

Wyoming State Statute

CHAPTER 23 OPTOMETRISTS

33-23-101. Definitions and exceptions.

- (a) As used in this act:
- (i) "Board" means the Wyoming state board of examiners in optometry;
 - (ii) "License" means a current license to practice optometry in this state issued by the board;
 - (iii) "Licensee" means a person licensed by the board under this act;
 - (iv) "Optometrist" or "doctor of optometry" means a person licensed by the board under this act;
 - (v) "Physician" means a person holding a valid license issued by the Wyoming state board of medicine under the Medical Practice Act;
 - (vi) "Controlled substance" means any drug, substance or immediate precursor listed in schedules I through V of article III of the Wyoming Controlled Substances Act of 1971;
 - (vii) "Ophthalmic lenses" means any type of spectacle or contact lenses;
 - (viii) "Contact lenses" shall include contact lenses with or without power;
 - (ix) "This act" means W.S. 33-23-101 through 33-23-117.
- (b) The practice of optometry is the employment of any means other than the use of therapeutic lasers or surgery for diagnosing and treating ocular pathology and for the measurement of the powers or range of human vision or the determination of the accommodative and refractive status of the human eye or the scope of its functions in general or the adaptation of lenses or frames for the aid thereof.
- (c) The provisions of this chapter do not prevent a physician from treating or fitting glasses to the human eye, or a physician or optometrist from filling prescriptions or orders. Nor do the provisions of this chapter prevent the replacing, duplicating or repairing of ophthalmic lenses or the frames or fittings thereof by persons qualified to write or fill prescriptions or orders under the provisions of this act, nor prevent the doing of the merely mechanical work upon such lenses or upon the frames or fittings thereof.
- (d) It is unlawful for any person to dispense, replace or duplicate ophthalmic lenses or any contact lenses without a prescription or order from a physician or optometrist. A contact lens prescription shall specifically state that it is intended for contact lenses and include the type and specification of the contact lenses being prescribed. An optometrist shall provide, at no additional cost to the patient, a written copy of his contact lens prescription. The prescription

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shall only be released after the contact lenses have been adequately fitted and no more follow-up visits are necessary to assure the contact lenses fit the patient. The essential information necessary to duplicate the prescription shall be defined by rules adopted by the board. All contact lens prescriptions shall have an expiration date after which it shall be unlawful to fill such prescription. The prescribing optometrist shall not be liable for any injury or condition to a patient resulting from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing optometrist. Any person may file a complaint with the board seeking disciplinary action concerning any violation of this subsection. The board shall investigate or cause to be investigated and shall resolve a complaint on its own motion or upon receipt of a written complaint as provided by W.S. 33-23-110. No person shall improperly fill a contact lens prescription or fill an expired prescription.

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

(f) Nothing in this act shall prevent an optometrist from using assistants in his practice under his general supervision as defined in board rule.

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

An optometrist shall be allowed to administer and prescribe pharmaceutical agents related to the practice of optometry, excluding the following categories of oral medications: immunosuppressives, steroids, anti-fungals, sedative-hypnotics, and schedule I and II narcotics. No medication shall be given by injection. Oral anti-glaucoma medications may be administered for a period not to exceed forty-eight (48) hours. An optometrist who administers or prescribes pharmaceutical agents for examination or for treatment shall provide the same standard of care to patients as that provided by a physician utilizing the same pharmaceutical agents for examination or treatment.

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

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

(b) A person who is damaged by another person who violates this section may in addition to other remedies provided by law, institute suit in the county where the violation occurred to require enforcement by injunctive procedures and to recover damages plus court costs and reasonable attorney's fees.

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(c) A person who is attending an optometry school accredited by a regional or professional accreditation organization which is recognized or approved by the United States Department of Education (USDE) or the Council on Higher Education Accreditation (CHEA), or their successor agencies, may practice optometry while doing an externship for said school under the direct supervision of an optometrist or physician licensed in this state.

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

The Wyoming state board of examiners in optometry is created to carry out the purposes and enforce the provisions of this act. The board shall consist of three (3) members appointed by the governor. In 2005, one (1) board member shall be appointed for a term of three (3) years, one (1) board member shall be appointed for a term of two (2) years and one (1) board member shall be appointed for a term of one (1) year. Thereafter, the terms of the office of the members appointed shall be three (3) years or until their successors have qualified. Each member of the board shall be a resident of the state of Wyoming and shall have been engaged in the actual practice of optometry in the state for at least one (1) year prior to appointment. The governor shall make all appointments to fill vacancies caused by death, resignation or removal. The governor may remove any member as provided in W.S. 9-1-202. The members of the board, before entering upon their duties, shall take and subscribe to the oath required to be taken by state officers and shall file the oath in the office of the secretary of state.

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

The board shall annually elect officers. Each member of the board shall have the power, during his term of office to administer oaths and take affidavits, certifying thereto under his hand and seal provided and kept by the board. The board shall meet at least once in each year, for the purpose of holding an examination, and in addition thereto, upon the call of the president or request of a majority of its members. A majority of the board shall constitute a quorum. The secretary shall keep a complete record of the proceedings of the board, which record shall be open to public inspection at all reasonable times.

