

LEGISLATIVE HISTORY OF R.S. 45:12-19.1  
(Practicing under another's name; employment by others)

L. 1954-C227 - A386.

April 5 - Introduced by Marryott.

June 14 - Passed in Assembly, amended.

June 21 - Passed in Senate.

August 2 - Returned to Assembly by Governor for re-  
consideration and amendment as recommended.

November 15 - Repassed in Assembly, amended as recommended.

December 6 - Repassed Senate under emergency resolution.

December 8 - Approved, Chapter 227.

Statement (copy of original bill with statement enclosed.)

Amended during passage (copy enclosed.)

Governor's amendment (copy enclosed.)

COPY NO. 2

No hearings or reports were located.

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ASSEMBLY, No. 386

STATE OF NEW JERSEY

INTRODUCED APRIL 5, 1954

By Mr. MARRYATT

Referred to Committee on Institutions, Public Health and Welfare

AN ACT concerning the practice of optometry, amending sections 45:12-1, 45:12-3, 45:12-8, 45:12-11 and 45:12-19 of the Revised Statutes, and supplementing chapter 12 of Title 45 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State of New  
2 Jersey:

1 1. Section 45:12-1 of the Revised Statutes is amended to read as follows:  
2 45:12-1. Optometry is hereby declared to be a profession, and the prac-  
3 tice of optometry is defined to be the [employment of objective or subjective  
4 means, or both, for the examination of the human eye for the purposes of  
5 ascertaining any departure from the normal, measuring its powers of vision  
6 and adapting lenses or prisms for the aid thereof.] *diagnosis of the human  
7 eye and its appendages, and the employment of any objective or subjective  
8 means or methods or the use of any instrumentalities for the purpose of de-  
9 termining the refractive powers of the human eyes, or any visual, muscular,  
10 neurological, interpretive or anatomical anomalies of the human eyes, their  
11 appendages and visual processes, or the prescribing, providing, furnishing,  
12 or employing lenses, prisms, frames, mountings, contact lenses, vision train-  
13 ing procedures, orthoptic exercises, light frequencies, and any other means  
14 or methods for the correction, remedy or relief of any insufficiencies or ab-  
15 normal conditions of the visual processes, the human eyes and their append-*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

16 *ages, and an optometrist is one who practices optometry as herein defined. A*  
 17 *person shall be deemed to be practicing optometry within the meaning of this*  
 18 *chapter who in any way advertises himself as an optometrist, or who [shall*  
 19 *employ any means for the measurement of the powers of vision or the adapta-*  
 20 *tion of lenses or prisms for the aid thereof, practice, offer or attempt to prac-*  
 21 *tice optometry as herein defined, either on his own behalf or as an employee*  
 22 *or student of another, whether under the personal supervision of his em-*  
 23 *ployer or preceptor or not, or to use testing appliances for the purposes of*  
 24 *measurement of the powers of vision or diagnose any ocular deficiency or*  
 25 *deformity, visual or muscular anomaly of the human eye or prescribe lenses,*  
 26 *prisms or ocular exercise for the correction or the relief thereof or who holds*  
 27 *himself out as qualified to practice optometry.] in any way practices, offers*  
 28 *or attempts to practice optometry as herein defined, either on his own behalf*  
 29 *or as an employee or student of another, whether under the personal super-*  
 30 *vision of his employer or preceptor or not, or who holds himself out as qual-*  
 31 *ified to practice optometry. Nothing in this chapter shall be construed to*  
 32 *apply to the sale of toy glasses or goggles consisting of plano-white or plano-*  
 33 *colored lenses or ordinary colored glasses which for the purposes of this*  
 34 *chapter shall not be considered ophthalmic lenses, spectacles or eyeglasses;*  
 35 *provided, that in connection with such sale there is not involved the practice*  
 36 *of optometry, nor shall it apply to duly licensed physicians and surgeons au-*  
 37 *thorized to practice medicine under the laws of this State, except as otherwise*  
 38 *provided in section 45:12-11 of this chapter.*

1     2. Section 45:12-3 of the Revised Statutes is amend to read as follows:

2     45:12-3. The members of the board shall, before entering upon the dis-  
 3 charge of their duties, and within 30 days after their appointment, take and  
 4 subscribe an oath before an officer authorized to administer oaths in this  
 5 State, for the faithful performance of their duties, and file the same with the  
 6 Secretary of State. They shall annually elect from their number a president,  
 7 and shall also annually elect a secretary-treasurer, who may or may not be  
 8 a member of the board, each of which officers shall hold office for 1 year and

9 until his successor shall have been duly elected and qualified. The secretary-  
10 treasurer shall receive such compensation for his services as may be deter-  
11 mined by the board, and shall give a bond for the faithful performance of his  
12 duties, in such sum as it may determine. The board may also appoint an  
13 agent, whose title shall be inspector of the New Jersey State Board of Op-  
14 tometrists, who shall hold office during the pleasure of the board, and shall,  
15 during his continuance in his office; be authorized to serve and execute any  
16 process issued by any court of record under the provisions of this chapter.  
17 The agent shall also have power to enter any optometrist's office [or estab-  
18 lishment] or place where the practice of optometry is carried on for the pur-  
19 pose of inspecting the premises and the license and registration of the optom-  
20 etrists [and operators] therein. The appointment of the agent shall not be  
21 subject to the provisions of the civil service law.

1 3. Section 45:12-8 of the Revised Statutes is amended to read as fol-  
2 lows:

3 45:12-8. Every person practicing optometry shall display his registration  
4 certificate or certificates, together with his registration renewal certificate  
5 or certificate, in a conspicuous place in the office or offices wherein he prac-  
6 tices optometry, but not in such manner that they may be seen from the out-  
7 side of such office or offices, and, whenever required, exhibit the registration  
8 and renewal certificates to the board or its authorized representatives. Every  
9 office [or place of business] where an optometrist is practicing shall have  
10 displayed on a sign so as to be read on the outside of the office [or place of  
11 business] the name of each optometrist practicing therein. When practic-  
12 ing the profession of optometry outside of or away from the office [or place  
13 of business], he shall deliver to each patient a bill for professional services  
14 rendered, which shall contain his full name, home post-office address and the  
15 address of his principal office in this State, the number of his certificates,  
16 and his signature.

17 *The minimum equipment with which a licensed optometrist shall operate*  
18 *his office and engage in the practice of optometry shall consist of the follow-*

19 *ing items, all of which shall be kept in good condition and repair to wit:*  
 20 *Ophthalmoscope, retinoscope, visual acuity chart, projector or the like for*  
 21 *determining visual acuities, ophthalmometer or keratometer, standard trial*  
 22 *case and trial frame, phoropter or refractor, near point cards, instrument*  
 23 *for determining fusion and stereopsis, field charting instrument.*

24 Every person practicing optometry in New Jersey shall notify the board  
 25 in writing of any change of address or location of his office or offices. [at  
 26 least 5 days prior to occupying said new office, returning therewith the ap-  
 27 propriate registration renewal certificate or certificates and the board shall  
 28 issue a new registration renewal certificate or certificates for the new office  
 29 location or locations.] *If, after proper investigation, the board shall find the*  
 30 *new office location appropriate for the practice of optometry in accordance*  
 31 *with the provisions of this chapter and the rules and regulations of the board,*  
 32 *then the board shall issue a new registration renewal certificate for the new*  
 33 *office location.*

1 4. Section 45:12-11 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 45:12-11. The board shall have the power, and it is hereby made its duty,  
 4 to refuse to grant, to revoke or to suspend for a specified time, to be deter-  
 5 mined in the discretion of the board, any license to practice optometry in the  
 6 State of New Jersey for any of the following causes:

7 a. Loaning, selling, or fraudulently obtaining any optometry diploma,  
 8 license, record, or certificate, or aiding or abetting therein.

9 b. Gross incompetence, or *negligence* as determined by the board.

10 c. The obtaining of any fee by fraud or misrepresentation or the prac-  
 11 tice of deception or fraud upon any patient or patients.

12 d. Chronic and persistent inebriety, or the habitual use of narcotics.

13 e. Affliction with a contagious or infectious disease which, in the opinion  
 14 of the board, renders practice of optometry by the licensee or applicant for  
 15 license dangerous to the public health.

16 f. Conviction of a crime involving moral turpitude; or where any licensee  
17 or applicant for a license has pleaded non vult contendere or non vult to any  
18 indictment, information, allegation or complaint, alleging the commission of  
19 a crime involving moral turpitude, or where any licensee or applicant for a  
20 license presents to the board any diploma, license or certificate that shall  
21 have been obtained, signed, or issued unlawfully or under fraudulent repre-  
22 sentation. The record of conviction or the entry of such a plea in any court  
23 of this State or any other State or in any of the courts of the United States  
24 or any foreign country, shall be sufficient warrant for the revocation or sus-  
25 pension of a license.

26 g. Conviction in a court of competent jurisdiction of a high misdemeanor.

27 h. False, fraudulent or misleading advertising of the practice of op-  
28 tometry or of any art, skill, knowledge, method of treatment or practice per-  
29 taining thereto. [Nothing herein contained shall be construed to prohibit any  
30 person licensed under the provisions of this chapter to issue appointment  
31 cards to his patients, when the information thereon is limited to matter per-  
32 taining to the time and place of appointment and that permitted on the pro-  
33 fessional card. For the purposes of this section a professional card shall  
34 contain only the name, title, profession, degrees, address, telephone number,  
35 office hours of the licensed optometrist, and the words "eyes examined" "eye  
36 examination," or "hours for the examination of eyes."]

