

HOUSE BILL NO. HB0039

Optometrist practice act amendments.

Sponsored by: Representative(s) Sommers, Barlow, Harshman,
Henderson and Larsen and Senator(s) Baldwin
and Schuler

A BILL

for

1 AN ACT relating to optometry; amending optometrists' scope
2 of practice; prohibiting an optometrist from performing
3 specified procedures; amending optometrists' drug
4 prescribing authority; directing the application of
5 optometry related fees and assessments; directing the board
6 of examiners in optometry to determine continuing education
7 requirements; amending membership on the board of examiners
8 in optometry; repealing provisions that define unlawful
9 conduct; repealing obsolete provisions related to volunteer
10 licensing; requiring rulemaking; and providing for
11 effective dates.

12

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

14

1 **Section 1.** W.S. 33-23-101(a)(ix), (b), by creating a
2 new subsection (c) and by renumbering (c) through (f) as
3 (d) through (g), 33-23-102, 33-23-104, 33-23-106(a),
4 33-23-109(a) and (c), 33-23-113, 33-23-114, 33-23-115(a)
5 and (b) and 35-17-106(a)(iii) are amended to read:

6

7 **33-23-101. Definitions; authorized scope of practice;**
8 **prohibited procedures; exceptions.**

9

10 (a) As used in this act:

11

12 (ix) "This act" means W.S. 33-23-101 through
13 ~~33-23-117~~ 33-23-116.

14

15 (b) The practice of optometry ~~is the employment of~~
16 ~~any means other than the use of therapeutic lasers or~~
17 ~~surgery for diagnosing and treating ocular pathology and~~
18 ~~for the measurement of the powers or range of human vision~~
19 ~~or the determination of the accommodative and refractive~~
20 ~~status of the human eye or the scope of its functions in~~
21 ~~general or the adaptation of lenses or frames for the aid~~
22 ~~thereof~~ occurs when a person employs primary human eye care
23 procedures, including:

1

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

5

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

9

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

13

14 (iv) Ordering and performance of diagnostic
15 laboratory or imaging tests;

16

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

19

20 (vi) Preoperative and postoperative care for
21 those procedures excluded from the practice of optometry
22 under subsection (c) of this section;

23

1 (vii) Any laser procedure as set forth by the
2 board's rules and not excluded under subsection (c) of this
3 section.

4
5 (c) The following ophthalmic procedures shall be
6 excluded from the authorized practice of optometry:

7
8 (i) The following general procedures:

9
10 (A) Administration of general anesthesia;

11
12 (B) Surgery performed with general
13 anesthesia.

14
15 (ii) The following laser procedures:

16
17 (A) Corneal procedures;

18
19 (B) Procedures of the vitreous chamber of
20 the eye for the purpose of treating any retinal or macular
21 disease;

22
23 (C) Retinal procedures.

1

2

(iii) The following nonlaser procedures:

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4

5

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

6

7

8

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

9

10

11

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

12

13

14

15

(D) Surgery of the eyelid for suspected
malignancies or for incisional cosmetic or mechanical
repair of blepharochalasis, ptosis or tarsorrhaphy;

16

17

18

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

19

20

21

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

22

23

(G) Pterygium surgery;

1

2

(H) 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;

6

7

(J) Corneal transplants;

8

9

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

11

12

(M) Surgical extraction of the crystalline
lens;

14

15

(N) Surgical intraocular implants;

16

17

(O) Surgery requiring removal of the
vitreous;

19

20

(P) Procedures of the vitreous chamber of
the eye for the purpose of treating any retinal or macular
disease, including intra-vitreous injection;

23

1 (Q) Surgery requiring manipulation of the
2 retina;

3

4 (R) Intravenous injections.

5

6 ~~(e)~~(d) The provisions of this chapter do not prevent
7 a physician from treating or fitting glasses to the human
8 eye, or a physician or optometrist from filling
9 prescriptions or orders. Nor do the provisions of this
10 chapter prevent the replacing, duplicating or repairing of
11 ophthalmic lenses or the frames or fittings thereof by
12 persons qualified to write or fill prescriptions or orders
13 under the provisions of this act, nor prevent the doing of
14 the merely mechanical work upon such lenses or upon the
15 frames or fittings thereof.

16

17 ~~(d)~~(e) It is unlawful for any person to dispense,
18 replace or duplicate ophthalmic lenses or any contact
19 lenses without a prescription or order from a physician or
20 optometrist. A contact lens prescription shall specifically
21 state that it is intended for contact lenses and include
22 the type and specification of the contact lenses being
23 prescribed. An optometrist shall provide, at no additional

1 cost to the patient, a written copy of his contact lens
2 prescription. The prescription shall only be released after
3 the contact lenses have been adequately fitted and no more
4 follow-up visits are necessary to assure the contact lenses
5 fit the patient. The essential information necessary to
6 duplicate the prescription shall be defined by rules
7 adopted by the board. All contact lens prescriptions shall
8 have an expiration date after which it shall be unlawful to
9 fill such prescription. The prescribing optometrist shall
10 not be liable for any injury or condition to a patient
11 resulting from negligence in packaging, manufacturing or
12 dispensing lenses by anyone other than the prescribing
13 optometrist. Any person may file a complaint with the board
14 seeking disciplinary action concerning any violation of
15 this subsection. The board shall investigate or cause to be
16 investigated and shall resolve a complaint on its own
17 motion or upon receipt of a written complaint as provided
18 by W.S. 33-23-110. No person shall improperly fill a
19 contact lens prescription or fill an expired prescription.

