**Chapter 65- Public Health**

**Article 15 - Regulations of Optometrists Statutes**

**65-1501. Practice of optometry defined; exclusions; standard of care in diagnosis and treatment of glaucoma; low vision rehabilitation services.** (a) The practice of optometry means:

(1) The examination of the human eye and its adnexae and the employment of objective or subjective means or methods (including the administering, prescribing or dispensing, of topical pharmaceutical drugs) for the purpose of diagnosing the refractive, muscular, or pathological condition thereof;

(2) the prescribing, dispensing or adapting of lenses (including any ophthalmic lenses which are classified as drugs by any law of the United States or of this state), prisms, low vision rehabilitation services, orthoptic exercises and visual training therapy for the relief of any insufficiencies or abnormal conditions of the human eye and its adnexae; and

(3) the prescribing, administering or dispensing of topical pharmaceutical drugs and oral drugs for the examination, diagnosis and treatment of ocular conditions and any insufficiencies or abnormal conditions of the human eye and its adnexae including adult open-angle glaucoma .

(b) The practice of optometry shall not include: (1) The management and treatment of glaucoma, except as provided in subsection (a) ; (2) the performance of surgery, including the use of lasers for surgical purposes, except that licensees may remove non- perforating foreign bodies from the cornea , conjunctiva or eyelids; remove eyelashes; scrape the cornea for diagnostic tests, smears or cultures; dilate, probe, irrigate or close by punctal plug the tear drainage structures of the eye; express conjunctival follicles or cysts; debridement of the corneal epithelium and co-management of post-operative care; or (3) the performance of procedures requiring anesthesia administered by injection or general anesthesia .

(c) A licensee shall be held to a standard of care in the diagnosis and treatment of adult open-angle glaucoma commensurate to that of a person licensed to practice medicine and surgery, who exercises that degree of skill and proficiency commonly exercised by an ordinary, skillful, careful and prudent person licensed to practice medicine and surgery.

(d) Under the direction and supervision of a licensee, a licensed professional nurse, licensed practical nurse, licensed physical therapist and licensed occupational therapist may assist in the provision of low vision rehabilitation services in addition to such other services which such licensed professional nurse, licensed practical nurse, licensed physical therapist and licensed occupational therapist is authorized by law to provide under subsection (d) of K.S.A. 65-1113, subsection (h) of K.S.A. 65-1124, subsection (b) of K.S.A. 65-2901 and subsection (b) of K.S.A. 65-5402, and amendments thereto.

**History**: L. 1923, ch. 220, § 1; R.S. 1923, 65-1501; L. 1977, ch. 216, § 1; L. 1987, ch. 235, § 1; L. 1996, ch. 95, § 1; L. 1999, ch. 23, § 1; L. 2002, ch. 203, § 16; L. 2003, ch. 128, § 22; L. 2010, ch. 31, § 1; L. 2012, ch. 8, § 1; July 1.

**65-1501a. Definitions.** For the purposes of this act the following terms shall have the meanings respectively ascribed to them unless the context requires otherwise:

(a) "Board" means the board of examiners in optometry established under K.S.A. 74-1501, and amendments thereto.

(b) "License" means a license to practice optometry granted under the optometry law.

(c) "Licensee" means a person licensed under the optometry law to practice optometry.

(d) "Adapt" means the determination, selection, fitting or use of lenses, prisms, orthoptic exercises or visual training therapy for the aid of any insufficiencies or abnormal conditions of the eyes after or by examination or testing.

(e) "Lenses" means any type of ophthalmic lenses, which are lenses prescribed or used for the aid of any insufficiencies or abnormal conditions of the eyes.

(f) "Prescription" means a verbal , written or electronic order transmitted directly or by electronic means from a licensee giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the specifications and directions for lenses, prisms, orthoptic exercises, low vision rehabilitation services or visual training therapy to be used for the aid of any insufficiencies or abnormal conditions of the eyes, including instructions necessary for the fabrication or use thereof and the date of issue.

(g) "Prescription for topical pharmaceutical drugs or oral drugs" means a verbal , written or electronic order transmitted directly or by electronic means from a licensee giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the name and quantity of the drug prescribed, directions for use, the number of refills permitted, the date of issue and expiration date.

(h) "Topical pharmaceutical drugs" means drugs administered topically and not by other means.

(i) "Dispense" means to deliver prescription-only medication or ophthalmic lenses to the ultimate user pursuant to the lawful prescription of a licensee and dispensing of prescription-only medication by a licensee shall be limited to a twenty-four hour supply or minimal quantity necessary until a prescription can be filled by a licensed pharmacist, except that the twenty-four hour supply or minimal quantity shall not apply to lenses described in subsection (a)(2) of K.S.A. 65-1501, and amendments thereto.

(j) "False advertisement" means any advertisement which is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

(k) "Advertisement" means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services or ophthalmic goods.

(l) "Health care provider" shall have the meaning ascribed to that term in subsection (f) of K.S.A. 40-3401 , and amendments thereto.

(m) "Medical facility" shall have the meaning ascribed to that term in subsection (c) of K.S.A. 65-411 , and amendments thereto.

(n) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425 , and amendments thereto.

(o) "Ophthalmologist" means a person licensed to practice medicine and surgery by the state board of healing arts who specializes in the diagnosis and medical and surgical treatment of diseases and defects of the human eye and related structures.

(p) "Low vision rehabilitation services" means the evaluation, diagnosis, management and care of the low vision patient including low vision rehabilitation therapy, education and interdisciplinary consultation under the direction and supervision of an ophthalmologist or optometrist.

(q) "Oral drugs" means oral antibacterial drugs, oral antiviral drugs, oral antihistamines, oral analgesic drugs, oral steroids, oral antiglaucoma drugs and other oral drugs with clinically accepted ocular uses.

**History**: L. 1975, ch. 318, § 1; L. 1987, ch. 235, § 2; L. 1990, ch. 223, § 1; L. 1996, ch. 95, § 2; L. 1999, ch. 23, § 2; L. 2005, ch. 93, § 3; L. 2010, ch. 31, § 2; L. 2012, ch. 8, § 2; July 1.

**65-1502. Who deemed practitioners**. (a) Except as provided in K.S.A. 65-1508 and amendments thereto, a person shall be deemed to be practicing optometry within the meaning of the optometry law if such person in any manner:

(1) Holds oneself out to the public as being engaged in or who maintains an office for the practice of optometry as defined in K.S.A. 65-1501 and amendments thereto;

(2) makes a test or examination of the eye or eyes of another to ascertain the refractive, the muscular or the pathological condition thereof;

(3) adapts lenses to the human eye for any purpose, either directly or indirectly; or

(4) conducts or performs orthoptic exercises or visual training therapy for the correction, remedy or relief of any insufficiencies or abnormal conditions of the eyes.

(b) "Maintains an office for the practice of optometry" for the purposes of this section and the optometry law means:

(1) To directly or indirectly control or attempt to control the professional judgment or the practice of a licensee; or

(2) to bear any of the expenses of or to have, own or acquire any interest in the practice, books, records, files or materials of a licensee.

(c) Nothing herein contained shall be construed to prohibit a licensee from entering into leases, agreements, mortgages or other types of debt instruments not in violation of this section or any other section of the optometry law.

**History**: L. 1923, ch. 220, § 2; R.S. 1923, 65-1502; L. 1976, ch. 270, § 1; L. 1990, ch. 223, § 2; July 1.

**65-1503   History**: L. 1923, ch. 220, § 3; R.S. 1923, 65-1503; Repealed, L. 1975, ch. 318, § 11; July 1.

**65-1504. History**: L. 1923, ch. 220, § 8; R.S. 1923, 65-1504; L. 1939, ch. 240, § 1; L. 1975, ch. 318, § 2; Repealed, L. 1990, ch. 223, § 22; July 1.

**65-1504b. Unlawful to dispense opthalmic lens or lenses without prescription order.** It shall be unlawful for any person to dispense an ophthalmic lens or lenses without first having obtained a valid, unexpired prescription as defined in K.S.A. 65-1501a, and amendments thereto, or order therefor from a duly licensed optometrist or a person licensed to practice medicine and surgery. An ophthalmic lens shall include a contact lens with or without power.

**History:** L. 1939, ch. 240, § 6; L. 1976, ch. 270, § 2; L. 2002, ch. 113, § 2; Jan. 1, 2003.

**65-1505.**  **Qualifications of practitioners; examinations; professional liability insurance; fees; reciprocal licensure; rules and regulations criteria for approval of schools or colleges; criminal history record check; criminal history and fingerprinting fund created.**  (a) Persons entitled to practice optometry in Kansas shall be those persons licensed in accordance with the provisions of the optometry law. A person shall be qualified to be licensed and to receive a license as an optometrist: (1) Who is of good moral character; and in determining the moral character of any such person, the board may take into consideration any felony conviction of such person, but such conviction shall not automatically operate as a bar to licensure; (2) who has graduated from a school or college of optometry approved by the board; and (3) who successfully meets and completes the requirements set by the board and passes an examination given by the board.

