

FIRST REGULAR SESSION

# SENATE BILL NO. 542

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 20, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2139S.011

## AN ACT

To repeal sections 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, and 336.225, RSMo, and to enact in lieu thereof twelve new sections relating to optometrists.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, and 336.225, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.140, 336.160, 336.220, and 336.225, to read as follows:

336.010. [Any one or any combination of the following practices constitutes the "practice of optometry":

(1) The examination of the human eye, without the use of drugs, medicines or surgery, to ascertain the presence of defects or abnormal conditions which can be corrected by the use of lenses, prisms or ocular exercises;

(2) The employment of objective or subjective mechanical means to determine the accommodative or refractive states of the human eye or the range of power of vision of the human eye;

(3) The prescription or adaptation without the use of drugs, medicines or surgery, of lenses, prisms, or ocular exercises to correct defects or abnormal conditions of the human eye or to adjust the human eye to the conditions of special occupation.] **1. The "practice of optometry" is the examination, diagnosis, treatment, and preventive care of the eye, adnexa, and vision. The practice includes, but is not limited to:**

**(1) The examination of the eye, adnexa, and vision to determine**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 the accommodative and refractive states, visual perception, conditions,  
17 and diseases;

18 (2) The diagnosis and treatment of conditions or diseases of the  
19 eye, adnexa, and vision;

20 (3) The performance of diagnostic procedures and ordering of  
21 laboratory and imaging tests for the diagnosis of vision and conditions  
22 and diseases of the eye and adnexa;

23 (4) The prescription and administration of pharmaceutical  
24 agents, excluding injectable agents, for the purpose of examination,  
25 diagnosis, and treatment of vision and conditions or diseases of the eye  
26 and adnexa;

27 (5) The removal of superficial foreign bodies from the eye or  
28 adnexa;

29 (6) The employment of objective or subjective mechanical means  
30 to determine the accommodative or refractive states of the human eye;

31 (7) The prescription or adaptation of lenses, prisms, devices, or  
32 ocular exercises to correct defects or abnormal conditions of the human  
33 eye or vision or to adjust the human eye to special conditions;

34 (8) The prescription and fitting of ophthalmic or contact lenses  
35 and devices;

36 (9) The prescription and administration of vision therapy;

37 (10) The prescription and administration of low vision care.

38 2. An optometrist shall not perform surgery for the correction of  
39 refractive error or for the treatment of any disease or condition by  
40 using lasers.

41 3. As used in this chapter, except as the context may otherwise  
42 require, the following terms mean:

43 (1) "Adnexa", all structures, adjacent to the eye, or within the  
44 orbit, and the conjunctiva, lids, lashes, and lacrimal system;

45 (2) "Board", the Missouri state board of optometry;

46 (3) "Diagnostic pharmaceutical agents", those topically applied  
47 pharmaceuticals used for the purpose of conducting an examination of  
48 the eye, adnexa, and vision;

49 (4) "Eye", the human eye;

50 (5) "Low vision care", the examination, treatment, and  
51 management of patients with visual impairments not treatable by  
52 conventional eyewear or contact lenses and may include a vision

53 **rehabilitation program to enhance remaining vision skills;**

54 **(6) "Pharmaceutical agents", any diagnostic and therapeutic drug**  
55 **or combination of drugs that assist the diagnosis, prevention,**  
56 **treatment, or mitigation of abnormal conditions or symptoms of the**  
57 **human eye, adnexa, and vision;**

58 **(7) "Therapeutic pharmaceutical agents", those pharmaceuticals,**  
59 **excluding injectable agents, used for the treatment of conditions or**  
60 **diseases of the eye, adnexa, and vision;**

61 **(8) "Vision therapy", a treatment regiment to improve a patient's**  
62 **diagnosed visual dysfunctions, prevent the development of visual**  
63 **problems, or enhance visual performance to meet defined needs of the**  
64 **patient.**

336.020. It shall be unlawful for any person to practice [optometry  
2 or], attempt to [practice], **or offer to practice** optometry or to be employed by  
3 **[a] any person**, corporation, partnership, [or] association [for the purpose of  
4 practicing optometry], **or other entity that practices or attempts to**  
5 **practice optometry** without a [certificate of registration as a registered  
6 optometrist] **license** issued by the [state] board [of optometry]. **Nothing in**  
7 **this section shall be construed to prohibit a person licensed or**  
8 **registered under chapter 334, RSMo, whose license is in good standing,**  
9 **from acting within the scope of his or her practice.**