37 *Advertising of the practice of optometry or of any art, skill, knowledge,*  
38 *method of treatment or practice pertaining thereto or ophthalmic materials,*  
39 *fees, prices, the charges for services or ophthalmic materials, the character*  
40 *or durability of services or ophthalmic materials or advertising to perform*  
41 *optometric services or providing glasses, spectacles, contact lenses, frames,*  
42 *mountings, lenses or prisms free of charge or on credit or installments or any-*  
43 *thing of similar import to the foregoing, by means of circular, handbills, card,*  
44 *letter, sign, poster, pictures, representations of eyes or eyeglasses, advertis-*  
45 *ing matches, mirrors or other articles or by advertisement in newspapers,*  
46 *books, magazines or other publications or by projection by means of light,*

47 electronics, crier, radio broadcasting, television or by use of an advertising  
48 solicitor or publicity agent or any other advertising media; provided, how-  
49 ever, that any person licensed under the provisions of this chapter may issue  
50 appointment cards to his patients, when the information thereon is limited to  
51 matter pertaining to the time and place of appointment and that permitted  
52 on the professional card, or may display the name of the licensee on the  
53 premises where he is engaged in the practice of his profession upon the win-  
54 dows or doors thereof and by doorplates, or name or office directory when  
55 the information is limited to that of the professional card. For the purposes  
56 of this section a professional card shall contain only the name, title, profes-  
57 sion, degrees, address, telephone number, office hours of the licensed optom-  
58 etrist, and the words "eyes examined," "eye examinations," or "hours for  
59 the examination of eyes." The foregoing is not to be construed as prohibit-  
60 ing the publication by an optometrist of his professional card in regularly  
61 published newspapers provided his said card and advertisement does not  
62 contain any information other than that permitted in the definition of the pro-  
63 fessional card as is found in this section.

64 i. Announcing his name in any city, commercial, telephone or other pub-  
65 lic directory, or directories in public or office buildings using display or bold-  
66 face type or type that is in any way dissimilar in size, shape, or color to that  
67 used for other practitioners of the healing arts in the same directory.

68 No optometrist shall cause or permit himself to be listed in a telephone  
69 directory under any name other than the name in which he is registered with  
70 the board as the holder of a valid, unrevoked, active license to practice op-  
71 tometry in this State.

72 No optometrist shall cause or permit any listing of any

73 (1) inactive, retired, removed or deceased optometrist or any other  
74 ocular practitioner, except that, for a period of not more than 2 years from  
75 the date of succession to the practice of another optometrist, an optom-  
76 etrist may use a telephone listing of such optometrist together with the  
77 words "succeeded by," "succeeding" or "successor to."

78           (2) any trade name or corporate name, or the name of any person,  
79       firm, corporation, partnership or association not licensed to practice op-  
80       tometry under the provisions of chapter 12 of Title 45 of the Revised  
81       Statutes of New Jersey  
82       in which additional listing the address or telephone number is the same as  
83       that of the said optometrist.

84       The listing of an optometrist in a telephone directory shall contain only  
85       the name, title, the word "optometrist," degrees, address or addresses, office  
86       hours and telephone number or numbers of the licensed optometrist, includ-  
87       ing, if desired, the words "if no answer, call....."

88       Any optometrist listed in the classified section of any directory shall be  
89       listed only under the classification entitled "Optometrists," at the address or  
90       addresses for which he holds a valid, unrevoked, active license to practice  
91       optometry in this State.

92       j. Displaying any spectacles, eyeglasses, eyeglass or spectacle frames or  
93       mountings, goggles, lenses, prisms, spectacle or eyeglass cases, ophthalmic  
94       material of any kind, optometric instruments, or optical tools or machinery,  
95       or any merchandise, material, or advertising of a commercial nature in office  
96       windows or reception rooms or in display cases outside of the offices, where  
97       the display of such merchandise, material or advertising would make it visi-  
98       ble from the street.

99       k. Displaying his licenses, diplomas, or certificates in such a manner that  
100       they may be seen from the outside of the office.

101       l. Using the title doctor or its abbreviation without further qualifying  
102       this title or abbreviation with the word optometrist.

103       m. Use by an optometrist of the words "clinic," "infirmary," "hos-  
104       pital," "school," "college," "university," or "institute" in English or any  
105       other language in connection with any place where optometry may be prac-  
106       ticed or demonstrated; provided, however, that nothing in this section shall  
107       prevent an optometric clinic, approved by the board, from being conducted on  
108       a nonprofit basis by a school or college of optometry or an association of  
109       registered optometrists.

110 n. The continuance of an optometrist in the employ of, or acting as an  
111 assistant to any person, firm or corporation, either directly or indirectly,  
112 after he has knowledge that such person, firm or corporation is violating the  
113 laws of New Jersey concerning the practice of optometry.

114 o. Any conduct which is of a character likely to deceive or defraud the  
115 public.

116 p. Soliciting in person or through an agent or agents for the purpose  
117 of selling ophthalmic materials or optometric services or employing what are  
118 known as "chasers," "steerers," or "solicitors," to obtain business.

119 q. The issuance of appointment cards or the display of the name of the  
120 licensee on the premises where he is engaged in the practice of his profes-  
121 sion when the information goes beyond that permitted by a professional  
122 card.

123 r. The display of the name and title of the licensee, or other information  
124 in lettering larger than 4 inches in height for street-level offices, or larger  
125 than 6 inches in height for offices above street-level, and in no event shall  
126 there be more than 3 such displays, and the illumination of said name and  
127 title except during office hours; the use of colored or neon lights, eyeglasses  
128 or eye signs, whether painted, neon, decalcomania, or any other either in the  
129 form of eyes or structures resembling eyes, eyeglass frames, eyeglasses or  
130 spectacles, whether lighted or not.

131 s. Any violation of rule or regulation duly promulgated by the board  
132 hereunder *or of any provision of this chapter.*

133 t. *No optometrist shall cause or permit the use of his name, profession  
134 or professional title by or in conjunction with any association, company, cor-  
135 poration, or nonlicensed person, in any advertising of any manner.*

136 u. *Practicing optometry in an office not exclusively devoted to the prac-  
137 tice of optometry where materials or merchandise pertaining to a business  
138 or commercial undertaking bearing no relation to the practice of optometry  
139 are displayed.*

140 *v. Practicing optometry under a false or assumed name or upon a salary,*  
 141 *commission, lease or any other basis of compensation, being directly or in-*  
 142 *directly employed by or associated or connected with any person, association*  
 143 *or corporation other than one who possesses a valid unrevoked certificate of*  
 144 *registration as an optometrist in and for the State of New Jersey and who*  
 145 *has an actual legal residence within the State.*

146 *w. Prior to prescribing for or providing eyeglasses or spectacles a com-*  
 147 *plete minimum examination shall be made of the patient to determine the*  
 148 *correct lenses necessary for such a patient. The requirements of such mini-*  
 149 *imum examination shall be defined by rule or regulation of the New Jersey*  
 150 *State Board of Optometrists.*

151 *x. Any person licensed as a physician, surgeon or optometrist who vio-*  
 152 *lates sections 45:12-11 (i), (h), (m), (q), or (r) of this chapter, shall, at the*  
 153 *discretion of the board, be subject to a penalty of \$50.00 for the first offense*  
 154 *and \$200.00 for each subsequent offense in lieu of the suspension or revoca-*  
 155 *tion of his license.*

156 Proceedings for the revocation of a certificate or suspension of the right  
 157 to practice shall be begun by filing with the board a written charge or charges  
 158 against the accused. These charges may be preferred by any person or the  
 159 board may on its own motion direct its secretary to prefer the charges.

1 5. Section 45:12-19 of the Revised Statutes is amended to read as follows:

2 45:12-19. No person, not a holder of a certificate of registration duly is-  
 3 sued to him, shall practice optometry within the State, and no person shall  
 4 falsely personate a registered optometrist of a like or different name, nor buy,  
 5 sell or fraudulently obtain a certificate issued to another. No person shall  
 6 directly or indirectly for himself or others do or engage in any acts or prac-  
 7 tices specifically prohibited to duly registered optometrists by the provisions  
 8 of section 45:12-11 of this chapter.

9 No person shall peddle spectacles, eyeglasses or lenses or practice op-  
 10 tometry from house to house or on the streets or highways notwithstanding  
 11 any law providing for the licensing of peddlers. This shall not prohibit, how-

12 ever, an optometrist from attending, prescribing, and furnishing spectacles,  
13 eyeglasses or lenses to a person who by reason of an illness, or physical or  
14 mental infirmity is confined to his place of abode, or to a hospital or other  
15 institution.

