

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0110.01 Thomas Morris

SENATE BILL 11-094

SENATE SPONSORSHIP

Boyd, Aguilar, Carroll, Foster, Newell, White

HOUSE SPONSORSHIP

Summers,

Senate Committees

Health and Human Services
Finance
Appropriations

House Committees

Health and Environment
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE STATE BOARD OF**
102 **OPTOMETRIC EXAMINERS, AND, IN CONNECTION THEREWITH,**
103 **CHANGING THE NAME OF THE BOARD, IMPLEMENTING THE**
104 **SUNSET REVIEW RECOMMENDATIONS OF THE DEPARTMENT OF**
105 **REGULATORY AGENCIES, AND MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Sunset Process - Senate Health and Human Services

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
March 11, 2011

SENATE
Amended 2nd Reading
March 10, 2011

Committee. The bill implements the sunset review recommendations of the department of regulatory agencies regarding the state board of optometric examiners (board) pursuant to the provisions of the sunset law. **Sections 1, 2, and 3** of the bill extend the board until September 1, 2022. **Section 4** creates a volunteer license available at a reduced fee for optometrists who are no longer charging for services. **Section 5** amends the definition of "unprofessional conduct" by:

- ! Authorizing an optometrist to continue to practice while having a physical or mental disability that affects the optometrist's ability to practice if the optometrist has entered into a confidential agreement with the board that limits the optometrist's practice to address the optometrist's disability. **Section 6** authorizes the board to enter into such agreements.
- ! Prohibiting the habitual or excessive use or abuse of alcohol, a habit-forming prescription drug, or a controlled substance;
- ! Striking the terms "willfully" and "willful" in the phrases "willfully deceiving or attempting to deceive the board or its agents with reference to any proper matter under investigation by the board" and "willful and repeated ordering or performance, without clinical justification, of demonstrably unnecessary laboratory tests or studies";
- ! Adding the failure to respond in an honest, responsive, and timely manner to a complaint.

Section 7 authorizes the board to summarily suspend a license for an optometrist's failure to comply with an order of the board and authorizes the board to impose a fine on a licensee for violations unrelated to a standard of practice. **Section 8:**

- ! Increases the minimum financial responsibility requirement to \$1 million per incident and \$3 million aggregate per year; and
- ! Authorizes the board to waive or establish lesser financial responsibility requirements for optometrists who have an inactive license.

Section 10 updates the definition of the "practice of optometry". **Sections 9 and 11 through 18** make technical changes to the board's statutes.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 12-40-128 (1), Colorado Revised Statutes, is
3 amended to read:

1 **12-40-128. Repeal of article - subject to sunset law.** (1) This
2 article is repealed, effective ~~July 1, 2011~~ SEPTEMBER 1, 2022.

3 **SECTION 2. Repeal.** 24-34-104 (42) (f), Colorado Revised
4 Statutes, is repealed as follows:

5 **24-34-104. General assembly review of regulatory agencies
6 and functions for termination, continuation, or reestablishment.**

7 (42) The following agencies, functions, or both, shall terminate on July
8 1, 2011:

9 (f) ~~The state board of optometric examiners, created by article 40
10 of title 12, C.R.S.;~~

11 **SECTION 3.** 24-34-104, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **24-34-104. General assembly review of regulatory agencies
14 and functions for termination, continuation, or reestablishment.**

15 (53.5) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL
16 TERMINATE ON SEPTEMBER 1, 2022:

17 (a) THE STATE BOARD OF OPTOMETRY, CREATED BY ARTICLE 40 OF
18 TITLE 12, C.R.S.

19 **SECTION 4.** Article 40 of title 12, Colorado Revised Statutes, is
20 amended BY THE ADDITION OF A NEW SECTION to read:

21 **12-40-107.2. Volunteer optometrist license.** (1) A PERSON
22 LICENSED TO PRACTICE OPTOMETRY PURSUANT TO THIS ARTICLE MAY
23 APPLY TO THE BOARD FOR VOLUNTEER LICENSURE STATUS. THE BOARD
24 SHALL DESIGNATE THE FORM AND MANNER OF THE APPLICATION. THE
25 BOARD MAY:

26 (a) GRANT THE APPLICATION BY ISSUING A VOLUNTEER LICENSE;
27 OR

1 (b) DENY THE APPLICATION IF THE LICENSEE HAS BEEN
2 DISCIPLINED FOR ANY OF THE CAUSES SET FORTH IN SECTION 12-40-118.

3 (2) A PERSON APPLYING FOR A LICENSE UNDER THIS SECTION:

4 (a) MUST EITHER:

5 (I) HOLD AN ACTIVE AND UNRESTRICTED LICENSE TO PRACTICE
6 OPTOMETRY IN COLORADO AND BE IN ACTIVE PRACTICE IN THIS STATE; OR

7 (II) HAVE BEEN ON INACTIVE STATUS PURSUANT TO ARTICLE 70 OF
8 THIS TITLE FOR NOT MORE THAN TWO YEARS; AND

9 (b) SHALL:

10 (I) PAY A REDUCED LICENSE FEE IN LIEU OF THE FEE AUTHORIZED
11 BY SECTION 24-34-105, C.R.S. THE DIRECTOR SHALL REDUCE THE
12 VOLUNTEER OPTOMETRIST LICENSE FEE FROM THE LICENSE FEE CHARGED
13 PURSUANT TO SECTION 12-40-113 (1) (a).

14 (II) ATTEST THAT, AFTER A DATE CERTAIN, THE APPLICANT WILL
15 NO LONGER EARN INCOME AS AN OPTOMETRIST;

16 (III) MAINTAIN LIABILITY INSURANCE AS PROVIDED IN SECTION
17 12-40-126; AND

18 (IV) COMPLY WITH THE CONTINUING EDUCATION REQUIREMENTS
19 ESTABLISHED IN SECTION 12-40-113 (1) (f); EXCEPT THAT THE BOARD MAY
20 ESTABLISH LESSER CONTINUING EDUCATION REQUIREMENTS FOR
21 VOLUNTEER LICENSEES.

22 (3) THE FACE OF EACH VOLUNTEER LICENSE ISSUED PURSUANT TO
23 THIS SECTION SHALL PLAINLY INDICATE THE VOLUNTEER STATUS OF THE
24 LICENSEE.

25 (4) THE BOARD MAY CONDUCT DISCIPLINARY PROCEEDINGS
26 PURSUANT TO SECTION 12-40-119 AGAINST ANY PERSON LICENSED UNDER
27 THIS SECTION FOR AN ACT COMMITTED WHILE THE PERSON WAS LICENSED

1 PURSUANT TO THIS SECTION.

2 (5) A PERSON LICENSED UNDER THIS SECTION MAY APPLY TO THE
3 BOARD FOR A RETURN TO ACTIVE LICENSURE STATUS BY FILING AN
4 APPLICATION IN THE FORM AND MANNER DESIGNATED BY THE BOARD. THE
5 BOARD MAY APPROVE SUCH APPLICATION AND ISSUE A LICENSE TO
6 PRACTICE OPTOMETRY OR MAY DENY THE APPLICATION IF THE LICENSEE
7 HAS BEEN DISCIPLINED FOR OR ENGAGED IN ANY OF THE ACTIVITIES SET
8 FORTH IN SECTION 12-40-118.