33-23-106. Board of examiners in optometry; compensation of members; disposition of funds.

(a) Each member of the board may receive as compensation the sum paid each day to members of the state legislature for each day spent in board meetings and per diem and mileage as provided in W.S. 33-1-302(a)(vii). Expenses shall be paid from the fees, fines and assessments received under the provisions of this act. All fees, fines, assessments and other monies received under the provisions of this act, may be used for meeting the expenses of the board and in carrying out the provisions of this act. In no event shall any expenses be charged against the state.

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(b) All money shall be received and collected as provided by law. The state treasurer shall credit the money to a separate account. 33-23-107. Board of examiners in optometry; report to governor. The board shall, as required by W.S. 9-2-1014, report to the governor.

33-23-108. Board of examiners in optometry; seal.

The board shall provide a seal which shall contain the words, "Wyoming State Board of Examiners in Optometry, Official Seal".

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

(a) Any applicant for licensure under this act is required to pass the examination series administered by the National Board of Examiners in Optometry, or its successor agency, and any other examination specified by the board in rule. The applicant shall be a graduate of an optometric school or college accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or the United States Department of Education (USDE) or the Council on Higher Education Accreditation (CHEA), or their successor agencies. Examinations shall cover subjects designated by the board. Any currently licensed person intending to employ diagnostic or therapeutic pharmaceutical agents in his practice is required to complete and pass a board approved course pertaining to the use of those agents.

(b) No applicant shall be passed by the board who fails to obtain a grade of seventy-five percent (75%) in every subject upon which he is examined. If any applicant fails to pass any examination, he shall be examined at the next or any succeeding examination only in the subject in which he failed to obtain a grade of eighty-five percent (85%). The applicant shall apply for his license within six (6) months after he has satisfactorily passed the examination or the examination shall be of no effect. Before engaging in the practice of optometry, and after the license has been delivered to him, each licensed optometrist shall notify the board in writing of the place where he intends to begin practice and of any subsequent changes of his office location. Notices given to him by the board shall be given by mailing to that address.

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

(d) The board of examiners, pursuant to W.S. 33-1-201, shall establish fees for the standard examination, initial license and the annual renewal of the license. Every optometrist who desires to continue the practice of optometry shall annually, on or before April 1, pay the board the required renewal fee. A license which has expired due to failure to renew may be reinstated by the board upon receipt of the renewal fee and reinstatement and late fees set by the board in accordance with W.S. 33-1-201 provided the request for reinstatement is received in the

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board office no later than June 30 of the year in which the license expired. An optometrist who previously notified the board that he had retired may renew his license by submitting renewal fees for each year in which no license was issued and a reinstatement fee within three (3) years of the expiration date of the last license held. Upon retirement from active practice, an optometrist shall notify the board in writing.

(e) The board may issue a license by endorsement to engage in the practice of optometry to an applicant who is currently licensed in another United States or Canadian jurisdiction with substantially equivalent requirements as Wyoming and who meets Wyoming requirements for licensure by endorsement. Applicants for licensure by endorsement shall comply with standards set forth in board rules.

33-23-110. Refusal, suspension or revocation of license.

(a) The board may suspend, revoke or refuse to issue a license to any person who has been guilty of unprofessional and dishonest conduct, unethical conduct, conduct likely to deceive the public or failure to timely submit a renewal application.

(b) "Unprofessional and dishonest conduct" as used in this act means:

(i) The loaning of his license by any licensed optometrist to any person; the employment of "cappers" or "steerers" to obtain business, "splitting" or dividing a fee with any person or persons, the advertising by any means whatsoever of optometric practice or treatment or advice in which untruthful, improbable, misleading or impossible statements are made;

(ii) Repealed by Laws 1995, ch. 42, § 2.

(iii) Being guilty of offenses involving moral turpitude, habitual intemperance, or being habitually addicted to the use of morphine, opium, cocaine, or other drugs having a similar effect;

(iv) The obtaining of any fee by intentional fraud or intentional misrepresentation or false pretenses;

(v) The use of any other term by a person licensed under this act except the term "optometrist" or "doctor of optometry" to designate his profession;

(vi) Employing either directly or indirectly any suspended or unlicensed optometrist to perform any work covered by the practice of optometry;

(vii) Incompetence, malpractice or unethical conduct;

(viii) Knowingly making any false statement of any material fact in any application or other instrument required by law to be filed with the board;

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(ix) The board may clarify definitions stated in this subsection by properly promulgated rules and regulations.

(c) Board disciplinary proceedings will be conducted in accordance with the Wyoming Administrative Procedure Act and the rules and regulations of the board.

(d) Repealed by Laws 2005, ch. 59, § 2.

(e) Repealed By Laws 2005, ch. 59, § 2.

