

ASSEMBLY BILL NO. 432—COMMITTEE ON COMMERCE AND LABOR

MARCH 10, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing practice of optometry. (BDR 54-339)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 the authority of an optometrist to prescribe certain therapeutic pharmaceutical agents; authorizing an optometrist to treat persons diagnosed with glaucoma, under certain circumstances, if he holds a certificate issued by the Nevada state board of optometry; requiring the board to adopt regulations that prescribe the requirements for the issuance of such a certificate; authorizing an optometrist to practice under an assumed or fictitious name if the name has been registered with the board; and providing other matters properly relating thereto.

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

Section 1. Chapter 636 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *An optometrist who is certified to administer and prescribe a therapeutic pharmaceutical agent pursuant to NRS 636.288 shall not prescribe an analgesic of hydrocodone with compounds, codeine with compounds or propoxyphene with compounds unless he:*

1. Has completed an optometric examination of the patient for whom the therapeutic pharmaceutical agent is prescribed;

2. Prescribes the therapeutic pharmaceutical agent in an amount that will not last more than 72 hours; and

3. Sets forth in the prescription for the therapeutic pharmaceutical agent that the prescription may not be refilled.

Sec. 3. 1. *An optometrist shall not treat a person diagnosed with glaucoma unless he has been issued a certificate by the board pursuant to section 5 of this act.*

2. An optometrist who has been issued a certificate to treat persons diagnosed with glaucoma pursuant to section 5 of this act shall refer a patient diagnosed with glaucoma to an ophthalmologist for treatment if any one of the following is applicable:

(a) The patient is under 16 years of age.

(b) The patient has been diagnosed with malignant glaucoma or neovascular glaucoma.

(c) The patient has been diagnosed with acute closed angle glaucoma.

The provisions of this paragraph do not prohibit the optometrist from administering appropriate emergency treatment to the patient.

(d) The patient's glaucoma is caused by diabetes, and, after joint consultation with a physician who is treating the diabetes and an ophthalmologist, the physician or ophthalmologist determines that the patient should be treated by an ophthalmologist. If an optometrist determines that a patient's glaucoma is caused by diabetes, he shall consult with a physician and ophthalmologist in the manner provided in this paragraph.

Sec. 4. The board shall adopt regulations that prescribe the requirements for the issuance of a certificate to treat persons diagnosed with glaucoma pursuant to section 5 of this act. The requirements must include, without limitation:

1. A license to practice optometry in this state;

2. The successful completion of the "Treatment and Management of Ocular Disease Examination" administered by the National Board of Examiners in Optometry on or after January 1, 1993, or an equivalent examination approved by the board; and

3. Proof that each optometrist who applies for a certificate has treated at least 15 persons who were:

(a) Diagnosed with glaucoma by an ophthalmologist licensed in this state; and

(b) Treated by the optometrist, in consultation with that ophthalmologist, for at least 1 year.

Sec. 5. The board shall issue a certificate to treat persons diagnosed with glaucoma to each optometrist who has complied with the requirements prescribed by the board pursuant to section 4 of this act.

Sec. 6. NRS 636.022 is hereby amended to read as follows:

636.022 "Prescription" means ~~to~~ :

1. An order given individually for the person for whom prescribed, directly from a licensed optometrist who is certified to prescribe and administer therapeutic pharmaceutical agents pursuant to NRS 636.288, or his agent, to a pharmacist or indirectly by means of an order signed by the licensed optometrist or an electronic transmission from the licensed optometrist to a pharmacist; or

- 1 **2. A** written direction from a licensed optometrist to:
2 ~~{1-}~~ **(a)** Prepare an ophthalmic lens for a patient; or
3 ~~{2-}~~ **(b)** Dispense a prepackaged contact lens that does not require any
4 adjustment, modification or fitting.

5 **Sec. 7.** NRS 636.024 is hereby amended to read as follows:

6 636.024 “Therapeutic pharmaceutical agent” means ~~{a}~~ :

7 **1. A** topical medication ~~{or an}~~ ;

8 **2. An** oral antibiotic ;

9 **3. An oral medication for allergies that does not contain steroids; or**

10 **4. An analgesic of hydrocodone with compounds, codeine with**
11 **compounds or propoxyphene with compounds,**

12 approved by the Food and Drug Administration for the treatment of
13 abnormalities of the eye or its appendages.

