

IMPAIRED DOCTOR OF OPTOMETRY TREATMENT PROGRAM

ARTICLE 6

Section 34-22-100

Purpose.

The purpose of this article is to provide for the identification and treatment of optometrists licensed under Alabama law who suffer from impairment in order to promote the public health and safety and to ensure the continued availability of the skills of highly trained optometric professionals for the benefit of the public.

(Act 2006-411, p. 1021, §1.)

Section 34-22-101

Definitions.

For purposes of this article, the following terms shall have the following meanings:

- (1) BOARD. The Alabama Board of Optometry.
- (2) IMPAIRED or IMPAIRMENT. The inability of an optometrist to practice optometry with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or other substances or as a result of any physical or mental condition.
- (3) IMPAIRED DOCTOR OF OPTOMETRY TREATMENT PROGRAM. The Alabama Board of Optometry approved or sponsored program for the detection, intervention, and monitoring of impaired providers.
- (4) PROFESSIONAL INCOMPETENCE. The inability or failure of an optometrist to practice his or her profession with reasonable skill and safety; however, impairment in and of itself shall not give rise to a presumption of professional incompetence.
- (5) TREATMENT PROGRAM. A plan of care and rehabilitation services provided by those organizations and persons authorized to provide such services for impaired providers taking part in the programs provided under this article.

(Act 2006-411, p. 1021, §2.)

Section 34-22-102

Powers and duties of board.

To carry out the purposes of this article, the board may:

- (1) Contract with any nonprofit corporation, health provider, or professional association for the purpose of creating, supporting, and maintaining a treatment program.
- (2) Receive and evaluate reports of suspected impairment from any source.
- (3) Intervene in cases of suspected impairment.
- (4) Refer impaired optometrists to treatment programs.
- (5) Monitor the treatment and rehabilitation of impaired optometrists.
- (6) Provide post-treatment monitoring and support of rehabilitated impaired optometrists.
- (7) Suspend, limit, or restrict the license of an impaired optometrist for the duration of the impairment.
- (8) Perform such other activities as the board deems necessary to accomplish the purposes of this article.

(Act 2006-411, p. 1021, §3.)

Section 34-22-103

Procedures for notification of program, self-reporting, and participation.

The board shall develop procedures for the following:

- (1) Informing each participant in a treatment program of the program procedures, responsibilities of program participants, and the possible consequences of noncompliance with the program.
- (2) Voluntary self-reporting and treatment program participation by an optometrist.

(Act 2006-411, p. 1021, §4.)

Section 34-22-104

Evaluation; hearing.

- (a) If the board has reason to believe that an optometrist is impaired, the board may cause an evaluation of the optometrist to be conducted for the purpose of determining if there is an impairment, and may suspend or restrict the license of any optometrist who declines to submit to and cooperate with such evaluation.

(b) If the board finds, after evaluation and a due process hearing held under rules of procedure to be established by the board, that a licensee is impaired, the board may take action as allowed by this article.

(Act 2006-411, p. 1021, §5.)

Section 34-22-105

Restriction of license upon request.

(a) An impaired optometrist may request in writing to the board the imposition of a restriction of his or her license to practice.

(b) The board may grant such request for restriction and may attach conditions to the licensure of the optometrist to practice optometry within specified limitations.

(Act 2006-411, p. 1021, §6.)

Section 34-22-106

Confidentiality of records; discovery; limitations on testimony.

(a)(1) Notwithstanding any provision of law, records of the board pertaining to an impaired optometrist shall be confidential and shall not be subject to discovery or subpoena.

(2) No person in attendance at any board meeting concerning an impaired optometrist shall subsequently be required to testify in any court or non-board administrative proceeding as to any discussion or proceeding occurring at the board meeting.

(b) Information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any action merely because they were presented during the proceedings of the board meeting concerning an optometrist, nor shall any person who testifies before the board concerning an optometrist, or who is a member of the board, be prevented from testifying as to matters within his or her knowledge, but the witness shall not be asked, and shall not testify, about his or her testimony before the board or about opinions formed by him or her as a result of the board hearings.

(Act 2006-411, p. 1021, §7.)

Section 34-22-107

Limitations or restrictions to employment on basis of treatment prohibited.

An impaired optometrist who is participating in or has successfully completed a treatment program pursuant to this article shall not be limited or restricted in his or her professional practice or excluded from any hospital staff solely because of treatment program participation.

(Act 2006-411, p. 1021, §8.)

Section 34-22-108

Liability.

(a) Notwithstanding any other provision of law, the board, board members, board committees, board committee members, and employees and agents of the board shall not be held liable in damages to any person in connection with acts or omissions within the scope of their responsibilities pursuant to this article.

(b) No person who in good faith and without malice makes a report pursuant to this article to the board shall be liable for damages to any person.

(Act 2006-411, p. 1021, §9.)

Section 34-22-109

Responsibilities of optometrists under article.

Any optometrist who is identified as being impaired or voluntarily reports his or her impairment shall be responsible for the following:

- (1) Paying fines for violations of law, rules, or regulations as determined by the board.
- (2) Paying expenses incurred from determining impairment, approved treatment program, post-treatment monitoring, evaluation or reports concerning impairment, and other expenses identified by the board.
- (3) Knowledge of his or her board approved treatment program procedures, responsibilities, and consequences of noncompliance.

(Act 2006-411, p. 1021, §10.)

Section 34-22-110

Rules and regulations.

The board may adopt and promulgate rules to effect the purposes of this article with such rules to be promulgated and enforced pursuant to the Administrative Procedure Act.

(Act 2006-411, p. 1021, §11.)