

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0110.01 Thomas Morris

SENATE BILL 11-094

SENATE SPONSORSHIP

Boyd, Aguilar, Carroll, Foster, Newell, White

HOUSE SPONSORSHIP

Summers,

Senate Committees

Health and Human Services

Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE STATE BOARD OF**
102 **OPTOMETRIC EXAMINERS, AND, IN CONNECTION THEREWITH,**
103 **IMPLEMENTING THE SUNSET REVIEW RECOMMENDATIONS OF**
104 **THE DEPARTMENT OF REGULATORY AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Sunset Process - Senate Health and Human Services Committee. The bill implements the sunset review recommendations of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the department of regulatory agencies regarding the state board of optometric examiners (board) pursuant to the provisions of the sunset law. **Sections 1, 2, and 3** of the bill extend the board until September 1, 2022. **Section 4** creates a volunteer license available at a reduced fee for optometrists who are no longer charging for services. **Section 5** amends the definition of "unprofessional conduct" by:

- ! Authorizing an optometrist to continue to practice while having a physical or mental disability that affects the optometrist's ability to practice if the optometrist has entered into a confidential agreement with the board that limits the optometrist's practice to address the optometrist's disability. **Section 6** authorizes the board to enter into such agreements.
- ! Prohibiting the habitual or excessive use or abuse of alcohol, a habit-forming prescription drug, or a controlled substance;
- ! Striking the terms "willfully" and "willful" in the phrases "willfully deceiving or attempting to deceive the board or its agents with reference to any proper matter under investigation by the board" and "willful and repeated ordering or performance, without clinical justification, of demonstrably unnecessary laboratory tests or studies";
- ! Adding the failure to respond in an honest, responsive, and timely manner to a complaint.

Section 7 authorizes the board to summarily suspend a license for an optometrist's failure to comply with an order of the board and authorizes the board to impose a fine on a licensee for violations unrelated to a standard of practice. **Section 8:**

- ! Increases the minimum financial responsibility requirement to \$1 million per incident and \$3 million aggregate per year; and
- ! Authorizes the board to waive or establish lesser financial responsibility requirements for optometrists who have an inactive license.

Section 10 updates the definition of the "practice of optometry". **Sections 9 and 11 through 18** make technical changes to the board's statutes.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 12-40-128 (1), Colorado Revised Statutes, is
3 amended to read:

4 **12-40-128. Repeal of article - subject to sunset law.** (1) This

1 article is repealed, effective ~~July 1, 2011~~ SEPTEMBER 1, 2022.

2 **SECTION 2. Repeal.** 24-34-104 (42) (f), Colorado Revised
3 Statutes, is repealed as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for termination, continuation, or reestablishment.**

6 (42) The following agencies, functions, or both, shall terminate on July
7 1, 2011:

8 (f) ~~The state board of optometric examiners, created by article 40~~
9 ~~of title 12, C.R.S.;~~

10 **SECTION 3.** 24-34-104, Colorado Revised Statutes, is amended
11 BY THE ADDITION OF A NEW SUBSECTION to read:

12 **24-34-104. General assembly review of regulatory agencies**
13 **and functions for termination, continuation, or reestablishment.**

14 (53.5) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL
15 TERMINATE ON SEPTEMBER 1, 2022:

16 (a) THE STATE BOARD OF OPTOMETRIC EXAMINERS, CREATED BY
17 ARTICLE 40 OF TITLE 12, C.R.S.

18 **SECTION 4.** Article 40 of title 12, Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW SECTION to read:

20 **12-40-107.2. Volunteer optometrist license.** (1) A PERSON
21 LICENSED TO PRACTICE OPTOMETRY PURSUANT TO THIS ARTICLE MAY
22 APPLY TO THE BOARD FOR VOLUNTEER LICENSURE STATUS. THE BOARD
23 SHALL DESIGNATE THE FORM AND MANNER OF THE APPLICATION. THE
24 BOARD MAY:

25 (a) GRANT THE APPLICATION BY ISSUING A VOLUNTEER LICENSE;

26 OR

27 (b) DENY THE APPLICATION IF THE LICENSEE HAS BEEN

1 DISCIPLINED FOR ANY OF THE CAUSES SET FORTH IN SECTION 12-40-118.

2 (2) A PERSON APPLYING FOR A LICENSE UNDER THIS SECTION:

3 (a) MUST EITHER:

