

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 316

Introduced by Heidemann, 1; Wallman, 30.

Read first time January 12, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Optometry Practice Act; to amend sections
2 38-2604, 38-2607, 38-2608, and 38-2614, Reissue Revised
3 Statutes of Nebraska, and sections 38-2605 and 38-2617,
4 Revised Statutes Cumulative Supplement, 2010; to redefine
5 terms; to change provisions relating to the practice of
6 optometry; to change provisions relating to
7 certification; to harmonize provisions; and to repeal the
8 original sections.
9 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.

5 (2) Pharmaceutical agents, for therapeutic purposes,
6 means (a) topical ophthalmic pharmaceutical agents which treat eye
7 diseases, infection, inflammation, and superficial abrasions, ~~or~~ (b)
8 oral analgesics, including oral analgesics enumerated in Schedules
9 III and IV of section 28-405 necessary to treat conditions of the
10 eye, ocular adnexa, or visual system, ~~or~~ (c) oral pharmaceutical
11 agents for the treatment of diseases or infections of the eye, ocular
12 adnexa, or visual system, ~~or~~ (d) oral anti-inflammatory agents to
13 treat conditions of the eye, ocular adnexa, or visual system, (e)
14 injected pharmaceutical agents for treatment of anaphylaxis, or (f)
15 pharmaceutical agents injected into the eyelid for treatment or
16 drainage of cysts or glands of the eyelids, conjunctiva, and ocular
17 adnexa or for removal of skin lesions of the eyelids and ocular
18 adnexa. ~~excluding steroids and immunosuppressive agents.~~

19 Sec. 2. Section 38-2605, Revised Statutes Cumulative
20 Supplement, 2010, is amended to read:

21 38-2605 (1) The practice of optometry means one or a
22 combination of the following:

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

1 (b) The employment of instruments, devices,
2 pharmaceutical agents, and procedures intended for the purpose of
3 investigating, examining, diagnosing, treating, managing, or
4 correcting visual defects or abnormal conditions of the human eye,
5 ocular adnexa, or visual system;

6 (c) The prescribing and application of lenses, devices
7 containing lenses, prisms, contact lenses, ophthalmic devices,
8 orthoptics, vision training, pharmaceutical agents, and prosthetic
9 devices to correct, relieve, or treat defects or abnormal conditions
10 of the human eye, ocular adnexa, or visual system;

11 (d) The dispensing and sale of a contact lens, including
12 a cosmetic or plano contact lens or a contact lens containing an
13 ocular pharmaceutical agent which an optometrist is authorized by law
14 to prescribe and which is classified by the federal Food and Drug
15 Administration as a drug;

16 (e) The ordering of procedures and laboratory tests
17 rational to the diagnosis or treatment of conditions or diseases of
18 the human eye, ocular adnexa, or visual system; ~~and~~

19 (f) The removal of superficial eyelid, conjunctival, and
20 corneal foreign bodies; -

21 (g) The performance of laser capsulotomies, laser
22 peripheral iridotomies, and laser trabeculoplasties; and

23 (h) The injection of pharmaceutical agents into the
24 eyelid for purposes allowed pursuant to subsection (2) of section
25 38-2604.

1 (2) The practice of optometry does not include the use of
2 surgery, or laser surgery, oral therapeutic agents used in the
3 treatment of glaucoma, oral steroids, or oral immunosuppressive
4 agents or the treatment of infantile/congenital glaucoma, which means
5 the condition is present at birth. except as provided in subdivision
6 (1)(g) of this section or for the performance of minor surgical
7 procedures for removal of skin lesions on the eyelids or ocular
8 adnexa or drainage of cysts or glands of the eyelids, conjunctiva, or
9 ocular adnexa.