336.030. 1. A person is qualified to receive a [certificate of registration]  
2 **license** as [a registered] **an** optometrist:

3 (1) Who is at least twenty-one years of age;

4 (2) Who is of good moral character [and];

5 (3) Who has graduated from a **college or** school of optometry approved  
6 by the [state] board [of optometry]; **and**

7 (4) Who has [passed a satisfactory examination conducted by or approved  
8 by the state board of optometry to determine his fitness to receive a certificate of  
9 registration as a registered optometrist.] **met either of the following**  
10 **conditions:**

11 **(a) Has passed an examination satisfactory to, conducted by, or**  
12 **approved by the board to determine his or her fitness to receive a**  
13 **license as an optometrist with pharmaceutical certification and has met**  
14 **the requirements of licensure as may be required by rule and**  
15 **regulation; or**

16           **(b) Has been licensed and has practiced for at least three years**  
17 **in the five years immediately preceding the date of application with**  
18 **pharmaceutical certification in another state, territory, country, or**  
19 **province in which the requirements are substantially equivalent to the**  
20 **requirements in this state and has satisfactorily completed any**  
21 **practical examination or any examination on Missouri laws as may be**  
22 **required by rule and regulation.**

23           **2. The board may adopt reasonable rules and regulations**  
24 **providing for the examination and certification of optometrists who**  
25 **apply to the board for the authority to practice optometry in this state.**

          336.040. Every person who desires to obtain a [certificate of registration]  
2 **license to practice optometry** shall apply [therefor] to the [state] board [of  
3 optometry], in writing, on [blanks] **forms** prepared and furnished by the [state]  
4 board [of optometry]. [Each] **The** application shall [contain proof of the  
5 particular] **state the required** qualifications [required] of the applicant, [shall  
6 contain a statement that it is] **that the representations are** made under oath  
7 or affirmation and [that its representations] are true and correct to the  
8 **applicant's** best knowledge [and belief of the person signing same,] subject to  
9 the penalties of making a false affidavit or declaration and shall be accompanied  
10 by the examination fee.

          336.050. The [state] board [of optometry] shall hold examinations of  
2 applicants for [certificates of registration] **a license** as [registered optometrists]  
3 **an optometrist** at such times and places as it may determine. The examination  
4 of applicants for [certificates of registration] **a license** as [registered  
5 optometrists] **an optometrist** may include both practical demonstrations and  
6 written and oral tests, and shall embrace the subjects normally taught in schools  
7 of optometry approved by the [state] board [of optometry].

          336.060. Whenever the provisions of this chapter have been complied  
2 with, and upon payment of the [certificate] **license** fee, the [state] board [of  
3 optometry] shall issue a [certificate of registration] **license** as [a registered] **an**  
4 optometrist.

          336.070. Every holder of [a certificate of registration] **an optometry**  
2 **license** shall display [it] **the license** in a conspicuous place in his **or her**  
3 principal office, place of business or employment. Whenever a [registered]  
4 **licensed** optometrist practices optometry [outside of, or] away from[,] his **or her**  
5 principal office, [places of business or employment, he] **the licensee** shall

6 [deliver to each patient in his care a certificate of identification or provide other  
7 identification as authorized by rule and regulation] **obtain a duplicate**  
8 **renewal license from the board and display it in clear view of the**  
9 **public.**

336.080. 1. Every [registered] **licensed** optometrist who continues in  
2 active practice or service shall, on or before the renewal date, renew his  
3 [certificate of registration] **or her license** and pay the required renewal fee and  
4 present satisfactory evidence to the [state] board [of optometry] of his **or her**  
5 attendance for a minimum of [eight] **thirty-two** hours [each year] **of board**  
6 **approved continuing education, or their equivalent**, during the preceding  
7 [licensing period at educational optometric programs, or their equivalent, that  
8 have been approved by the board] **two-year continuing education reporting**  
9 **period as established by rule and regulation.** The [attendance or  
10 equivalent] **continuing education requirement** may be waived by the board  
11 upon presentation to it of satisfactory evidence of the illness of the optometrist  
12 or for other good cause as defined by rule and regulation. The board shall not  
13 reject any such application if approved programs are not available within the  
14 state of Missouri. Every [certificate of registration] **license** which has not been  
15 renewed on or before the renewal date shall expire.

