

TITLE 43. PROFESSIONS AND BUSINESSES  
CHAPTER 29. DISPENSING OPTICIANS

§ 43-29-1. Purpose of chapter

This chapter is enacted in the exercise of the police powers of the state. Its purposes generally are to protect the public health, welfare, and safety by providing for the regulation of the sale, dispensing, and supplying of all ophthalmic appliances, eyeglasses, and all aids to human vision.

**HISTORY:** Ga. L. 1956, p. 148, § 1.

§ 43-29-2. Definitions

As used in this chapter, the term:

(1) "Board" means the State Board of Dispensing Opticians.

(2) "Dispensing optician" means, subject to Code Section 43-29-18, an individual who is duly licensed to prepare and dispense lenses, spectacles, eyeglasses, contact lenses, and optical devices to the intended user thereof as specifically directed or authorized on the written prescription of a physician skilled in diseases of the eye or an optometrist duly licensed to practice his profession.

**HISTORY:** Ga. L. 1956, p. 148, § 2; Ga. L. 1981, p. 1378, § 1.

§ 43-29-3. Creation of board; members; election of officers; meetings; powers and duties

(a) There is created the State Board of Dispensing Opticians, which board shall supervise the practice of dispensing opticians and enforce this chapter, which board shall be composed of five licensed dispensing opticians, each of whom shall be a resident of the state who has been engaged in the occupation of dispensing optician in the state for not less than five years preceding the time of his appointment, and one additional member who shall have no connection whatsoever with the trade or occupation of dispensing optician.

(b) The members of the board shall be appointed by the Governor, and each such appointee shall hold office for a period of four years or until his successor is appointed and qualified.

(c) The Governor is also authorized to fill vacancies that may occur from time to time on said board with persons duly qualified.

(d) The board shall select from among its own number a chairman and a vice-chairman, shall adopt rules and regulations governing the examination of applicants and the enforcement of this chapter, and shall establish a code of ethics and standards of practice

for dispensing opticians and such other rules and regulations governing procedure as shall be necessary and proper for the carrying out of the objectives of this chapter.

(e) The board shall provide for meetings at least twice each year for the purpose of receiving applications and giving examinations as above provided and may meet at other times and at such places as the board shall designate from time to time or fix by regulations.

(f) The board may administer oaths, summon witnesses, and take testimony in all matters relating to its duties.

(g) The board shall issue a license to practice the trade or occupation of dispensing optician to all persons who shall furnish satisfactory evidence of attainments and qualifications under this chapter and the rules and regulations of the board. Such license shall be signed by the chairman and attested by the division director, and it shall give the person to whom it is issued the absolute authority to practice the trade or occupation of dispensing optician in this state.

(h) Each member of the board shall be reimbursed as provided in subsection (f) of Code Section 43-1-2.

**HISTORY:** Ga. L. 1956, p. 148, § 5; Ga. L. 1978, p. 1960, § 1; Ga. L. 1980, p. 1101, § 2; Ga. L. 2000, p. 1706, § 19.

#### § 43-29-4. Board records and seal

(a) The board shall have an official seal and shall keep a record of its proceedings and a register of persons whose licenses have been revoked.

(b) The records of the board shall be open to public inspection, and it shall keep on file all examination papers for a period of 90 days after each examination. A transcript of an entry in such records, certified by the division director under the seal of the board, shall be evidence of the facts stated therein.

**HISTORY:** Ga. L. 1956, p. 148, § 6; Ga. L. 2000, p. 1706, § 19.

#### § 43-29-5. Jurisdiction of board

The board shall have exclusive jurisdiction in the enforcement of this chapter over all persons engaged in business as dispensing opticians, whether licensed or unlicensed, provided that nothing contained in this chapter shall be construed as limiting or abrogating the power or authority of any board or commission created under any of the laws of this state defining and regulating any profession to enforce such respective laws or exercising any of the powers contained in such laws against violators thereof, even though engaged in the business of dispensing optician.

**HISTORY:** Ga. L. 1956, p. 148, § 2.

§ 43-29-6. Rules and regulations; violation as grounds for revocation of license

The board is authorized to adopt rules and regulations pursuant to this chapter for the carrying out of the purposes of this chapter. The violation of such rules and regulations shall be grounds for the revocation of any license issued under this chapter.