9 (6) AN OPTOMETRIST WITH A VOLUNTEER LICENSE SHALL PROVIDE
10 OPTOMETRY SERVICES ONLY IF THE SERVICES ARE PERFORMED ON A
11 LIMITED BASIS FOR NO FEE OR OTHER COMPENSATION.

12 **SECTION 5.** 12-40-118 (1) (a), (1) (b), (1) (c), (1) (e), (1) (k), (1)
13 (m), and (1) (dd), Colorado Revised Statutes, are amended, and the said
14 12-40-118 (1) is further amended BY THE ADDITION OF A NEW
15 PARAGRAPH, to read:

16 **12-40-118. Unprofessional conduct defined.** (1) The term
17 "unprofessional conduct", as used in this article, means:

18 (a) ~~Willfully~~ Deceiving or attempting to deceive the board or its
19 agents with reference to any proper matter under investigation by the
20 board;

21 (b) Publishing or circulating, directly or indirectly, any fraudulent,
22 false, deceitful, or misleading claims or statements relating to ~~optometric~~
23 OPTOMETRY services or ophthalmic materials or devices;

24 (c) Employing or offering compensation or merchandise of value
25 to any salesman, runner, patient, or other person as an inducement to
26 secure his OR HER services or assistance in the solicitation of patronage
27 for the performing, rendering, supplying, or selling of ~~optometric~~

1 ~~OPTOMETRY~~ services or ophthalmic materials or devices;

2 (e) ~~Addiction to, dependence on, or~~ The habitual or excessive use
3 or abuse of ~~intoxicating liquors~~ ALCOHOL, a habit-forming drug, or any
4 controlled substance as defined in section 12-22-303 (7);

5 (k) An act or omission constituting grossly negligent ~~optometric~~
6 ~~OPTOMETRY~~ practice or two or more acts or omissions ~~which~~ THAT fail to
7 meet generally accepted standards of ~~optometric~~ ~~OPTOMETRY~~ practice;

8 (m) ~~Practicing while having~~ FAILING TO:

9 (I) NOTIFY THE BOARD, IN A MANNER AND WITHIN A PERIOD
10 DETERMINED BY THE BOARD, OF a physical or mental ~~disability which~~
11 ILLNESS OR CONDITION THAT renders an optometrist unable to treat with
12 reasonable skill and safety or ~~which~~ THAT may endanger the health and
13 safety of persons under the care of ~~any~~ AN optometrist;

14 (II) ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL OR
15 MENTAL ILLNESS OR CONDITION THAT RENDERS AN OPTOMETRIST UNABLE
16 TO TREAT WITH REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER
17 THE HEALTH AND SAFETY OF PERSONS UNDER THE CARE OF AN
18 OPTOMETRIST; OR

19 (III) PRACTICE WITHIN THE LIMITATIONS CREATED BY THE
20 PHYSICAL OR MENTAL ILLNESS OR CONDITION AS SPECIFIED IN A
21 CONFIDENTIAL AGREEMENT BETWEEN THE OPTOMETRIST AND THE BOARD
22 ENTERED INTO PURSUANT TO SECTION 12-40-118.5 (5).

23 (dd) Engaging in any of the following activities and practices:

24 (I) ~~Willful and repeated~~ REPEATEDLY ordering or ~~performance,~~
25 ~~without clinical justification,~~ of PERFORMING demonstrably unnecessary
26 laboratory tests or studies THAT LACK CLINICAL JUSTIFICATION;

27 (II) ~~The administration, without clinical justification, of~~

1 ADMINISTERING treatment ~~which~~ THAT is demonstrably unnecessary AND
2 LACKS CLINICAL JUSTIFICATION; or

3 (III) Ordering or performing ~~without clinical justification~~, any
4 service, X ray, or treatment ~~which~~ THAT is contrary to recognized
5 standards of the practice of optometry, as interpreted by the board, AND
6 LACKS CLINICAL JUSTIFICATION;

7 (mm) FAILING TO RESPOND IN AN HONEST, MATERIALLY
8 RESPONSIVE, AND TIMELY MANNER TO A COMPLAINT PURSUANT TO
9 SECTION 12-40-119 (1) (b).

10 **SECTION 6.** 12-40-118.5, Colorado Revised Statutes, is
11 amended BY THE ADDITION OF A NEW SUBSECTION to read:

12 **12-40-118.5. Mental and physical examination of licensees.**

13 (5) (a) THE BOARD MAY ENTER INTO AN AGREEMENT WITH AN
14 OPTOMETRIST WHOSE PRACTICE IS OR MAY BE AFFECTED BY A PHYSICAL
15 OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE OPTOMETRIST
16 UNABLE TO TREAT WITH REASONABLE SKILL AND SAFETY OR THAT MAY
17 ENDANGER THE HEALTH AND SAFETY OF PERSONS UNDER THE CARE OF
18 ANY OPTOMETRIST IF:

19 (I) THE BOARD BELIEVES THAT ONE OR MORE LIMITATIONS OF THE
20 OPTOMETRIST'S PRACTICE WOULD BOTH ENABLE THE OPTOMETRIST TO
21 TREAT WITH REASONABLE SKILL AND SAFETY AND WOULD PROTECT THE
22 HEALTH AND SAFETY OF PERSONS UNDER THE CARE OF THE OPTOMETRIST;
23 AND

24 (II) THE OPTOMETRIST ENTERS INTO AN ENFORCEABLE AGREEMENT
25 WITH THE BOARD TO SO LIMIT THE OPTOMETRIST'S PRACTICE.

26 (b) AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION
27 (5):

1 (I) IS CONFIDENTIAL AND NOT SUBJECT TO DISCLOSURE PURSUANT
2 TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
3 24, C.R.S.; AND

4 (II) MAY INCLUDE PROVISIONS FOR MONITORING AND
5 REEVALUATION OF THE OPTOMETRIST. THE PARTIES MAY MODIFY OR
6 DISSOLVE THE AGREEMENT AS NECESSARY BASED ON THE RESULTS OF THE
7 MONITORING OR REEVALUATION.

8 (c) THE BOARD MAY REQUIRE THE LICENSEE TO SUBMIT TO AN
9 EXAMINATION PURSUANT TO THIS SECTION TO EVALUATE THE EXTENT OF
10 THE ILLNESS OR CONDITION AND ITS IMPACT ON THE LICENSEE'S ABILITY TO
11 PRACTICE WITH REASONABLE SKILL AND WITH SAFETY TO PATIENTS.

