

HOUSE BILL NO. HB0126

Board of examiners in optometry.

Sponsored by: Representative(s) Olsen, Harvey, Iekel and
Wasserburger and Senator(s) Barrasso, Boggs
and Case

A BILL

for

1 AN ACT relating to the board of examiners in optometry;
2 amending definitions; providing for licensure of
3 optometrists; providing authority to practice during an
4 externship; providing for staggered terms for board
5 members; providing for annual election of officers;
6 providing for compensation for board members; providing for
7 background checks; providing for reciprocal licensure of
8 optometrists; providing for disciplinary proceedings for
9 optometrists; and providing for an effective date.

10

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

12

13 **Section 1.** W.S. 7-19-201(a), 33-23-101, 33-23-102,
14 33-23-103(a) and by creating a new subsection (c),
15 33-23-104, 33-23-105, 33-23-106(a), 33-23-109,
16 33-23-110(a), (b)(intro), (v), (vii), (ix) and (c),

1 33-23-111(a), (b)(i) and (iv), 33-23-113, 33-23-114,
2 33-23-115(a) and (b) and 33-23-116 are amended to read:

3

4 **7-19-201. State or national criminal history record**
5 **information.**

6

7 (a) Employees of substitute care providers certified
8 by the department of family services pursuant to W.S.
9 14-4-101 through 14-4-116 or state institution, department
10 of family services or department of health employees who
11 may have access to minors, to persons suffering mental
12 illness or developmental disabilities or to the elderly
13 shall be required to submit to fingerprinting for the
14 purpose of obtaining state and national criminal history
15 record information before employment or transfer to a
16 position where access is acquired. On and after July 1,
17 1996, applicants for initial certification by the
18 professional teaching standards board and employees
19 initially hired by a school district on or after July 1,
20 1996, who may have access to minors in the course of their
21 employment shall be required to submit to fingerprinting
22 for the same purposes. In order to determine an applicant's
23 eligibility, all persons applying for licensure to the
24 Wyoming Board of Examiners for Optometry on or after July

1 1, 2005, shall be required to submit to fingerprinting for
2 the purpose of obtaining state and national criminal
3 history record information. For purposes of this article,
4 department of health or department of family services
5 contractors providing specialized home care or respite care
6 to minors shall be considered departmental employees.

7
8 **33-23-101. Definitions and exceptions.**

9
10 (a) As used in this act:

11
12 (i) "Board" means the Wyoming state board of
13 examiners in optometry;

14
15 (ii) "License" means a current license to
16 practice optometry in this state issued by the board;

17
18 (iii) "Licensee" means a person licensed by the
19 board under this act;

20
21 (iv) "Optometrist" or "doctor of optometry"
22 means a person licensed by the board under this act;

23

1 (v) "Physician" means a person holding a valid
2 license issued by the Wyoming state board of medicine under
3 the Medical Practice Act;

4
5 (vi) "Controlled substance" means any drug,
6 substance or immediate precursor listed in schedules I
7 through V of article III of the Wyoming Controlled
8 Substances Act of 1971;

9
10 (vii) "Ophthalmic lenses" means any type of
11 spectacle or contact lenses;

12
13 (viii) "Contact lenses" shall include contact
14 lenses with or without power;

15
16 ~~(vii)~~ (ix) "This act" means W.S. 33-23-101
17 through 33-23-117.

18
19 ~~(a)~~ (b) The practice of optometry is the employment of
20 any means other than the use of therapeutic lasers or
21 surgery for diagnosing and treating ocular pathology and
22 for the measurement of the powers or range of human vision
23 or the determination of the accommodative and refractive
24 status of the human eye or the scope of its functions in

1 general or the adaptation of lenses or frames for the aid
2 thereof.

