

## CHAPTER 65

## (HB 219)

AN ACT relating to ophthalmic dispensers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 326.020 is amended to read as follows:

- (1) There is hereby created a board of ophthalmic dispensers to be known as the "Kentucky Board of Ophthalmic Dispensers." It shall consist of five (5) members to be appointed by the Governor, one (1) member of which shall be a licensed medical physician or osteopath experienced in the treatment and examination of eyes and one (1) member of which shall be a licensed optometrist. Two (2) members shall be licensed ophthalmic dispensers. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. They shall not pass upon their own qualifications. The board shall elect one (1) of its members chairman and one (1) member secretary-treasurer. These officers shall serve at the pleasure of the board.
- (2) Members shall serve for a period of four (4) years from the date of their appointment and qualification. At the expiration of the term of office of any member, the Governor shall appoint a successor for a term of four (4) years.
- (3) (a) The board may promulgate administrative regulations to carry out the purposes and provisions of this chapter, including the licensing of apprentice ophthalmic dispensers and the adoption of a program for continuing education for all licensees.  
(b) No licensee shall be permitted to renew his *or her* license, unless the minimum annual continuing education requirements have been completed. No program for continuing education shall contain, as a prerequisite for license renewal, a requirement for more than a total of six (6) credit hours per year for ophthalmic dispenser licensees, or four (4) credit hours per year for apprentice ophthalmic dispenser licensees.
- (4) Board members shall receive fifty dollars (\$50) per day for attending board meetings. ***Board members shall also be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.***
- (5) ***The board may:***
  - (a) ***Revoke, suspend, or refuse to issue or renew licenses; impose probationary or supervisory conditions upon licensee; or issue written reprimands to licensees, in accordance with Section 4 of this Act;***
  - (b) ***Impose administrative fines in accordance with Section 5 of this Act; or***
  - (c) ***Take any other action or combination of actions regarding licenses, licensees, or apprenticeships authorized by this chapter.***
- (6) ***For the purpose of enforcing the provisions of this chapter, the board may administer oaths, receive evidence, interview persons, issue subpoenas, and require the production of books, papers, documents, or other evidence.***
- (7) ***The board may seek injunctive relief in Franklin Circuit Court to enjoin violation of KRS 326.030.***

Section 2. KRS 326.030 is amended to read as follows:

~~On and after January 1, 1955,~~ No person shall engage in the practice of ophthalmic dispensing unless he *or she* is duly licensed to practice medicine, osteopathy, or optometry in this Commonwealth or unless he *or she* is the holder of a license as an ophthalmic dispenser; provided, this section shall not be so construed as to prohibit a firm or corporation from operating a business which comes within the meaning of ophthalmic dispensing, if each of its employees either (1) coming in contact with the public and performing for the public any service or services included within the meaning of ophthalmic dispensing, or (2) otherwise performing any work or service required by this chapter to be performed by an ophthalmic dispenser, is the holder of a license as an ophthalmic dispenser.

Section 3. KRS 326.040 is amended to read as follows:

A license as an ophthalmic dispenser shall be issued by the board to any person who pays a fee of **fifty dollars (\$50)**~~[\$25]~~ and submits evidence under oath satisfactory to the board: (1) That he *or she* is more than eighteen (18) years of age and of good moral character;

- (2) ***That he or she has graduated from high school or possesses a General Educational Development (GED) certificate;***
- (3) That he *or she* has at least two (2) years of satisfactory training and experience in ophthalmic dispensing under the supervision of an ophthalmic dispenser, physician, osteopath, or optometrist, or is a graduate of an accepted school of ophthalmic dispensing;
- ~~(4)~~~~(3)~~ That he *or she* has passed a satisfactory examination in ophthalmic dispensing ***approved***~~given~~ by the board.

Section 4. KRS 326.090 is amended to read as follows:

- (1) The board ***may refuse to issue a license, or*** may suspend,~~or~~ revoke, ***impose probationary conditions upon, impose an administrative fine upon, or issue a written reprimand against the holder of a***~~any~~ license to practice ophthalmic dispensing ***or an apprentice license if the applicant or licensee has***~~for any of the following causes~~:
  - ~~(a)~~~~(1)~~ ***Committed a dishonest or corrupt act. If the act is a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence of guilt at the ensuing disciplinary hearing of the licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction***~~The conviction of a felony involving moral turpitude~~;
  - (b) ***Committed any unfair, false, misleading, or deceptive act or practice;***
  - (c) ***Been incompetent or negligent in the practice of ophthalmic dispensing;***
  - (d) ***Failed to comply with a lawful order of the board;***
  - (e) ***Aided or abetted another person in falsely procuring or attempting to procure a license;***
  - (f) ***Aided or abetted an unlicensed person in activities which violate KRS 326.030 and which are not otherwise exempted from the provisions of this chapter;***

- (g)~~(2)~~ ***Exhibited*** chronic or persistent inebriety or addiction to a drug habit, to an extent that disqualifies ***the applicant or the licensee*** from practicing with safety to the public;
- (h)~~(3)~~ ***Committed*** fraud or deception in the application or in the examination for the license; ***or***
- (i)~~(4)~~ ***Violated any provisions of***~~[Violation of]~~ this chapter ***or administrative regulations promulgated in accordance with this chapter.***
- (2) ***After investigating an alleged violation and offering the licensee the opportunity to respond to the allegation, the board may issue a written reprimand to the licensee if the board determines that a violation that is not of a serious nature has occurred. A copy of the reprimand shall be placed in the permanent file of the licensee. The licensee may file a written response to the reprimand within thirty (30) days of receiving the reprimand or may request a hearing with the board. If the licensee responds to the reprimand, his or her response shall be placed in the licensee's permanent file. If the licensee requests a hearing, the board shall set aside the written reprimand, pending the outcome of a hearing by the board under the provisions of KRS Chapter 13B.***

Section 5. KRS 326.100 is amended to read as follows:

- (1) ***The board before suspending, revoking, imposing probationary, or supervisory conditions upon, imposing an administrative fine, issuing a written reprimand, or taking any combination of these actions regarding any licensee under KRS Chapter 326 shall conduct a hearing under the provisions of***~~[No license shall be suspended or revoked until after a hearing conducted in accordance with]~~ KRS Chapter 13B, ***upon the request of the licensee.***
- (2) ***After denying an application under the provisions of this chapter, the board shall grant a hearing to the denied applicant under the provisions of KRS Chapter 13B.***
- (3) ***Any applicant aggrieved by a disciplinary action of the board may appeal***~~[A licensee whose license has been suspended or revoked may appeal]~~ the final order of the board to the Circuit Court in the county in which the licensee is practicing in accordance with KRS Chapter 13B.

Section 6. KRS 326.990 is amended to read as follows:

Any person who shall directly or indirectly engage in the practice of ophthalmic dispensing or hold himself ***or herself*** out to the public as being able so to do, or who shall violate any of the provisions of this chapter relating to ophthalmic dispensing, or having had his ***or her*** license suspended or revoked shall continue to engage in the practice of ophthalmic dispensing, or who directly or indirectly employs, permits or authorizes an unlicensed person to engage in the practice of ophthalmic dispensing shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for not more than thirty (30) days, or by a fine of not ***less than one hundred dollars (\$100) nor*** more than ***five***~~[one]~~ hundred dollars ***(\$500)***~~[\$100]~~ or by both such fine and imprisonment, and each such violation shall be deemed a separate offense.

Section 7. The following KRS section is repealed:

326.050 Issuance of license to persons in business prior to January 1, 1955 or in Armed Forces.

**Approved March 6, 2000**