12 (d) BY ENTERING INTO AN AGREEMENT WITH THE BOARD
13 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, THE LICENSEE
14 IS NOT ENGAGING IN UNPROFESSIONAL CONDUCT. THE AGREEMENT IS AN
15 ADMINISTRATIVE ACTION AND DOES NOT CONSTITUTE A RESTRICTION OR
16 DISCIPLINE BY THE BOARD. HOWEVER, IF THE LICENSEE FAILS TO COMPLY
17 WITH AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION, THE
18 FAILURE CONSTITUTES UNPROFESSIONAL CONDUCT PURSUANT TO SECTION
19 12-40-118 AND THE LICENSEE BECOMES SUBJECT TO DISCIPLINE IN
20 ACCORDANCE WITH SECTION 12-40-119.

21 (e) FOR PURPOSES OF THIS SUBSECTION (5), "PHYSICAL OR MENTAL
22 ILLNESS OR CONDITION" DOES NOT INCLUDE THE HABITUAL OR EXCESSIVE
23 USE OR ABUSE OF ALCOHOL, A HABIT-FORMING DRUG, OR ANY
24 CONTROLLED SUBSTANCE AS DEFINED IN SECTION 12-22-303 (7).

25 **SECTION 7.** 12-40-119 (1) (a), (1) (b), (1) (d), (2) (e), (2.1),
26 (2.3), (4) (a), (7) (a), (8) (a), (8) (c) (III), and (9), Colorado Revised
27 Statutes, are amended to read:

1 **12-40-119. Revocation, suspension, supervision, probation**
2 **procedure - professional review - reconsideration and review of**
3 **action by board - rules.** (1) (a) With respect to licenses ~~or certificates~~

4 issued pursuant to this article, the board may:

5 (I) Impose probation, with or without supervision, on a licensee,
6 issue a letter of admonition to a licensee, OR suspend, revoke, or refuse
7 to renew any license ~~or certificate~~ provided for by this article for any
8 reason stated in section 12-40-118 or for violating any term of probation
9 of the board;

10 (II) SUMMARILY SUSPEND A LICENSE UPON THE FAILURE OF THE
11 LICENSEE TO COMPLY WITH ANY CONDITION OF A STIPULATION OR ORDER
12 IMPOSED BY THE BOARD UNTIL THE LICENSEE COMPLIES WITH THE
13 CONDITION, UNLESS COMPLIANCE IS BEYOND THE CONTROL OF THE
14 LICENSEE; AND

15 (III) IMPOSE A FINE NOT TO EXCEED FIVE THOUSAND DOLLARS ON
16 A LICENSEE FOR A VIOLATION OF THIS ARTICLE OR A RULE PROMULGATED
17 PURSUANT TO THIS ARTICLE OTHER THAN A VIOLATION RELATED TO A
18 STANDARD OF PRACTICE. THE BOARD SHALL, BY RULE, PROMULGATE A
19 FINING SCHEDULE WITH LESSER AMOUNTS FOR FIRST VIOLATIONS AND
20 INCREASING AMOUNTS FOR SUBSEQUENT VIOLATIONS OF THIS
21 SUBPARAGRAPH (III).

22 (b) Upon its own motion or upon a signed complaint, an
23 investigation may be made if there is reasonable cause to believe that an
24 optometrist licensed ~~or certified, or both~~ by the board has committed an
25 act of unprofessional conduct pursuant to section 12-40-118 or, while
26 under probation, has violated the terms of ~~said~~ THE probation.

27 (d) The board may revoke, suspend, deny, issue, reissue, or

1 reinstates licenses ~~and certificates~~ granted pursuant to this article or under
2 the previous laws of this state, and the board may take such other
3 intermediate action as may be deemed necessary under the circumstances
4 of each case pursuant to this section.

5 (2) (e) The action of the board in refusing to grant or renew,
6 revoking, or suspending a license, ~~or certificate~~, issuing a letter of
7 admonition, or placing a licensee on probation or under supervision
8 pursuant to subsection (1) of this section may be reviewed by the court of
9 appeals by appropriate proceedings under section 24-4-106 (11), C.R.S.

10 (2.1) When a complaint or investigation discloses an instance of
11 conduct that does not warrant formal action by the board and, in the
12 opinion of the board, the complaint should be dismissed, but the board
13 has noticed indications of possible errant conduct by the licensee ~~or~~
14 ~~certificate holder~~ that could lead to serious consequences if not corrected,
15 a confidential letter of concern may be issued and sent to the licensee. ~~or~~
16 ~~certificate holder.~~

17 (2.3) No person whose license ~~or certification, or both~~, is revoked
18 by the board may reapply for a new license under the provisions of this
19 article for at least two years after any such revocation.

20 (4) (a) The board, on its own motion or upon application, at any
21 time after the refusal to grant a license, ~~or certificate~~, the imposition of
22 any discipline, or the ordering of probation, as provided in this section,
23 may reconsider its prior action and grant, reinstate, or restore such
24 license, ~~or certificate~~ ~~or~~ terminate probation, or reduce the severity of its
25 prior disciplinary action. The taking of any such further action, or the
26 holding of a hearing with respect thereto, ~~shall rest~~ RESTS in the sole
27 discretion of the board.

1 (7) (a) If it appears to the board, based upon credible evidence as
2 presented in a written complaint by any person, that a licensee ~~or~~
3 ~~certificate holder~~ is acting in a manner that is an imminent threat to the
4 health and safety of the public, or a person is acting or has acted without
5 the required license, ~~or certificate~~, the board may issue an order to cease
6 and desist such activity. The order shall set forth the statutes and rules
7 alleged to have been violated, the facts alleged to have constituted the
8 violation, and the requirement that all unlawful acts or unlicensed ~~or~~
9 ~~uncertified~~ practices immediately cease.

10 (8) (a) If it appears to the board, based upon credible evidence as
11 presented in a written complaint by any person, that a person has violated
12 any other portion of this article, then, in addition to any specific powers
13 granted pursuant to this article, the board may issue to such person an
14 order to show cause as to why the board should not issue a final order
15 directing such person to cease and desist from the unlawful act or
16 unlicensed ~~or uncertified~~ practice.

17 (c) (III) If the board reasonably finds that the person against
18 whom the order to show cause was issued is acting or has acted without
19 the required license ~~or certificate~~, or has or is about to engage in acts or
20 practices constituting violations of this article, a final cease-and-desist
21 order may be issued, directing such person to cease and desist from
22 further unlawful acts or unlicensed ~~or uncertified~~ practices.