3
4 ~~(b)~~ (c) The provisions of this chapter do not prevent
5 a ~~duly licensed physician and surgeon,~~ physician from
6 treating or fitting glasses to the human eye, or a ~~duly~~
7 ~~licensed physician and surgeon, oculist, or~~ physician or
8 optometrist from filling prescriptions or orders. 7 Nor do
9 ~~they~~ the provisions of this chapter prevent the replacing,
10 duplicating or repairing of ophthalmic lenses or the frames
11 or fittings thereof by persons qualified to write or fill
12 prescriptions or orders under the provisions of this act,
13 nor prevent the doing of the merely mechanical work upon
14 such lenses or upon the frames or fittings thereof. ~~by an~~
15 ~~optical mechanic.~~

16
17 ~~(e)~~ (d) It is unlawful for any person to dispense,
18 replace or duplicate ~~an ophthalmic lens or~~ ophthalmic
19 lenses or any contact lenses without a prescription or
20 order from a ~~duly licensed physician and surgeon, oculist~~
21 or optometrist. ~~Contact lenses may be sold or dispensed in~~
22 ~~a retail optical dispensary or other permanently~~
23 ~~established place of business with an optical department~~
24 ~~only when the prescription specifically states on its face~~

1 ~~that it is intended for contact lenses and includes the~~
2 ~~type and specification of the contact lens being prescribed~~
3 A contact lens prescription shall specifically state that
4 it is intended for contact lenses and include the type and
5 specification of the contact lenses being prescribed. An
6 optometrist shall provide, at no additional cost ~~if~~
7 ~~requested by a~~ to the patient, a written copy of his
8 contact lens prescription. The prescription shall only be
9 released after the contact lenses have been adequately
10 fitted and no more follow-up visits are necessary to assure
11 the contact lenses fit the patient. The essential
12 information necessary to duplicate the prescription shall
13 be defined by rules adopted by the board. All contact lens
14 prescriptions shall have an expiration date after which it
15 shall be unlawful to fill such prescription. The
16 prescribing optometrist shall not be liable for any injury
17 or condition to a patient resulting from negligence in
18 packaging, manufacturing or dispensing lenses by anyone
19 other than the prescribing optometrist. Any person may file
20 a complaint with the board seeking disciplinary action
21 concerning any violation of this subsection. The board
22 shall investigate or cause to be investigated and shall
23 resolve a complaint on its own motion or upon receipt of a
24 written complaint as provided by W.S. 33-23-110. No person

1 shall improperly fill a contact lens prescription or fill
2 an expired prescription.

3

4 ~~(d)~~(e) The provisions of this chapter do not prohibit
5 the sale of goggles, sunglasses, colored glasses or
6 occupational eye-protective devices if they do not have
7 refractive values, nor do the provisions of this act
8 prohibit the sale of complete ready-to-wear eyeglasses as
9 merchandise by any person not holding himself out as
10 competent to examine, test or prescribe for the human eye
11 or its refractive errors.

12

13 ~~(e)~~(f) Nothing in ~~W.S. 33-23-101 through 33-23-117~~
14 this act shall prevent an optometrist from using assistants
15 in his practice under his ~~direct personal~~general
16 supervision ~~in the office in which the optometrist~~
17 ~~practices his profession~~as defined in board rule.

18

19 **33-23-102. Optometrist's use of certain drugs;**
20 **limitation.**

21

22 An optometrist ~~licensed according to the statutes of the~~
23 ~~state of Wyoming~~ shall be allowed to administer and
24 prescribe pharmaceutical agents related to the practice of

1 optometry, excluding the following categories of oral
2 medications: immunosuppressives, steroids, anti-fungals,
3 sedative-hypnotics, and schedule I and II narcotics. No
4 medication shall be given by injection. Oral anti-glaucoma
5 medications may be administered for a period not to exceed
6 forty-eight (48) hours. ~~A licensed~~ An optometrist who
7 administers or prescribes pharmaceutical agents for
8 examination or for treatment shall provide the same
9 standard of care to patients as that provided by a
10 physician ~~licensed in this state~~ utilizing the same
11 pharmaceutical agents for examination or treatment.