4 (I) HOLD AN ACTIVE AND UNRESTRICTED LICENSE TO PRACTICE
5 OPTOMETRY IN COLORADO AND BE IN ACTIVE PRACTICE IN THIS STATE; OR

6 (II) HAVE BEEN ON INACTIVE STATUS PURSUANT TO ARTICLE 70 OF
7 THIS TITLE FOR NOT MORE THAN TWO YEARS; AND

8 (b) SHALL:

9 (I) PAY A REDUCED LICENSE FEE IN LIEU OF THE FEE AUTHORIZED
10 BY SECTION 24-34-105, C.R.S. THE DIRECTOR SHALL REDUCE THE
11 VOLUNTEER OPTOMETRIST LICENSE FEE FROM THE LICENSE FEE CHARGED
12 PURSUANT TO SECTION 12-40-113 (1) (a).

13 (II) ATTEST THAT, AFTER A DATE CERTAIN, THE APPLICANT WILL
14 NO LONGER EARN INCOME AS AN OPTOMETRIST;

15 (III) MAINTAIN LIABILITY INSURANCE AS PROVIDED IN SECTION
16 12-40-126; AND

17 (IV) COMPLY WITH THE CONTINUING EDUCATION REQUIREMENTS
18 ESTABLISHED IN SECTION 12-40-113 (1) (f); EXCEPT THAT THE BOARD MAY
19 ESTABLISH LESSER CONTINUING EDUCATION REQUIREMENTS FOR
20 VOLUNTEER LICENSEES.

21 (3) THE FACE OF EACH VOLUNTEER LICENSE ISSUED PURSUANT TO
22 THIS SECTION SHALL PLAINLY INDICATE THE VOLUNTEER STATUS OF THE
23 LICENSEE.

24 (4) THE BOARD MAY CONDUCT DISCIPLINARY PROCEEDINGS
25 PURSUANT TO SECTION 12-40-119 AGAINST ANY PERSON LICENSED UNDER
26 THIS SECTION FOR AN ACT COMMITTED WHILE THE PERSON WAS LICENSED
27 PURSUANT TO THIS SECTION.

1 (5) A PERSON LICENSED UNDER THIS SECTION MAY APPLY TO THE
2 BOARD FOR A RETURN TO ACTIVE LICENSURE STATUS BY FILING AN
3 APPLICATION IN THE FORM AND MANNER DESIGNATED BY THE BOARD. THE
4 BOARD MAY APPROVE SUCH APPLICATION AND ISSUE A LICENSE TO
5 PRACTICE OPTOMETRY OR MAY DENY THE APPLICATION IF THE LICENSEE
6 HAS BEEN DISCIPLINED FOR OR ENGAGED IN ANY OF THE ACTIVITIES SET
7 FORTH IN SECTION 12-40-118.

8 (6) AN OPTOMETRIST WITH A VOLUNTEER LICENSE SHALL PROVIDE
9 OPTOMETRY SERVICES ONLY IF THE SERVICES ARE PERFORMED ON A
10 LIMITED BASIS FOR NO FEE OR OTHER COMPENSATION.

11 **SECTION 5.** 12-40-118 (1) (a), (1) (e), (1) (m), and (1) (dd),
12 Colorado Revised Statutes, are amended, and the said 12-40-118 (1) is
13 further amended BY THE ADDITION OF A NEW PARAGRAPH, to
14 read:

15 **12-40-118. Unprofessional conduct defined.** (1) The term
16 "unprofessional conduct", as used in this article, means:

17 (a) ~~Willfully~~ Deceiving or attempting to deceive the board or its
18 agents with reference to any proper matter under investigation by the
19 board;

20 (e) ~~Addiction to, dependence on, or~~ The habitual or excessive use
21 or abuse of ~~intoxicating liquors~~ ALCOHOL, a habit-forming drug, or any
22 controlled substance as defined in section 12-22-303 (7);

23 (m) ~~Practicing while having~~ FAILING TO:

24 (I) NOTIFY THE BOARD, IN A MANNER AND WITHIN A PERIOD
25 DETERMINED BY THE BOARD, OF a physical or mental ~~disability which~~
26 ILLNESS OR CONDITION THAT renders an optometrist unable to treat with
27 reasonable skill and safety or ~~which~~ THAT may endanger the health and

1 safety of persons under the care of ~~any~~ AN optometrist;

2 (II) ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL OR
3 MENTAL ILLNESS OR CONDITION THAT RENDERS AN OPTOMETRIST UNABLE
4 TO TREAT WITH REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER
5 THE HEALTH AND SAFETY OF PERSONS UNDER THE CARE OF AN
6 OPTOMETRIST; OR

7 (III) PRACTICE WITHIN THE LIMITATIONS CREATED BY THE
8 PHYSICAL OR MENTAL ILLNESS OR CONDITION AS SPECIFIED IN A
9 CONFIDENTIAL AGREEMENT BETWEEN THE OPTOMETRIST AND THE BOARD
10 ENTERED INTO PURSUANT TO SECTION 12-40-118.5 (5).

