

2005 DRAFTING REQUEST

Bill

Received: **03/14/2005**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Ronald Brown (608) 266-8546**

By/Representing: **Katie Mnuk**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Brown@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Various changes to regulation of optometrists

Instructions:

Redraft 2005 LRB-0928

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 03/14/2005	jdye 03/14/2005		_____			State
/1	csundber 09/15/2005	kfollett 09/16/2005	jfrantze 03/16/2005	_____	mbarman 03/16/2005		State
/2			pgreensl 09/16/2005	_____	lemery 09/16/2005	mbarman 11/09/2005	

FE Sent For:

<END>

At Intro.

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/?	csundber	1/3/14 jld		J/SUB 3/16			

FE Sent For:

<END>

Sundberg, Christopher

From: Richards, Mike
Sent: Monday, March 14, 2005 8:39 AM
To: LRB.Legal; Sundberg, Christopher
Cc: Mruk, Katie
Subject: LRB 0928--Optometrists

To Whom It May Concern,

I contacted the LRB this morning to inform that LRB 0928 would be transferred from Senator Kanavas to Senator Ron Brown. The individual that I spoke with told me that I must provide that request in writing. It is my hope that this email fulfills that request.

Call me if you need anything further.

MICHAEL D. RICHARDS
Office of State Senator Ted Kanavas
33rd Senate District
(608) 266-9174
Mike.Richards@legis.state.wi.us

3/14/05 : ok per Katie Mruk

2428/1

D-note

keep

2005 BILL

Regen

1 **AN ACT to repeal** 449.03 (1), 449.05 (1) (d), 449.13, 449.15, 449.17 (6), 449.18 (3)
2 and (4), 449.18 (6) (intro.) and 449.18 (7); **to renumber** 449.03 (2); **to renumber**
3 **and amend** 449.05 (1) (intro.), 449.05 (1) (b), 449.05 (1) (c), 449.05 (2), 449.06
4 (2), 449.17 (3), 449.17 (4), 449.17 (7), 449.18 (1), 449.18 (2) (intro.), 449.18 (2)
5 (a), 449.18 (2) (b), 449.18 (2) (c), 449.18 (4m), 449.18 (6) (a), 449.18 (6) (b), 449.18
6 (6) (c) and 449.18 (8); **to amend** 71.45 (4), 440.05 (intro.), 440.08 (2) (a) (intro.),
7 449.03 (title), 449.04 (1), 449.04 (2) (intro.), 449.04 (2) (a), 449.04 (2) (b), 449.04
8 (2) (c), 449.06 (1), 449.08 (1) (d), 449.17 (2), 449.17 (5), 449.18 (5), 449.19, 961.39
9 (intro.), 961.39 (2) and 961.39 (3) (a); **to repeal and recreate** 449.06 (title); and
10 **to create** 449.02 (3), 449.06 (2m), 449.17 (1), 449.17 (1m), 449.17 (8) (title),
11 449.18 (1) (a), (b) and (c), 449.18 (2) (title), 449.18 (2) (e), 449.18 (6) (title) and
12 449.18 (6) (am) (intro.) of the statutes; **relating to:** the regulation of

BILL

1 optometrists, providing an exemption from emergency rule procedures, and
2 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes changes to the regulation of optometrists regarding all of the following: 1) topical ocular diagnostic pharmaceutical agents; 2) therapeutic pharmaceutical agents and removals of foreign bodies from eyes; 3) the examination required for an optometrist license; 4) continuing education; and 5) other changes.

Diagnostic pharmaceutical agents

Under current law, an optometrist licensed by the Optometry Examining Board in the Department of Regulation and Licensing (DRL) may use topical ocular diagnostic pharmaceutical agents (DPAs) only if the optometrist is certified by DRL and satisfies certain requirements. To obtain certification, an optometrist must complete a specified course of study and pass an examination. The examination must be prepared or approved by DRL in consultation with the Optometry Examining Board, the Medical Examining Board, and the Pharmacy Examining Board. Unlike a license to practice optometry, a certification does not have to be renewed every two years, and remains in effect as long as the optometrist is licensed, unless DRL suspends or revokes the certification. Also, DRL may not charge a fee for the certification.

Under this bill, certification is no longer required for an optometrist to use DPAs if he or she is licensed after the bill's effective date. An optometrist who was licensed before the bill's effective date may use DPAs only if he or she is certified. Under the bill, the Optometry Examining Board, instead of DRL, makes the certifications. However, an optometrist who was certified by DRL under current law may continue to use DPAs under the bill. As under current law, no fee may be charged for certification. Also, a certification does not have to be renewed every two years, but remains in effect as long as the optometrist is licensed, unless the Optometry Examining Board (rather than DRL) suspends or revokes the certification.

