

ASSEMBLY BILL NO. 188—COMMITTEE
ON COMMERCE AND LABOR

MARCH 1, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the practice of optometry. (BDR 54-734)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to optometry; revising provisions governing the practice of optometry; revising provisions relating to accreditation by the Nevada State Board of Optometry of schools of optometry; revising provisions relating to the suspension of licenses of certain licensees; authorizing the Board to impose administrative fines for certain violations by any person; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law defines the scope of the practice of optometry. (NRS 636.025)
- 2 **Section 4** of this bill provides that the measurement of the powers or range of
- 3 human vision by any means, including, without limitation, the use of an
- 4 autorefractor or other automated testing device, is within the scope of the practice
- 5 of optometry.
- 6 Existing law requires the Nevada State Board of Optometry to accredit schools
- 7 of optometry. **Section 5** of this bill authorizes the Board to adopt regulations which
- 8 provide that a school may satisfy the criteria for accreditation if the school is
- 9 accredited by a nationally recognized accrediting agency or organization.
- 10 Existing law requires each applicant for a license to practice optometry in this
- 11 State to file proof that he or she has graduated from a school of optometry
- 12 accredited by an established professional agency and the Board. (NRS 636.155)
- 13 **Section 7** of this bill requires each applicant to file proof that he or she has
- 14 graduated from a school of optometry accredited by the Board pursuant to
- 15 **section 5**.
- 16 Existing law provides that, upon payment of the prescribed fee, the Executive
- 17 Director of the Board is required to issue and deliver a license to the licensee.
- 18 (NRS 636.220) **Section 10** of this bill specifies that the Executive Director must



19 only issue and deliver a license to the licensee if the licensee has also met the other
20 requirements for obtaining a license.

21 Existing law provides that failure to comply with the provisions governing the
22 annual renewal of a license to practice optometry will result in the suspension of
23 the license. (NRS 636.270) **Sections 11 and 13** of this bill provide for the
24 retirement of a license to practice optometry and the restoration of a retired license
25 under certain circumstances. **Section 12** of this bill authorizes the Board to indicate
26 in its records that a license has been suspended because of the death of the licensee.

27 Existing law authorizes the Board to assess an administrative fine against any
28 licensed optometrist who violates any provision of existing law, or any regulation
29 of the Board, relating to the practice of optometry. **Section 15** of this bill authorizes
30 the Board to assess such administrative fines regardless of whether the person is a
31 licensed optometrist.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 636.016 is hereby amended to read as follows:

2 636.016 "Advertise" means the commercial use of any
3 medium, including, ~~{but not limited to, the}~~ *without limitation,*
4 radio, ~~{or}~~ television, ~~{for a newspaper, magazine, sign}~~ *newspapers,*
5 *magazines, signs* or *any* other printed ~~{matter,}~~ *or electronic*
6 *medium,* by an optometrist to bring the services or materials offered
7 by the optometrist to the attention of members of the general public.

8 **Sec. 2.** NRS 636.018 is hereby amended to read as follows:

9 636.018 "Contact lens" means an ophthalmic lens prescribed
10 for application on the anterior surface of the eye ~~{}~~ *and includes*
11 *decorative and cosmetic contact lenses.*

12 **Sec. 3.** NRS 636.019 is hereby amended to read as follows:

13 636.019 "Diagnostic pharmaceutical agents" means ~~{topical~~
14 ~~ophthalmic anesthetics and topical cycloplegics, miotics and~~
15 ~~mydriatics.}~~ *any agents used to examine and diagnose conditions*
16 *of the eye.*

17 **Sec. 4.** NRS 636.025 is hereby amended to read as follows:

18 636.025 1. The acts set forth in this section, or any of them,
19 whether done severally, collectively or in combination with other
20 acts that are not set forth in this section constitute practice in
21 optometry within the purview of this chapter:

22 (a) Advertisement or representation as an optometrist.

23 (b) Adapting, or prescribing or dispensing, without prescription
24 by a practitioner of optometry or medicine licensed in this State, any
25 ophthalmic lens, frame or mounting, or any part thereof, for
26 correction, relief or remedy of any abnormal condition or
27 insufficiency of the eye or any appendage or visual process. The
28 provisions of this paragraph do not prevent an optical mechanic
29 from doing the mere mechanical work of replacement or duplication



1 of the ophthalmic lens or prevent a licensed dispensing optician
2 from engaging in the practice of ophthalmic dispensing.

3 (c) The examination of the human eye and its appendages, the
4 measurement of the powers or range of human vision ~~§~~ **by any**
5 **means, including, without limitation, the use of an autorefractor**
6 **or other automated testing device**, the determination of the
7 accommodative and refractive states of the eye or the scope of its
8 function in general, or the diagnosis or determination of any visual,
9 muscular, neurological, interpretative or anatomic anomalies or
10 deficiencies of the eye or its appendages or visual processes.

11 (d) Prescribing, directing the use of or using any optical device
12 in connection with ocular exercises, orthoptics or visual training.

13 (e) The prescribing of contact lenses.