11 (dd) Engaging in any of the following activities and practices:

12 (I) ~~Willful and repeated~~ REPEATEDLY ordering or performance,
13 ~~without clinical justification,~~ of PERFORMING demonstrably unnecessary
14 laboratory tests or studies THAT LACK CLINICAL JUSTIFICATION;

15 (II) ~~The administration, without clinical justification,~~ of
16 ADMINISTERING treatment ~~which~~ THAT is demonstrably unnecessary AND
17 LACKS CLINICAL JUSTIFICATION; or

18 (III) Ordering or performing ~~without clinical justification,~~ any
19 service, X ray, or treatment ~~which~~ THAT is contrary to recognized
20 standards of the practice of optometry, as interpreted by the board, AND
21 LACKS CLINICAL JUSTIFICATION;

22 (mm) FAILING TO RESPOND IN AN HONEST, MATERIALLY
23 RESPONSIVE, AND TIMELY MANNER TO A COMPLAINT PURSUANT TO
24 SECTION 12-40-119 (1) (b).

25 **SECTION 6.** 12-40-118.5, Colorado Revised Statutes, is
26 amended BY THE ADDITION OF A NEW SUBSECTION to read:

27 **12-40-118.5. Mental and physical examination of licensees.**

1 (5) (a) THE BOARD MAY ENTER INTO AN AGREEMENT WITH AN
2 OPTOMETRIST WHOSE PRACTICE IS OR MAY BE AFFECTED BY A PHYSICAL
3 OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE OPTOMETRIST
4 UNABLE TO TREAT WITH REASONABLE SKILL AND SAFETY OR THAT MAY
5 ENDANGER THE HEALTH AND SAFETY OF PERSONS UNDER THE CARE OF
6 ANY OPTOMETRIST IF:

7 (I) THE BOARD BELIEVES THAT ONE OR MORE LIMITATIONS OF THE
8 OPTOMETRIST'S PRACTICE WOULD BOTH ENABLE THE OPTOMETRIST TO
9 TREAT WITH REASONABLE SKILL AND SAFETY AND WOULD PROTECT THE
10 HEALTH AND SAFETY OF PERSONS UNDER THE CARE OF THE OPTOMETRIST;
11 AND

12 (II) THE OPTOMETRIST ENTERS INTO AN ENFORCEABLE AGREEMENT
13 WITH THE BOARD TO SO LIMIT THE OPTOMETRIST'S PRACTICE.

14 (b) AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION
15 (5):

16 (I) IS CONFIDENTIAL AND NOT SUBJECT TO DISCLOSURE PURSUANT
17 TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
18 24, C.R.S.; AND

19 (II) MAY INCLUDE PROVISIONS FOR MONITORING AND
20 REEVALUATION OF THE OPTOMETRIST. THE PARTIES MAY MODIFY OR
21 DISSOLVE THE AGREEMENT AS NECESSARY BASED ON THE RESULTS OF THE
22 MONITORING OR REEVALUATION.

23 (c) THE BOARD MAY REQUIRE THE LICENSEE TO SUBMIT TO AN
24 EXAMINATION PURSUANT TO THIS SECTION TO EVALUATE THE EXTENT OF
25 THE ILLNESS OR CONDITION AND ITS IMPACT ON THE LICENSEE'S ABILITY TO
26 PRACTICE WITH REASONABLE SKILL AND WITH SAFETY TO PATIENTS.

27 (d) BY ENTERING INTO AN AGREEMENT WITH THE BOARD

1 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, THE LICENSEE
2 IS NOT ENGAGING IN UNPROFESSIONAL CONDUCT. THE AGREEMENT IS AN
3 ADMINISTRATIVE ACTION AND DOES NOT CONSTITUTE A RESTRICTION OR
4 DISCIPLINE BY THE BOARD. HOWEVER, IF THE LICENSEE FAILS TO COMPLY
5 WITH AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION, THE
6 FAILURE CONSTITUTES UNPROFESSIONAL CONDUCT PURSUANT TO SECTION
7 12-40-118 AND THE LICENSEE BECOMES SUBJECT TO DISCIPLINE IN
8 ACCORDANCE WITH SECTION 12-40-119.