The bill makes other changes to the requirements regarding DPAs. Under current law, DRL must promulgate rules specifying the DPAs that optometrists are allowed to use if they are certified, and DRL must consult with the Optometry Examining Board, the Medical Examining Board, and the Pharmacy Examining Board in promulgating the rules. Under the bill, the Optometry Examining Board promulgates the rules and no consultation is required. Also under the bill, the Optometry Examining Board, rather than DRL, approves the examination required for certification and does not have to consult with the Medical Examining Board or Pharmacy Examining Board.

In addition, under current law, an optometrist who is certified to use DPAs may use them only if he or she has established a plan for referring patients to appropriate medical services if the patients experience adverse reactions. The plan must be approved by DRL in consultation with the Optometry Examining Board, the Medical

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Examining Board, and the Pharmacy Examining Board. Under the bill, a plan is still required, but approval is not.

Therapeutic pharmaceutical agents and foreign body removals

Under current law, a licensed optometrist may use therapeutic pharmaceutical agents (TPAs) or remove foreign bodies from eyes and appendages to eyes only if he or she is certified by the board and satisfies certain requirements. To obtain certification, an optometrist must be certified to use DPAs as described above, complete a specified course of study, and pass an examination. The examination must be conducted by or approved by the Optometry Examining Board and DRL must periodically review the examination. Like a license to practice optometry, a certification must be renewed every two years. However, no fee may be charged for issuing or renewing the certification.

Under the bill, certification is no longer required for an optometrist who is licensed after the bill's effective date. An optometrist who was licensed before the bill's effective date may use TPAs or remove foreign bodies only if he or she is certified by the Optometry Examining Board. The requirements for certification are the same as under current law. Also, as under current law, no fee can be charged for certification. However, unlike under current law, a certification does not have to be renewed every two years.

The bill also requires the Optometry Examining Board, without consulting with other boards, to promulgate rules specifying the TPAs that optometrists may use. Under current law, such rules are required to be promulgated by DRL in consultation with the Optometry Examining Board, the Medical Examining Board, and the Pharmacy Examining Board.

Examination required for optometrist license

The bill provides that the examination that is required for an optometrist license must test knowledge regarding the use of DPAs and TPAs and the removal of foreign bodies. Also, the bill requires the examination to test knowledge of state laws and rules regarding the practice of optometry. In addition, the bill eliminates a requirement under current law that a person have five years of training in optometry before he or she may take the examination.

Continuing education

Under current law, licensed optometrists who are certified to use TPAs or remove foreign bodies are required to complete no more than 30 hours of continuing education every two years. The continuing education must be approved by the Optometry Examining Board, and the board must promulgate rules establishing criteria for approval.

Under the bill, the Optometry Examining Board must promulgate rules that require all licensed optometrists to complete no more than 30 hours of continuing education every two years. As under current law, the continuing education must be approved by the Optometry Examining Board in accordance with criteria established in the rules. Also, the rules must include continuing education requirements that only apply to optometrists who are allowed under the bill to use DPAs or TPAs or remove foreign bodies.

BILL***Other changes***

The bill makes other changes to the regulation of optometrists, including the following:

1. Under current law, a person may not practice optometry unless he or she is licensed by the Optometry Examining Board. The bill creates an exception for a person who practices under the supervision of a licensed optometrist. The bill requires the Optometry Examining Board to promulgate rules specifying the conditions required for supervision.

2. The bill allows a person licensed as an optometrist in any other state to obtain a license, if he or she satisfies certain other requirements. Under current law, these requirements apply only to a person licensed in another state that has substantially similar requirements for licensure as this state and that grants equal privileges regarding licensure to residents of this state.

