

HOUSE BILL No. 2336

AN ACT concerning the regulation of optometrists; amending K.S.A. 65-1501a and 74-1505 and K.S.A. 2004 Supp. 65-1505 and 65-1509 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2004 Supp. 65-1505 is hereby amended to read as follows: 65-1505. (a) Persons entitled to practice optometry in Kansas shall be those persons licensed in accordance with the provisions of the optometry law. A person shall be qualified to be licensed and to receive a license as an optometrist: (1) Who is of good moral character; and in determining the moral character of any such person, the board may take into consideration any felony conviction of such person, but such conviction shall not automatically operate as a bar to licensure; (2) who has graduated from a school or college of optometry approved by the board; and (3) who successfully meets and completes the requirements set by the board and passes an examination given by the board. All licenses issued on and after the effective date of this act, to persons not licensed in this state or in another state prior to July 1, 1996, shall be diagnostic, therapeutic and glaucoma licenses.

(b) All applicants for licensure or reciprocal licensure, except as provided in subsection (a) and (f), in addition to successfully completing all other requirements for licensure, shall take and successfully pass an examination required by the board before being certified by the board as a diagnostic and therapeutic licensee.

(c) All persons before taking the examination required by the board to be certified as a diagnostic and therapeutic licensee shall submit evidence satisfactory to the board of having successfully completed a course approved by the board in didactic education and clinical training in the examination, diagnosis and treatment of conditions of the human eye and its adnexae, totaling at least 100 hours.

(d) All applicants for glaucoma licensure, in addition to successfully completing all other requirements for licensure, shall submit evidence satisfactory to the board of: (1) Professional liability insurance in an amount acceptable to the board, (2) completion of a course of instruction approved by the board after consultation with the interprofessional advisory committee which includes at least 24 hours of training in the treatment and co-management of adult open-angle glaucoma and (3) co-management for a period of at least 24 months and not less than 20 diagnoses of suspected or confirmed glaucoma, except that the board may eliminate or shorten the co-management period, and eliminate or reduce the number of diagnoses of suspected or confirmed glaucoma for applicants for glaucoma licensure who graduate from approved optometric schools or colleges after July 1, 1998.

(e) Any person applying for examination by the board shall fill out and swear to an application furnished by the board, accompanied by a fee fixed by the board by rules and regulations in an amount of not to exceed \$450, and file the same with the secretary of the board at least 30 days prior to the holding of the examination. At such examinations the board shall examine each applicant in subjects taught in schools or colleges of optometry approved by the board, as may be required by the board. If such person complies with the other qualifications for licensing and passes such examination, such person shall receive from the board, upon the payment of a fee fixed by the board by rules and regulations in an amount of not to exceed \$150, a license entitling such person to practice optometry. In the event of the failure on the part of the applicant to pass the first examination, such person may, with the consent of the board, within 18 months, by filing an application accompanied by a fee fixed by the board by rules and regulations in an amount of not to exceed \$150, take a second examination; for the third and each subsequent examination a fee fixed by the board by rules and regulations in an amount of not to exceed \$150. Any examination fee and license fee fixed by the board under this subsection which is in effect on the day preceding the effective date of this act shall continue in effect until the board adopts rules and regulations under this subsection fixing a different fee therefor.

(f) *Subject to the requirements of subsection (h)*, any applicant for reciprocal licensure may in the board's discretion be licensed and issued a license without examination in the category of licensure under the optometry law for which application is made if the applicant has been in the active practice of optometry in another state for at least the three-year

period immediately preceding the application for reciprocal licensure and the applicant:

(1) Presents a certified copy of a certificate of registration or license which has been issued to the applicant by another state where the requirements for licensure are deemed by the board to be equivalent to the requirements for licensure in the category of licensure under this act for which application is made, if such state accords a like privilege to holders of a license issued by the board;

(2) submits a sworn statement of the licensing authority of such other state that the applicant's license has never been limited, suspended or revoked and that the applicant has never been censured or had other disciplinary action taken; and

(3) successfully passes an examination of Kansas law administered by the board and such clinical practice examination as the board deems necessary.

