STATE OF NEBRASKA

STATUTES RELATING TO OPTOMETRY PRACTICE ACT

Department of Health and Human Services
Division of Public Health
Licensure Unit

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INDEX

OPTOMETRY PRACTICE ACT

38-2601. Act, how cited.
38-2602. Definitions, where found.
38-2603. Board, defined.
38-2604. Pharmaceutical agents, defined.
38-2605. Practice of optometry, defined.
38-2606. Board; members; qualifications.
38-2607. Practice of optometry; activities not included.
38-2608. Optometry; license; requirements.
38-2609. Applicant for licensure based on license outside the state; requirements.
38-2610. License; renewal; statement as to use of pharmaceutical agents.
38-2611. Continuing competency requirements; waiver.
38-2612. Fees.
38-2613. Optometrist; pharmaceutical agents; use; certification.
38-2614. Optometrist; pharmaceutical agents; certification of courses of instruction; board approval.
38-2615. Optometrist; applicability of requirements.
38-2616. Optometry; approved schools; requirements.
38-2617. Use of pharmaceutical agents or dispensing of contact lens containing ocular pharmaceutical agent by licensed optometrist; standard of care.
38-2618. Optometric assistants; authorized.
38-2619. Optometry; patient's freedom of choice.
38-2620. Nebraska Optometry Education Assistance Contract Program; purpose.
38-2621. Program; Board of Regents; administer; rules and regulations; adopt; reports; conditions.
38-2622. Program; financial assistance; number of students.
38-2623. Program; financial assistance; limitation.

71-1,133. Transferred to section 38-2605.
71-1,134. Transferred to section 38-2607.
71-1,135. Transferred to section 38-2608.
71-1,135.01. Transferred to section 38-2604.
71-1,135.02. Transferred to section 38-2613.
71-1,135.03. Repealed. Laws 2007, LB 236, § 47.
71-1,135.04. Transferred to section 38-2610.
71-1,135.05. Repealed. Laws 2007, LB 236, § 47.
71-1,135.06. Transferred to section 38-2617.
71-1,135.07. Transferred to section 38-2618.
71-1,136. Transferred to section 38-2616.
71-1,136.01. Transferred to section 38-2611.
71-1,136.04. Transferred to section 38-2619.
71-1,136.05. Transferred to section 38-2620.
71-1,136.06. Transferred to section 38-2621.
71-1,136.07. Transferred to section 38-2622.
71-1,136.08. Transferred to section 38-2623.
STATUTES PERTAINING TO THE OPTOMETRY PRACTICE ACT

38-2601. Act, how cited. Sections 38-2601 to 38-2623 shall be known and may be cited as the Optometry Practice Act.

38-2602. Definitions, where found. For purposes of the Optometry Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-2603 to 38-2605 apply.

38-2603. Board, defined. Board means the Board of Optometry.

38-2604. Pharmaceutical agents, defined. (1) Pharmaceutical agents, for diagnostic purposes, means anesthetics, cycloplegics, and mydriatics.
   (2) Pharmaceutical agents, for therapeutic purposes, 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 visual system, or oral pharmaceutical agents for the treatment of diseases or infections of the eye, ocular adnexa, or visual system, or oral anti-inflammatory agents to treat conditions of the eye, ocular adnexa, or visual system, excluding steroids and immunosuppressive agents.

38-2605. Practice of optometry, defined. (1) The practice of optometry means one or a combination of the following:
   (a) 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;
   (b) The employment of instruments, devices, pharmaceutical 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;
   (c) The prescribing and application of lenses, devices containing lenses, prisms, contact lenses, ophthalmic devices, 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;
   (d) The dispensing and sale of a contact lens, including a cosmetic or plano contact lens or a contact lens containing an ocular pharmaceutical agent which an optometrist is authorized by law to prescribe and which is classified by the federal Food and Drug Administration as a drug;
   (e) The ordering of procedures and laboratory tests rational to the diagnosis or treatment of conditions or diseases of the human eye, ocular adnexa, or visual system; and
   (f) The removal of superficial eyelid, conjunctival, and corneal foreign bodies.
   (2) The practice of optometry does not include the use of surgery, laser surgery, oral therapeutic agents used in the treatment of glaucoma, oral steroids, or oral immunosuppressive agents or the treatment of infantile/congenital glaucoma, which means the condition is present at birth.

38-2606. Board; members; qualifications. The board shall consist of four members, including three licensed optometrists and one public member.

38-2607. Practice of optometry; activities not included. The practice of optometry 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;
   (2) Restrict, expand, or otherwise alter the scope of practice governed by other statutes; or
   (3) Include the performance by an optometric assistant, under the supervision of a licensed optometrist, of
duties prescribed in accordance with rules and regulations adopted and promulgated by the department, with the recommendation of the board.


