 482, s. 1; 1997-75, s. 1.)

§ 90-115. Practice without registration unlawful.

After the passage of this Article it shall be unlawful for any person to practice optometry in the State unless he has first obtained a certificate of registration as hereinafter provided. Within the meaning of this Article, a person shall be deemed as practicing optometry who does, or attempts to, sell, furnish, replace, or duplicate, a lens, frame, or mounting, or furnishes any kind of material or apparatus for ophthalmic use, without a written prescription from a person authorized under the laws of the State of North Carolina to practice optometry, or from a person authorized under the laws of North Carolina to practice medicine: Provided, however, that the provisions of this section shall not prohibit persons or corporations from selling completely assembled spectacles, without advice or aid as to the selection thereof, as merchandise from permanently located or established places of business, nor shall it prohibit persons or corporations from making mechanical repairs to frames for spectacles; nor shall it prohibit any person, firm, or corporation engaged in grinding lenses and filling prescriptions from replacing or duplicating lenses on original prescriptions issued by a duly licensed optometrist, and oculist. (1909, c. 444, s. 2; C.S., s. 6688; 1935, c. 63; 1967, c. 691, s. 43.)

§ 90-115.1. Acts not constituting the unlawful practice of optometry.

In addition to the exemptions from this Article otherwise existing the following acts or practices shall not constitute the unlawful practice of optometry:

(1) The practice of optometry, in the discharge of their official duties, by optometrists in any branch of the Armed Forces of the United States or in the full employ of any agency of the United States.

(2) The teaching of optometry, in optometry schools or colleges operated and conducted in this State and approved by the North Carolina State Board of Examiners in Optometry, by any person or persons licensed to practice optometry anywhere in the United States or in any country, territory or other recognized jurisdiction; provided, however, that such teaching of optometry by any person or persons licensed in any jurisdiction other than a place in the

United States must first be approved by the North Carolina State Board of Examiners in Optometry.

(3) The practice of optometry by students enrolled in optometry schools or colleges approved by the North Carolina State Board of Examiners in Optometry when such practice is performed as a part of the student's course of instruction, is under the direct supervision of an optometrist who is either duly licensed in North Carolina or qualified under subdivision (2) above as a teacher, and is conducted in accordance with such rules as may be established for such practice by the North Carolina State Board of Examiners in Optometry. Additionally, the practice of optometry by such students at any location upon patients or inmates of institutions wholly owned or operated by the State of North Carolina or any political subdivision or subdivisions thereof when, in the opinion of the dean of such optometry school or college or his designee, the student's optometric education and experience is adequate therefor, subject to review and approval by the said Board of Examiners in Optometry, and such practice is a part of the course of instruction of such students, is performed under the supervision of a duly licensed optometrist acting as a teacher or instructor and is without remuneration except for expenses and subsistence as defined and permitted by the rules and regulations of said Board of Examiners in Optometry.

(4) The temporary practice of optometry by licensed optometrists of another state or of any territory or country when the same is performed, as clinicians, at meetings or organized optometric societies, associations, colleges or similar optometric organizations, or when such optometrists appear in emergency cases upon the specific call of and in consultation with an optometrist duly licensed to practice in this State.

(5) The practice of optometry by a person who is a graduate of an optometric school or college approved by the North Carolina State Board of Examiners in Optometry and who is not licensed to practice optometry in this State, when such person is the holder of a valid intern permit, or provisional license, issued to him by the North Carolina State Board of Examiners in Optometry pursuant to the terms and provisions of this Article, and when such practice of optometry complies with the conditions of said intern permit, or provisional license.

(6) Any act or acts performed by an optometric assistant or technician to an optometrist licensed to practice in this State when said act or acts are authorized and permitted by and performed in accordance with rules and regulations promulgated by the Board.

(7) Optometric assisting and related functions as a part of their instructions by optometric assistant students enrolled in a course conducted in this State and approved by the Board, when such functions are performed under the supervision of an optometrist acting as a teacher or instructor who is either duly licensed in North Carolina or qualified for the teaching of optometry pursuant to the provisions of subdivision (2) above. (1975, c. 733; 1989, c. 321; 2011-183, s. 61.)

