

## HOUSE BILL No. 2223

By Committee on Health and Human Services

Requested by Representative Buehler on behalf of the Kansas Optometric Association

2-3

AN ACT concerning health professions and practices; relating to optometry; modifying certain provisions of the optometry law related to scope of practice, definitions and credentialing requirements; amending K.S.A. 65-1501, 65-1509a, 65-1512, 65-1523 and 74-1504 and K.S.A. 2024 Supp. 65-1501a and 65-1505 and repealing the existing sections; also repealing K.S.A. 65-1514 and 74-1505.

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

Section 1. K.S.A. 65-1501 is hereby amended to read as follows: 65-1501. (a) The practice of optometry means:

(1) The examination of the human eye and its ~~adnexae~~ *adnexa* and the employment of objective or subjective means or methods, (including the administering, prescribing or dispensing; of ~~topical~~ pharmaceutical drugs), for the purpose of diagnosing the refractive, muscular, or pathological condition thereof;

(2) *the use of medical devices* and the prescribing, dispensing or adapting of lenses, (including any ophthalmic lenses which are classified as drugs by any law of the United States or of this state), prisms, low vision rehabilitation services, orthoptic exercises and visual training therapy for the relief of any insufficiencies or abnormal conditions of the human eye and its ~~adnexae~~ *adnexa*; and

(3) *the use of medical devices* and the prescribing, administering or dispensing of ~~topical~~ pharmaceutical drugs ~~and oral drugs through all routes of administration, except intraocular injections,~~ for the examination, diagnosis and treatment of ocular conditions and any insufficiencies or abnormal conditions of the human eye and its ~~adnexae~~ *adnexa* including ~~adult open-angle glaucoma~~ *adnexa*;

(4) *the removal of non - perforating foreign bodies from the cornea, conjunctiva or eyelids, removal of eyelashes, scraping the cornea for diagnostic tests, smears or cultures, the dilation, probing, irrigation or closing the tear drainage structure of the eye, expression of conjunctival follicles or cysts, debridement of the corneal epithelium, incision and curettage of a chalazion, removal and biopsy of skin lesions without known malignancy, laser capsulotomy, laser trabeculoplasty and laser*

1 *peripheral iridotomy; and*

2 *(5) the performance of additional procedures that are not otherwise*  
3 *prohibited by subsection (b) that are within the scope of a licensee's*  
4 *education and training for the treatment of any insufficiencies or*  
5 *abnormal conditions of the human eye and its adnexa as authorized*  
6 *pursuant to rules and regulations adopted by the board.*

7 *(b) The practice of optometry shall not include the performance of*  
8 *the following procedures: (1) The management and treatment of glaucoma,*  
9 *except as provided in subsection (a); (2) the performance of surgery,*  
10 *including the use of lasers for surgical purposes, except that licensees may*  
11 *remove non-perforating foreign bodies from the cornea, conjunctiva or*  
12 *eyelids; remove eyelashes; scrape the cornea for diagnostic tests, smears or*  
13 *cultures; dilate, probe, irrigate or close by punctal plug the tear drainage*  
14 *structures of the eye; express conjunctival follicles or cysts; debridement*  
15 *of the corneal epithelium and co-management of post-operative care; or*  
16 *(3) the performance of procedures requiring anesthesia administered by*  
17 *injection or general anesthesia. Retinal surgery, penetrating keratoplasty or*  
18 *corneal transplant, administration of or surgery performed under general*  
19 *anesthesia, surgery related to the removal of the eye from a living human*  
20 *being, surgical extraction of the crystalline lens, surgical intraocular*  
21 *implants, incisional or excisional surgery of the extraocular muscles,*  
22 *surgery of the bony orbit, laser - assisted in situ keratomileusis or*  
23 *photorefractive keratectomy, YAG laser vitreolysis, and surgery of the*  
24 *eyelid for cosmetic or mechanical repair of blepharochalasis, ptosis and*  
25 *tarsorrhaphy. However, an optometrist may provide pre-operative and*  
26 *post-operative care for the procedures in this subsection.*

27 *(c) A licensee shall be held to a standard of care in the diagnosis and*  
28 *treatment of adult open-angle glaucoma commensurate to with that of a*  
29 *person licensed to practice medicine and surgery, who exercises that*  
30 *degree of skill and proficiency commonly exercised by an ordinary,*  
31 *skillful, careful and prudent person licensed to practice medicine and*  
32 *surgery.*

33 *(d) Under the direction and supervision of a licensee, a licensed*  
34 *professional nurse, licensed practical nurse, licensed physical therapist and*  
35 *licensed occupational therapist may assist in the provision of low vision*  
36 *rehabilitation services in addition to such other services which that such*  
37 *licensed professional nurse, licensed practical nurse, licensed physical*  
38 *therapist and licensed occupational therapist is authorized by law to*  
39 *provide under subsection (d) of K.S.A. 65-1113(d), subsection (h) of*  
40 *K.S.A. 65-1124(h), subsection (b) of K.S.A. 65-2901(b) and subsection (b)*  
41 *of K.S.A. 65-5402(b), and amendments thereto.*

42 *Sec. 2. K.S.A. 2024 Supp. 65-1501a is hereby amended to read as*  
43 *follows: 65-1501a. For the purposes of this act the following terms shall*

1 ~~have the meanings respectively ascribed to them~~ *As used in the optometry*  
2 *law, unless the context requires otherwise:*

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

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

7 (c) "Licensee" means a person licensed under the optometry law to  
8 practice optometry.