(b) All applicants for licensure, in addition to successfully completing all other requirements for licensure, shall submit evidence satisfactory to the board of professional liability insurance in an amount acceptable to the board.

(c) Any person applying for examination by the board shall fill out and swear to an application furnished by the board, accompanied by a fee fixed by the board by rules and regulations in an amount of not to exceed $450, and file the same with the secretary of the board at least 30 days prior to the holding of the examination. At such examinations the board shall examine each applicant in subjects taught in schools or colleges of optometry approved by the board, as may be required by the board. If such person complies with the other qualifications for licensing and passes such examination, such person shall receive from the board, upon the payment of a fee fixed by the board by rules and regulations in an amount of not to exceed $150, a license entitling such person to practice optometry. In the event of the failure on the part of the applicant to pass the first examination, such person may, with the consent of the board, within 18 months, by filing an application accompanied by a fee fixed by the board by rules and regulations in an amount of not to exceed $150, take a second examination; for the third and each subsequent examination a fee fixed by the board by rules and regulations in an amount of not to exceed $150. Any examination fee and license fee fixed by the board under this subsection which is in effect on the day preceding the effective date of this act shall continue in effect until the board adopts rules and regulations under this subsection fixing a different fee therefor.

(d) Any applicant for reciprocal licensure may in the board's discretion be licensed and issued a license without examination if the applicant has been in the active practice of optometry in another state for at least the three-year period immediately preceding the application for reciprocal licensure and the applicant:

(1) Presents a certified copy of a certificate of registration or license which has been issued to the applicant by another state where the requirements for licensure are deemed by the board to be equivalent to the requirements for licensure under this act, if such state accords a like privilege to holders of a license issued by the board;

(2) submits a sworn statement of the licensing authority of such other state that the applicant's license has never been limited, suspended or revoked and that the applicant has never been censured or had other disciplinary action taken;

(3) successfully passes an examination of Kansas law administered by the board and such clinical practice examination as the board deems necessary ; and

(4) pays the reciprocal license fixed by the board by rules and regulations in an amount of not to exceed $450. The reciprocal license fee fixed by the board under this subsection which is in effect on the day preceding the effective date of this act shall continue in effect until the board adopts rules and regulations under this subsection fixing a different fee therefor.

(e) The board shall adopt rules and regulations establishing the criteria which a school or college of optometry shall satisfy in meeting the requirement of approval by the board established under subsection (a). The board may send a questionnaire developed by the board to any school or college of optometry for which the board does not have sufficient information to determine whether the school or college meets the requirements for approval and rules and regulations adopted under this act. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school or college to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools or colleges. In entering such contracts the authority to approve schools or colleges shall remain solely with the board.

(f) (1) The board may require an applicant for licensure or a licensee in connection with an investigation of the licensee to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the licensee or applicant for licensure and to determine whether the licensee or applicant for licensure has a record of criminal arrests and convictions in this state or other jurisdictions. The board is authorized to submit the fingerprints to the Kansas bureau of investigation, the federal bureau of investigation or any other law enforcement or criminal justice agency for a state and national criminal history record check. The board may use the information obtained through the criminal history record check for the purposes of verifying the identification of the licensee or applicant for licensure and in the official character and fitness determination of the licensee or applicant for licensure to practice optometry in this state.

(2) Local and state law enforcement officers and agencies shall assist the board in taking and processing fingerprints of licensees and applicants for licensure and shall release to the board all records of adult convictions, arrests and nonconvictions in this state and all records of adult convictions, arrests and nonconvictions of any other state or country. The board may enter into agreements with the Kansas bureau of investigation, the federal bureau of investigation or any other law enforcement or criminal justice agency as necessary to carry out the duties of the board under this act.

(3) The fingerprints and all information obtained from the criminal history record check shall be confidential and shall not be disclosed except to members of the board and agents and employees of the board as necessary to verify the identification of any licensee or applicant for licensure and in the official character and fitness determination of the licensee or applicant for licensure to practice optometry in this state. Any other disclosure of such confidential information shall constitute a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued under this act.

(4) (A) The board shall fix a fee for fingerprinting applicants or licensees in an amount necessary to reimburse the board for the cost of the fingerprinting. Fees collected under this subsection shall be deposited in the criminal history and fingerprinting fund.

(B) There is hereby created in the state treasury the criminal history and fingerprinting fund. All moneys credited to the fund shall be used to pay all costs and fees associated with processing of fingerprints and criminal history checks for the board of examiners in optometry. The fund shall be administered by the board. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or a person designated by the president.

**History:** L. 1923, ch. 220, § 9; R.S. 1923, 65-1505; L. 1939, ch. 240, § 2; L. 1951, ch. 360, § 1; L. 1975, ch. 318, § 3; L. 1979, ch. 192, § 1; L. 1987, ch. 235, § 3; L. 1988, ch. 243, § 6; L. 1990, ch. 223, § 3; L. 1996, ch. 95, § 3; L. 1999, ch. 23, § 3; L. 2003, ch. 46, § 1; L. 2005, ch. 93, § 1; L. 2012, ch. 8, § 3; July 1.

**65-1506. History**: L. 1923, ch. 220, § 10; R.S. 1923, 65-1506; L. 1961, ch. 287, § 1; L. 1975, ch. 318, § 4; L. 1976, ch. 270, § 3; L. 1984, ch. 313, § 105; L. 1986, ch. 234, § 2; Repealed, L. 1990, ch. 223, § 22; July 1.

**65-1507**. **History**: L. 1923, ch. 220, §11; R.S. 1923, 65-1507; L. 1961, ch. 287, §2; L. 1975, ch. 318, §5; Repealed, L. 1984, ch. 313, §157; July 1, 1985.

**65-1508. Act not to prevent persons licensed to practice medicine from performing certain acts or services; authorizing the delegation of certain examination procedures to assistants; limitations and prohibitions upon examination procedures performed by assistants**. (a) Nothing in this act shall be construed to prevent persons who are licensed to practice medicine and surgery in this state from performing the acts or services authorized for optometrists under the optometry law or from delegating the performance of screening procedures for visual acuities, color vision, visual fields and intraocular pressure to assistants.

(b) The examination procedures performed by assistants to optometrists or ophthalmologists shall be limited to data gathering at the direct request of the ophthalmologist or optometrist and to those examination procedures which do not require professional interpretation or professional judgment. These examination procedures may be performed by assistants only under the immediate and personal supervision and within the office of an ophthalmologist or optometrist. Delegation to such assistants of the external and internal evaluation of the eye, biomicroscopic evaluation, subjective refraction, gonioscopic evaluation, final contact lens fit evaluation, orthoptic and strabismus evaluations, visual training evaluations, analysis of findings and the prescribing of ophthalmic lenses are prohibited.

(c) Persons who dispense ophthalmic materials pursuant to the prescription of a person licensed to practice medicine and surgery or optometry shall not be construed to be assistants within the meaning of this section.

**History**: L. 1923, ch. 220, § 12; R.S. 1923, 65-1508; L. 1939, ch. 240, § 3; L. 1976, ch. 270, § 4; L. 1977, ch. 216, § 2; L. 1990, ch. 223, § 4; July 1.

**65-1509. Notification of location of practice; biennial license renewal, fee; inactive status license; expiration of license, notice; cancellation of license; reinstatement, fee**. (a) Before engaging in the practice of optometry in this state, it shall be the duty of each licensed optometrist to notify the board in writing of the address of the office or offices where such licensee is to engage or intends to engage in the practice of optometry and of any changes in the licensee's location of practice. Any notice required to be given by the board to any licensed optometrist may be given by mailing to such address through the United States mail, postpaid , or by electronic means to such electronic mail or facsimile address provided by the licensed optometrist to the board for such purpose .

(b) Any license to practice optometry issued by the board shall expire on May 31 of the year specified by the board for the expiration of the license and shall be renewed on a biennial basis in accordance with this section. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid no later than the expiration date of the license.

(c) Each license shall be renewed on a biennial basis. To provide for a system of biennial renewal of licenses, the board may provide by rules and regulations that licenses issued or renewed may expire less than two years from the date of issuance or renewal and for the proration of fees accordingly. On or before May 1 each year, the board shall determine the amount that may be necessary for the next ensuing fiscal year to carry out and enforce the provisions of the optometry law, and shall fix by rules and regulations the renewal fee and the fees provided for in K.S.A. 65-1505 , and amendments thereto, in such amounts as may be necessary for that purpose. The biennial renewal fee shall not exceed $800. Upon fixing such fees, the board shall immediately notify all licensees of the amount of such fees for the ensuing biennial renewal period. In every renewal year hereafter, every licensed optometrist shall pay to the board of examiners a fee for a renewal of such license for each biennial renewal period. The license renewal fee fixed by the board under this subsection which is in effect on the day preceding the effective date of this act shall continue in effect until the board adopts rules and regulations under this subsection fixing a different fee therefor.

