

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL 79

By: Committee on Public Health, Welfare and Labor

As engrossed 1-21-87      As engrossed 2-26-87

"AN ACT TO AMEND SECTION 1 OF ACT 94 OF 1941, AS AMENDED, [ARK. STATS. 72-801] TO REDEFINE AND CLARIFY THE DEFINITION OF OPTOMETRY; TO AMEND SECTION 1 OF ACT 72 OF 1929, AS AMENDED, TO INCLUDE A DEFINITION OF THE TERM OPTOMETRIST IN THE ARKANSAS PHARMACY LAW; TO REPEAL SECTION 3 OF ACT 710 OF 1979 [ARK. STATS. 72-801.1] TO CLARIFY AND DEFINE THE PRACTICE OF OPTOMETRY, AND TO PERMIT THE POSSESSING, ADMINISTERING AND PRESCRIBING OF BOTH LEGEND AND NONPRESCRIPTION DRUGS BY LICENSED OPTOMETRISTS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 1 of Act 94 of 1941, as amended, the same being Arkansas Statutes 72-801, is hereby amended to read as follows:

"Section 1. 'Practice of optometry' defined - State Board of Optometry duties and powers.

The practice of optometry is hereby declared to be a learned profession, and the same rights, powers and duties are hereby declared to attach thereto as attach to other learned professions.

The 'practice of optometry' shall be defined as the examination, diagnosis and treatment of conditions of the human eye, lid, adnexa and visual system, including the removal of superficial foreign bodies from the cornea, conjunctiva, lid, or adnexa but shall exclude other surgery of the lid, adnexa, or visual system; and shall include utilizing any method or means which the licensed optometrist is educationally qualified to provide, as established and determined by the Arkansas State Board of Optometry. In administering this Act, the Arkansas State Board of Optometry shall by rule or regulation prescribe those acts, services, procedures and practices which constitute the

practice of optometry. The practice of optometry does not include laser surgery or the administration any drug by injection, the use of oral drugs, the use of controlled drugs, and the sale of prescription drugs, with the exception of contact lenses.

Furthermore, any person who analyzes or determines any optical defect, deficiency or deformity, or visual or muscular anomaly of the visual system, or who measures the curvature of the human cornea, or who prescribes, dispenses, adapts, or duplicates lenses, prisms, or ocular exercises for the correction, relief or aid of the visual functions, or who prescribes, adapts, fits, duplicates, dispenses, modifies, or supplies contact lenses, or holds himself out as being able to do so shall be deemed to be engaged in the practice of optometry. Nothing in this Act, except as specifically provided otherwise herein, shall apply to physicians and surgeons.

(A) One who is engaged in the practice of optometry as a profession, as hereinabove defined and who has the education and professional competence, as determined by the Arkansas State Board of Optometry, and who has satisfied the educational requirements established by the Arkansas State Board of Optometry in general and ocular pharmacology, with particular emphasis on pharmaceutical agents applied topically to the eye from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the Council on Post-Secondary Accreditation, the United States Department of Education, or the Arkansas Board of Higher Education, and has met the requirements of subparagraph (B) of this Section is authorized to possess, administer and prescribe topically applied pharmaceutical agents limited to the general categories of anti-microbial, anti-histamanic, decongestants, anti-inflammatory, anti-fungal, cycloplegics, mydriatics, miotics, dyes, analgesics, anesthetics.

(B) The Arkansas State Board of Optometry shall have the following rights and responsibilities:

(a) To enforce the rules and regulations promulgated by the Optometric Therapeutic Committee pursuant to Section 1 (C) of this Act.

(b) To approve those optometrists who shall be authorized to possess, administer and prescribe those drugs approved by this Act. No optometrist shall be so approved until he or she has exhibited his or her qualifications by passing an examination prepared or approved by the Board. No optometrist shall be so approved until he or she has served an

internship program established by the Board, supervised and certified by a board certified ophthalmologist which includes at least one hundred hours of supervised, clinical training in the examination, diagnosis and treatment of conditions of the human eye and adnexa. Such examination shall include but not be limited to written questions designed to test knowledge of the proper use and characteristics of the drugs approved by the Board and shall be offered not less than annually.

(c) To promulgate educational standards, which shall be used as prerequisites to authorization to use those drugs approved in this Act. Educational standards shall cover only the area of the proper use and characteristics of the drugs approved by the Board, and emergency first aid techniques.

(d) To promulgate reasonable standards applicable only to those optometrists who are authorized to use drugs for referral of patients with eye pathology discoverable by the use of drugs. Such standards shall be promulgated only if the Board finds that such standards are required to protect the health of the citizens of the State. Such standards shall not require referral in cases where an optometrist is aware that a condition has been previously diagnosed by a physician. If such standards are promulgated, they shall be enforced by the State Board of Optometry.