14 (f) The measurement, fitting or adaptation of contact lenses to
15 the human eye except under the direction and supervision of a
16 physician, surgeon or optometrist licensed in the State of Nevada.

17 (g) The topical use of diagnostic pharmaceutical agents to
18 determine any visual, muscular, neurological, interpretative or
19 anatomic anomalies or deficiencies of the eye or its appendages or
20 visual processes.

21 (h) Prescribing, directing the use of or using a therapeutic
22 pharmaceutical agent to treat an abnormality of the eye or its
23 appendages.

24 (i) Removing a foreign object from the surface or epithelium of
25 the eye.

26 (j) The ordering of laboratory tests to assist in the diagnosis of
27 an abnormality of the eye or its appendages.

28 2. The provisions of this section do not authorize an
29 optometrist to engage in any practice which includes:

30 (a) The incision or suturing of the eye or its appendages; or

31 (b) The use of lasers for surgical purposes.

32 **Sec. 5.** NRS 636.135 is hereby amended to read as follows:

33 636.135 The Board ~~shall~~ :

34 **1. Shall** accredit schools in and out of this State teaching the
35 science and art of optometry which it finds are giving a sufficient
36 and thorough course of study for the preparation of optometrists ~~§~~ ;
37 **and**

38 **2. May adopt regulations which provide that the findings**
39 **required by subsection 1 may be satisfied if a school is accredited**
40 **by a nationally recognized accrediting agency or organization.**

41 **Sec. 6.** NRS 636.150 is hereby amended to read as follows:

42 636.150 Any person applying for a license to practice
43 optometry in this State must:

44 1. File proof of his or her qualifications;

45 2. Make application for an examination;



1 3. Take and pass the examination ~~{}~~ *administered by the*
2 *Board or the testing agency that has been designated by the Board*
3 *to conduct its examinations;*

4 4. Pay the prescribed fees; and

5 5. Verify that all the information he or she has provided to the
6 Board or to any other entity pursuant to the provisions of this
7 chapter is true and correct.

8 **Sec. 7.** NRS 636.155 is hereby amended to read as follows:

9 636.155 An applicant must file with the Executive Director
10 satisfactory proof that the applicant:

11 1. Is at least 21 years of age;

12 2. Is a citizen of the United States or is lawfully entitled to
13 reside and work in this country;

14 3. Is of good moral character;

15 4. Has been certified or recertified as completing a course of
16 cardiopulmonary resuscitation within the 12-month period
17 immediately preceding the examination for licensure; and

18 5. Has graduated from a school of optometry accredited by ~~{the~~
19 ~~established professional agency and}~~ the Board ~~{, maintaining a~~
20 ~~standard of 6 college years, and including, as a prerequisite to~~
21 ~~admission to the courses in optometry, at least 2 academic years of~~
22 ~~study in a college of arts and sciences accredited by the Association~~
23 ~~of American Universities or a similar regional accrediting agency.}~~
24 *pursuant to NRS 636.135.*

25 **Sec. 8.** NRS 636.170 is hereby amended to read as follows:

26 636.170 1. The Board *or the testing agency that has been*
27 *designated by the Board to conduct its examinations* shall ~~{~~

28 ~~—1.— Conduct}~~ *conduct* a regular annual examination, and may
29 conduct a special examination when ~~{the}~~ *the Board* deems that
30 circumstances warrant such examination.

31 2. ~~{Fix}~~ *The Board shall fix* and announce the time and place
32 of any examination at least 30 days ~~{prior to}~~ *before* the day ~~{when}~~
33 *on which* it is to be commenced.

34 **Sec. 9.** NRS 636.190 is hereby amended to read as follows:

35 636.190 Except as otherwise provided in NRS 622.090, a grade
36 of 75 or higher for each area tested on the examination is required to
37 pass an examination ~~{}~~ *administered by the Board or the testing*
38 *agency that has been designated by the Board to conduct its*
39 *examinations.*

40 **Sec. 10.** NRS 636.220 is hereby amended to read as follows:

41 636.220 The ~~{license must be issued and delivered by the}~~
42 Executive Director *shall issue a license* to *an applicant who*
43 *satisfies* the ~~{licensee upon payment to the Executive Director of the~~
44 ~~prescribed fee.}~~ *requirements of NRS 636.150.*



1 **Sec. 11.** NRS 636.260 is hereby amended to read as follows:
2 636.260 1. *Except as otherwise provided in subsection 2:*

3 (a) Before March 1 of each year, each licensee shall pay a
4 renewal fee to the Executive Director in the amount specified in
5 NRS 636.143. For the purposes of this ~~subsection,~~ *paragraph*, the
6 date of the postmark on any payment received by mail shall be
7 deemed to be the date of receipt by the Executive Director.

8 ~~12-~~ (b) The renewal fee must be accompanied by satisfactory
9 evidence that the licensee has, within the immediately preceding
10 12-month period, completed the required number of hours in a
11 course or courses of continuing education that have been approved
12 by the Board. This evidence must be indicated on the form for proof
13 of completion of continuing education that is furnished by the
14 Board. The Board shall not require a licensee to complete more than
15 24 hours of continuing education during each year. The Board may
16 waive the requirement that a licensee complete all or part of the
17 required number of hours of continuing education upon good cause
18 shown by the licensee.