§ 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. 58-47-5(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 rulemaking procedures described in Article 2A, Chapter 150B 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. (1909, c. 444, s. 3; 1915, c. 21, s. 1; C.S., s. 6689; 1935, c. 63; 1981, c. 496, s. 1; 1987, c. 827, s. 1; 2000-189, s. 5; 2025-25, s. 29(6).)

§ 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. (1909, c. 444, s. 4; C.S., s. 6690; 1935, c. 63; 1953, c. 1041, s. 11; 1973, c. 800, s. 1.)

§ 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 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. (1973, c. 800, s. 2; 1981, c. 496, s. 2.)

§ 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. (1973, c. 800, s. 3.)

§ 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 a majority of the 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. (1973, c. 800, s. 4; 1981, c. 496, s. 3.)

§ 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 Class 1 misdemeanor.

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. (1973, c. 800, s. 5; 1993, c. 539, s. 627; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 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. (1973, c. 800, s. 6.)

§ 90-118. Examination and licensing of applicants; qualifications; causes for refusal to grant license; void licenses; educational requirements for prescription and use of pharmaceutical agents.

(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 and at least 18 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; and 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 a 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.

(e) The Board shall not license any person to practice optometry in the State of North Carolina beyond the scope of the person's educational training as determined by the Board. No optometrist presently licensed in this State shall prescribe and use pharmaceutical agents in the practice of optometry unless and until he (i) has submitted to the Board evidence of satisfactory completion of all educational requirements established by the Board to prescribe and use pharmaceutical agents in the practice of optometry and (ii) has been certified by the Board as educationally qualified to prescribe and use pharmaceutical agents.

Provided, however, that no course or courses in pharmacology shall be approved by the Board unless (i) taught by an institution having facilities for both the didactic and clinical instruction in pharmacology and which is accredited by a regional or professional accrediting organization that is recognized and approved by the Council on Postsecondary Accreditation or the United States Office of Education and (ii) transcript credit for the course or courses is certified to the Board by the institution as being equivalent in both hours and content to those courses in pharmacology required by the other licensing boards in this Chapter whose licensees or registrants are permitted the use of pharmaceutical agents in the course of their professional practice. (1909, c. 444, s. 5; 1915, c. 21, ss. 2, 3, 4; C.S., s. 6691; 1923, c. 42, ss. 2, 3; 1935, c. 63; 1949, c. 357; 1959, c. 464; 1973, c. 800, s. 7; 1975, c. 19, s. 23; 1977, c. 482, s. 2; 1981, c. 496, ss. 4, 5; 1997-75, s. 4.1.)

§ 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. (1973, c. 800, s. 8.)

§ 90-118.2. Displaying license and current certificate of 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.

A licensee who practices in more than one office location shall make application to the Board for a duplicate license for each branch office for display as required by this section. In issuing a duplicate license, the address of the branch office location and the original certificate number shall be included. At the time of the annual renewal of licenses, those optometrists who have been issued a duplicate license for a branch office, shall make application to the North Carolina Board of Examiners in Optometry on a form provided by the Board for the renewal of the license in the same manner as provided for in G.S. 90-118.10 for the renewal of his license. The holder of a certificate for a branch office may cancel it by returning the certificate to the Secretary of the Board. (1973, c. 800, s. 9; 1981, c. 811, s. 1.)

§ 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. 90-121.2, the North Carolina State Board of Examiners in Optometry may refuse to issue a certificate of renewal of license. (1973, c. 800, s. 10; 1981, c. 811, s. 2.)

§ 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. (1973, c. 800, s. 11.)

§ 90-118.5. Licensing practitioners of other states.

(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.

(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 at least three out 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. (1973, c. 800, s. 12; 1981, c. 496, ss. 6, 7.)

§ 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. (1973, c. 800, s. 13.)

§ 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. (1973, c. 800, s. 14.)

§§ 90-118.8 through 90-118.9. Repealed by Session Laws 1981, c. 811, ss. 4, 5.

§ 90-118.10. Annual renewal of licenses.

Since the laws of North Carolina now in force provided 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, primary and branch, 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 December 31 of each year of a certificate of renewal of license.

On or before December 31 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 or her full name, the address, including the street and county, in which he or she 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 January 1 of each year, an additional fee of fifty dollars ($50.00) shall be charged for renewal certificate. If such application accompanied by the renewal fee is not received by the Board before January 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. If the inactive license is not appropriately renewed by December 31 of that year, that license will expire and will not be eligible for renewal.