16 2. Any [registered] **licensed** optometrist who permits his [certificate] **or**  
17 **her license** to expire may renew it within five years of expiration upon payment  
18 of the required [restoration] **reactivation** fee and presentation of satisfactory  
19 evidence to the [state] board [of optometry] of his **or her** attendance for a  
20 minimum of twenty-four hours **of board approved continuing education, or**  
21 **their equivalent**, during the five years [at educational programs, or their  
22 equivalent, that have been approved by the board].

23 3. **The board shall not reject any such application if approved**  
24 **programs are not available within the state of Missouri.** The attendance  
25 or equivalent may be waived by the board upon presentation to it of satisfactory  
26 evidence of the illness of the optometrist or for other good cause as defined by  
27 rule and regulation.

336.140. 1. The board shall hold meetings for the examination of  
2 applicants for registration and the transaction of other business pertaining to its  
3 duties at least once in six months. [The board shall give thirty days' public notice  
4 of the time and place of this meeting.] Each member of the board shall receive as  
5 compensation an amount set by the board not to exceed [fifty] **seventy** dollars

6 for each day devoted to the affairs of the board, and shall be entitled to  
7 reimbursement of his expenses necessarily incurred in the discharge of his official  
8 duties. All fees payable under this chapter shall be collected by the division of  
9 professional registration, which shall transmit the same to the department of  
10 revenue for deposit in the state treasury to the credit of a fund to be known as  
11 the "Optometry Fund". All costs and expenses incurred in administering the  
12 provisions of this chapter shall be appropriated and paid from this fund.

13         2. The provisions of section 33.080, RSMo, to the contrary  
14 notwithstanding, money in this fund shall not be transferred and placed to the  
15 credit of general revenue until the amount in the fund at the end of the biennium  
16 exceeds two times the amount of the appropriation from the board's funds for the  
17 preceding fiscal year or, if the board requires by rule permit renewal less  
18 frequently than yearly, then three times the appropriation from the board's funds  
19 for the preceding fiscal year. The amount, if any, in the fund which shall lapse  
20 is that amount in the fund which exceeds the appropriate multiple of the  
21 appropriations from the board's funds for the preceding fiscal year.

336.160. 1. The [state] board [of optometry] may adopt reasonable rules  
2 and regulations within the scope and terms of this chapter for the proper  
3 administration and enforcement thereof. It may employ such board personnel,  
4 as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as it  
5 deems necessary within appropriations therefor.

6         2. The board shall set the amount of the fees which this chapter  
7 authorizes and requires by rules and regulations promulgated pursuant to section  
8 536.021, RSMo. The fees shall be set at a level to produce revenue which shall  
9 not substantially exceed the cost and expense of administering this chapter.

336.220. 1. [The state board of optometry may adopt reasonable rules and  
2 regulations providing for the examination and certification of registered  
3 optometrists who apply to the board for authority to administer pharmaceutical  
4 agents in the practice of optometry. Such pharmaceutical agents may be  
5 "diagnostic pharmaceutical agents" or "therapeutic pharmaceutical agents". As  
6 used in this section, the term "diagnostic pharmaceutical agents" means those  
7 topically applied pharmaceuticals used for the purpose of conducting an  
8 examination upon the eye or adnexa, and the term "therapeutic pharmaceutical  
9 agents" means those pharmaceuticals, excluding injectable agents, used for the  
10 treatment of conditions or diseases of the eye or the adnexa.

11         2. No registered optometrist shall administer diagnostic pharmaceutical

12 agents or therapeutic pharmaceutical agents in the practice of optometry unless  
13 such person submits to the state board of optometry evidence of satisfactory  
14 completion of: a course of instruction in general and ocular pharmacology; which  
15 includes at least one hundred hours of approved, supervised, clinical training in  
16 the examination, diagnosis and treatment of conditions of the human eye and  
17 adnexa in a program supervised by a board-certified ophthalmologist; and such  
18 other educational requirements or examination as may be required by the board,  
19 and is certified by the board as qualified to administer diagnostic pharmaceutical  
20 agents and therapeutic pharmaceutical agents in the practice of optometry. An  
21 optometrist may not be certified by the board to administer therapeutic  
22 pharmaceutical agents unless the optometrist is certified to administer diagnostic  
23 pharmaceutical agents. The board shall not approve a course of instruction in  
24 general or ocular pharmacology unless it is taught by an institution utilizing both  
25 the didactic and clinical instruction in pharmacology and which is accredited by  
26 a regional or professional accrediting organization which is recognized by the  
27 United States Department of Education or its successors and the transcript for  
28 the course of instruction is certified to the board by the institution as being  
29 comparable in content to those courses in general and ocular pharmacology  
30 required by other licensing boards whose licenses or registrants are permitted the  
31 administration of pharmaceutical agents in the course of their professional  
32 practice for either diagnostic or therapeutic purposes or both.