1-2 6. It shall be unlawful for any person licensed to practice optometry un-  
3 der the laws of the State of New Jersey to advertise, practice or hold himself  
4 forth as being entitled to practice under a name other than his own, unless he  
5 be an associate of or an assistant to an optometrist licensed under the laws of  
6 the State of New Jersey, and it shall be unlawful for any person, association  
7 or corporation directly or indirectly to engage or undertake to engage in the  
8 practice of optometry by utilizing the services, upon a salary, commission,  
9 lease basis, or by any other means or method, of any person licensed to prac-  
10 tice optometry in the State of New Jersey. It shall be unlawful for any op-  
11 tometrist or physician to engage or undertake to engage in the practice of  
12 optometry in behalf of any unlicensed person, association or corporation, ex-  
13 cept that this shall not prohibit the employment by or the formation of part-  
14 nerships between optometrists or physicians duly licensed in the State of New  
15 Jersey.

1 7. The testimony of an optometrist who is licensed to practice optometry  
2 in this State shall be received by any judge, official board, State agency and  
3 State commission or other agency of this State or any of its political sub-  
4 divisions as qualified evidence and testimony with respect to any matter set  
5 forth in section 45:12-1 of the Revised Statutes.

1 8. No State official, department head, State division or State commission  
2 or any other agency of the State of New Jersey or of any of its political  
3 subdivisions or any of their employees shall discriminate between the prac-  
4 titioners of optometry and any other ocular practitioners.

1 9. No person shall sell, dispense, supply or offer ophthalmic lenses,  
2 spectacles or eyeglasses to intended wearers or users thereof without pre-  
3 scriptions properly authorized by optometrists or physicians duly licensed to  
4 practice their professions in the State of New Jersey.

1 10. It shall be unlawful for any person, association or corporation to  
2 issue cards offering free eye examinations or eye examinations for any price,  
3 or eye examinations at a discount or offering special rates or discounts for  
4 eyeglasses.

1 11. This act shall take effect immediately.

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STATEMENT TO A386

The purpose of this bill is to clarify the definition of optometry, to define more clearly the regulatory powers of the board, to strike out references to customers and places of business, to require an optometrist to notify the board of any change in his office address, to enforce ethical and professional practice in the interest of public health and welfare by an added listing of causes for revocation or suspension of licenses, to recognize and establish testimony by optometrists as qualified expert testimony concerning vision, to provide for acceptance by State, county and municipal departments and agencies and school boards of optometric services on the same basis as those of other professions, to make it unlawful for any unlicensed person, association or corporation either directly or indirectly to practice optometry, to prohibit the sale of lenses, spectacles or eyeglasses without prescription, and to prohibit the issuance of cards offering free eye examinations and special rates or discounts for eyeglasses.

ASSEMBLY COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 386

STATE OF NEW JERSEY

ADOPTED JUNE 10, 1954

Amend page 1, section 1, line 3, delete the bracket.

Amend page 1, section 1, line 6, delete the bracket.

Amend pages 1 and 2, section 1, delete lines 6, beginning with the word "diagnosis", through line 16, ending with the word "defined".

Amend page 2, section 1, line 18, delete the bracket.

Amend page 2, section 1, line 27, delete the bracket.

Amend page 2, section 1, beginning after the word "optometry", on line 27, delete the words "in any way practices, offers", and the lines 28, 29 and 30, and on line 31, "ified to practice optometry".

Amend page 2, section 1, lines 37 and 38, delete the words "except as otherwise provided in section 45:12-11 of this chapter".

Amend page 6, section 11, subsection h., line 50, after the word "cards", insert the words "or professional cards".

Amend page 9, section 11, subsection v., line 140, after the word "name", insert a comma.

Amend page 9, section 11, subsection v., line 141, delete the word "being", and in lieu thereof insert the word "while".

Amend page 9, section 11, subsection v., line 144, after the word "optometrist", insert the words "or a physician licensed".

Amend page 9, section 11, subsection x., line 151, after the word "as", delete the words "a physician, surgeon o r", and insert the word "an".

Amend page 10, section 19, subsection 6, line 11, delete the words "or physician".

Amend page 10, section 19, subsection 7, line 2, delete the word "shall", and in lieu thereof insert the word "may".

Amend page 10, section 19, subsection 8, delete lines 1 through 4.

Amend page 10, line 1, delete number "9", and in lieu thereof insert number "8".

Amend page 10, section 19, subsection 9, line 4, after the word "Jersey", delete the period and insert "; provided, however, that duplications, replacements, reproductions or repetitions may be done without prescription by licensed ophthalmic dispensers, optometrists or physicians".

Amend page 11, line 1, delete number "10", and in lieu thereof insert number "9".

Amend page 11, line 1, delete number "11", and in lieu thereof insert number "10".

[OFFICIAL COPY REPRINT]  
ASSEMBLY, No. 386

STATE OF NEW JERSEY

INTRODUCED APRIL 5, 1954

By Mr. MARRYATT

Referred to Committee on Institutions, Public Health and Welfare

AN Act concerning the practice of optometry, amending sections 45:12-1, 45:12-3, 45:12-8, 45:12-11 and 45:12-19 of the Revised Statutes, and supplementing chapter 12 of Title 45 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State of New  
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4 means, or both, for the examination of the human eye for the purposes of  
5 ascertaining any departure from the normal, measuring its powers of vision  
6 and adapting lenses or prisms for the aid thereof. [*diagnosis of the human*  
7 *eye and its appendages, and the employment of any objective or subjective*  
8 *means or methods or the use of any instrumentalities for the purpose of de-*  
9 *termining the refractive powers of the human eyes, or any visual, muscular,*  
10 *neurological, interpretive or anatomical anomalies of the human eyes, their*  
11 *appendages and visual processes, or the prescribing, providing, furnishing,*  
12 *or employing lenses, prisms, frames, mountings, contact lenses, vision train-*  
13 *ing procedures, orthoptic exercises, light frequencies, and any other means*  
14 *or methods for the correction, remedy or relief of any insufficiencies or ab-*  
15 *normal conditions of the visual processes, the human eyes and their append-*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

16 *ages, and an optometrist is one who practices optometry as herein defined.*] A  
 17 person shall be deemed to be practicing optometry within the meaning of this  
 18 chapter who in any way advertises himself as an optometrist, or who shall  
 19 employ any means for the measurement of the powers of vision or the adapta-  
 20 tion of lenses or prisms for the aid thereof, practice, offer or attempt to prac-  
 21 tice optometry as herein defined, either on his own behalf or as an employee  
 22 or student of another, whether under the personal supervision of his em-  
 23 ployer or preceptor or not, or to use testing appliances for the purposes of  
 24 measurement of the powers of vision or diagnose any ocular deficiency or  
 25 deformity, visual or muscular anomaly of the human eye or prescribe lenses,  
 26 prisms or ocular exercise for the correction or the relief thereof or who holds  
 27 himself out as qualified to practice optometry. [*in any way practices, offers*  
 28 *or attempts to practice optometry as herein defined, either on his own behalf*  
 29 *or as an employee or student of another, whether under the personal super-*  
 30 *vision of his employer or preceptor or not, or who holds himself out as qual-*  
 31 *ified to practice optometry.*] Nothing in this chapter shall be construed to  
 32 apply to the sale of toy glasses or goggles consisting of plano-white or plano-  
 33 colored lenses or ordinary colored glasses *which for the purposes of this*  
 34 *chapter shall not be considered ophthalmic lenses, spectacles or eyeglasses;*  
 35 *provided, that in connection with such sale there is not involved the practice*  
 36 *of optometry, nor shall it apply to duly licensed physicians and surgeons au-*  
 37 *thorized to practice medicine under the laws of this State [, except as other-*  
 38 *wise provided in section 45:12-11 of this chapter].*

1       2. Section 45:12-3 of the Revised Statutes is amend to read as follows:

2       45:12-3. The members of the board shall, before entering upon the dis-  
 3 charge of their duties, and within 30 days after their appointment, take and  
 4 subscribe an oath before an officer authorized to administer oaths in this  
 5 State, for the faithful performance of their duties, and file the same with the  
 6 Secretary of State. They shall annually elect from their number a president,  
 7 and shall also annually elect a secretary-treasurer, who may or may not be  
 8 a member of the board, each of which officers shall hold office for 1 year and

9 until his successor shall have been duly elected and qualified. The secretary-  
 10 treasurer shall receive such compensation for his services as may be deter-  
 11 mined by the board, and shall give a bond for the faithful performance of his  
 12 duties, in such sum as it may determine. The board may also appoint an  
 13 agent, whose title shall be inspector of the New Jersey State Board of Op-  
 14 tometrists, who shall hold office during the pleasure of the board, and shall,  
 15 during his continuance in his office, be authorized to serve and execute any  
 16 process issued by any court of record under the provisions of this chapter.  
 17 The agent shall also have power to enter any optometrist's office [or estab-  
 18 lishment] or place where the practice of optometry is carried on for the pur-  
 19 pose of inspecting the premises and the license and registration of the optom-  
 20 etrists [and operators] therein. The appointment of the agent shall not be  
 21 subject to the provisions of the civil service law.

1 3. Section 45:12-8 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 45:12-8. Every person practicing optometry shall display his registration  
 4 certificate or certificates, together with his registration renewal certificate  
 5 or certificates, in a conspicuous place in the office or offices wherein he prac-  
 6 tices optometry, but not in such manner that they may be seen from the out-  
 7 side of such office or offices, and, whenever required, exhibit the registration  
 8 and renewal certificates to the board or its authorized representatives. Every  
 9 office [or place of business] where an optometrist is practicing shall have  
 10 displayed on a sign so as to be read on the outside of the office [or place of  
 11 business] the name of each optometrist practicing therein. When practic-  
 12 ing the profession of optometry outside of or away from the office [or place  
 13 of business], he shall deliver to each patient a bill for professional services  
 14 rendered, which shall contain his full name, home post-office address and the  
 15 address of his principal office in this State, the number of his certificates,  
 16 and his signature.