12

13 **33-23-103. License required; civil suit; damages.**

14

15 (a) It is unlawful for any person in the state of
16 Wyoming to practice or attempt to practice optometry or to
17 advertise, or hold himself out as qualified to fit or
18 adjust any lenses or lens in any manner or form as an aid
19 to human eyesight, without first obtaining a ~~certificate~~
20 license to practice optometry.

21

22 (c) A person who is attending an optometry school
23 accredited by a regional or professional accreditation
24 organization which is recognized or approved by the United

1 States Department of Education (USDE) or the Council on
2 Higher Education Accreditation (CHEA), or their successor
3 agencies, may practice optometry while doing an externship
4 for said school under the direct supervision of an
5 optometrist or physician licensed in this state.

6
7 **33-23-104. Board of examiners in optometry; created;**
8 **composition; designation; duties generally; appointment;**
9 **qualifications and terms of members; vacancies; oath.**

10
11 The Wyoming state board of examiners in optometry is
12 created to carry out the purposes and enforce the
13 provisions of this act. The board shall consist of three
14 (3) members appointed by the governor. In 2005, one (1)
15 board member shall be appointed for a term of three (3)
16 years, one (1) board member shall be appointed for a term
17 of two (2) years- and one (1) board member shall be
18 appointed for a term of one (1) year. Thereafter, the
19 terms of the office of the members appointed shall be three
20 (3) years or until their successors have qualified. Each
21 member of the board shall be a resident of the state of
22 Wyoming and shall have been engaged in the actual practice
23 of optometry in the state for at least one (1) year prior
24 to appointment. The governor shall make all appointments to

1 fill vacancies caused by death, resignation or removal.
2 The governor may remove any member as provided in W.S.
3 9-1-202. The members of the board, before entering upon
4 their duties, shall take and subscribe to the oath required
5 to be taken by state officers and shall file the oath in
6 the office of the secretary of state.

7

8 **33-23-105. Board of examiners in optometry; officers;**
9 **powers of members; meetings; quorum; records.**

10

11 ~~Said~~ The board shall ~~choose at its first meeting, and~~
12 annually ~~thereafter, one (1) of its members as president,~~
13 ~~and one (1) as secretary and treasurer thereof~~ elect
14 officers. Each member of the board shall have the power,
15 during his term of office to administer oaths and take
16 affidavits, certifying thereto under his hand and seal
17 provided and kept by the board. ~~Said~~ The board shall meet
18 at least once in each year, for the purpose of holding an
19 examination, and in addition thereto, ~~whenever and wherever~~
20 ~~the president or secretary, by order of the president,~~
21 ~~shall call a meeting~~ upon the call of the president or
22 request of a majority of its members. A majority of ~~said~~
23 the board shall constitute a quorum. The secretary shall
24 keep a complete record of the proceedings of the board,

1 which record shall be open to public inspection at all
2 reasonable times.

3

4 **33-23-106. Board of examiners in optometry; per diem**
5 **and expenses of members; disposition of funds.**

6

7 (a) Each member of the board may receive as
8 compensation ~~ten dollars (\$10.00) for each day actually~~
9 ~~engaged in the duties of his office, and per diem and~~
10 ~~mileage as is allowed state officers~~ the sum paid each day
11 to members of the state legislature for each day spent in
12 board meetings and per diem and mileage as is paid state
13 employees. Expenses shall be paid from the fees, fines and
14 assessments received under the provisions of this act. All
15 fees, fines, assessments and other ~~moneys~~ monies received
16 under the provisions of this act, may be used for meeting
17 the expenses of the board and in carrying out the
18 provisions of this act. In no event shall any expenses be
19 charged against the state.

