Optometrists practice act amendments.

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

A BILL

for

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

Be It Enacted by the Legislature of the State of Wyoming:
Section 1. W.S. 33-23-101(a) by creating a new paragraph (ix), by renumbering (ix) as (x), (b), by creating new subsections (c) through (f) and by renumbering (c) through (f) as (f) through (k), 33-23-102, 33-23-104, 33-23-106(a), 33-23-109(a) and (c) and 33-23-114 are amended to read:


(a) As used in this act:

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

(ix)(x) "This act" means W.S. 33-23-101 through 33-23-117.
(b) The practice of optometry is the employment of any means other than the use of therapeutic lasers or surgery, except as a noninvasive optometric procedure, for diagnosing and treating ocular pathology and for the measurement of the powers or range of human vision or the determination of the accommodative and refractive status of the human eye or the scope of its functions in general or the adaptation of lenses or frames for the aid thereof, and when a person employs primary human eye care procedures, including:

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

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

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

(iv) Ordering of diagnostic laboratory or imaging tests;
(v) The prescribing and administration of pharmaceutical agents, as provided in W.S. 33-23-102.

(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.

(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.

(e) The following ophthalmic procedures shall be excluded from the authorized practice of optometry, except
that preoperative and postoperative care of these procedures by a licensed optometrist shall be authorized:

(i) The following procedures:

(A) Retina or corneal laser procedures;

(B) Penetrating keratoplasty or corneal transplants;

(C) Administration of general anesthesia;

(D) Surgery performed with general anesthesia;

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

(ii) The following nonlaser procedures:

(A) Surgery related to removal of an eye from a living person;
(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;
(J) Surgery of the eyelid for suspected malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis or tarsorrhaphy;

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

(M) Incisional or excisional surgery of the lacrimal system other than probing or related procedures;

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

(O) Pterygium surgery.

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

(c)-(g) The provisions of this chapter do not prevent a physician from treating or fitting glasses to the human eye, or a physician or optometrist from filling prescriptions or
orders. Nor do the provisions of this chapter prevent the replacing, duplicating or repairing of ophthalmic lenses or the frames or fittings thereof by persons qualified to write or fill prescriptions or orders under the provisions of this act, nor prevent the doing of the merely mechanical work upon such lenses or upon the frames or fittings thereof.

(d)-(h) It is unlawful for any person to dispense, replace or duplicate ophthalmic lenses or any contact lenses without a prescription or order from a physician or optometrist. A contact lens prescription shall specifically state that it is intended for contact lenses and include the type and specification of the contact lenses being prescribed. An optometrist shall provide, at no additional cost to the patient, a written copy of his contact lens prescription. The prescription shall only be released after the contact lenses have been adequately fitted and no more follow-up visits are necessary to assure the contact lenses fit the patient. The essential information necessary to duplicate the prescription shall be defined by rules adopted by the board. All contact lens prescriptions shall have an expiration date after which it shall be unlawful to fill such prescription. The prescribing optometrist shall not be liable
for any injury or condition to a patient resulting from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing optometrist. Any person may file a complaint with the board seeking disciplinary action concerning any violation of this subsection. The board shall investigate or cause to be investigated and shall resolve a complaint on its own motion or upon receipt of a written complaint as provided by W.S. 33-23-110. No person shall improperly fill a contact lens prescription or fill an expired prescription.

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

(f)(k) Nothing in this act shall prevent an optometrist from using assistants in his practice under his general supervision as defined in board rule.
33-23-102. Optometrist's use of certain drugs; limitation.

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

33-23-104. Board of examiners in optometry; created; composition; designation; duties generally; appointment; qualifications and terms of members; vacancies; oath.
The Wyoming state board of examiners in optometry is created to carry out the purposes and enforce the provisions of this act. The board shall consist of three (3) five (5) members appointed by the governor. In 2005, one (1) board member shall be appointed for a term of three (3) years, one (1) board member shall be appointed for a term of two (2) years and one (1) board member shall be appointed for a term of one (1) year. Thereafter, and shall include three (3) licensed optometrists, one (1) member of the public and one (1) licensed healthcare professional. The terms of the office of the members appointed shall be three (3) years or until their successors have qualified. Each member of the board shall be a resident of the state of Wyoming and each optometrist member of the board shall have been engaged in the actual practice of optometry in the state for at least one (1) year prior to appointment. The governor shall make all appointments to fill vacancies caused by death, resignation or removal. The governor may remove any member as provided in W.S. 9-1-202. The members of the board, before entering upon their duties, shall take and subscribe to the oath required to be taken by state officers and shall file the oath in the office of the secretary of state.
33-23-106. Board of examiners in optometry; compensation of members; disposition of funds.

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

33-23-109. Examinations; qualifications.

(a) Any applicant for licensure under this act is required to pass the examination series administered by the National Board of Examiners in Optometry, or its successor agency, and/or any other examination specified by the board in rule. The applicant shall be a graduate of an optometric
school or college accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or the United States Department of Education (USDE) or the Council on Higher Education Accreditation (CHEA), or their successor agencies. Examinations shall cover subjects designated by the board. Any currently licensed person intending to employ diagnostic or therapeutic pharmaceutical agents in his practice is required to complete and pass a board approved course pertaining to the use of those agents. The board shall determine additional testing, licensure and qualification requirements pursuant to rules promulgated by the board.

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

33-23-114. Continuing education courses required; use of fees.
All optometrists shall take courses of study in subjects relating to the practice of the profession of optometry for the utilization and application of new techniques, scientific and clinical advances, and achievements of research which will assure expansive and comprehensive care to the public. The board shall prescribe the length of study. Attendance shall be at a course or courses approved by the board. Attendance at any course or courses of study is to be certified to the board upon a form provided by the board and submitted by each optometrist to the board. The board may use up to one-half (1/2) of its annual renewal fees for the purposes of contracting with institutions of higher learning, professional organizations, or qualified individuals to provide educational programs that meet this requirement. The board may also treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the programs of continuing education. In no instance may the board require a greater number of hours of study than are available at approved courses held within this state. The board may waive the requirements of this section in cases of certified illness or undue hardship. The
board shall determine the requirements for continuing education pursuant to rules promulgated by the board.

Section 2. W.S. 33-23-109(b), 33-23-111(b) and 33-23-117 are repealed.

Section 3.

(a) For the purpose of the promulgation of rules as required or permitted by this act, this act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(b) Except as provided by subsection (a) of this section, this act is effective July 1, 2019.

(END)