19 ~~13-~~ (c) A licensee who is certified to administer and prescribe
20 therapeutic pharmaceutical agents pursuant to NRS 636.288 must, at
21 the time of paying the renewal fee, present evidence satisfactory to
22 the Executive Director that, during the 12 months immediately
23 preceding the payment of the renewal fee, the licensee completed an
24 educational or postgraduate program approved by the Board. The
25 Board shall establish the number of hours for completion of the
26 program which must be not less than 30 hours nor more than
27 50 hours.

28 2. *A licensee is not required to pay the renewal fee or*
29 *complete the hours of continuing education required by subsection*
30 *1 if the licensee indicates, on a form prescribed by the Board, that*
31 *he or she is retired from the practice of optometry in this State and*
32 *requests that the Board retire his or her license. A licensee whose*
33 *license is retired pursuant to this subsection shall not practice*
34 *optometry in this State unless his or her license is restored in the*
35 *manner specified in NRS 636.275.*

36 **Sec. 12.** NRS 636.270 is hereby amended to read as follows:

37 636.270 ~~11-~~ 1. *Except as otherwise provided in subsection*
38 *2, if a licensee fails to comply with the provisions of NRS 636.260*
39 *on or before the prescribed date, the license must be suspended*
40 *effective March 1, and must remain suspended until it is restored in*
41 *the manner specified in NRS 636.275.*

42 2. *If a licensee does not comply with the provisions of NRS*
43 *636.260 because the licensee is deceased, the Board may indicate*
44 *in its records that the license is suspended because of the death of*
45 *the licensee.*



1 **Sec. 13.** NRS 636.275 is hereby amended to read as follows:

2 636.275 1. A license which has been suspended for failure of
3 the licensee to pay the annual renewal fee or to submit all
4 information required to complete the renewal may be restored at any
5 time during the calendar year upon the licensee:

6 (a) Paying the annual fee;

7 (b) Paying the Executive Director a nonrenewal penalty in the
8 amount prescribed by NRS 636.285; and

9 (c) Submitting all required information.

10 2. A license which has been suspended for failure of the
11 licensee to submit evidence of completion of the required number of
12 hours of continuing education may be restored upon the licensee
13 completing the continuing education, if such completion occurs
14 during the calendar year in which the suspension has occurred.

15 3. Any license suspended pursuant to the provisions of NRS
16 636.270 must be revoked at the end of the calendar year during
17 which it was suspended unless the license is restored pursuant to
18 subsection 1 or 2.

19 *4. A license which has been retired pursuant to subsection 2*
20 *of NRS 636.260 may be restored at any time upon:*

21 *(a) Approval by the Board of a written request for restoration*
22 *of the license submitted by the licensee;*

23 *(b) Payment by the licensee of the annual fee;*

24 *(c) Submission by the licensee of all required information; and*

25 *(d) Completion by the licensee of the number of hours of*
26 *continuing education as may be required by the Board as a*
27 *condition of restoration of the retired license.*

28 **Sec. 14.** NRS 636.382 is hereby amended to read as follows:

29 636.382 1. No licensed optometrist may administer ~~topical~~
30 ~~ophthalmic~~ *diagnostic* pharmaceutical agents unless the optometrist
31 has received certification from the Board authorizing him or her to
32 do so.

33 2. The Board shall adopt regulations prescribing the
34 ~~diagnostic uses to which the agents enumerated in subsection 3~~
35 ~~may be put, the manner in which such agents may be used, and the~~
36 qualifications and requirements for such certification which must
37 include:

38 (a) A valid license to practice optometry in this State;

39 (b) Satisfactory completion of a curriculum approved by the
40 Board, which must include general and ocular pharmacology, at an
41 institution approved by the Board and accredited by a regional or
42 professional accrediting organization and recognized or approved by
43 the Council ~~on Post-Secondary~~ *for Higher Education*
44 Accreditation, the Northwest Accreditation ~~Association~~
45 *Commission* or the United States Department of Education; and



1 (c) Successful completion of an appropriate examination
2 approved and administered by the Board ~~†~~
3 ~~3. The following topical ophthalmic pharmaceutical agents~~
4 ~~may be used for diagnostic purposes by an optometrist who has been~~
5 ~~authorized by the Board to do so:~~
6 ~~(a) Mydriatics;~~
7 ~~(b) Cycloplegics;~~
8 ~~(c) Topical anesthetics; and~~
9 ~~(d) Miotics.]~~ *or the testing agency that has been designated by*
10 *the Board to conduct its examinations.*

11 **Sec. 15.** NRS 636.420 is hereby amended to read as follows:
12 636.420 Any person ~~licensed under this chapter~~ who violates
13 any provision of this chapter or any regulation of the Board relating
14 to the practice of optometry is liable to the Board for an
15 administrative fine of not less than \$100 or more than \$5,000.

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