

By: Senator(s) Dearing

To: Public Health and
Welfare

SENATE BILL NO. 2034

1 AN ACT TO PROVIDE FOR THE REGULATION AND LICENSING OF
2 DISPENSING OPTICIANS IN THE STATE OF MISSISSIPPI; TO CREATE A
3 BOARD OF OPTICIANRY TO PROVIDE EXEMPTIONS FROM THE REQUIREMENTS OF
4 THIS ACT; TO PROVIDE FOR DISCIPLINARY PROCEEDINGS AND PENALTIES
5 FOR VIOLATING PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. It is the purpose of this act to provide for:

8 (a) The regulation of persons offering optical
9 dispensing services to the public;

10 (b) To protect the public health, safety and welfare;
11 and

12 (c) To protect the public by assuring that providers of
13 optical dispensing services and products meet minimum standards of
14 competence.

15 SECTION 2. The following terms shall have the meaning
16 ascribed herein, unless the context otherwise requires:

17 (a) "Optical aid" means an instrument or device
18 prescribed by a physician or optometrist licensed by any state to
19 correct human vision, including spectacles, eyeglasses, contact
20 lenses and accessories.

21 (b) "Optical dispensing" means providing, interpreting,
22 fitting, duplicating or replacing of optical aids to or for the
23 intended wearer.

24 (c) "Licensed dispensing optician" means a person
25 holding a current, valid license issued under Sections 8 through
26 11 of this act that authorizes the person to engage in optical
27 dispensing. Nothing in this section shall be construed to permit

28 a licensed dispensing optician to alter the specifications of a
29 prescription.

30 (d) "Licensed spectacle dispensing optician" means a
31 licensed dispensing optician authorized to engage in the
32 dispensing of optical aids other than contact lenses.

33 (e) "Licensed contact lens dispensing optician" means a
34 licensed dispensing optician authorized to engage only in the
35 dispensing of contact lenses.

36 (f) "Licensed spectacle-contact lens dispensing
37 optician" means a licensed dispensing optician authorized to
38 engage in the dispensing of any optical aid.

39 (g) "Apprentice" means any person dispensing optical
40 aids under the direct supervision of a licensed dispensing
41 optician.

42 (h) "Prescription" means the written or verbal
43 directions or instructions as specified by a physician or
44 optometrist licensed by any state for preparing an optical aid for
45 a patient.

46 (i) "Supervision" means the provision of direction and
47 control through personal inspection and evaluation of work and the
48 provision of such consultation and instruction as may be needed.

49 (j) "Board" means the Mississippi Board of Opticianry.

50 SECTION 3. Beginning one (1) year after the effective date
51 of this section, no person shall engage in optical dispensing or
52 hold himself out as being engaged in optical dispensing, except as
53 authorized under Section 8 of this act, unless he has fulfilled
54 the requirements of Sections 9 through 11 of this act and has been
55 certified as a licensed dispensing optician by the board.

56 SECTION 4. (1) There is hereby created the Mississippi
57 Board of Opticianry, consisting of the following five (5) members:

58 (a) Three (3) dispensing opticians appointed from a
59 list of six (6) nominees submitted by the Mississippi Association
60 of Dispensing Opticians, one (1) of whom shall be a contact lens
61 dispensing optician, and two (2) of whom shall be spectacle
62 dispensing opticians, licensed under Sections 9 through 11 of this
63 act, except as otherwise provided in this subsection;

64 (b) One (1) licensed optometrist; and

65 (c) One (1) licensed ophthalmologist.

66 The initial dispensing optician members of the board shall
67 meet the criteria for licensure as licensed dispensing opticians
68 specified in Section 8 of this act.

69 (2) The Governor, with the advice and consent of the Senate,
70 shall make initial appointments to the board in the following
71 manner:

72 (a) One (1) dispensing optician member, to serve for a
73 term ending on July 1, 2000;

74 (b) Two (2) dispensing optician members, to serve for a
75 term ending on July 1, 2001;

76 (c) The ophthalmologist member, to serve for a term
77 ending July 1, 2001; and

78 (d) The optometrist member, to serve for a term ending
79 on July 1, 2002.

80 Thereafter, members shall be appointed to the board for terms
81 of five (5) years, each term ending on the same day of the same
82 month of the year as did the term which it succeeds. Each member
83 of the board shall hold office from the date of his appointment
84 until the end of the term for which he was appointed, except that
85 if a successor member has not been appointed by the end of the
86 term, the member shall continue in office until such appointment.