20

21 ~~(e)~~(f) The provisions of this chapter do not prohibit
22 the sale of goggles, sunglasses, colored glasses or
23 occupational eye-protective devices if they do not have

1 refractive values, nor do the provisions of this act
2 prohibit the sale of complete ready-to-wear eyeglasses as
3 merchandise by any person not holding himself out as
4 competent to examine, test or prescribe for the human eye
5 or its refractive errors.

6

7 ~~(f)~~(g) Nothing in this act shall prevent an
8 optometrist from using assistants in his practice under his
9 general supervision as defined in board rule.

10

11 **33-23-102. Optometrist's use of certain drugs;**
12 **limitation.**

13

14 An optometrist shall be allowed to administer and prescribe
15 pharmaceutical agents related to the practice of optometry
16 for the treatment of ocular disease, excluding ~~the~~
17 ~~following categories of oral medications:~~
18 ~~immunosuppressives, steroids, anti-fungals,~~
19 ~~sedative-hypnotics, and schedule I and II narcotics.~~ ~~No~~
20 ~~medication shall be given by injection. Oral anti-glaucoma~~
21 ~~medications may be administered for a period not to exceed~~
22 ~~forty eight (48) hours. An optometrist who administers or~~
23 ~~prescribes pharmaceutical agents for examination or for~~

1 ~~treatment shall provide the same standard of care to~~
2 ~~patients as that provided by a physician utilizing the same~~
3 ~~pharmaceutical agents for examination or treatment~~ but
4 allowing for the prescribing of hydrocodone or hydrocodone
5 containing pharmaceutical agents regardless of schedule.

6
7 **33-23-104. Board of examiners in optometry; created;**
8 **composition; designation; duties generally; appointment;**
9 **qualifications and terms of members; vacancies; oath.**

10
11 The Wyoming state board of examiners in optometry is
12 created to carry out the purposes and enforce the
13 provisions of this act. The board shall consist of ~~three~~
14 ~~(3)~~ five (5) members appointed by the governor. ~~In 2005,~~
15 ~~one (1) board member shall be appointed for a term of three~~
16 ~~(3) years, one (1) board member shall be appointed for a~~
17 ~~term of two (2) years and one (1) board member shall be~~
18 ~~appointed for a term of one (1) year. Thereafter,~~ and shall
19 include three (3) licensed optometrists, one (1) member of
20 the public and one (1) licensed health care professional
21 other than a licensed optometrist. The terms of the office
22 of the members appointed shall be three (3) years or until
23 their successors have qualified. Each member of the board

1 shall be a resident of the state of Wyoming and each
2 optometrist member of the board shall have been engaged in
3 the actual practice of optometry in the state for at least
4 one (1) year prior to appointment. The governor shall make
5 all appointments to fill vacancies caused by death,
6 resignation or removal. The governor may remove any member
7 as provided in W.S. 9-1-202. The members of the board,
8 before entering upon their duties, shall take and subscribe
9 to the oath required to be taken by state officers and
10 shall file the oath in the office of the secretary of
11 state.

12

13 **33-23-106. Board of examiners in optometry;**
14 **compensation of members; disposition of funds.**

15

16 (a) Each member of the board may receive as
17 compensation the sum paid each day to members of the state
18 legislature for each day spent in board meetings and per
19 diem and mileage as provided in W.S. 33-1-302(a)(vii).
20 Expenses shall be paid from the fees, ~~fin~~es and assessments
21 received under the provisions of this act. All fees, ~~fin~~es,
22 assessments and other monies, except fines and penalties,
23 received under the provisions of this act, may be used for

1 meeting the expenses of the board and in carrying out the
2 provisions of this act. In no event shall any expenses be
3 charged against the state.

4

5 **33-23-109. Examinations; licensure; qualifications;**
6 **reciprocity.**

7

8 (a) Any applicant for licensure under this act is
9 required to pass the examination series administered by the
10 National Board of Examiners in Optometry, or its successor
11 agency, ~~and or~~ any other examination specified by the board
12 in rule. The applicant shall be a graduate of an optometric
13 school or college accredited by a regional or professional
14 accreditation organization which is recognized or approved
15 by the council on postsecondary accreditation or the United
16 States Department of Education (USDE) or the Council on
17 Higher Education Accreditation (CHEA), or their successor
18 agencies. Examinations shall cover subjects designated by
19 the board. ~~Any currently licensed person intending to
20 employ diagnostic or therapeutic pharmaceutical agents in
21 his practice is required to complete and pass a board
22 approved course pertaining to the use of those agents.~~

23

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

7

8 **33-23-113. Advertising and display of license**
9 **requirements.**

10

11 (a) An advertisement for the practice of optometry
12 shall identify the license held pursuant to this act. The
13 advertisement shall be free from deceptive or misleading
14 information.