23 (9) If it appears to the board, based upon credible evidence
24 presented to the board, that a person has engaged in or is about to engage
25 in any unlicensed ~~or uncertified~~ act or practice, any act or practice
26 constituting a violation of this article, any rule promulgated pursuant to
27 this article, any order issued pursuant to this article, or any act or practice

1 constituting grounds for administrative sanction pursuant to this article,
2 the board may enter into a stipulation with such person.

3 **SECTION 8.** 12-40-126 (1) (a) and (2), Colorado Revised
4 Statutes, are amended to read:

5 **12-40-126. Financial responsibility - rules.** (1) Every
6 optometrist who provides health care services within the state of Colorado
7 shall establish financial responsibility as follows:

8 (a) By maintaining commercial professional liability insurance
9 coverage with an insurance company authorized to do business in this
10 state in a minimum indemnity amount of ~~five hundred thousand~~ ONE
11 MILLION dollars per incident and ~~one~~ THREE million ~~five hundred~~
12 ~~thousand~~ dollars annual aggregate per year; or

13 (2) (a) The board may, by rule, establish lesser financial
14 responsibility standards than those required in subsection (1) of this
15 section for classes of license holders who HAVE AN INACTIVE LICENSE OR
16 WHO render limited or occasional optometric services because of
17 administrative or other nonclinical duties, ~~or~~ partial or complete
18 retirement, or for other reasons that render the limits provided in
19 paragraph (a) of subsection (1) of this section unreasonable or
20 unattainable.

21 (b) ~~However,~~ Nothing in this section ~~shall preclude~~ PRECLUDES or
22 otherwise ~~prohibit~~ PROHIBITS a licensed optometrist from rendering
23 appropriate patient care on an occasional basis when the circumstances
24 surrounding the need for such care so warrant.

25 **SECTION 9.** 12-40-106 (1) and (2), Colorado Revised Statutes,
26 are amended to read:

27 **12-40-106. State board of optometry - subject to termination.**

1 (1) (a) The state board of ~~optometric examiners~~ OPTOMETRY, referred to
2 in this article as the "board", ~~shall be~~ IS under the supervision and control
3 of the division of registrations as provided by section 24-34-102, C.R.S.
4 The board ~~shall consist~~ CONSISTS of five optometrists and two
5 members-at-large, to be appointed by the governor to serve for terms of
6 four years; except that no person shall be appointed to serve more than
7 two consecutive terms. ~~Persons holding office on June 15, 1987, are~~
8 ~~subject to the provisions of section 24-1-137, C.R.S.~~ Each member of the
9 board, except for the members-at-large, ~~shall~~ MUST have been actually
10 engaged and licensed in the practice of optometry as ~~defined in section~~
11 ~~12-40-102~~ in Colorado for the five years ~~next~~ preceding the member's
12 appointment. At least one of the two members-at-large ~~shall~~ MUST not be
13 a member or representative of, nor have any direct interest in, any
14 profession, agency, or institution providing health services.

15 (b) Any four members of ~~said~~ THE board ~~shall~~ constitute a quorum
16 for the purpose of holding examinations, granting licenses, or transacting
17 any business connected with the board.

18 (c) THE GOVERNOR SHALL FILL a vacancy in the membership of
19 ~~said~~ THE board ~~shall be filled by the governor~~ for the remainder of the
20 unexpired term. ~~Any~~ THE GOVERNOR MAY REMOVE A member of the
21 board ~~may be removed by the governor~~ for misconduct, incompetency, or
22 neglect of duty.

23 (d) ~~Any~~ A board member having a personal or private interest in
24 any matter before the board shall disclose such fact to the board and shall
25 not participate in RELATED discussions ~~related thereto~~ or ~~vote thereon~~
26 VOTES.

27 (2) The board shall organize annually by electing one of its

1 members as president AND one as vice-president. ~~and one as secretary.~~

2 **SECTION 10.** 12-40-102 (1), (2), (3), (4), (5), and (6), Colorado
3 Revised Statutes, are amended to read:

4 **12-40-102. Practice of optometry defined.** (1) (a) The "practice
5 of the profession of optometry" is: ~~The employment of any means other~~
6 ~~than medicine, surgery, invasive laser surgery, postoperative care~~
7 ~~management following surgery without referral from an ophthalmologist,~~
8 ~~unless ninety days have expired from and after the surgery or the~~
9 ~~physician justifies medically indicated reasons for extending the~~
10 ~~postoperative period or the patient has been released by the physician, X~~
11 ~~ray, or drugs, except as provided in subsections (4) and (5) of this section,~~
12 ~~to diagnose and treat the presence of abnormal conditions of the human~~
13 ~~eye or its appendages and the accommodative and refractive conditions~~
14 ~~of the human eye or the scope of its functions in general; except for~~
15 ~~treatment of posterior uveitis; and the measurement of the powers or~~
16 ~~range of human vision and the adaptation of lenses and frames to improve~~
17 ~~the powers or range of human vision~~ MEANS THE EVALUATION,
18 DIAGNOSIS, PREVENTION, OR TREATMENT OF DISEASES, DISORDERS, OR
19 CONDITIONS OF THE VISION SYSTEM, EYES, AND ADJACENT AND
20 ASSOCIATED STRUCTURES, INCLUDING THE USE OR PRESCRIPTION OF
21 LENSES, PRISMS, VISION THERAPY, VISION REHABILITATION, AND
22 PRESCRIPTION OR NONPRESCRIPTION DRUGS INCLUDING SCHEDULE III, IV,
23 AND V CONTROLLED NARCOTIC SUBSTANCES FOR OCULAR DISEASE, SO
24 LONG AS AN OPTOMETRIST IS PRACTICING WITHIN THE SCOPE OF HIS OR HER
25 EDUCATION AS IS COMMONLY TAUGHT IN ACCREDITED SCHOOLS AND
26 COLLEGES OF OPTOMETRY AND IS PRACTICING IN ACCORDANCE WITH
27 APPLICABLE FEDERAL AND COLORADO LAW AND BOARD RULES.

1 (b) THE FOLLOWING ARE PART OF THE PRACTICE OF OPTOMETRY:

2 (I) THE REMOVAL OF SUPERFICIAL FOREIGN BODIES FROM THE
3 HUMAN EYE OR ITS APPENDAGES;

4 (II) POSTOPERATIVE CARE IN THE FOLLOWING SITUATIONS:

5 (A) WITH REFERRAL FROM A PHYSICIAN;

6 (B) IF NINETY DAYS HAVE EXPIRED AFTER THE SURGERY UNLESS
7 THE PHYSICIAN JUSTIFIES MEDICALLY INDICATED REASONS FOR EXTENDING
8 THE POSTOPERATIVE PERIOD; AND

9 (C) IF THE PATIENT HAS BEEN RELEASED BY THE PHYSICIAN;

10 (III) THE TREATMENT OF ANTERIOR UVEITIS;

11 (IV) THE TREATMENT OF GLAUCOMA WITH ALL TOPICAL AND ORAL
12 ANTIGLAUCOMA DRUGS;

13 (V) EPILATION;

14 (VI) DILATION AND IRRIGATION OF THE LACRIMAL SYSTEM;

15 (VII) PUNCTAL PLUG INSERTION AND REMOVAL;

16 (VIII) ANTERIOR CORNEAL PUNCTURE;

17 (IX) CORNEAL SCRAPING FOR CULTURES;

18 (X) DEBRIDEMENT OF CORNEAL EPITHELIUM; AND

19 (XI) REMOVAL OF CORNEAL EPITHELIUM.