17 *The minimum equipment with which a licensed optometrist shall operate*  
 18 *his office and engage in the practice of optometry shall consist of the follow-*

19 *ing items, all of which shall be kept in good condition and repair, to wit:*  
 20 *Ophthalmoscope, retinoscope, visual acuity chart, projector or the like for*  
 21 *determining visual acuities, ophthalmometer or keratometer, standard trial*  
 22 *case and trial frame, phoropter or refractor, near point cards, instrument*  
 23 *for determining fusion and stereopsis, field charting instrument.*

24 Every person practicing optometry in New Jersey shall notify the board  
 25 in writing of any change of address or location of his office or offices. [at  
 26 least 5 days prior to occupying said new office, returning therewith the ap-  
 27 propriate registration renewal certificate or certificates and the board shall  
 28 issue a new registration renewal certificate or certificates for the new office  
 29 location or locations.] *If, after proper investigation, the board shall find the*  
 30 *new office location appropriate for the practice of optometry in accordance*  
 31 *with the provisions of this chapter and the rules and regulations of the board,*  
 32 *then the board shall issue a new registration renewal certificate for the new*  
 33 *office location.*

1 4. Section 45:12-11 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 45:12-11. The board shall have the power, and it is hereby made its duty,  
 4 to refuse to grant, to revoke or to suspend for a specified time, to be deter-  
 5 mined in the discretion of the board, any license to practice optometry in the  
 6 State of New Jersey for any of the following causes:

- 7 a. Loaning, selling, or fraudulently obtaining any optometry diploma,  
 8 license, record, or certificate, or aiding or abetting therein.
- 9 b. Gross incompetence, *or negligence* as determined by the board.
- 10 c. The obtaining of any fee by fraud or misrepresentation or the prac-  
 11 tice of deception or fraud upon any patient or patients.
- 12 d. Chronic and persistent inebriety, or the habitual use of narcotics.
- 13 e. Affliction with a contagious or infectious disease which, in the opinion  
 14 of the board, renders practice of optometry by the licensee or applicant for  
 15 license dangerous to the public health.

16 f. Conviction of a crime involving moral turpitude; or where any licensee  
17 or applicant for a license has pleaded non vult contendere or non vult to any  
18 indictment, information, allegation or complaint, alleging the commission of  
19 a crime involving moral turpitude, or where any licensee or applicant for a  
20 license presents to the board any diploma, license or certificate that shall  
21 have been obtained, signed, or issued unlawfully or under fraudulent repre-  
22 sentation. The record of conviction or the entry of such a plea in any court  
23 of this State or any other State or in any of the courts of the United States  
24 or any foreign country, shall be sufficient warrant for the revocation or sus-  
25 pension of a license.

26 g. Conviction in a court of competent jurisdiction of a high misdemeanor.

27 h. False, fraudulent or misleading advertising of the practice of op-  
28 tometry or of any art, skill, knowledge, method of treatment or practice per-  
29 taining thereto. [Nothing herein contained shall be construed to prohibit any  
30 person licensed under the provisions of this chapter to issue appointment  
31 cards to his patients, when the information thereon is limited to matter per-  
32 taining to the time and place of appointment and that permitted on the pro-  
33 fessional card. For the purposes of this section a professional card shall  
34 contain only the name, title, profession, degrees, address, telephone number,  
35 office hours of the licensed optometrist, and the words "eyes examined" "eye  
36 examination," or "hours for the examination of eyes."]

37 *Advertising of the practice of optometry or of any art, skill, knowledge,*  
38 *method of treatment or practice pertaining thereto or ophthalmic materials,*  
39 *fees, prices, the charges for services or ophthalmic materials, the character*  
40 *or durability of services or ophthalmic materials or advertising to perform*  
41 *optometric services or providing glasses, spectacles, contact lenses, frames,*  
42 *mountings, lenses or prisms free of charge or on credit or installments or any-*  
43 *thing of similar import to the foregoing, by means of circular, handbills, card,*  
44 *letter, sign, poster, pictures, representations of eyes or eyeglasses, advertis-*  
45 *ing matches, mirrors or other articles or by advertisement in newspapers,*  
46 *books, magazines or other publications or by projection by means of light,*

47 *electronics, crier, radio broadcasting, television or by use of an advertising*  
 48 *solicitor or publicity agent or any other advertising media; provided, how-*  
 49 *ever, that any person licensed under the provisions of this chapter may issue*  
 50 *appointment cards or professional cards to his patients, when the information*  
 51 *thereon is limited to matter pertaining to the time and place of appointment*  
 52 *and that permitted on the professional card, or may display the name of the*  
 53 *licensee on the premises where he is engaged in the practice of his profession*  
 54 *upon the windows or doors thereof and by doorplates, or name or office direc-*  
 55 *tory when the information is limited to that of the professional card. For the*  
 56 *purposes of this section a professional card shall contain only the name, title,*  
 57 *profession, degrees, address, telephone number, office hours of the licensed op-*  
 58 *tometrists, and the words "eyes examined," "eye examinations," or "hours*  
 59 *for the examination of eyes." The foregoing is not to be construed as prohib-*  
 60 *iting the publication by an optometrist of his professional card in regularly*  
 61 *published newspapers provided his said card and advertisement does not*  
 62 *contain any information other than that permitted in the definition of the pro-*  
 63 *fessional card as is found in this section.*

64     i. *Announcing his name in any city, commercial, telephone or other pub-*  
 65 *lic directory, or directories in public or office buildings using display or bold-*  
 66 *face type or type that is in any way dissimilar in size, shape, or color to that*  
 67 *used for other practitioners of the healing arts in the same directory.*

68     *No optometrist shall cause or permit himself to be listed in a telephone*  
 69 *directory under any name other than the name in which he is registered with*  
 70 *the board as the holder of a valid, unrevoked, active license to practice op-*  
 71 *tometry in this State.*

72     *No optometrist shall cause or permit any listing of any*

73         (1) *inactive, retired, removed or deceased optometrist or any other*  
 74 *ocular practitioner, except that, for a period of not more than 2 years from*  
 75 *the date of succession to the practice of another optometrist, an optom-*  
 76 *etrists may use a telephone listing of such optometrist together with the*  
 77 *words "succeeded by," "succeeding" or "successor to."*

78           (2) any trade name or corporate name, or the name of any person,  
79       firm, corporation, partnership or association not licensed to practice op-  
80       tometry under the provisions of chapter 12 of Title 45 of the Revised  
81       Statutes of New Jersey

82 in which additional listing the address or telephone number is the same as  
83 that of the said optometrist.

84       The listing of an optometrist in a telephone directory shall contain only  
85 the name, title, the word "optometrist," degrees, address or addresses, office  
86 hours and telephone number or numbers of the licensed optometrist, includ-  
87 ing, if desired, the words "if no answer, call....."

88       Any optometrist listed in the classified section of any directory shall be  
89 listed only under the classification entitled "Optometrists," at the address or  
90 addresses for which he holds a valid, unrevoked, active license to practice  
91 optometry in this State.

92       j. Displaying any spectacles, eyeglasses, eyeglass or spectacle frames or  
93 mountings, goggles, lenses, prisms, spectacle or eyeglass cases, ophthalmic  
94 material of any kind, optometric instruments, or optical tools or machinery,  
95 or any merchandise, material, or advertising of a commercial nature in office  
96 windows or reception rooms or in display cases outside of the offices, where  
97 the display of such merchandise, material or advertising would make it visi-  
98 ble from the street.

99       k. Displaying his licenses, diplomas, or certificates in such a manner that  
100 they may be seen from the outside of the office.

101       l. Using the title doctor or its abbreviation without further qualifying  
102 this title or abbreviation with the word optometrist.

103       m. Use by an optometrist of the words "clinic," "infirmary," "hos-  
104 pital," "school," "college," "university," or "institute" in English or any  
105 other language in connection with any place where optometry may be prac-  
106 ticed or demonstrated; provided, however, that nothing in this section shall  
107 prevent an optometric clinic, approved by the board, from being conducted on  
108 a nonprofit basis by a school or college of optometry or an association of  
109 registered optometrists.

110 n. The continuance of an optometrist in the employ of, or acting as an  
111 assistant to any person, firm or corporation, either directly or indirectly,  
112 after he has knowledge that such person, firm or corporation is violating the  
113 laws of New Jersey concerning the practice of optometry.

114 o. Any conduct which is of a character likely to deceive or defraud the  
115 public.

116 p. Soliciting in person or through an agent or agents for the purpose  
117 of selling ophthalmic materials or optometric services or employing what are  
118 known as "chasers," "steerers," or "solicitors," to obtain business.

119 q. The issuance of appointment cards or the display of the name of the  
120 licensee on the premises where he is engaged in the practice of his profes-  
121 sion when the information goes beyond that permitted by a professional  
122 card.

