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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1033

01/30/2023 Authored by Bierman, Pryor, Heintzeman, Newton, Xiong and others
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health occupations; requiring the Board of Optometry to establish the
1.3 scope of practice for optometrists; amending Minnesota Statutes 2022, sections
1.4 148.53; 148.56, subdivision 2; 148.574; repealing Minnesota Statutes 2022, section
1.5 148.56, subdivision 1.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 148.53, is amended to read:

1.8 148.53 POWERS OF BOARD.

1.9 (a) The state Board of Optometry shall have the power to make any rules and to do any
1.10 and all things not inconsistent with law which it may deem necessary or expedient for the
1.11 effective enforcement of sections 148.52 to 148.62 or for the full and efficient performance
1.12 of its duties thereunder.

1.13 (b) The Board of Optometry shall establish the scope of practice for optometrists licensed
1.14 under sections 148.52 to 148.62 in accordance with this section. The scope of practice must
1.15 ensure that a licensed optometrist may practice to the highest level of medical eye care. The
1.16 board shall not include any practice within the scope that exceeds an optometrist's education
1.17 and training.

1.18 Sec. 2. Minnesota Statutes 2022, section 148.56, subdivision 2, is amended to read:

1.19 Subd. 2. **Unlawful practices.** It shall be unlawful for any person who is not licensed as
1.20 an optometrist in this state to:

1.21 (1) perform any of the actions contained in ~~subdivision 1~~ the scope of practice for
1.22 optometrists established by the board in rule;

2.1 (2) fit, sell, or dispose of, or to take, receive, or solicit any order for the fitting, sale, or
 2.2 disposition of, any spectacles, eye glasses, or lenses for the correction of vision in any place
 2.3 within the state other than an established place of business where spectacles, eye glasses,
 2.4 or lenses are commonly sold and dealt in; or

2.5 (3) sell or dispose of, at retail, any spectacles, eye glasses, or lenses for the correction
 2.6 of vision in any established place of business or elsewhere in this state except under the
 2.7 supervision, direction, and authority of a duly licensed optometrist who holds a certificate
 2.8 under sections 148.52 to 148.62, and is in charge of and in personal attendance at the booth,
 2.9 counter, or place where such articles are sold or disposed of.

2.10 **EFFECTIVE DATE.** This section is effective the day the scope of practice rules under
 2.11 Minnesota Statutes, section 148.53, paragraph (b), are effective. The Board of Optometry
 2.12 shall notify the revisor of statutes when the scope of practice rules under Minnesota Statutes,
 2.13 section 148.53, paragraph (b), are effective.

2.14 Sec. 3. Minnesota Statutes 2022, section 148.574, is amended to read:

2.15 **148.574 PROHIBITIONS RELATING TO LEGEND DRUGS.**

2.16 Notwithstanding sections 151.37 and 152.12, an optometrist is prohibited from dispensing
 2.17 legend drugs at retail, unless the legend drug is within the scope ~~designated in section 148.56,~~
 2.18 ~~subdivision 1~~ of practice for optometrists established by the board in rule, and is administered
 2.19 to the eye through an ophthalmic good as defined in section 145.711, subdivision 4.

2.20 **EFFECTIVE DATE.** This section is effective the day the scope of practice rules under
 2.21 Minnesota Statutes, section 148.53, paragraph (b), are effective. The Board of Optometry
 2.22 shall notify the revisor of statutes when the scope of practice rules under Minnesota Statutes,
 2.23 section 148.53, paragraph (b), are effective.

2.24 Sec. 4. **REPEALER.**

2.25 Minnesota Statutes 2022, section 148.56, subdivision 1, is repealed effective the day
 2.26 the scope of practice rules under Minnesota Statutes, section 148.53, paragraph (b), are
 2.27 effective. The Board of Optometry shall notify the revisor of statutes when the scope of
 2.28 practice rules under Minnesota Statutes, section 148.53, paragraph (b), are effective.

148.56 OPTOMETRISTS.

Subdivision 1. **Optometry defined.** (a) Any person shall be deemed to be practicing optometry within the meaning of sections 148.52 to 148.62 who shall in any way:

- (1) advertise as an optometrist;
- (2) employ any means, including the use of autorefractors or other automated testing devices, for the measurement of the powers of vision or the adaptation of lenses or prisms for the aid thereof;
- (3) possess testing appliances for the purpose of the measurement of the powers of vision;
- (4) diagnose any disease, optical deficiency or deformity, or visual or muscular anomaly of the visual system consisting of the human eye and its accessory or subordinate anatomical parts;
- (5) prescribe lenses, including plano or cosmetic contact lenses, or prisms for the correction or the relief of same;
- (6) employ or prescribe ocular exercises, orthoptics, or habilitative and rehabilitative therapeutic vision care; or
- (7) prescribe or administer legend drugs to aid in the diagnosis, cure, mitigation, prevention, treatment, or management of disease, deficiency, deformity, or abnormality of the human eye and adnexa included in the curricula of accredited schools or colleges of optometry, and as limited by Minnesota statute and adopted rules by the Board of Optometry, or who holds oneself out as being able to do so.

(b) In the course of treatment, nothing in this section shall allow:

- (1) legend drugs to be administered intravenously, intramuscularly, or by injection, except for treatment of anaphylaxis;
- (2) invasive surgery including, but not limited to, surgery using lasers;
- (3) Schedule II and III oral legend drugs and oral steroids to be administered or prescribed;
- (4) oral antivirals to be prescribed or administered for more than ten days; or
- (5) oral carbonic anhydrase inhibitors to be prescribed or administered for more than seven days.