20 (c) Any person who is engaged in the prescribing OR PERFORMING
21 WITHOUT REFERRAL of visual training or orthoptics, ~~or~~ the prescribing of
22 any contact lenses, INCLUDING PLANO OR COSMETIC CONTACT LENSES, ~~or~~
23 the fitting or adaptation of such contact lenses to the human eye, ~~or~~ the
24 use of scientific instruments to train the visual system or any abnormal
25 condition of the eyes for the correction or improvement of, or the relief
26 to, the visual function, or who holds oneself out as being able to do so, is
27 engaged in the practice of optometry.

1 (d) THE "PRACTICE OF OPTOMETRY" DOES NOT INCLUDE:
2 (I) SURGERY OF OR INJECTIONS INTO THE GLOBE, ORBIT, EYELIDS,
3 OR OCULAR ADNEXA. "SURGERY" MEANS ANY PROCEDURE IN WHICH
4 HUMAN TISSUE IS CUT, ALTERED, OR OTHERWISE INFILTRATED BY
5 MECHANICAL OR LASER MEANS.
6 (II) THE USE OF SCHEDULE I OR II NARCOTICS;
7 (III) TREATMENT OF POSTERIOR UVEITIS; OR
8 (IV) THE USE OF INJECTABLE DRUGS, EXCEPT FOR THE USE OF AN
9 EPINEPHRINE AUTO-INJECTOR TO COUNTERACT ANAPHYLACTIC REACTION.

10 =
11 (2) A licensed optometrist who ~~utilizes, including prescribing,~~
12 ~~those classes of pharmaceutical agents described in this section~~ USES OR
13 PRESCRIBES PRESCRIPTION OR NONPRESCRIPTION DRUGS shall ~~be required~~
14 ~~to~~ provide the same level and standard of care to his OR HER patients as
15 the standard of care provided by an ophthalmologist ~~utilizing~~ USING OR
16 PRESCRIBING the same ~~class of pharmaceutical agents~~ DRUGS.

17 (3) A THERAPEUTIC OPTOMETRIST IS AN OPTOMETRIST LICENSED
18 PURSUANT TO THIS ARTICLE WHO MEETS THE REQUIREMENTS OF SECTION
19 12-40-109.5 (1.5) AND (3). A licensed optometrist shall not use
20 ~~pharmaceutical agents~~ PRESCRIPTION OR NONPRESCRIPTION DRUGS for
21 treatment of eye disease or disorder or for any therapeutic purpose unless
22 ~~certified as a therapeutic optometrist pursuant to section 12-40-109.5~~
23 ~~(1.5) and (3)~~ HE OR SHE IS A THERAPEUTIC OPTOMETRIST.

24 (4) ~~The classes of pharmaceutical agents approved for optometric~~
25 ~~use for examination purposes under this section are topically applied~~
26 ~~mydriatics, miotics, cycloplegics, and anesthetics.~~

27 (5) (a) ~~The classes of pharmaceutical agents and the procedures~~

1 approved for optometric use for treatment of the anterior segment of the
2 eye or its appendages, including prescription, by certified therapeutic
3 optometrists for treatment purposes under this section are as follows:
4 Topical and oral antimicrobials (except oral antifungal agents), topical
5 and oral antihistamines, topical antiinflammatory agents, topical and oral
6 nonscheduled analgesics, and any controlled substance for ocular pain
7 and inflammation except those specified in schedules I and II as provided
8 in part 2 of article 18 of title 18, C.R.S., and the removal of superficial
9 foreign bodies from the human eye or its appendages.

10 (b) Nothing in this section shall prohibit PROHIBITS an optometrist
11 from charging a fee for prescribing, adjusting, fitting, adapting, or
12 dispensing ophthalmic devices, such as contact lenses, that are classified
13 by the federal food and drug administration as a drug, as long as the drug
14 delivered by the ophthalmic device is one of the pharmaceutical agents
15 identified in subsection (4) or (6) of this section or this subsection (5) or
16 the drug is not a prescription drug NOT A SCHEDULE I OR II CONTROLLED
17 SUBSTANCE.

18 (6) The classes of pharmaceutical agents approved for optometric
19 use by certified therapeutic optometrists for treatment of glaucoma
20 include topical and oral antiglaucoma agents.

21 **SECTION 11.** 12-40-103 (1) (a) and (1) (b), Colorado Revised
22 Statutes, are amended to read:

23 **12-40-103. Proprietor defined.** (1) The term "proprietor", as
24 used in this article, includes any person, group, association, or
25 corporation not licensed under this article who:

26 (a) For financial gain employs optometrists in the operation of an
27 optometric OPTOMETRY office;

1 (b) Places, directly or indirectly, in possession of an optometrist
2 such ~~optometric~~ materials or equipment as may be necessary for the
3 operation of an ~~optometric~~ OPTOMETRIST'S office on the basis of any fee
4 splitting, income division, profit sharing, or similar agreement or on any
5 basis ~~which~~ THAT has the effect of any such agreement, but the term
6 "proprietor" does not include the bona fide seller of ~~optometric~~
7 OPTOMETRY equipment or material secured by chattel mortgage,
8 conditional sales contract, or other title retention agreements or the bona
9 fide leasing of such equipment by the manufacturer or by his OR HER
10 franchised dealer; or

11 **SECTION 12.** The introductory portion to 12-40-105 (1) and
12 12-40-105 (1) (d), Colorado Revised Statutes, are amended to read:

13 **12-40-105. Persons excluded from operation of this article.**

14 (1) This article ~~shall~~ DOES not apply to:

15 (d) Persons serving a post-doctorate residency or ~~optometric~~ AN
16 OPTOMETRY student internship under the supervision of an optometrist
17 licensed in Colorado as part of a curriculum from an accredited college
18 of optometry.

19 **SECTION 13.** 12-40-107 (1) (a), (1) (b), (1) (k), and (1) (l),
20 Colorado Revised Statutes, are amended to read:

21 **12-40-107. Powers and duties of the board - rules.** (1) In
22 addition to all other powers and duties conferred upon the board by this
23 article, the board has the following powers and duties:

24 (a) ~~To provide for examinations at least once each year to~~
25 ~~ascertain the qualifications and fitness of applicants for licenses to~~
26 ~~practice optometry. The board may accept~~ DETERMINE ACCEPTABILITY
27 OF scores from tests administered by any approved or accredited national

1 testing organization.