123 r. The display of the name and title of the licensee, or other information  
124 in lettering larger than 4 inches in height for street-level offices, or larger  
125 than 6 inches in height for offices above street-level, and in no event shall  
126 there be more than 3 such displays, and the illumination of said name and  
127 title except during office hours; the use of colored or neon lights, eyeglasses  
128 or eye signs, whether painted, neon, decalcomania, or any other either in the  
129 form of eyes or structures resembling eyes, eyeglass frames, eyeglasses or  
130 spectacles, whether lighted or not.

131 s. Any violation of rule or regulation duly promulgated by the board  
132 hereunder *or of any provision of this chapter.*

133 *t. No optometrist shall cause or permit the use of his name, profession*  
134 *or professional title by or in conjunction with any association, company, cor-*  
135 *poration, or nonlicensed person, in any advertising of any manner.*

136 *u. Practicing optometry in an office not exclusively devoted to the prac-*  
137 *tice of optometry where materials or merchandise pertaining to a business*  
138 *or commercial undertaking bearing no relation to the practice of optometry*  
139 *are displayed.*

140 *v. Practicing optometry under a false or assumed name, or upon a salary,*  
 141 *commission, lease or any other basis of compensation, [being] while directly*  
 142 *or indirectly employed by or associated or connected with any person, associa-*  
 143 *tion or corporation other than one who possesses a valid unrevoked certifi-*  
 144 *cate of registration as an optometrist or a physician licensed in and for the*  
 145 *State of New Jersey and who has an actual legal residence within the State.*

146 *w. Prior to prescribing for or providing eyeglasses or spectacles a com-*  
 147 *plete minimum examination shall be made of the patient to determine the*  
 148 *correct lenses necessary for such a patient. The requirements of such mini-*  
 149 *imum examination shall be defined by rule or regulation of the New Jersey*  
 150 *State Board of Optometrists.*

151 *x. Any person licensed as [a physician, surgeon or] an optometrist who*  
 152 *violates section 45:12-11 (i), (h), (m), (q), or (r) of this chapter, shall, at the*  
 153 *discretion of the board, be subject to a penalty of \$50.00 for the first offense*  
 154 *and \$200.00 for each subsequent offense in lieu of the suspension or revoca-*  
 155 *tion of his license.*

156 Proceedings for the revocation of a certificate or suspension of the right  
 157 to practice shall be begun by filing with the board a written charge or charges  
 158 against the accused. These charges may be preferred by any person or the  
 159 board may on its own motion direct its secretary to prefer the charges.

1 5. Section 45:12-19 of the Revised Statutes is amended to read as follows:

2 45:12-19. No person, not a holder of a certificate of registration duly is-  
 3 sued to him, shall practice optometry within the State, and no person shall  
 4 falsely personate a registered optometrist of a like or different name, nor buy,  
 5 sell or fraudulently obtain a certificate issued to another. No person shall  
 6 directly or indirectly for himself or others do or engage in any acts or prac-  
 7 tices specifically prohibited to duly registered optometrists by the provisions  
 8 of section 45:12-11 of this chapter.

9 No person shall peddle spectacles, eyeglasses or lenses or practice op-  
 10 tometry from house to house or on the streets or highways notwithstanding  
 11 any law providing for the licensing of peddlers. This shall not prohibit, how-

12 ever, an optometrist from attending, prescribing, and furnishing spectacles,  
13 eyeglasses or lenses to a person who by reason of an illness, or physical or  
14 mental infirmity is confined to his place of abode, or to a hospital or other  
15 institution.

1-2 6. It shall be unlawful for any person licensed to practice optometry un-  
3 der the laws of the State of New Jersey to advertise, practice or hold himself  
4 forth as being entitled to practice under a name other than his own, unless he  
5 be an associate of or an assistant to an optometrist licensed under the laws of  
6 the State of New Jersey, and it shall be unlawful for any person, association  
7 or corporation directly or indirectly to engage or undertake to engage in the  
8 practice of optometry by utilizing the services, upon a salary, commission,  
9 lease basis, or by any other means or method, of any person licensed to prac-  
10 tice optometry in the State of New Jersey. It shall be unlawful for any op-  
11 tometrist [or physician] to engage or undertake to engage in the practice of  
12 optometry in behalf of any unlicensed person, association or corporation, ex-  
13 cept that this shall not prohibit the employment by or the formation of part-  
14 nerships between optometrists or physicians duly licensed in the State of New  
15 Jersey.

1 7. The testimony of an optometrist who is licensed to practice optometry  
2 in this State [shall] *may* be received by any judge, official board, State agency  
3 and State commission or other agency of this State or any of its political sub-  
4 divisions as qualified evidence and testimony with respect to any matter set  
5 forth in section 45:12-1 of the Revised Statutes.

1 [8. No State official, department head, State division or State commis-  
2 sion or any other agency of the State of New Jersey or of any of its political  
3 subdivisions or any of their employees shall discriminate between the prac-  
4 titioners of optometry and any other ocular practitioners.]

1 [9.] 8. No person shall sell, dispense, supply or offer ophthalmic lenses,  
2 spectacles or eyeglasses to intended wearers or users thereof without pre-  
3 scriptions properly authorized by optometrists or physicians duly licensed to  
4 practice their professions in the State of New Jersey [.] ; *provided, how-*

5 *ever, that duplications, replacements, reproductions or repetitions may be*  
6 *done without prescription by licensed ophthalmic dispensers, optometrists or*  
7 *physicians.*

1 [10.] 9. It shall be unlawful for any person, association or corporation to  
2 issue cards offering free eye examinations or eye examinations for any price,  
3 or eye examinations at a discount or offering special rates or discounts for  
4 eyeglasses.

1 [11.] 10. This act shall take effect immediately.

STATE OF NEW JERSEY  
Executive Department

August 2, 1954

ASSEMBLY BILL NO. 386

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I am returning herewith, for reconsideration and with my objections, Assembly Bill No. 386.

I am satisfied that this bill, as a whole, is a constructive measure in the public interest, designed to improve professional standards in the practice of optometry and thereby to lead to more reliable and expert service of the needs of the population for visual aids. I approve those features of the bill which, among other things, prohibit corporate practice of optometry or the employment of licensed optometrists by unlicensed persons, improper or misleading advertising and listing of optometrists in directories or otherwise in such a manner as to permit unlicensed persons or business concerns to profit thereby and the provisions which strengthen the enforcement and penalty sections of the law regulating the practice.

I find myself, however, in disagreement with several other additional restrictions and requirements imposed by the bill. I recommend the amendments hereinafter detailed for the purpose of deleting or modifying the provisions which, for the reasons set forth herein, I deem objectionable.

1. Section 3 of the bill amends Section 45:12-8 of the Revised Statutes so as to condition the issuance by the State Board of Optometrists of a license for any new location to which a licensee removes his office upon a finding by the board, "after proper investigation", that the new office location is "appropriate for the practice of optometry in accordance with the provisions of this chapter and the rules and regulations of the board". Nothing is said as to the standards by which the board is to be guided in making its finding and none are readily

STATE OF NEW JERSEY  
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Assembly Bill No. 386

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imaginable. This delegation of power is therefore invalid, and, in any event, is an arbitrary restriction without relation to any necessary or desirable regulatory objective.

2. Section 3 of the bill amends Section 45:12-8 of the Revised Statutes to specify 10 items of mandatory "minimum equipment with which a licensed optometrist shall operate his office and engage in the practice of optometry". Objectors have raised a question as to whether all of this equipment is technically necessary. While I am not competent to determine this, I do believe that this type of requirement is more appropriate for board regulations than for inclusion in a statute. Standards of scientific and technical equipment change from time to time. It should not take legislative action to effect changes in such regulations.

3. Section 4 of the bill amends Section 45:12-11 of the Revised Statutes to prohibit the practice of optometry "in an office not exclusively devoted to the practice of optometry where materials or merchandise pertaining to a business or commercial undertaking bearing no relation to the practice of optometry are displayed." This provision is designed to prevent the practice of optometry as an adjunct or sideline of a general commercial enterprise such as a department store, jewelry shop or the like. The intent is buttressed by an additional amendment of the same section to prescribe the practice of optometry upon a salary, commission, lease, or any other basis of compensation while directly or indirectly associated or connected with an unlicensed person, association or corporation.

I am in full accord with the proposed prohibition of any regular commercial association between licensed and unlicensed persons. Licensed optometrists should not be subject to the possible economic influence or pressure of merchants whose profit motive may conduce to less than

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professional standards on the part of associated or employed optometrists. This is said entirely without reflection upon any of the many reputable and ethical persons and firms in such relationships. But I do not believe that this salutary objective is necessarily served by a prohibition of a straight lease to an optometrist at a fixed rental of office space in a general store, where the optometrist is completely independent of the lessor. I am convinced that unwarranted hardship would be visited on many young optometrists in the early stages of their careers by a restriction to that extent. By analogy, many lawyers practice in space rented from realtors or others who are not lawyers, without diminution of professional standards.

4. Section 4 also adds as a ground for revocation or suspension of a license, "negligence as determined by the board". I deem this provision objectionable for two reasons. Simple negligence in a particular case is not a usual basis for disfranchisement in other professions. I do not see why it should be as to optometrists. The existing statutory right of revocation or suspension for "gross incompetence" seems sufficient in this respect. Second, the qualification, "as determined by the board", is vague and probably invalid, under the case of Abelson's Inc. v. New Jersey State Board of Optometrists, 5 N. J. 412, 424.