Subject to the requirements of subsection (h), if such applicant was first licensed in another state prior to July 1, 1987, the applicant shall be required to satisfy only the requirements of the category of licensure under the optometry law for which application is made and which existed in this state at the time of the applicant's licensure in such other state; or, if such requirements did not exist in this state at the time of the applicant's licensure in such other state, the applicant shall be required to satisfy only the requirements of the category of licensure under the optometry law for which application is made which originally were required for that category of licensure. If such applicant was first licensed in another state on or after July 1, 1987, the applicant shall apply to initially be issued a diagnostic and therapeutic license and shall be required to satisfy all the requirements of that category of licensure under this act. The fee for licensing such applicants shall be fixed by the board by rules and regulations in an amount of not to exceed \$450. The reciprocal license fee fixed by the board under this subsection which is in effect on the day preceding the effective date of this act shall continue in effect until the board adopts rules and regulations under this subsection fixing a different fee therefor.

(g) The board shall adopt rules and regulations establishing the criteria which a school or college of optometry shall satisfy in meeting the requirement of approval by the board established under subsection (a). The board may send a questionnaire developed by the board to any school or college of optometry for which the board does not have sufficient information to determine whether the school or college meets the requirements for approval and rules and regulations adopted under this act. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school or college to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools or colleges. In entering such contracts the authority to approve schools or colleges shall remain solely with the board.

(h) To be entitled to practice optometry in Kansas after May 31, 2008, an optometrist must have met the requirements of and become a therapeutic licensee. To be entitled to practice optometry in Kansas after May 31, 2010, an optometrist must have met: (1) The requirements of and become a therapeutic licensee and (2) the requirements of and become a glaucoma licensee.

Sec. 2. K.S.A. 2004 Supp. 65-1509 is hereby amended to read as follows: 65-1509. (a) Before engaging in the practice of optometry in this state, it shall be the duty of each licensed optometrist to notify the board in writing of the address of the office or offices where such licensee is to engage or intends to engage in the practice of optometry and of any changes in the licensee's location of practice. Any notice required to be given by the board to any licensed optometrist may be given by mailing to such address through the United States mail, postpaid.

(b) Any license to practice optometry issued by the board shall expire on May 31 of the year specified by the board for the expiration of the license and shall be renewed on a biennial basis in accordance with this section. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid no later than the expiration date of the license.

(c) Commencing with the renewal of licenses that expire on May 31, 2004, each license shall be renewed on a biennial basis. To provide for a system of biennial renewal of licenses, the board may provide by rules and regulations that licenses issued or renewed may expire less than two years from the date of issuance or renewal and for the proration of fees accordingly. On or before May 1 each year, the board shall determine the amount that may be necessary for the next ensuing fiscal year to carry out and enforce the provisions of the optometry law, and shall fix by rules and regulations the renewal fee and the fees provided for in K.S.A. 65-1505 and amendments thereto, in such amounts as may be necessary for that purpose. The biennial renewal fee shall not exceed \$800. Upon fixing such fees, the board shall immediately notify all licensees of the amount of such fees for the ensuing biennial renewal period. In every renewal year hereafter, every licensed optometrist shall pay to the board of examiners a fee for a renewal of such license for each biennial renewal period. The license renewal fee fixed by the board under this subsection which is in effect on the day preceding the effective date of this act shall continue in effect until the board adopts rules and regulations under this subsection fixing a different fee therefor.

(d) The payment of the renewal fee by the person who is a holder of a license as an optometrist but who has not complied with the continuing education requirements fixed by the board, if no grounds exist for denying the renewal of the license other than that the person has not complied with the continuing education requirements fixed by the board, shall entitle the person to inactive status licensure by the board. No person holding an inactive status license from the board shall engage in the practice of optometry in this state. A person holding an inactive status license from the board shall be entitled to cancellation of the inactive status license and to renewal of licensure as an optometrist upon furnishing satisfactory evidence to the board that such person has obtained the equivalent of all missed continuing education requirements to date, and payment of an additional fee fixed by the board through rule and regulation in an amount not to exceed \$450.

(e) At least 30 days before the expiration of the licensee's license, the board shall notify each licensee of the expiration by mail addressed to the licensee's last known address. If the licensee fails to pay the annual fee or show proof of compliance with the continuing education requirements by the date of the expiration of the license, the licensee shall be mailed a second notice that the licensee's license has expired, that the board shall suspend action for 30 days following the date of expiration, that upon receipt of the annual fee together with an additional fee not to exceed \$500, within the thirty-day period, no order of cancellation will be entered and that, if both fees are not received within the thirty-day period, the license shall be canceled.