In issuing a certificate of renewal, the Board shall expressly state whether such person, otherwise licensed in the practice of optometry, has been certified to prescribe and use pharmaceutical agents. (1973, c. 800, s. 17; c. 1092, s. 1; 1977, c. 482, s. 3; 1987, c. 645, s. 3; 2023-129, s. 5.1(a).)

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

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 practice or attempt to practice optometry by means or methods that the Board has determined is beyond the scope of the person's educational training; 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 Class 1 misdemeanor. Each day's violation of this Article shall constitute a separate offense. (1973, c. 800, s. 18; 1977, c. 482, s. 4; 1981, c. 496, s. 10; 1993, c. 539, s. 628; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 90-119. Persons in practice before passage of statute.

Every person who had been engaged in the practice of optometry in the State for two years prior to the date of the passage of this Article shall hereafter file an affidavit as proof thereof with

the Board. The secretary shall keep a record of such persons who shall be exempt from the provisions of the preceding section [G.S. 90-118]. Upon payment of three dollars ($3.00) he shall issue to each of them certificates of registration without the necessity of an examination. Failure on the part of a person so entitled within six months of the enactment of this Article to make written application to the Board for the certificate of registration accompanied by a written statement, signed by him and duly verified before an officer authorized to administer oaths within this State, fully setting forth the grounds upon which he claims such certificate, shall be deemed a waiver of his right to a certificate under the provisions of this section. A person who has thus waived his right may obtain a certificate thereafter by successfully passing examination and paying a fee as provided herein. (1909, c. 444, ss. 6, 7, 9; C.S., s. 6692.)

§§ 90-120 through 90-121. Repealed by Session Laws 1973, c. 800, ss. 19, 20.

§ 90-121.1. 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 finds 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 the person from continuing the illegal practices. If upon the application, the court determines that the person has violated, or is violating, the provisions of this Article, the court shall issue an order restraining any further violation. All actions under this section by the Board for injunctive relief are governed by the provisions of Article 37 of Chapter 1 of the General Statutes. Actions under this section shall be commenced in the superior court district or set of districts as defined in G.S. 7A-41.1 in which the respondent resides or has a principal place of business. (1973, c. 800, s. 19; 1981, c. 496, s. 11; 1987 (Reg. Sess., 1988), c. 1037, s. 101; 2021-84, s. 7(a).)

§ 90-121.2. 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 meets any of the following criteria:

(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) Repealed by Session Laws 2023-129, s. 5.1(c), effective October 1, 2023.
(7a) Is unable to practice optometry with reasonable skill and safety by reason of abuse of alcohol, drugs, chemicals, or any other type of substance, or by reason of any physical or mental illness, abnormality, or other limiting condition;
(8) Repealed by Session Laws 1981, c. 496, s. 12.
(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, including false or misleading advertising;
(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) Repealed by Session Laws 1981, c. 496, s. 12.
(19) Has, in the practice of optometry, committed an act or acts constituting malpractice;
(20) Repealed by Session Laws 1981, c. 496, s. 12.
(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.

(a1) The Board may, in its discretion, order an applicant or licensee to submit to a mental or physical examination by physicians or physician assistants, or other appropriate licensed health care providers, designated by the Board during the pendency of the licensing application, or before or after charges may be presented against the applicant or licensee. The results of the examination shall be admissible in evidence in a hearing before the Board in accordance with the provisions of this Article. An adjudication of mental incompetency in any court of competent jurisdiction or a determination of mental incompetency by other lawful means shall be conclusive proof of unfitness to practice optometry, unless or until that applicant or licensee is subsequently lawfully declared mentally competent. An adjudication or determination of mental incompetency shall constitute good cause for the issuance of an order by the Board that the licensee immediately cease practice and surrender their license to the Board. Failure to comply with an order under this subsection may be considered unprofessional conduct.

(a2) In addition to and in conjunction with the actions described in subsections (a) and (a1) of this section, the Board may make a finding adverse to a licensee or applicant but withhold imposition of judgment and penalty or it may impose judgment and penalty but suspend enforcement thereof and place the licensee on probation, which probation may be vacated upon noncompliance with such reasonable terms as the Board may impose. The Board may administer a public or private reprimand or a private letter of concern, and the private reprimand and private letter of concern shall not require a hearing in accordance with G.S. 90-121.3 and shall not be disclosed to any person except the licensee. The Board may require a licensee to: (i) make specific redress or monetary redress; (ii) provide free public or charity service; (iii) complete educational, remedial training, or treatment programs; (iv) pay a fine; and (v) reimburse the Board for disciplinary costs.

