

SENATE FILE NO. SF0055

Optometrists practice act amendments.

Sponsored by: Joint Labor, Health & Social Services Interim
Committee

A BILL

for

1 AN ACT relating to optometry; amending optometrists' scope of
2 practice; prohibiting an optometrist from performing
3 specified procedures; amending optometrists' prescription and
4 pharmaceutical drug prescribing authority; directing the
5 application of optometry-related fines and penalties;
6 directing the board of examiners in optometry to determine
7 licensure and continuing education requirements as specified;
8 amending membership on the board of examiners in optometry;
9 repealing provisions that define unlawful conduct; repealing
10 obsolete provisions related to volunteer licensing;
11 authorizing rulemaking; defining terms; removing obsolete
12 language; making conforming amendments; and providing for
13 effective dates.

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15 *Be It Enacted by the Legislature of the State of Wyoming:*

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2 **Section 1.** W.S. 33-23-101(a) by creating a new
3 paragraph (ix), by renumbering (ix) as (x), (b), by creating
4 new subsections (c) through (f) and by renumbering (c) through
5 (f) as (f) through (k), 33-23-102, 33-23-104, 33-23-106(a),
6 33-23-109(a) and (c) and 33-23-114 are amended to read:

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8 **33-23-101. Definitions and exceptions.**

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10 (a) As used in this act:

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12 ~~(ix)~~ "Noninvasive optometric procedure" means any
13 optometric procedure that does not penetrate beyond the
14 cornea or sclera and the procedures of yag laser
15 capatosulotomy, laser peripheral iridotomy, laser
16 trabeculoplasty and procedures that are substantially similar
17 and improvements to any procedure specified in this
18 paragraph;

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20 ~~(ix)~~(x) "This act" means W.S. 33-23-101 through
21 33-23-117.

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1 (b) The practice of optometry is the employment of any
2 means other than the use of therapeutic lasers or surgery,
3 except as a noninvasive optometric procedure, for diagnosing
4 and treating ocular pathology and for the measurement of the
5 powers or range of human vision or the determination of the
6 accommodative and refractive status of the human eye or the
7 scope of its functions in general or the adaptation of lenses
8 or frames for the aid thereof,
9 and when a person employs
10 primary human eye care procedures, including:

11 (i) The examination, diagnosis and treatment of
12 abnormal conditions and diseases of the eye, its adnexa and
13 visual system;

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15 (ii) Measuring the powers and range of vision of
16 the eye to determine the accommodative and refractive state
17 and general function of the eye;

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19 (iii) The adaptation, sale, prescribing and
20 dispensing of frames and ophthalmic lenses in all their forms;

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22 (iv) Ordering of diagnostic laboratory or imaging
23 tests;

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(v) The prescribing and administration of pharmaceutical agents, as provided in W.S. 33-23-102.

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(c) An optometrist may use a surgery billing code for the procedures authorized under this section. The use of a surgery billing code is not by itself evidence of performing surgery as prohibited by subsection (b) of this section.

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(d) Except as otherwise provided by subsection (d) of this section, a person holding a license to practice optometry under this act is authorized to perform advanced optometric procedures upon the human eye and adnexa for which the licensee has received training from a college of optometry accredited by the Accreditation Council on Optometric Education or any other accrediting body of optometric education. The board shall adopt rules specifying authorized procedures, licensee training requirements, reporting requirements and other matters as it deems necessary.

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(e) The following ophthalmic procedures shall be excluded from the authorized practice of optometry, except

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1 that preoperative and postoperative care of these procedures
2 by a licensed optometrist shall be authorized:

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4 (i) The following procedures:

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6 (A) Retina or corneal laser procedures;

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8 (B) Penetrating keratoplasty or corneal
9 transplants;

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11 (C) Administration of general anesthesia;

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13 (D) Surgery performed with general
14 anesthesia;

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16 (E) Laser or nonlaser procedures into the
17 vitreous chamber of the eye for the purpose of treating any
18 retinal or macular disease.

