

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 417

Introduced by Friend, 10.

Read first time January 20, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Optometry Practice Act; to amend
2 sections 38-2604, 38-2605, 38-2608, 38-2610, 38-2613,
3 38-2614, 38-2615, and 38-2617, Reissue Revised Statutes
4 of Nebraska; to redefine terms; to change provisions
5 relating to scope of practice, licensure, certification,
6 and standard of care; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-2604, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 38-2604 (1) Pharmaceutical agents, for diagnostic
4 purposes, means ~~anesthetics, cycloplegics, and mydriatics.~~ any
5 pharmaceutical agent rational to diagnosing a condition of the eye,
6 ocular adnexa, or visual system.

7 (2) Pharmaceutical agents, for therapeutic purposes,
8 means ~~topical ophthalmic pharmaceutical agents which treat eye~~
9 ~~diseases, infection, inflammation, and superficial abrasions, or~~
10 ~~oral analgesics, including oral analgesics enumerated in Schedules~~
11 ~~III and IV of section 28-405 necessary to treat conditions of~~
12 ~~the eye, ocular adnexa, or visual system, or oral pharmaceutical~~
13 ~~agents for the treatment of diseases or infections of the eye,~~
14 ~~ocular adnexa, or visual system, or oral anti-inflammatory agents~~
15 ~~to treat conditions of the eye, ocular adnexa, or visual system,~~
16 ~~excluding steroids and immunosuppressive agents.~~ any pharmaceutical
17 agent rational to the treatment or management of a condition, a
18 disorder, a disease, an inflammation, or an injury of the eye,
19 ocular adnexa, or visual system, including a controlled narcotic
20 substance enumerated in Schedule III or IV of section 28-405 and an
21 ophthalmic device or a contact lens classified by the federal Food
22 and Drug Administration as a drug.

23 Sec. 2. Section 38-2605, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 38-2605 (1) The practice of optometry means one or a

1 combination of the following:

2 (a) The examination of the human eye to diagnose, treat,
3 or refer for consultation or treatment any abnormal condition of
4 the human eye, ocular adnexa, or visual system;

5 (b) The employment of instruments, devices,
6 pharmaceutical agents, and procedures intended for the purpose
7 of investigating, examining, diagnosing, treating, managing, or
8 correcting visual defects or abnormal conditions of the human eye,
9 ocular adnexa, or visual system, including the dilation, probing,
10 irrigation, or closure of the lacrimal punctum or canaliculi and
11 the use of autorefraction or other automated testing equipment;

12 (c) The prescribing, dispensing, and application of
13 pharmaceutical agents, lenses, devices containing lenses, prisms,
14 contact lenses, ophthalmic devices, orthoptics, vision training,
15 pharmaceutical agents, low-vision rehabilitation, and prosthetic
16 devices to correct, relieve, or treat defects or abnormal
17 conditions of the human eye, ocular adnexa, or visual system;

18 (d) The prescribing, dispensing, and sale of a cosmetic
19 or plano contact lens or an ophthalmic device, including a contact
20 lens classified by the federal Food and Drug Administration as a
21 drug;

22 ~~(d)~~ (e) The ordering of procedures and laboratory tests
23 rational to the diagnosis or treatment of conditions or diseases of
24 the human eye, ocular adnexa, or visual system; ~~and~~

25 ~~(e)~~ (f) The removal of ~~superficial~~ eyelid, conjunctival,

1 and corneal foreign bodies; -

2 ~~(2) The practice of optometry does not include the use~~
3 ~~of surgery, laser surgery, oral therapeutic agents used in the~~
4 ~~treatment of glaucoma, oral steroids, or oral immunosuppressive~~
5 ~~agents or the treatment of infantile/congenital glaucoma, which~~
6 ~~means the condition is present at birth.~~

7 (g) The dispensing of a manufacturer's sample to a
8 patient if the sample is provided to the patient at no charge;

9 (h) As provided in section 38-2608, the administration
10 of a pharmaceutical agent as defined in subsection (1) or (2) of
11 section 38-2604 by any route of administration rational to its use,
12 except that intraocular injection is prohibited; and

13 (i) As provided in section 38-2608, the performance of a
14 laser or nonlaser surgical procedure on the eye or ocular adnexa
15 unless the procedure is excluded from the scope of the practice of
16 optometry in subsection (2) of this section.