9 (d) "Adapt" means the determination, selection, fitting or use of  
10 lenses, prisms, orthoptic exercises or visual training therapy *or the*  
11 *modification of lenses using light or other means* for the aid of any  
12 insufficiencies or abnormal conditions of the eyes after or by examination  
13 or testing.

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

17 (f) "Prescription" means a verbal, written or electronic order  
18 transmitted directly or by electronic means from a licensee giving or  
19 containing the name and address of the prescriber, the license registration  
20 number of the licensee, the name and address of the patient, the  
21 specifications and directions for lenses, prisms, orthoptic exercises, low  
22 vision rehabilitation services or visual training therapy to be used for the  
23 aid of any insufficiencies or abnormal conditions of the eyes, including  
24 instructions necessary for the fabrication or use thereof and the date of  
25 issue.

26 (g) "Prescription for ~~topical pharmaceutical drugs or oral drugs~~"  
27 means a verbal, written or electronic order transmitted directly or by  
28 electronic means from a licensee giving or containing the name and  
29 address of the prescriber, the license registration number of the licensee,  
30 the name and address of the patient, the name and quantity of the drug  
31 prescribed, directions for use, the number of refills permitted, the date of  
32 issue and expiration date.

33 (h) ~~"Topical pharmaceutical drugs" means drugs administered~~  
34 ~~topically and not by other means.~~

35 (i) "Dispense" means to deliver prescription-only medication or  
36 ophthalmic lenses to the ultimate user pursuant to the lawful prescription  
37 of a licensee and dispensing of prescription-only medication by a licensee  
38 shall be limited to a ~~twenty-four hour~~ 24-hour supply or minimal quantity  
39 necessary until a prescription can be filled by a licensed pharmacist,  
40 except that the ~~twenty-four hour~~ 24-hour supply or minimal quantity shall  
41 not apply to lenses described in ~~subsection (a)(2) of K.S.A. 65-1501(a)(2),~~  
42 and amendments thereto.

43 (j)(i) "False advertisement" means any advertisement ~~which that is~~

1 false, misleading or deceptive in a material respect. In determining  
2 whether any advertisement is misleading, there shall be taken into account  
3 not only representations made or suggested by statement, word, design,  
4 device, sound or any combination thereof, but also the extent to which the  
5 advertisement fails to reveal facts material in the light of such  
6 representations made.

7 ~~(k)~~(j) "Advertisement" means all representations disseminated in any  
8 manner or by any means, for the purpose of inducing, or which are likely  
9 to induce, directly or indirectly, the purchase of professional services or  
10 ophthalmic goods.

11 ~~(h)~~(k) "~~Health care~~Healthcare provider" ~~shall have the meaning~~  
12 ~~ascribed to that term~~ means the same as defined in subsection (f) of K.S.A.  
13 40-3401(f), and amendments thereto.

14 ~~(m)~~(l) "Medical facility" ~~shall have the meaning ascribed to that term~~  
15 ~~means the same as defined in subsection (e) of K.S.A. 65-411(c), and~~  
16 amendments thereto.

17 ~~(n)~~(m) "Medical care facility" ~~shall have the meaning ascribed to that~~  
18 ~~term~~ means the same as defined in K.S.A. 65-425, and amendments  
19 thereto.

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

24 ~~(p)~~(o) "Low vision rehabilitation services" means the evaluation,  
25 diagnosis, management and care of the low vision patient including low  
26 vision rehabilitation therapy, education and interdisciplinary consultation  
27 under the direction and supervision of an ophthalmologist or optometrist.

28 ~~(q)~~ "Oral drugs" ~~means oral antibacterial drugs, oral antiviral drugs,~~  
29 ~~oral antihistamines, oral analgesic drugs, oral steroids, oral antiglaucoma~~  
30 ~~drugs and other oral drugs with clinically accepted ocular uses.~~

31 Sec. 3. K.S.A. 2024 Supp. 65-1505 is hereby amended to read as  
32 follows: 65-1505. (a) Persons entitled to practice optometry in Kansas  
33 shall be those persons licensed in accordance with the provisions of the  
34 optometry law. A person shall be qualified to be licensed and to receive a  
35 license as an optometrist: (1) Who is of good moral character; and in  
36 determining the moral character of any such person, the board may take  
37 into consideration any felony conviction of such person, but such  
38 conviction shall not automatically operate as a bar to licensure; (2) who  
39 has graduated from a school or college of optometry approved by the  
40 board; and (3) who successfully meets and completes the requirements set  
41 by the board and passes an examination given by the board.