(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.

(g) A person, partnership, firm, corporation, association, authority, or other entity acting in good faith without fraud or malice shall be immune from civil liability for (i) reporting or investigating the acts or omissions of a licensee or applicant that violate the provisions of subsection (a) of this section or any other provision of law relating to the fitness of a licensee or applicant to practice optometry and (ii) initiating or conducting proceedings against a licensee or applicant if a complaint is made or action is taken in good faith without fraud or malice. A person shall not be held liable in any civil proceeding for testifying before the Board in good faith and without fraud or malice in any proceeding involving a violation of subsection (a) of this section or any other law relating to the fitness of an applicant or licensee to practice optometry, or for making

a recommendation to the Board in the nature of peer review, in good faith and without fraud and malice. (1973, c. 800, s. 20; 1981, c. 496, ss. 12, 13; 2000-184, s. 6; 2023-129, s. 5.1(c).)

§ 90-121.3. 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 150B 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 150B of the General Statutes, 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. (1973, c. 800, s. 21; c. 1331, s. 3; 1987, c. 827, s. 1.)

§ 90-121.4. 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. (1973, c. 800, s. 22.)

§ 90-121.5. Confidentiality of investigative information; cooperation with law enforcement; self-reporting requirements.

(a) The Board may, in a closed session, receive information or evidence involving or concerning the treatment of a patient who has not expressly or impliedly consented to the public disclosure of the treatment when necessary for the protection of the rights of the patient or the accused licensee and the full presentation of relevant evidence.

(b) All records, papers, investigative files, investigative notes, reports, other investigative information, and other documents containing information in the possession of or received,

gathered, or completed by the Board, its members, staff, employees, attorneys, or consultants as a result of investigations, inquiries, assessments, or interviews conducted in connection with a license, complaint, assessment, potential impairment, disciplinary matter, or report of professional liability insurance awards or settlements shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Such documents are privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Board or its employees or consultants involved in the application for licensure, impairment assessment, or discipline of a licensee, except as provided in this section. However, any notice or statement of charges against any licensee or applicant, any notice to any licensee or applicant of a hearing in any proceeding, or any decision rendered in connection with a hearing in any proceeding shall be a public record within the meaning of Chapter 132 of the General Statutes, notwithstanding that the documentation may contain information collected and compiled as a result of the investigation, inquiry, or hearing. Identifying information concerning the treatment of or delivery of services to a patient or client who has not consented to the public disclosure of the treatment or services may be deleted. If any record, paper, or other document containing information collected and compiled by or on behalf of the Board is received and admitted in evidence in any hearing before the Board, the documents shall be a public record within the meaning of Chapter 132 of the General Statutes, subject to any deletions of identifying information concerning the treatment of or delivery of professional services to a patient who has not consented to the public disclosure of the treatment or services.

For purposes of this subsection, "investigative information" includes (i) formal or informal complaints received or information relating to the identity of, or a report made by, another licensee or other person performing an expert review or similar analysis for the Board or (ii) transcripts of any deposition taken or affidavit or statement obtained by Board counsel in preparation for or anticipation of a hearing held pursuant to this Article but not admitted into evidence at the hearing.

(c) When the Board receives a complaint regarding a licensee's care of a patient, the Board shall determine whether there is reasonable cause to believe that a licensee has violated a statute or rule governing the practice of optometry. In making such determination, the Board shall provide the licensee with a copy of the complaint and ask for a response. If providing a copy of the complaint identifies an anonymous complainant or compromises the integrity of an investigation, the Board shall provide the licensee with a summary of all substantial elements of the complaint. Upon written request of a patient, the Board may provide the patient a licensee's written response to a complaint filed by the patient with the Board regarding the patient's care. Upon written request of a complainant, who is not the patient but is authorized by State and federal law to receive protected health information about the patient, the Board may provide the complainant a licensee's written response to a complaint filed with the Board regarding the patient's care.

(d) If information in the possession of the Board, its employees, or agents indicates that a crime may have been committed, the Board may report the information to the appropriate law enforcement agency or district attorney of the district in which the offense was committed.