(d) The payment of the renewal fee by the person who is a holder of a license as an optometrist but who has not complied with the continuing education requirements fixed by the board, if no grounds exist for denying the renewal of the license other than that the person has not complied with the continuing education requirements fixed by the board, shall entitle the person to inactive status licensure by the board. No person holding an inactive status license from the board shall engage in the practice of optometry in this state. A person holding an inactive status license from the board shall be entitled to cancellation of the inactive status license and to renewal of licensure as an optometrist upon furnishing satisfactory evidence to the board that such person has obtained the equivalent of all missed continuing education requirements to date, and payment of an additional fee fixed by the board through rule and regulation in an amount not to exceed $450.

(e) At least 30 days before the expiration of the licensee's license, the board shall notify each licensee of the expiration as provided in subsection (a) of this section . If the licensee fails to pay the biennial fee or show proof of compliance with the continuing education requirements by the date of the expiration of the license, the board shall provide such licensee as provided in subsection (a) of this section a second notice that the licensee's license has expired, that the board shall suspend action for 30 days following the date of expiration, that upon receipt of the biennial fee together with an additional fee not to exceed $500, within the thirty-day period, no order of cancellation will be entered and that, if both fees are not received within the thirty-day period, the license shall be canceled.

(f) Any licensee who allows the licensee's license to lapse or be canceled by failing to renew as herein provided, may be reinstated by the board upon payment of the renewal fees then due and upon proof of compliance with the continuing education requirements established by the board. As an additional requirement of reinstatement, in cases in which the board deems it appropriate, the licensee may be required to successfully pass the examination given by the board to applicants for licensure or such other competency examination as the board may choose.

**History:** L. 1923, ch. 220, § 13; R.S. 1923, 65-1509; L. 1951, ch. 360, § 2; L. 1960, ch. 50, § 1; L. 1975, ch. 317, § 1; L. 1975, ch. 318, § 6; L. 1979, ch. 192, § 2; L. 1990, ch. 223, § 5; L. 1999, ch. 23, § 4; L. 2003, ch. 46, § 2; L. 2005, ch. 93, § 2; L. 2012, ch. 8, § 4; July 1.

**65-1509a. Continuing education requirements**. In addition to the payment of the license renewal fee, each licensee applying for license renewal shall furnish to the secretary of the board satisfactory evidence of successfully completing a minimum of 24 hours of continuing education annually , five hours of which shall relate to ocular pharmacology, therapeutics or related topics of study, approved by the board in the year just preceding such application for the renewal of the license. The board, in its discretion, may increase the required hours of continuing education by rules and regulations adopted by the board. On or before April 1 of each year, the secretary of the board shall send a written notice of continuing education requirements to this effect to every person holding a valid license to practice optometry within the state as provided in subsection (a) of K.S.A. 65-1509, and amendments thereto .

**History:** L. 1939, ch. 240, § 7; L. 1975, ch. 318, § 7; L. 1987, ch. 235, § 4; L. 1990, ch. 223, § 6; L. 1999, ch. 23, § 5; L. 2012, ch. 8, § 5; July 1.

**65-1510. History**: L. 1923, ch. 220, § 14; R.S. 1923, 65-1510; L. 1939, ch. 240, § 4; L. 1975, ch. 318, § 8; Repealed, L. 1990, ch. 223, § 22; July 1.

**65-1511. Partial invalidity of act.** In case for any reason any paragraph or any provision of this act shall be questioned in any court of last resort, and shall be held by such court to be unconstitutional or invalid, the same shall not be held to affect any other paragraph or provision of this act.

**History:** L. 1923, ch. 220, § 16; June 9; R.S. 1923, 65-1511.

**65-1512. Title of act**. This act shall be known and may be cited as the optometry law.

**History**: L. 1923, ch. 220, § 16; R.S. 1923, 65-1512; L. 1990, ch. 223, § 7; July 1.

**65-1513. Violation of act**. Any person who violates any of the provisions of this act shall be guilty of a class C misdemeanor for the first offense, and for the second and each subsequent offense shall be guilty of a class B misdemeanor. It is the duty of the respective county and district attorneys to prosecute all violators of this act.

**History**: L. 1923, ch. 220, § 17; R.S. 1923, 65-1513; L. 1973, ch. 134, § 51; L. 1974, ch. 295, § 4; L. 1978, ch. 105, §19; L. 1990, ch. 223, § 8; July 1.

**65-1514. Act supplemental**. The provisions of K.S.A. 65-1501a, 65-1504b, 65-1509a and 65-1516 to 65-1526 , inclusive, and amendments thereto, are a part of and supplemental to the optometry law.

**History**: L. 1975, ch. 318, § 10; L. 1990, ch. 223, § 9; L. 2012, ch. 8, § 6; July 1.

**65-1515. Immunity from liability in civil actions for reporting, communicating and investigating certain information concerning alleged malpractice incidents and other information; conditions.** (a) No person reporting to the board of examiners in optometry under oath and in good faith any information such person may have relating to alleged incidents of malpractice or the qualifications, fitness or character of a person licensed to practice optometry shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association of licensed optometrists and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice or the qualifications, fitness or character of any licensee to the board of examiners in optometry or to any committee or agent thereof, shall be immune from liability in any civil action, that is based upon such investigation or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

(c) This section shall be a part of and supplemental to the optometry law.

**History**: L. 1976, ch. 261, § 2; July 1.

**65-1516. Professional incompetence; unprofessional conduct; defined.** As used in this act:

(a) "Professional incompetence" means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence as determined by the board.

(2) Repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board.

(3) A pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice optometry.

(b) "Unprofessional conduct" means:

(1) Using fraudulent or false advertisement.

(2) Engaging in the practice of optometry as an agent or employee of a person not licensed under the optometry law.

(3) Conduct likely to deceive, defraud or harm the public.

(4) Making a false or misleading statement regarding the licensee's skill or the efficacy or value of the drug, treatment or remedy prescribed by the licensee or at the licensee's direction.

(5) Aiding or abetting the practice of optometry by an unlicensed, incompetent or impaired person.

(6) Allowing another person or organization to use the licensee's license to practice optometry.

(7) Commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice.

(8) The use of any false, fraudulent or deceptive statement in any document connected with the practice of optometry.

(9) Obtaining any fee by fraud, deceit or misrepresentation.

(10) Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, other than through the legal functioning of lawful professional partnerships, corporations or associations.

(11) Performing unnecessary tests, examinations or services which have no legitimate optometric purpose.

(12) Charging an excessive fee for services rendered.

(13) Prescribing, dispensing, administering, distributing a prescription drug or substances, in an excessive, improper or inappropriate manner or quantity or not in the course of the licensee's professional practice.

(14) Repeated failure to practice optometry with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

(15) Failure to keep written optometry records which describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.

(16) Delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them.

(17) Using experimental forms of therapy without proper informed patient consent, without conforming to generally accepted criteria or standard protocols, without keeping detailed legible records or without having periodic analysis of the study and results reviewed by a committee of peers.

(18) Allowing improper interference with the licensee's professional judgment in providing patient care.

(19) Allowing optometric services to be provided by a person or entity not qualified to do so under state law.

(20) Failure to disclose to the patient the identity of the licensee who performs optometric services before the time optometric services are performed.

(21) Failure to maintain minimum standards for ophthalmic goods and services provided by the licensee determined by rules and regulations of the board.

(22) Willful betrayal of a patient's confidence.

(23) Prescribing, purchasing, administering, selling or giving away prescription drugs, including a controlled substance, for other than legal and legitimate purposes.

**History**: L. 1990, ch. 223, § 12; L. 1999, ch. 23, § 6; Apr. 1.

**65-1517. Revocation, suspension or limitation of license; censure; grounds.** A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, upon a finding of the existence of any of the following grounds:

(a) The licensee has committed fraud or misrepresentation in applying for or securing an original or renewal license.

(b) The licensee has committed an act of unprofessional conduct or professional incompetence.

(c) The licensee has been convicted of a felony, whether or not related to the practice of optometry.

(d) The licensee has used fraudulent or false advertisements.

(e) The licensee has willfully or repeatedly violated the optometry law, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto.

(f) The licensee has violated an order of the board .

(g) The licensee has failed to pay renewal fees specified in this act.

(h) The licensee has failed to comply with the annual continuing education requirements as required by this act and the board.

(i) The licensee has engaged in the practice of optometry under a false or assumed name, or the impersonation of another practitioner. The provisions of this subsection relating to an assumed name shall not apply to licensees practicing under a professional corporation or other legal entity duly authorized to provide such professional services in the state of Kansas.

(j) The licensee has the inability to perform optometry practice acts with reasonable skill and safety to patients by reason of illness, alcoholism, excessive use of drugs, controlled substances, chemical or any other type of material or as a result of any mental or physical condition. In determining whether or not such inability exists, the board, upon probable cause, shall have authority to compel a licensee to submit to mental or physical examination by such persons as the board may designate. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination. A person affected by this subsection shall be offered, at reasonable intervals an opportunity to demonstrate that such person can resume the competent practice of optometry with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice optometry and who shall accept the privilege to practice optometry in this state by so practicing or by the making and filing of an annual renewal to practice optometry in this state shall be deemed to have consented to submit to a mental and physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the testimony or examination report of the person conducting such examination at any proceeding or hearing before the board on the grounds that such testimony or examination report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination shall not be used in any other administrative or judicial proceeding.

