

## HOUSE BILL No. 2680

By Committee on Health and Human Services

2-13

1 AN ACT concerning health professions and practices; relating to  
2 optometrists; optometry law; board of examiners in optometry for the  
3 state of Kansas; interprofessional advisory committee; updating the  
4 scope of practice and certain related requirements and definitions;  
5 amending K.S.A. 65-1501, 65-1501a, 65-1509a, 74-1504 and 74-1505  
6 and repealing the existing sections.

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~~ that are classified as drugs by any law of the  
18 United States or of this state), *medical devices*, prisms, low vision  
19 rehabilitation services, orthoptic exercises and visual training therapy for  
20 the relief of any insufficiencies or abnormal conditions of the human eye  
21 and its ~~adnexae~~ *adnexa*; ~~and~~

22 (3) the prescribing, administering or dispensing of ~~topical~~  
23 pharmaceutical drugs and ~~oral drugs~~ *medical devices through all routes of*  
24 *administration, except for intravitreal injections and non fluorescein*  
25 *injections*, for the examination, diagnosis and treatment of ocular  
26 conditions and any insufficiencies or abnormal conditions of the human  
27 eye and its ~~adnexae~~ *adnexa*, including ~~adult open-angle~~ glaucoma;

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*  
35 *peripheral iridotomy; and*

36 (5) *the performance of additional procedures that are not otherwise*

1 *prohibited by subsection (b), that are authorized pursuant to rules and*  
2 *regulations adopted by the board of examiners in optometry for the state*  
3 *of Kansas, consistent with recommendations from the interprofessional*  
4 *advisory committee, and within the scope of a licensee's education and*  
5 *training.*

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

26 (c) ~~A licensee shall be held to a standard of care in the diagnosis and~~  
27 ~~treatment of adult open-angle glaucoma commensurate to ocular~~  
28 ~~conditions and any sufficiencies or abnormal conditions of the human eye~~  
29 ~~and its adnexa commensurate with that of a person licensed to practice~~  
30 ~~medicine and surgery, who exercises that degree of skill and proficiency~~  
31 ~~commonly exercised by an ordinary, skillful, careful and prudent person~~  
32 ~~licensed to 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~~, unless the context requires  
2 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, *medical devices*, orthoptic  
21 exercises, low vision rehabilitation services or visual training therapy to be  
22 used for the aid of any insufficiencies or abnormal conditions of the eyes,  
23 including instructions necessary for the fabrication or use thereof and the  
24 date of issue.

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

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

34 (i) ~~"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 supply or minimal quantity  
38 necessary until a prescription can be filled by a licensed pharmacist,  
39 except that the twenty-four hour supply or minimal quantity shall not  
40 apply to lenses described in ~~subsection (a)(2)~~ of K.S.A. 65-1501(a)(2), and  
41 amendments thereto.

42 (j)(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~~ *that* are  
 8 likely to induce, directly or indirectly, the purchase of professional services  
 9 or ophthalmic goods.

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

13 ~~(m)~~(l) "Medical facility" ~~shall have the meaning ascribed to that term~~  
 14 ~~in subsection (c) of means the same as defined in~~ 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 in 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)(3), and amendments thereto.*

3 Sec. 4. K.S.A. 74-1504 is hereby amended to read as follows: 74-  
4 1504. (a) The board shall administer and enforce the provisions of the  
5 optometry law, and the board is hereby granted such specific powers as are  
6 necessary for the purpose of administering and enforcing such law. In  
7 addition, the board may:

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

12 (2) Make all necessary disbursements; to carry out the provisions of  
13 this act, including payment for stationery supplies, acquire all necessary  
14 optical instruments to be used in the conducting of examination, print and  
15 distribute to all optometrists in the state a yearbook of the names and  
16 addresses of all optometrists licensed by the board.

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

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

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

39 (6) Adopt rules and regulations for the procedure and conduct of the  
40 board and for the administration of the optometry law, ~~which rules and~~  
41 ~~regulations shall~~ *that are not* be inconsistent with the provisions of the  
42 optometry law.

43 (b) The board shall meet at least annually for the purpose of

1 examining applicants for licensure. ~~Such meetings shall be held in Topeka.~~  
 2 At least 30 days prior to the examination, the board shall cause a special  
 3 notice to be published in the Kansas register stating the date and hour for  
 4 holding such examination. Special meetings shall be held at such times  
 5 and places as the board may direct.

6 (c) The board shall preserve an accurate record of all meetings and  
 7 proceedings of the board including receipts and disbursements with  
 8 vouchers therefor and complete minutes of all prosecutions and violations  
 9 of the optometry law and of examinations held under the provisions of the  
 10 optometry law and an accurate inventory of all property of the board. All  
 11 such records shall be kept in the office of the board and made accessible to  
 12 the public.

13 Sec. 5. K.S.A. 74-1505 is hereby amended to read as follows: 74-  
 14 1505. (a) The board shall appoint a seven-member committee to be known  
 15 as the interprofessional advisory committee ~~which~~ *that*, as requested by the  
 16 board, shall *meet at least annually to make recommendations on clinical or*  
 17 ~~practice-related~~ *practice-related* issues, including procedure coding  
 18 matters and appropriate treatments for ocular diseases and conditions, *not*  
 19 *otherwise prohibited by this act. These recommendations shall be reported*  
 20 *to the board of examiners in optometry for the state of Kansas. The board*  
 21 *shall use the recommendations from the interprofessional advisory*  
 22 *committee when adopting rules and regulations concerning additional*  
 23 *procedures for use by optometrists not otherwise prohibited by K.S.A. 65-*  
 24 *1501, and amendments thereto.*

25 (b) The interprofessional advisory committee shall consist of one  
 26 member of the board appointed by the board who shall serve as a  
 27 nonvoting chair, together with three optometrists licensed to practice  
 28 optometry in this state chosen by the board from those nominated by the  
 29 Kansas optometric association and three ophthalmologists licensed to  
 30 practice in this state chosen by the board from those nominated by the  
 31 Kansas medical society and the Kansas association of osteopathic  
 32 medicine. The Kansas optometric association and Kansas medical society  
 33 shall submit six nominees to the board. The Kansas association of  
 34 osteopathic medicine shall submit two nominees to the board. Persons  
 35 appointed to the committee shall serve terms of three years and without  
 36 compensation. All expenses of the committee shall be paid by the board.

37 (c) This section shall be *a part of and supplemental to the optometry*  
 38 *law.*

39 Sec. 6. K.S.A. 65-1501, 65-1501a, 65-1509a, 74-1504 and 74-1505  
 40 are hereby repealed.

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