(f) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

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

(a) Nothing in this act shall be construed as conferring on the holder of a license issued by the board, the title "doctor of medicine," "ophthalmologist," or any other word or abbreviation indicating that he is engaged in the practice of medicine.

(b) It is unlawful:

(i) For any person to approach any place of employment either in person or through agents for the purpose of selling ophthalmic lenses, eye examinations or optometric services;

(ii) For any person to advertise prescription eyeglasses or contact lenses, which correct visual deficiencies or defects, frames or their supporting accessories or professional services in a false, deceptive or misleading manner;

(iii) For any person to make a sworn statement or affidavit in connection with any matter relating to this act proven to be false;

(iv) For any person not holding a license to practice optometry.

33-23-112. Repealed by Laws 1995, ch. 42, § 2.

33-23-113. License to be displayed.

Every person holding a license to practice optometry in the state of Wyoming shall display the license, in its entirety, in a conspicuous place in his office, wherein the practice of optometry is conducted.

33-23-114. Continuing education courses required.

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All optometrists shall take courses of study in subjects relating to the practice of the profession of optometry for the utilization and application of new techniques, scientific and clinical advances, and achievements of research which will assure expansive and comprehensive care to the public. The board shall prescribe the length of study. Attendance shall be at a course or courses approved by the board. Attendance at any course or courses of study is to be certified to the board upon a form provided by the board and submitted by each optometrist to the board. The board may use up to one-half (1/2) of its annual renewal fees for the purposes of contracting with institutions of higher learning, professional organizations, or qualified individuals to provide educational programs that meet this requirement. The board may also treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the programs of continuing education. In no instance may the board require a greater number of hours of study than are available at approved courses held within this state. The board may waive the requirements of this section in cases of certified illness or undue hardship.

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

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

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

(c) Where a civil penalty is sought the defendant shall be entitled to a jury trial.

33-23-116. Rules and regulations.

The board may promulgate rules and regulations in accordance with the Wyoming Administrative Procedure Act.

33-23-117. Optometry volunteer license.

(a) As used in this section, "low income uninsured person" and "nonprofit health care facility" have the same meanings as in W.S. 33-15-131(a).

(b) For purposes of this section, a person shall be considered retired from practice if the person's license or certificate has expired.

(c) The state board of optometry may issue, with or without examination, a volunteer certificate to a person who is retired from practice so that the person may provide optometry

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services to low income uninsured persons at nonprofit health care facilities. The board shall deny issuance of a volunteer's certificate to a person who is not qualified under this section to hold a volunteer's certificate.

(d) An application for a volunteer's certificate shall include all of the following:

(i) A copy of the applicant's optometry degree;

(ii) One (1) of the following, as applicable:

(A) A copy of the applicant's most recent license or certificate authorizing the practice of optometry issued by a jurisdiction in the United States that licenses persons to practice optometry; or

(B) A copy of the applicant's most recent license equivalent to a license to practice optometry in one (1) or more branches of the United States armed services that the United States government issued.

(iii) Evidence of one (1) of the following, as applicable:

(A) That the applicant has maintained for at least ten (10) years immediately prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice optometry; or

(B) That the applicant has practiced for at least ten (10) years immediately prior to retirement in good standing as an optometrist in one (1) or more of the branches of the United States armed services; and

(iv) A notarized statement from the applicant, on a form prescribed by the board, that the applicant:

(A) Will not accept any form of remuneration for any optometric services rendered while in possession of a volunteer certificate;

(B) Will devote his practice exclusively and totally to providing medical services to low income uninsured persons at a nonprofit health care facility in this state; and

(C) Will provide any other documentation that the board reasonably may require.

(e) The holder of a volunteer's certificate may provide optometric services only on the premises of a nonprofit health care facility in this state and only to low income uninsured persons. The holder shall not accept any form of remuneration for providing optometric services while in possession of the certificate. The board may revoke a volunteer's certificate on receiving

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proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the certificate.

(f) A volunteer's certificate shall be valid for a period of one (1) year, unless earlier revoked under subsection (e) of this section or pursuant to title 33, chapter 23 of the Wyoming statutes. A volunteer's certificate may be renewed upon the application of the holder. The board shall maintain a register of all persons who hold volunteer's certificates. The board shall not charge a fee for issuing or renewing a certificate pursuant to this section.

(g) To be eligible for renewal of a volunteer's certificate, the holder of the certificate shall certify to the board completion of any continuing education required under this act as if the holder of the certificate were in active practice. The board shall not renew a certificate if the holder has not complied with the continuing education requirements. The nonprofit health care facility in which the holder provides optometric services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing education.

(h) The board shall issue to each person who qualifies under this section a volunteer's certificate that states the certificate holder is authorized to provide optometric services pursuant to the laws of this state.

(j) Except as provided in this section, any person holding a volunteer certificate issued by the board under this section shall be subject to the requirements of this act and the jurisdiction of the board as if he were licensed to practice optometry under this act.

(k) The board shall adopt rules to administer and enforce this section.