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20 (ii) The following nonlaser procedures:

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22 (A) Surgery related to removal of an eye from
23 a living person;

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(B) Surgery requiring full thickness incision or excision of the cornea or sclera, other than paracentesis, in an emergency requiring immediate reduction of pressure inside the eye;

(C) Surgery requiring incision of the iris or ciliary body, including diathermy or cryotherapy;

(D) Surgery requiring incision of the vitreous;

(E) Surgery requiring incision of the retina;

(F) Surgical extraction of the crystalline lens;

(G) Surgical intraocular implants;

(H) Incisional or excisional surgery of the extraocular muscles;

1 (J) Surgery of the eyelid for suspected
2 malignancies or for incisional cosmetic or mechanical repair
3 of blepharochalasis, ptosis or tarsorrhaphy;

4
5 (K) Surgery of the bony orbit, including
6 orbital implants;

7
8 (M) Incisional or excisional surgery of the
9 lacrimial system other than probing or related procedures;

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11 (N) Surgery requiring full thickness
12 conjunctivoplasty with graft or flap;

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14 (O) Pterygium surgery.

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16 (f) The state health officer may authorize licensed
17 optometrists to administer immunizations when providing the
18 authority is not inconsistent with other law and when
19 necessary for public health purposes.

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21 ~~(e)~~(g) The provisions of this chapter do not prevent a
22 physician from treating or fitting glasses to the human eye,
23 or a physician or optometrist from filling prescriptions or

1 orders. Nor do the provisions of this chapter prevent the
2 replacing, duplicating or repairing of ophthalmic lenses or
3 the frames or fittings thereof by persons qualified to write
4 or fill prescriptions or orders under the provisions of this
5 act, nor prevent the doing of the merely mechanical work upon
6 such lenses or upon the frames or fittings thereof.

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8 ~~(d)~~(h) It is unlawful for any person to dispense,
9 replace or duplicate ophthalmic lenses or any contact lenses
10 without a prescription or order from a physician or
11 optometrist. A contact lens prescription shall specifically
12 state that it is intended for contact lenses and include the
13 type and specification of the contact lenses being
14 prescribed. An optometrist shall provide, at no additional
15 cost to the patient, a written copy of his contact lens
16 prescription. The prescription shall only be released after
17 the contact lenses have been adequately fitted and no more
18 follow-up visits are necessary to assure the contact lenses
19 fit the patient. The essential information necessary to
20 duplicate the prescription shall be defined by rules adopted
21 by the board. All contact lens prescriptions shall have an
22 expiration date after which it shall be unlawful to fill such
23 prescription. The prescribing optometrist shall not be liable

1 for any injury or condition to a patient resulting from
2 negligence in packaging, manufacturing or dispensing lenses
3 by anyone other than the prescribing optometrist. Any person
4 may file a complaint with the board seeking disciplinary
5 action concerning any violation of this subsection. The board
6 shall investigate or cause to be investigated and shall
7 resolve a complaint on its own motion or upon receipt of a
8 written complaint as provided by W.S. 33-23-110. No person
9 shall improperly fill a contact lens prescription or fill an
10 expired prescription.

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12 ~~(e)~~(j) The provisions of this chapter do not prohibit
13 the sale of goggles, sunglasses, colored glasses or
14 occupational eye-protective devices if they do not have
15 refractive values, nor do the provisions of this act prohibit
16 the sale of complete ready-to-wear eyeglasses as merchandise
17 by any person not holding himself out as competent to examine,
18 test or prescribe for the human eye or its refractive errors.

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20 ~~(f)~~(k) Nothing in this act shall prevent an optometrist
21 from using assistants in his practice under his general
22 supervision as defined in board rule.

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1 33-23-102. Optometrist's use of certain drugs;
2 limitation.

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4 An optometrist shall be allowed to prescribe, dispense and
5 administer ~~and prescribe approved~~ pharmaceutical agents
6 ~~related to the practice of optometry for the diagnosis and~~
7 treatment of ocular abnormalities, excluding ~~the following~~
8 ~~categories of oral medications: immunosuppressives, steroids,~~
9 ~~anti-fungals, sedative-hypnotics, and schedule I and II~~
10 ~~narcotics.~~ No medication shall be given by injection. Oral
11 anti-glaucoma medications may be administered for a period
12 not to exceed forty eight (48) hours. An optometrist who
13 administers or prescribes pharmaceutical agents for
14 examination or for treatment shall provide the same standard
15 of care to patients as that provided by a physician utilizing
16 the same pharmaceutical agents for examination or treatment
17 but allowing for the prescribing of hydrocodone or
18 hydrocodone-containing pharmaceutical agents regardless of
19 schedule.

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21 33-23-104. Board of examiners in optometry; created;
22 composition; designation; duties generally; appointment;
23 qualifications and terms of members; vacancies; oath.