3. The bill repeals provisions under current law relating to the powers of Wisconsin Vision Services, Inc.

4. Under the bill, an optometrist may split fees with associates who are health care professionals. Under current law, an optometrist may split fees only with associates who are optometrists.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.45 (4) of the statutes is amended to read:

2 71.45 (4) NET BUSINESS LOSS CARRY-FORWARD. Insurers computing tax under this
3 subchapter may subtract from Wisconsin net income any Wisconsin net business loss
4 sustained in any of the next 15 preceding taxable years to the extent not offset by
5 Wisconsin net business income of any year between the loss year and the taxable year
6 for which an offset is claimed and computed without regard to sub. (2) (a) 8. and 9.
7 and this subsection and limited to the amount of net income, but no loss incurred for
8 a taxable year before taxable year 1987 by a nonprofit service plan of sickness care
9 under ch. 148, or dental care under s. 447.13 ~~or prepaid optometric service plans~~
10 ~~under s. 449.15~~ may be treated as a net business loss of the successor service insurer
11 under ch. 613 operating by virtue of s. 148.03, or 447.13 ~~or 449.15.~~

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1 **SECTION 2.** 440.05 (intro.) of the statutes is amended to read:

2 **440.05 Standard fees.** (intro.) The following standard fees apply to all initial
3 credentials, except as provided in ss. 440.42, 440.43, 440.44, 440.51, 440.9935,
4 444.03, 444.11, 447.04 (2) (c) 2., 449.17 (1m) (d), and 449.18 (2) (d):

5 **SECTION 3.** 440.08 (2) (a) (intro.) of the statutes is amended to read:

6 440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04,
7 444.03, 444.11, 448.065, 447.04 (2) (c) 2., 449.17 (1m) (d), and 449.18 (2) (d), the
8 renewal dates and renewal fees for credentials are as follows:

9 **SECTION 4.** 449.02 (3) of the statutes is created to read:

10 449.02 (3) This section does not apply to a person who practices optometry
11 under the supervision of an optometrist licensed under this chapter. The examining
12 board shall promulgate rules specifying the conditions for supervision required
13 under this subsection.

14 **SECTION 5.** 449.03 (title) of the statutes is amended to read:

15 **449.03 (title) Rule making; enforcement Enforcement.**

16 **SECTION 6.** 449.03 (1) of the statutes is repealed.

17 **SECTION 7.** 449.03 (2) of the statutes is renumbered 449.03.

18 **SECTION 8.** 449.04 (1) of the statutes is amended to read:

19 449.04 (1) Licenses to engage in the practice of optometry shall be issued only
20 to persons who pass an examination approved or conducted by the examining board.
21 An applicant who qualifies under s. 449.05 (1) may take any examination approved
22 or administered by the examining board upon payment of the fee specified in s.
23 440.05 (1).

24 **SECTION 9.** 449.04 (2) (intro.) of the statutes is amended to read:

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1 449.04 (2) (intro.) The examination shall ~~include a written and practical~~
2 ~~examination,~~ shall reasonably relate to the skills likely to be needed for an applicant
3 to practice optometry in this state at the time of examination and shall seek to
4 determine the applicant's preparedness to exercise such skills. ~~In regard to the~~
5 ~~written examination, the~~ The examination shall test knowledge regarding general
6 and ocular pharmacology as it relates to optometry with particular emphasis on the
7 use of topical ocular diagnostic pharmaceutical agents and therapeutic
8 pharmaceutical agents, including the treatment of adverse reactions to such
9 pharmaceutical agents, and knowledge regarding the removal of foreign bodies from
10 an eye or from an appendage to the eye. The examination shall also test knowledge
11 of state laws and administrative rules regarding the practice of optometry. The
12 examining board may do any of the following:

13 **SECTION 10.** 449.04 (2) (a) of the statutes is amended to read:

14 449.04 (2) (a) Prepare, administer, and grade the examination;

15 **SECTION 11.** 449.04 (2) (b) of the statutes is amended to read:

16 449.04 (2) (b) Approve in whole or in part an examination prepared,
17 administered, and graded by the national board of examiners in optometry; or
18 another examination provider approved by the examining board.

19 **SECTION 12.** 449.04 (2) (c) of the statutes is amended to read:

20 449.04 (2) (c) Approve and administer an examination prepared and graded by
21 or under the direction of the national board of examiners in optometry or another
22 examination provider approved by the examining board.

23 **SECTION 13.** 449.05 (1) (intro.) of the statutes is renumbered 449.05 (intro.) and
24 amended to read:

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1 **449.05 ~~Qualification~~ Qualifications for examination.** (intro.) No person
2 shall be examined by the board unless all of the following are satisfied:

3 **SECTION 14.** 449.05 (1) (b) of the statutes is renumbered 449.05 (1m) and
4 amended to read:

5 449.05 (1m) ~~Unless he or she~~ The person presents proof satisfactory to the
6 examining board that, subject to ss. 111.321, 111.322, and 111.335, he or she does not
7 have an arrest or conviction record;.

