

FIRST REGULAR SESSION

# HOUSE BILL NO. 664

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BEHNEN.

Read 1<sup>st</sup> time March 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1812L.011

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### AN ACT

To repeal sections 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, and 336.225, RSMo, and to enact in lieu thereof twelve new sections relating to licensing of optometrists.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 2 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, and 336.225, RSMo, are repealed and 3 twelve new section enacted in lieu thereof, to be known as sections 336.010, 336.020, 336.030, 4 336.040, 336.050, 336.060, 336.070, 336.080, 336.140, 336.160, 336.220, and 336.225, to read 5 as follows:

336.010. [Any one or any combination of the following practices constitutes] **1. The**  
2 **"practice of optometry" is the examination, diagnosis, treatment and preventative care of the**  
3 **eye, adnexa, and vision. The practice of optometry includes, but is not limited to:**  
4 (1) The examination of the human eye, [without the use of drugs, medicines or surgery,  
5 to ascertain the presence of defects or abnormal conditions which can be corrected by the use of  
6 lenses, prisms or ocular exercises] **adnexa, and vision to determine the refractive status,**  
7 **visual perception, and conditions or diseases;**  
8 (2) **The diagnosis and treatment of conditions or diseases of the eye, adnexa, and**  
9 **vision;**  
10 (3) **The performance of diagnostic procedures and the ordering of laboratory and**  
11 **imaging tests for the diagnosis of conditions or diseases of the eye, adnexa, and vision;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12           **(4) The prescription and administration of pharmaceutical agents, excluding**  
13 **injectable agents, for the purpose of examination, diagnosis, and treatment of conditions**  
14 **or diseases of the eye, adnexa, and vision;**

15           **(5) The removal of superficial foreign bodies from the eye or adnexa;**

16           **[(2)] (6) The employment of objective or subjective mechanical means to determine the**  
17 **accommodative or refractive states of the human eye or the range of power of vision of the**  
18 **human eye;**

19           **[(3)] (7) The prescription or adaptation [without the use of drugs, medicines or surgery,]**  
20 **of lenses, prisms, devices, or ocular exercises to correct defects or abnormal conditions of the**  
21 **human eye or to adjust the human eye to [the conditions of] special [occupation.] conditions;**

22           **(8) The prescription and fitting of lenses or devices, including contact lenses;**

23           **(9) The prescription and administration of vision therapy;**

24           **(10) The prescription and administration of low vision care.**

25           **2. An optometrist shall not perform surgery, including the use of lasers for**  
26 **treatment of any disease or condition or for the correction of refractive error.**

27           **3. As used in this chapter, except as the context may otherwise require, the**  
28 **following terms mean:**

29           **(1) "Adnexa", structures adjacent to the human eye;**

30           **(2) "Board", the Missouri state board of optometry;**

31           **(3) "Diagnostic pharmaceutical agents", those topically applied pharmaceuticals**  
32 **used for the purpose of conducting an examination of the eye, adnexa, and vision;**

33           **(4) "Low vision care", the examination, treatment, and management of patients**  
34 **with visual impairments not fully treatable by medical or surgical methods or conventional**  
35 **eyewear or contact lenses and may include a vision rehabilitation program to enhance**  
36 **remaining vision skills;**

37           **(5) "Pharmaceutical agents", any diagnostic and therapeutic drug or combination**  
38 **of drugs that has the property of assisting in the diagnosis, prevention, treatment, or**  
39 **mitigation of abnormal conditions or symptoms of the human eye, adnexa, and vision;**

40           **(6) "The human eye's adjacent structures", all structures situated within the orbit,**  
41 **including the conjunctiva, lids, lashes, and lachrymal system;**

42           **(7) "Therapeutic pharmaceutical agents", those pharmaceuticals, excluding**  
43 **injectable agents, used for the treatment of conditions or diseases of the eye, adnexa, and**  
44 **vision;**

45           **(8) "Vision therapy", a treatment regiment prescribed for a patient in order to**  
46 **provide improvement for diagnosed visual dysfunctions, prevent the development of visual**  
47 **problems, or enhance visual performance to meet defined needs of the patient.**

336.020. It shall be unlawful for any person to practice [optometry or], attempt to  
2 practice, **or offer to practice** optometry or to be employed by a corporation, partnership, or  
3 association for the purpose of practicing optometry without a [certificate of registration] **a license**  
4 as [a registered] **an** optometrist issued by the [state] board [of optometry].