87 No member shall serve more than two (2) consecutive terms. Any
88 vacancy occurring prior to the expiration of a member's term shall
89 be filled in the same manner as the original appointment. A
90 member appointed to fill a vacancy shall hold office for the
91 remainder of the unexpired term of the predecessor member of the
92 board.

93 SECTION 5. (1) The board shall elect a president and
94 secretary and such other officers from its members as may be
95 prescribed by rule of the board. The officers of the board shall
96 hold their respective offices for a term of one (1) year.

97 (2) The board members shall have authority to employ the

98 necessary personnel to carry out the provisions of this act, and
99 to fix their tenure of employment and compensation out of the
100 funds paid to the board as fees, as provided in this act. The
101 members of the board shall file a bond with the Secretary of State
102 in the sum of not less than Ten Thousand Dollars (\$10,000.00)
103 payable to the State of Mississippi for the faithful performance
104 of their duties. Said bond shall be made by a surety company
105 authorized to do business in this state, and the premium for such
106 bond shall be paid out of the funds of the board.

107 (3) The board is further authorized to maintain and pay the
108 expenses of an office to be located in the metro area of Jackson,
109 Mississippi.

110 (4) The members of the board shall receive a per diem
111 allowance as designated in Section 25-3-69, Mississippi Code of
112 1972, and shall receive reimbursement for expenses, including
113 mileage, incurred in the performance of their duty on the board as
114 provided in Section 25-3-41, Mississippi Code of 1972.

115 (5) The board shall meet at least once in each calendar year
116 in the metro area of Jackson. A majority of the board shall
117 constitute a quorum for the purpose of conducting business of the
118 board. No action of the board is valid without the concurrence of
119 three (3) members. The board shall also meet at such additional
120 times and in such places as are specified by rule or directed by
121 the president, or pursuant to a written request submitted to the
122 secretary by a majority of the board members.

123 SECTION 6. It shall be the duty of the board to select a
124 depository in the same manner for form as now provided by Section
125 7-9-43, Mississippi Code of 1972, and to deposit therein all funds
126 collected by the board, which funds shall be subject to the
127 requirements of Section 27-105-21, Mississippi Code of 1972. All
128 funds deposited therein shall be disbursed on checks signed by the
129 president and countersigned by the secretary. On or before the
130 15th day of March, the board shall file with the Department of

131 Finance and Administration a report, attested by the affidavits of
132 the president and secretary of the board, of its transactions for
133 the preceding year, covering all receipts and disbursements and
134 showing the balance of monies on hand. The Governor, in his
135 discretion, shall have the power from time to time to require an
136 audit of the accounts of the board, the same to be made by the
137 Department of Finance and Administration upon request of the
138 Governor. The Governor shall have the power to suspend any member
139 of the board who shall be found deficient in any account until
140 such time as it shall be definitely determined whether such
141 deficiency was the result of an act of dishonesty on the part of
142 said member.

143 SECTION 7. The board shall have the following general powers
144 and duties:

145 (a) To examine and determine the qualifications and
146 fitness of applicants for licenses to practice optical dispensing
147 in this state and prepare all examinations of applicants for
148 licensure.

149 (b) To issue, renew, deny, suspend or revoke licenses
150 to practice optical dispensing in this state, or otherwise
151 discipline licensed dispensing opticians.

152 (c) To investigate alleged or suspected violations of
153 the provisions of this act or other laws of this state pertaining
154 to optical dispensing, and any rules and regulations adopted by
155 the board.

156 (d) To establish reasonable fees for application for
157 examination, certificates of licensure and renewal, and other
158 services provided by the board.

159 (e) To adopt, amend or repeal any rules or regulations
160 necessary to carry out the purposes of this act and the duties and
161 responsibilities of the board, in accordance with Section 25-43-1
162 et seq., Mississippi Code of 1972.

163 SECTION 8. (1) Within one (1) year from the effective date

164 of this section, any person who has or is engaged in optical
165 dispensing and who desires to continue or recommence the practice
166 of optical dispensing without having to satisfy the requirements
167 of Sections 9 through 11 of this act shall submit to the board a
168 properly completed written application on an approved form
169 accompanied by a fee of not more than Two Hundred Dollars
170 (\$200.00). The application shall contain information sufficient
171 to establish that the applicant:

172 (a) Is at least eighteen (18) years of age;

173 (b) Is of good moral character;

174 (c) Is a graduate of an accredited high school of any
175 state, or has received an education equivalent thereto; and

176 (d) Has had at least two (2) years of optical
177 dispensing experience as prescribed by rule of the board, and is
178 currently certified by the American Board of Opticianry and/or is
179 currently certified by the National Contact Lens Examiner.