20

21 **33-23-109. Examinations required of applicants for**
22 **licensure; qualifications; existing practitioners, passing**
23 **grade; reexamination; fees; renewal of license; retirement.**

24

1 (a) Any applicant for ~~registration~~licensure under
2 this act is required to pass ~~an~~the examination series
3 administered by the National Board of Examiners in
4 Optometry, or its successor agency, and any other
5 examination specified by the board in rule. The applicant
6 shall be a graduate of an optometric school or college
7 accredited by a regional or professional accreditation
8 organization which is recognized or approved by the council
9 on postsecondary accreditation or the United States
10 ~~Commissioner of Education maintaining not less than a four~~
11 ~~(4) year course of not less than one thousand (1,000) hours~~
12 ~~each year covering the following subjects: general anatomy,~~
13 ~~general mathematics, general optics, theoretical optometry,~~
14 ~~practical optics, hygiene, optical laboratory work, general~~
15 ~~physiology, general physics, ocular pathology, theoretical~~
16 ~~optics, practical optometry, psychology and clinical work.~~
17 ~~Anyone desiring to commence the practice of optometry after~~
18 ~~May 22, 1987 shall in addition to these requirements, have~~
19 ~~satisfactorily completed courses in general and ocular,~~
20 ~~diagnostic and therapeutic pharmacology given by an~~
21 ~~institution accredited by a regional or professional~~
22 ~~accreditation organization, which is recognized or approved~~
23 ~~by the council on postsecondary accreditation or the United~~
24 ~~States Commissioner of Education and approved by the~~

1 ~~Wyoming Board of Examiners in Optometry~~ Department of
2 Education (USDE) or the Council on Higher Education
3 Accreditation (CHEA), or their successor agencies.

4 Examinations shall cover ~~the above~~ subjects, ~~and other~~
5 ~~subjects~~ designated by the board. Any currently licensed
6 person intending to employ diagnostic or therapeutic
7 pharmaceutical agents in his practice is required to
8 complete and pass a board approved course ~~and pass the~~
9 ~~board examination~~ pertaining to the use of those agents.

10
11 (b) No applicant shall be passed by the board who
12 fails to obtain ~~an average~~ a grade of seventy-five percent
13 (75%) in every subject upon which he is examined. If any
14 applicant fails to pass any examination, he shall be
15 examined at the next or any succeeding examination only in
16 the subject in which he failed to obtain ~~an average~~ a grade
17 of eighty-five percent (85%). The applicant shall apply for
18 his ~~certificate of registration~~ license within six (6)
19 months after he has satisfactorily passed the examination
20 or the examination shall be of no effect. ~~On all~~
21 ~~certificates awarded on examination, there shall be printed~~
22 ~~or stamped the words, "Awarded on Examinations".~~ Before
23 engaging in the practice of optometry, and after the
24 ~~certificate~~ license has been delivered to him, each

1 ~~registered~~licensed optometrist shall notify ~~the secretary~~
2 ~~of~~ the board in writing of the place where he intends to
3 begin practice and of any subsequent changes of his office
4 location. Notices given to him by the board shall be given
5 by mailing to that address.

6
7 (c) In addition to subsections (a) and (b) of this
8 section, an applicant for licensure under this act shall
9 provide the board fingerprints and other information
10 necessary for a criminal history record background check as
11 provided under W.S. 7-19-201.

12
13 ~~(e)~~(d) The board of examiners, pursuant to W.S.
14 33-1-201, shall establish fees for the standard
15 examination, initial ~~registration~~license and the annual
16 renewal of the ~~certificate of registration~~license. Every
17 ~~registered~~ optometrist who desires to continue the practice
18 of optometry shall annually, on or before April 1, pay ~~to~~
19 ~~the secretary of~~ the board the required renewal fee. ~~for a~~
20 ~~renewal of his certificate. The board shall revoke the~~
21 ~~certificate of a practitioner who fails or refuses to pay~~
22 ~~the renewal registration fee. No certificate shall be~~
23 ~~revoked without giving sixty (60) days' notice to the~~
24 ~~delinquent who within such period may renew the certificate~~

