

LEGISLATIVE BILL 369

Approved by the Governor March 3, 1998

Introduced by Schrock, 38; Coordsen, 32; Dierks, 40; Elmer, 44; Engel, 17; Hudkins, 21; Jones, 43; Preister, 5; Schmitt, 41; Stuhr, 24; Wickersham, 49; Hilgert, 7; Wehrbein, 2; Bruning, 3

AN ACT relating to optometry; to amend sections 71-1,133 to 71-1,135.04 and 71-1,135.06, Reissue Revised Statutes of Nebraska; to redefine the practice of optometry; to change examination requirements; to redefine pharmaceutical agents; to provide for education regarding glaucoma; to change provisions relating to educational requirements; to provide requirements for the standard of care for the treatment of glaucoma; to harmonize provisions; to provide severability; and to repeal the original sections.

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

Section 1. Section 71-1,133, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,133. For purposes of the Uniform Licensing Law, the practice of optometry is defined as being means one or a combination of the following, without the use of surgery:

(1) The examination of the human eye to diagnose, treat, or refer for consultation or treatment any abnormal condition of the human eye, ocular adnexa, or visual system; or ~~id.~~

(2) The employment of instruments, devices, pharmaceutical agents, other than oral therapeutic agents used in the treatment of glaucoma, excluding antiglaucoma agents, and procedures intended for the purpose of investigating, examining, diagnosing, treating, managing, or correcting visual defects or abnormal conditions of the human eye, ocular adnexa, or visual system ~~or id.~~ or for the removal of superficial eyelid, conjunctival, and corneal foreign bodies and the ordering of procedures and laboratory tests rational to the diagnosis of conditions or diseases of the human eye, ocular adnexa, or visual system; or

(3) The prescribing and application of lenses, devices containing lenses, prisms, contact lenses, ophthalmic devices excluding laser surgery, orthoptics, vision training, pharmaceutical agents, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye, ocular adnexa, or visual system.

The practice of optometry does not include the treatment of infantile/congenital glaucoma which means the condition is present at birth. ~~or id.~~

Sec. 2. Section 71-1,134, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,134. Sections 71-1,133 to ~~71-1,136~~ 71-1,136.09 shall not be construed to (1) include merchants or dealers who sell glasses as merchandise in an established place of business or who sell contact lenses from a prescription for contact lenses written by an optometrist or a person licensed to practice medicine and surgery and who do not profess to be optometrists or practice optometry as defined in section 71-1,133; or (2) restrict, expand, or otherwise alter ~~practices or acts~~ the scope of practice governed by other statutes.

Sec. 3. Section 71-1,135, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,135. Every applicant for a license to practice optometry shall: (1) Present proof that he or she is a graduate of an accredited school or college of optometry; and (2) pass an examination approved by the Board of Examiners in Optometry. After August 25, 1989, ~~such~~ the examination shall cover all subject matter included in the practice of optometry as defined in section 71-1,133 for applicants who have graduated from an accredited optometry school after such date. After October 1, 1997, the examination shall cover all subject matter included in the practice of optometry for applicants who have graduated from an accredited optometry school after such date.

Sec. 4. Section 71-1,135.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,135.01. For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Pharmaceutical agents, for diagnostic purposes, shall ~~mean~~ means anesthetics, cycloplegics, and mydriatics; and

(2) Pharmaceutical agents, for therapeutic purposes, shall mean means topical ophthalmic pharmaceutical agents which treat eye diseases, infection, inflammation, and superficial abrasions, or oral analgesics, including oral analgesics enumerated in Schedules III and IV of section 28-405 necessary to treat conditions of the eye, ocular adnexa, or and visual system, or oral pharmaceutical agents for the treatment of diseases or infections of the eye, ocular adnexa, or and visual system, or oral anti-inflammatory agents to treat conditions of the eye, ocular adnexa, or and visual system, excluding steroids and immunosuppressive agents.

Sec. 5. Section 71-1,135.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,135.02. (1) No optometrist licensed in this state, except an optometrist who has been certified by the department prior to April 30, 1987, or by another state with substantially equivalent requirements for certification as determined by the department upon recommendation of the Board of Examiners in Optometry to use topical ocular pharmaceutical agents for diagnostic purposes prior to April 30, 1987, shall use topical ocular pharmaceutical agents for diagnostic purposes authorized under subdivision (2) of section 71-1,133 unless such person (a) submits to the Board of Examiners in Optometry the fee of not less than twenty dollars nor more than one hundred dollars as determined by the department upon the recommendation of the board, together with evidence of satisfactory completion of a pharmacology course at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Department of Health and Human Services Regulation and Licensure, (b) passes an examination approved by the department, and (c) has been certified by the department upon the recommendation of the Board of Examiners in Optometry as qualified to use topical ocular pharmaceutical agents for diagnostic purposes. The department may approve for certification pursuant to subdivision (1)(a) of this section a pharmacology course if such course includes:

(i) A study of ocular anesthetics, mydriatics, cycloplegics, ocular toxicity of pharmaceutical agents, ocular allergies of ocular agents, and pharmacologic effects of ocular drug substances;

(ii) The consideration of the mechanism of action of anesthetics, cycloplegics, and mydriatics in human beings and the uses of such substances in the diagnosis of occurring ocular disorders;

(iii) At least one hundred hours of classroom education, clinical training, and examination; and

(iv) The correlation of the utilization of pharmaceutical agents and optical instrumentation and procedures.