9 (e) FOR PURPOSES OF THIS SUBSECTION (5), "PHYSICAL OR MENTAL
10 ILLNESS OR CONDITION" DOES NOT INCLUDE THE HABITUAL OR EXCESSIVE
11 USE OR ABUSE OF ALCOHOL, A HABIT-FORMING DRUG, OR ANY
12 CONTROLLED SUBSTANCE AS DEFINED IN SECTION 12-22-303 (7).

13 **SECTION 7.** 12-40-119 (1) (a), Colorado Revised Statutes, is
14 amended to read:

15 **12-40-119. Revocation, suspension, supervision, probation**
16 **procedure - professional review - reconsideration and review of**
17 **action by board - rules.** (1) (a) With respect to licenses or certificates
18 issued pursuant to this article, the board may:

19 (I) Impose probation, with or without supervision, on a licensee,
20 issue a letter of admonition to a licensee, OR suspend, revoke, or refuse
21 to renew any license or certificate provided for by this article for any
22 reason stated in section 12-40-118 or for violating any term of probation
23 of the board;

24 (II) SUMMARILY SUSPEND A LICENSE UPON THE FAILURE OF THE
25 LICENSEE TO COMPLY WITH ANY CONDITION OF A STIPULATION OR ORDER
26 IMPOSED BY THE BOARD UNTIL THE LICENSEE COMPLIES WITH THE
27 CONDITION, UNLESS COMPLIANCE IS BEYOND THE CONTROL OF THE

1 LICENSEE; AND

2 (III) IMPOSE A FINE NOT TO EXCEED FIVE THOUSAND DOLLARS ON
3 A LICENSEE FOR A VIOLATION OF THIS ARTICLE OR A RULE PROMULGATED
4 PURSUANT TO THIS ARTICLE OTHER THAN A VIOLATION RELATED TO A
5 STANDARD OF PRACTICE. THE BOARD SHALL, BY RULE, PROMULGATE A
6 FINING SCHEDULE WITH LESSER AMOUNTS FOR FIRST VIOLATIONS AND
7 INCREASING AMOUNTS FOR SUBSEQUENT VIOLATIONS OF THIS
8 SUBPARAGRAPH (III).

9 **SECTION 8.** 12-40-126 (1) (a) and (2), Colorado Revised
10 Statutes, are amended to read:

11 **12-40-126. Financial responsibility - rules.** (1) Every
12 optometrist who provides health care services within the state of Colorado
13 shall establish financial responsibility as follows:

14 (a) By maintaining commercial professional liability insurance
15 coverage with an insurance company authorized to do business in this
16 state in a minimum indemnity amount of ~~five hundred thousand~~ ONE
17 MILLION dollars per incident and ~~one~~ THREE million ~~five hundred~~
18 ~~thousand~~ dollars annual aggregate per year; or

19 (2) (a) The board may, by rule, establish lesser financial
20 responsibility standards than those required in subsection (1) of this
21 section for classes of license holders who HAVE AN INACTIVE LICENSE OR
22 WHO render limited or occasional optometric services because of
23 administrative or other nonclinical duties, ~~or~~ partial or complete
24 retirement, or for other reasons that render the limits provided in
25 paragraph (a) of subsection (1) of this section unreasonable or
26 unattainable.

27 (b) ~~However,~~ Nothing in this section ~~shall preclude~~ PRECLUDES or

1 otherwise ~~prohibit~~ PROHIBITS a licensed optometrist from rendering
2 appropriate patient care on an occasional basis when the circumstances
3 surrounding the need for such care so warrant.

4 **SECTION 9.** 12-40-106 (1) and (2), Colorado Revised Statutes,
5 are amended to read:

6 **12-40-106. State board of optometric examiners - subject to**
7 **termination.** (1) (a) The state board of optometric examiners, referred
8 to in this article as the "board", ~~shall be~~ IS under the supervision and
9 control of the division of registrations as provided by section 24-34-102,
10 C.R.S. The board ~~shall consist~~ CONSISTS of five optometrists and two
11 members-at-large, to be appointed by the governor to serve for terms of
12 four years; except that no person shall be appointed to serve more than
13 two consecutive terms. ~~Persons holding office on June 15, 1987, are~~
14 ~~subject to the provisions of section 24-1-137, C.R.S.~~ Each member of the
15 board, except for the members-at-large, shall have been actually engaged
16 and licensed in the practice of optometry ~~as defined in section 12-40-102~~
17 in Colorado for the five years ~~next~~ preceding the member's appointment.
18 At least one of the two members-at-large shall not be a member or
19 representative of, nor have any direct interest in, any profession, agency,
20 or institution providing health services.