1 ~~on the payment of the renewal fee, with a penalty of ten~~
2 ~~dollars (\$10.00). If an optometrist notifies the board that~~
3 ~~he is retiring from practice in Wyoming, retirement from~~
4 ~~practice for a period of not exceeding three (3) years~~
5 ~~shall not deprive the holder of the certificate of the~~
6 ~~right to renew his certificate on payment of the elapsed~~
7 ~~fees, and ten dollars (\$10.00) penalty as provided. Upon~~
8 ~~retirement from active practice, the optometrist shall~~
9 ~~notify the secretary writing.~~ A license which has expired
10 due to failure to renew may be reinstated by the board upon
11 receipt of the renewal fee and reinstatement and late fees
12 set by the board in accordance with W.S. 33-1-201 provided
13 the request for reinstatement is received in the board
14 office no later than June 30 of the year in which the
15 license expired. An optometrist who previously notified
16 the board that he had retired may renew his license by
17 submitting renewal fees for each year in which no license
18 was issued and a reinstatement fee within three (3) years
19 of the expiration date of the last license held. Upon
20 retirement from active practice, an optometrist shall
21 notify the board in writing.

22
23 (e) The board may issue a license by endorsement to
24 engage in the practice of optometry to an applicant who is

1 currently licensed in another United States or Canadian
2 jurisdiction with substantially equivalent requirements as
3 Wyoming and who meets Wyoming requirements for licensure by
4 endorsement. Applicants for licensure by endorsement shall
5 comply with standards set forth in board rules.

6
7 **33-23-110. Refusal, suspension or revocation of**
8 **license.**

9
10 (a) The board ~~of examiners in optometry shall~~ may
11 suspend, revoke or refuse to issue ~~the certificate of~~
12 ~~registration provided for in this act~~ a license to any
13 person who has been guilty of unprofessional and dishonest
14 conduct, ~~or unethical conduct,~~ conduct of a character
15 likely to deceive the public, ~~and may suspend or revoke or~~
16 ~~refuse to renew such certificate for like reasons~~ failure
17 to timely submit a renewal application.

18
19 (b) "Unprofessional and dishonest conduct" as used in
20 this act ~~is hereby declared to mean~~ means:

21
22 (v) The use of any other term by a person
23 ~~registered~~ licensed under this act except the term

1 "optometrist" or "doctor of optometry" to designate his
2 profession;

3

4 (vii) ~~Gross~~ Incompetence, ~~and~~ malpractice or
5 unethical conduct;

6

7 (ix) The board, ~~when necessary for~~
8 ~~administration of this act,~~ may clarify ~~the~~ definitions
9 stated in this ~~subparagraph (b)~~ subsection by ~~unanimous~~
10 ~~action of the board,~~ provided that the meaning and effect
11 ~~of this law shall not thereby be added to or diminished~~
12 properly promulgated rules and regulations.

13

14 (c) ~~Said board, after due notice and hearing, shall~~
15 ~~revoke the certificate issued to any optometrist whose~~
16 ~~certificate of registration was obtained or issued through~~
17 ~~error, fraud, or perjury, or who shall have been guilty of~~
18 ~~grossly unprofessional, unethical and dishonest conduct, or~~
19 ~~who shall be guilty of an offense involving moral turpitude~~
20 ~~when such offense shall have been established in a court of~~
21 ~~competent jurisdiction~~ Board disciplinary proceedings will
22 be conducted in accordance with the Wyoming Administrative
23 Procedure Act and the rules and regulations of the board.