336.030. **1.** A person is qualified to receive a [certificate of registration] **license** as [a  
2 registered] **an** optometrist:

3 (1) Who is at least twenty-one years of age;

4 (2) Who is of good moral character and;

5 (3) Who has graduated from a school of optometry approved by the [state] board [of  
6 optometry]; **and**

7 (4) Who has [passed a satisfactory examination conducted by or approved by the state  
8 board of optometry to determine his fitness to receive a certificate of registration as a registered  
9 optometrist] **met either of the following conditions:**

10 **(a) Has passed an examination satisfactory to, conducted by, or approved by the**  
11 **board to determine his or her fitness to receive a license as an optometrist with**  
12 **pharmaceutical certification and met the requirements of licensure as may be required by**  
13 **rule; or**

14 **(b) Has been licensed and has practiced for at least three years in the ten years**  
15 **immediately preceding the date of application with pharmaceutical certification in another**  
16 **state, territory, country or province in which the requirements are substantially equivalent**  
17 **to the requirements in this state and has satisfactorily completed any practical examination**  
18 **or any examination on Missouri laws as may be required by rule.**

336.040. Every person who desires to obtain a [certificate of registration] **license** shall  
2 apply [therefor] to the [state] board [of optometry], in writing, on [blanks] **forms** prepared and  
3 furnished by the [state] board [of optometry]. Each application shall contain proof of the  
4 particular qualifications required of the applicant, shall contain a statement that it is made under  
5 oath or affirmation and that its representations are true and correct to the best knowledge and  
6 belief of the person signing same, subject to the penalties of making a false affidavit or  
7 declaration and shall be accompanied by the examination fee.

336.050. The [state] board [of optometry] shall hold examinations of applicants for  
2 [certificates of registration] **a license** as [registered optometrists] **an optometrist** at such times  
3 and places as it may determine. The examination of applicants for [certificates of registration]  
4 **a license** as [registered optometrists] **an optometrist** may include both practical demonstrations  
5 and written and oral tests, and shall embrace the subjects normally taught in schools of optometry  
6 approved by the [state] board [of optometry].

336.060. Whenever the provisions of this chapter have been complied with, and upon

2 payment of the [certificate] **license** fee, the [state] board [of optometry] shall issue a [certificate  
3 of registration] **license** as [a registered] **an** optometrist.

336.070. Every holder of [a certificate of registration] **an optometry license** shall  
2 display [it] **that license** in a conspicuous place in his **or her** principal office, place of business  
3 or employment. Whenever a [registered] **licensed** optometrist practices optometry outside of[,]  
4 or away from[,] his **or her** principal office, [places of business or employment,] he **or she** shall  
5 [deliver to each patient in his care a certificate of identification or provide other identification  
6 as authorized by rule and regulation] **obtain a duplicate renewal license from the board and  
7 display it in clear view of the public.**

336.080. **1.** Every [registered] **licensed** optometrist who continues in active practice or  
2 service shall, on or before the renewal date, renew his [certificate of registration] **or her license**  
3 and pay the required renewal fee and present satisfactory evidence to the state board of optometry  
4 of his **or her** attendance for a minimum of eight hours each year during the preceding licensing  
5 period at educational optometric programs, or their equivalent, that have been approved by the  
6 board. The attendance or equivalent may be waived by the board upon presentation to it of  
7 satisfactory evidence of the illness of the optometrist or for other good cause as defined by rule  
8 and regulation. The board shall not reject any such application if approved programs are not  
9 available within the state of Missouri. Every [certificate of registration] **license** which has not  
10 been renewed on or before the renewal date shall expire.

**2.** Any [registered] **licensed** optometrist who permits his [certificate] **or her license** to  
11 expire may renew it within five years of expiration upon payment of the required restoration fee  
12 and presentation of satisfactory evidence to the state board of optometry of his **or her** attendance  
13 for a minimum of twenty-four hours during the five years at educational programs, or their  
14 equivalent, that have been approved by the board.