21 (b) Any four members of ~~said~~ THE board ~~shall~~ constitute a quorum
22 for the purpose of holding examinations, granting licenses, or transacting
23 any business connected with the board.

24 (c) THE GOVERNOR SHALL FILL a vacancy in the membership of
25 ~~said~~ THE board ~~shall be filled by the governor~~ for the remainder of the
26 unexpired term. ~~Any~~ THE GOVERNOR MAY REMOVE A member of the
27 board ~~may be removed by the governor~~ for misconduct, incompetency, or

1 neglect of duty.

2 (d) ~~Any~~ A board member having a personal or private interest in
3 any matter before the board shall disclose such fact to the board and shall
4 not participate in RELATED discussions ~~related thereto~~ or ~~vote thereon~~
5 VOTES.

6 (2) The board shall organize annually by electing one of its
7 members as president AND one as vice-president. ~~and one as secretary.~~

8 **SECTION 10.** 12-40-102 (1), (2), (3), (4), (5), and (6), Colorado
9 Revised Statutes, are amended to read:

10 **12-40-102. Practice of optometry defined.** (1)(a) The "practice
11 of the profession of optometry" is: ~~The employment of any means other~~
12 ~~than medicine, surgery, invasive laser surgery, postoperative care~~
13 ~~management following surgery without referral from an ophthalmologist,~~
14 ~~unless ninety days have expired from and after the surgery or the~~
15 ~~physician justifies medically indicated reasons for extending the~~
16 ~~postoperative period or the patient has been released by the physician, X~~
17 ~~ray, or drugs, except as provided in subsections (4) and (5) of this section,~~
18 ~~to diagnose and treat the presence of abnormal conditions of the human~~
19 ~~eye or its appendages and the accommodative and refractive conditions~~
20 ~~of the human eye or the scope of its functions in general; except for~~
21 ~~treatment of posterior uveitis; and the measurement of the powers or~~
22 ~~range of human vision and the adaptation of lenses and frames to improve~~
23 ~~the powers or range of human vision~~ MEANS THE EVALUATION,
24 DIAGNOSIS, PREVENTION, OR TREATMENT OF DISEASES, DISORDERS, OR
25 CONDITIONS OF THE VISION SYSTEM, EYES, AND ADJACENT AND
26 ASSOCIATED STRUCTURES, INCLUDING THE USE OR PRESCRIPTION OF
27 LENSES, PRISMS, VISION THERAPY, VISION REHABILITATION, AND

1 PRESCRIPTION OR NONPRESCRIPTION DRUGS INCLUDING SCHEDULE III, IV,
2 AND V CONTROLLED NARCOTIC SUBSTANCES FOR OCULAR DISEASE, SO
3 LONG AS AN OPTOMETRIST IS PRACTICING WITHIN THE SCOPE OF HIS OR HER
4 EDUCATION AS IS COMMONLY TAUGHT IN ACCREDITED SCHOOLS AND
5 COLLEGES OF OPTOMETRY AND IS PRACTICING IN ACCORDANCE WITH
6 APPLICABLE FEDERAL AND COLORADO LAW AND BOARD RULES.

7 (b) THE FOLLOWING ARE PART OF THE PRACTICE OF OPTOMETRY:

8 (I) THE REMOVAL OF SUPERFICIAL FOREIGN BODIES FROM THE
9 HUMAN EYE OR ITS APPENDAGES;

10 (II) POSTOPERATIVE CARE IN THE FOLLOWING SITUATIONS:

11 (A) WITH REFERRAL FROM A PHYSICIAN;

12 (B) IF NINETY DAYS HAVE EXPIRED AFTER THE SURGERY UNLESS
13 THE PHYSICIAN JUSTIFIES MEDICALLY INDICATED REASONS FOR EXTENDING
14 THE POSTOPERATIVE PERIOD; AND

15 (C) IF THE PATIENT HAS BEEN RELEASED BY THE PHYSICIAN;

16 (III) THE TREATMENT OF ANTERIOR UVEITIS;

17 (IV) THE TREATMENT OF GLAUCOMA WITH ALL TOPICAL AND ORAL
18 ANTIGLAUCOMA DRUGS;

19 (V) EPILATION;

20 (VI) DILATION AND IRRIGATION OF THE LACRIMAL SYSTEM;

21 (VII) PUNCTAL PLUG INSERTION AND REMOVAL;

22 (VIII) ANTERIOR CORNEAL PUNCTURE;

23 (IX) CORNEAL SCRAPING FOR CULTURES;

24 (X) DEBRIDEMENT OF CORNEAL EPITHELIUM; AND

25 (XI) REMOVAL OF CORNEAL EPITHELIUM.