180 (2) If an application submitted under subsection (1) of this
181 section establishes that the applicant meets the criteria set
182 forth therein, the board shall license the applicant as a licensed
183 dispensing optician of the state. Such licensee shall be
184 designated as a spectacle dispensing optician, contact lens
185 dispensing optician, or spectacle-contact lens dispensing
186 optician, in accordance with the requirements of this act.

187 (3) Any license issued under this section shall be renewed
188 in accordance with Section 11 of this act.

189 SECTION 9. (1) Beginning one (1) year after the effective
190 date of this section, any person who desires to engage in optical
191 dispensing, except as provided in Section 8 of this act, shall
192 file a properly completed written application for an examination,
193 accompanied by a fee of not more than Two Hundred Dollars
194 (\$200.00) with the board.

195 No person shall be eligible to take any examination under
196 this section, unless he is at least eighteen (18) years of age, of

197 good moral character, and a graduate of an accredited high school
198 of any state, or has received an education equivalent thereto.

199 (2) Each person who desires to dispense optical aids shall
200 be eligible to take the qualifying examination for such practice
201 if, in addition to satisfying the criteria of subsection (1) of
202 this section, he has successfully completed the following:

203 (a) Licensed spectacle dispensing optician:

204 (i) Supervised experience by either a licensed
205 spectacle dispensing optician, optometrist or physician engaged in
206 the practice of ophthalmology for the two (2) years prior to
207 application; or

208 (ii) A two-year course in optical dispensing as
209 prescribed by the board, which includes, but is not limited to,
210 courses of study in English, mathematics, accounting, psychology,
211 ophthalmic optics, ophthalmic dispensing and optical theory and
212 instrumentation.

213 (b) Licensed contact lens dispensing optician: two (2)
214 years of supervised experience by either a licensed contact lens
215 dispensing optician, optometrist or physician engaged in the
216 practice of ophthalmology.

217 (c) Licensed spectacle-contact lens dispensing
218 optician: same as paragraphs (a) and (b) of this subsection.

219 SECTION 10. (1) The board shall administer qualifying
220 examinations at least twice during each calendar year in the metro
221 area of Jackson. Every person desiring to be licensed as in this
222 act provided, shall file with the board an application, verified
223 by oath, setting forth the facts which entitle the applicant to
224 examination and licensure under the provisions of this act. An
225 applicant who fails the qualifying examination for licensure shall
226 be eligible to take the next qualifying examination.

227 (2) Each person who qualifies for licensure under this act
228 shall receive from the board, under its seal, a certificate of
229 licensure entitling him to practice as a licensed spectacle

230 dispensing optician, licensed contact lens dispensing optician, or
231 a licensed spectacle-contact lens dispensing optician.

232 (3) Each licensed dispensing optician shall display his
233 certificate of licensure in a conspicuous place in his office or
234 place of business. A licensed dispensing optician who maintains
235 more than one (1) office or place of business shall display a
236 duplicate copy of such certificate at each location, and the board
237 shall issue duplicate copies of the appropriate certificate of
238 licensure for this purpose upon the filing of an application form
239 therefor and the payment of a Ten Dollar (\$10.00) fee for each
240 duplicate copy. Each such location or place of business, however,
241 shall have a licensed dispensing optician on the premises.

242 SECTION 11. (1) Each license issued under this act shall
243 expire two (2) years after the date of its issuance, but each
244 person holding a valid, current license under this act may apply
245 to the board for the extension of such license. Each application
246 for renewal shall be accompanied by a fee set by the board, not
247 more than Two Hundred Dollars (\$200.00). The applicant shall also
248 submit evidence of having completed a continuing education program
249 as hereinafter defined:

250 (a) Licensed spectacle dispensing opticians shall
251 complete twelve (12) hours of continuing education in spectacle
252 dispensing, approved by the board, during the two-year licensure
253 period.

254 (b) Licensed contact lens dispensing opticians shall
255 complete twelve (12) hours of continuing education in contact lens
256 dispensing, approved by the board, during the two-year licensure
257 period.