8 **SECTION 15.** 449.05 (1) (c) of the statutes is renumbered 449.05 (2m) and
9 amended to read:

10 449.05 (2m) ~~Unless the~~ The person has graduated from an accredited college
11 of optometry approved and recognized by the examining board; ~~and~~.

12 **SECTION 16.** 449.05 (1) (d) of the statutes is repealed.

13 **SECTION 17.** 449.05 (2) of the statutes is renumbered 449.055 and amended to
14 read:

15 **449.055 Reciprocity.** Any person who is licensed in good standing to practice
16 optometry in another state, ~~having substantially similar requirements and granting~~
17 ~~equal privileges to residents of Wisconsin,~~ may be issued a license and certificate of
18 registration in the discretion of the examining board upon passing an examination
19 in pathology and practical optometry, payment of the fee specified in s. 440.05 (1),
20 and production of a certificate showing that the person has passed an examination
21 in such other state and satisfactory evidence that the person has actually practiced
22 there for 5 years.

23 **SECTION 18.** 449.06 (title) of the statutes is repealed and recreated to read:

24 **449.06 (title) Renewal; continuing education.**

25 **SECTION 19.** 449.06 (1) of the statutes is amended to read:

BILL**SECTION 19**

1 449.06 (1) Persons practicing optometry shall, on or before the applicable
2 renewal date specified under s. 440.08 (2) (a), register with the department and, pay
3 the applicable renewal fee specified under s. 440.08 (2) (a), and provide evidence
4 satisfactory to the examining board that he or she has complied with the rules
5 promulgated under sub. (2m).

6 **SECTION 20.** 449.06 (2) of the statutes is renumbered 449.065 and amended to
7 read:

8 **449.065 Display of registration.** Every practicing optometrist shall display
9 in a conspicuous place, at the entrance of his or her office, the name of the person so
10 practicing ~~therein~~ and shall keep the certificate of registration issued by the
11 examining board conspicuously displayed in that place of business so that it can
12 easily be seen and read.

13 **SECTION 21.** 449.06 (2m) of the statutes is created to read:

14 **449.06 (2m)** The examining board shall promulgate rules requiring a person
15 who is issued a license to practice optometry to complete, during the 2-year period
16 immediately preceding the renewal date specified in s. 440.08 (2) (a), not less than
17 30 hours of continuing education. The rules shall include requirements that apply
18 only to optometrists who are allowed to use topical ocular diagnostic pharmaceutical
19 agents under s. 449.17 or who are allowed to use therapeutic pharmaceutical agents
20 or remove foreign bodies from an eye or from an appendage to the eye under s. 449.18.

21 **SECTION 22.** 449.08 (1) (d) of the statutes is amended to read:

22 **449.08 (1) (d)** Splitting or dividing any fee for ~~optometric~~ a professional service
23 with any person, except an associate licensed ~~optometrist~~ who is a health care
24 professional, as defined in s. 180.1901 (1m); or

25 **SECTION 23.** 449.13 of the statutes is repealed.

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1 **SECTION 24.** 449.15 of the statutes is repealed.

2 **SECTION 25.** 449.17 (1) of the statutes is created to read:

3 449.17 (1) **APPLICABILITY.** An optometrist may use topical ocular diagnostic
4 pharmaceutical agents only if the optometrist establishes a plan specified in sub. (2)
5 and if one of the following applies:

6 (a) The examining board initially issues a license to practice optometry to the
7 optometrist on or after the effective date of this paragraph [revisor inserts date].

8 (b) The department issued a certificate to the optometrist under s. 449.17, 2003
9 stats.

10 (c) The examining board issues a certificate under sub. (1m) to an optometrist
11 issued a license to practice optometry before the effective date of this paragraph
12 [revisor inserts date].

13 **SECTION 26.** 449.17 (1m) of the statutes is created to read:

14 449.17 (1m) **LICENSES ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION**
15 [REVISOR INSERTS DATE]. (a) The examining board shall certify an optometrist to use
16 topical ocular diagnostic pharmaceutical agents if the optometrist was issued a
17 license to practice optometry before the effective date of this paragraph [revisor
18 inserts date], and the optometrist satisfies the education requirements under par. (b)
19 and successfully completes an examination under par. (c).

20 **SECTION 27.** 449.17 (2) of the statutes is amended to read:

21 449.17 (2) **PLAN.** Topical ocular diagnostic pharmaceutical agents may be used
22 only by optometrists who have established a plan ~~approved by the secretary after~~
23 ~~consultation with the examining board and the medical examining board~~ for the
24 referral of patients who experience adverse reactions from the application of such
25 agents to appropriate medical services.

