

HOUSE BILL NO. HB0039

Optometrist practice act amendments.

Sponsored by: Representative(s) Sommers, Barlow, Harshman
and Larsen and Senator(s) Baldwin and
Schuler

A BILL

for

1 AN ACT relating to optometry; amending optometrists' scope
2 of practice; prohibiting an optometrist from performing
3 specified procedures; amending optometrists' drug
4 prescribing authority; directing the application of
5 optometry related fees and assessments; directing the board
6 of examiners in optometry to determine continuing education
7 requirements; amending membership on the board of examiners
8 in optometry; repealing provisions that define unlawful
9 conduct; repealing obsolete provisions related to volunteer
10 licensing; requiring rulemaking; and providing for
11 effective dates.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

1 **Section 1.** W.S. 33-23-101(b), by creating a new
2 subsection (c) and by renumbering (c) through (f) as (d)
3 through (g), 33-23-102, 33-23-104, 33-23-106(a),
4 33-23-109(a) and (c) and 33-23-114 are amended to read:

5

6 **33-23-101. Definitions; authorized scope of practice;
7 prohibited procedures; exceptions.**

8

9 (b) The practice of optometry ~~is the employment of~~
10 ~~any means other than the use of therapeutic lasers or~~
11 ~~surgery for diagnosing and treating ocular pathology and~~
12 ~~for the measurement of the powers or range of human vision~~
13 ~~or the determination of the accommodative and refractive~~
14 ~~status of the human eye or the scope of its functions in~~
15 ~~general or the adaptation of lenses or frames for the aid~~
16 ~~thereof~~ occurs when a person employs primary human eye care
17 procedures, including:

18

19 (i) The examination, diagnosis and treatment of
20 abnormal conditions and diseases of the eye, its adnexa and
21 visual system;

22

1 (ii) Measuring the powers and range of vision of
2 the eye to determine the accommodative and refractive state
3 and general function of the eye;

4
5 (iii) The adaptation, sale, prescribing and
6 dispensing of frames and ophthalmic lenses in all their
7 forms;

8
9 (iv) Ordering and performance of diagnostic
10 laboratory or imaging tests;

11
12 (v) The prescribing and administration of
13 pharmaceutical agents, as provided in W.S. 33-23-102;

14
15 (vi) Preoperative and postoperative care for
16 those procedures excluded from the practice of optometry
17 under subsection (c) of this section;

18
19 (vii) Any laser procedure not excluded under
20 subsection (c) of this section.

21
22 (c) The following ophthalmic procedures shall be
23 excluded from the authorized practice of optometry:

1

2

(i) The following general procedures:

3

4

(A) Administration of general anesthesia;

5

6

(B) Surgery performed with general

7

anesthesia.

8

9

(ii) The following laser procedures:

10

11

(A) Corneal procedures;

12

13

(B) Procedures of the vitreous chamber of

14

the eye for the purpose of treating any retinal or macular

15

disease;

16

17

(C) Retinal procedures.

18

19

(iii) The following nonlaser procedures:

20

21

(A) Surgery related to removal of an eye

22

from a living person;

23

1 (B) Surgery of the bony orbit, including
2 orbital implants;

3
4 (C) Incisional or excisional surgery of the
5 extraocular muscles;

6
7 (D) Surgery of the eyelid for suspected
8 malignancies or for incisional cosmetic or mechanical
9 repair of blepharochalasis, ptosis or tarsorrhaphy;

10
11 (E) Incisional or excisional surgery of the
12 lacrima system other than probing or related procedures;

13
14 (F) Surgery requiring full thickness
15 conjunctivoplasty with graft or flap;

16
17 (G) Pterygium surgery;

18
19 (H) Surgery requiring full thickness
20 incision or excision of the cornea or sclera, other than
21 paracentesis, in an emergency requiring immediate reduction
22 of pressure inside the eye;

23

1 (J) Corneal transplants;

2

3 (K) Surgery requiring incision of the iris
4 or ciliary body, including diathermy or cryotherapy;

5

6 (M) Surgical extraction of the crystalline
7 lens;

8

9 (N) Surgical intraocular implants;

10

11 (O) Surgery requiring incision of the
12 vitreous;

13

14 (P) Procedures of the vitreous chamber of
15 the eye for the purpose of treating any retinal or macular
16 disease;

17

18 (Q) Surgery requiring incision of the
19 retina.