42 (b) All applicants for licensure, in addition to successfully completing  
43 all other requirements for licensure, shall submit evidence satisfactory to

1 the board of professional liability insurance in an amount acceptable to the  
2 board.

3 (c) Any person applying for examination by the board shall fill out  
4 and swear to an application furnished by the board, accompanied by a fee  
5 fixed by the board by rules and regulations in an amount of not to exceed  
6 \$450, and file the same with the secretary of the board at least 30 days  
7 prior to the holding of the examination. At such examinations the board  
8 shall examine each applicant in subjects taught in schools or colleges of  
9 optometry approved by the board, as may be required by the board. If such  
10 person complies with the other qualifications for licensing and passes such  
11 examination, such person shall receive from the board, upon the payment  
12 of a fee fixed by the board by rules and regulations in an amount of not to  
13 exceed \$150, a license entitling such person to practice optometry. In the  
14 event of the failure on the part of the applicant to pass the first  
15 examination, such person may, with the consent of the board, within 18  
16 months, by filing an application accompanied by a fee fixed by the board  
17 by rules and regulations in an amount of not to exceed \$150, take a second  
18 examination; for the third and each subsequent examination a fee fixed by  
19 the board by rules and regulations in an amount of not to exceed \$150.  
20 Any examination fee and license fee fixed by the board under this  
21 subsection which is in effect on the day preceding the effective date of this  
22 act shall continue in effect until the board adopts rules and regulations  
23 under this subsection fixing a different fee therefor.

24 (d) Any applicant for reciprocal licensure may in the board's  
25 discretion be licensed and issued a license without examination if the  
26 applicant has been in the active practice of optometry in another state for  
27 at least the three-year period immediately preceding the application for  
28 reciprocal licensure and the applicant:

29 (1) Presents a certified copy of a certificate of registration or license  
30 ~~which~~ *that* has been issued to the applicant by another state where the  
31 requirements for licensure are deemed by the board to be equivalent to the  
32 requirements for licensure under this act, if such state accords a like  
33 privilege to holders of a license issued by the board;

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

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

41 (4) pays the reciprocal license fixed by the board by rules and  
42 regulations in an amount of not to exceed \$450. The reciprocal license fee  
43 fixed by the board under this subsection ~~which~~ *that* is in effect on the day

1 preceding the effective date of this act shall continue in effect until the  
2 board adopts rules and regulations under this subsection fixing a different  
3 fee therefor.

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

17 (f) (1) The board may require an applicant for licensure or a licensee  
18 in connection with an investigation of the licensee to be fingerprinted and  
19 submit to a state and national criminal history record check in accordance  
20 with K.S.A. 2024 Supp. 22-4714, and amendments thereto.

21 (2) (A) The board shall fix a fee for fingerprinting applicants or  
22 licensees in an amount necessary to reimburse the board for the cost of the  
23 fingerprinting. Fees collected under this subsection shall be deposited in  
24 the criminal history and fingerprinting fund.

25 (B) There is hereby created in the state treasury the criminal history  
26 and fingerprinting fund. All moneys credited to the fund shall be used to  
27 pay all costs and fees associated with processing of fingerprints and  
28 criminal history checks for the board of examiners in optometry. The fund  
29 shall be administered by the board. All expenditures from the fund shall be  
30 made in accordance with appropriation acts upon warrants of the director  
31 of accounts and reports issued pursuant to vouchers approved by the  
32 president of the board or a person designated by the president.

33 (g) *Any licensee applying for credentialing by the board shall*  
34 *complete and swear to an application form furnished by the board*  
35 *accompanied by an additional fee fixed by the board by rules and*  
36 *regulations in an amount necessary to reimburse the board for the cost of*  
37 *credentialing.*

38 Sec. 4. K.S.A. 65-1509a is hereby amended to read as follows: 65-  
39 1509a. (a) In addition to the payment of the license renewal fee, each  
40 licensee applying for license renewal shall furnish to the secretary of the  
41 board satisfactory evidence of successfully completing a minimum of 24  
42 hours of continuing education annually, five hours of which shall relate to  
43 ocular pharmacology, therapeutics or related topics of study, approved by

1 the board in the year just preceding such application for the renewal of the  
2 license. The board, in its discretion, may increase the required hours of  
3 continuing education by rules and regulations adopted by the board. On or  
4 before April 1 of each year, the secretary of the board shall send a written  
5 notice of continuing education requirements to this effect to every person  
6 holding a valid license to practice optometry within the state as provided  
7 in ~~subsection (a) of K.S.A. 65-1509(a)~~, and amendments thereto.

