

## SENATE BILL No. 568

By Senators Schodorf and Wagle

2-6

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9 AN ACT concerning public health; relating to optometrists and Kansas  
10 nonprofit low vision rehabilitation centers; amending K.S.A. 65-1502,  
11 65-1522 and 65-1524 and K.S.A. 2007 Supp. 65-1501a and repealing  
12 the existing sections.  
13

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

15 Section 1. K.S.A. 2007 Supp. 65-1501a is hereby amended to read  
16 as follows: 65-1501a. For the purposes of this act the following terms shall  
17 have the meanings respectively ascribed to them unless the context re-  
18 quires otherwise:

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

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

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

25 (d) "Adapt" means the determination, selection, fitting or use of  
26 lenses, prisms, orthoptic exercises or visual training therapy for the aid of  
27 any insufficiencies or abnormal conditions of the eyes after or by exami-  
28 nation or testing.

29 (e) "Lenses" means any type of ophthalmic lenses, which are lenses  
30 prescribed or used for the aid of any insufficiencies or abnormal condi-  
31 tions of the eyes.

32 (f) "Prescription" means a verbal or written order directly from a  
33 licensee giving or containing the name and address of the prescriber, the  
34 license registration number of the licensee, the name and address of the  
35 patient, the specifications and directions for lenses, prisms, orthoptic ex-  
36 ercises, low vision rehabilitation services or visual training therapy to be  
37 used for the aid of any insufficiencies or abnormal conditions of the eyes,  
38 including instructions necessary for the fabrication or use thereof and the  
39 date of issue.

40 (g) "Prescription for topical pharmaceutical drugs or oral drugs"  
41 means a verbal or written order directly from a licensee expressly certified  
42 to prescribe drugs under the optometry law and giving or containing the  
43 name and address of the prescriber, the license registration number of

- 1 the licensee, the name and address of the patient, the name and quantity  
2 of the drug prescribed, directions for use, the number of refills permitted,  
3 the date of issue and expiration date.
- 4 (h) "Topical pharmaceutical drugs" means drugs administered topi-  
5 cally and not by other means for the examination, diagnosis and treatment  
6 of the human eye and its adnexae.
- 7 (i) "Dispense" means to deliver prescription-only medication or oph-  
8 thalmic lenses to the ultimate user pursuant to the lawful prescription of  
9 a licensee and dispensing of prescription-only medication by a licensee  
10 shall be limited to a twenty-four-hour supply or minimal quantity nec-  
11 essary until a prescription can be filled by a licensed pharmacist.
- 12 (j) "Diagnostic licensee" means a person licensed under the optom-  
13 etry law and certified by the board to administer or dispense topical phar-  
14 maceutical drugs for diagnostic purposes.
- 15 (k) "Therapeutic licensee" means a person licensed under the optom-  
16 etry law and certified by the board to prescribe, administer or dispense  
17 topical pharmaceutical drugs for therapeutic purposes and oral drugs,  
18 following completion of a fifteen-hour course approved by the board per-  
19 taining to the use of oral drugs in ocular therapeutics, except that a person  
20 applying for therapeutic licensure who has graduated after January 1,  
21 1999, from a school or college of optometry approved by the board shall  
22 not be required to take such course. Therapeutic licensees on the effec-  
23 tive date of this act shall complete the fifteen-hour course described in  
24 this subsection before May 31, 2000.
- 25 (l) "Glaucoma licensee" means a person described in subsections (j)  
26 and (k) of this section who is also licensed under the optometry law to  
27 manage and treat adult open-angle glaucoma by nonsurgical means, in-  
28 cluding the prescribing, administering and dispensing of topical phar-  
29 maceutical drugs and oral drugs.
- 30 (m) "False advertisement" means any advertisement which is false,  
31 misleading or deceptive in a material respect. In determining whether  
32 any advertisement is misleading, there shall be taken into account not  
33 only representations made or suggested by statement, word, design, de-  
34 vice, sound or any combination thereof, but also the extent to which the  
35 advertisement fails to reveal facts material in the light of such represen-  
36 tations made.
- 37 (n) "Advertisement" means all representations disseminated in any  
38 manner or by any means, for the purpose of inducing, or which are likely  
39 to induce, directly or indirectly, the purchase of professional services or  
40 ophthalmic goods.
- 41 (o) "Health care provider" shall have the meaning ascribed to that  
42 term in subsection (f) of K.S.A. 40-3401, and amendments thereto.
- 43 (p) "Medical facility" shall have the meaning ascribed to that term in

1 subsection (c) of K.S.A. 65-411, and amendments thereto *and shall also*  
2 *include an outpatient rehabilitation facility certified to participate in the*  
3 *medicare program and a nonprofit low vision rehabilitation center.*

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

6 (r) “Co-management” means confirmation by an ophthalmologist of  
7 a licensee’s diagnosis of adult open-angle glaucoma together with a writ-  
8 ten treatment plan which includes (1) all tests and examinations sup-  
9 porting the diagnosis, (2) a schedule of tests and examinations necessary  
10 to treat the patient’s condition, (3) a medication plan, (4) a target intra-  
11 ocular pressure, (5) periodic review of the patient’s progress and (6) cri-  
12 teria for referral of the patient to an ophthalmologist for additional treat-  
13 ment or surgical intervention, except that any co-management plan may  
14 be modified only with the consent of both the ophthalmologist and the  
15 optometrist and the modification noted in writing on the patient’s record.