**3. The board shall not reject any such application if approved programs are not  
17 available within the state of Missouri.** The attendance or equivalent may be waived by the  
18 board upon presentation to it of satisfactory evidence of the illness of the optometrist or for other  
19 good cause as defined by rule and regulation.

336.140. **1.** The board shall hold meetings for the examination of applicants for  
2 registration and the transaction of other business pertaining to its duties at least once in six  
3 months. [The board shall give thirty days' public notice of the time and place of this meeting.]  
4 Each member of the board shall receive as compensation an amount set by the board not to  
5 exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to  
6 reimbursement of his expenses necessarily incurred in the discharge of his official duties. All  
7 fees payable under this chapter shall be collected by the division of professional registration,  
8 which shall transmit the same to the department of revenue for deposit in the state treasury to the

9 credit of a fund to be known as the "Optometry Fund". All costs and expenses incurred in  
10 administering the provisions of this chapter shall be appropriated and paid from this fund.

11 2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in  
12 this fund shall not be transferred and placed to the credit of general revenue until the amount in  
13 the fund at the end of the biennium exceeds two times the amount of the appropriation from the  
14 board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less  
15 frequently than yearly, then three times the appropriation from the board's funds for the preceding  
16 fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which  
17 exceeds the appropriate multiple of the appropriations from the board's funds for the preceding  
18 fiscal year.

336.160. 1. The [state] board [of optometry] may adopt reasonable rules and regulations  
2 within the scope and terms of this chapter for the proper administration and enforcement thereof.  
3 It may employ such board personnel, as defined in subdivision (4) of subsection 16 of section  
4 620.010, RSMo, as it deems necessary within appropriations therefor.

5 2. The board shall set the amount of the fees which this chapter authorizes and requires  
6 by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set  
7 at a level to produce revenue which shall not substantially exceed the cost and expense of  
8 administering this chapter.

336.220. 1. [The state board of optometry may adopt reasonable rules and regulations  
2 providing for the examination and certification of registered optometrists who apply to the board  
3 for authority to administer pharmaceutical agents in the practice of optometry. Such  
4 pharmaceutical agents may be "diagnostic pharmaceutical agents" or "therapeutic pharmaceutical  
5 agents". As used in this section, the term "diagnostic pharmaceutical agents" means those  
6 topically applied pharmaceuticals used for the purpose of conducting an examination upon the  
7 eye or adnexa, and the term "therapeutic pharmaceutical agents" means those pharmaceuticals,  
8 excluding injectable agents, used for the treatment of conditions or diseases of the eye or the  
9 adnexa.] **Notwithstanding subsection 1 of section 336.010, any optometrist who is not  
10 certified to use either diagnostic or therapeutic pharmaceutical agents shall continue to be  
11 prohibited from administering, dispensing, or prescribing the respective pharmaceutical  
12 agents unless the optometrist has completed an approved course of study and been certified  
13 by the board. Such status shall be noted on the license at each renewal.**

14 2. [No registered optometrist shall administer diagnostic pharmaceutical agents or  
15 therapeutic pharmaceutical agents in the practice of optometry unless such person submits to the  
16 state board of optometry evidence of satisfactory completion of: a course of instruction in  
17 general and ocular pharmacology; which includes at least one hundred hours of approved,  
18 supervised, clinical training in the examination, diagnosis and treatment of conditions of the

