

## CHAPTER 1

## ( SB 110 )

AN ACT relating to optometry.

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

➔Section 1. KRS 320.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the Kentucky Board of Optometric Examiners;
- (2) "Practice of optometry" means:
  - (a) *The evaluation, diagnosis, prevention, or surgical, nonsurgical, or related treatment of diseases, disorders, or conditions of the eye and its appendages and their impact on the human body provided by an optometrist within the scope of his or her education, training, and experience and in accordance with this chapter, the ethics of the profession, and applicable law. The practice of optometry includes the examination, diagnosis, and treatment of the human eye and its appendages to correct and relieve ocular abnormalities and to determine eye health, the visual efficiency of the human eye, or the powers or defects of vision in any authorized manner including but not limited to:*
    1. *Prescribing and adapting lenses, contact lenses, spectacles, eyeglasses, prisms, ocular devices, and all routes of administration of pharmaceutical agents, except controlled substances classified in Schedules I and II, as authorized by Section 2 of this Act; or*
    2. *Employing vision therapy or orthoptics, low vision rehabilitation, and laser surgery procedures, excluding retina, LASIK, and PRK.*

*The practice of optometry includes the correction and relief of ocular abnormalities by surgical procedures not excluded in paragraph (b) of this subsection*~~{The employment of any means including the administration of pharmaceutical agents, except controlled substances classified in Schedules I and II, as authorized in KRS 320.240, except surgery in examination, diagnosis, and treatment of the human eye and its appendages, to determine the visual efficiency of the human eye, or to determine the powers or defects of vision, provided that superficial foreign bodies may be removed from the eye and its appendages};~~
  - (b) *The following procedures are excluded from the scope of practice of optometry, except for the pre-operative and post-operative care of these procedures:*
    1. *Retina laser procedures, LASIK, and PRK;*
    2. *Nonlaser surgery related to removal of the eye from a living human being;*
    3. *Nonlaser surgery requiring full thickness incision or excision of the cornea or sclera other than paracentesis in an emergency situation requiring immediate reduction of the pressure inside the eye;*
    4. *Penetrating keratoplasty (corneal transplant), or lamellar keratoplasty;*
    5. *Nonlaser surgery requiring incision of the iris and ciliary body, including iris diathermy or cryotherapy;*
    6. *Nonlaser surgery requiring incision of the vitreous;*
    7. *Nonlaser surgery requiring incision of the retina;*
    8. *Nonlaser surgical extraction of the crystalline lens;*
    9. *Nonlaser surgical intraocular implants;*
    10. *Incisional or excisional nonlaser surgery of the extraocular muscles;*
    11. *Nonlaser surgery of the eyelid for eyelid malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis, and tarsorrhaphy;*
    12. *Nonlaser surgery of the bony orbit, including orbital implants;*

13. *Incisional or excisional nonlaser surgery of the lacrimal system other than lacrimal probing or related procedures;*
14. *Nonlaser surgery requiring full thickness conjunctivoplasty with graft or flap;*
15. *Any nonlaser surgical procedure that does not provide for the correction and relief of ocular abnormalities;*
16. *Laser or nonlaser injection into the posterior chamber of the eye to treat any macular or retinal disease; and*
17. *The administration of general anesthesia;*~~{The prescribing, providing, furnishing, adapting, using, or employing lenses, prisms, contact lenses, visual training, orthoptics, ocular exercise, autorefraction, or any other means or device including pharmaceutical agents, except controlled substances classified in Schedules I and II, as authorized in KRS 320.240, excluding the use of surgery for the aid, relief, or correction of the human eye and its appendages; and}~~

(c) *Any person shall be regarded as practicing optometry if he or she:*

1. *Performs or advertises to perform, optometric operations of any kind, including diagnosing or treating diseases of the eye or visual system or deficiencies of the eye and its appendages, or attempts to correct the vision thereof;*
2. *Prescribes, provides, furnishes, adapts, uses, or employs lenses, prisms, contact lenses, visual therapy, orthoptics, ocular exercise, autorefraction, or any other means or device for the aid, relief, or correction of the human eye and its appendages, except upon the written prescription of a licensed optometrist; or*
3. *Uses the words "optometrist," "doctor of optometry," the letters "O.D.," or other letters or title in connection with his or her name, which in any way represents him or her as being engaged in the practice of optometry; and*