26 (c) Any person who is engaged in the prescribing OR PERFORMING
27 WITHOUT REFERRAL of visual training or orthoptics, ~~or~~ the prescribing of

1 any contact lenses, INCLUDING PLANO OR COSMETIC CONTACT LENSES, ~~or~~
2 the fitting or adaptation of such contact lenses to the human eye, ~~or~~ the
3 use of scientific instruments to train the visual system or any abnormal
4 condition of the eyes for the correction or improvement of, or the relief
5 to, the visual function, or who holds oneself out as being able to do so, is
6 engaged in the practice of optometry.

7 (d) THE "PRACTICE OF OPTOMETRY" DOES NOT INCLUDE:

8 (I) SURGERY OF OR INJECTIONS INTO THE GLOBE, ORBIT, EYELIDS,
9 OR OCULAR ADNEXA. "SURGERY" MEANS ANY PROCEDURE IN WHICH
10 HUMAN TISSUE IS CUT, ALTERED, OR OTHERWISE INFILTRATED BY
11 MECHANICAL OR LASER MEANS.

12 (II) THE USE OF SCHEDULE I OR II NARCOTICS;

13 (III) TREATMENT OF POSTERIOR UVEITIS; OR

14 (IV) THE USE OF INJECTABLE DRUGS, EXCEPT FOR THE USE OF AN
15 EPINEPHRINE AUTO-INJECTOR TO COUNTERACT ANAPHYLACTIC REACTION.

16 ==

17 (2) A licensed optometrist who ~~utilizes, including prescribing,~~
18 ~~those classes of pharmaceutical agents described in this section~~ USES OR
19 PRESCRIBES PRESCRIPTION OR NONPRESCRIPTION DRUGS shall ~~be required~~
20 ~~to~~ provide the same level and standard of care to his OR HER patients as
21 the standard of care provided by an ophthalmologist ~~utilizing~~ USING OR
22 PRESCRIBING the same ~~class of pharmaceutical agents~~ DRUGS.

23 (3) A licensed optometrist shall not use ~~pharmaceutical agents~~
24 PRESCRIPTION OR NONPRESCRIPTION DRUGS for treatment of eye disease
25 or disorder or for any therapeutic purpose unless certified as a therapeutic
26 optometrist pursuant to section 12-40-109.5 (1.5) and (3).

27 (4) ~~The classes of pharmaceutical agents approved for optometric~~

1 use for examination purposes under this section are topically applied
2 mydriatics, miotics, cycloplegics, and anesthetics.

3 (5) (a) ~~The classes of pharmaceutical agents and the procedures~~
4 ~~approved for optometric use for treatment of the anterior segment of the~~
5 ~~eye or its appendages, including prescription, by certified therapeutic~~
6 ~~optometrists for treatment purposes under this section are as follows:~~
7 ~~Topical and oral antimicrobials (except oral antifungal agents), topical~~
8 ~~and oral antihistamines, topical antiinflammatory agents, topical and oral~~
9 ~~nonscheduled analgesics, and any controlled substance for ocular pain~~
10 ~~and inflammation except those specified in schedules I and II as provided~~
11 ~~in part 2 of article 18 of title 18, C.R.S., and the removal of superficial~~
12 ~~foreign bodies from the human eye or its appendages.~~

13 (b) Nothing in this section shall prohibit PROHIBITS an optometrist
14 from charging a fee for prescribing, adjusting, fitting, adapting, or
15 dispensing ophthalmic devices, such as contact lenses, that are classified
16 by the federal food and drug administration as a drug, as long as the drug
17 delivered by the ophthalmic device is ~~one of the pharmaceutical agents~~
18 ~~identified in subsection (4) or (6) of this section or this subsection (5) or~~
19 ~~the drug is not a prescription drug~~ NOT A SCHEDULE I OR II CONTROLLED
20 SUBSTANCE.

