

SENATE BILL No. 490

By Committee on Public Health and Welfare

2-8

1 AN ACT concerning health professions and practices; related to
2 optometry; modifying certain provisions of the optometry law related to
3 scope of practice, definitions and credentialing requirements; amending
4 K.S.A. 65-1501, 65-1501a, 65-1509a, 65-1512 and 74-1504 and
5 repealing the existing sections; also repealing K.S.A. 65-1514 and 74-
6 1505.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 65-1501 is hereby amended to read as follows: 65-
10 1501. (a) The practice of optometry means:

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

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

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

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

36 (5) *the performance of additional procedures that are not otherwise*

1 *prohibited by subsection (b) that are within the scope of a licensee's*
2 *education and training and authorized pursuant to rules and regulations*
3 *adopted by the board.*

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

24 (c) A licensee shall be held to a standard of care in the diagnosis and
25 treatment of ~~adult open-angle glaucoma~~ *ocular conditions and*
26 *insufficiencies or abnormal conditions of the human eye and its adnexa*
27 *commensurate to with that of a person licensed to practice medicine and*
28 *surgery, who exercises that degree of skill and proficiency commonly*
29 *exercised by an ordinary, skillful, careful and prudent person licensed to*
30 *practice medicine and surgery.*

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

40 Sec. 2. K.S.A. 65-1501a is hereby amended to read as follows: 65-
41 1501a. ~~For the purposes of this act the following terms shall have the~~
42 ~~meanings respectively ascribed to them~~ *As used in the optometry law,*
43 *unless the context requires otherwise:*

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

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

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

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

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

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

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

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

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

40 (†)(i) "False advertisement" means any advertisement ~~which~~ that is
41 false, misleading or deceptive in a material respect. In determining
42 whether any advertisement is misleading, there shall be taken into account
43 not only representations made or suggested by statement, word, design,

1 device, sound or any combination thereof, but also the extent to which the
 2 advertisement fails to reveal facts material in the light of such
 3 representations made.

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

8 ~~(l)~~(k) "~~Health care~~Healthcare provider" ~~shall have the meaning~~
 9 ~~ascribed to that term~~ means the same as defined in subsection (f) of K.S.A.
 10 40-3401(f), and amendments thereto.

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

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

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

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

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

28 Sec. 3. K.S.A. 65-1509a is hereby amended to read as follows: 65-
 29 1509a. (a) In addition to the payment of the license renewal fee, each
 30 licensee applying for license renewal shall furnish to the secretary of the
 31 board satisfactory evidence of successfully completing a minimum of 24
 32 hours of continuing education annually, five hours of which shall relate to
 33 ocular pharmacology, therapeutics or related topics of study, approved by
 34 the board in the year just preceding such application for the renewal of the
 35 license. The board, in its discretion, may increase the required hours of
 36 continuing education by rules and regulations adopted by the board. On or
 37 before April 1 of each year, the secretary of the board shall send a written
 38 notice of continuing education requirements to this effect to every person
 39 holding a valid license to practice optometry within the state as provided
 40 in ~~subsection (a) of K.S.A. 65-1509(a), and amendments thereto.~~

41 (b) *The board shall establish credentialing requirements for a*
 42 *licensee to administer or perform the procedures described in K.S.A. 65-*
 43 *1501(a)(4), and amendments thereto.*

1 Sec. 4. K.S.A. 65-1512 is hereby amended to read as follows: 65-
2 1512. ~~This act~~ *The provisions of article 15 of chapter 65 of the Kansas*
3 *Statutes Annotated, and amendments thereto,* shall be known and may be
4 cited as the optometry law.

5 Sec. 5. K.S.A. 74-1504 is hereby amended to read as follows: 74-
6 1504. (a) The board shall administer and enforce the provisions of the
7 optometry law, and the board is hereby granted such specific powers as are
8 necessary for the purpose of administering and enforcing such law. In
9 addition, the board may:

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

14 (2) Make all necessary disbursements; to carry out the provisions of
15 this act, including payment for stationery supplies, ~~acquire and acquiring~~
16 all necessary optical instruments to be used in the conducting of
17 examination, ~~print and distribute to all optometrists in the state a yearbook~~
18 ~~of the names and addresses of all optometrists licensed by the board~~
19 *maintain and make available to the public a directory including the names*
20 *and addresses of all optometrists licensed by the board.*

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

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

26 (5) Issue subpoenas, compel the attendance of witnesses and the
27 production of any papers, books, accounts, documents and testimony, and
28 to cause the deposition of witnesses, either residing within or without the
29 state, to be taken in the manner prescribed by law for taking depositions
30 in civil actions in the district courts. In case of disobedience on the part of
31 any person to comply with any subpoena issued in behalf of the board, or
32 on the refusal of any witness to testify to any matters regarding which such
33 witness may be lawfully interrogated, the judge of the district court of any
34 county, on application of a member of the board, may compel obedience
35 by proceedings for contempt, as in the case of disobedience of the
36 requirements of a subpoena issued from such court or a refusal to testify in
37 such court. Each witness who appears before the board by the board's
38 order or subpoena, other than a state officer or employee, shall receive for
39 attendance the fees and mileage provided for witnesses in civil cases in
40 courts of record ~~which that~~ shall be audited and paid upon the presentation
41 of proper vouchers sworn to by such witnesses and approved by the
42 president and secretary-treasurer of the board.

43 (6) Adopt rules and regulations for the procedure and conduct of the

1 board and for the administration of the optometry law, ~~which rules and~~
2 ~~regulations shall that are not be inconsistent~~ consistent with the provisions
3 of the optometry law.

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

10 (c) The board shall preserve an accurate record of all meetings and
11 proceedings of the board including receipts and disbursements with
12 vouchers therefor and complete minutes of all prosecutions and violations
13 of the optometry law and of examinations held under the provisions of the
14 optometry law and an accurate inventory of all property of the board. All
15 such records shall be kept in the office of the board and made accessible to
16 the public.

17 Sec. 6. K.S.A. 65-1501, 65-1501a, 65-1509a, 65-1512, 65-1514, 74-
18 1504 and 74-1505 are hereby repealed.

19 Sec. 7. This act shall take effect and be in force from and after its
20 publication in the statute book.