5. Section 7 of the bill provides that the testimony of a New Jersey licensed optometrist is "qualified" in any judicial or quasi-judicial proceeding "with respect to any matter set forth in section 45:12-1 of the Revised Statutes." That section declares optometry to be a profession and defines the practice thereof. Section 7 is apparently designed to fix the status of a licensed optometrist as an expert witness in that field. For that purpose, however, the existing law of evidence suffices. If the purpose is inferentially to disqualify persons licensed

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elsewhere than in this State as expert witnesses, it is undesirable and unwarranted. The section should therefore be deleted.

6. The last major basis of objection to the bill is the prohibition in section 8 of the sale of any "spectacles or eyeglasses to intended wearers or users thereof" except by licensed optometrists or physicians. The effect and intended purpose of this is to prohibit over-the-counter sales in stores dealing in general merchandise of ready-made eyeglasses with simple magnification only. Such sales now take place on a fairly substantial scale and afford visual aid to many persons at prices far below the cost which would be entailed by dispensation or prescription by licensed optometrists or physicians.

The argument in support of this proposal is that such purchases lead to a sense of false security in the case of many persons who require medical eye care and who would be likely to be led to such care and treatment if they were unable to buy ready-made glasses. The weight of impartial expert opinion disclosed upon my investigation, however, indicates that direct injury consequent upon purchase and use of non-corrective glasses with simple magnification is minimal or non-existent. There is, moreover, a difference of authoritative opinion as to whether the indicated indirect evil outweighs the benefits of the inexpensive remedy available to many under the commercial practice sought to be forbidden.

Finally, the adoption of section 8 would create a plain conflict with the existing provisions of P.L. 1952, Ch. 336, Section 5 (R.S. 52:17B-41.5), which is part of the act regulating the sale and dispensation of ophthalmic devices and equipment. The latter section expressly excludes from such regulation "the sale of ready-made glasses or spectacles with simple magnification only, when sold as merchandise at established places of business," as well as other exceptions not found in this bill.

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Indeed, the subject matter of section 8, i.e., the scope of prohibition of sale or dispensation of lenses, spectacles or glasses, appropriately belongs in the 1952 act referred to above rather than in the act regulating the practice of optometry. Section 5 of the 1952 act is comprehensive legislation on the former subject and should not be blurred by cognate legislation in the present act which is either repetitious or inconsistent.

Section 10 of the bill provides that it shall take effect immediately. In view of the serious effect of the bill upon the occupations of many optometrists employed by or associated with unlicensed persons or firms I believe a reasonable period for readjustment of their affairs and of those of the business firms involved should be allowed. This can be done by postponing the effective date of the bill until March 1, 1955.

There are other minor defects in the bill comprehended within the scope of the amendments which I herewith recommend, returning the bill for reconsideration toward that end:

On page 2, section 1, delete all the words on line 31, beginning with the word "Nothing" and delete the entirety of lines 32 to 36, inclusive, and all the words on line 37 to and including the word "State".

On pages 3 and 4, section 3, delete the entirety of lines 17 to 23, inclusive.

On page 4, section 3, line 25, delete the period after the word "offices" and delete the brackets on lines 25 and 29.

On page 4, section 3, delete so much of lines 29 to 33, inclusive, as begins with the word "If" on line 29.

On page 4, section 4, line 9, delete the comma after the word "incompetence" and substitute, in lieu thereof, a period. On the same line delete the entirety of the line beginning with the word "or".

On page 5, section 4, line 41, insert, after the word "or" the words "with reference to".

On page 8, section 4, delete the entirety of lines 136 to 139, inclusive.

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On page 9, section 4, line 140, delete the letter "v." and substitute in lieu thereof the letter "u."

On page 9, section 4, line 141, delete the word "lease"; on line 142, insert after the word "connected" the words "as an optometrist".

On page 9, section 4, line 145, add after the period at the end of the line the following: "Nothing herein shall be deemed to prohibit the mere renting or leasing at a fixed rental of any space or office within the store or business establishment of an unlicensed person, association or corporation."

On page 9, section 4, line 146, delete the letter "w." and substitute in lieu thereof the letter "v."

On page 9, section 4, line 151, delete the letter "x." and substitute in lieu thereof the letter "w."

On page 10, section 6, line 6, insert after the word "any" the word "unlicensed" and insert after the word "person," the words "or any".

On page 10, section 6, line 8, delete the comma at the end of the line; on line 9 delete the word "lease".

On page 10, delete the entirety of Section 7, lines 1 to 5, inclusive.

On pages 10 and 11, delete the entirety of section 8, lines 1 to 7, inclusive.

On page 11, section 9, line 1, delete the figure "9." and substitute, in lieu thereof, the figure "7."

On page 11, section 10, line 1, delete the figure "10." and substitute, in lieu thereof, the figure "8."

On page 11, section 10, line 1, delete the word "immediately" and substitute, in lieu thereof, the words "March 1, 1955".

Respectfully,

ROBERT B. MEYNER

GOVERNOR

(SEAL)

Attest:

ROBERT J. BURKHARDT

Secretary to the Governor

AMENDMENTS TO  
ASSEMBLY, No. 386

STATE OF NEW JERSEY

ADOPTED AUGUST 2, 1954

Amend page 2, section 1, delete all the words on line 31, beginning with the word "Nothing", and delete the entirety of lines 32 to 36, inclusive, and all the words on line 37 to and including the word "State".

Amend pages 3 and 4, section 3, delete the entirety of lines 17 to 23, inclusive.

Amend page 4, section 3, line 25, delete the period after the word "offices" and delete the brackets on lines 25 and 29.

Amend page 4, section 3, delete so much of lines 29 to 33, inclusive, as begins with the word "If" on line 29.

Amend page 4, section 4, line 9, delete the comma after the word "incompetence" and substitute, in lieu thereof, a period. On the same line delete the entirety of the line beginning with the word "or".

Amend page 5, section 4, line 41, insert, after the word "or" the word "with reference to".

Amend page 8, section 4, delete the entirety of lines 136 to 139, inclusive.

Amend page 9, section 4, line 140, delete the letter "v.", and substitute in lieu thereof the letter "u".

Amend page 9, section 4, line 141, delete the word "lease", on line 142, insert after the word "connected" the words "as an optometrist".

Amend page 9, section 4, line 145, add after the period at the end of the line the following: "Nothing herein shall be deemed to prohibit the mere renting or leasing at a fixed rental of any space or office within the store or business establishment of an unlicensed person, association or corporation."

Amend page 9, section 4, line 146, delete the letter "w." and substitute in lieu thereof the letter "v."

Amend page 9, section 4, line 151, delete the letter "x." and substitute in lieu thereof the letter "w."

Amend page 10, section 6, line 6, insert after the word "any" the word "unlicensed" and insert after the word "person," the words "or any".

Amend page 10, section 6, line 8, delete the comma at the end of the line; on line 9, delete the word "lease".

Amend page 10, delete the entirety of section 7, lines 1 to 5, inclusive.

Amend pages 10 and 11, delete the entirety of section 8, lines 1 to 7, inclusive.

Amend page 11, section 9, line 1, delete the figure "9." and substitute, in lieu thereof, the figure "7."

Amend page 11, section 10, line 1, delete the figure "10." and substitute, in lieu thereof, the figure "8."

Amend page 11, section 10, line 1, delete the word "immediately" and substitute, in lieu thereof, the words "March 1, 1955".

ASSEMBLY, No. 386

STATE OF NEW JERSEY

INTRODUCED APRIL 5, 1954

By Mr. MARRYATT

Referred to Committee on Institutions, Public Health and Welfare

AN ACT concerning the practice of optometry, amending sections 45:12-1, 45:12-3, 45:12-8, 45:12-11 and 45:12-19 of the Revised Statutes, and supplementing chapter 12 of Title 45 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*  
2 *Jersey:*

1 1. Section 45:12-1 of the Revised Statutes is amended to read as follows:  
2 45:12-1. Optometry is hereby declared to be a profession, and the prac-  
3 tice of optometry is defined to be the employment of objective or subjective  
4 means, or both, for the examination of the human eye for the purposes of  
5 ascertaining any departure from the normal, measuring its powers of vision  
6 and adapting lenses or prisms for the aid thereof. [*diagnosis of the human*  
7 *eye and its appendages, and the employment of any objective or subjective*  
8 *means or methods or the use of any instrumentalities for the purpose of de-*  
9 *termining the refractive powers of the human eyes, or any visual, muscular,*  
10 *neurological, interpretive or anatomical anomalies of the human eyes, their*  
11 *appendages and visual processes, or the prescribing, providing, furnishing,*  
12 *or employing lenses, prisms, frames, mountings, contact lenses, vision train-*  
13 *ing procedures, orthoptic exercises, light frequencies, and any other means*  
14 *or methods for the correction, remedy or relief of any insufficiencies or ab-*  
15 *normal conditions of the visual processes, the human eyes and their append-*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