Any violation of such standards shall be deemed 'unprofessional conduct' under Act 94 of 1941 as amended. If the Board finds that an optometrist has habitually violated the standards of referral, then the Board shall withdraw the authority to use drugs from that optometrist.

(e) To approve, consistent with the rules and regulations promulgated by the Optometric Therapeutic Committee pursuant to the authority under Section 1 (C), those acts, services, procedures, and practices which may be performed by a licensed optometrist; and shall, prior to authorization, by appropriate examination, establish the competence of every optometrist to perform the approved acts, services, procedures and practices.

(f) To prohibit any optometrist, who is a graduate of a school or college of optometry as of the effective date of this Act, who has not already successfully completed a post graduate course of study of transcript quality in ocular therapy and pharmacology from an accredited

school or college of optometry, which complies with all the prerequisites and requirements of the Board and this Act, from being approved to perform any of the additional acts, services, procedures, and practices which are specifically authorized as a result of this amendment to the Arkansas Optometry Law until he or she has successfully complied with all the prerequisites and requirements of the Board and this Act. The express purpose of this subsection is to prohibit the 'Grandfathering' of currently licensed optometrists unless and until they have completed the prerequisites and requirements of the Board and this Act established by this subsection. Nothing herein shall be construed to prohibit any optometrist currently licensed from continuing to practice optometry and be relicensed, but until he has met the requirements of this Act and the rules and regulations of the Board, he shall not be allowed to utilize the additional treatments provided for in this Act.

(g) to require that a board certified optometrist who is approved to possess, administer and prescribe drugs, prior to initiating treatment of glaucoma shall consult with an ophthalmologist and develop a course of treatment approved by the ophthalmologist for each patient, pursuant to rules and regulations promulgated by the Optometric Therapeutic Committee.

(C) There is hereby created the Optometric Therapeutic Committee. The Committee shall consist of five members, including two medical doctors, one of whom shall be an ophthalmologist, one pharmacist, and two optometrists, who shall be members of the State Board of Optometry. All members shall be appointed by the Governor within three months of the date of enactment of this Act, for a three-year term, except the initial term shall be as follows: ophthalmologist three years; medical doctor two years; one optometrist three years; one optometrist two years; one pharmacist three years. One of the two optometrists shall be appointed by the Governor as Chairman of the Committee, and, as all board members, shall be a voting member. If any member shall cease to act for any reason, prior to the terminations of his/her appointed term, the Governor shall appoint a new member with the same qualifications as the replaced member to complete the term of the member ceasing to act.

The Committee shall meet at the call of the Chairman or the majority of the Committee, but not less than semi-annually.

The Committee shall have the following rights and responsibilities:

(a) To promulgate rules and regulations governing the strength of and manner in which those pharmaceutical agents authorized by this Act to be possessed, administered, and prescribed by a board certified optometrist are to be used in therapeutic care and for diagnostic purposes.

(b) To promulgate rules governing an optometrist in the treatment of glaucoma which shall include a requirement that the treatment of each patient be in consultation with and approved by an ophthalmologist.

(c) To promulgate rules to be used by an optometrist in the removal of superficial foreign bodies as permitted in Section 1 of this Act."

SECTION 2. Section 3 of Act 710 of the Acts of Arkansas of 1979, the same being Arkansas Statutes 72-801.1, is hereby repealed.

SECTION 3. Section 1 of Act 72 of 1929, the same being Arkansas Statutes 72-1001, is hereby amended to add a new subsection at the end thereof to read as follows:

"12. Optometrist means a practitioner of optometry duly licensed under the laws of this state who shall be authorized as a practitioner to prescribe by written prescription topically applied pharmaceutical agents."

SECTION 4. Pharmacists duly licensed in the State of Arkansas are authorized to fill prescriptions in the State of Arkansas for duly licensed optometrists thereof for topically applied pharmaceutical agents to be possessed, administered or prescribed by the optometrists pursuant to the provisions of this Act. Licensed optometrists may possess, administer and prescribe such topically applied pharmaceutical agents for their patients in the course of their professional practice.

SECTION 5. The provisions of this Act are declared to be severable and the invalidity of any clause, sentence, paragraph, subsection or section hereof shall not affect the validity of the remainder of this Act.

SECTION 6. All laws or parts of laws in conflict with any of the provisions of this Act are hereby repealed, and passage of subsequent legislation shall not affect the validity of the provisions of this Act unless a section

or provision of this Act is specifically repealed.

SECTION 7. The General Assembly of the State of Arkansas hereby finds that it is essential to the protection of residents of the State that qualified optometrists be authorized to practice at their highest level of competence which includes but is not limited to the possessing, administering and prescribing of those drugs that are useful and necessary to the practice of the profession and that this Act is designed to accomplish this purpose and should be given effect at the earliest practical date. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/ Benham, et al

