

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 398

Introduced by Johnson, 37

Read first time January 16, 2007

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to optometry; to amend sections
2 71-1,133, 71-1,134, 71-1,135, 71-1,135.02, 71-1,135.04,
3 71-1,135.06, 71-1,136, 71-1,136.01, and 71-1,136.04,
4 Reissue Revised Statutes of Nebraska; to change and
5 eliminate provisions relating to credentialing for
6 optometrists; to harmonize provisions; to provide
7 severability; to repeal the original sections; and to
8 outright repeal sections 71-1,135.03 and 71-1,135.05,
9 Reissue Revised Statutes of Nebraska.

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

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

3 71-1,133 For purposes of the Uniform Licensing Law, the
4 practice of optometry means one or a combination of the following:
5 ~~without the use of surgery:~~

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

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

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

25 (4) The ordering of procedures and laboratory tests

1 rational to the diagnosis or treatment of conditions or diseases of
 2 the human eye, ocular adnexa, or visual system; and

3 (5) The removal of superficial eyelid, conjunctival, and
 4 corneal foreign bodies.

5 The practice of optometry does not include the use
 6 of surgery, laser surgery, oral therapeutic agents used in the
 7 treatment of glaucoma, oral steroids, or oral immunosuppressive
 8 agents or the treatment of infantile/congenital glaucoma, which
 9 means the condition is present at birth.

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

12 71-1,134 The practice of optometry ~~under sections~~
 13 ~~71-1,133 to 71-1,136.09~~ shall not be construed to:

14 (1) Include merchants or dealers who sell glasses as
 15 merchandise in an established place of business or who sell
 16 contact lenses from a prescription for contact lenses written by an
 17 optometrist or a person licensed to practice medicine and surgery
 18 and who do not profess to be optometrists or practice optometry; as
 19 defined in section ~~71-1,133;~~

20 (2) Restrict, expand, or otherwise alter the scope of
 21 practice governed by other statutes; or

22 (3) Include the performance by an optometric assistant,
 23 under the supervision of a licensed optometrist, of duties
 24 prescribed in accordance with rules and regulations adopted and
 25 promulgated by the department, with the ~~upon~~ recommendation of the

1 Board of Optometry.

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

4 71-1,135 Every applicant for a license to practice
5 optometry shall: (1) Present proof that he or she is a graduate
6 of an accredited school or college of optometry; and (2) pass an
7 examination approved by the Board of Optometry. ~~After August 25,~~
8 ~~1989,~~ the examination shall cover all subject matter included
9 in the practice of optometry, ~~as defined in section 71-1,133 for~~
10 ~~applicants who have graduated from an accredited optometry school~~
11 ~~after such date.~~ ~~After October 1, 1997,~~ the examination shall
12 cover all subject matter included in the practice of optometry for
13 applicants who have graduated from an accredited optometry school
14 after such date.

15 Sec. 4. Section 71-1,135.02, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-1,135.02 ~~(1)(a)~~ No (1) An optometrist licensed in
18 this state, ~~except an optometrist who has been certified by~~
19 ~~the department prior to April 30, 1987, or by another state~~
20 ~~with substantially equivalent requirements for certification as~~
21 ~~determined by the department upon recommendation of the Board~~
22 ~~of Optometry to use topical ocular pharmaceutical agents for~~
23 ~~diagnostic purposes prior to April 30, 1987,~~ shall may use topical
24 ocular pharmaceutical agents for diagnostic purposes authorized
25 under subdivision (2) of section 71-1,133 ~~unless if~~ such person ~~(i)~~

1 submits to the ~~board~~ department the required fee and evidence of is
2 certified by the department, with the recommendation of the Board
3 of Optometry, as qualified to use topical ocular pharmaceutical
4 agents for diagnostic purposes. Such certification shall require
5 (a) satisfactory completion of a pharmacology course at an
6 institution accredited by a regional or professional accrediting
7 organization which is recognized by the United States Department
8 of Education and approved by the Department of Health and Human
9 Services Regulation and Licensure, ~~(ii) passes board and passage~~
10 of an examination approved by the department, and ~~(iii) has~~
11 been certified by the department upon the recommendation of the
12 board as qualified to use topical ocular pharmaceutical agents
13 for diagnostic purposes. ~~board or~~ (b) evidence provided by the
14 optometrist of certification in another state for use of diagnostic
15 pharmaceutical agents which is deemed by the board as satisfactory
16 validation of such qualifications.