15

16 (b) To communicate to the patient the license held
17 pursuant to this act, a licensee shall:

18

19 (i) Wear a photo identification name tag during
20 patient encounters. The photo identification name tag shall
21 include a photograph of the licensee, the licensee's name,
22 and the license held pursuant to this act. The name tag
23 shall be of a sufficient size for a patient to read the

1 contents of the tag and shall be worn in a manner so as to
2 be visible and apparent to the patient;

3
4 ~~(ii) Every person holding a license to practice~~
5 ~~optometry in the state of Wyoming shall~~ Display the license
6 certificate issued by the board, in its entirety, in a
7 conspicuous place in his office, wherein the practice of
8 optometry is conducted;~~i-~~

9
10 (iii) Comply with these requirements in each
11 practice setting.

12
13 (c) A licensee who enters into a collaborative
14 practice agreement with a medical doctor or doctor of
15 osteopathy shall conspicuously post in each office the
16 regularly scheduled hours the medical doctor or doctor of
17 osteopathy intends to be physically present in the office.

18
19 **33-23-114. Continuing education courses required.**

20
21 All optometrists shall take courses of study in subjects
22 relating to the practice of the profession of optometry for
23 the utilization and application of new techniques,

1 scientific and clinical advances, and achievements of
2 research which will assure expansive and comprehensive care
3 to the public. The board shall ~~prescribe the length of~~
4 ~~study. Attendance shall be at a course or courses approved~~
5 ~~by the board. Attendance at any course or courses of study~~
6 ~~is to be certified to the board upon a form provided by the~~
7 ~~board and submitted by each optometrist to~~ determine the
8 requirements for continuing education pursuant to rules
9 promulgated by the board. The board may use up to one-half
10 (1/2) of its annual renewal fees for the purposes of
11 contracting with institutions of higher learning,
12 professional organizations, or qualified individuals to
13 provide educational programs that meet this requirement.
14 The board may also treat funds set aside for the purpose of
15 continuing education as state funds for the purpose of
16 accepting any funds made available under federal law on a
17 matching basis for the programs of continuing education. ~~In~~
18 ~~no instance may the board require a greater number of hours~~
19 ~~of study than are available at approved courses held within~~
20 ~~this state. The board shall require three (3) hours of~~
21 ~~continuing education related to the responsible prescribing~~
22 ~~of controlled substances every two (2) years. The board may~~

1 ~~waive the requirements of this section in cases of~~
2 ~~certified illness or undue hardship.~~

3

4 **33-23-115. Penalty; injunction; civil penalty; jury**
5 **trial.**

6

7 (a) Any person who violates any provision of ~~W.S.~~
8 ~~33-23-101 through 33-23-117~~ this act is guilty of a
9 misdemeanor and upon conviction shall be fined not more
10 than seven hundred fifty dollars (\$750.00) or imprisoned
11 not more than six (6) months in the county jail, or both.

12

13 (b) Any person aggrieved by a violation of ~~W.S.~~
14 ~~33-23-101 through 33-23-117~~ this act, the Wyoming state
15 board of examiners of optometry, the attorney general or
16 the district or county attorney may institute suit in the
17 county in which a violation of ~~W.S. 33-23-101 through~~
18 ~~33-23-117~~ this act occurred to require enforcement by
19 injunctive procedures and to recover a civil penalty not to
20 exceed ten thousand dollars (\$10,000.00) per violation,
21 plus costs.

22

1 **35-17-106. Election to be covered by federal**
2 **immunity.**

3
4 (a) The state of Wyoming elects to be immediately
5 covered by the immunity granted by the Health Care Quality
6 Improvement Act of 1986, P.L. 99-660, Title IV adopted by
7 Congress in 1986, to the extent authorized, as of the
8 effective date of this section for all health care
9 professional review bodies as defined in the act, for the
10 applicable division of the department of health in its
11 duties under W.S. 33-36-101 through 33-36-115 related to
12 emergency medical services and for:

13
14 (iii) The state board of examiners in optometry,
15 W.S. 33-23-101 through ~~33-23-117~~ 33-23-116;

16
17 **Section 2.** W.S. 33-23-109(b), 33-23-111(b) and
18 33-23-117 are repealed.

19
20 **Section 3.** The Wyoming state board of examiners in
21 optometry shall promulgate any rules necessary to implement
22 this act.

23

1 **Section 4.**

2

3 (a) Except as provided in subsection (b) of this
4 section, this act is effective immediately upon completion
5 of all acts necessary for a bill to become law as provided
6 by Article 4, Section 8 of the Wyoming Constitution.

7

8 (b) Sections 1 and 2 of this act are effective
9 July 1, 2021.

10

11

(END)