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2 The Wyoming state board of examiners in optometry is created
3 to carry out the purposes and enforce the provisions of this
4 act. The board shall consist of ~~three (3)~~ five (5) members
5 appointed by the governor. ~~In 2005, one (1) board member shall~~
6 ~~be appointed for a term of three (3) years, one (1) board~~
7 ~~member shall be appointed for a term of two (2) years and one~~
8 ~~(1) board member shall be appointed for a term of one (1)~~
9 ~~year. Thereafter, and shall include three (3) licensed~~
10 ~~optometrists, one (1) member of the public and one (1)~~
11 ~~licensed healthcare professional.~~ The terms of the office of
12 the members appointed shall be three (3) years or until their
13 successors have qualified. Each member of the board shall be
14 a resident of the state of Wyoming and each optometrist member
15 of the board shall have been engaged in the actual practice
16 of optometry in the state for at least one (1) year prior to
17 appointment. The governor shall make all appointments to fill
18 vacancies caused by death, resignation or removal. The
19 governor may remove any member as provided in W.S. 9-1-202.
20 The members of the board, before entering upon their duties,
21 shall take and subscribe to the oath required to be taken by
22 state officers and shall file the oath in the office of the
23 secretary of state.

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2 **33-23-106. Board of examiners in optometry;**
3 **compensation of members; disposition of funds.**

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5 (a) Each member of the board may receive as
6 compensation the sum paid each day to members of the state
7 legislature for each day spent in board meetings and per diem
8 and mileage as provided in W.S. 33-1-302(a)(vii). Expenses
9 shall be paid from the fees, ~~fin~~es and assessments received
10 under the provisions of this act. All fees, ~~fin~~es, assessments
11 and other monies, except fines and penalties, received under
12 the provisions of this act, may be used for meeting the
13 expenses of the board and in carrying out the provisions of
14 this act. In no event shall any expenses be charged against
15 the state.

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17 **33-23-109. Examinations; qualifications.**

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19 (a) Any applicant for licensure under this act is
20 required to pass the examination series administered by the
21 National Board of Examiners in Optometry, or its successor
22 agency, ~~and~~ or any other examination specified by the board
23 in rule. The applicant shall be a graduate of an optometric

1 school or college accredited by a regional or professional
2 accreditation organization which is recognized or approved by
3 the council on postsecondary accreditation or the United
4 States Department of Education (USDE) or the Council on Higher
5 Education Accreditation (CHEA), or their successor agencies.
6 Examinations shall cover subjects designated by the board.
7 ~~Any currently licensed person intending to employ diagnostic~~
8 ~~or therapeutic pharmaceutical agents in his practice is~~
9 ~~required to complete and pass a board approved course~~
10 ~~pertaining to the use of those agents~~ The board shall
11 determine additional testing, licensure and qualification
12 requirements pursuant to rules promulgated by the board.

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14 (c) In addition to ~~subsections (a) and (b)~~ satisfying
15 requirements imposed under subsection (a) of this section, an
16 applicant for licensure under this act shall provide the board
17 fingerprints and other information necessary for a criminal
18 history record background check as provided under W.S.
19 7-19-201.

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21 **33-23-114. Continuing education courses required; use**
22 **of fees.**

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1 All optometrists shall take courses of study in subjects
2 relating to the practice of the profession of optometry for
3 the utilization and application of new techniques, scientific
4 and clinical advances, and achievements of research which
5 will assure expansive and comprehensive care to the public.
6 ~~The board shall prescribe the length of study. Attendance~~
7 ~~shall be at a course or courses approved by the board.~~
8 ~~Attendance at any course or courses of study is to be~~
9 ~~certified to the board upon a form provided by the board and~~
10 ~~submitted by each optometrist to the board.~~ The board may use
11 up to one-half (1/2) of its annual renewal fees for the
12 purposes of contracting with institutions of higher learning,
13 professional organizations, or qualified individuals to
14 provide educational programs that meet this requirement. The
15 board may also treat funds set aside for the purpose of
16 continuing education as state funds for the purpose of
17 accepting any funds made available under federal law on a
18 matching basis for the programs of continuing education. ~~In~~
19 ~~no instance may the board require a greater number of hours~~
20 ~~of study than are available at approved courses held within~~
21 ~~this state. The board may waive the requirements of this~~
22 ~~section in cases of certified illness or undue hardship~~ ~~The~~