(k) The licensee has had a license to practice optometry revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(l) The licensee has violated any lawful rules and regulations promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

(m) The licensee has cheated on or attempted to subvert the validity of the examination for a license.

(n) The licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction.

(o) The licensee has violated a federal law or regulation relating to controlled substances.

(p) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

(q) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(r) The licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(s) The licensee has surrendered a license or authorization to practice optometry in another state or jurisdiction or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(t) The licensee has failed to report to the board surrender of the licensee's license or authorization to practice optometry in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct which would constitute grounds for disciplinary action under this section.

(u) The licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(v) The licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(w) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a , and amendments thereto, or pay the annual premium as required by K.S.A. 40-3404 , and amendments thereto.

(x) The licensee has knowingly submitted any misleading, deceptive, false or fraudulent representation on a claim form bill or statement.

(y) The licensee has failed to provide to a patient the patient's written prescription for lenses for eyeglasses subsequent to the completion of the eye examination in accordance with applicable state or federal law.

**History**: L. 1990, ch. 223, § 13; L. 1995, ch. 251, § 34; L. 2012, ch. 8, § 7; July 1.

**65-1518. Administrative proceedings; procedure; review; civil enforcement; costs.** (a) All administrative proceedings provided for by article 15 of chapter 65 of the Kansas Statutes Annotated and affecting any licensee licensed under that article shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Judicial review and civil enforcement of any agency action under article 15 of chapter 65 of the Kansas Statutes Annotated shall be in accordance with the Kansas judicial review act.

(c) If any order of the board in any administrative proceedings provided for by article 15 of chapter 65 of the Kansas Statutes Annotated is adverse to the licensee the costs incurred by the board in conducting any proceeding under the Kansas administrative procedure act may be assessed against the parties to the proceeding in such proportion as the board may determine upon consideration of all relevant circumstances, including the nature of the proceeding and the level of participation by the parties. If the board is the unsuccessful party, the costs shall be paid from the optometry fee fund. For purposes of this subsection, costs incurred shall mean the presiding officer fees and expenses, costs of making any transcripts, witness fees and expenses, mileage, travel allowances and subsistence expenses of board employees and fees and expenses of agents of the board who provide services pursuant to K.S.A. 74- 1504, and amendments thereto. Costs incurred shall not include presiding officer fees and expenses or costs of making and preparing the record unless the board has designated or retained the services of independent contractors to perform such functions. The board shall make any assessment of costs incurred as part of the final order rendered in the proceeding. Such order shall include findings and conclusions in support of the assessment of costs .

**History**: L. 1990, ch. 223, § 14; L. 2010, ch. 17, § 133; L. 2012, ch. 8, § 8; July 1.

**65-1519. Federal trade regulations; defense of certain acts.** The board shall not suspend, limit, restrict or revoke, the license of a licensee or privately or publicly censure a licensee for any reason or conduct for which a defense is provided for in Title 16, Part 456 of the Code of Federal Regulations and amendments thereto from and after the date such Trade Regulation Rule becomes effective.

**History**: L. 1990, ch. 223, § 15; July 1.

**65-1520. Mental or physical examination of licensee; computation of time limit for hearing.** Whenever the board directs, pursuant to subsection (j) of K.S.A. 65-1517, that a licensee submit to a mental or physical examination, the time from the date of the board's directive until the submission to the board of the report of the examination shall not be included in the computation of the time limit for hearing prescribed by the Kansas administrative procedure act.

**History**: L. 1990, ch. 223, § 16; July 1.

**65-1521. Reinstatement of license after revocation**. At any time after the expiration of one year, application may be made for reinstatement of any licensee whose license shall have been revoked, and such application shall be addressed to the secretary-treasurer of the board. The board may promulgate such rules and regulations concerning notice and hearing of such application as are deemed necessary.

**History**: L. 1990, ch. 223, § 17; July 1.

**65-1522. Professional corporations, limited liability company, associations, sole practitioners; practice locations, franchise agreements**. (a) A licensee may practice optometry under the name of a professional corporation, authorized by K.S.A. 17-2706 and amendments thereto or a limited liability company authorized by K.S.A. 2002 Supp. 17-7668 and amendments thereto. Such professional corporate name or limited liability company name may contain a trade name or assumed name approved by the board.

(b) A licensee may practice as a sole practitioner or may associate with other licensees or health care providers licensed under the laws of the state of Kansas and may practice optometry as a sole practitioner or in such associations under a trade or assumed name approved by the board.

(c) A licensee may practice in a medical facility, medical care facility or a governmental institution or agency.

(d) A licensee shall not be limited in the number of locations from which the licensee may engage in the practice of optometry pursuant to subsections (a), (b) and (c).

(e) In all office locations a licensee shall:

(1) Provide adequate staff during the hours of its operation and shall provide the necessary optometric equipment to enable a licensee to provide adequate optometric care on the premises; and

(2) provide that there shall be present at the office location a person licensed by optometry law when optometric practice acts requiring a license are performed at the office location.

(f) Nothing herein contained shall be construed to permit the franchised practice of optometry except that a licensee may purchase a franchise to engage in the business of optical dispensing separate and apart from any of the licensee's offices for the practice of optometry so long as the terms of the franchise agreement do not violate the optometry law.

**History**: L. 1990, ch. 223, § 18; L. 1996, ch. 95, § 6; L. 1999, ch. 23, § 7; L. 1999, ch. 152, § 1; Jan. 1, 2000

**65-1523. Injunctive relief for violations of act, rules and regulations**. The board in its discretion, in addition to any other remedies provided in this act, may apply to a court of competent jurisdiction for injunctive relief to restrain violations of the provisions of this act, lawful rules and regulations promulgated by the board under authority of this act.

**History**: L. 1990, ch. 223, § 19; July 1.

**65-1524. Practice of optometry by corporation or limited liability company prohibited, exceptions.** Nothing contained herein shall be construed to allow a corporation except as provided in K.S.A. 17-2706 and amendments thereto or a limited liability company except as provided in K.S.A. 2002 Supp. 17-7668 and amendments thereto to practice, offer, or undertake to practice or hold itself out as practicing optometry.

**History**: L. 1990, ch. 223, § 20; L. 1999, ch. 23, §8; L. 1999, ch. 152, § 2; Jan. 1, 2000.

**65-1525. Confidentiality of communications**. The confidential communications between a licensed optometrist and the optometrist's patient are placed on the same basis of confidentiality as provided by law for communications between a physician and the physician's patients.

**History**: L. 1990, ch. 223, § 21; July 1.

**65-1526. Civil fine**. Upon a finding of the existence of any of the grounds listed in K.S.A. 65-1517, and amendments thereto, or upon a finding of any violation of the optometry law, in lieu of or in addition to any other action, the board may access a civil fine not in excess of $10,000 against a licensee. All fines collected pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and of the amount so remitted, an amount equal to the board's actual costs, including attorney fees, related to fine assessment and enforcement, as certified by the president of the board to the state treasurer, shall be credited to the optometry board fee fund and the balance shall be credited to the state general fund.

**History**: L. 1999, ch. 23, § 9; L. 2001, ch. 5, § 227; July 1.

**Article 28 - Healing Arts**

Expand all **65-2887. Assisting unlicensed persons to practice optometry not authorized; exceptions**. (a) Nothing in this act shall be construed to authorize any person licensed under this act to knowingly perform any act which in any way assists an unlicensed person, except as provided under subsections (b) and (c), firm, association or corporation (1) to make an examination of the eyes for the prescription of glasses, or (2) to perform any of the practice acts for which optometrists are licensed.

(b) A person who is licensed to practice medicine and surgery may delegate to assistants the performance of screening procedures for visual acuities, color vision, visual fields, and intraocular pressure.

(c) A person who is licensed to practice medicine and surgery and who has completed an approved postgraduate training program in ophthalmology or who is practicing as a fulltime ophthalmologist on the effective date of this act may utilize not more than three (3) assistants to perform examination procedures which may be performed by a person licensed to practice optometry. The examination procedures performed by assistants to ophthalmologists shall be limited to data gathering at the direct request of the ophthalmologist and to those examination procedures which do not require professional interpretation or professional judgment. These examination procedures may be performed by assistants only under the immediate and personal supervision and within the office of an ophthalmologist. Delegation to such assistants of the external and internal evaluation of the eye, biomicroscopic evaluation, subjective refraction, gonioscopic evaluation, final contact lens fit evaluation, orthoptic and strabismus evaluations, visual training evaluations, analysis of findings and the prescribing of ophthalmic lenses are prohibited.

**History**: L. 1957, ch. 343, § 87; L. 1978, ch. 252, § 1; July 1.

**Article 49 - Health Care Providers**

**Article 49 - Health Care Providers**

**65-4965. Citation of act.** K.S.A. 65-4965 to 65-4968, inclusive, and amendments thereto, shall be known as the patient's contact lens prescription release act.