17 ~~(b) The department may approve for certification pursuant~~
18 ~~to subdivision (1)(a)(i) of this section a pharmacology course if~~
19 ~~such course includes:~~

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

24 ~~(ii) The consideration of the mechanism of action of~~
25 ~~anesthetics, cycloplegics, and mydriatics in human beings and the~~

1 uses of such substances in the diagnosis of occurring ocular
2 disorders;

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

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

7 (c) The department may approve for certification pursuant
8 to subdivision (1)(a)(ii) of this section an examination if such
9 examination is:

10 (i) Based upon the competencies taught in a pharmacology
11 course; and

12 (ii) Administered by an institution accredited by
13 a regional or professional accrediting organization which is
14 recognized by the United States Department of Education and
15 approved by the Department of Health and Human Services Regulation
16 and Licensure.

17 (2)(a) ~~No~~ An optometrist licensed in this state ~~on or~~
18 ~~after April 30, 1987,~~ shall may use topical ocular pharmaceutical
19 agents for therapeutic purposes authorized under subdivision (2) or
20 (3) of section 71-1,133 ~~unless~~ if such person (i) submits to the
21 ~~board~~ department the required fee and ~~evidence of~~ is certified by
22 the department, with the recommendation of the Board of Optometry,
23 as qualified to use ocular pharmaceutical agents for therapeutic
24 purposes, including the treatment of glaucoma. Such certification
25 shall require (a) satisfactory completion of a minimum of one

1 hundred hours since January 1, 1984, of which forty hours shall be
2 classroom education and sixty hours shall be supervised clinical
3 training as it applies to optometry with particular emphasis on
4 which emphasizes the examination, diagnosis, and treatment of
5 the eye, ocular adnexa, and visual system offered by a school
6 or college approved by the department, (ii) passes board and
7 passage of an examination approved by the department, (iii) has
8 been certified by the department upon the recommendation of the
9 board to use topical ocular pharmaceutical agents for therapeutic
10 purposes, and (iv) has been certified by the department upon the
11 recommendation of the board to use topical ocular pharmaceutical
12 agents for diagnostic purposes. board or (b) evidence provided by
13 the optometrist of certification in another state for the use of
14 therapeutic pharmaceutical agents which is deemed by the board as
15 satisfactory validation of such qualifications.

16 (b) The department may approve for certification pursuant
17 to subdivision (2)(a)(i) of this section a therapeutic course
18 or courses of instruction, from an institution accredited by
19 a regional or professional accrediting organization which is
20 recognized by the United States Department of Education, that
21 have been completed after January 1, 1984. Such course or courses
22 shall include, but not be limited to:

- 23 (i) Review of general pharmacology and therapeutics,
24 (ii) Review of ocular therapeutic pharmacology,
25 (iii) Diagnosis and treatment of diseases of the eye,

1 ocular adnexa, and visual system;

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

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

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

8 ~~(vii) Ocular manifestations of systemic disease;~~

9 ~~(viii) Review of systemic disease syndromes;~~

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

12 ~~(x) Consultation criteria in ocular disease and trauma.~~

13 ~~(3)(a) An optometrist who is licensed and certified to~~
14 ~~use pharmaceutical agents for therapeutic purposes on July 15,~~
15 ~~1998, who graduated from an accredited school of optometry prior~~
16 ~~to January 1, 1996, shall complete the educational requirements~~
17 ~~relative to the treatment of glaucoma, as determined by the board,~~
18 ~~prior to January 1, 2000, and shall complete such educational~~
19 ~~requirements prior to treating glaucoma. Failure to complete such~~
20 ~~education prior to January 1, 2000, shall result in the revocation~~
21 ~~of the licensee's certification to use pharmaceutical agents for~~
22 ~~therapeutic purposes.~~