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1 **SECTION 28.** 449.17 (3) of the statutes is renumbered 449.17 (1m) (c) and
2 amended to read:

3 449.17 (1m) (c) ~~Topical ocular diagnostic pharmaceutical agents may be used~~
4 ~~only by~~ The examining board may issue certificates under par. (a) only to
5 optometrists who successfully complete an examination approved or conducted by
6 the examining board on the subject of general and ocular pharmacology as it relates
7 to optometry with particular emphasis on the use of topical ocular diagnostic
8 pharmaceutical agents, including the treatment of any adverse reactions that may
9 occur to such pharmaceutical agents. The examination shall be prepared or
10 approved by the department ~~in consultation with the examining board, the medical~~
11 ~~examining board and the pharmacy examining board.~~ The department examining
12 board shall periodically review the validity, reliability, and appropriateness of the
13 examination. ~~In regard to the examination, the department~~ The examining board
14 may do any of the following:

- 15 1. Prepare, administer, and grade the examination;
- 16 2. Approve in whole or in part an examination prepared, administered, and
17 graded by the national board of examiners in optometry ~~or by the optometry~~
18 ~~examining board;~~ or another examination provider approved by the examining
19 board.
- 20 3. Approve and administer an examination prepared and graded by or under
21 the direction of the national board of examiners in optometry or another examination
22 provider approved by the examining board.

23 **SECTION 29.** 449.17 (4) of the statutes is renumbered 449.17 (1m) (b) and
24 amended to read:

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1 449.17 (1m) (b) In addition to the requirements of ~~sub. (3), under par. (c), the~~
2 examining board may issue certificates under par. (a) only to optometrists who wish
3 ~~to use topical ocular diagnostic pharmaceutical agents shall~~ successfully complete
4 60 classroom hours of study in general and ocular pharmacology as it relates to
5 optometry with particular emphasis on the use of topical ocular diagnostic
6 pharmaceutical agents. At least 30 of the 60 classroom hours of study shall be in
7 ocular pharmacology and shall emphasize the systemic effects of and reactions to
8 pharmaceutical agents, including the treatment of any adverse reactions that may
9 occur. The course of study shall be offered by an institution approved by the ~~secretary~~
10 examining board and accredited by a regional or professional accrediting
11 organization which is recognized by the ~~council on post-secondary accreditation and~~
12 ~~the U.S. office~~ Council for Higher Education Accreditation or its successor or the
13 federal department of education, and shall be completed prior to entering the
14 examination required by ~~sub. (3) under par. (c).~~

15 **SECTION 30.** 449.17 (5) of the statutes is amended to read:

16 449.17 (5) RULES. ~~The secretary shall, after consultation with the examining~~
17 ~~board, the medical examining board and the pharmacy examining board, shall~~
18 promulgate rules specifying the topical ocular diagnostic pharmaceutical agents
19 which optometrists may utilize in this state.

20 **SECTION 31.** 449.17 (6) of the statutes is repealed.

21 **SECTION 32.** 449.17 (7) of the statutes is renumbered 449.17 (1m) (d) and
22 amended to read:

23 449.17 (1m) (d) No fee may be charged for a certificate issued under this ~~section~~
24 subsection. A certificate issued under this ~~section~~ subsection or s. 449.17, 2003
25 stats., remains in effect while the optometrist's license to practice optometry remains

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1 in effect unless the certificate is suspended or revoked by the ~~department~~ examining
2 board.

3 **SECTION 33.** 449.17 (8) (title) of the statutes is created to read:

4 449.17 (8) (title) REIMBURSEMENT PROHIBITED.

5 **SECTION 34.** 449.18 (1) of the statutes is renumbered 449.18 (1) (intro.) and
6 amended to read:

7 449.18 (1) APPLICABILITY (intro.) No optometrist may use therapeutic
8 pharmaceutical agents or remove foreign bodies from an eye or from an appendage
9 to the eye unless ~~the optometrist is certified by the examining board under this~~
10 ~~section.~~ one of the following applies:

11 **SECTION 35.** 449.18 (1) (a), (b) and (c) of the statutes are created to read:

12 449.18 (1) (a) The examining board initially issues a license to practice
13 optometry to the optometrist on or after the effective date of this paragraph
14 [revisor inserts date].