258 (c) Licensed spectacle-contact lens dispensing
259 opticians shall have completed eighteen (18) hours of continuing
260 education, at least twelve (12) of which must be contact lens
261 hours in the subjects designated under paragraphs (a) and (b) of
262 this section.

263 (2) In the event the renewal registration fee is not paid as
264 herein specified, or the required continuing education hours have
265 not been satisfied, the board may revoke such license; however,
266 the holder thereof may be reinstated by complying with the
267 conditions set forth in this act.

268 (3) No license shall be revoked without giving sixty (60)
269 days' notice to the delinquent applicant who, within such period,
270 shall have the right to renew such license upon completion of the
271 required continuing education hours and payment of the renewal fee
272 with a penalty of not more than Fifteen Dollars (\$15.00).

273 SECTION 12. (1) Persons licensed under this act may utilize
274 apprentices to engage in ophthalmic dispensing as defined herein
275 under their supervision and at the same location where the
276 licensed person dispenses, except that no licensed ophthalmic
277 dispenser shall supervise more than two (2) apprentices.
278 Apprentices may be employed upon submission of an application for
279 registration to the board.

280 (2) Persons licensed under this act may employ other
281 ancillary personnel to perform clerical and office duties. Such
282 personnel need not register as apprentices.

283 SECTION 13. An applicant for licensure as a dispensing
284 optician who is currently licensed in another state shall be
285 accorded the full privileges of practice within this state, upon
286 the payment of a Two Hundred Dollar (\$200.00) fee and the
287 submission of a certified copy of the license or certificate
288 issued by such other state, without the necessity of examination,
289 if the board determines that the applicant meets the criteria of
290 Section 9 of this act.

291 SECTION 14. After each licensed contact lens dispensing
292 optician has dispensed contact lenses pursuant to the written
293 prescription of a licensed physician or a licensed optometrist,
294 the licensee shall, in writing, immediately inform the patient to
295 return back to the prescribing physician or optometrist for final

296 evaluation.

297 SECTION 15. (1) This act does not apply to:

298 (a) Any physician licensed by the State Medical Board,
299 or to persons while in the employment and under the supervision of
300 a physician.

301 (b) Licensed optometrists, or persons while in the
302 employment and under the supervision of an optometrist.

303 (2) Nothing in this act shall prevent or restrict any
304 individual, firm or corporation from employing, or from engaging
305 in optical dispensing through, persons licensed or registered
306 under such act. Nothing in this act shall be construed to
307 authorize or permit any person to hold himself out as being able,
308 or offer, undertake or attempt, by any means or method, to examine
309 eyes, or to diagnose, treat, correct, relieve, operate or
310 prescribe for any human ailment, deficiency, deformity, disease,
311 injury, pain or physical condition. Nothing in this act shall be
312 construed to impede, limit, prevent or restrict the furnishing,
313 selling or supplying of any commodities or services by any
314 manufacturer, wholesaler, jobber, vendor or distributor of any
315 commodities or services to any manufacturer, wholesaler, jobber,
316 vendor or distributor thereof, or to, or as agent for any
317 physician, optometrist or dispensing optician, or to any clinic,
318 infirmary or hospital, or to any school, college or university.
319 Nothing in this act shall be construed to prohibit an unlicensed
320 person from performing merely mechanical work upon inert materials
321 in an optical office or laboratory. The services and appliances
322 relating to optical dispensing shall be dispensed, furnished or
323 supplied to the intended wearer or user thereof only upon
324 prescription issued by a physician or an optometrist; but
325 duplications, replacement, reproductions or repetitions may be
326 done without prescription, in which event any such act shall be
327 construed to be optical dispensing the same as if performed on the
328 basis of an original written prescription. Any prescription for

329 contact lenses shall specify "for contact lenses." Nothing in
330 this act shall be construed to prevent the sale of eyeglasses for
331 reading purposes, toy glasses, goggles or sunglasses consisting of
332 plano white, plano colored or plano tinted glasses, or ready-made
333 non-prescription glasses, nor shall anything in this act be
334 construed to affect in any way the manufacturing and sale of
335 plastic or glass artificial eyes or any persons engaged in the
336 manufacturing or sale of plastic or glass artificial eyes.

337 SECTION 16. Violation of any provision of this act is a
338 misdemeanor punishable upon conviction by a fine of not less than
339 One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars
340 (\$500.00), or by imprisonment for not more than ninety (90) days
341 in the county jail, or by both.

342 SECTION 17. This act shall take effect and be in force from
343 and after July 1, 1999.