**History**: L. 2002, ch. 113, § 1; Jan. 1, 2003.

**65-4966. Patient entitled to receive copy of contact lens prescription; disclosures; prescription limitations.** Each patient shall be entitled to receive a copy of such patient's contact lens prescription once the same prescription has been determined and the adaptation period has been completed. Any prescription for a specific brand of contact lenses available only from the licensed optometrist or person licensed to practice medicine and surgery, but which are generally marketed under an alternate brand, must disclose the name of the manufacturer and the trade name of the alternate brand. No contact lens prescription may be limited by an expiration date or otherwise to a period of less than 12 months from either the date the prescription is first determined or the last date of the contact lens evaluation by a licensed optometrist or a person licensed to practice medicine and surgery, whichever date is later, unless a health related reason for the limitation is noted in the patient's medical record.

**History**: L. 2002, ch. 113, § 3; Jan. 1, 2003.

**65-4967. Definition of person dispensing contact lenses for purposes of section; persons mailing or delivering contact lenses to patients in Kansas; registration requirements; fees; temporary suspension or limitation of registration; emergency proceedings; moneys remitted to state board of healing arts**. (a) For purposes of this section a person dispensing contact lenses means a person or entity not licensed under K.S.A. 65-1505, and amendments thereto, or licensed to practice medicine and surgery in Kansas who mails or delivers, using commercial courier or overnight or other delivery services, contact lenses to patients in Kansas pursuant to a contact lens prescription which such person or entity did not determine.

(b) No person dispensing contact lenses as defined under subsection (a) may dispense contact lenses to Kansas residents unless such person meets the criteria of this section, is registered under this section and pays the annual registration fee set by the state board of healing arts. Registration fees shall not exceed the annual fee for an initial or renewal permit to practice optometry in this state as provided in K.S.A. 65-1505, and amendments thereto.

(c) Approval of the registration for dispensing contact lenses shall be provided by the state board of healing arts upon certification by the person dispensing the contact lenses that such person:

(1) Is licensed or registered to dispense contact lenses in the state where the dispensing facility is located, if required to be licensed or registered in such state;

(2) provides the location, names and titles of all principal corporate officers and of the individual who is responsible for overseeing the dispensing of contact lenses in Kansas;

(3) complies with directions and appropriate requests for information from the regulating agency of each state where such person is licensed or registered;

(4) will respond directly and within a reasonable period of time, not to exceed 15 days, to all communications from the state board of healing arts concerning the dispensing of contact lenses in Kansas;

(5) maintains records of contact lenses and their corresponding valid, unexpired prescription dispensed in Kansas;

(6) agrees to cooperate with the state board of healing arts in providing information to the regulatory agency of any state where it is licensed or registered concerning matters related to the dispensing of contact lenses in Kansas;

(7) provides a toll-free telephone service for responding to questions and complaints from individuals in Kansas during such person's regular hours of operation and agrees to (a) include the toll-free number in literature provided with contact lenses and (b) refer all questions relating to eye care for the lenses prescribed to the licensee who determined the contact lens prescription;

(8) provides the following, or substantially equivalent, written notification to the patient whenever contact lenses are supplied:

WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING SYMPTOMS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE OR REDNESS;

(9) fills contact lens prescriptions according to the strict directions of a person licensed to practice optometry or person licensed to practice medicine and surgery in Kansas, without any deviation or substitution of lenses; and

(10) consents in writing to the personal and subject matter jurisdiction of the district courts of this state and the state board of healing arts for actions arising out of this act.

(d) The state board of healing arts may temporarily suspend or temporarily limit the registration of any person dispensing contact lenses to Kansas residents in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that any of the requirements of subsection (c) and that the registrant's continued dispensing of contact lenses to Kansas residents would constitute an imminent danger to the public health and safety.

(e) The state board of healing arts shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the healing arts fee fund.

**History**: L. 2002, ch. 113, § 4; L. 2008, ch. 75, § 3; L. 2010, ch. 27, § 1; July 1.

**65-4968. Revocation of registration or license for failure to comply with requirements of act; civil fines for violations; disposition of moneys; injunction remedy for violations; enforcement of act.** (a) The board of examiners in optometry may revoke the license of any person who is licensed by the board of examiners in optometry and who is dispensing contact lenses in Kansas under this act for failure to comply with the requirements set forth in the patient's contact lens prescription release act. The state board of healing arts may revoke the registration or license of any person who is registered under K.S.A. 65-4967, and amendments thereto, or licensed by the state board of healing arts and who is dispensing contact lenses in Kansas under this act for failure to comply with the requirements of the patient's contact lens prescription release act.

(b) (1) Upon a finding of any violation of the patient's contact lens prescription release act, in lieu of or in addition to any other action, the board of examiners in optometry for persons licensed by the board of examiners in optometry or the state board of healing arts for persons subject to the provisions of K.S.A. 65-4967, and amendments thereto, registered under K.S.A. 65-4967, and amendments thereto, or licensed by the state board of healing arts to practice medicine and surgery may assess a civil fine not in excess of $10,000 against such person dispensing contact lenses under this act.

(2) The board of examiners in optometry shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall then deposit into the optometry fee fund an amount from such deposits equal to the board's actual costs, including attorney fees, related to fine assessment and enforcement as certified by the president of the board. All expenditures from such funds shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person designated by the president.

(3) The state board of healing arts shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall then deposit into the healing arts fee fund an amount from such deposits equal to the board's actual costs, including attorney fees, related to fine assessment and enforcement as certified by the president of the board. All expenditures from such funds shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person designated by the president.

(c) If a person dispensing contact lenses is operating in violation of the patient's contact lens prescription release act, for persons licensed by the board of examiners in optometry, the board of examiners in optometry or the attorney general may commence an action to enjoin such person from further violations. If a person dispensing contact lenses who is subject to the provisions of K.S.A. 65-4967, and amendments thereto, is registered under K.S.A. 65-4967, and amendments thereto, or is licensed by the state board of healing arts, is operating in violation of the patient's contact lens prescription release act, the state board of healing arts or the attorney general may commence an action in the name of the state of Kansas to enjoin such person from further violations or from mailing, shipping or otherwise delivering contact lenses in Kansas.

(d) The board of examiners in optometry shall administer and enforce the provisions of the patient's contact lens prescription release act for persons licensed by the board of examiners in optometry, and the state board of healing arts shall administer and enforce the provisions of the patient's contact lens prescription release act for persons subject to the provisions of K.S.A. 65-4967, and amendments thereto, registered under K.S.A. 65-4967, and amendments thereto, or licensed by the state board of healing arts, and each such board is hereby granted such specific powers as are necessary for the purpose of administering and enforcing such law, including adopting rules and regulations, which rules and regulations shall not be inconsistent with the provisions of the law being enforced.

**History**: L. 2002, ch. 113, § 5; Jan. 1, 2003.

**65-4969. Contact lens advisory council established; membership on council; expenses of members**. (a) There is hereby established a contact lens advisory council to advise the state board of healing arts in carrying out the provisions of the patient's contact lens prescription release act. The council shall consist of three members, all residents of the state of Kansas appointed by the state board of healing arts as follows: One member shall be a person licensed to practice medicine and surgery who specializes in ophthalmology, one member shall be a licensed optometrist and one member shall be a person dispensing contact lenses as defined in the patient's contact lens prescription release act.

(b) If a vacancy occurs on the council, the state board of healing arts shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any. The members appointed shall serve at the pleasure of the state board of healing arts.

(c) Members of the council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto from the healing arts fee fund.

**History**: L. 2002, ch. 113, § 6; Jan. 1, 2003.

**Chapter 32. -Wildlife, Parks, and Recreation**

**Article 9. - Licenses, Permits, Stamps other Issues**

**32-933. Physical or visual disability, assistance permit.** (a) Any person having a permanent physical or visual disability such that the person cannot safely hunt or fish in accordance with law and rules and regulations of the department, as certified by a person licensed to practice the healing arts in any state or a person licensed to practice optometry in any state, shall be eligible to obtain a disability assistance permit. The permit shall allow the permitholder to designate another person to take, on behalf of and while accompanied by the permitholder, the permitholder's legal limit of game or fish. The person designated by the permitholder shall not be required to hold any licenses, permits, stamps or any other issues of the department otherwise required for the activity being engaged in but shall remain subject to all other laws and rules and regulations of the department for the activity being engaged in. The permitholder shall accompany into the field and be in close proximity to the person designated by the permitholder. The person designated by the permitholder shall not be a person whose fishing, hunting or furharvesting license is currently suspended, restricted or revoked. On the determination of the secretary, the disability assistance permit may designate the hunting or fishing activity for which assistance to the permitholder may be provided.

(b) The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations providing for the approval of applicants for permits pursuant to subsection (a) and for the issuance of such permits.

(c) Falsely obtaining or using a permit authorized by this section is a class C misdemeanor.

