

Presented to the governor May 10, 1993

Signed by the governor May 11, 1993, 5:45 p.m.

CHAPTER 121—H.F.No. 134

An act relating to occupations and professions; requiring licensed optometrists to be certified by the board of optometry to prescribe topical legend drugs; authorizing the prescription of topical legend drugs by licensed optometrists who are board certified; requiring health professionals to report occurrences of adverse reactions resulting from optometrist's prescription of topical legend drugs; requiring reports; modifying the definition of practice of medicine; amending Minnesota Statutes 1992, sections 147.081, subdivision 3; 147.111, subdivision 4; 148.57, subdivision 3; 148.572; 148.574; 151.01, subdivision 23; and 151.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 148.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 147.081, subdivision 3, is amended to read:

Subd. 3. **PRACTICE OF MEDICINE DEFINED.** For purposes of this chapter, a person not exempted under section 147.09 is "practicing medicine" or engaged in the "practice of medicine" if the person does any of the following:

(1) advertises, holds out to the public, or represents in any manner that the person is authorized to practice medicine in this state;

(2) offers or undertakes to prescribe, give, or administer any drug or medicine for the use of another;

(3) offers or undertakes to prevent or to diagnose, correct, or treat in any manner or by any means, methods, devices, or instrumentalities, any disease, illness, pain, wound, fracture, infirmity, deformity or defect of any person;

(4) offers or undertakes to perform any surgical operation including any invasive or noninvasive procedures involving the use of a laser or laser assisted device, upon any person;

(5) offers to undertake to use hypnosis for the treatment or relief of any wound, fracture, or bodily injury, infirmity, or disease; or

(6) uses in the conduct of any occupation or profession pertaining to the diagnosis of human disease or conditions, the designation "doctor of medicine," "medical doctor," "doctor of osteopathy," "osteopath," "osteopathic physician," "physician," "surgeon," "M.D.," "D.O.," or any combination of these designations.

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Sec. 2. Minnesota Statutes 1992, section 147.111, subdivision 4, is amended to read:

Subd. 4. **LICENSED PROFESSIONALS.** A licensed health professional shall report to the board personal knowledge of any conduct which the professional reasonably believes constitutes grounds for disciplinary action under sections 147.01 to 147.22 by any physician, including any conduct indicating that the physician may be medically incompetent, or may have engaged in unprofessional conduct or may be medically or physically unable to engage safely in the practice of medicine. A licensed physician or other health professional licensed under chapter 147 shall also report to the board any occurrence of any adverse reaction resulting from an optometrist's prescription, use, or administration of any topical legend drug. Any reports received by the board must be reported to the board of optometry. No report shall be required if the information was obtained in the course of a physician-patient relationship if the patient is another physician and the treating physician successfully counsels the other physician to limit or withdraw from practice to the extent required by the impairment.

Sec. 3. Minnesota Statutes 1992, section 148.57, subdivision 3, is amended to read:

Subd. 3. **REVOCAION, SUSPENSION.** The board may revoke the license or suspend or restrict the right to practice of any person who has been convicted of any violation of sections 148.52 to 148.62 or of any other criminal offense, or who violates any provision of sections 148.571 to ~~148.574~~ 148.576 or who is found by the board to be incompetent or guilty of unprofessional conduct. "Unprofessional conduct" means any conduct of a character likely to deceive or defraud the public, including, among other things, free examination advertising, the loaning of a license by any licensed optometrist to any person; the employment of "cappers" or "steerers" to obtain business; splitting or dividing a fee with any person; the obtaining of any fee or compensation by fraud or misrepresentation; employing directly or indirectly any suspended or unlicensed optometrist to perform any work covered by sections 148.52 to 148.62; the advertising by any means of optometric practice or treatment or advice in which untruthful, improbable, misleading, or impossible statements are made. After one year, upon application and proof that the disqualification has ceased, the board may reinstate such person.

Sec. 4. Minnesota Statutes 1992, section 148.572, is amended to read:

148.572 ADVICE TO SEEK DIAGNOSIS AND TREATMENT.

Whether or not topical ocular drugs have been used, if any licensed optometrist is informed by a patient or determines from examining a patient, using judgment and that degree of skill, care, knowledge and attention ordinarily possessed and exercised by optometrists in good standing under like circumstances, that there are present in that patient signs or symptoms which may be evidence of disease that requires treatment that is beyond the practice of optometry per-

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mitted by law, then the licensed optometrist shall (1) promptly advise that patient to seek evaluation by an appropriate licensed physician for diagnosis and possible treatment and (2) not attempt to treat such condition by the use of drugs or any other means.

Sec. 5. Minnesota Statutes 1992, section 148.574, is amended to read:

148.574 PROHIBITIONS RELATING TO LEGEND DRUGS; AUTHORIZING SALES BY PHARMACISTS UNDER CERTAIN CONDITIONS.

An optometrist shall not purchase, possess, administer, prescribe or give any legend drug as defined in section 151.01 to any person except as is expressly authorized by sections 148.571 to ~~148.573~~ 148.577. The authorizations in sections 148.571 to 148.577 apply only to topical legend drugs. Nothing in chapter 151 shall prevent a pharmacist from selling topical ocular drugs to an optometrist authorized to use such drugs ~~pursuant~~ according to sections 148.571 to ~~148.573~~ 148.577. Notwithstanding section 151.37, an optometrist is prohibited from dispensing legend drugs at retail.