15 (b) The department issued a certificate to the optometrist under s. 449.18, 2003
16 stats.

17 (c) The examining board issues a certificate under sub. (2) to an optometrist
18 issued a license to practice optometry before the effective date of this paragraph
19 [revisor inserts date].

20 **SECTION 36.** 449.18 (2) (title) of the statutes is created to read:

21 449.18 (2) (title) LICENSES ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION
22 [REVISOR INSERTS DATE].

23 **SECTION 37.** 449.18 (2) (intro.) of the statutes is renumbered 449.18 (2) (a)
24 (intro.) and amended to read:

BILL

1 449.18 (2) (a) (intro.) The examining board shall certify an optometrist to use
2 therapeutic pharmaceutical agents and remove foreign bodies from an eye or from
3 an appendage to the eye if the optometrist was issued a license to practice optometry
4 before the effective date of this paragraph [revisor inserts date], and the
5 optometrist satisfies all of the following:

6 **SECTION 38.** 449.18 (2) (a) of the statutes is renumbered 449.18 (2) (a) 1. and
7 amended to read:

8 449.18 (2) (a) 1. The optometrist is certified under s. 449.17, 2003 stats., or s.
9 449.17 (1m) (a) to use topical ocular diagnostic pharmaceutical agents.

10 **SECTION 39.** 449.18 (2) (b) of the statutes is renumbered 449.18 (2) (a) 2. and
11 amended to read:

12 449.18 (2) (a) 2. The optometrist has successfully completed 100 hours of
13 approved study in the use of therapeutic pharmaceutical agents and the removal of
14 superficial foreign bodies from an eye or from an appendage to the eye. The course
15 of study shall be offered by an institution approved by the examining board and
16 accredited by a regional or professional accrediting organization that is recognized
17 by the ~~council on postsecondary accreditation of~~ Council for Higher Education
18 Accreditation or its successor or the federal department of education.

19 **SECTION 40.** 449.18 (2) (c) of the statutes is renumbered 449.18 (2) (a) 3. and
20 amended to read:

21 449.18 (2) (a) 3. The optometrist has passed an examination ~~under sub. (3)~~
22 conducted or approved by the examining board. The examining board shall
23 periodically review the validity, reliability, and appropriateness of the examination
24 that it conducts or approves under this subdivision.

25 **SECTION 41.** 449.18 (2) (e) of the statutes is created to read:

BILL

1 449.18 (2) (e) A certificate issued under par. (a) or s. 449.18, 2003 stats.,
2 remains in effect while the optometrist's license to practice optometry remains in
3 effect unless the certificate is suspended or revoked by the examining board.

4 **SECTION 42.** 449.18 (3) and (4) of the statutes are repealed.

5 **SECTION 43.** 449.18 (4m) of the statutes is renumbered 449.18 (2) (d) and
6 amended to read:

7 449.18 (2) (d) No fee may be charged for the issuance ~~or renewal~~ of a certificate
8 under ~~this section~~ par. (a).

9 **SECTION 44.** 449.18 (5) of the statutes is amended to read:

10 449.18 (5) REMOVALS FROM EYES. An optometrist who is ~~certified under this~~
11 ~~section~~ allowed under sub. (1) to remove a foreign body from an eye or from an
12 appendage to an eye may not remove a foreign body from an eye or from an
13 appendage to an eye if the foreign body is deeper than Bowman's layer of the cornea
14 or deeper than the conjunctiva.

15 **SECTION 45.** 449.18 (6) (title) of the statutes is created to read:

16 449.18 (6) (title) USE OF THERAPEUTIC PHARMACEUTICALS.

17 **SECTION 46.** 449.18 (6) (intro.) of the statutes is repealed.

18 **SECTION 47.** 449.18 (6) (a) of the statutes is renumbered 449.18 (6) (am) 1. and
19 amended to read:

20 449.18 (6) (am) 1. ~~May not prescribe~~ Prescribe or administer any therapeutic
21 pharmaceutical agent that he or she is prohibited from prescribing or administering
22 under the rules promulgated under ~~sub. (8)~~ par. (cm).

