

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1123  
(Human Services Committee)  
(At the request of the State Board of Optometry)

AN ACT to amend and reenact subsections 2 and 3 of section 43-13-02, sections 43-13-05, 43-13-06, and 43-13-11, subsection 3 of section 43-13-13.2, section 43-13-20, subsection 7 of section 43-13-22, and section 43-13-28 of the North Dakota Century Code, relating to regulation and licensing of optometrists.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsections 2 and 3 of section 43-13-02 of the North Dakota Century Code are amended and reenacted as follows:

2. Student interns who are currently enrolled in an optometry school or college accredited by the accreditation council on optometric education of the American optometric association, or its successor agency, or who have graduated no more than three months prior, and are under the immediate and direct supervision of a licensed optometrist.
3. Physicians and surgeons ~~authorized to practice medicine in this state, except that the provisions of section 43-13-28 remain applicable~~ licensed under chapter 43-17.

**SECTION 2. AMENDMENT.** Section 43-13-05 of the North Dakota Century Code is amended and reenacted as follows:

**43-13-05. Secretary of board - Duties - Record - Custodian of fees - Report.** The secretary of the board, or the secretary's designee, has the following duties:

1. Keep a full record of the proceedings of the board.
2. Be custodian of all fees coming into the possession of the board.
3. At such times as may be required by the board, furnish a complete statement of receipts and disbursements under oath, together with vouchers, receipts, and such other evidence of the receipts and disbursements as may be required by the board.

**SECTION 3. AMENDMENT.** Section 43-13-06 of the North Dakota Century Code is amended and reenacted as follows:

**43-13-06. Secretary of board - Bond.** The secretary of the board, or the secretary's designee in the event the duties have been delegated to another, must be bonded for the faithful discharge of duties in such amount as may be prescribed by the board.

**SECTION 4. AMENDMENT.** Section 43-13-11 of the North Dakota Century Code is amended and reenacted as follows:

**43-13-11. Records of board.** The record of the proceedings of the board kept by the secretary, or the secretary's designee, at all reasonable times must be open to public inspection. ~~Such~~ The record also must contain, ~~under permanent binding~~, a registry list of all persons licensed by the board, together with renewals and revocations of licenses. The record constitutes the official registry of all persons licensed to practice optometry in this state.

**SECTION 5. AMENDMENT.** Subsection 3 of section 43-13-13.2 of the North Dakota Century Code is amended and reenacted as follows:

3. The board shall ~~notify~~ provide the board of pharmacy in writing, and on an annual basis or when other optometrists are certified, of the specific optometrists certified by the board upon request a list of licensed optometrists certified in the use of pharmaceutical agents.

**SECTION 6. AMENDMENT.** Section 43-13-20 of the North Dakota Century Code is amended and reenacted as follows:

**43-13-20. Term of license - Renewal - Annual license fee - Continuing educational requirements.** A license to practice optometry in the state may be issued for one year only, but may be renewed by paying to the secretary of the board, during the month of ~~January~~ December of each year, the license fee for ~~that the following year, and as of January 1, 1974,~~ by submitting satisfactory proof to the board that within the preceding three-year period the applicant has attended optometric educational programs as required by the board. The board shall grant an applicant an additional year in which to attend ~~such the~~ education programs if an applicant furnishes the board with sufficient proof that the applicant has been unable to attend ~~such the~~ education programs during a year, which proof ~~shall~~ must include a physician's certificate stating that the applicant was ill and that it would have been hazardous to the applicant's health to attend ~~such the~~ educational programs. The license fee for each year must be determined annually by the North Dakota state board of optometry and be a reasonable sum fixed by the board. The board shall adopt reasonable rules ~~which that~~ which must state the type of optometric educational programs which are approved. The board also shall ~~also~~ designate the number of classroom hours which must be attended, which ~~will~~ must be a reasonable amount for each three-year period. Any person who does not meet these requirements by ~~February~~ January first of the year in which the license fee becomes due and payable is in default and may be reinstated by the board upon the payment of an additional sum reasonably fixed by the board, and upon the acceptance by the board of satisfactory evidence that the person has sufficiently attended approved optometric educational programs, and upon the compliance with other reasonable conditions the board may impose. ~~Nothing contained herein requires~~ This section does not require an applicant to become a member of the North Dakota optometric association or any other association of optometrists.

**SECTION 7. AMENDMENT.** Subsection 7 of section 43-13-22 of the North Dakota Century Code is amended and reenacted as follows:

7. Is engaged in the practice of optometry by being directly or indirectly employed by any person other than ~~one who holds a valid unrevoked license as an optometrist in this state and who has an actual legal residence within this state~~ a licensed optometrist, a physician licensed under chapter 43-17, a hospital, or a clinic operated by licensed optometrists or by licensed physicians.

**SECTION 8. AMENDMENT.** Section 43-13-28 of the North Dakota Century Code is amended and reenacted as follows:

**43-13-28. Prohibitions.** It is unlawful for any ~~corporation, limited liability company, organization, association, group, or individual person~~ who is not the holder of a license to practice optometry, to engage in the practice of optometry, directly or indirectly, by employing or hiring upon a salary, commission, or ~~other basis or by associating upon a lease or any other profit-sharing arrangement with~~ a licensed optometrist or licensed physician except as permitted by the rules and regulations of the board. The provisions of this section do not apply to ~~cooperative or to nonprofit associations or nonprofit corporations~~ a physician licensed under chapter 43-17, a hospital, or a clinic operated by licensed optometrists or by licensed physicians.

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Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1123.

House Vote:      Yeas    90      Nays    0      Absent    4

Senate Vote:    Yeas    46      Nays    0      Absent    1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State