(d) Low vision rehabilitation;

- (3) "Appendages" means the eyelids, the eyebrows, the conjunctiva, and the lacrimal apparatus;
- (4) "Visual aid glasses" means eyeglasses, spectacles, or lenses designed or used to correct visual defects; provided, however, that nothing in the provisions of this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of sunglasses designed and used solely to filter out light; and further provided that nothing in this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of completely assembled eyeglasses or spectacles designed and used solely to magnify;
- (5) "Orthoptic technician" means a person who trains and directs individuals to engage in ocular exercises designed to correct visual defects, and shall not be required to be licensed under the provisions of this chapter if such training and directions are done pursuant to and under the instructions of a duly-licensed physician, osteopath, or optometrist and consists solely of visual training, orthoptics, or ocular exercises; and
- (6) "Low vision rehabilitation" means the evaluation, diagnosis, and management of the low vision patient, including but not limited to, prescription, low vision rehabilitation therapy, education, and interdisciplinary consultation when indicated. Any person who prescribes or provides comprehensive low vision care for the rehabilitation and treatment of the visually impaired or legally blind patient; prescribes corrective eyeglasses, contact lenses, prisms, or filters; employs any means for the adaptation of lenses, low vision devices, prisms, or filters; evaluates the need for, recommends, or prescribes optical, electronic, or other low vision devices; or recommends or provides low vision rehabilitation services independent of a clinical treatment plan prescribed by an optometrist, physician, or osteopath is engaged in the practice of optometry.

➔Section 2. KRS 320.240 is amended to read as follows:

- (1) The board shall meet at least once each year at which time it shall choose from among its members the president, vice president, and secretary-treasurer. In addition, the board, upon call of its officers, may hold meetings at any time as it deems necessary. A full record of the board's proceedings shall be kept in the office of the board and shall be open to inspection at all reasonable times.
- (2) The board shall keep a register containing the name, address, and license number of every person licensed to practice optometry in this state.

- (3) The Attorney General shall render to the board legal services as it may require in carrying out and enforcing the provisions of this chapter.
- (4) Subject to and consistent with the provisions of this chapter, the board shall promulgate reasonable administrative regulations and do any and all things that it may deem necessary or proper for the effective enforcement of this chapter and for the full and efficient performance of its duties hereunder and the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists. ***The administrative regulations shall include the classification and licensure of optometrists by examination or credentials, retirement of a license, and reinstatement of a license.***
- (5) ***An optometrist shall not administer drugs, prescribe drugs, or perform laser or nonlaser surgery procedures until he or she is licensed by the board. Any therapeutically licensed optometrist authorized to practice under this section shall meet the educational and competence criteria set forth by the board in order to perform expanded therapeutic procedures. Evidence of proof of continuing competency shall be determined by the board.***
- (6) ***Nothing in this chapter shall be construed as allowing any agency, board, or other entity of this state other than the Kentucky Board of Optometric Examiners to determine what constitutes the practice of optometry.***
- (7) ***The board shall have the sole authority to determine what constitutes the practice of optometry and sole jurisdiction to exercise any other powers and duties under this chapter. The board may issue advisory opinions and declaratory rulings related to this chapter and the administrative regulations promulgated under this chapter.***
- ~~(8)(5)~~ The board shall have:
- (a) A common seal;
  - (b) ***The right to determine what acts on the part of any person licensed as an optometrist in this state shall constitute unprofessional conduct under this chapter; and***
  - (c) ***Other powers and duties as authorized by this chapter.***
- ~~(9)(6)~~ The board may administer oaths and require the attendance of witnesses, the production of books, records, and papers pertinent to any matters coming before the board by the issuance of process that shall be served and returned in the same manner as in civil actions and for the disobedience of which the board shall have the power to invoke the same rights as are provided for disobedience of a subpoena or subpoena duces tecum in a civil action.
- ~~(7) The board shall promulgate administrative regulations necessary to regulate and control all matters set forth in this chapter.~~
- ~~(8) The board shall have the right to determine what acts on the part of any person licensed as an optometrist in this state shall constitute unprofessional conduct under this chapter.~~
- ~~(10)(9)~~ The board may assist in the prosecution of any violation of this chapter and in the enforcement of any of the provisions of this chapter.
- ~~(10) The board shall have other powers and duties as may be provided in the provisions of this chapter.~~
- (11) The board shall report its proceedings to the Governor on or about January 1 of each year, including an accounting of all moneys received and disbursed.
- (12) The board may permit persons engaging in the practice of optometry under the provisions of this chapter to administer diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics applied topically only, but excluding any drug classified as a controlled substance pursuant to KRS Chapter 218A. These pharmaceutical agents shall be applied in diagnostic procedures only as part of an eye examination. The application of the diagnostic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pharmacology, with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye, from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education.
- (13) The board may authorize only those persons who have qualified for use of diagnostic pharmaceutical agents as set out in subsection (12) of this section to utilize and prescribe therapeutic pharmaceutical agents in the