33           3. In issuing a certificate of registration or a renewal of a certificate of  
34 registration, the state board of optometry shall:

35           (1) State upon the certificate of an optometrist certified by the board to  
36 administer diagnostic pharmaceutical agents in the practice of optometry that the  
37 optometrist is so certified; and

38           (2) State upon the certificate of an optometrist certified by the board to  
39 administer therapeutic pharmaceutical agents in the practice of optometry that  
40 the optometrist is so certified.

41           4. Any provision of section 336.010 to the contrary notwithstanding, a  
42 registered optometrist who is examined and so certified by the state board of  
43 optometry in the administration of diagnostic pharmaceutical agents or  
44 therapeutic pharmaceutical agents may administer those agents for which he is  
45 certified in the practice of optometry. An optometrist's prescriptions for  
46 therapeutic pharmaceutical agents should be dispensed by a pharmacist licensed  
47 under chapter 338, RSMo. When therapeutic pharmaceutical agents are

48 dispensed by an optometrist the provisions of section 338.059, RSMo, shall apply.

49           5. An optometrist certified in the administration of therapeutic  
50 pharmaceutical agents may:

51           (1) Administer and prescribe pharmaceutical agents, excluding injectable  
52 agents, for the diagnosis and treatment of conditions or diseases of the eye or  
53 adnexa; and

54           (2) Perform diagnostic procedures and order laboratory and imaging tests  
55 for the diagnosis of conditions or diseases of the eye or adnexa.

56           6. Each optometrist certified in the administration of therapeutic  
57 pharmaceutical agents shall, within one year of August 28, 1995, complete a  
58 course of instruction approved by the board that includes at least twenty-four  
59 hours of training in the treatment of glaucoma. The board shall not approve a  
60 course of instruction in the treatment of glaucoma unless it is taught by an  
61 institution that is accredited by a regional or professional accrediting  
62 organization that is recognized by the United States Department of Education or  
63 its successor and the content for the course of instruction is certified to the board  
64 by the institution as being comparable in the content to those courses in the  
65 treatment of glaucoma required by other licensing boards whose licensees or  
66 registrants are permitted to treat glaucoma in the course of their professional  
67 practice; except that, any optometrist initially licensed in Missouri after  
68 December 31, 1990, who had previously passed the examination of the National  
69 Board of Examiners in Optometry in the year 1990, or anytime after such year,  
70 shall be exempt from the requirement of completing the course of instruction in  
71 the treatment of glaucoma required by this subsection. Until December 31, 1999,  
72 as a condition for the annual renewal of the certificate of registration, each  
73 optometrist certified in the administration of therapeutic pharmaceutical agents  
74 shall, as a condition for the annual renewal of certification through December 31,  
75 1999, complete a continuing course of instruction of at least six hours in the  
76 treatment of glaucoma as approved by the board; provided that, such six hours  
77 may be credited against the initial course of at least twenty-four hours required  
78 by this section and against the educational optometric program of at least eight  
79 hours required by section 336.080.

80           7. An optometrist certified by the board in the administration of  
81 therapeutic pharmaceutical agents may remove superficial foreign bodies from the  
82 eye and adnexa. An optometrist may not perform surgery, including the use of  
83 lasers for treatment of any disease or condition or for the correction of refractive

84 error. An optometrist certified to use pharmaceutical agents as provided in this  
85 section shall be held to the same standard of care in the use of such agents in the  
86 optometrist's diagnosis and treatment as are physicians, licensed by the Missouri  
87 state board of registration for the healing arts, who exercise that degree of skill  
88 and proficiency commonly exercised by ordinary, skillful, careful and prudent  
89 physicians and surgeons engaged in the practice of medicine.

