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**ARTICLE 5
OPTOMETRY**

SOURCE: Added by P.L. 16-123:2 (Dec. 28, 1982).

- § 12500. Definitions.
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§ 12500. Definitions.

As used in this Chapter:

(a) Ophthalmic lens means a lens which has a spherical, cylindrical or prismatic value and which is ground pursuant to a prescription, and intended to be used as eyeglasses or spectacles;

(b) Contact or corneal lens means any lens to be worn on the anterior segment of the human eye, to be prescribed, dispensed, employed, modified, provided, sold and fitted by a licensed optometrist or physician;

(c) Prescription means a formula written for ophthalmic lenses for a patient by a person duly licensed and containing the following essential elements:

(1) dioptric power of spheres, cylinders and prisms, axes of cylinders, position of prism base, and if so desired by the prescriber, light transmission properties and lens curve values;

(2) designation of pupillary distance; and

(3) name of patient, date of prescription, expiration date and the name and office location of prescriber;

(d) Eyeglasses means any optical device using ophthalmic lenses for the correction or relief of disturbances in and anomalies of human vision and includes spectacles and other devices using ophthalmic lenses; and

(e) Board means the Board of Examiners for Optometry.

§ 12501. Licenses Required.

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Unless licensed or exempted under this Article, no person shall:

- (a) practice optometry;
- (b) represent himself or offer his services as being able to practice optometry;
- (c) prescribe eyeglasses or give a prescription to a patient; or
- (d) duplicate or replace an ophthalmic lens, not including contact lenses, without a current prescription, or without a written authorization from the patient if the prescription is not available.

§ 12502. Board Created; Terms; Appointment; Continuance; Removal.

(a) There is created a five (5) member 'Board of Examiners for Optometry' composed of five (5) persons who have resided in and have been continuously engaged in the practice of optometry in Guam for at least one (1) year immediately prior to their appointment. A member shall either be a citizen or permanent resident of the United States.

(b) Members of the Board shall be appointed by the Governor. Members shall be appointed for staggered terms of three (3) years each as determined by the Governor. The terms shall be made in such a manner that the term of one (1) member ends in each year commencing with 1984. Members shall serve until their successors have been appointed and qualified.

(c) The Governor may remove any member from the Board for the neglect of any duty required by law, for incompetence, for improper or unprofessional conduct as defined by Board regulation or for any reason which would justify the suspension or revocation of his license to practice optometry.

§ 12503. Organization; Meetings; Compensation; Powers and Duties.

(a) The Board shall annually elect a chairman, a vice-chairman and a secretary-treasurer, each of whom shall serve until his successor is elected and qualified.

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(b) The Board shall meet at least twice each year for the purpose of examining candidates for licensure. Special meetings may be called by the chairman and shall be called upon the written request of a majority of the Board members. Candidates for licensure by endorsement shall be examined at the next regular meeting after the date of their application. A majority of the members shall constitute a quorum.

(c) Members of the Board shall be compensated as provided by law.

(d) The Board shall:

(1) administer and enforce the provisions of this Article;

(2) adopt, with the approval of the Commission, all rules and regulations for the implementation and enforcement of the provisions of this Article;

(3) adopt and use a seal;

(4) administer oaths and take testimony on any matters within the Board's jurisdiction;

(5) keep an accurate record of all its meetings, receipts and disbursements;

(6) keep a record of all examinations held, together with the names and addresses of all persons taking such examinations and the examination results; and within thirty (30) days after any examination, the Board shall give written notice to each applicant examined of the results of the examination as to the respective applicant;

(7) keep a book of registration in which the name, address and license number of all licensees shall be recorded together with a record of all license renewals, suspensions and revocations;

(8) grant and review licenses to practice optometry;

(9) deny, suspend or revoke licenses to practice optometry in accordance with the provisions of the Administrative Adjudication Law for any cause stated in this Article;

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(10) develop and administer qualifications for (i) certification for the use of topical ocular diagnostic pharmaceutical agents, including minimum educational requirements and examination; and (ii) certification to prescribe and use therapeutic pharmaceutical agents, including minimum educational requirements and examination;

(11) provide for the suspension of an optometrist's license for sixty (60) days upon a determination of use of topical ocular diagnostic pharmaceutical agents, without prior certification, after proper notice and an opportunity to be heard before the Board; and

(12) establish and collect fees for services it renders.

(e) The Board shall comply with the requirements of the Open Government Law (P.L. 13-35, as amended) but when the Board is preparing examinations, grading examinations, discussing the eligibility of a person to be licensed to practice optometry or reviewing evidence obtained at a hearing for disciplinary action, the Board shall meet in executive session and may exclude the press and members of the public.

SOURCE: Subsection (d)(10) repealed/reenacted by P.L. 23-9:2.

§ 12504. Personnel.

The Commission, with the advice and consent of the Board, may employ and assign to the Board such consultive and technical personnel as may be necessary or desirable for the proper functioning of the Board and the administration of this Article. The Commission may assign to the Board such administrative, clerical and other employees as may be necessary or desirable for the proper functioning of the Board and administration of this Article.