Sec. 6. [148.575] CERTIFICATE REQUIRED FOR USE OF TOPICAL LEGEND DRUGS.

Subdivision 1. CERTIFICATE REQUIRED FOR USE OF TOPICAL LEGEND DRUGS. A licensed optometrist must be board certified to use topical legend drugs for therapy under section 148.576.

Subd. 2. BOARD CERTIFIED DEFINED. “Board certified” means that a licensed optometrist has been issued a certificate by the board of optometry certifying that the optometrist has complied with the following requirements for the use of topical legend drugs described in section 148.576:

(1) successful completion of at least 60 hours of study in general and ocular pharmacology emphasizing drugs used for examination or treatment purposes, their systemic effects and management or referral of adverse reactions;

(2) successful completion of at least 100 hours of study in the examination, diagnosis, and treatment of conditions of the human eye with topical legend drugs;

(3) successful completion of two years of supervised clinical experience in differential diagnosis of eye disease or disorders as part of optometric training or one year of that experience and ten years of actual clinical experience as a licensed optometrist; and

(4) successful completion of a nationally standardized examination approved by the board on the subject of treatment and management of ocular disease prepared, administered, and graded by the International Association of Boards of Examiners in Optometry or an equivalent national board examination.

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Subd. 3. DISPLAY OF CERTIFICATE REQUIRED. A certificate issued to a licensed optometrist by the board of optometry must be displayed in a prominent place in the licensed optometrist's office.

Subd. 4. ACCREDITATION OF COURSES. The board of optometry may approve courses of study in general or ocular pharmacology and examination, diagnosis, and treatment of conditions of the human eye only if they are taught by an institution that meets the following criteria:

(1) the institution has facilities for both didactic and clinical instruction in pharmacology and ocular disease treatment;

(2) the institution certifies to the board of optometry that the course of instruction is comparable in content to courses of instruction required by other health-related licensing boards whose license holders or registrants are permitted to administer pharmaceutical agents in their professional practice for either diagnostic or therapeutic purposes or both; and

(3) the institution is accredited by a regional or professional accrediting organization recognized by the Council on Postsecondary Accreditation or the United States Department of Education, or their successors.

Subd. 5. NOTICE TO BOARD OF PHARMACY. The board of optometry shall notify the board of pharmacy of each licensed optometrist who meets the certification requirements in this section.

Sec. 7. [148.576] USE OF TOPICAL LEGEND DRUGS; LIMITATIONS; REPORTS.

Subdivision 1. AUTHORITY TO PRESCRIBE OR ADMINISTER. A licensed optometrist who is board certified under section 148.575 may prescribe or administer topical legend drugs to aid in the diagnosis, cure, mitigation, prevention, treatment, or management of disease, deficiency, deformity, or abnormality of the human eye and adnexa.

Subd. 2. ADVERSE REACTION REPORTS. An optometrist certified to prescribe topical legend drugs shall file with the board of optometry within ten working days of its occurrence a report on any adverse reaction resulting from the optometrist's administration of a drug. The report must include the optometrist's name, address, and license number; the patient's name, address, and age; the patient's presenting problem; the diagnosis; the agent administered and the method of administration; the reaction; and the subsequent action taken.

Sec. 8. [148.577] STANDARD OF CARE.

A licensed optometrist who is board certified under section 148.575 is held to the same standard of care in the use of those drugs as physicians licensed by the state of Minnesota.

Sec. 9. [148.578] ADVERSE REACTIONS.

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The board of optometry shall report annually to the legislature the details of adverse reactions received regarding the prescription or administration of topical legend drugs under section 148.576, subdivision 2.

Sec. 10. Minnesota Statutes 1992, section 151.01, subdivision 23, is amended to read:

Subd. 23. **PRACTITIONER.** "Practitioner" means a licensed doctor of medicine, licensed doctor of osteopathy duly licensed to practice medicine, licensed doctor of dentistry, licensed doctor of optometry, licensed podiatrist, or licensed veterinarian.

Sec. 11. Minnesota Statutes 1992, section 151.37, is amended by adding a subdivision to read:

Subd. 11. COMPLAINT REPORTING. The board of pharmacy shall report on a quarterly basis to the board of optometry any complaints received regarding the prescription or administration of topical legend drugs under section 148.576.

Presented to the governor May 10, 1993

Signed by the governor May 11, 1993, 5:47 p.m.

CHAPTER 122—H.F.No. 1199

An act relating to state government; the legislative commission on employee relations; raising the top of a salary range for a judicial position; modifying provisions relating to certain plans; ratifying certain salaries and a bargaining agreement; amending Minnesota Statutes 1992, sections 15A.083, subdivision 4; 43A.18, subdivision 4; and 179A.04, subdivision 3; repealing Minnesota Statutes 1992, section 43A.24, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 15A.083, subdivision 4, is amended to read:

Subd. 4. **RANGES FOR OTHER JUDICIAL POSITIONS.** Salaries or salary ranges are provided for the following positions in the judicial branch of government. The appointing authority of any position for which a salary range has been provided shall fix the individual salary within the prescribed range, considering the qualifications and overall performance of the employee. The supreme court shall set the salary of the state court administrator and the salaries of district court administrators. The salary of the state court administrator or a district court administrator may not exceed the salary of a district court judge. If district court administrators die, the amounts of their unpaid salaries for the months in which their deaths occur must be paid to their estates. ~~The sal-~~

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