14 **Sec. 8.** NRS 636.025 is hereby amended to read as follows:

15 636.025 1. The acts ~~{enumerated}~~ **set forth** in this section, or any of
16 them, whether done severally, collectively or in combination with other acts
17 **that are** not ~~{enumerated}~~ **set forth** in this section constitute practice in
18 optometry within the purview of this chapter:

19 (a) Advertisement or representation as an optometrist.

20 (b) Adapting, or prescribing or dispensing, without prescription by a
21 ~~{licensed Nevada}~~ practitioner of optometry or medicine ~~{}~~ **licensed in this**
22 **state**, any ophthalmic lens, frame or mounting, or any part thereof, for
23 correction, relief or remedy of any abnormal condition or insufficiency of
24 the eye or any appendage or visual process . ~~{thereof.}~~ The provisions of
25 this subsection do not prevent an optical mechanic from doing the mere
26 mechanical work of replacement or duplication of the ophthalmic lens or
27 prevent a licensed dispensing optician from engaging in the practice of
28 ophthalmic dispensing.

29 (c) The examination of the human eye and its appendages, the
30 measurement of the powers or range of human vision, the determination of
31 the accommodative and refractive states of the eye or the scope of its
32 function in general , or the diagnosis or determination of any visual,
33 muscular, neurological, interpretative or anatomic anomalies or deficiencies
34 of the eye or its appendages or visual processes.

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

37 (e) The prescribing of contact lenses.

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

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

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

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

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

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

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

(b) The use of lasers for surgical purposes. ~~}; or~~

~~(c) The treatment of glaucoma.}~~

Sec. 9. NRS 636.350 is hereby amended to read as follows:

636.350 ~~{A licensee}~~

1. *An optometrist* shall not ~~{be entitled to}~~ practice *optometry* under an assumed **or fictitious** name ~~{}~~ *unless he has been issued a certificate of registration by the board to practice optometry under an assumed or fictitious name.*

2. *An optometrist who applies for a certificate of registration to practice optometry under an assumed or fictitious name must submit to the board an application on a form provided by the board.*

3. *Each optometrist who is issued a certificate of registration pursuant to this section shall:*

(a) Comply with the provisions of chapter 602 of NRS; and

(b) Display or cause to be displayed near the entrance of his business his full name and the words or letters that designate him as an optometrist.

4. *The board shall adopt regulations that prescribe the requirements for the issuance of a certificate of registration to practice optometry under an assumed or fictitious name.*

5. *As used in this section, "assumed or fictitious name" means a name that is not the real name of each person who owns an interest in a business.*

Sec. 10. NRS 652.210 is hereby amended to read as follows:

652.210 No person other than a licensed physician, **a licensed optometrist**, a licensed practical nurse, a registered nurse, a licensed or certified physician's assistant, a certified intermediate emergency medical technician, a certified advanced emergency medical technician or a licensed dentist may manipulate a person for the collection of specimens, except that technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

1 **Sec. 11.** NRS 453.126 is hereby amended to read as follows:

2 453.126 “Practitioner” means:

3 1. A physician, dentist, veterinarian or podiatric physician who holds a
4 ~~{valid}~~ license to practice his profession in this state and is registered
5 pursuant to this chapter.

6 2. An advanced practitioner of nursing who holds a certificate from the
7 state board of nursing and a certificate from the state board of pharmacy
8 ~~{permitting}~~ **authorizing** him to dispense controlled substances.

9 3. A scientific investigator or a pharmacy, hospital or other institution
10 licensed, registered or otherwise ~~{permitted by}~~ **authorized in** this state to
11 distribute, dispense, conduct research with respect to, to administer, or use
12 in teaching or chemical analysis, a controlled substance in the course of
13 professional practice or research.

14 4. A euthanasia technician who is licensed by the Nevada state board
15 of veterinary medical examiners and registered pursuant to this chapter,
16 ~~{when}~~ **while** he possesses or administers sodium pentobarbital pursuant to
17 his license and registration.

18 5. A physician’s assistant who:

19 (a) Holds a license from the board of medical examiners or a certificate
20 from the state board of osteopathic medicine; and

21 (b) Is authorized by the board to possess, administer, prescribe or
22 dispense controlled substances under the supervision of a physician or
23 osteopathic physician as required by chapter 630 or 633 of NRS.