17 (2) The practice of optometry includes the postoperative
18 care of the following laser or nonlaser surgical procedures but
19 does not include the following procedures:

20 (a) Laser in-situ keratomileusis surgery;

21 (b) Photocoagulating retinal laser surgery;

22 (c) Intraocular injections;

23 (d) Nonlaser surgery related to removal of the eye on a
24 living person;

25 (e) Nonlaser surgery requiring full thickness incision or

1 excision of the cornea or sclera other than paracentesis in an
2 emergency situation requiring immediate reduction of the pressure
3 inside the eye;

4 (f) Penetrating keratoplasty or lamellar keratoplasty;

5 (g) Nonlaser surgery requiring incision of the iris and
6 ciliary body, iris diathermy, or cryotherapy;

7 (h) Nonlaser surgery requiring incision of the vitreous;

8 (i) Nonlaser surgery requiring incision of the retina;

9 (j) Nonlaser surgical extraction of the crystalline lens;

10 (k) Nonlaser surgical intraocular implants;

11 (l) Incisional or excisional nonlaser surgery of the
12 extraocular muscles;

13 (m) Nonlaser surgery for incisional cosmetic or
14 mechanical repair of blepharochalasis, ptosis, or tarasorrhaphy;

15 (n) Nonlaser surgery of the boney orbit, including
16 orbital implants;

17 (o) Incisional or excisional nonlaser surgery of the
18 lacrimial system other than lacrimial probing or related procedures;

19 (p) Nonlaser surgery requiring full thickness
20 conjunctivoplasty with graft or flap; and

21 (q) A nonlaser surgical procedure that does not provide
22 for the correction and relief of an ocular abnormality.

23 Sec. 3. Section 38-2608, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 38-2608 (1) Every applicant for a an initial license to

1 practice optometry shall: ~~(1)~~ (a) Present proof that he or she
2 is a graduate of an accredited school or college of optometry
3 approved by the board and meets any applicable certification
4 requirements established under subsections (3) and (4) of this
5 section; and ~~(2)~~ (b) pass an examination approved by the board. The
6 examination shall cover all subject matter included in the practice
7 of optometry.

8 (2) The board shall establish certification requirements
9 which must be met before any renewal of a license by an optometrist
10 who is licensed in this state prior to the effective date of
11 this act. The board may waive the requirements for renewal to
12 provide adequate time to meet the certification requirements. The
13 certification requirements shall include classroom education and
14 clinical training in practices authorized under subdivisions (1)(h)
15 and (i) of section 38-2605.

16 (3) The board shall establish certification requirements
17 which must be met before initial licensure in this state of
18 an applicant who graduated from optometry school prior to the
19 effective date of this act. The certification requirements shall
20 include (a) classroom education and clinical training in all
21 practices authorized under section 38-2605 or (b) evidence provided
22 by the applicant of certification in another state which is deemed
23 by the board as satisfactory validation of such qualifications.

24 (4) The board shall establish certification requirements
25 which must be met before initial licensure in this state of an

1 applicant who graduated after the effective date of this act
2 from an accredited school or college of optometry approved by
3 the board. The certification requirements shall include classroom
4 education and clinical training in all practices authorized under
5 section 38-2605. The board may determine if the course of study
6 at the school or college of optometry provided the required
7 classroom education and clinical training to meet the certification
8 requirements.

