

AN ACT

ENTITLED, An Act to revise certain provisions regarding the practice of optometry.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 36-7-15.2 be amended to read as follows:

36-7-15.2. Only those optometrists who have satisfactorily completed a curriculum in general and ocular pharmacology at an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States Office of Education within the Department of Health and Human Services and approved by the State Board of Examiners in Optometry are eligible to apply for the certificate issued pursuant to § 36-7-15.1. Those practitioners who have established their eligibility pursuant to this section shall also pass an examination approved by the board before they may be certified to administer the topical pharmaceutical agents described by § 36-7-1.

Section 2. That § 36-7-15.3 be amended to read as follows:

36-7-15.3. The board, in certifying optometrists for the use of therapeutic drugs, shall require that all applicants before certification either have taken and successfully passed the treatment and management of ocular disease portion of the National Board of Examiners in Optometry test or have taken and successfully passed an examination prepared or certified by the board as covering all areas of pharmacological education provided to graduates of accredited optometric colleges. The South Dakota State University School of Pharmacy may assist the board in the formulation or administration of the examination of optometrists for competency in therapeutic drugs.

Section 3. That § 36-7-18 be amended to read as follows:

36-7-18. Every person practicing optometry shall:

- (1) Display the certificate of registration or exemption in a conspicuous place in the principal office wherein he practices; and

- (2) Exhibit the certificate to the State Board of Examiners or its authorized representative upon request.

A violation of this section is a Class 2 misdemeanor.

Section 4. That § 36-7-24 be amended to read as follows:

36-7-24. The Board of Examiners, in compliance with chapter 1-26, may revoke the certificate of any registrant for any one, or any combination, of the following causes:

- (1) Conviction of a felony, as shown by a certified copy of the record of the court of conviction;
- (2) Obtaining, or attempting to obtain, a certificate of registration by fraudulent misrepresentation;
- (3) Malpractice;
- (4) Continued practice by a person knowingly having an infectious or contagious disease;
- (5) Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs;
- (6) Unprofessional conduct;
- (7) Failure to submit to or cooperate with the criminal background investigation requested by the board.

Section 5. That § 36-7-25 be amended to read as follows:

36-7-25. The term, unprofessional conduct, as used in this chapter, means:

- (1) Any conduct of a character likely to deceive or defraud the public;
- (2) The loaning of a license or certificate by any licensed optometrist or any person or corporation;
- (3) The employment of cappers or steerers to obtain business;
- (4) Splitting or dividing a fee or compensation with any person or corporation;

- (5) The obtaining of any fee or compensation by fraud or misrepresentation;
- (6) Employing either directly or indirectly any suspended or unlicensed optometrist to perform any work covered by this chapter;
- (7) The advertising by any means whatsoever of optometric practice or treatment or advice in which untruthful, improbable, misleading, or impossible statements are made;
- (8) Advertising by printed matter, radio, display, or any other means, the quotation of prices for a discount on or any specific amount of payment for eyeglasses, spectacles, or accessories thereto, ophthalmic lenses, frames or mountings, or the phrases "free examinations," "moderate prices," "low prices," "guaranteed glasses," "satisfaction guaranteed," or any variations thereof, or words of similar import;
- (9) Seeking patronage by means of handbills, posters, circulars, newspapers, radio or periodicals, which means set forth more than the name, profession, title, location, phone number and office hours of the optometrist;
- (10) Advertising wherein the optometrist employs any form of newspaper, sign, literature or directory professional card or window or public exhibition display of optical materials, handbills, road signs, clock signs, novelties or favors contrary to or violating the code of ethics or any of the other lawful rules and regulations properly promulgated by the state board;
- (11) The failure to refer a patient to a physician licensed pursuant to chapter 36-4 if examination of the eye indicates a substantial likelihood of pathology which requires the attention of a physician licensed pursuant to chapter 36-4;
- (12) Any conviction of a felony or violation of a Board of Examiners in Optometry rule as determined by the board after notice and hearing pursuant to chapter 1-26;
- (13) Consistently misdiagnosing or consistently prescribing improper therapy; or

(14) Failing to hold in professional confidence all information concerning a patient.

Unprofessional conduct, as defined in this section, shall not be the basis for criminal prosecution unless otherwise declared unlawful.

Section 6. That § 36-7-27 be amended to read as follows:

36-7-27. After one year and upon application and proof that the disqualification has ceased the Board of Examiners may reinstate a person whose certificate has been revoked, if no other basis for denial of the license exists.

Section 7. That § 47-11B-22 be amended to read as follows:

47-11B-22. A corporation formed pursuant to the provisions of this chapter, may adopt a pension, profit sharing (whether cash or deferred), health and accident, insurance, or welfare plan for all or part of its employees, including lay employees, providing that such plan does not require or result in the sharing of specific or identifiable fees with any lay employees and any payments made to lay employees or into any such plan in behalf of lay employees are based upon their compensation or length of service, or both, rather than the amount of fees or income received by the corporation or its shareholders.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1044

\_\_\_\_\_  
Chief Clerk
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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1044  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office
this \_\_\_\_ day of \_\_\_\_\_ ,
20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor
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The attached Act is hereby
approved this \_\_\_\_\_ day of
\_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State