

**~~PROPOSED~~ AMENDMENT AND ADDITION TO
ARTICLE VI: UNPROFESSIONAL CONDUCT
SECTION I(S)**

ACA § 17-90-305(B)(2) states that in addition to those acts which may be prescribed by the Board as unprofessional conduct, the following shall be deemed by the Board to be unprofessional:

The acceptance of employment by a licensed optometrist from an optometrist not licensed in Arkansas, or an unlicensed person, firm, or corporation engaged in any business or profession to assist it, him, or them, in practicing optometry in this State.

ACA § 17-90-104(4) provides that it is unlawful “for any person, firm, corporation, or partnership not having a license, to engage in the practice of optometry.”

ACA § 17-90-104(5) states that it is unlawful “for any person, firm, partnership, or corporation to employ any optometrist, physician, or surgeon to assist it in the unlawful practice of optometry. However, a licensed optometrist or partnership comprised of licensed optometrists may employ other licensed optometrists in practicing optometry.”

ACA § 17-90-104(6) provides that it is unlawful “for an optometrist, physician, or surgeon to accept employment from any unlicensed person, firm, partnership, corporation, or in any manner to assist it, or them, in the unlawful practice of optometry.”

If warranted the Board shall open an investigation and shall subpoena if necessary such evidence, documents and persons so as to make a determination on whether a formal hearing shall be held before the Board.

For the Board to make a determination of whether a licensed optometrist is employed, by a non-licensed person, corporation, or entity in the practice of optometry, the Board shall take into consideration all evidence of control by the unlicensed person, corporation, or entity.

The Board shall adopt as its guide where necessary, the Internal Revenue Service (IRS) Twenty Factor Test, as may be amended, found in Revenue Ruling 87-14 and further, may use federal or Arkansas state statutes, the Code of Federal Regulations or IRS opinion letters or revenue rulings to reach their decision

Should the Board, in an administrative hearing, determine that a violation of ACA § 17-90-104(5) or ACA § 17-90-104(6) has occurred, the Board may levy such sanctions against the licensee and unlicensed entity as provided by law in the Practice Act.