(e) The Board shall cooperate with and assist a law enforcement agency or district attorney conducting a criminal investigation or prosecution of a licensee by providing information that is relevant to the criminal investigation or prosecution to the investigating agency or district attorney. Information disclosed by the Board to an investigative agency or district attorney remains confidential and may not be disclosed by the investigating agency except as necessary to further the investigation.

(f) All persons licensed under this Article shall self-report to the Board within 30 days of arrest or indictment any of the following:

(1) Any felony arrest or indictment.

(2) Any arrest for driving while impaired or driving under the influence.

(3) Any arrest or indictment for the possession, use, or sale of any controlled substance.

(g) The Board, its members, attorneys, and staff may release confidential or nonpublic information to any health care licensure board in this State or another state or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities about (i) the issuance, denial, annulment, suspension, revocation, or other public disciplinary action taken concerning a license, (ii) the voluntary surrender to the Board of a license by a licensee, including the reasons for the action, or (iii) any disciplinary action taken by the Board. The Board shall notify the licensee in writing within 60 days after the information is transmitted. A summary of the information that is being transmitted shall be furnished to the licensee. If the licensee requests in writing within 30 days after being notified that the information has been transmitted, the licensee shall be furnished a copy of all information transmitted but shall be liable for the reasonable expense of the copies. The notice or copies of the information shall not be provided if the information relates to an ongoing criminal investigation by any law enforcement agency or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities. (2011-336, s. 1.)

§ 90-121.6. Duty to report judgments, awards, payments, and settlements.

(a) All optometrists licensed or applying for licensure by the Board shall report to the Board within 30 days of the occurrence of any of the following:

(1) All medical malpractice judgments or awards affecting or involving the optometrist.

(2) All settlements in the amount of seventy-five thousand dollars ($75,000) or more related to an incident of alleged medical malpractice affecting or involving the optometrist where the settlement occurred on or after May 1, 2008.

(3) All settlements in the aggregate amount of seventy-five thousand dollars ($75,000) or more related to any one incident of alleged medical malpractice affecting or involving the optometrist not already reported pursuant to subdivision (2) of this subsection where, instead of a single payment of seventy-five thousand dollars ($75,000) or more occurring on or after May 1, 2008, there is a series of payments made to the same claimant which, in the aggregate, equal or exceed seventy-five thousand dollars ($75,000).

(b) The report required under subsection (a) of this section shall contain the following information:

(1) The date of the judgment, award, payment, or settlement.

(2) The city, state, and country in which the incident occurred that resulted in the judgment, award, payment, or settlement.

(3) The date the incident occurred that resulted in the judgment, award, payment, or settlement.

(c) The Board shall publish on the Board's website or other publication information collected under this section. The Board shall publish this information for seven years from the date

of the judgment, award, payment, or settlement. The Board shall not release or publish individually identifiable numeric values of the reported judgment, award, payment, or settlement. The Board shall not release or publish the identity of the patient associated with the judgment, award, payment, or settlement. The Board shall allow the optometrist to publish a statement explaining the circumstances that led to the judgment, award, payment, or settlement, and whether the case is under appeal. The Board shall ensure these statements:

(1) Conform to the ethics of optometry.

(2) Not contain individually identifiable numeric values of the judgment, award, payment, or settlement.

(3) Not contain information that would disclose the patient's identity.

(d) The term "settlement" for the purpose of this section includes a payment made from personal funds, a payment by a third party on behalf of the optometrist, or a payment from any other source of funds.

(d1) Reports under this section shall be made to the Board by one of the following methods:

(1) Certified mail and obtaining a delivery receipt.

(2) A designated delivery service authorized by G.S. 1A-1, Rule 4(j), and obtaining a delivery receipt.

(3) Emailing the Board at their public email address found on the Board's website and confirming receipt by the Board via return email.

(d2) Failure to report under this section shall constitute unprofessional conduct and shall be grounds for discipline under G.S. 90-121.2.

(e) Nothing in this section shall limit the Board from collecting information needed to administer this Article. (2011-336, s. 2; 2023-129, s. 5.1(d); 2025-25, s. 29(5).)

§ 90-121.7. Duty to report certain other acts or events.