**HISTORY:** Ga. L. 1980, p. 1101, § 8.

§ 43-29-7. License requirement; qualifications of applicants; subjects to be tested on examination; issuance and display of license

(a) Any person wishing to obtain the right to practice the trade or occupation of dispensing optician, as defined in this chapter, shall, before it shall be lawful for him to do so in this state, make application to the board, upon such form and in such manner as shall be adopted and prescribed by the board, and obtain a license from the board. Unless such person shall have obtained a license as provided in this subsection, it shall be unlawful for him to practice the trade or occupation of dispensing optician in this state; and he shall be subject to the penalties prescribed in Code Section 43-29-21.

(b) The board shall admit to examination any candidate who pays the fee provided for in this chapter and submits evidence satisfactory to the board, verified on oath, that:

(1) The applicant is over 18 years of age;

(2) The applicant has completed a high school education or its equivalent, as defined by the State Board of Education;

(3) The applicant is of good moral character; and

(4) The applicant has satisfactorily completed one school year of not less than an 850 hour course of study in a recognized school of optical dispensing or has had practical training and experience of a grade and character satisfactory to the board for not less than two years under the supervision of a dispensing optician, a licensed physician, or a licensed optometrist, provided that any time spent in a recognized school shall be considered as part of the apprenticeship period.

(c) Applicants for examination may be examined by the board upon matters pertaining to mathematics and physics, ophthalmic materials and laboratory technique, ophthalmic optics, ophthalmic dispensing, and practical subjects. When any applicant passes the necessary examination and meets the qualifications set out, the board shall issue a license to such person to practice the trade or occupation of dispensing optician.

(d) Such license shall be conspicuously displayed in the office or place of business of the dispensing optician; and it shall not be necessary to remove the same so long as such dispensing optician continues to practice his trade or occupation in the state and so long as the license is not revoked or suspended by the board.

**HISTORY:** Ga. L. 1956, p. 148, § 3; Ga. L. 1982, p. 3, § 43; Ga. L. 1984, p. 513, § 1.

§ 43-29-8. Examination; examination fee; effect of failure of two examinations

(a) Examination of applicants for license to practice the trade or occupation of dispensing optician shall be made by the board according to the methods and covering subject matter deemed by the board to be the most practical and expeditious to test the applicant's specific job performance requirements. Such examinations shall be written.

(b) There shall be paid to the division director by each applicant for a license an examination fee in an amount determined by the board, which fee shall accompany the application for examination.

(c) Failure to pass a satisfactory examination shall not prevent any applicant from participating in subsequent examinations before the board upon complying with this chapter, but any applicant who has failed two examinations shall not be permitted to take any further examination for licensure under this chapter until such applicant has furnished sufficient proof of having taken such additional education and training as shall be required by the board.

**HISTORY:** Ga. L. 1956, p. 148, § 4; Ga. L. 1980, p. 1101, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-29-9. Reciprocity

Any person who has been duly licensed to practice as a dispensing optician in any state of the United States which has a standard of qualifications and examination for such practice at least as high as that provided for in this state by this chapter and who has been principally engaged in such practice pursuant to such license for a period of not less than two years preceding may, upon proper application to the board and upon payment of a fee in an amount established by the board in lieu of examination and registration fees, be issued a certificate of registration without examination and shall thereupon be authorized to practice as a registered dispensing optician in this state subject to this chapter and the rules and regulations of the board, provided that the state of residence of a dispensing optician seeking registration under this Code section accords a similar privilege to dispensing opticians licensed by Georgia and seeking to practice as dispensing opticians in such other state; provided, further, that an applicant for registration under this Code section shall not, within the five years preceding his application, have failed any examination which is required in this state.

**HISTORY:** Ga. L. 1956, p. 148, § 9; Ga. L. 1980, p. 1101, § 3.

§ 43-29-10. Registration; fee; reinstatement

All persons practicing as dispensing opticians shall register with the division director and shall pay a biennial registration fee in an amount determined by the board, on or before the renewal date established by the division director. Failure to register and pay

this fee shall forfeit the certificate of such delinquent, but he may be reinstated by paying all registration dues and an additional penalty fee in an amount established by the board.

**HISTORY:** Ga. L. 1956, p. 148, § 11; Ga. L. 1980, p. 1101, § 4; Ga. L. 2000, p. 1706, § 19.

§ 43-29-11. Continuing education requirement; waiver; effect of failure to complete required course hours

(a) Each person who holds a license as a dispensing optician shall be required to complete ten hours of continuing education prior to each renewal of such license.