24

1 **33-23-111. Limitation on rights conferred by license;**
2 **prohibited acts.**

3

4 (a) Nothing in this act shall be construed as
5 conferring on the holder of ~~any certificate of registration~~
6 a license issued by the board, the title "doctor of
7 medicine," ~~"oculist" or "ophthalmologist,"~~ or any other
8 word or abbreviation indicating that he is engaged in the
9 practice of medicine. ~~or surgery.~~

10

11 (b) It is unlawful:

12

13 (i) For any person to ~~canvass from house to~~
14 ~~house or at~~ approach any place of employment either in
15 person or through ~~solicitors or~~ agents for the purpose of
16 selling ~~glasses~~ ophthalmic lenses, eye ~~examination~~
17 examinations or optometric ~~service.~~ services;

18

19 (iv) For any person ~~or persons~~ not holding a
20 ~~certificate or any corporation, directly or indirectly,~~
21 license to practice optometry, ~~by employment of or contract~~
22 ~~with a person holding a certificate, or otherwise, provided~~
23 ~~that one holding a certificate may accept employment from a~~
24 ~~person, partnership, association or corporation to practice~~

1 ~~optometry with respect to the employees of such person,~~
2 ~~partnership, association or corporation~~ or any corporation
3 or other organization not wholly owned by persons holding a
4 license to practice optometry, to contract with or employ
5 an optometrist, except to practice optometry with respect
6 to employees. This ~~subsection~~ paragraph shall not be
7 construed to prohibit ~~practitioners~~ optometrists licensed
8 under this act from employing other ~~practitioners licensed~~
9 ~~under this act,~~ optometrists or from forming ~~partnerships~~
10 ~~or professional associations~~ business relationships with
11 other ~~practitioners licensed under this act~~ optometrists or
12 with other ~~licensed health care professionals whose primary~~
13 ~~objective is the diagnosis and treatment of the human body~~
14 physicians licensed to practice in this state.

15

16 **33-23-113. License to be displayed.**

17

18 Every person holding a ~~certificate~~ license to practice
19 optometry in the state of Wyoming shall display the ~~said~~
20 ~~certificate~~ license, in its entirety, in a conspicuous
21 place in his office, wherein the practice of optometry is
22 conducted. ~~He shall, also, deliver to each person fitted~~
23 ~~with glasses by him in case the work is not done in his~~
24 ~~permanent office, a receipt which shall contain his~~

1 ~~signature, the number of his certificate, and his home~~
2 ~~post office address.~~

3
4 **33-23-114. Continuing education courses required.**

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

1 education. In no instance may the board require a greater
2 number of hours of study than are available at approved
3 courses held within this state. The board may waive the
4 requirements of this section in cases of certified illness
5 or undue hardship.

6

7 **33-23-115. Penalty; injunction; civil penalty; jury**
8 **trial.**

9

10 (a) Any person who violates any provision of W.S.
11 33-23-101 through ~~33-23-116~~33-23-117 is guilty of a
12 misdemeanor and upon conviction shall be fined not more
13 than seven hundred fifty dollars (\$750.00) or imprisoned
14 not more than six (6) months in the county jail, or both.

15

16 (b) Any person aggrieved by a violation of W.S.
17 33-23-101 through ~~33-23-116~~33-23-117, the Wyoming state
18 board of examiners of optometry, the attorney general or
19 the district or county attorney may institute suit in the
20 county in which a violation of W.S. 33-23-101 through
21 ~~33-23-116~~33-23-117 occurred to require enforcement by
22 injunctive procedures and to recover a civil penalty not to
23 exceed ten thousand dollars (\$10,000.00) per violation,
24 plus costs.

1

2

33-23-116. Rules and regulations.

3

4

The board may ~~make~~ promulgate rules and regulations ~~not~~

5

~~inconsistent with law as may be reasonably necessary for~~

6

~~the proper performance of its duties~~ in accordance with the

7

Wyoming Administrative Procedure Act.

8

9

Section 2. W.S. 33-23-110(d) and (e) is repealed.

10

11

Section 3. This act is effective immediately upon

12

completion of all acts necessary for a bill to become law

13

as provided by Article 4, Section 8 of the Wyoming

14

Constitution.

15

16

(END)