20

21 ~~(e)~~(d) The provisions of this chapter do not prevent
22 a physician from treating or fitting glasses to the human
23 eye, or a physician or optometrist from filling

1 prescriptions or orders. Nor do the provisions of this
2 chapter prevent the replacing, duplicating or repairing of
3 ophthalmic lenses or the frames or fittings thereof by
4 persons qualified to write or fill prescriptions or orders
5 under the provisions of this act, nor prevent the doing of
6 the merely mechanical work upon such lenses or upon the
7 frames or fittings thereof.

8

9 ~~(d)~~(e) It is unlawful for any person to dispense,
10 replace or duplicate ophthalmic lenses or any contact
11 lenses without a prescription or order from a physician or
12 optometrist. A contact lens prescription shall specifically
13 state that it is intended for contact lenses and include
14 the type and specification of the contact lenses being
15 prescribed. An optometrist shall provide, at no additional
16 cost to the patient, a written copy of his contact lens
17 prescription. The prescription shall only be released after
18 the contact lenses have been adequately fitted and no more
19 follow-up visits are necessary to assure the contact lenses
20 fit the patient. The essential information necessary to
21 duplicate the prescription shall be defined by rules
22 adopted by the board. All contact lens prescriptions shall
23 have an expiration date after which it shall be unlawful to

1 fill such prescription. The prescribing optometrist shall
2 not be liable for any injury or condition to a patient
3 resulting from negligence in packaging, manufacturing or
4 dispensing lenses by anyone other than the prescribing
5 optometrist. Any person may file a complaint with the board
6 seeking disciplinary action concerning any violation of
7 this subsection. The board shall investigate or cause to be
8 investigated and shall resolve a complaint on its own
9 motion or upon receipt of a written complaint as provided
10 by W.S. 33-23-110. No person shall improperly fill a
11 contact lens prescription or fill an expired prescription.

12

13 ~~(e)~~(f) The provisions of this chapter do not prohibit
14 the sale of goggles, sunglasses, colored glasses or
15 occupational eye-protective devices if they do not have
16 refractive values, nor do the provisions of this act
17 prohibit the sale of complete ready-to-wear eyeglasses as
18 merchandise by any person not holding himself out as
19 competent to examine, test or prescribe for the human eye
20 or its refractive errors.

21

1 ~~(f)~~(g) Nothing in this act shall prevent an
2 optometrist from using assistants in his practice under his
3 general supervision as defined in board rule.

4

5 **33-23-102. Optometrist's use of certain drugs;**
6 **limitation.**

7

8 An optometrist shall be allowed to administer and prescribe
9 pharmaceutical agents related to the practice of optometry,
10 excluding ~~the following categories of oral medications:~~
11 ~~immunosuppressives, steroids, anti-fungals,~~
12 ~~sedative hypnotics, and schedule I and II narcotics.~~ No
13 medication shall be given by injection. Oral anti-glaucoma
14 medications may be administered for a period not to exceed
15 forty-eight (48) hours. An optometrist who administers or
16 prescribes pharmaceutical agents for examination or for
17 treatment shall provide the same standard of care to
18 patients as that provided by a physician utilizing the same
19 pharmaceutical agents for examination or treatment but
20 allowing for the prescribing of hydrocodone or hydrocodone
21 containing pharmaceutical agents regardless of schedule.

22

1 33-23-104. Board of examiners in optometry; created;
2 composition; designation; duties generally; appointment;
3 qualifications and terms of members; vacancies; oath.

4
5 The Wyoming state board of examiners in optometry is
6 created to carry out the purposes and enforce the
7 provisions of this act. The board shall consist of ~~three~~
8 ~~(3)~~five (5) members appointed by the governor.~~In 2005,~~
9 ~~one (1) board member shall be appointed for a term of three~~
10 ~~(3) years, one (1) board member shall be appointed for a~~
11 ~~term of two (2) years and one (1) board member shall be~~
12 ~~appointed for a term of one (1) year. Thereafter, and shall~~
13 include three (3) licensed optometrists, one (1) member of
14 the public and one (1) licensed health care professional
15 other than a licensed optometrist. The terms of the office
16 of the members appointed shall be three (3) years or until
17 their successors have qualified. Each member of the board
18 shall be a resident of the state of Wyoming and each
19 optometrist member of the board shall have been engaged in
20 the actual practice of optometry in the state for at least
21 one (1) year prior to appointment. The governor shall make
22 all appointments to fill vacancies caused by death,
23 resignation or removal. The governor may remove any member

1 as provided in W.S. 9-1-202. The members of the board,
2 before entering upon their duties, shall take and subscribe
3 to the oath required to be taken by state officers and
4 shall file the oath in the office of the secretary of
5 state.