(b) With his application for license renewal, each licensed dispensing optician must submit a certificate or certificates of attendance for course hours completed as proof that his education requirements have been satisfied. The board shall give credit for any course given by any recognized national, regional, or state dispensing society or association if such course increases the education of a dispensing optician and is made available to all licensed opticians on a reasonably nondiscriminatory fee basis. The board may also approve, in accordance with the objectives of this chapter, other courses held within or outside of this state which are available to all persons on a reasonably nondiscriminatory fee basis. Any group of ten or more licensed opticians may arrange for an educational course and request board approval thereof. Any such request shall be made at least 90 days prior to the proposed date of the course and shall include full details as to the contents of the course, the instructors, and the charge to be made for attendance, as well as any other information which the board may require. The board shall endeavor to act upon any request for approval at least 45 days prior to the proposed date therefor and shall thereupon notify all licensed opticians of the time, place, contents, and charges for any such approved course. The certificate of attendance required under this chapter shall be issued to the optician upon completion of the approved course. Credit will be allowed on the basis of an hour for an hour. To receive one hour of credit, one must attend one full hour. No fractional hour credits will be allowed.

(c) The board may waive the requirements of this Code section for any license period for any dispensing optician upon proof of such optician's hardship or disability, provided that such optician's license may be revoked upon failure of the licensee to complete the required number of hours, not to exceed 20 hours, of continuing education within 12 months immediately following renewal.

(d) A dispensing optician failing to complete the course hours required under this Code section shall have his license restored upon proof of subsequent completion of required course hours and, except in the case of a waiver granted under subsection (c) of this Code section, upon payment of a penalty fee in an amount established by the board.

**HISTORY:** Ga. L. 1976, p. 279, § 1; Ga. L. 1980, p. 1101, § 6; Ga. L. 1981, p. 1378, § 2; Ga. L. 1984, p. 513, §§ 2, 3.

§ 43-29-12. Refusal or revocation of certificates of registration

The board shall refuse to issue its certificate of registration and may revoke its certificate of registration issued to any person who is not of good moral character, who commits an act involving moral turpitude, who is guilty of highly unprofessional conduct, or whose certificate was issued through error, fraud, or perjury, provided that in all such cases the board shall serve written notice of the charges on such accused person at least ten days prior to the date set for hearing, and such person shall be notified to appear before the board to answer the charges at such time and place as the board may direct. Such notice shall plainly set forth the charges made and shall notify the accused person to appear to answer the same. On such hearing, if the charges are found true, the accused having the right to produce witnesses in his behalf and cross-examine those testifying against him, the board shall render judgment against him.

**HISTORY:** Ga. L. 1956, p. 148, § 15.

§ 43-29-13. Appeal from decisions of board

Any person whose license has been revoked or suspended by the board may appeal to the superior court of the county of domicile of the board for a trial de novo by filing with the clerk a certified copy of the charge heard by the board and his petition requesting a trial. Upon demand by the applicant, the board shall make certified copies of any charges. When the copy of the charge is lodged with the clerk of the superior court of the county of domicile of the board and the required deposit of court cost is paid within ten days after the board's findings, the appeal shall be considered perfected and shall be docketed and stand for trial. No such appeal shall operate as a supersedeas to such revocation or suspension.

**HISTORY:** Ga. L. 1956, p. 148, § 16; Ga. L. 2000, p. 1706, § 18.

§ 43-29-14. Duties when dispensing contact lenses; restrictions; qualified dispensing optician as engaging in lawful trade or occupation

(a) Dispensing opticians who dispense contact lenses shall instruct the wearer at the time the lenses are delivered to return to the prescribing and responsible optometrist or physician skilled in diseases of the eye for evaluation, approval, and follow-up care.

(b) A dispensing optician may duplicate lenses without prescription, provided that a dispensing optician shall not substitute contact lenses for spectacles, eyeglasses, or other optical devices except as otherwise authorized in this chapter or engage in the diagnosis of diseases of the human eye or attempt to determine the refractive powers of the human eye or in any manner attempt to prescribe remedies for or treat diseases or ailments of human beings.

(c) A dispensing optician who qualifies under this chapter shall be determined and recognized as engaging in a lawful trade or occupation in this state.

**HISTORY:** Ga. L. 1956, p. 148, § 2; Ga. L. 1981, p. 1378, § 1.

§ 43-29-15. Advertising

It shall be lawful for a dispensing optician to advertise, provided that such dispensing optician does not advertise in any manner that would tend to mislead or deceive the public or that would in any manner discredit others in the eye care field.

**HISTORY:** Ga. L. 1956, p. 148, § 7.

§ 43-29-16. Splitting fees or costs

It shall be unlawful for any **dispensing optician**, either directly or indirectly, to participate in any manner in the division, assignment, rebate, splitting, or refunding of service fees or costs of completed eyeglasses or parts thereof with a physician, optometrist, or other person or persons.