2 (b) To prescribe rules and regulations for conducting and
3 administering examinations of applicants for licensing as optometrists
4 and to carry out effectively the provisions of this article. In prescribing
5 such rules and regulations The board shall set the passing score of any
6 such examination at a minimum acceptable level of competence for the
7 practice of optometry.

8 (k) To establish programs of education and certification for
9 optometrists wishing to enter new, proven, and generally accepted areas
10 of lawful practice involving techniques for which they have not received
11 appropriate education;

12 (l) To prepare and distribute to consumers as is reasonably
13 necessary written communication providing information concerning the
14 board and optometric THE regulation OF OPTOMETRY in Colorado;

15 **SECTION 14.** The introductory portion to 12-40-108 (1) and
16 12-40-108 (1) (b) and (2), Colorado Revised Statutes, are amended to
17 read:

18 **12-40-108. Application for license - licensure by endorsement.**

19 (1) Every A person who does not currently hold a license to practice
20 optometry in this state and who desires to practice optometry within IN
21 the state shall MAY file with the board an application for a license, giving
22 the information required on IN a form to be provided AND MANNER
23 APPROVED by the board. wherein it shall appear that The applicant SHALL
24 DEMONSTRATE THAT HE OR SHE possesses the following qualifications:

25 (b) The applicant has graduated with the degree of doctor of
26 optometry from a school or college of optometry accredited by a regional
27 or professional accreditation organization which THAT is recognized or

1 approved by the council on postsecondary accreditation or the United
2 States commissioner of education. The board ~~shall have~~ HAS the
3 authority, upon its investigation and approval of the standards thereof, to
4 approve any other ~~optometric college~~ OF OPTOMETRY.

5 (2) For the purpose of paragraphs (c) and (d) of subsection (1) of
6 this section, ~~it shall be sufficient if a statement pertaining to the~~
7 ~~qualifications appears on the application.~~

8 **SECTION 15.** 12-40-108.5, Colorado Revised Statutes, is
9 amended to read:

10 **12-40-108.5. Current licensees - treatment and therapeutic**
11 **practice.** On and after July 1, 1988, a person who is licensed under this
12 article as an optometrist on June 30, 1988, and who is otherwise qualified
13 under ~~the provisions of this article~~ may use ~~the classes of pharmaceutical~~
14 ~~agents~~ PRESCRIPTION OR NONPRESCRIPTION DRUGS for examination
15 purposes. ~~described in section 12-40-102(4).~~ However, such optometrist
16 may ~~utilize the classes of pharmaceutical agents~~ USE PRESCRIPTION OR
17 NONPRESCRIPTION DRUGS for treatment of eye disease or disorder or for
18 any therapeutic purpose ~~described in section 12-40-102(5) and (6)~~ only
19 if he or she ~~becomes certified as a therapeutic optometrist pursuant to~~
20 ~~MEETS THE REQUIREMENTS OF~~ section 12-40-109.5 (1.5) and (3) on or
21 after July 1, 1988.

22 **SECTION 16.** 12-40-109 (1) and (2), Colorado Revised Statutes,
23 are amended to read:

24 **12-40-109. Examination - licenses.** (1) ~~Each application shall~~
25 ~~be verified under oath by the applicant, and a material false statement~~
26 ~~thereon shall constitute grounds for the withholding or revocation of a~~
27 ~~license.~~ The applicant shall take and submit test scores from the

1 board-approved exam. The examination shall be of such a character as
2 to test the qualifications of the applicant to practice optometry.

3 (2) Each person who makes a passing grade on the practical and
4 clinical examination ~~of the board~~ and who is otherwise qualified shall be
5 granted a license ~~evidenced by a certificate~~ signed by the board. ~~No~~
6 ~~license shall be granted by less than a majority vote of the board.~~ The
7 license ~~certificate~~ provided for in this section shall be in such form and
8 wording as may be adopted by the ~~board.~~ ~~except that the board shall~~
9 ~~provide an optometrist who is certified as a therapeutic optometrist~~
10 ~~pursuant to section 12-40-109.5 (1.5) with a distinctive certificate~~
11 ~~indicating such certification. Such certificate shall be displayed by~~ The
12 optometrist SHALL DISPLAY HIS OR HER LICENSE for viewing by his OR
13 HER patients, as provided in section 12-40-115. An application for initial
14 licensure as ~~a certified therapeutic~~ AN optometrist shall be accompanied
15 by a processing fee in an amount to be determined by the board pursuant
16 to ~~the provisions of section 24-34-105, C.R.S. Such fee shall not be~~
17 ~~required for any renewal certificate obtained pursuant to the provisions~~
18 ~~of section 12-40-113.~~

19 **SECTION 17.** ~~12-40-109.5, Colorado Revised Statutes, is~~
20 amended to read:

21 **12-40-109.5. Use of prescription and nonprescription drugs.**

22 (1) Notwithstanding ~~the provisions of section 12-22-121,~~ a licensed
23 optometrist may purchase, possess, and administer ~~the classes of~~
24 ~~pharmaceutical agents~~ PRESCRIPTION OR NONPRESCRIPTION DRUGS for
25 examination purposes ~~referred to in section 12-40-102 (4)~~ only if, after
26 July 1, 1983, the optometrist has ~~obtained a certificate from the board~~
27 ~~certifying that the optometrist has~~ complied with the following minimum

1 requirements: Successful completion, by attendance and examination, of
2 at least fifty-five classroom hours of study in general, ocular, and clinical
3 pharmacology which must have been completed within twenty-four
4 months preceding the application for certification; except that, in the
5 event that such classroom hours have been completed since 1976, only
6 six of such classroom hours must have been completed within
7 twenty-four months preceding the application for certification. The
8 courses shall be offered by an institution ~~which~~ THAT is accredited by a
9 regional or professional accreditation organization recognized or
10 approved by the council on postsecondary education or the United States
11 department of education or their successors.

12 (1.5) Notwithstanding ~~the provisions of~~ section 12-22-121, a
13 licensed optometrist may purchase, possess, administer, and prescribe ~~the~~
14 ~~classes of pharmaceutical agents~~ PRESCRIPTION OR NONPRESCRIPTION
15 DRUGS for treatment referred to in section 12-40-102(5) on and after July
16 1, 1988, only if the optometrist has ~~obtained a certificate from the~~
17 ~~board certifying that the optometrist has~~ complied with the following
18 minimum requirements within twenty-four months preceding the
19 application for certification: Successful completion, by attendance and
20 examination, of at least sixty classroom hours of study in ocular
21 pharmacology, clinical pharmacology, therapeutics, and anterior segment
22 disease; and successful completion by attendance and examination of at
23 least sixty hours of approved supervised clinical training in the
24 examination, diagnosis, and treatment of conditions of the human eye and
25 its appendages. The courses shall be offered by an institution ~~which~~
26 THAT is accredited by a regional or professional accreditation
27 organization recognized or approved by the council of postsecondary

1 education or the United States department of education or their
2 successors.