6

7 **33-23-106. Board of examiners in optometry;**
8 **compensation of members; disposition of funds.**

9

10 (a) Each member of the board may receive as
11 compensation the sum paid each day to members of the state
12 legislature for each day spent in board meetings and per
13 diem and mileage as provided in W.S. 33-1-302(a)(vii).
14 Expenses shall be paid from the fees, ~~finer~~ and assessments
15 received under the provisions of this act. All fees, ~~finer~~,
16 assessments and other monies, except fines and penalties,
17 received under the provisions of this act, may be used for
18 meeting the expenses of the board and in carrying out the
19 provisions of this act. In no event shall any expenses be
20 charged against the state.

21

22 **33-23-109. Examinations; licensure; qualifications;**
23 **reciprocity.**

1

2 (a) Any applicant for licensure under this act is
3 required to pass the examination series administered by the
4 National Board of Examiners in Optometry, or its successor
5 agency, ~~and or~~ any other examination specified by the board
6 in rule. The applicant shall be a graduate of an optometric
7 school or college accredited by a regional or professional
8 accreditation organization which is recognized or approved
9 by the council on postsecondary accreditation or the United
10 States Department of Education (USDE) or the Council on
11 Higher Education Accreditation (CHEA), or their successor
12 agencies. Examinations shall cover subjects designated by
13 the board. ~~Any currently licensed person intending to
14 employ diagnostic or therapeutic pharmaceutical agents in
15 his practice is required to complete and pass a board
16 approved course pertaining to the use of those agents.~~

17

18 (c) In addition to ~~subsections (a) and (b)~~ satisfying
19 the requirements under subsection (a) of this section, an
20 applicant for licensure under this act shall provide the
21 board fingerprints and other information necessary for a
22 criminal history record background check as provided under
23 W.S. 7-19-201.

1

2 **33-23-114. Continuing education courses required.**

3

4 All optometrists shall take courses of study in subjects
5 relating to the practice of the profession of optometry for
6 the utilization and application of new techniques,
7 scientific and clinical advances, and achievements of
8 research which will assure expansive and comprehensive care
9 to the public. The board shall ~~prescribe the length of~~
10 ~~study. Attendance shall be at a course or courses approved~~
11 ~~by the board. Attendance at any course or courses of study~~
12 ~~is to be certified to the board upon a form provided by the~~
13 ~~board and submitted by each optometrist to~~ determine the
14 requirements for continuing education pursuant to rules
15 promulgated by the board. The board may use up to one-half
16 (1/2) of its annual renewal fees for the purposes of
17 contracting with institutions of higher learning,
18 professional organizations, or qualified individuals to
19 provide educational programs that meet this requirement.
20 The board may also treat funds set aside for the purpose of
21 continuing education as state funds for the purpose of
22 accepting any funds made available under federal law on a
23 matching basis for the programs of continuing education. ~~In~~

1 ~~no instance may the board require a greater number of hours~~
2 ~~of study than are available at approved courses held within~~
3 ~~this state. The board shall require three (3) hours of~~
4 ~~continuing education related to the responsible prescribing~~
5 ~~of controlled substances every two (2) years. The board may~~
6 ~~waive the requirements of this section in cases of~~
7 ~~certified illness or undue hardship.~~

8

9 **Section 2.** W.S. 33-23-109(b), 33-23-111(b) and
10 33-23-117 are repealed.

11

12 **Section 3.** The Wyoming state board of examiners in
13 optometry shall promulgate any rules necessary to implement
14 this act.

15

16 **Section 4.**

17

18 (a) Except as provided in subsection (b) of this
19 section, this act is effective immediately upon completion
20 of all acts necessary for a bill to become law as provided
21 by Article 4, Section 8 of the Wyoming Constitution.

22

1 (b) Sections 1 and 2 of this act are effective
2 July 1, 2021.

3

4

(END)