21 (6) ~~The classes of pharmaceutical agents approved for optometric~~
22 ~~use by certified therapeutic optometrists for treatment of glaucoma~~
23 ~~include topical and oral antiglaucoma agents.~~

24 **SECTION 11.** The introductory portion to 12-40-108 (1) and
25 12-40-108 (2), Colorado Revised Statutes, are amended to read:

26 **12-40-108. Application for license - licensure by endorsement.**

27 (1) ~~Every A person who does not currently hold a license to practice~~

1 ~~optometry in this state and~~ who desires to practice optometry ~~within~~ IN
2 the state ~~shall~~ MAY file with the board an application for a license, giving
3 the information required ~~on~~ IN a form ~~to be provided~~ AND MANNER
4 APPROVED by the board. ~~wherein it shall appear that~~ The applicant SHALL
5 DEMONSTRATE THAT HE OR SHE possesses the following qualifications:

6 (2) ~~For the purpose of paragraphs (c) and (d) of subsection (1) of~~
7 ~~this section, it shall be sufficient if a statement pertaining to the~~
8 ~~qualifications appears on the application.~~

9 **SECTION 12.** 12-40-108.5, Colorado Revised Statutes, is
10 amended to read:

11 **12-40-108.5. Current licensees - treatment and therapeutic**
12 **practice.** On and after July 1, 1988, a person who is licensed under this
13 article as an optometrist on June 30, 1988, and who is otherwise qualified
14 under ~~the provisions of this article may use the classes of pharmaceutical~~
15 ~~agents~~ PRESCRIPTION OR NONPRESCRIPTION DRUGS for examination
16 purposes. ~~described in section 12-40-102 (4).~~ However, such optometrist
17 may ~~utilize the classes of pharmaceutical agents~~ USE PRESCRIPTION OR
18 NONPRESCRIPTION DRUGS for treatment of eye disease or disorder or for
19 any therapeutic purpose ~~described in section 12-40-102 (5) and (6)~~ only
20 if he or she becomes certified as a therapeutic optometrist pursuant to
21 section 12-40-109.5 (1.5) and (3) on or after July 1, 1988.

22 **SECTION 13.** 12-40-109 (1) and (2), Colorado Revised Statutes,
23 are amended to read:

24 **12-40-109. Examination - licenses.** (1) ~~Each application shall~~
25 ~~be verified under oath by the applicant, and a material false statement~~
26 ~~thereon shall constitute grounds for the withholding or revocation of a~~
27 ~~license.~~ The applicant shall take and submit test scores from the

1 board-approved exam. The examination shall be of such a character as
2 to test the qualifications of the applicant to practice optometry.

3 (2) Each person who makes a passing grade on the practical and
4 clinical examination of the board and who is otherwise qualified shall be
5 granted a license evidenced by a certificate signed by the board. ~~No~~
6 ~~license shall be granted by less than a majority vote of the board.~~ The
7 license certificate provided for in this section shall be in such form and
8 wording as may be adopted by the board; except that the board shall
9 provide an optometrist who is certified as a therapeutic optometrist
10 pursuant to section 12-40-109.5 (1.5) with a distinctive certificate
11 indicating such certification. Such certificate shall be displayed by the
12 optometrist for viewing by his OR HER patients, as provided in section
13 12-40-115. An application for initial licensure as a certified therapeutic
14 optometrist shall be accompanied by a processing fee in an amount to be
15 determined by the board pursuant to ~~the provisions of~~ section 24-34-105,
16 C.R.S. Such fee shall not be required for any renewal certificate obtained
17 pursuant to ~~the provisions of~~ section 12-40-113.

18 **SECTION 14.** 12-40-109.5 (1) and (1.5), Colorado Revised
19 Statutes, are amended to read:

20 **12-40-109.5. Certification for use of pharmaceutical agents.**

21 (1) Notwithstanding ~~the provisions of~~ section 12-22-121, a licensed
22 optometrist may purchase, possess, and administer ~~the classes of~~
23 ~~pharmaceutical agents~~ PRESCRIPTION OR NONPRESCRIPTION DRUGS for
24 examination purposes ~~referred to in section 12-40-102 (4)~~ only if, after
25 July 1, 1983, the optometrist has obtained a certificate from the board
26 certifying that the optometrist has complied with the following minimum
27 requirements: Successful completion, by attendance and examination, of

1 at least fifty-five classroom hours of study in general, ocular, and clinical
2 pharmacology which must have been completed within twenty-four
3 months preceding the application for certification; except that, in the
4 event that such classroom hours have been completed since 1976, only
5 six of such classroom hours must have been completed within
6 twenty-four months preceding the application for certification. The
7 courses shall be offered by an institution ~~which~~ THAT is accredited by a
8 regional or professional accreditation organization recognized or
9 approved by the council on postsecondary education or the United States
10 department of education or their successors.