(f) *To have a license to practice optometry in Kansas renewed after May 31, 2008, an optometrist must have met the requirements of and become a therapeutic licensee. To have a license to practice optometry in Kansas renewed after May 31, 2010, an optometrist must have met: (1) The requirements of and become a therapeutic licensee and (2) the requirements of and become a glaucoma licensee.*

(g) Any licensee who allows the licensee's license to lapse or be canceled by failing to renew as herein provided, may be reinstated by the board upon payment of the renewal fees then due and upon proof of compliance with the continuing education requirements established by the board. As an additional requirement of reinstatement, in cases in which the board deems it appropriate, the licensee may be required to successfully pass the examination given by the board to applicants for licensure or such other competency examination as the board may choose.

Sec. 3. K.S.A. 65-1501a is hereby amended to read as follows: 65-1501a. For the purposes of this act the following terms shall have the meanings respectively ascribed to them unless the context requires otherwise:

(a) "Board" means the board of examiners in optometry established under K.S.A. 74-1501 and amendments thereto.

(b) "License" means a license to practice optometry granted under the optometry law.

(c) “Licensee” means a person licensed under the optometry law to practice optometry.

(d) “Adapt” means the determination, selection, fitting or use of lenses, prisms, orthoptic exercises or visual training therapy for the aid of any insufficiencies or abnormal conditions of the eyes after or by examination or testing.

(e) “Lenses” means any type of ophthalmic lenses, which are lenses prescribed or used for the aid of any insufficiencies or abnormal conditions of the eyes.

(f) “Prescription” means a verbal or written order directly from a licensee giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the specifications and directions for lenses, prisms, orthoptic exercises, low vision rehabilitation services or visual training therapy to be used for the aid of any insufficiencies or abnormal conditions of the eyes, including instructions necessary for the fabrication or use thereof and the date of issue.

(g) “Prescription for topical pharmaceutical drugs or oral drugs” means a verbal or written order directly from a licensee expressly certified to prescribe drugs under the optometry law and giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the name and quantity of the drug prescribed, directions for use, the number of refills permitted, the date of issue and expiration date.

(h) “Topical pharmaceutical drugs” means drugs administered topically and not by other means for the examination, diagnosis and treatment of the human eye and its adnexae.

(i) “Dispense” means to deliver prescription-only medication or ophthalmic lenses to the ultimate user pursuant to the lawful prescription of a licensee and dispensing of prescription-only medication by a licensee shall be limited to a twenty-four-hour supply or minimal quantity necessary until a prescription can be filled by a licensed pharmacist.

(j) “Diagnostic licensee” means a person licensed under the optometry law and certified by the board to administer or dispense topical pharmaceutical drugs for diagnostic purposes.

(k) “Therapeutic licensee” means a person licensed under the optometry law and certified by the board to prescribe, administer or dispense topical pharmaceutical drugs for therapeutic purposes and oral drugs, following completion of a fifteen-hour course approved by the board pertaining to the use of oral drugs in ocular therapeutics, except that a person applying for therapeutic licensure who has graduated after January 1, 1999, from a school or college of optometry approved by the board shall not be required to take such course. Therapeutic licensees on the effective date of this act shall complete the fifteen-hour course described in this subsection before May 31, 2000.

(l) “Glaucoma licensee” means a person described in subsections (j) and (k) of this section who is also licensed under the optometry law to manage and treat adult open-angle glaucoma by nonsurgical means, including the prescribing, administering and dispensing of topical pharmaceutical drugs and oral drugs.

(m) “False advertisement” means any advertisement which is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

(n) “Advertisement” means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services or ophthalmic goods.

(o) “Health care provider” shall have the meaning ascribed to that term in subsection (f) of K.S.A. 40-3401 and amendments thereto.

(p) “Medical facility” shall have the meaning ascribed to that term in subsection (c) of K.S.A. 65-411 and amendments thereto.

(q) “Medical care facility” shall have the meaning ascribed to that term in K.S.A. 65-425 and amendments thereto.

(r) “Co-management” means confirmation by an ophthalmologist of

a licensee's diagnosis of adult open-angle glaucoma together with a written treatment plan which includes (1) all tests and examinations supporting the diagnosis, (2) a schedule of tests and examinations necessary to treat the patient's condition, (3) a medication plan, (4) a target intraocular pressure, (5) periodic review of the patient's progress and (6) criteria for referral of the patient to an ophthalmologist for additional treatment or surgical intervention, except that any co-management plan may be modified only with the consent of both the ophthalmologist and the optometrist and the modification noted in writing on the patient's record.