24 ***6. An optometrist who is certified by the Nevada state board of***
25 ***optometry to prescribe and administer therapeutic pharmaceutical agents***
26 ***pursuant to NRS 636.288, when he prescribes or administers therapeutic***
27 ***pharmaceutical agents within the scope of his certification.***

28 **Sec. 12.** NRS 453.128 is hereby amended to read as follows:

29 453.128 1. “Prescription” means:

30 (a) An order given individually for the person for whom prescribed,
31 directly from a physician, physician’s assistant, dentist, podiatric physician
32 **, optometrist** or veterinarian, or his agent, to a pharmacist or indirectly by
33 means of an order signed by the practitioner or an electronic transmission
34 from the practitioner to a pharmacist ~~{.}~~ **; or**

35 (b) A chart order written for an inpatient specifying drugs which he is to
36 take home upon his discharge.

37 2. ~~{“Prescription”}~~ **The term** does not include a chart order written for
38 an inpatient for use while he is an inpatient.

39 **Sec. 13.** NRS 453.336 is hereby amended to read as follows:

40 453.336 1. ~~{It is unlawful for a}~~ A person **shall not** knowingly or
41 intentionally ~~{to}~~ possess a controlled substance , unless the substance was
42 obtained directly from, or pursuant to, a ~~{valid}~~ prescription or order of a
43 physician, physician’s assistant, dentist, podiatric physician , **optometrist**

1 or veterinarian while acting in the course of his professional practice, or
2 except as otherwise authorized by the provisions of NRS 453.011 to
3 453.552, inclusive.

4 2. Except as otherwise provided in subsections 3, 4 and 5 and in NRS
5 453.3363, and unless a greater penalty is provided in NRS 212.160,
6 453.3385, 453.339 or 453.3395, a person who violates this section shall be
7 punished:

8 (a) For the first or second offense, if the controlled substance is listed in
9 schedule I, II, III or IV, for a category E felony as provided in NRS
10 193.130.

11 (b) For a third or subsequent offense, if the controlled substance is listed
12 in schedule I, II, III or IV, or if the offender has previously been convicted
13 two or more times in the aggregate of any violation of the law of the United
14 States or of any state, territory or district relating to a controlled substance,
15 for a category D felony as provided in NRS 193.130, and may be further
16 punished by a fine of not more than \$20,000.

17 (c) For the first offense, if the controlled substance is listed in schedule
18 V, for a category E felony as provided in NRS 193.130.

19 (d) For a second or subsequent offense, if the controlled substance is
20 listed in schedule V, for a category D felony as provided in NRS 193.130.

21 3. Unless a greater penalty is provided in NRS 212.160, 453.337 or
22 453.3385, a person who is convicted of the possession of flunitrazepam or
23 gamma-hydroxybutyrate, or any substance for which flunitrazepam or
24 gamma-hydroxybutyrate is an immediate precursor, is guilty of a category
25 B felony and shall be punished by imprisonment in the state prison for a
26 minimum term of not less than 1 year and a maximum term of not more
27 than 6 years.

28 4. Unless a greater penalty is provided in NRS 212.160, a person who
29 is ~~under~~ less than 21 years of age and is convicted of the possession of
30 less than 1 ounce of marihuana:

31 (a) For the first and second offense, is guilty of a category E felony and
32 shall be punished as provided in NRS 193.130.

33 (b) For a third or subsequent offense, is guilty of a category D felony
34 and shall be punished as provided in NRS 193.130, and may be further
35 punished by a fine of not more than \$20,000.

36 5. Before sentencing under the provisions of subsection 4 for a first
37 offense, the court shall require the parole and probation officer to submit a
38 presentencing report on the person convicted in accordance with the
39 provisions of NRS 176A.200. After the report is received but before
40 sentence is pronounced the court shall:

41 (a) Interview the person convicted and make a determination as to the
42 possibility of his rehabilitation;

and

- 1 (b) Conduct a hearing at which evidence may be presented as to the
- 2 possibility of rehabilitation and any other relevant information.
- 3 6. As used in this section, “controlled substance” includes
- 4 flunitrazepam, gamma-hydroxybutyrate and each substance for which
- 5 flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

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