9 Sec. 4. Section 38-2610, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 38-2610 In issuing a license ~~or renewal~~, an initial
12 or renewal license, the department, with the recommendation of
13 the board, shall state whether such person licensed in the
14 practice of optometry has been certified to use pharmaceutical
15 agents pursuant to section 38-2613, 38-2614, or 38-2615 and shall
16 determine an appropriate means to further identify those persons
17 who are certified in the diagnostic use of such agents or the
18 therapeutic use of such agents. clearly identify on the license
19 the scope of practice authorized by the board, including the
20 level of certification attained by the licensee for the use of
21 pharmaceutical agents under section 38-2613, 38-2614, or 38-2615
22 and the practices authorized under subdivisions (1)(h) and (i) of
23 section 38-2605.

24 Sec. 5. Section 38-2613, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 38-2613 (1) ~~An~~ Except as otherwise provided in section
2 38-2615, an optometrist licensed in this state may use topical
3 ocular pharmaceutical agents for diagnostic purposes authorized
4 under subdivision (1)(b) of section 38-2605, if such person is
5 certified by the department, with the recommendation of the board,
6 as qualified to use topical ocular pharmaceutical agents for
7 diagnostic purposes.

8 (2) Such certification shall require (a) satisfactory
9 completion of a pharmacology course at an institution accredited
10 by a regional or professional accrediting organization which is
11 recognized by the United States Department of Education and
12 approved by the board and passage of an examination approved
13 by the board or (b) evidence provided by the optometrist of
14 certification in another state for use of diagnostic pharmaceutical
15 agents which is deemed by the board as satisfactory validation of
16 such qualifications.

17 Sec. 6. Section 38-2614, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 38-2614 (1) ~~An~~ Except as otherwise provided in section
20 38-2615, an optometrist licensed in this state may use ~~topical~~
21 ocular pharmaceutical agents for therapeutic purposes authorized
22 under subdivision (1)(b) or (c) of section 38-2605 if such
23 person is certified by the department, with the recommendation
24 of the board, as qualified to use ocular pharmaceutical agents for
25 therapeutic purposes, including the treatment of glaucoma.

1 (2) Such certification shall require (a) satisfactory
2 completion of classroom education and clinical training which
3 emphasizes the examination, diagnosis, and treatment of the eye,
4 ocular adnexa, and visual system offered by a school or college
5 approved by the board and passage of an examination approved by the
6 board or (b) evidence provided by the optometrist of certification
7 in another state for the use of therapeutic pharmaceutical agents
8 which is deemed by the board as satisfactory validation of such
9 qualifications.

10 Sec. 7. Section 38-2615, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 38-2615 (1) After January 1, 2000, and until the board
13 ends the practice of waiving the requirements for renewal under
14 subsection (2) of section 38-2608, only an optometrist licensed in
15 this state prior to April 30, 1987, may practice optometry without
16 meeting the requirements and obtaining certification required by
17 sections 38-2613 and 38-2614.

18 (2) An optometrist licensed in this state prior to the
19 effective date of this act may continue to use pharmaceutical
20 agents for diagnostic or therapeutic purposes as authorized prior
21 to such date under section 38-2613 or 38-2614 until the board
22 ends the practice of waiving the requirements for renewal under
23 subsection (2) of section 38-2608.

24 (3) An optometrist licensed in this state meeting the
25 requirements for certification under subsection (3) or (4) of

1 section 38-2608 may use pharmaceutical agents for diagnostic and
2 therapeutic purposes authorized under subdivision (1)(b) or (c) of
3 section 38-2605.

4 Sec. 8. Section 38-2617, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 38-2617 A licensed optometrist ~~who administers or~~
7 ~~prescribes pharmaceutical agents for examination or for treatment~~
8 shall provide the same standard of care to patients as ~~that~~
9 ~~provided by~~ a physician licensed in this state to practice
10 medicine and surgery ~~utilizing the same pharmaceutical agents for~~
11 ~~examination or treatment.~~ providing the same or similar services.

12 Sec. 9. Original sections 38-2604, 38-2605, 38-2608,
13 38-2610, 38-2613, 38-2614, 38-2615, and 38-2617, Reissue Revised
14 Statutes of Nebraska, are repealed.