16 (s) “Co-management period” means that period of time during which  
17 an optometrist co-manages patients either suspected of having or diag-  
18 nosed as having adult open-angle glaucoma with an ophthalmologist.

19 (t) “Ophthalmologist” means a person licensed to practice medicine  
20 and surgery by the state board of healing arts who specializes in the di-  
21 agnosis and medical and surgical treatment of diseases and defects of the  
22 human eye and related structures.

23 (u) “Low vision rehabilitation services” means the evaluation, diag-  
24 nosis, management and care of the low vision patient including low vision  
25 rehabilitation therapy, education and interdisciplinary consultation under  
26 the direction and supervision of an ophthalmologist or optometrist.

27 (v) “Oral drugs” means oral antibacterial drugs, oral antiviral drugs,  
28 oral antihistamines, oral analgesic drugs, oral steroids, oral antiglaucoma  
29 drugs and other oral drugs with clinically accepted ocular uses.

30 (w) “Nonprofit low vision rehabilitation center” means any nonprofit  
31 corporation: (1) Which is tax exempt pursuant to section 501 (c)(3) of the  
32 federal internal revenue code of 1986, and amendments thereto, and (2)  
33 provides low vision rehabilitation services as defined in subsection (u).

34 Sec. 2. K.S.A. 65-1502 is hereby amended to read as follows: 65-  
35 1502. (a) Except as provided in K.S.A. 65-1508, and amendments thereto,  
36 a person shall be deemed to be practicing optometry within the meaning  
37 of the optometry law if such person in any manner:

38 (1) Holds oneself out to the public as being engaged in or who main-  
39 tains an office for the practice of optometry as defined in K.S.A. 65-1501,  
40 and amendments thereto;

41 (2) makes a test or examination of the eye or eyes of another to  
42 ascertain the refractive, the muscular or the pathological condition  
43 thereof;

1 (3) adapts lenses to the human eye for any purpose, either directly  
2 or indirectly; or

3 (4) conducts or performs orthoptic exercises or visual training therapy  
4 for the correction, remedy or relief of any insufficiencies or abnormal  
5 conditions of the eyes.

6 (b) “Maintains an office for the practice of optometry” for the pur-  
7 poses of this section and the optometry law means:

8 (1) To directly or indirectly control or attempt to control the profes-  
9 sional judgment or the practice of a licensee; or

10 (2) to bear any of the expenses of or to have, own or acquire any  
11 interest in the practice, books, records, files or materials of a licensee.

12 (c) Nothing herein contained shall be construed to prohibit a licensee  
13 from entering into leases, agreements, mortgages or other types of debt  
14 instruments not in violation of this section or any other section of the  
15 optometry law *or from practicing optometry as an agent or employee of*  
16 *any nonprofit low vision rehabilitation center.*

17 Sec. 3. K.S.A. 65-1522 is hereby amended to read as follows: 65-  
18 1522. (a) A licensee may practice optometry under the name of a profes-  
19 sional corporation, authorized by K.S.A. 17-2706, and amendments  
20 thereto or a limited liability company authorized by K.S.A. 2002 Supp.  
21 17-7668, and amendments thereto. Such professional corporate name or  
22 limited liability company name may contain a trade name or assumed  
23 name approved by the board.

24 (b) A licensee may practice as a sole practitioner or may associate  
25 with other licensees or health care providers licensed under the laws of  
26 the state of Kansas and may practice optometry as a sole practitioner or  
27 in such associations under a trade or assumed name approved by the  
28 board.

29 (c) A licensee may practice in a medical facility, medical care facility,  
30 *a nonprofit low vision rehabilitation center* or a governmental institution  
31 or agency.

32 (d) A licensee shall not be limited in the number of locations from  
33 which the licensee may engage in the practice of optometry pursuant to  
34 subsections (a), (b) and (c).

35 (e) In all office locations a licensee shall:

36 (1) Provide adequate staff during the hours of its operation and shall  
37 provide the necessary optometric equipment to enable a licensee to pro-  
38 vide adequate optometric care on the premises; and

39 (2) provide that there shall be present at the office location a person  
40 licensed by optometry law when optometric practice acts requiring a li-  
41 cense are performed at the office location.

42 (f) Nothing herein contained shall be construed to permit the fran-  
43 chised practice of optometry except that a licensee may purchase a fran-

1 chise to engage in the business of optical dispensing separate and apart  
2 from any of the licensee's offices for the practice of optometry so long as  
3 the terms of the franchise agreement do not violate the optometry law.

4 Sec. 4. K.S.A. 65-1524 is hereby amended to read as follows: 65-  
5 1524. *Other than a nonprofit low vision rehabilitation center*, nothing  
6 contained herein shall be construed to allow a corporation except as pro-  
7 vided in K.S.A. 17-2706, and amendments thereto, or a limited liability  
8 company except as provided in K.S.A. ~~2002 Supp.~~ 17-7668, and amend-  
9 ments thereto, to practice, offer, or undertake to practice or hold itself  
10 out as practicing optometry.

11 Sec. 5. K.S.A. 65-1502, 65-1522 and 65-1524 and K.S.A. 2007 Supp.  
12 65-1501a are hereby repealed.

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