90 8. Any optometrist authorized by the board to administer diagnostic  
91 pharmaceutical agents shall refer a patient to a physician licensed under chapter  
92 334, RSMo, if an examination of the eyes indicates a condition, including reduced  
93 visual acuity, which requires medical treatment, further medical diagnosis, or  
94 further refraction. This referral is not required on known or previously diagnosed  
95 conditions. The record of the referral in the optometrist's notes shall have the  
96 standing of any business record. Any optometrist violating this section shall be  
97 subject to the provisions of section 336.110.] **Notwithstanding subsection 1**  
98 **of section 336.010, any optometrist who is not certified to use either**  
99 **diagnostic or therapeutic pharmaceutical agents shall continue to be**  
100 **prohibited from administering, dispensing, or prescribing the**  
101 **respective pharmaceutical agents unless the optometrist has completed**  
102 **an approved course of study and been certified by the board. Such**  
103 **status shall be noted on the license at each renewal.**

104 2. Any optometrist authorized by the board to administer only  
105 diagnostic pharmaceutical agents shall refer a patient to a physician  
106 licensed under chapter 334, RSMo, if an examination of the eyes  
107 indicates a condition, including reduced visual acuity, which requires  
108 medical treatment, further medical diagnosis, or further  
109 refraction. This referral is not required on known or previously  
110 diagnosed conditions. The record of the referral in the optometrist's  
111 notes shall have the standing of any business record. Any optometrist  
112 violating this section shall be subject to the provisions of section  
113 336.110.

114 3. An optometrist's prescriptions for therapeutic pharmaceutical  
115 agents should be dispensed by a pharmacist licensed under chapter 338,  
116 RSMo. When therapeutic pharmaceutical agents are dispensed by an  
117 optometrist, the provisions of section 338.059, RSMo, shall apply.

118 4. An optometrist certified to use pharmaceutical agents shall be  
119 held to the standard of care in the use of pharmaceutical agents in the

120 **optometrist's diagnosis and treatment as are physicians licensed by the**  
121 **Missouri state board of registration for the healing arts who exercise**  
122 **that degree of skill and learning ordinarily used under the same or**  
123 **similar circumstances by physicians and surgeons engaged in the**  
124 **practice of medicine.**

125 **5. The board may adopt reasonable rules and regulations**  
126 **providing for the examination and certification of optometrists who**  
127 **apply to the board for authority to administer and prescribe**  
128 **pharmaceutical agents in the practice of optometry.**

336.225. [Notwithstanding any other provision of law, any written or  
2 broadcast advertising for eye exam services whether regional or national by any  
3 optical firm shall not be required to list the name of the optometrist in the  
4 advertisement provided those optometrists practicing under a trade name at a  
5 specific location shall be identified to any person by having the optometrist's  
6 name prominently displayed at such specific location. All eye exam services  
7 provided by any optical firm must be provided by a person in accordance with the  
8 provisions contained in section 336.030.] **Any optometrist for any person,**  
9 **firm, or corporation employing or associated with an optometrist may**  
10 **advertise the availability of optometric service. The optometrist shall**  
11 **be responsible for insuring that his or her name is prominently**  
12 **displayed at all of his or her practice locations. All eye examination**  
13 **services must be provided by a person in accordance with the**  
14 **provisions contained in section 336.030.**

[336.090. 1. Upon payment of a fee equivalent to the  
2 examination and certificate fees, an applicant who is an  
3 optometrist, registered or licensed under the laws of another state  
4 or territory of the United States, or of a foreign country or province  
5 shall, without examination, be granted a certificate of registration  
6 as a registered optometrist by the state board of optometry upon  
7 the following conditions:

8 (1) That the applicant is at least twenty-one years of age,  
9 of good moral character; and

10 (2) That the requirements for the registration or licensing  
11 of optometrists in the particular state, territory, country or  
12 province, were, at the date of the license, substantially equal to the  
13 requirements then in force in this state.

14                   2. The board may by rule and regulation require applicants  
15                   under this section to satisfactorily complete any practical  
16                   examination or any examination on Missouri laws required  
17                   pursuant to section 336.050.]

                  [336.200. Any person, firm or corporation employing a  
2                   registered optometrist may advertise the availability of optometric  
3                   service, provided that the names of the registered optometrists  
4                   providing such service are included in all printed  
5                   advertisements. The violation of any provision of this section shall  
6                   constitute an infraction, punishable upon conviction, by a fine of  
7                   not less than twenty-five dollars nor more than two hundred  
8                   dollars.]

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Bill

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