3 (2) ~~Prior to such certification,~~ The optometrist shall successfully
4 complete a course in cardiopulmonary resuscitation within twenty-four
5 months ~~preceding the application for certification~~ BEFORE USING
6 PRESCRIPTION OR NONPRESCRIPTION DRUGS and shall pass a written and
7 clinical examination approved by the board.

8 (3) In addition to the requirements of section 12-40-108.5, ~~any~~
9 ~~optometrist who holds a~~ EACH therapeutic optometrist certificate ~~on or~~
10 ~~before July 1, 1996,~~ and any new applicant for a license shall meet all
11 requirements prescribed by the board before commencing treatment of
12 glaucoma or anterior uveitis. ~~The board shall suspend, as provided in~~
13 ~~section 12-40-119,~~ the therapeutic optometrist certificate of any
14 ~~optometrist who fails to meet the requirements of this section on or~~
15 ~~before March 31, 1999.~~ Such suspension shall be terminated when the
16 optometrist has fulfilled the requirements of this section

17 **SECTION 18.** 12-40-111 (1), Colorado Revised Statutes, is
18 amended to read:

19 **12-40-111. Disposition of fees - reports - publications.** (1) All
20 ~~examination and other~~ fees prescribed in this article shall be determined
21 and collected pursuant to section 24-34-105, C.R.S.

22 **SECTION 19. Repeal.** 12-40-113 (1) (c), Colorado Revised
23 Statutes, is repealed as follows:

24 **12-40-113. License renewal - requirements - fee - failure to**
25 **pay.** (1) (c) ~~Failure to so remit shall cause a denial of the application for~~
26 ~~renewal.~~

27 **SECTION 20. Repeal.** 12-40-114 (1) and (2), Colorado Revised

1 Statutes, are repealed as follows:

2 **12-40-114. Change of address.** (1) ~~Every person licensed under~~
3 ~~this article shall furnish to the board, in writing, prior to commencing~~
4 ~~practice in this state the address of each location at which he practices~~
5 ~~and shall notify the board of the discontinuance of such practice at a~~
6 ~~given location within ten days after such discontinuance.~~

7 (2) ~~Any licensee may maintain offices which he periodically~~
8 ~~visits, other than that in which he maintains and carries on his principal~~
9 ~~practice. A licensee who maintains offices which he visits periodically~~
10 ~~shall notify the board in writing of the address of each of said offices.~~

11 **SECTION 21.** 12-40-115, Colorado Revised Statutes, is amended
12 to read:

13 **12-40-115. Licenses to be displayed.** Every practitioner of
14 optometry ~~within the meaning of this article~~ shall post and keep
15 conspicuously displayed his OR HER license ~~certificate~~ in the office
16 wherein he OR SHE practices. If an optometrist practices at several
17 locations in the state, ~~he~~ THE OPTOMETRIST shall display his OR HER
18 license number and name in a manner that can be easily recognized by his
19 OR HER patients. ~~Any~~ EACH association of persons who engage in the
20 practice of optometry under the name of a partnership, association, or any
21 other title shall cause to be displayed and kept in a conspicuous place at
22 the entrance of its place of business the name of each person engaged or
23 employed in said partnership or association in the practice of optometry.

24 **SECTION 22.** 12-40-118.5 (1), Colorado Revised Statutes, is
25 amended to read:

26 **12-40-118.5. Mental and physical examination of licensees.**
27 (1) If the board has reasonable cause to believe that a licensee is unable

1 to practice with reasonable skill and safety, the board may require ~~such~~
2 ~~person~~ THE LICENSEE to ~~take~~ SUBMIT TO a mental or physical examination
3 by a physician OR QUALIFIED HEALTHCARE PROVIDER designated by ~~said~~
4 THE board. If ~~such~~ THE licensee refuses to undergo ~~such~~ a mental or
5 physical examination, unless due to circumstances beyond the licensee's
6 control, the board may suspend ~~such~~ THE licensee's license until AN
7 EXAMINATION HAS OCCURRED, the results of ~~any such~~ THE examination
8 are known, and the board has made a determination of the licensee's
9 fitness to practice. The board shall proceed with ~~any such~~ THE order for
10 examination and ~~such~~ THE determination in a timely manner.

11 **SECTION 23.** 12-40-120, Colorado Revised Statutes, is amended
12 to read:

13 **12-40-120. Use of forged or invalid certificate.** It is unlawful
14 for any person to use or attempt to use as his OR HER own a diploma of
15 an ~~optometric~~ OPTOMETRY school or college, or a license of another
16 person, or a forged diploma or license, or any forged or false
17 identification.

18 **SECTION 24.** 12-40-121, Colorado Revised Statutes, is amended
19 to read:

20 **12-40-121. Sale or forgery of degree or license.** (1) It is
21 unlawful:

22 (a) To sell or offer to sell a diploma conferring an ~~optometric~~
23 OPTOMETRY degree or a license granted pursuant to this article or prior
24 ~~optometric~~ OPTOMETRY practice laws; or

25 (b) To procure ~~such~~ A diploma or license with intent that it ~~shall~~
26 be used as evidence of the right to practice optometry by a person other
27 than the one upon whom it was conferred or to whom such license was

1 granted; or

2 (c) With fraudulent intent to alter such diploma or license or to
3 use or attempt to use it when it is so altered.

4 **SECTION 25.** 12-40-122, Colorado Revised Statutes, is amended
5 to read:

6 **12-40-122. Corporate practice prohibited - exceptions.** The
7 practice of optometry in a corporate capacity is prohibited, but this
8 prohibition shall DOES not apply to a professional corporation formed
9 pursuant to this article or to ~~optometric~~ AN OPTOMETRY practice carried
10 on by a nonprofit organization operating to assist indigent persons.

11 **SECTION 26.** 12-40-126 (2) and (3), Colorado Revised Statutes,
12 are amended to read:

13 **12-40-126. Financial responsibility.** (2) The board may, by
14 rule, establish lesser financial responsibility standards than those required
15 in subsection (1) of this section for classes of license holders who render
16 limited or occasional ~~optometric~~ OPTOMETRY services because of
17 administrative or other nonclinical duties or partial or complete
18 retirement or for other reasons that render the limits provided in
19 paragraph (a) of subsection (1) of this section unreasonable or
20 unattainable. However, nothing in this section shall preclude PRECLUDES
21 or otherwise ~~prohibit~~ PROHIBITS a licensed optometrist from rendering
22 appropriate patient care on an occasional basis when the circumstances
23 surrounding the need for such care so warrant.

