

1 AN ACT
2 RELATING TO LICENSING; AMENDING SECTIONS OF THE OPTOMETRY ACT
3 TO EXPAND THE SCOPE OF PRACTICE AND PROVIDE THE BOARD OF
4 OPTOMETRY WITH ADDITIONAL POWERS AND DUTIES.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. Section 61-2-2 NMSA 1978 (being Laws 1973,
8 Chapter 353, Section 2, as amended) is amended to read:

9 "61-2-2. DEFINITIONS.--As used in the Optometry Act:

10 A. "practice of optometry" means:

11 (1) the employment of any subjective or
12 objective means or methods, including but not limited to the
13 use of lenses, prisms, autorefractors or other automated
14 testing devices, and includes the prescription or
15 administration of drugs for the purpose of diagnosing the
16 visual defects or abnormal conditions of the human eye and
17 its adnexa;

18 (2) the employing, adapting or prescribing
19 of preventive or corrective measures, including but not
20 limited to lenses, prisms, contact or corneal lenses or other
21 optical appliances, ocular exercises, vision therapy, vision
22 training and vision rehabilitation services, and includes the
23 prescription or administration of all drugs rational for the
24 correction, relief or referral of visual defects or abnormal
25 conditions of the human eye and its adnexa; and

1 (3) does not include the use of surgery or
2 injections in the treatment of eye diseases except for the
3 use of the following types of in-office surgical procedures:

4 (a) non-laser removal, destruction or
5 drainage of superficial eyelid lesions and conjunctival
6 cysts;

7 (b) removal of nonperforating foreign
8 bodies from the cornea, conjunctiva and eyelid;

9 (c) non-laser corneal debridement,
10 culture, scrape or anterior puncture, not including removal
11 of pterygium, corneal biopsy or removal of corneal
12 neoplasias;

13 (d) removal of eyelashes;

14 (e) probing, dilation, irrigation or
15 closure of the tear drainage structures of the eyelid;
16 scalpel use is to be applied only for the purpose of use on
17 the skin surrounding the eye;

18 (f) laser application to the lens
19 capsule in the treatment of capsular clouding or other
20 defects; and

21 (g) laser application to structures
22 within the ocular anterior segment for the prevention or
23 treatment of glaucoma;

24 B. "ophthalmic lens" means a lens that has a
25 spherical, cylindrical or prismatic value, is ground pursuant

1 to a prescription and is intended to be used as eyeglasses;

2 C. "contact lens" means a lens to be worn on the
3 anterior segment of the human eye;

4 D. "prescription" means a written order by an
5 optometrist or a physician for an individual patient for:

6 (1) ophthalmic lenses;

7 (2) contact lenses; or

8 (3) a pharmaceutical agent that is regulated
9 pursuant to the New Mexico Drug, Device and Cosmetic Act;

10 E. "eyeglasses" means an exterior optical device
11 using ophthalmic lenses for the correction or relief of
12 disturbances in and anomalies of human vision; and

13 F. "board" means the board of optometry."

14 SECTION 2. Section 61-2-6 NMSA 1978 (being Laws 1973,
15 Chapter 353, Section 5, as amended) is amended to read:

16 "61-2-6. OPTOMETRY BOARD ORGANIZATION--MEETINGS--
17 COMPENSATION--POWERS AND DUTIES.--

18 A. The board shall annually elect a chair, a vice
19 chair and a secretary-treasurer; each shall serve until a
20 successor is elected and qualified.

21 B. The board shall meet at least annually for the
22 purpose of examining candidates for licensure. Special
23 meetings may be called by the chair and shall be called upon
24 the written request of a majority of the board members. A
25 majority of the board members currently serving constitutes a

1 quorum.

2 C. Members of the board may be reimbursed as
3 provided in the Per Diem and Mileage Act but shall receive no
4 other compensation, perquisite or allowance.

5 D. The board has the authority to determine what
6 constitutes the practice of optometry in accordance with the
7 provisions of the Optometry Act and has jurisdiction to
8 exercise any other powers and duties pursuant to that act.
9 The board may issue advisory opinions and declaratory rulings
10 pursuant to that act and rules promulgated in accordance with
11 the State Rules Act, but shall not expand the scope of
12 practice of optometry beyond the provisions of the Optometry
13 Act.

14 E. The board shall:

15 (1) administer and enforce the provisions of
16 the Optometry Act;

17 (2) promulgate in accordance with the State
18 Rules Act, all rules for the implementation and enforcement
19 of the provisions of the Optometry Act;

20 (3) adopt and use a seal;

21 (4) administer oaths and take testimony on
22 matters within the board's jurisdiction;

23 (5) keep an accurate record of meetings,
24 receipts and disbursements;

25 (6) keep a record of examinations held,

1 together with the names and addresses of persons taking the
2 examinations and the examination results. Within thirty days
3 after an examination, the board shall give written notice to
4 each applicant examined of the results of the examination as
5 to the respective applicant;

6 (7) certify as passing each applicant who
7 obtains a grade of at least seventy-five percent on each
8 subject upon which the applicant is examined; providing that
9 an applicant failing may apply for re-examination at the next
10 scheduled examination date;

11 (8) keep a book of registration in which the
12 name, address and license number of licensees shall be
13 recorded, together with a record of license renewals,
14 suspensions and revocations;

15 (9) grant, deny, renew, suspend or revoke
16 licenses to practice optometry in accordance with the
17 provisions of the Uniform Licensing Act for any cause stated
18 in the Optometry Act;

19 (10) develop and administer:

20 (a) qualifications for certification
21 for the use of pharmaceutical agents as authorized in Section
22 61-2-10.2 NMSA 1978, including minimum educational
23 requirements and examination, as required by Section
24 61-2-10.2 NMSA 1978, and provide the board of pharmacy with
25 an annual list of optometrists certified to use

1 pharmaceutical agents as authorized in Section 61-2-10.2 NMSA
2 1978; and

3 (b) credentialing requirements for the
4 performance of procedures involving the use of a laser; and

5 (11) provide for the suspension of an
6 optometrist's license for sixty days upon a determination of
7 use of pharmaceutical agents without prior certification in
8 accordance with Section 61-2-10.2 NMSA 1978, after proper
9 notice and an opportunity to be heard before the board."

10 SECTION 3. Section 61-2-15 NMSA 1978 (being Laws 1973,
11 Chapter 353, Section 13, as amended) is amended to read:

12 "61-2-15. EXEMPTIONS.--

13 A. Except for the provisions of Sections 61-2-14.1
14 and 61-2-16 NMSA 1978 and as provided in this subsection, the
15 Optometry Act does not apply to a licensed physician or a
16 person, clinic or program under the licensed physician's
17 responsible supervision and control; provided that the
18 person, clinic or program under the responsible supervision
19 and control of the licensed physician shall not use either
20 loose or fixed trial lenses for the sole purpose of
21 determining the prescription for eyeglasses or contact
22 lenses.

23 B. Except as provided in Sections 61-2-2, 61-2-14,
24 61-2-16 and 61-2-17 NMSA 1978, the Optometry Act does not
25 apply to a person selling eyeglasses who does not represent