(a) Every licensee has a duty to report to the Board any incidents that the licensee reasonably believes to have occurred, involving any of the following, within 30 days of learning about the incident:

(1) Sexual misconduct of any person licensed by the Board under this Article with a patient. Patient consent or initiation of acts or contact by a patient shall not constitute affirmative defenses to sexual misconduct. For purposes of this subdivision, the term "sexual misconduct" means vaginal intercourse or any sexual act or sexual contact or touching as described in G.S. 14-17.20 [G.S. 14-27.20]. Sexual misconduct shall not include any act or contact that is for an accepted medical purpose.

(2) Fraudulent prescribing, drug diversion, or theft of any controlled substances by another person licensed by the Board under this Article. For purposes of this subdivision, the term "drug diversion" means transferring controlled substances or prescriptions for controlled substances to any of the following:

a. The licensee for personal use.

b. The licensee's immediate family member, including a spouse, parent, child, sibling, and any stepfamily member or in-law coextensive with the preceding identified relatives.

c. Any other person living in the same residence as the licensee.

d. Any person with whom the licensee is having a sexual relationship.

e. Any individual unless for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.

(b) For persons issued a license to practice by the Board under this Article, failure to report under this section shall constitute unprofessional conduct and shall be grounds for discipline under G.S. 90-121.2.

(c) Any person who reports under this section in good faith and without fraud or malice shall be immune from civil liability. Reports made in bad faith, fraudulently, or maliciously shall constitute unprofessional conduct and shall be grounds for discipline under G.S. 90-121.2.

(d) Reports under this section shall be made to the Board by one of the following methods:

(1) Certified mail and obtaining a delivery receipt.

(2) A designated delivery service authorized by G.S. 1A-1, Rule 4(j), and obtaining a delivery receipt.

(3) Emailing the Board at their public email address found on the Board's website and confirming receipt by the Board via return email. (2023-129, s. 5.1(e).)

§ 90-122. Compensation and expenses of Board.

Notwithstanding G.S. 93B-5(a), 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 two hundred dollars ($200.00) for each day actually engaged in the performance of the duties of his office, and all legitimate and necessary expenses incurred in attending meetings of the said Board.

All per diem allowances and all expenses paid as provided in this section shall be paid upon vouchers drawn by the Executive Director of the Board in accordance with Board policy.

The Board is authorized and empowered to expend from funds collected such 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. (1909, c. 444, s. 11; C.S., s. 6695; 1923, c. 42, s. 4; 1935, c. 63; 1959, c. 574; 1973, c. 800, s. 23; 1979, c. 771, s. 3; 1987, c. 645, s. 2; 2001-493, s. 1.)

§ 90-123. Fees.

In order to provide the means of carrying out and enforcing the provisions of this Article and the duties of devolving upon the North Carolina State Board of Examiners in Optometry, the Board is authorized to charge and collect the following fees:

(1) Each application for general optometry license $1,000

(2) Each general optometry license renewal, which fee shall be annually fixed by the Board, and not later than December 15 of each year written notice of the amount of the renewal fee shall be given to each optometrist licensed to practice in this State by mailing the notice to the last address of record with the Board of each such optometrist 500.00

(2a) Each provisional license 300.00

(2b) Each renewal of a provisional license 100.00

(3) Repealed by Session Laws 2023-129, s. 5.1(b), effective October 1, 2023.

(4) Repealed by Session Laws 2023-129, s. 5.1(b), effective October 1, 2023.

(5) Repealed by Session Laws 2023-129, s. 5.1(b), effective October 1, 2023.

(6) Each application for registration as an optometric assistant

or renewal thereof 100.00

(7) Each application for registration as an optometric technician or renewal thereof 100.00

(8) Each application for a branch office license or renewal for each branch office ..... 200.00.

(1909, c. 444, s. 12; C.S., s. 6696; 1923, c. 42, s. 5; 1933, c. 492; 1937, c. 362, s. 1; 1959, c. 477; 1969, c. 624; 1973, c. 1092, s. 2; 1979, c. 771, ss. 1, 2; 1981, c. 909; 1987, c. 645, s. 1; 2001-493, s. 2; 2023-129, s. 5.1(b).)

§ 90-123.1. Continuing education courses required.