23 ~~(b) An optometrist who applies for licensure on or~~
24 ~~after July 15, 1998, who graduated from an accredited school~~
25 ~~of optometry prior to January 1, 1996, shall complete the~~

1 educational requirements relative to the treatment of glaucoma,
 2 as determined by the board, prior to being issued a license to
 3 practice optometry.

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

9 (3) After January 1, 2000, only an optometrist licensed
 10 in this state prior to April 30, 1987, may practice optometry
 11 without meeting the requirements and obtaining certification
 12 required by subsections (1) and (2) of this section.

13 Sec. 5. Section 71-1,135.04, Reissue Revised Statutes of
 14 Nebraska, is amended to read:

15 71-1,135.04 In issuing a license or renewal, the Board of
 16 Optometry shall state whether such person licensed in the practice
 17 of optometry has been certified to use pharmaceutical agents
 18 pursuant to section 71-1,135.02 and shall determine an appropriate
 19 means to further identify those persons who are certified in the
 20 diagnostic use of such agents as ~~provided in subdivision (2) of~~
 21 ~~section 71-1,133 or the therapeutic use of such agents, as provided~~
 22 ~~in subdivision (2) or (3) of section 71-1,133.~~

23 Sec. 6. Section 71-1,135.06, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 71-1,135.06 ~~(1)~~ A licensed optometrist who administers or

1 prescribes pharmaceutical agents for examination or for treatment
2 shall provide the same standard of care to patients as that
3 provided by a physician licensed in this state to practice
4 medicine and surgery utilizing the same pharmaceutical agents
5 for examination or treatment.

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

12 Sec. 7. Section 71-1,136, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-1,136 No school of optometry shall be approved by the
15 Department of Health and Human Services Regulation and Licensure
16 Board of Optometry as an accredited school unless the school is
17 accredited by a regional or professional accrediting organization
18 which is recognized by the United States Department of Education.

19 Sec. 8. Section 71-1,136.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-1,136.01 Each Nebraska-licensed optometrist in active
22 practice within the State of Nebraska shall, on or before August
23 1 of each even-numbered year, complete continuing competency
24 activities as required by the Board of Optometry pursuant to
25 section 71-161.09 as a prerequisite for the licensee's next

1 subsequent license renewal. In addition to circumstances determined
2 by the department to be beyond the credential holder's control
3 pursuant to section 71-161.10, such circumstances shall include
4 situations in which the credential holder was initially licensed
5 within the twenty-six months immediately preceding the renewal
6 date.

7 Sec. 9. Section 71-1,136.04, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-1,136.04 No agencies of the state or its subdivisions
10 administering relief, public assistance, public welfare assistance,
11 or other health service under the laws of this state, including
12 the public schools, shall in the performance of their duties,
13 interfere with any patient's freedom of choice in the selection of
14 practitioners licensed to perform examinations ~~for refractions or~~
15 ~~corrections~~ and provide treatment within the field for which their
16 respective licenses entitle them to practice.

17 Sec. 10. If any section in this act or any part of any
18 section is declared invalid or unconstitutional, the declaration
19 shall not affect the validity or constitutionality of the remaining
20 portions.

21 Sec. 11. Original sections 71-1,133, 71-1,134, 71-1,135,
22 71-1,135.02, 71-1,135.04, 71-1,135.06, 71-1,136, 71-1,136.01, and
23 71-1,136.04, Reissue Revised Statutes of Nebraska, are repealed.

24 Sec. 12. The following sections are outright repealed:
25 Sections 71-1,135.03 and 71-1,135.05, Reissue Revised Statutes of

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1 Nebraska.