**History**: L. 1997, ch. 127, § 2; L. 2002, ch. 96, § 3; L. 2004, ch. 75, § 1; July 1.

**Chapter 48. --Militia, Defense and Public Safety**

**Article 34.--Licenses in Military Service**

Expand all **48-3401. Definitions**. As used in K.S.A. 48-3401 through 48-3405 of this act:

(a) "Military service" means active duty by a licensee in the army, navy, marine corps, air force, air or army national guard, coast guard or any branch of the military reserves of the United States.

(b) "License" means any permit, certificate, authority, privilege or registration whether temporary or permanent issued, granted or made by the state of Kansas or any officer, board, department or commission or agency thereof authorizing a person to engage in or practice an occupation or profession in this state.

(c) "Licensee" means a person who had, at the time of commencing a period of military service, a valid, existing license to engage in or practice an occupation or profession in this state. "Licensee" also means a person who, while in military service, obtains a valid license to engage in or practice an occupation or profession in this state.

**History**: L. 1991, ch. 282, § 1; May 2.

**48-3402. Validity of licenses continued; renewal fees and conditions held in abeyance during service.** (a) The license of a licensee shall continue to be valid while the licensee is in the military service and for six months following release therefrom. No licensee shall be required to pay a renewal fee, submit a renewal application, obtain continuing education or meet other conditions to maintain a license while such licensee is in the military service. No license of any licensee shall expire, lapse or be canceled, revoked or suspended because of the failure to timely renew such license, including the failure to meet any conditions prerequisite to renewal, during the period of military service.

(b) The provisions of this section are subject to the provisions of K.S.A. 48-3403. To the extent that the provisions of any other law conflict with this section, this section shall control.

**History**: L. 1991, ch. 282, § 2; May 2.

**48-3403. Payment of renewal fee, time; continuing education requirement.** (a) A licensee who desires to engage in or practice an occupation or profession in this state after release from military service shall submit, within six months after such release, but not later than two weeks after engaging in or practicing such occupation or profession in this state after such release, the renewal fee required by law for the current license period with a completed renewal application, and thereupon, the licensee shall be deemed to have complied with all requirements of law relating to payment of licensure renewal fees. A licensee who submits the renewal fee and completed renewal application in accordance with this section shall not be charged any late payment fees or penalties. The license of a licensee who fails to renew the license pursuant to this section may be canceled, revoked or suspended in accordance with the applicable law.

(b) A licensee who is required by law to obtain continuing education as a condition prerequisite to renewal of a license shall be exempt from such continuing education requirement until completion of the next full licensure period so long as the licensee submits the renewal fee and completed renewal application in accordance with subsection (a).

**History**: L. 1991, ch. 282, § 3; L. 2005, ch. 117, § 3; Apr. 21.

**48-3404. Inapplicability of act in certain cases; license expiration, suspension or revocation set aside; default in disciplinary action, motion to set aside**. (a) The provisions of K.S.A. 48-3401 through 48-3405 shall not apply to licensees who during the period of military service engage in or practice an occupation or profession in this state outside of the line of duty in the military service.

(b) If the license of any licensee has expired, lapsed or been suspended or revoked prior to the effective date of this act solely because of the failure of such licensee to comply with conditions for renewal while the licensee was in the military service, such expiration, cancellation, suspension or revocation is hereby set aside and canceled.

(c) Any licensee held in default, pursuant to K.S.A. 77-520 and amendments thereto, in any disciplinary action commenced by the licensing agency, may file a written motion before the agency within six months of release from active duty, requesting that such default be set aside. Such motion shall be granted if the agency finds that military service prevented the licensee's appearance or participation in the disciplinary proceeding.

**History**: L. 1991, ch. 282, § 4; May 2.

**48-3405. Lapse in insurance coverage during service, license saved**. No license shall be revoked, suspended or canceled by any licensing board or agency for failure to maintain professional liability insurance or for failure to pay the surcharge to the health care stabilization fund, as required by the health care provider insurance availability act, if such lapse in coverage occurred during the period of military service.

**History**: L. 1991, ch. 282, § 5; May 2.

**48-3406. Military spouse; expedited state licensure procedure if licensed in another state**. (a) Notwithstanding any other provision of law, any licensing body, as defined by K.S.A. 74-146, and amendments thereto, shall, upon application, issue a license to a nonresident military spouse, so that the nonresident military spouse may lawfully practice the person's occupation.

(b) A nonresident military spouse shall receive a license under subsection (a) of this section:

(1) Pursuant to applicable licensure by endorsement or reciprocity statutes of the licensing body of this state for the profession license; or

(2) if the professional practice act does not have licensure by endorsement or reciprocity statutes, then, at the time of application, the military spouse:

(A) Holds a current license in another state, district or territory of the United States with licensure requirements that the licensing body determines are equivalent to those established by the licensing body of this state;

(B) has not committed an act in any jurisdiction that would have constituted grounds for the limitation, suspension or revocation or that the applicant has never been censured or had other disciplinary action taken or had an application for licensure denied or refused to practice an occupation for which the military spouse seeks licensure;

(C) has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction nor has surrendered their membership on any professional staff in any professional association or society or faculty for another state or licensing jurisdiction while under investigation or to avoid adverse action for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action in a Kansas practice act;

(D) pays any fees required by the licensing body of this state; and

(E) submits with the application a signed affidavit stating that the application information, including necessary prior employment history, is true and accurate. Upon receiving such affidavit, the licensing body shall issue the license to the military spouse on a probationary basis, but may revoke the license at any time if the information provided in the application is found to be false.

(c) Any person who has not been in the active practice of the occupation during the two years preceding the application for which the applicant seeks a license may be required to complete such additional testing, training, mentoring, monitoring or education as the Kansas licensing body may deem necessary to establish the applicant's present ability to practice with reasonable skill and safety.

(d) A nonresident military spouse licensed under this section shall be entitled to the same rights and subject to the same obligations as are provided by the licensing body for Kansas residents, except that revocation or suspension of a nonresident military spouse's license in the nonresident military spouse's state of residence or any jurisdiction in which the nonresident military spouse held licensure shall automatically cause the same revocation or suspension of such nonresident military spouse's license in Kansas. No hearing shall be granted to a nonresident licensee where the license is subject to such automatic revocation or suspension except for the purpose of establishing the fact of revocation or suspension of the nonresident military spouse's license by the nonresident military spouse's state of residence.

(e) For the purposes of this section, "military spouse" means the spouse of an individual who is currently in active service in any branch of the armed forces of the United States.

(f) This section shall not apply to the practice of law or the regulation of attorneys pursuant to K.S.A 7-103, and amendments thereto.

**History**: L. 2012, ch. 1, § 1; July 1.

**Chapter 74.--State Boards, Commissions and Authoriites**

**Article 15.--Board of Examinerss in Optometry**

**74-1501. Board of examiners in optometry; appointment; qualifications; vacancies; removal.** The governor shall appoint a board of examiners in optometry for the state of Kansas, consisting of five members. Four members shall be selected after consideration of a list of four or more names for each appointment, submitted by the Kansas optometric association, or its successor. One member shall be a representative of the general public. No person other than the member representing the general public shall be eligible for appointment as a member of the board unless such person has been engaged in the actual practice of optometry in the state of Kansas continuously for five years and is a resident thereof. All members shall serve for a term of three years, but in no case shall any member be appointed for more than three successive three-year terms. In the case of a vacancy in the membership of the board for any reason, the governor shall appoint a successor of like qualifications to fill the unexpired term, and in making such appointment the governor shall give consideration to the list of persons last submitted. Each member of the board shall hold office until a successor is duly appointed and qualified. The governor shall have the power to remove from office any member of the board for neglect of duty, incompetency, improper or unprofessional conduct.

**History**: L. 1923, ch. 220, § 4; R.S. 1923, 74-1501; L. 1975, ch. 318, § 9; L. 1978, ch. 308, § 56; L. 1981, ch. 299, § 52; L. 1996, ch. 95, § 4; Apr. 4.

**74-1502. Board of examiners in optometry; records; quorum**. The board shall keep a record in which shall be registered the name, residence, place of business, date of issuance of license, renewals, limitations revocations and suspensions of a license of every person authorized under the optometry law to practice optometry in this state. A majority of the board shall constitute a quorum.

**History**: L. 1923, ch. 220, § 5; R.S. 1923, 74-1502; L. 1990, ch. 223, § 10; July 1.

**74-1503. Officers; compensation and expenses; fees, disposition; optometry fee fund; optometry litigation fund**. (a) At the regular meeting of the board in April of every year it shall elect from its own membership a president, a vice-president and a secretary-treasurer. Members of the board of examiners in optometry attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The board may appoint a secretary-treasurer who shall be in the unclassified service of the Kansas civil service act. The secretary-treasurer shall receive an annual salary which shall be fixed by the board and approved by the state finance council.

(b) The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the optometry fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president.

(c) There is hereby created in the state treasury the optometry litigation fund. All moneys credited to the fund shall be used to pay all costs and fees associated with litigation expenses of the board of examiners in optometry. The unencumbered balance in such fund shall not exceed $400,000. The fund shall be administered by the board. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or a person designated by the president.