11 (1.5) Notwithstanding ~~the provisions of~~ section 12-22-121, a
12 licensed optometrist may purchase, possess, administer, and prescribe ~~the~~
13 ~~classes of pharmaceutical agents~~ PRESCRIPTION OR NONPRESCRIPTION
14 DRUGS for treatment referred to in section 12-40-102(5) on and after July
15 1, 1988, only if the optometrist has obtained a certificate from the board
16 certifying that the optometrist has complied with the following minimum
17 requirements within twenty-four months preceding the application for
18 certification: Successful completion, by attendance and examination, of
19 at least sixty classroom hours of study in ocular pharmacology, clinical
20 pharmacology, therapeutics, and anterior segment disease; and successful
21 completion by attendance and examination of at least sixty hours of
22 approved supervised clinical training in the examination, diagnosis, and
23 treatment of conditions of the human eye and its appendages. The
24 courses shall be offered by an institution ~~which~~ THAT is accredited by a
25 regional or professional accreditation organization recognized or
26 approved by the council of postsecondary education or the United States
27 department of education or their successors.

1 **SECTION 15. Repeal.** 12-40-113 (1) (c), Colorado Revised
2 Statutes, is repealed as follows:

3 **12-40-113. License renewal - requirements - fee - failure to**
4 **pay.** (1) (c) ~~Failure to so remit shall cause a denial of the application for~~
5 ~~renewal.~~

6 **SECTION 16. Repeal.** 12-40-114 (1) and (2), Colorado Revised
7 Statutes, are repealed as follows:

8 **12-40-114. Change of address.** (1) ~~Every person licensed under~~
9 ~~this article shall furnish to the board, in writing, prior to commencing~~
10 ~~practice in this state the address of each location at which he practices~~
11 ~~and shall notify the board of the discontinuance of such practice at a~~
12 ~~given location within ten days after such discontinuance.~~

13 (2) ~~Any licensee may maintain offices which he periodically~~
14 ~~visits, other than that in which he maintains and carries on his principal~~
15 ~~practice. A licensee who maintains offices which he visits periodically~~
16 ~~shall notify the board in writing of the address of each of said offices.~~

17 **SECTION 17.** 12-40-118.5 (1), Colorado Revised Statutes, is
18 amended to read:

19 **12-40-118.5. Mental and physical examination of licensees.**

20 (1) If the board has reasonable cause to believe that a licensee is unable
21 to practice with reasonable skill and safety, the board may require ~~such~~
22 ~~person~~ THE LICENSEE to ~~take~~ SUBMIT TO a mental or physical examination
23 by a physician OR QUALIFIED HEALTHCARE PROVIDER designated by ~~said~~
24 THE board. If ~~such~~ THE licensee refuses to undergo ~~such~~ a mental or
25 physical examination, unless due to circumstances beyond the licensee's
26 control, the board may suspend ~~such~~ THE licensee's license until AN
27 EXAMINATION HAS OCCURRED, the results of ~~any such~~ THE examination

1 are known, and the board has made a determination of the licensee's
2 fitness to practice. The board shall proceed with ~~any such~~ THE order for
3 examination and ~~such~~ THE determination in a timely manner.

4 **SECTION 18. Repeal.** 12-40-126 (5), Colorado Revised
5 Statutes, is repealed as follows:

6 **12-40-126. Financial responsibility.** (5) ~~Each optometrist~~
7 ~~subject to the provisions of this section shall pay, in addition to any~~
8 ~~license fee, an additional fee in an amount to be determined by the board~~
9 ~~pursuant to the provisions of section 24-34-105, C.R.S., not to exceed~~
10 ~~fifteen dollars. Such fee shall be transmitted to the state treasurer, who~~
11 ~~shall credit the same to the division of registrations cash fund, which~~
12 ~~moneys shall be used exclusively for the purposes as annually~~
13 ~~appropriated by the general assembly.~~

14 **SECTION 19. Applicability.** This act shall apply to conduct
15 occurring on or after the effective date of this act.

16 **SECTION 20. Safety clause.** The general assembly hereby
17 finds, determines, and declares that this act is necessary for the
18 immediate preservation of the public peace, health, and safety.