§ 12505. Fees.

All fees received by the Board except those paid for standardized national examinations shall be deposited with the Treasurer of Guam for deposit in the General Fund.

§ 12506. Qualifications for Licensure as an Optometrist.

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Each applicant for licensure as an optometrist shall furnish evidence satisfactory to the Board that the applicant:

(a) has reached the age of majority;

(b) is of good moral character and of temperate habits;

(c) has completed at least an approved four-year high school course of study or the equivalent thereof as determined by regulation of the Board;

(d) is a citizen of the United States or is a permanent resident of the United States; and

(e) has graduated and been awarded a doctor of optometry degree from a school or college of optometry approved and accredited by the Board, and in the event the applicant applies for licensure by endorsement, he shall have been awarded a doctor of optometry degree from a school or college of optometry approved and accredited by the Board which had a minimum course of study of four thousand (4,000) clock hours of instruction leading to such degree.

§ 12507. Licensure by Examination; Licensure by Endorsement.

(a) An applicant meeting the qualifications set forth in § 12506 of this Chapter, shall:

(1) file his application under oath, on forms supplied by the Board, for an examination by the Board. The examination shall be confined to the subjects within the curriculum of colleges of optometry approved and accredited by the Board and shall include written tests and practical demonstrations and may include oral tests; or

(2) file his application under oath on forms supplied by the Board which conform to Board regulations on endorsement and furnish proof satisfactory to the Board of his having been licensed by examination in another jurisdiction of the United States which had qualifications equal to or exceeding those required in Guam on the date of his original licensure, and satisfying the Board that he holds a doctor of optometry degree from a school or college ap-

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proved and accredited by the Board which was obtained after the completion of a course of study with a minimum of four thousand (4,000) clock hours of instruction. The applicant must have been actively engaged in the practice of optometry in the jurisdiction of licensure or in federal service for seven (7) consecutive years immediately prior to the year in which application is made. This proof shall be accepted in lieu of the written portion of the examination. Applicants for licensure without written examination shall be examined to the satisfaction of the Board by practical, oral and clinical demonstration in the presence of a majority of the Board and a detailed record of such examination shall be kept and made available to the applicant at his request.

(b) All applicants successfully passing the examinations shall be issued a license by the Board upon payment of the license fee.

2022 NOTE: Reference to “Territory” replaced with “Guam” pursuant to 1 GCA § 420.

§ 12508. Certification for Use of Diagnostic or Therapeutic Agents; Display.

(a) The Board shall issue certification for the use of topical ocular diagnostic pharmaceutical agents to optometrists, licensed after the effective date of this Section, who have completed appropriate forms issued by the Board and submitted proof of successful completion of the educational requirements for certification established by the Board, which requirements shall include, but not be limited to:

(1) having satisfactorily completed a course in pharmacology as applied to optometry with particular emphasis on the topical application of diagnostic pharmaceutical agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions, which course is offered by an institution accredited by a regional or professional accreditation organization recognized or approved by the national commission on accreditation or the United States Commissioner of Education; or

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(2) having postgraduate education, with a minimum of seventy (70) hours of instruction in general and ocular pharmacology as applied to optometry, taught by an accredited institution and approved by the Board.

(b) The Board shall issue certification for the prescribing and use of therapeutic pharmaceutical agents to optometrists licensed after the effective date of this Section, who have completed appropriate forms issued by the Board and submitted proof of successful completion of educational requirements for certification established by the board, which requirements shall include, but not be limited to:

(1) having satisfactorily completed a course consisting of a minimum of ninety (90) total hours of didactic education and supervised clinical training approved by the Board with particular emphasis on the examination, diagnosis and treatment of conditions of the eye and adnexa. Such course shall be provided by an institution accredited by a regional or professional accreditation organization recognized or approved by the Counsel on Post-Secondary Accreditation of the United States Department of Education, or its successor; and

(2) such other requirements as may be determined by the Board.

(c) The certifications authorized by this Section shall be displayed in a conspicuous place in the optometrist's principal office or place of business.

SOURCE: Repealed/reenacted by P.L. 23-009:3. P.L. 23-009 contains the following language relative to persons holding licenses under prior law:

Section 4. No Automatic Certification of Currently Licensed Optometrists. All optometrists wishing to prescribe and use therapeutic pharmaceutical agent will have to be certified by the board after the effective date of this Act. No provision of this Act shall be construed as the automatic certification of currently licensed optometrists or those currently certified to use topical ocular diagnostic pharmaceutical agents to include certification for the prescribing and use of therapeutic pharmaceutical agents

Section 5. Within ninety (90) days after the effective date of this Act, the Guam Board of Examiners for Optometry shall develop rules and

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regulations requiring the satisfactory completion of the educational requirements, clinical training, and examinations required under the provisions of this Act, regarding those optometrists seeking to become certified to prescribe and use therapeutic pharmaceutical agents. The Board of Pharmacy shall be consulted as needed to develop policies concerning the implementation of this law.