The department may approve for certification pursuant to subdivision (1)(b) of this section an examination if such examination is:

(A) Based upon the competencies taught in a pharmacology course; and
(B) Administered by an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Department of Health and Human Services Regulation and Licensure.

(2) No optometrist licensed in this state on or after April 30, 1987, shall use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision (3) of section 71-1,133 unless such person (a) submits to the Board of Examiners in Optometry the fee of not less than twenty dollars nor more than one hundred dollars as determined by the department upon the recommendation of the board, together with evidence of satisfactory completion of a minimum of one hundred hours since January 1, 1984, of which forty hours shall be classroom education and sixty hours shall be supervised clinical training as it applies to optometry with particular emphasis on the examination, diagnosis, and treatment of the eye, ocular and adnexa, and visual system offered by a school or college approved by the department, (b) passes an examination approved by the department, (c) has been certified by the department upon the recommendation of the Board of Examiners in Optometry to use topical ocular pharmaceutical agents for therapeutic purposes, and (d) has been certified by the department upon the recommendation of the Board of Examiners in Optometry to use topical ocular pharmaceutical agents for diagnostic purposes. The department may approve for certification pursuant to subdivision (2)(a) of this section a therapeutic course or courses of instruction, from an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education, that have been completed after January 1, 1984. Such course or courses shall include, but not be limited to:

(i) Review of general pharmacology and therapeutics;
(ii) Review of ocular therapeutic pharmacology;

(iii) Diagnosis and treatment of diseases of the lid, lacrimal system, conjunctiva, sclera, and episclera eye, ocular adnexa, and visual system;

(iv) Diagnosis of corneal disease and trauma including corneal foreign bodies;

(v) Diagnosis and treatment of anterior segment eye diseases;

(vi) Clinical procedures related to the diagnosis and treatment of the eye, ocular and adnexa, and visual system;

(vii) Ocular manifestations of systemic disease;

(viii) Review of systemic disease syndromes;

(ix) Ocular therapy including management of acute systemic emergencies; and

(x) Consultation criteria in ocular disease and trauma.

(3)(a) An optometrist who is licensed and certified to use pharmaceutical agents for therapeutic purposes on the effective date of this act who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as determined by the Board of Examiners in Optometry, prior to January 1, 2000, and shall complete such educational requirements prior to treating glaucoma. Failure to complete such education prior to January 1, 2000, shall result in the revocation of the licensee's certification to use pharmaceutical agents for therapeutic purposes.

(b) An optometrist who applies for licensure on or after the effective date of this act who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as determined by the Board of Examiners in Optometry, prior to being issued a license to practice optometry.

(c) An optometrist who graduated from an accredited school of optometry after January 1, 1996, shall be deemed to have met the educational requirements for certification to use pharmaceutical agents for therapeutic purposes which includes the treatment and management of glaucoma.

Sec. 6. Section 71-1,135.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,135.03. (1) No course or courses in pharmacology shall be approved by the department upon the recommendation of the Board of Examiners in Optometry unless taught by an institution which is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and the transcript credit for the course or courses is certified to the board by the institution.

(2) No course of instruction in the treatment of glaucoma shall be approved by the department upon the recommendation of the Board of Examiners in Optometry unless it is taught by an institution that is recognized by the United States Department of Education or its successor and the content for the course is certified to the board by the institution as being comparable in content to a course of instruction in the treatment of glaucoma required by other licensing boards for licensees or registrants allowed to treat glaucoma in the scope of their professional practice.

Sec. 7. Section 71-1,135.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,135.04. In issuing a license of or renewal, the board Board of Examiners in Optometry shall state whether such person licensed in the practice of optometry has been certified to use pharmaceutical agents pursuant to section 71-1,135.02 and shall determine an appropriate means to further identify those persons who are certified in the diagnostic use of such agents as provided in subdivision (2) of section 71-1,133 or therapeutic use of such agents as provided in subdivision (2) or (3) of section 71-1,133.

Sec. 8. Section 71-1,135.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,135.06. (1) A licensed 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 licensed in this state to practice medicine and surgery utilizing the same pharmaceutical agents for examination or treatment.

(2) A licensed optometrist who administers or prescribes pharmaceutical agents for the treatment of glaucoma shall provide the same standard of care to patients as that provided by a physician licensed in this state to practice medicine and surgery utilizing the same pharmaceutical agents for the examination and treatment of glaucoma.

Sec. 9. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 10. Original sections 71-1,133 to 71-1,135.04 and 71-1,135.06, Reissue Revised Statutes of Nebraska, are repealed.