examination or treatment of any condition of the eye or its appendages. Any therapeutically certified optometrist licensed under the provisions of this subsection shall be authorized to prescribe oral medications except controlled substances classified in Schedules I and II for any condition which an optometrist is authorized to treat under the provisions of this chapter. ~~The [and to] use of injections for other than treatment of the human eye and its appendages shall be limited to the administration of~~ ~~administer~~ benadryl, epinephrine, or equivalent medication to counteract anaphylaxis or anaphylactic reaction. ***In a public health emergency, the Commissioner of Health may authorize therapeutically licensed optometrists to administer inoculation for systemic health reasons.*** The authority to prescribe a Schedule III, IV, or V controlled substance shall be limited to prescriptions for a quantity sufficient to provide treatment for up to seventy-two (72) hours. No refills of prescriptions for controlled substances shall be allowed. The utilization or prescribing of therapeutic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pathology and therapy, with particular emphasis on utilization of therapeutic pharmaceutical agents from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education. These six (6) semester hours are in addition to the six (6) semester hours required by subsection (12) of this section, making a total of twelve (12) semester hours.

- (14) Any optometrist authorized by the board to utilize diagnostic pharmaceutical agents shall be permitted to purchase for use in the practice of optometry diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics ~~[to be applied topically only]~~. Any optometrist authorized by the board to utilize therapeutic pharmaceutical agents shall be permitted to prescribe in the practice of optometry therapeutic pharmaceutical agents. Optometrists so authorized by the board to purchase pharmaceutical agents shall obtain them from licensed drug suppliers or pharmacists on written orders placed in the same or similar manner as any physician or other practitioner authorized by KRS Chapter 217. Purchases shall be limited to those pharmaceutical agents specified in this subsection and in subsection (12) of this section, based upon the authority conferred upon the optometrist by the board consistent with the educational qualifications of the optometrist as set out herein.

➔Section 3. KRS 320.220 is amended to read as follows:

- (1) No person shall practice optometry in this Commonwealth or hold himself or herself out as being able to do so unless he or she is the holder of a license duly issued to him or her by the board and registered in the manner provided by KRS 320.290.
- (2) A license to practice optometry shall not be required by physicians or osteopaths currently licensed to practice medicine or osteopathy at any place in the Commonwealth of Kentucky.
- (3) Nothing in this chapter shall be construed to prohibit persons from fitting, adjusting, or dispensing visual aid glasses or other lenses or appurtenances if the fitting, adjusting, or dispensing is done upon the written prescription of a currently licensed optometrist, physician, or osteopath, nor shall this chapter be construed as requiring these persons to be licensed under this chapter.
- (4) ***Nothing in this chapter or in the administrative regulations promulgated by the board pursuant to this chapter shall be interpreted to limit or restrict a licensed health care practitioner or provider from engaging in the full scope of practice authorized by the license for that person's profession, training, or services.***

➔Section 4. Sections 1 and 2 of this Act shall be known and may be cited as the "Better Access to Quality Eye Care Act."

**Signed by Governor February 24, 2011.**