16 *ages, and an optometrist is one who practices optometry as herein defined.] A*  
 17 *person shall be deemed to be practicing optometry within the meaning of this*  
 18 *chapter who in any way advertises himself as an optometrist, or who shall*  
 19 *employ any means for the measurement of the powers of vision or the adapta-*  
 20 *tion of lenses or prisms for the aid thereof, practice, offer or attempt to prac-*  
 21 *tice optometry as herein defined, either on his own behalf or as an employee*  
 22 *or student of another, whether under the personal supervision of his em-*  
 23 *ployer or preceptor or not, or to use testing appliances for the purposes of*  
 24 *measurement of the powers of vision or diagnose any ocular deficiency or*  
 25 *deformity, visual or muscular anomaly of the human eye or prescribe lenses,*  
 26 *prisms or ocular exercise for the correction or the relief thereof or who holds*  
 27 *himself out as qualified to practice optometry. [in any way practices, offers*  
 28 *or attempts to practice optometry as herein defined, either on his own behalf*  
 29 *or as an employee or student of another, whether under the personal super-*  
 30 *vision of his employer or preceptor or not, or who holds himself out as qual-*  
 31 *ified to practice optometry.] [Nothing in this chapter shall be construed to*  
 32 *apply to the sale of toy glasses or goggles consisting of plano-white or plano-*  
 33 *colored lenses or ordinary colored glasses which for the purposes of this*  
 34 *chapter shall not be considered ophthalmic lenses, spectacles or eyeglasses;*  
 35 *provided, that in connection with such sale there is not involved the practice*  
 36 *of optometry, nor shall it apply to duly licensed physicians and surgeons au-*  
 37 *thorized to practice medicine under the laws of this State] [, except as other-*  
 38 *wise provided in section 45:12-11 of this chapter].*

1     2. Section 45:12-3 of the Revised Statutes is amend to read as follows:

2     45:12-3. The members of the board shall, before entering upon the dis-  
 3 charge of their duties, and within 30 days after their appointment, take and  
 4 subscribe an oath before an officer authorized to administer oaths in this  
 5 State, for the faithful performance of their duties, and file the same with the  
 6 Secretary of State. They shall annually elect from their number a president,  
 7 and shall also annually elect a secretary-treasurer, who may or may not be  
 8 a member of the board, each of which officers shall hold office for 1 year and

9 until his successor shall have been duly elected and qualified. The secretary-  
10 treasurer shall receive such compensation for his services as may be deter-  
11 mined by the board, and shall give a bond for the faithful performance of his  
12 duties, in such sum as it may determine. The board may also appoint an  
13 agent, whose title shall be inspector of the New Jersey State Board of Op-  
14 tometrists, who shall hold office during the pleasure of the board, and shall,  
15 during his continuance in his office, be authorized to serve and execute any  
16 process issued by any court of record under the provisions of this chapter.  
17 The agent shall also have power to enter any optometrist's office [or estab-  
18 lishment] or place where the practice of optometry is carried on for the pur-  
19 pose of inspecting the premises and the license and registration of the optom-  
20 etrists [and operators] therein. The appointment of the agent shall not be  
21 subject to the provisions of the civil service law.

1     3. Section 45:12-8 of the Revised Statutes is amended to read as fol-  
2 lows:

3     45:12-8. Every person practicing optometry shall display his registration  
4 certificate or certificates, together with his registration renewal certificate  
5 or certificates, in a conspicuous place in the office or offices wherein he prac-  
6 tices optometry, but not in such manner that they may be seen from the out-  
7 side of such office or offices, and, whenever required, exhibit the registration  
8 and renewal certificates to the board or its authorized representatives. Every  
9 office [or place of business] where an optometrist is practicing shall have  
10 displayed on a sign so as to be read on the outside of the office [or place of  
11 business] the name of each optometrist practicing therein. When practic-  
12 ing the profession of optometry outside of or away from the office [or place  
13 of business], he shall deliver to each patient a bill for professional services  
14 rendered, which shall contain his full name, home post-office address and the  
15 address of his principal office in this State, the number of his certificates,  
16 and his signature.

17     [*The minimum equipment with which a licensed optometrist shall operate*  
18 *his office and engage in the practice of optometry shall consist of the follow-*

19 *ing items, all of which shall be kept in good condition and repair, to wit:*  
 20 *Ophthalmoscope, retinoscope, visual acuity chart, projector or the like for*  
 21 *determining visual acuities, ophthalmometer or keratometer, standard trial*  
 22 *case and trial frame, phoropter or refractor, near point cards, instrument*  
 23 *for determining fusion and stereopsis, field charting instrument.】*

24 Every person practicing optometry in New Jersey shall notify the board  
 25 in writing of any change of address or location of his office or offices【.】 【at  
 26 least 5 days prior to occupying said new office, returning therewith the ap-  
 27 propriate registration renewal certificate or certificates and the board shall  
 28 issue a new registration renewal certificate or certificates for the new office  
 29 location or locations.】 *at least 5 days prior to occupying said new office, re-*  
 30 *turning therewith the appropriate registration renewal certificate or cer-*  
 31 *tificates and the board shall issue a new registration renewal certificate or*  
 32 *certificates for the new office location or locations. 【If, after proper in-*  
 33 *vestigation, the board shall find the new office location appropriate for the*  
 34 *practice of optometry in accordance with the provisions of this chapter and*  
 35 *the rules and regulations of the board, then the board shall issue a new regis-*  
 36 *tration renewal certificate for the new office location.】*

1 4. Section 45:12-11 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 45:12-11. The board shall have the power, and it is hereby made its duty,  
 4 to refuse to grant, to revoke or to suspend for a specified time, to be deter-  
 5 mined in the discretion of the board, any license to practice optometry in the  
 6 State of New Jersey for any of the following causes:

7 a. Loaning, selling, or fraudulently obtaining any optometry diploma,  
 8 license, record, or certificate, or aiding or abetting therein.

9 b. Gross incompetence【, or negligence as determined by the board.】.

10 c. The obtaining of any fee by fraud or misrepresentation or the prac-  
 11 tice of deception or fraud upon any patient or patients.

12 d. Chronic and persistent inebriety, or the habitual use of narcotics.

13 e. Affliction with a contagious or infectious disease which, in the opinion  
14 of the board, renders practice of optometry by the licensee or applicant for  
15 license dangerous to the public health.

16 f. Conviction of a crime involving moral turpitude; or where any licensee  
17 or applicant for a license has pleaded non vult contendere or non vult to any  
18 indictment, information, allegation or complaint, alleging the commission of  
19 a crime involving moral turpitude, or where any licensee or applicant for a  
20 license presents to the board any diploma, license or certificate that shall  
21 have been obtained, signed, or issued unlawfully or under fraudulent repre-  
22 sentation. The record of conviction or the entry of such a plea in any court  
23 of this State or any other State or in any of the courts of the United States  
24 or any foreign country, shall be sufficient warrant for the revocation or sus-  
25 pension of a license.

26 g. Conviction in a court of competent jurisdiction of a high misdemeanor.

27 h. False, fraudulent or misleading advertising of the practice of op-  
28 tometry or of any art, skill, knowledge, method of treatment or practice per-  
29 taining thereto. [Nothing herein contained shall be construed to prohibit any  
30 person licensed under the provisions of this chapter to issue appointment  
31 cards to his patients, when the information thereon is limited to matter per-  
32 taining to the time and place of appointment and that permitted on the pro-  
33 fessional card. For the purposes of this section a professional card shall  
34 contain only the name, title, profession, degrees, address, telephone number,  
35 office hours of the licensed optometrist, and the words "eyes examined" "eye  
36 examination," or "hours for the examination of eyes."]

37 *Advertising of the practice of optometry or of any art, skill, knowledge,*  
38 *method of treatment or practice pertaining thereto or ophthalmic materials,*  
39 *fees, prices, the charges for services or ophthalmic materials, the character*  
40 *or durability of services or ophthalmic materials or advertising to perform*  
41 *optometric services or with reference to providing glasses, spectacles, contact*  
42 *lenses, frames, mountings, lenses or prisms free of charge or on credit or in-*  
43 *stallments or anything of similar import to the foregoing, by means of cir-*

44 cular, handbills, card, letter, sign, poster, pictures, representations of eyes or  
45 eyeglasses, advertising matches, mirrors or other articles or by advertisement  
46 in newspapers, books, magazines or other publications or by projection by  
47 means of light, electronics, crier, radio broadcasting, television or by use of an  
48 advertising solicitor or publicity agent or any other advertising media; pro-  
49 vided, however, that any person licensed under the provisions of this chapter  
50 may issue appointment cards or professional cards to his patients, when the  
51 information thereon is limited to matter pertaining to the time and place of  
52 appointment and that permitted on the professional card, or may display the  
53 name of the licensee on the premises where he is engaged in the practice of his  
54 profession upon the windows or doors thereof and by doorplates, or name or  
55 office directory when the information is limited to that of the professional  
56 card. For the purposes of this section a professional card shall contain only  
57 the name, title, profession, degrees, address, telephone number, office hours of  
58 the licensed optometrist, and the words "eyes examined," "eye examina-  
59 tions," or "hours for the examination of eyes." The foregoing is not to be  
60 construed as prohibiting the publication by an optometrist of his professional  
61 card in regularly published newspapers provided his said card and advertise-  
62 ment does not contain any information other than that permitted in the defi-  
63 nition of the professional card as is found in this section.