24 (3) Each optometrist, as a condition of receiving and maintaining
25 an active license to provide ~~optometric~~ OPTOMETRY services in this state,
26 shall furnish the board evidence of compliance with subsection (1) of this
27 section. No license shall be issued or renewed unless such evidence of

1 compliance has been furnished.

2 **SECTION 27. Repeal.** 12-40-126 (5), Colorado Revised
3 Statutes, is repealed as follows:

4 **12-40-126. Financial responsibility.** (5) Each optometrist
5 subject to the provisions of this section shall pay, in addition to any
6 license fee, an additional fee in an amount to be determined by the board
7 pursuant to the provisions of section 24-34-105, C.R.S., not to exceed
8 fifteen dollars. Such fee shall be transmitted to the state treasurer, who
9 shall credit the same to the division of registrations cash fund, which
10 moneys shall be used exclusively for the purposes as annually
11 appropriated by the general assembly.

12 **SECTION 28.** 10-1-125, Colorado Revised Statutes, is amended
13 to read:

14 **10-1-125. Reporting of malpractice claims against**
15 **optometrists.** (1) Each insurance company licensed to do business in
16 this state and engaged in the writing of malpractice insurance for
17 optometrists shall send to the Colorado state board of optometric
18 examiners OPTOMETRY, in the form prescribed by the commissioner,
19 information relating to each malpractice claim against a licensed
20 optometrist that is settled or in which judgment is rendered against the
21 insured.

22 (2) Such information shall include any information deemed
23 necessary by the Colorado state board of optometric examiners
24 OPTOMETRY to conduct a further investigation and hearing.

25 **SECTION 29.** The introductory portion to 13-4-102 (2) and
26 13-4-102 (2) (i), Colorado Revised Statutes, is amended to read:

27 **13-4-102. Jurisdiction.** (2) The court of appeals shall have HAS

1 initial jurisdiction to:

2 (i) Review actions of the state board of ~~optometric examiners~~
3 OPTOMETRY in refusing to grant or renew, revoking, or suspending a
4 license, issuing a letter of admonition, or placing a licensee on probation
5 or under supervision, as provided by section 12-40-119 (2) (e), C.R.S.;

6 **SECTION 30.** 18-18-103, Colorado Revised Statutes, is amended
7 to read:

8 **18-18-103. Special definition - board.** As used in parts 1 and 2
9 of this article, "board" means the state board of pharmacy. As used in
10 parts 3, 4, 5, and 6 of this article, "board" means the respective licensing
11 board responsible for licensing and registering practitioners or other
12 persons who are subject to registration pursuant to part 3 of this article.
13 For physicians the respective board is the Colorado medical board, for
14 podiatrists the respective board is the Colorado podiatry board, for
15 dentists the respective board is the state board of dental examiners, for
16 optometrists the respective board is the state board of ~~optometric~~
17 ~~examiners~~ OPTOMETRY, for pharmacists and pharmacies the respective
18 board is the state board of pharmacy, for veterinarians the respective
19 board is the state board of veterinary medicine, and for manufacturers,
20 distributors, and humane societies the respective board is the state board
21 of pharmacy.

22 **SECTION 31.** 18-18-302 (1), Colorado Revised Statutes, is
23 amended to read:

24 **18-18-302. Registration requirements.** (1) Every person who
25 manufactures, distributes, or dispenses any controlled substance within
26 this state, or who proposes to engage in the manufacture, distribution, or
27 dispensing of any controlled substance within this state, shall obtain

1 annually or biannually, if applicable, a registration, issued by the
2 respective licensing board or the department in accordance with rules
3 adopted by such board or by the department. For purposes of this section
4 and this article, "registration" or "registered" means the licensing of
5 manufacturers, pharmacists, pharmacies, and humane societies located in
6 this state, and distributors located in or doing business in this state, by the
7 state board of pharmacy as set forth in parts 1 and 3 of article 22 of title
8 12, C.R.S., the licensing of physicians by the Colorado medical board, as
9 set forth in article 36 of title 12, C.R.S., the licensing of podiatrists by the
10 Colorado podiatry board, as set forth in article 32 of title 12, C.R.S., the
11 licensing of dentists by the state board of dental examiners, as set forth
12 in article 35 of title 12, C.R.S., the licensing of optometrists by the state
13 board of ~~optometric examiners~~ OPTOMETRY, as set forth in article 40 of
14 title 12, C.R.S., the licensing of veterinarians by the state board of
15 veterinary medicine, as set forth in article 64 of title 12, C.R.S., and the
16 licensing of researchers and addiction programs by the department of
17 human services, as set forth in part 3 of article 22 of title 12, C.R.S.

18 **SECTION 32.** 24-1-122 (3) (p), Colorado Revised Statutes, is
19 amended to read:

20 **24-1-122. Department of regulatory agencies - creation.**

21 (3) The following boards and agencies are transferred by a **type 1**
22 transfer to the department of regulatory agencies and allocated to the
23 division of registrations:

24 (p) State board of ~~optometric examiners~~ OPTOMETRY, created by
25 article 40 of title 12, C.R.S.;

26 **SECTION 33. Appropriation.** (1) In addition to any other
27 appropriation, there is hereby appropriated, out of any moneys in the

1 division of registrations cash fund created in section 24-34-105 (2) (b)
2 (I), Colorado Revised Statutes, not otherwise appropriated, to the
3 department of regulatory agencies, for allocation to the division of
4 registrations, for operating expenses, for the fiscal year beginning July 1,
5 2011, the sum of one thousand fifty dollars (\$1,050) cash funds, or so
6 much thereof as may be necessary, for the implementation of this act.

7 (2) In addition to any other appropriation, there is hereby
8 appropriated, out of any moneys in the division of registrations cash fund
9 created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not
10 otherwise appropriated, to the department of regulatory agencies, for
11 allocation to the executive director's office and administrative services,
12 for legal services, for the fiscal year beginning July 1, 2011, the sum of
13 four thousand four hundred two dollars (\$4,402) cash funds, or so much
14 thereof as may be necessary, for the implementation of this act.

15 (3) In addition to any other appropriation, there is hereby
16 appropriated to the department of law, for the fiscal year beginning July
17 1, 2011, the sum of four thousand four hundred two dollars (\$4,402), or
18 so much thereof as may be necessary, for the provision of legal services
19 to the department of regulatory agencies related to the implementation of
20 this act. Said sum shall be from reappropriated funds received from the
21 department of regulatory agencies out of the appropriation made in
22 subsection (2) of this section.

23 **SECTION 34. Applicability.** This act shall apply to conduct
24 occurring on or after the effective date of this act.

25 **SECTION 35. Safety clause.** The general assembly hereby
26 finds, determines, and declares that this act is necessary for the
27 immediate preservation of the public peace, health, and safety.