23 **SECTION 48.** 449.18 (6) (am) (intro.) of the statutes is created to read:

24 449.18 (6) (am) An optometrist who is allowed under sub. (1) to use therapeutic
25 pharmaceutical agents may not do any of the following:

BILL

1 **SECTION 49.** 449.18 (6) (b) of the statutes is renumbered 449.18 (6) (bm), and
2 449.18 (6) (bm) (intro.) and 1., as renumbered, are amended to read:

3 449.18 (6) (bm) (intro.) ~~Shall~~ An optometrist who is allowed under sub. (1) to
4 use therapeutic pharmaceutical agents shall include with each prescription order all
5 of the following:

6 1. A statement that he or she is ~~certified under this section~~ allowed under sub.
7 (1) to use therapeutic pharmaceutical agents.

8 **SECTION 50.** 449.18 (6) (c) of the statutes is renumbered 449.18 (6) (am) 2. and
9 amended to read:

10 449.18 (6) (am) 2. ~~May not dispense~~ Dispense, as defined in s. 450.01 (7), other
11 than by prescribing or administering. ~~This paragraph subdivision~~ does not prohibit
12 the optometrist from providing a complimentary sample of a therapeutic
13 pharmaceutical agent to a patient to whom the optometrist has rendered therapeutic
14 care.

15 **SECTION 51.** 449.18 (7) of the statutes is repealed.

16 **SECTION 52.** 449.18 (8) of the statutes is renumbered 449.18 (6) (cm) and
17 amended to read:

18 449.18 (6) (cm) ~~The secretary shall, after consultation with the examining~~
19 ~~board, the medical examining board and the pharmacy examining board, shall~~
20 promulgate rules specifying those therapeutic pharmaceutical agents that may ~~or~~
21 ~~may not~~ be prescribed or administered.

22 **SECTION 53.** 449.19 of the statutes is amended to read:

23 **449.19 Referral to other ~~specialists~~ health care professionals.** If, during
24 the course of examining a person, an optometrist determines the existence of a
25 pathological condition requiring treatment outside the scope of the practice of

BILL**SECTION 53**

1 optometry, the optometrist shall so advise the person and shall refer the person to
2 an appropriate medical specialist health care professional, as defined in s. 180.1901
3 (1m), for further evaluation.

4 **SECTION 54.** 961.39 (intro.) of the statutes is amended to read:

5 **961.39 Limitations on optometrists.** (intro.) An optometrist who is certified
6 allowed under s. 449.18 (1) to use therapeutic pharmaceutical agents:

7 **SECTION 55.** 961.39 (2) of the statutes is amended to read:

8 961.39 (2) May prescribe or administer only those controlled substances
9 included in schedules III, IV, and V that are permitted for prescription or
10 administration under the rules promulgated under s. 449.18 ~~(8)~~ (6) (cm).

11 **SECTION 56.** 961.39 (3) (a) of the statutes is amended to read:

12 961.39 (3) (a) A statement that he or she is ~~certified~~ allowed under s. 449.18
13 (1) to use therapeutic pharmaceutical agents.

14 **SECTION 57. Nonstatutory provisions.**

15 (1) RULES AND APPROVALS TRANSITION. All rules promulgated by the department
16 of regulation and licensing under section 449.17 (5), 2003 stats., and section 449.18
17 (8), 2003 stats., that are in effect on the effective date of this subsection remain in
18 effect until their specified expiration date or until amended or repealed by the
19 optometry examining board. All approvals issued by the department of regulation
20 and licensing under section 449.17 (2) and (4), 2003 stats., that are in effect on the
21 effective date of this subsection remain in effect until their specified expiration date
22 or until modified or rescinded by the optometry examining board.

23 (2) PENDING MATTERS TRANSITION. Any matter pending with the department of
24 regulation and licensing on the effective date of this subsection that relates to a rule
25 under section 449.17 (5), 2003 stats., or section 449.18 (8), 2003 stats., or an approval

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1 under section 449.17 (2) or (4), 2003 stats., is transferred to the optometry examining
2 board and all materials submitted to or actions taken by the department with respect
3 to the pending matter are considered as having been submitted to or taken by the
4 board.

5 (3) CONTINUING EDUCATION RULES.

6 (a) The optometry examining board shall submit in proposed form the rules
7 required under section 449.06 (2m) of the statutes, as created by this act, to the
8 legislative council staff under section 227.15 (1) of the statutes no later than the first
9 day of the 10th month beginning after the effective date of this paragraph.

10 (b) Using the procedure under section 227.24 of the statutes, the optometry
11 examining board may promulgate rules required under section 449.06 (2m) of the
12 statutes, as created by this act, for the period before the effective date of the rules
13 submitted under paragraph (a), but not to exceed the period authorized under section
14 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b),
15 and (3) of the statutes, the optometry examining board is not required to provide
16 evidence that promulgating a rule under this paragraph as an emergency rule is
17 necessary for the preservation of the public peace, health, safety, or welfare and is
18 not required to provide a finding of emergency for a rule promulgated under this
19 paragraph.