64 i. Announcing his name in any city, commercial, telephone or other pub-  
65 lic directory, or directories in public or office buildings using display or bold-  
66 face type or type that is in any way dissimilar in size, shape, or color to that  
67 used for other practitioners of the healing arts in the same directory.

68 No optometrist shall cause or permit himself to be listed in a telephone  
69 directory under any name other than the name in which he is registered with  
70 the board as the holder of a valid, unrevoked, active license to practice op-  
71 tometry in this State.

72 No optometrist shall cause or permit any listing of any

73 (1) inactive, retired, removed or deceased optometrist or any other  
74 ocular practitioner, except that, for a period of not more than 2 years from

75 *the date of succession to the practice of another optometrist, an optom-*  
76 *etrist may use a telephone listing of such optometrist together with the*  
77 *words "succeeded by," "succeeding" or "successor to."*

78 *(2) any trade name or corporate name, or the name of any person,*  
79 *firm, corporation, partnership or association not licensed to practice op-*  
80 *tometry under the provisions of chapter 12 of Title 45 of the Revised*  
81 *Statutes of New Jersey*

82 *in which additional listing the address or telephone number is the same as*  
83 *that of the said optometrist.*

84 *The listing of an optometrist in a telephone directory shall contain only*  
85 *the name, title, the word "optometrist," degrees, address or addresses, office*  
86 *hours and telephone number or numbers of the licensed optometrist, includ-*  
87 *ing, if desired, the words "if no answer, call....."*

88 *Any optometrist listed in the classified section of any directory shall be*  
89 *listed only under the classification entitled "Optometrists," at the address or*  
90 *addresses for which he holds a valid, unrevoked, active license to practice*  
91 *optometry in this State.*

92 j. Displaying any spectacles, eyeglasses, eyeglass or spectacle frames or  
93 mountings, goggles, lenses, prisms, spectacle or eyeglass cases, ophthalmic  
94 material of any kind, optometric instruments, or optical tools or machinery,  
95 or any merchandise, material, or advertising of a commercial nature in office  
96 windows or reception rooms or in display cases outside of the offices, where  
97 the display of such merchandise, material or advertising would make it visi-  
98 ble from the street.

99 k. Displaying his licenses, diplomas, or certificates in such a manner that  
100 they may be seen from the outside of the office.

101 l. Using the title doctor or its abbreviation without further qualifying  
102 this title or abbreviation with the word optometrist.

103 m. Use by an optometrist of the words "clinic," "infirmery," "hos-  
104 pital," "school," "college," "university," or "institute" in English or any  
105 other language in connection with any place where optometry may be prac-

106 ticed or demonstrated; provided, however, that nothing in this section shall  
107 prevent an optometric clinic, approved by the board, from being conducted on  
108 a nonprofit basis by a school or college of optometry or an association of  
109 registered optometrists.

110 n. The continuance of an optometrist in the employ of, or acting as an  
111 assistant to any person, firm or corporation, either directly or indirectly,  
112 after he has knowledge that such person, firm or corporation is violating the  
113 laws of New Jersey concerning the practice of optometry.

114 o. Any conduct which is of a character likely to deceive or defraud the  
115 public.

116 p. Soliciting in person or through an agent or agents for the purpose  
117 of selling ophthalmic materials or optometric services or employing what are  
118 known as "chasers," "steerers," or "solicitors," to obtain business.

119 q. The issuance of appointment cards or the display of the name of the  
120 licensee on the premises where he is engaged in the practice of his profes-  
121 sion when the information goes beyond that permitted by a professional  
122 card.

123 r. The display of the name and title of the licensee, or other information  
124 in lettering larger than 4 inches in height for street-level offices, or larger  
125 than 6 inches in height for offices above street-level, and in no event shall  
126 there be more than 3 such displays, and the illumination of said name and  
127 title except during office hours; the use of colored or neon lights, eyeglasses  
128 or eye signs, whether painted, neon, decalcomania, or any other either in the  
129 form of eyes or structures resembling eyes, eyeglass frames, eyeglasses or  
130 spectacles, whether lighted or not.

131 s. Any violation of rule or regulation duly promulgated by the board  
132 hereunder *or of any provision of this chapter.*

133 t. *No optometrist shall cause or permit the use of his name, profession  
134 or professional title by or in conjunction with any association, company, cor-  
135 poration, or nonlicensed person, in any advertising of any manner.*

136 [u. Practicing optometry in an office not exclusively devoted to the prac-  
 137 tice of optometry where materials or merchandise pertaining to a business  
 138 or commercial undertaking bearing no relation to the practice of optometry  
 139 are displayed.]

140 [v.] u. Practicing optometry under a false or assumed name, or upon a  
 141 salary, commission, [lease] or any other basis of compensation, [being]  
 142 while directly or indirectly employed by or associated or connected as an  
 143 optometrist with any person, association or corporation other than one who  
 144 possesses a valid unrevoked certificate of registration as an optometrist or  
 145 a physician licensed in and for the State of New Jersey and who has an  
 146 actual legal residence within the State. Nothing herein shall be deemed to  
 147 prohibit the mere renting or leasing at a fixed rental of any space or office  
 148 within the store or business establishment of an unlicensed person, associa-  
 149 tion or corporation.

150 [w.] v. Prior to prescribing for or providing eyeglasses or spectacles a  
 151 complete minimum examination shall be made of the patient to determine  
 151A the correct lenses necessary for such a patient. The requirements of such  
 151B minimum examination shall be defined by rule or regulation of the New Jer-  
 151C sey State Board of Optometrists.

151D [x.] w. Any person licensed as [a physician, surgeon or] an optometrist  
 152 who violates section 45:12-11 (i), (h), (m), (q), or (r) of this chapter, shall,  
 153 at the discretion of the board, be subject to a penalty of \$50.00 for the first  
 154 offense and \$200.00 for each subsequent offense in lieu of the suspension or  
 155 revocation of his license.

156 Proceedings for the revocation of a certificate or suspension of the right  
 157 to practice shall be begun by filing with the board a written charge or charges  
 158 against the accused. These charges may be preferred by any person or the  
 159 board may on its own motion direct its secretary to prefer the charges.

1 5. Section 45:12-19 of the Revised Statutes is amended to read as follows:

2 45:12-19. No person, not a holder of a certificate of registration duly is-  
 3 sued to him, shall practice optometry within the State, and no person shall

4 falsely personate a registered optometrist of a like or different name, nor buy,  
5 sell or fraudulently obtain a certificate issued to another. No person shall  
6 directly or indirectly for himself or others do or engage in any acts or prac-  
7 tices specifically prohibited to duly registered optometrists by the provisions  
8 of section 45:12-11 of this chapter.

9 No person shall peddle spectacles, eyeglasses or lenses or practice op-  
10 tometry from house to house or on the streets or highways notwithstanding  
11 any law providing for the licensing of peddlers. This shall not prohibit, how-  
12 ever, an optometrist from attending, prescribing, and furnishing spectacles,  
13 eyeglasses or lenses to a person who by reason of an illness, or physical or  
14 mental infirmity is confined to his place of abode, or to a hospital or other  
15 institution.

1-2 6. It shall be unlawful for any person licensed to practice optometry un-  
3 der the laws of the State of New Jersey to advertise, practice or hold himself  
4 forth as being entitled to practice under a name other than his own, unless he  
5 be an associate of or an assistant to an optometrist licensed under the laws of  
6 the State of New Jersey, and it shall be unlawful for any *unlicensed* person,  
7 or any association or corporation directly or indirectly to engage or under-  
8 take to engage in the practice of optometry by utilizing the services, upon a  
9 salary, commission[, lease] basis, or by any other means or method, of any  
10 person licensed to practice optometry in the State of New Jersey. It shall be  
11 unlawful for any optometrist [or physician] to engage or undertake to en-  
12 gage in the practice of optometry in behalf of any unlicensed person, associa-  
13 tion or corporation, except that this shall not prohibit the employment by or  
14 the formation of partnerships between optometrists or physicians duly  
15 licensed in the State of New Jersey.

1 [7. The testimony of an optometrist who is licensed to practice optometry  
2 in this State [shall] *may* be received by any judge, official board, State agency  
3 and State commission or other agency of this State or any of its political sub-  
4 divisions as qualified evidence and testimony with respect to any matter set  
5 forth in section 45:12-1 of the Revised Statutes.]

1        [8. No State official, department head, State division or State commis-  
2 sion or any other agency of the State of New Jersey or of any of its political  
3 subdivisions or any of their employees shall discriminate between the prac-  
4 titioners of optometry and any other ocular practitioners.]

1        [9.] [8. No person shall sell, dispense, supply or offer ophthalmic lenses,  
2 spectacles or eyeglasses to intended wearers or users thereof without pre-  
3 scriptions properly authorized by optometrists or physicians duly licensed to  
4 practice their professions in the State of New Jersey [.] ; *provided, how-*  
5 *ever, that duplications, replacements, reproductions or repetitions may be*  
6 *done without prescription by licensed ophthalmic dispensers, optometrists or*  
7 *physicians.*]

1        [10.] [9.] 7. It shall be unlawful for any person, association or corpora-  
2 tion to issue cards offering free eye examinations or eye examinations for any  
3 price, or eye examinations at a discount or offering special rates or dis-  
4 counts for eyeglasses.

1        [11.] [10.] 8. This act shall take effect [immediately.] *March 1, 1955.*