19 human eye and adnexa in a program supervised by a board-certified ophthalmologist; and such  
20 other educational requirements or examination as may be required by the board, and is certified  
21 by the board as qualified to administer diagnostic pharmaceutical agents and therapeutic  
22 pharmaceutical agents in the practice of optometry. An optometrist may not be certified by the  
23 board to administer therapeutic pharmaceutical agents unless the optometrist is certified to  
24 administer diagnostic pharmaceutical agents. The board shall not approve a course of instruction  
25 in general or ocular pharmacology unless it is taught by an institution utilizing both the didactic  
26 and clinical instruction in pharmacology and which is accredited by a regional or professional  
27 accrediting organization which is recognized by the United States Department of Education or  
28 its successors and the transcript for the course of instruction is certified to the board by the  
29 institution as being comparable in content to those courses in general and ocular pharmacology  
30 required by other licensing boards whose licenses or registrants are permitted the administration  
31 of pharmaceutical agents in the course of their professional practice for either diagnostic or  
32 therapeutic purposes or both.] **Any optometrist authorized by the board to administer only  
33 diagnostic pharmaceutical agents shall refer a patient to a physician licensed under chapter  
34 334, RSMo, if an examination of the eyes indicates a condition, including reduced visual  
35 acuity, which requires medical treatment, further medical diagnosis, or further refraction.  
36 This referral is not required on known or previously diagnosed conditions. The record of  
37 the referral in the optometrist's notes shall have the standing of any business record. Any  
38 optometrist violating this section shall be subject to section 336.110.**

39 3. [In issuing a certificate of registration or a renewal of a certificate of registration, the  
40 state board of optometry shall:

41 (1) State upon the certificate of an optometrist certified by the board to administer  
42 diagnostic pharmaceutical agents in the practice of optometry that the optometrist is so certified;  
43 and

44 (2) State upon the certificate of an optometrist certified by the board to administer  
45 therapeutic pharmaceutical agents in the practice of optometry that the optometrist is so  
46 certified.] **An optometrist's prescriptions for therapeutic pharmaceutical agents shall be  
47 dispensed by a pharmacist licensed under chapter 338, RSMo. When therapeutic  
48 pharmaceutical agents are dispensed by an optometrist the provisions of section 338.059,  
49 RSMo, shall apply.**

50 4. [Any provision of section 336.010 to the contrary notwithstanding, a registered  
51 optometrist who is examined and so certified by the state board of optometry in the  
52 administration of diagnostic pharmaceutical agents or therapeutic pharmaceutical agents may  
53 administer those agents for which he is certified in the practice of optometry. An optometrist's  
54 prescriptions for therapeutic pharmaceutical agents should be dispensed by a pharmacist licensed

55 under chapter 338, RSMo. When therapeutic pharmaceutical agents are dispensed by an  
56 optometrist the provisions of section 338.059, RSMo, shall apply.] **An optometrist certified to**  
57 **use pharmaceutical agents shall be held to the standard of care in the use of**  
58 **pharmaceutical agents in the optometrist's diagnosis and treatment as are physicians,**  
59 **licensed by the Missouri State Board of Registration for the Healing Arts, who exercise that**  
60 **degree of skill and learning ordinarily used under the same or similar circumstances by**  
61 **physicians and surgeons engaged in the practice of medicine.**

62 5. [An optometrist certified in the administration of therapeutic pharmaceutical agents  
63 may:]

64 (1) [Administer and prescribe pharmaceutical agents, excluding injectable agents, for the  
65 diagnosis and treatment of conditions or diseases of the eye or adnexa; and] **The board may**  
66 **adopt reasonable rules providing for the examination and certification of optometrists who**  
67 **apply to the board for authority to administer and prescribe pharmaceutical agents in the**  
68 **practice of optometry.**

69 (2) [Perform diagnostic procedures and order laboratory and imaging tests for the  
70 diagnosis of conditions or diseases of the eye or adnexa.

71 6. Each optometrist certified in the administration of therapeutic pharmaceutical agents  
72 shall, within one year of August 28, 1995, complete a course of instruction approved by the  
73 board that includes at least twenty- four hours of training in the treatment of glaucoma. The  
74 board shall not approve a course of instruction in the treatment of glaucoma unless it is taught  
75 by an institution that is accredited by a regional or professional accrediting organization that is  
76 recognized by the United States Department of Education or its successor and the content for the  
77 course of instruction is certified to the board by the institution as being comparable in the content  
78 to those courses in the treatment of glaucoma required by other licensing boards whose licensees  
79 or registrants are permitted to treat glaucoma in the course of their professional practice; except  
80 that, any optometrist initially licensed in Missouri after December 31, 1990, who had previously  
81 passed the examination of the National Board of Examiners in Optometry in the year 1990, or  
82 anytime after such year, shall be exempt from the requirement of completing the course of  
83 instruction in the treatment of glaucoma required by this subsection. Until December 31, 1999,  
84 as a condition for the annual renewal of the certificate of registration, each optometrist certified  
85 in the administration of therapeutic pharmaceutical agents shall, as a condition for the annual  
86 renewal of certification through December 31, 1999, complete a continuing course of instruction  
87 of at least six hours in the treatment of glaucoma as approved by the board; provided that, such  
88 six hours may be credited against the initial course of at least twenty-four hours required by this  
89 section and against the educational optometric program of at least eight hours required by section  
90 336.080.