10 Sec. 3. Section 38-2607, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 38-2607 The practice of optometry shall not be construed
13 to:

14 (1) Include merchants or dealers who sell glasses as
15 merchandise in an established place of business or who sell contact
16 lenses from a prescription for contact lenses written by an
17 optometrist or a person licensed to practice medicine and surgery and
18 who do not profess to be optometrists or practice optometry;

19 (2) Restrict, expand, or otherwise alter the scope of
20 practice governed by other statutes; ~~or~~

21 (3) Include the performance by an optometric assistant,
22 under the supervision of a licensed optometrist, of duties prescribed
23 in accordance with rules and regulations adopted and promulgated by
24 the department, with the recommendation of the board; -

25 (4) Include a student in an optometric educational

1 program offered by a school of optometry approved by the board
2 pursuant to section 38-2616 who is performing optometry or related
3 services within the scope of such program and under the direct
4 supervision of such school; or

5 (5) Include the practice of optometry by optometrists
6 licensed by other states or countries while appearing as clinicians
7 at meetings of the Nebraska Optometric Association or components
8 thereof or other optometric organizations approved by the board.

9 Sec. 4. Section 38-2608, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 38-2608 (1) Every applicant for a license to practice
12 optometry shall: ~~(1)-(a)~~ Present proof that he or she is a graduate
13 of an accredited school or college of optometry; and ~~(2)-(b)~~ pass an
14 examination approved by the board. The examination shall cover all
15 subject matter included in the practice of optometry.

16 (2) The board shall establish certification requirements
17 which must be met before renewal of the license of an optometrist who
18 was licensed in this state prior to the effective date of this act.
19 The board may extend the certification components of the license
20 renewal requirements to provide adequate time to meet the
21 certification requirements. The certification requirements shall
22 include classroom education and clinical training in practices
23 authorized under subdivisions (1)(g) and (h) and subsection (2) of
24 section 38-2605.

25 (3) The board shall establish certification requirements

1 which must be met before initial licensure in this state is granted
2 to an applicant who graduated prior to the effective date of this act
3 from a school of optometry approved by the board pursuant to section
4 38-2616. The certification requirements shall include (a) classroom
5 education and clinical training in all practices authorized under
6 section 38-2605 or (b) evidence provided by the applicant of
7 certification in another state which is deemed by the board as
8 satisfactory evidence of such qualifications.

9 (4) The board shall establish certification requirements
10 which must be met before initial licensure in this state is granted
11 to an applicant who graduates on or after the effective date of this
12 act from a school of optometry approved by the board pursuant to
13 section 38-2616. The certification requirements shall include
14 classroom education and clinical training in all practices authorized
15 under section 38-2605. The board may determine if the course of study
16 at the school or college of optometry provides the required classroom
17 education and clinical training to meet the certification
18 requirements.

19 Sec. 5. Section 38-2614, Reissue Revised Statutes of
20 Nebraska, is amended to read:

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

1 therapeutic purposes, including the treatment of glaucoma.

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

11 (3) An optometrist licensed in this state may administer
12 injections and perform minor surgical procedures or laser surgery
13 authorized under subdivision (1)(g) or (h) and subsection (2) of
14 section 38-2605 if (a) such person is certified by the department,
15 with the recommendation of the board, as qualified to perform these
16 procedures based upon training and testing or (b) evidence provided
17 by the optometrist of certification in another state in the use of
18 minor surgical procedures or laser surgery is deemed by the board as
19 satisfactory evidence of such qualifications.

20 Sec. 6. Section 38-2617, Revised Statutes Cumulative
21 Supplement, 2010, is amended to read:

22 38-2617 (1) A licensed optometrist who administers or
23 prescribes pharmaceutical agents for examination or for treatment
24 shall provide the same standard of care to patients as that provided
25 by a physician licensed in this state to practice medicine and

1 surgery utilizing the same pharmaceutical agents for examination or
2 treatment.

3 (2) An optometrist who dispenses a contact lens
4 containing an ocular pharmaceutical agent which is classified by the
5 federal Food and Drug Administration as a drug shall comply with the
6 rules and regulations of the board relating to packaging, labeling,
7 storage, drug utilization review, and record keeping. The board shall
8 adopt and promulgate rules and regulations relating to packaging,
9 labeling, storage, drug utilization review, and record keeping for
10 such contact lenses.

11 (3) A licensed optometrist who performs minor surgical
12 procedures shall provide the same standard of care to patients as
13 that provided by a physician licensed in this state to practice
14 medicine and surgery who performs the same procedures.

15 Sec. 7. Original sections 38-2604, 38-2607, 38-2608, and
16 38-2614, Reissue Revised Statutes of Nebraska, and sections 38-2605
17 and 38-2617, Revised Statutes Cumulative Supplement, 2010, are
18 repealed.