**History**: L. 1923, ch. 220, § 6; R.S. 1923, 74-1503; L. 1951, ch. 360, § 3; L. 1956, ch. 52, § 18; L. 1957, ch. 431, § 13; L. 1963, ch. 398, § 20; L. 1973, ch. 309, § 28; L. 1974, ch. 348, § 51; L. 2001, ch. 5, § 306; L. 2011, ch. 53, § 45; L. 2012, ch. 8, § 12; July 1.

**74-1504. Same; powers and duties; examinations; meetings.** (a) The board shall administer and enforce the provisions of the optometry law, and the board is hereby granted such specific powers as are necessary for the purpose of administering and enforcing such law. In addition, the board may:

(1) Employ agents, attorneys and inspectors under such rules and regulations as the board may prescribe in accordance with the provisions of the optometry law, except that no state officer shall be eligible for employment by the board.

(2) Make all necessary disbursements, to carry out the provisions of this act, including payment for stationery supplies, acquire all necessary optical instruments to be used in the conducting of examination, print and distribute to all optometrists in the state a yearbook of the names and addresses of all optometrists licensed by the board.

(3) Grant all licenses as seem just and proper and to suspend, limit, revoke or refuse to renew any such licenses granted for any of the causes specified under K.S.A. 65-1506 and amendments thereto.

(4) Administer oaths and take testimony upon granting or refusing to grant, revoking, limiting or suspending licenses.

(5) Issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. In case of disobedience on the part of any person to comply with any subpoena issued in behalf of the board, or on the refusal of any witness to testify to any matters regarding which such witness may be lawfully interrogated, the judge of the district court of any county, on application of a member of the board, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify in such court. Each witness who appears before the board by the board's order or subpoena, other than a state officer or employee, shall receive for attendance the fees and mileage provided for witnesses in civil cases in courts of record which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the president and secretary-treasurer of the board.

(6) Adopt rules and regulations for the procedure and conduct of the board and for the administration of the optometry law, which rules and regulations shall not be inconsistent with the provisions of the optometry law.

(b) The board shall meet at least annually for the purpose of examining applicants for licensure. Such meetings shall be held in Topeka. At least 30 days prior to the examination, the board shall cause a special notice to be published in the Kansas register stating the date and hour for holding such examination. Special meetings shall be held at such times and places as the board may direct.

(c) The board shall preserve an accurate record of all meetings and proceedings of the board including receipts and disbursements with vouchers therefor and complete minutes of all prosecutions and violations of the optometry law and of examinations held under the provisions of the optometry law and an accurate inventory of all property of the board. All such records shall be kept in the office of the board and made accessible to the public.

**History**: L. 1923, ch. 220, § 7; R.S. 1923, 74-1504; L. 1939, ch. 240, § 8; L. 1943, ch. 269, § 15; L. 1953, ch. 366, § 1; L. 1967, ch. 434, §27; L. 1990, ch. 223, § 11; July 1.

**74-1505. Interprofessional advisory committee; appointment; duties**. (a) The board shall appoint a seven-member committee to be known as the interprofessional advisory committee which, as requested by the board, shall make recommendations on clinical or practice related issues, including procedure coding matters and appropriate treatments for ocular diseases and conditions .

(b) The interprofessional advisory committee shall consist of one member of the board appointed by the board who shall serve as a nonvoting chair, together with three optometrists licensed to practice optometry in this state chosen by the board from those nominated by the Kansas optometric association and three ophthalmologists licensed to practice in this state chosen by the board from those nominated by the Kansas medical society and the Kansas association of osteopathic medicine. The Kansas optometric association and Kansas medical society shall submit six nominees to the board. The Kansas association of osteopathic medicine shall submit two nominees to the board. Persons appointed to the committee shall serve terms of three years and without compensation. All expenses of the committee shall be paid by the board.

(c) This section shall be part of and supplemental to the optometry law.

**History**: L. 1996, ch. 95, § 5; L. 1999, ch. 23, § 10; L. 2005, ch. 93, § 4; L. 2012, ch. 8, § 9; July 1.48-3404. Inapplicability of act in certain cases; license expiration, suspension or revocation set aside; default in disciplinary action, motion to set aside. (a) The provisions of K.S.A. 48-3401 through 48-3405 shall not apply to licensees who during the period of military service engage in or practice an occupation or profession in this state outside of the line of duty in the military service.

(b) If the license of any licensee has expired, lapsed or been suspended or revoked prior to the effective date of this act solely because of the failure of such licensee to comply with conditions for renewal while the licensee was in the military service, such expiration, cancellation, suspension or revocation is hereby set aside and canceled.

(c) Any licensee held in default, pursuant to K.S.A. 77-520 and amendments thereto, in any disciplinary action commenced by the licensing agency, may file a written motion before the agency within six months of release from active duty, requesting that such default be set aside. Such motion shall be granted if the agency finds that military service prevented the licensee's appearance or participation in the disciplinary proceeding.

History: L. 1991, ch. 282, § 4; May 2.

**48-3406. Military spouse; expedited state licensure procedure if licensed in another state**. (a) Notwithstanding any other provision of law, any licensing body, as defined by K.S.A. 74-146, and amendments thereto, shall, upon application, issue a license to a nonresident military spouse, so that the nonresident military spouse may lawfully practice the person's occupation.

(b) A nonresident military spouse shall receive a license under subsection (a) of this section:

(1) Pursuant to applicable licensure by endorsement or reciprocity statutes of the licensing body of this state for the profession license; or

(2) if the professional practice act does not have licensure by endorsement or reciprocity statutes, then, at the time of application, the military spouse:

(A) Holds a current license in another state, district or territory of the United States with licensure requirements that the licensing body determines are equivalent to those established by the licensing body of this state;

(B) has not committed an act in any jurisdiction that would have constituted grounds for the limitation, suspension or revocation or that the applicant has never been censured or had other disciplinary action taken or had an application for licensure denied or refused to practice an occupation for which the military spouse seeks licensure;

(C) has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction nor has surrendered their membership on any professional staff in any professional association or society or faculty for another state or licensing jurisdiction while under investigation or to avoid adverse action for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action in a Kansas practice act;

(D) pays any fees required by the licensing body of this state; and

(E) submits with the application a signed affidavit stating that the application information, including necessary prior employment history, is true and accurate. Upon receiving such affidavit, the licensing body shall issue the license to the military spouse on a probationary basis, but may revoke the license at any time if the information provided in the application is found to be false.

(c) Any person who has not been in the active practice of the occupation during the two years preceding the application for which the applicant seeks a license may be required to complete such additional testing, training, mentoring, monitoring or education as the Kansas licensing body may deem necessary to establish the applicant's present ability to practice with reasonable skill and safety.

(d) A nonresident military spouse licensed under this section shall be entitled to the same rights and subject to the same obligations as are provided by the licensing body for Kansas residents, except that revocation or suspension of a nonresident military spouse's license in the nonresident military spouse's state of residence or any jurisdiction in which the nonresident military spouse held licensure shall automatically cause the same revocation or suspension of such nonresident military spouse's license in Kansas. No hearing shall be granted to a nonresident licensee where the license is subject to such automatic revocation or suspension except for the purpose of establishing the fact of revocation or suspension of the nonresident military spouse's license by the nonresident military spouse's state of residence.

(e) For the purposes of this section, "military spouse" means the spouse of an individual who is currently in active service in any branch of the armed forces of the United States.

(f) This section shall not apply to the practice of law or the regulation of attorneys pursuant to K.S.A 7-103, and amendments thereto.

History: L. 2012, ch. 1, § 1; July 1.

**74-1505. Interprofessional advisory committee; appointment; duties**. (a) The board shall appoint a seven-member committee to be known as the interprofessional advisory committee which, as requested by the board, shall make recommendations on clinical or practice related issues, including procedure coding matters and appropriate treatments for ocular diseases and conditions .

(b) The interprofessional advisory committee shall consist of one member of the board appointed by the board who shall serve as a nonvoting chair, together with three optometrists licensed to practice optometry in this state chosen by the board from those nominated by the Kansas optometric association and three ophthalmologists licensed to practice in this state chosen by the board from those nominated by the Kansas medical society and the Kansas association of osteopathic medicine. The Kansas optometric association and Kansas medical society shall submit six nominees to the board. The Kansas association of osteopathic medicine shall submit two nominees to the board. Persons appointed to the committee shall serve terms of three years and without compensation. All expenses of the committee shall be paid by the board.

(c) This section shall be part of and supplemental to the optometry law.

History: L. 1996, ch. 95, § 5; L. 1999, ch. 23, § 10; L. 2005, ch. 93, § 4; L. 2012, ch. 8, § 9; July 1.



## Article 32.--Higher Education Coordination; State Board of RegentsExpand all

**74-3270. Guaranteed admission of Kansas residents at schools of optometry**. For the purposes of designating persons for guaranteed admission to and continued enrollment at accredited schools or colleges of optometry in a course of instruction leading to a degree in optometry in accordance with a contract under K.S.A. 76-721a and amendments thereto, the state board of regents shall designate persons who are Kansas residents and who enter into a written agreement with the state board of regents in accordance with K.S.A. 74-3271.