91           7. An optometrist certified by the board in the administration of therapeutic  
92 pharmaceutical agents may remove superficial foreign bodies from the eye and adnexa. An  
93 optometrist may not perform surgery, including the use of lasers for treatment of any disease or  
94 condition or for the correction of refractive error. An optometrist certified to use pharmaceutical  
95 agents as provided in this section shall be held to the same standard of care in the use of such  
96 agents in the optometrist's diagnosis and treatment as are physicians, licensed by the Missouri  
97 state board of registration for the healing arts, who exercise that degree of skill and proficiency  
98 commonly exercised by ordinary, skillful, careful and prudent physicians and surgeons engaged  
99 in the practice of medicine.

100           8. Any optometrist authorized by the board to administer diagnostic pharmaceutical  
101 agents shall refer a patient to a physician licensed under chapter 334, RSMo, if an examination  
102 of the eyes indicates a condition, including reduced visual acuity, which requires medical  
103 treatment, further medical diagnosis, or further refraction. This referral is not required on known  
104 or previously diagnosed conditions. The record of the referral in the optometrist's notes shall  
105 have the standing of any business record. Any optometrist violating this section shall be subject  
106 to the provisions of section 336.110.] **Any rule or portion of a rule, as that term is defined  
107 in section 536.010, RSMo, that is created under the authority delegated in this subsection  
108 shall become effective only if it complies with and is subject to all of the provisions of  
109 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This subsection and  
110 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general  
111 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to  
112 disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
113 rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be  
114 invalid and void.**

336.225. [Notwithstanding any other provision of law, any written or broadcast  
2 advertising for eye exam services whether regional or national by any optical firm shall not be  
3 required to list the name of the optometrist in the advertisement provided those optometrists  
4 practicing under a trade name at a specific location shall be identified to any person by having  
5 the optometrist's name prominently displayed at such specific location. All eye exam services  
6 provided by any optical firm must be provided by a person in accordance with the provisions  
7 contained in section 336.030.] **Any optometrist or any person, firm or corporation  
8 employing or associated with an optometrist may advertise the availability of optometric  
9 service. The optometrist shall be responsible for insuring that his or her name is  
10 prominently displayed at all of his or her practice locations. All eye examination services  
11 shall be provided by a person in accordance with the provisions contained in section  
12 336.030.**



2 [336.090. 1. Upon payment of a fee equivalent to the examination and  
3 certificate fees, an applicant who is an optometrist, registered or licensed under  
4 the laws of another state or territory of the United States, or of a foreign country  
5 or province shall, without examination, be granted a certificate of registration as  
6 a registered optometrist by the state board of optometry upon the following  
7 conditions:

8 (1) That the applicant is at least twenty-one years of age, of good moral  
9 character; and

10 (2) That the requirements for the registration or licensing of optometrists  
11 in the particular state, territory, country or province, were, at the date of the  
12 license, substantially equal to the requirements then in force in this state.

13 2. The board may by rule and regulation require applicants under this  
14 section to satisfactorily complete any practical examination or any examination  
on Missouri laws required pursuant to section 336.050.]

2 [336.200. Any person, firm or corporation employing a registered  
3 optometrist may advertise the availability of optometric service, provided that the  
4 names of the registered optometrists providing such service are included in all  
5 printed advertisements. The violation of any provision of this section shall  
6 constitute an infraction, punishable upon conviction, by a fine of not less than  
twenty-five dollars nor more than two hundred dollars.]