8 (b) *The board shall establish credentialing requirements for a*  
9 *licensee to administer or perform the procedures described in K.S.A. 65-*  
10 *1501(a)(4), and amendments thereto.*

11 Sec. 5. K.S.A. 65-1512 is hereby amended to read as follows: 65-  
12 1512. ~~This act~~ *The provisions of article 15 of chapter 65 of the Kansas*  
13 *Statutes Annotated, and amendments thereto*, shall be known and may be  
14 cited as the optometry law.

15 Sec. 6. K.S.A. 65-1523 is hereby amended to read as follows: 65-  
16 1523. The board in its discretion, in addition to any other remedies  
17 provided in this act, may apply to a court of competent jurisdiction for  
18 injunctive relief *against any person* to restrain violations of the provisions  
19 of this act, *and the* lawful rules and regulations promulgated by the board  
20 under authority of this act.

21 Sec. 7. K.S.A. 74-1504 is hereby amended to read as follows: 74-  
22 1504. (a) The board shall administer and enforce the provisions of the  
23 optometry law, and the board is hereby granted such specific powers as are  
24 necessary for the purpose of administering and enforcing such law. In  
25 addition, the board may:

26 (1) Employ agents, attorneys and inspectors under such rules and  
27 regulations as the board may prescribe in accordance with the provisions  
28 of the optometry law, except that no state officer shall be eligible for  
29 employment by the board.

30 (2) Make all necessary disbursements; to carry out the provisions of  
31 this act, including payment for stationery supplies, ~~acquire and acquiring~~  
32 all necessary optical instruments to be used in the conducting of  
33 examination, ~~print and distribute to all optometrists in the state a yearbook~~  
34 ~~of the names and addresses of all optometrists licensed by the board~~  
35 *maintain and make available to the public a directory including the names*  
36 *and addresses of all optometrists licensed by the board.*

37 (3) Grant all licenses as seem just and proper and to suspend, limit,  
38 revoke or refuse to renew any such licenses granted for any of the causes  
39 specified under K.S.A. 65-1506, and amendments thereto.

40 (4) Administer oaths and take testimony upon granting or refusing to  
41 grant, revoking, limiting or suspending licenses.

42 (5) Issue subpoenas, compel the attendance of witnesses and the  
43 production of any papers, books, accounts, documents and testimony, and

1 to cause the deposition of witnesses, either residing within or without the  
2 state, to be taken in the manner prescribed by law for taking depositions in  
3 civil actions in the district courts. In case of disobedience on the part of  
4 any person to comply with any subpoena issued in behalf of the board, or  
5 on the refusal of any witness to testify to any matters regarding which such  
6 witness may be lawfully interrogated, the judge of the district court of any  
7 county, on application of a member of the board, may compel obedience  
8 by proceedings for contempt, as in the case of disobedience of the  
9 requirements of a subpoena issued from such court or a refusal to testify in  
10 such court. Each witness who appears before the board by the board's  
11 order or subpoena, other than a state officer or employee, shall receive for  
12 attendance the fees and mileage provided for witnesses in civil cases in  
13 courts of record ~~which~~ *that* shall be audited and paid upon the presentation  
14 of proper vouchers sworn to by such witnesses and approved by the  
15 president and secretary-treasurer of the board.

16 (6) Adopt rules and regulations for the procedure and conduct of the  
17 board and for the administration of the optometry law, ~~which rules and~~  
18 ~~regulations shall that are not be inconsistent~~ *consistent* with the provisions  
19 of the optometry law.

20 (b) The board shall meet at least annually for the purpose of  
21 examining applicants for licensure. ~~Such meetings shall be held in Topeka.~~  
22 At least 30 days prior to the examination, the board shall cause a special  
23 notice to be published in the Kansas register stating the date and hour for  
24 holding such examination. Special meetings shall be held at such times  
25 and places as the board may direct.

26 (c) The board shall preserve an accurate record of all meetings and  
27 proceedings of the board including receipts and disbursements with  
28 vouchers therefor and complete minutes of all prosecutions and violations  
29 of the optometry law and of examinations held under the provisions of the  
30 optometry law and an accurate inventory of all property of the board. All  
31 such records shall be kept in the office of the board and made accessible to  
32 the public.

33 Sec. 8. K.S.A. 65-1501, 65-1509a, 65-1512, 65-1514, 65-1523, 74-  
34 1504 and 74-1505 and K.S.A. 2024 Supp. 65-1501a and 65-1505 are  
35 hereby repealed.

36 Sec. 9. This act shall take effect and be in force from and after its  
37 publication in the statute book.