**History**: L. 1985, ch. 303, § 1; July 1

**74-3271. Optometry schools or colleges, guaranteed admission of Kansas residents; agreements; practice obligation.** An agreement entered into by the state board of regents and a Kansas resident who is an undergraduate student enrolled in or admitted to an accredited school or college of optometry pursuant to a contract which provides for guaranteed admission and continued enrollment of such person therein and which was entered into for such purpose under K.S.A. 76-721a, and amendments thereto, shall require that the person:

(a) Complete the required course of instruction in optometry and receive the degree therefor;

(b) apply for and obtain a license to practice optometry in Kansas;

(c) engage in the practice of optometry in Kansas on a full-time basis for a period of 12 months for each year in which such person is enrolled in the school or college of optometry and for which an annual amount is paid therefor by the state board of regents pursuant to a contract under K.S.A. 76-721a, and amendments thereto, or engage in the practice of optometry in Kansas on a part-time basis for a period equivalent to 12 months, as determined by the state board of regents, for each year in which such person is enrolled in the school or college of optometry and for which an annual amount is paid therefor by the state board of regents pursuant to a contract under K.S.A. 76-721a, and amendments thereto;

(d) (1) with regard to persons entering into an agreement prior to the effective date of this act, commence such full-time or part-time practice of optometry within nine months after licensure and continue such practice in Kansas for a consecutive period of months equal to the total number of months required under the agreement;

(2) with regard to persons entering into an agreement after the effective date of this act, commence such full-time or part-time practice of optometry within six months after licensure and continue such practice in Kansas for a consecutive period of months equal to the total number of months required under the agreement;

(e) maintain records and make reports to the state board of regents to document satisfaction of the obligation under such agreement to engage in the full-time or part-time practice of optometry in Kansas and to continue such practice for a consecutive period of months equal to the total number of months required under the agreement; and

(f) upon failure to satisfy an agreement to engage in the full-time or part-time practice of optometry in Kansas for the required period of time under such agreement, repay amounts to the state board of regents as provided in K.S.A. 74-3272, and amendments thereto.

**History**: L. 1985, ch. 303, § 2; L. 2001, ch. 151, § 7; July 1.

**74-3272. Same; failure to satisfy obligation; repayment, interest rate; waiver, when**. (a) Except as otherwise provided in subsection (e) and in K.S.A. 74-3273, and amendments thereto, upon the failure of any person to satisfy the obligation to engage in the full-time or part-time practice of optometry within the state of Kansas for the required period of time under an agreement entered into pursuant to K.S.A. 74-3271, and amendments thereto, such person shall repay to the state board of regents an amount equal to the total of (1) the amount of money paid by the state board of regents for guaranteed admission and continued enrollment of such person in an accredited school or college of optometry pursuant to a contract entered into therefor under K.S.A. 76-721a, and amendments thereto, plus (2) accrued interest from the date such money was paid pursuant to such contract at a rate which is equivalent to the interest rate applicable to loans made under the federal PLUS program at the time such person first entered into an agreement plus five percentage points.

(b) Each person required to repay any amount under this section shall repay an amount totaling the entire amount to be repaid under such agreement for which such obligation is not satisfied, including all interest at the rate prescribed. Except as otherwise provided in this section, such repayment shall be in installment payments and each such installment shall be not less than an amount equal to 1/5 of the total amount which would be required to be paid if repaid in five equal annual installments.

(c) All installment payments under this section shall commence six months after the date of the action or circumstance that causes the failure of the person to satisfy the obligations of such agreement, as determined by the state board of regents based upon the circumstances of each individual case. If an installment payment becomes 91 days overdue, the entire amount outstanding shall become immediately due and payable, including all interest at the rate prescribed.

(d) The total repayment obligation imposed under an agreement entered into pursuant to K.S.A. 74-3271, and amendments thereto, may be satisfied at any time prior to graduation from the accredited school or college of optometry by making a single lump-sum payment equal to the total of (1) the entire amount to be repaid under such agreement upon failure to satisfy the obligation to practice optometry in Kansas, plus (2) all interest thereon at the rate prescribed to the date of payment.

(e) If a person fails to satisfy an obligation to engage in the full-time or part-time practice of optometry in Kansas for the required period of time under an agreement entered into pursuant to K.S.A. 74-3271, and amendments thereto, because such person is engaged in the practice of optometry in a state other than Kansas, and if such person is subject to or currently making repayments under this section, and if such person subsequently commences the practice of optometry in this state which complies with the agreements entered into under such statute, the balance of the repayment amount, including interest thereon, from the time of such commencement of practice until the obligation of such person is satisfied, or until the time such person again becomes subject to repayments, shall be waived. All repayment amounts due prior to such commencement of practice in this state, including interest thereon, shall continue to be payable as provided in this section. If subsequent to such commencement of practice, the person fails to satisfy such obligation, the person again shall be subject to repayments, including interest thereon, as otherwise provided in this section.

(f) The state board of regents is authorized to turn any repayment account arising under the optometry service scholarship program over to a designated loan servicer or collection agency, the state not being involved other than to receive payments from the loan servicer or collection agency at the interest rate prescribed under this section.

**History**: L. 1985, ch. 303, § 3; L. 1987, ch. 296, § 3; L. 2001, ch. 151, § 8; July 1.

**74-3272a. Optometry education repayment fund; administration.** (a) There is hereby created in the state treasury the optometry education repayment fund. The state board of regents shall remit all moneys received under K.S.A. 74-3272, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the optometry education repayment fund. All expenditures from the optometry education repayment fund shall be for payment of amounts for guaranteed admission and continued enrollment of designated persons at accredited schools or colleges of optometry in a course of instruction leading to a degree in optometry in accordance with a contract under K.S.A. 76-721a, and amendments thereto. Such expenditures shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive officer of the state board of regents or a person designated by the executive officer.

(b) On the effective date of this act, the director of accounts and reports shall transfer from the state general fund to the optometry education repayment fund an amount equal to the amount received by the board of regents under K.S.A 74-3272, and amendments thereto, and remitted to the state treasurer since January 1, 1993, for credit to the state general fund.

**History**: L. 1993, ch. 184, § 6; L. 2001, ch. 5, § 315; July 1.

**74-3273. Same; repayment obligation postponed or satisfied, when.** (a) An obligation to engage in the practice of optometry in accordance with an agreement under K.S.A. 74-3271, and amendments thereto, shall be postponed: (1) During any required period of active military service; (2) during any period of service as a part of volunteers in service to America (VISTA); (3) during any period of service in the peace corps; (4) during any period of service commitment to the United States public health service; (5) during any period of religious missionary work conducted by an organization exempt from tax under section 501(c)(3) of the federal internal revenue code as in effect on December 31, 2000; (6) during any period of time the person obligated is engaged solely in the teaching of optometry; (7) during any period of time the person obligated is engaged solely in optometric research; (8) during any period of time the person obligated is actively engaged on a full-time basis in an approved postgraduate residency training program; (9) during any period of time the person obligated is unable because of temporary medical disability to practice optometry; (10) during any period of time the person obligated is on job-protected leave under the federal family and medical leave act of 1993; or (11) during any period of time the state board of regents determines that the person obligated is unable because of special circumstances to practice optometry. Except for clauses (9), (10) and (11), an obligation to engage in the practice of optometry in accordance with an agreement under K.S.A. 74-3271, and amendments thereto, shall not be postponed more than five years from the time the practice of optometry was to have been commenced under any such agreement. An obligation to engage in the practice of optometry in accordance with an agreement under K.S.A. 74-3271, and amendments thereto, shall be postponed under clause (9) during the period of time the medical disability exists. An obligation to engage in the practice of optometry in accordance with an agreement under K.S.A. 74-3271, and amendments thereto, shall be postponed under clause (10) during the period of time the person obligated remains on FMLA leave. An obligation to engage in the practice of optometry in accordance with an agreement under K.S.A. 74-3271, and amendments thereto, shall be postponed under clause (11) during the period of time the state board of regents determines that the special circumstances exist. The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for determination of the existence of special circumstances causing an inability to practice optometry, and shall determine the documentation required to prove the existence of such circumstances.

(b) An obligation to engage in the practice of optometry in accordance with an agreement under K.S.A. 74-3271, and amendments thereto, shall be satisfied: (1) If the obligation to engage in the practice of optometry in accordance with an agreement under K.S.A. 74-3271, and amendments thereto, has been completed; (2) if the person obligated dies; (3) if, because of permanent physical disability, the person obligated is unable to practice optometry; (4) if the person obligated fails to satisfy the requirements for a degree from an accredited school or college of optometry after making the best effort possible to obtain such degree; or (5) if the person obligated fails to satisfy all requirements for a permanent license to practice optometry in Kansas or any other jurisdiction or has been denied a license after such person has applied for a license and has made the best effort possible to obtain a license.

**History**: L. 1985, ch. 303, § 4; L. 2001, ch. 151, § 9; July 1.