38-2608. Optometry; license; requirements. 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. The examination shall cover all subject matter included in the practice of optometry.


38-2609. Applicant for licensure based on license outside the state; requirements. In addition to the standards set by the board pursuant to section 38-126, an applicant for licensure based on a license in another state or territory of the United States or the District of Columbia must have been actively engaged in the practice of optometry for at least two of the three years immediately preceding the application for licensure in Nebraska and must provide satisfactory evidence of being credentialed in such other jurisdiction at a level with requirements that are at least as stringent as or more stringent than the requirements for the comparable credential being applied for in this state.


38-2610. License; renewal; statement as to use of pharmaceutical agents. In issuing a license or renewal, the department, with the recommendation of the board, shall state whether such person licensed in the practice of optometry has been certified to use pharmaceutical agents pursuant to section 38-2613, 38-2614, or 38-2615 and shall determine an appropriate means to further identify those persons who are certified in the diagnostic use of such agents or the therapeutic use of such agents.


38-2611. Continuing competency requirements; waiver. The department, with the recommendation of the board, may waive continuing competency requirements, in part or in total, for any two-year licensing period when a credential holder submits documentation that circumstances beyond his or her control prevented completion of such requirements as provided in section 38-146. In addition to circumstances determined by the department to be beyond the credential holder's control pursuant to such section, such circumstances shall include situations in which:

1. The credential holder has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required continuing competency activities during the twenty-four months preceding the renewal date; or

2. The credential holder was initially licensed within the twenty-six months immediately preceding the renewal date.


38-2612. Fees. The department shall establish and collect fees for credentialing under the Optometry Practice Act as provided in sections 38-151 to 38-157.


38-2613. Optometrist; pharmaceutical agents; use; certification. (1) An optometrist licensed in this state may use topical ocular pharmaceutical agents for diagnostic purposes authorized under subdivision (1)(b) of section 38-2605, if such person is certified by the department, with the recommendation of the board, as qualified to use topical ocular pharmaceutical agents for diagnostic purposes.

2. Such certification shall require (a) satisfactory completion of a pharmacology course at an institution
38-2614. Optometrist; pharmaceutical agents; certification of courses of instruction; board approval. (1) An optometrist licensed in this state may use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision (1)(b) or (c) of section 38-2605 if such person is certified by the board, with the recommendation of the board, as qualified to use ocular pharmaceutical agents for therapeutic purposes, including the treatment of glaucoma.

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


38-2615. Optometrist; applicability of requirements. After January 1, 2000, only an optometrist licensed in this state prior to April 30, 1987, may practice optometry without meeting the requirements and obtaining certification required by sections 38-2613 and 38-2614.


38-2616. Optometry; approved schools; requirements. No school of optometry shall be approved by the board as an accredited school unless the school is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education.


38-2617. Use of pharmaceutical agents or dispensing of contact lens containing ocular pharmaceutical agent by licensed optometrist; standard of care. (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) An optometrist who dispenses a contact lens containing an ocular pharmaceutical agent which is classified by the federal Food and Drug Administration as a drug shall comply with the rules and regulations of the board relating to packaging, labeling, storage, drug utilization review, and record keeping. The board shall adopt and promulgate rules and regulations relating to packaging, labeling, storage, drug utilization review, and record keeping for such contact lenses.


38-2618. Optometric assistants; authorized. Any licensed optometrist may employ optometric assistants. Such assistants, under the supervision of a licensed optometrist, may perform such duties as are prescribed in accordance with rules and regulations adopted and promulgated by the department, with the recommendation of the board.


38-2619. Optometry; patient’s freedom of choice. No agencies of the state or its subdivisions administering relief, public assistance, public welfare assistance, or other health service under the laws of this state, including the public schools, shall in the performance of their duties, interfere with any patient’s freedom of choice.
choice in the selection of practitioners licensed to perform examinations and provide treatment within the field for which their respective licenses entitle them to practice.


38-2620. Nebraska Optometry Education Assistance Contract Program; purpose. There is hereby established the Nebraska Optometry Education Assistance Contract Program for the purpose of providing opportunities for citizens of this state desiring to pursue study in the field of optometry at accredited schools and colleges outside the state. Eligibility for the program shall be limited as provided in sections 38-2620 to 38-2623.


38-2622. Program; financial assistance; number of students. Annual financial payments made under sections 38-2620 to 38-2623 shall be limited to students who participated in or were accepted into the program in the academic year 2010-11 and shall continue for the remaining academic year or years that any such student is enrolled in an accredited school or college of optometry subject to the limitation provided in section 38-2623.


38-2623. Program; financial assistance; limitation. Financial assistance under sections 38-2620 to 38-2623 shall be continued not to exceed four years until the enrolled student has received a degree in optometry. Contracts with schools and colleges shall set forth terms and provisions for continuation of such payments.


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