All registered optometrists now or hereafter licensed in the State of North Carolina are and shall be required to take annual courses of study in subjects relating to the practice of the profession of optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure expansive and comprehensive care to the public. The length of study shall be prescribed by the Board but shall not exceed 25 hours in any calendar year. Attendance must be at a course or courses approved by the Board. Attendance at any course or courses of study are to be certified to the Board upon a form approved by the Board and shall be submitted by each registered optometrist at the time he makes application to the Board for the renewal of his license and payment of his renewal fee. The Board is authorized to use up to one half of its annual renewal fees for the purposes of contracting with institutions of higher learning, professional organizations, or qualified individuals for the providing of educational programs that meet this requirement. The Board is further authorized to treat funds set aside for the purpose of continuing education as State funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance may the Board require a greater number of hours of study than are available at approved courses held within the State, and shall be allowed to waive this requirement in cases of certified illness or undue hardship. (1969, c. 354; 1981, c. 811, s. 3.)

§ 90-124. Rules of Board; certain information to be made available.

Chapter 150B of the General Statutes governs the adoption of rules by the Board.

The Board shall make this Article, the Board rules, and a directory of optometrists available to each licensed optometrist. (1909, c. 444, s. 13; C.S., s. 6697; 1935, c. 63; 1953, c. 189; c. 1041, s. 12; 1955, c. 996; 1973, c. 800, s. 24; 1993, c. 539, s. 629; 1994, Ex. Sess., c. 24, s. 14(c); 2021-84, s. 7(b).)

§ 90-125. Practicing under other than own name or as a salaried or commissioned employee.

Except as provided for in Chapter 55B of the General Statutes of North Carolina, it shall be unlawful for any person licensed to practice optometry under the provisions of this Article to advertise, practice, or attempt to practice under a name other than his own, except as an associate of or assistant to an optometrist licensed under the laws of the State of North Carolina; and it shall be likewise unlawful for any corporation, lay body, organization, group, or lay individuals to engage, or undertake to engage, in the practice of optometry through means of engaging the services, upon a salary or commission basis, of one licensed to practice optometry or medicine in any of its branches in this State. Likewise, it shall be unlawful for any optometrist licensed under the provisions of this Article to undertake to engage in the practice of optometry as a salaried or

commissioned employee of any corporation, lay body, organization, group, or lay individual. (1935, c. 63; 1937, c. 362, s. 2; 1969, c. 718, s. 16.)

§§ 90-126 through 90-126.1. Repealed by Session Laws 1973, c. 800, s. 26.

§ 90-127. Application of Article.

Nothing in this Article shall be construed to apply to physicians and surgeons authorized to practice under the laws of North Carolina, except the provisions contained in G.S. 90-125, or prohibit persons to sell spectacles, eyeglasses, or lenses as merchandise from permanently located and established places of business. (1909, c. 444, s. 15; C.S., s. 6699; 1937, c. 362, s. 3.)

§ 90-127.1. 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. (1965, c. 396, s. 3; 1973, c. 800, s. 25.)

§ 90-127.2. Filling prescriptions.

Legally licensed druggists of this State may fill prescriptions of optometrists duly licensed by the North Carolina State Board of Examiners in Optometry to prescribe, apply or use pharmaceutical agents. (1977, c. 482, s. 5.)

§ 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 the patient's spectacle prescription, consistent with Federal Trade Commission rules and guidelines. 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 the recipient 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. (1981, c. 496, s. 14; 2023-129, s. 5.1(f).)

§ 90-127.4. Dispensing optometrists.

(a) An optometrist shall register under this section and with the North Carolina Board of Pharmacy to dispense certain drugs. A registered dispensing optometrist shall not compound medications or dispense controlled substances. A registered dispensing optometrist shall only dispense legend or prescription drugs to their own patients.

(b) In order to dispense certain drugs consistent with this section, the dispensing optometrist shall pay the dispensing fee to the North Carolina Board of Pharmacy as set forth in G.S. 90-85.24 and comply with the dispensing registration process as set forth in G.S. 90-85.26B. The optometrist shall register with both the North Carolina Board of Pharmacy and the Board and comply with all rules governing dispensing of drugs in accordance with this section.

(c) Drugs dispensed under this section shall only be for the diagnosis and treatment of abnormal conditions of the eye and its adnexa. (2023-129, s. 5.2.)

§ 90-128: Repealed by Session Laws 1973, c. 800, s. 26.