

## HOUSE BILL No. 2779

By Committee on Health and Human Services

Requested by Representative Buehler on behalf of the Kansas Optometric Association

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*

1 *peripheral iridotomy; and*

2 *(5) the performance of additional procedures that are not otherwise*  
 3 *prohibited by subsection (b) that are within the scope of a licensee's*  
 4 *education and training and authorized pursuant to rules and regulations*  
 5 *adopted by the board.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (†)(i) "False advertisement" means any advertisement ~~which~~ that is  
43 false, misleading or deceptive in a material respect. In determining

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

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

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

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

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

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

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

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

43 (b) *The board shall establish credentialing requirements for a*

1 licensee to administer or perform the procedures described in K.S.A. 65-  
2 1501(a)(4), and amendments thereto.

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

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

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

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

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

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

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

1 president and secretary-treasurer of the board.

2 (6) Adopt rules and regulations for the procedure and conduct of the  
3 board and for the administration of the optometry law, ~~which rules and~~  
4 ~~regulations shall not be inconsistent~~ *that are consistent* with the provisions  
5 of the optometry law.

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

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

19 Sec. 6. K.S.A. 65-1501, 65-1501a, 65-1509a, 65-1512, 65-1514, 74-  
20 1504 and 74-1505 are hereby repealed.

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