§ 12509. License Fees; Licensure Under Prior Laws.

Any person practicing as an optometrist on Guam prior to December 31, 1986 shall be held to be licensed under the provisions of this Chapter and shall be entitled to the annual renewal of his license.

SOURCE: Amended by P.L. 19-016:2.

§ 12510. License; Renewal; Retirement; Resumption of Practice.

(a) Each license shall be renewed annually on or before October 1 of each year by the licensee remitting to the secretary of the Board the proper fee and proof of continued education as required by regulation of the Board. Notice of renewal shall be sent to each licensee by the Board before October 1 of each year. Failure to renew his license on or before November 1 shall subject the licensee to such late charge as shall be determined by regulation of the Board not to exceed the limit set forth in this Chapter. Any license not renewed by December 31 of each year shall be automatically revoked. Upon receipt of the renewal certificate, each licensee shall attach a copy of the same to his certificate of license.

(b) Each optometrist applying for the renewal of his license shall furnish to the secretary of the Board satisfactory evidence that he has attended in the preceding year, at least one (1) day of a continuing education program approved by the Board. The secretary shall send a written notice of the continuing education requirements at least thirty (30) days prior to September 1 in each year to the last known address of the licensee. Failure of a licensee to meet such annual continuing educational requirements shall be grounds for the revocation of his license. Any license revoked because of the failure to meet the continuing education requirements shall be reinstated by the Board upon the presentation of

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evidence of continuing study of a standard approved by the Board and the payment of all fees due.

(c) Before engaging in the practice of optometry and after a license has been issued to him, each registered optometrist shall notify the secretary of the Board in writing of the address at which he intends to begin practice, and subsequently of the changes in his business address or location. Any notices the Board is required to give a licensee shall legally have been given when delivered to the latest address furnished by the licensee of the Board.

§ 12511. Refusal, Suspension or Revocation of License.

(a) The Board may refuse to issue, suspend or revoke any license, for any of the following reasons:

(1) conviction of a felony, as shown by a certified copy of the record of the court of conviction;

(2) malpractice or incompetence;

(3) continued practice by a person knowingly having an infectious or contagious disease;

(4) advertising by means of knowingly false, misleading or deceptive statements or advertising or attempting to practice under a name other than one's own;

(5) habitual drunkenness or addiction to the use of habit-forming drugs;

(6) aiding or abetting in the practice of optometry any person not duly licensed to practice optometry in Guam;

(7) lending, leasing or in any other manner placing his certificate of license at the disposal or in the service of any person not licensed to practice optometry in Guam;

(8) employing, procuring or inducing an unlicensed person to practice optometry in Guam; or

(9) violating any of the provisions of this Article or the rules adopted by the Board.

2022 NOTE: References to "Territory" replaced with "Guam" pursuant to 1 GCA § 420.

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§ 12512. Offenses.

Each of the following acts committed by any person constitutes a misdemeanor, for the first offense and a felony for second and subsequent offenses:

(a) practicing or attempting to practice optometry without a current license issued by the Board;

(b) permitting any person in one's employ, supervision or control to practice optometry unless that person is licensed or exempted in accordance with the provisions of this Article;

(c) making a willfully false oath or affirmation where such oath or affirmation is required by this Article;

(d) selling or using any designation, diploma or certificate tending to imply that one is a practitioner of optometry, unless one holds a license as provided by this Article;

(e) refusal, after a request, to provide a patient a copy of his spectacle prescription, not including a contact lens prescription, providing the prescription is not over one (1) year old;

(f) duplicate or replace an ophthalmic lens, not including contact lenses, without a current prescription not more than two (2) years old, or without a written authorization from the patient if the prescription is not available;

(g) practicing optometry during any period of time in which one's license has been revoked or suspended; or

(h) except for licensed optometrists, using any trial lenses, trial frames, graduated test cards or other appliances or instruments for the purpose of examining the eyes or rendering assistance to anyone who desires to have an examination of the eyes; provided, however, that it is not the intent of this Subsection to prevent any school nurse, school teacher or person in public service from ascertaining the possible need of vision services, provided, that such person, clinic or program does not attempt to diagnose or prescribe

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ophthalmic lenses for the eyes, or recommend any particular practitioner.

§ 12513. Exemptions.

Nothing in this Article shall be construed to apply to licensed physicians or surgeons or persons, clinics or programs under their responsible supervision and control. Persons, clinics and programs under the responsible supervision and control of a licensed physician or surgeon shall not use either loose or fixed trial lenses for the sole purpose of determining the prescription for eyeglasses or contact lenses. The fitting of a contact lens to a patient shall be done at the practitioner's place of practice.

§ 12514. Power to Enjoin Violations.

The Board may petition the Superior Court for an order restraining and enjoining any person from violation of this Article irrespective of the availability of other remedies at law.

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