(s) "Co-management period" means that period of time during which an optometrist co-manages patients either suspected of having or diagnosed as having adult open-angle glaucoma with an ophthalmologist.

(t) "Ophthalmologist" means a person licensed to practice medicine and surgery by the state board of healing arts who specializes in the diagnosis and medical and surgical treatment of diseases and defects of the human eye and related structures.

(u) "Low vision rehabilitation services" means the evaluation, diagnosis, management and care of the low vision patient including low vision rehabilitation therapy, education and interdisciplinary consultation under the direction and supervision of an ophthalmologist or optometrist.

(v) "Oral drugs" means oral antibacterial drugs, oral antiviral drugs, oral antihistamines, oral analgesic drugs, oral steroids ~~and~~, oral antiglaucoma drugs *and other oral drugs with clinically accepted ocular uses.*

Sec. 4. K.S.A. 74-1505 is hereby amended to read as follows: 74-1505. (a) No later than 30 days following the effective date of this act, the board shall appoint a seven-member committee to be known as the interprofessional advisory committee which, subject to approval of the board, shall have general responsibility for the establishment, review and monitoring of the procedures for co-management by optometrists and ophthalmologists of adult open-angle glaucoma.

(b) The interprofessional advisory committee shall consist of one member of the board appointed by the board who shall serve as a non-voting chair, together with three optometrists licensed to practice optometry in this state chosen by the board from those nominated by the Kansas optometric association and three ophthalmologists licensed to practice in this state chosen by the board from those nominated by the Kansas medical society and the Kansas association of osteopathic medicine. The Kansas optometric association and Kansas medical society shall submit six nominees to the board. The Kansas association of osteopathic medicine shall submit two nominees to the board. Persons appointed to the committee shall serve terms of three years and without compensation. All expenses of the committee shall be paid by the board.

(c) The committee shall submit recommendations to the board on the following:

(1) An ongoing quality assessment program including the monitoring and review of co-management of patients pursuant to subsection (d) of K.S.A. 65-1505 and amendments thereto;

(2) requirements for the education and clinical training necessary for glaucoma licensure, which shall be submitted to the board within 90 days following appointment;

(3) criteria for evaluating the training or experience acquired in other states by applicants for glaucoma licensure;

(4) requirements for annual reporting during a glaucoma licensee's co-management period to the committee and the board which shall be submitted to the board within 90 days following appointment;

(5) the classes and mix of patients either suspected of having or diagnosed as having adult open-angle glaucoma who may be included in the number of co-management cases required by subsection (d) of K.S.A. 65-1505 and amendments thereto, which shall be submitted to the board within 90 days following appointment; and

(6) requirements for annual continuing education by glaucoma licensees.

(d) After considering the recommendations of the committee pursuant to subparagraph (c), the board shall proceed to adopt procedures to confirm that each applicant has completed the requirements for glaucoma licensure.

(e) The interprofessional advisory committee shall also review the

educational and clinical prerequisites of optometrists to use oral pharmaceutical drugs and identify those classes of oral pharmaceutical drugs which are effective treatments for ocular diseases and conditions. ~~The interprofessional advisory committee and the board shall prepare a report of the results of co-management pursuant to subsection (r) of K.S.A. 65-1501a and amendments thereto and findings on the subject of the advisability of expanding the scope of practice of optometrists to prescribe, administer and dispense oral pharmaceutical drugs, which report shall be submitted to the legislature not later than January 1, 1999.~~

(f) The interprofessional advisory committee shall review the advisability of expanding the scope of practice of optometrists to prescribe certain oral drugs for ocular conditions for children under six years of age. ~~The committee and the board shall prepare a report on the findings of the committee on the advisability of such a scope of practice expansion. Such report shall be submitted to the legislature not later than January 1, 2002.~~

(g) *The interprofessional advisory committee shall review new classes of drugs with ocular uses and advise the Kansas state board of examiners in optometry about such drugs.*

(h) This section shall be part of and supplemental to the optometry law.

Sec. 5. K.S.A. 65-1501a and 74-1505 and K.S.A. 2004 Supp. 65-1505 and 65-1509 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.