**HISTORY:** Ga. L. 1956, p. 148, § 7.

§ 43-29-17. Sale of nonprescription glasses; manufacture and sale of artificial eyes

Nothing in this chapter shall be construed to prevent the sale of spectacles for reading purposes, toy glasses, goggles, or sunglasses consisting of plano white, plano colored, or plano tinted glasses or ready-made nonprescription glasses; nor shall anything in this chapter be construed to affect in any way the manufacturing and sale of plastic or glass artificial eyes or any persons engaged in the manufacturing or sale of plastic or glass artificial eyes.

**HISTORY:** Ga. L. 1956, p. 148, § 10.

§ 43-29-18. Construction of chapter

(a) Nothing in this chapter shall be construed to authorize or permit any person to hold himself out as being able, or to offer, undertake, or attempt, by any means or method, to examine eyes or to diagnose, treat, correct, relieve, operate, or prescribe for any human ailment, deficiency, deformity, disease, injury, pain, or physical condition.

(b) Nothing in this chapter shall be construed to limit or restrict, in any respect, the practice of medicine by duly licensed physicians authorized to practice under Article 2 of Chapter 34 of this title or the practice of optometry by duly licensed optometrists authorized to practice under Chapter 30 of this title. Nothing in this chapter shall be construed to limit or restrict a duly licensed physician or optometrist from the practices enumerated and defined in this chapter; and such licensed physician or optometrist shall have all the rights and privileges which may accrue under this chapter to dispensing opticians licensed under this chapter.

(c) Nothing in this chapter shall be construed to impede, limit, prevent, or restrict the

furnishing, selling, or supplying of any commodities or services by any manufacturer, wholesaler, jobber, vendor, or distributor of any commodities or services to any manufacturer, wholesaler, jobber, vendor, or distributor thereof or to or as agent for any physician, optometrist, or dispensing optician or to any clinic, infirmary, or hospital or to any school, college, or university.

(d) Nothing in this chapter shall be construed to prohibit an unlicensed person from performing merely mechanical work upon inert materials in an optical office or laboratory.

(e) The services and appliances relating to optical dispensing shall be dispensed, furnished, or supplied to the intended wearer or user thereof only upon prescription issued by a physician or an optometrist; but duplications, replacements, reproductions, or repetitions may be done without prescription, in which event any such act shall be construed to be optical dispensing the same as if performed on the basis of an original written prescription.

(f) Nothing contained in this chapter shall be construed to require an employee of a licensed physician or a licensed optometrist to secure a license under this chapter or be otherwise subject to this chapter, so long as such employee is working exclusively for and under the direct supervision of such licensed physician or optometrist or licensed optician and does not hold himself out to the public generally as a dispensing optician.

**HISTORY:** Ga. L. 1956, p. 148, §§ 8, 14; Ga. L. 1992, p. 6, § 43; Ga. L. 1994, p. 97, § 43; Ga. L. 1999, p. 81, § 43.

§ 43-29-19. Payment of fees in advance; restriction on paying out funds and creating expenses

All fees provided for in this chapter shall be paid in advance to the division director. No funds shall be paid out unless authorized by the chairman of the board and the division director, and no expense shall be created in excess of the fees provided in this chapter.

**HISTORY:** Ga. L. 1956, p. 148, § 12; Ga. L. 1980, p. 1101, § 7; Ga. L. 2000, p. 1706, § 19.

§ 43-29-20. Unlicensed practice as public nuisance; injunctions

The practice of the profession of dispensing optician is declared to involve activities affecting the public interest and involving the health and safety and welfare of the public. Such activities, when engaged in by a person who is not licensed, are declared to be a public nuisance and harmful to the public health, safety, and welfare. The board or the appropriate prosecuting attorney where such nuisance exists may bring an action to restrain and enjoin such unlicensed practice in the superior court of the county where such unlicensed person resides. It shall not be necessary in order to obtain the equitable relief provided in this Code section to allege or prove that there is no adequate remedy at law.

**HISTORY:** Ga. L. 1980, p. 1101, § 8.

§ 43-29-21. Penalty

Any person who shall practice the trade or occupation of dispensing optician, as defined in this chapter, without first complying with this chapter or who shall violate any of the Code sections of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00 or by imprisonment of not more than six months in the county jail, or both.

**HISTORY:** Ga. L. 1956, p. 148, § 13; Ga. L. 1982, p. 3, § 43.

§ 43-29-22. Termination

Repealed by Ga. L. 1992, p. 3137, § 24, effective July 1, 1992.

[Repealed]

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