20 **SECTION 58. Effective date.**

21 (1) This act takes effect on the first day of the 4th month beginning after
22 publication.

23 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2428/1dn

CTS:.....

JL

Senator Brown:

0928

This is a redraft of LRB-~~2428~~. Please contact me if you have any questions or if you would like to make any changes to the draft.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2428/1dn
CTS:jld:jf

March 16, 2005

Senator Brown:

This is a redraft of LRB-0928. Please contact me if you have any questions or if you would like to make any changes to the draft.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

Instrux. From Laura Rose / LC

Changes to 2428/1:

- ✓ • Remove SECTION 22 (fee splitting change) AV
- ✓ • Remove SECTION 6 (repeal of s. 449.03(1)). AV? ←
- ✓ • Remove SECTION 30 (changes to DPA rulemaking) AV
- ✓ • Remove SECTION 52 (changes to TPA rulemaking) AV
- Amend SECTION 57 (1) and (2), to remove references to s. 449.17(5) and
✓ 449.18(8). (changes to DPA and TPA rulemaking) AV

- ✓ • Remove SECTION 17 and replace it with SECTIONS 16-19 of LRB 0678/P1, with changes in Peter Theo email (dated 9/1/2005) included. AV

* ~~• Add SECTION 22 of LRB 0678/P1 to LRB 2428/1. redundant - date~~

- ✓ • Add SECTIONS 27 and 28 of LRB 0678/P1 to LRB 2428/1. AV

- ✓ • Add SECTION 67 of LRB 0678/P1 to LRB 2428/1.

INITIAL APP

449.03 (2): exams

.055 (2): endorsement

Rose, Laura

From: Mnuk, Katie
Sent: Thursday, September 01, 2005 5:38 PM
To: Rose, Laura
Subject: FW: OEB change

Laura, please see the message below. The OEB has requested a revision to the 'reciprocity' language; they would prefer making the changes described below as opposed to the first bullet point on the Foster letter. Peter has cleared this change with personnel representing the Medical Society and the ophthalmologists.

Have you already contacted the drafter to request the changes to LRB 2428? If so, I'll contact him directly with this but if not, could you incorporate these changes instead? Please advise --

Thanks for your help!
Katie

From: Peter Theo [mailto:petertheo@tds.net]
Sent: Thursday, September 01, 2005 4:35 PM
To: Mnuk, Katie; Rostan, Jason
Subject: OEB change

Good Afternoon:

As a follow up to our discussions earlier, here are the modifications requested by the Optometry Examining Board relating to "Reciprocity". Recall, yesterday we agreed to use the OEB's draft language for this section (LRB 0678/P1).

Changes:

- ✓ 1. Section 16 of LRB 0678/P1 (Page 8, line 24), Delete the word "Reciprocity" and replace it with "Endorsement".
- ✓ 2. Section 16 of LRB 0678/P1 (Page 9, line 2) delete the words "grants equal privileges to residents of Wisconsin". (Note: This change is in addition to the words already deleted in LRB 0678/P1.)

Again, I have cleared these changes with the Academy of Ophthalmology and the Wisconsin Medical Society. Please let me know if you have any questions.

Thanks,

Peter



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2428/4 RmNR

CTS:cmh

lu = 9/15/05
Due: 9/22/05 9/16

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2005 BILL

regen

1 AN ACT *to repeal* 449.03 (1), 449.05 (1) (d), 449.13, 449.15, 449.17 (6), 449.18 (3)
2 and (4), 449.18 (6) (intro.) and 449.18 (7); *to renumber* 449.03 (2); *to renumber*
3 *and amend* 449.05 (1) (intro.), 449.05 (1) (b), 449.05 (1) (c), 449.05 (2), 449.06
4 (2), 449.17 (3), 449.17 (4), 449.17 (7), 449.18 (1), 449.18 (2) (intro.), 449.18 (2)
5 (a), 449.18 (2) (b), 449.18 (2) (c), 449.18 (4m), 449.18 (6) (a), 449.18 (6) (b), 449.18
6 (6) (c) and 449.18 (8); *to amend* 71.45 (4), 440.05 (intro.), 440.08 (2) (a) (intro.),
7 449.03 (title), 449.04 (1), 449.04 (2) (intro.), 449.04 (2) (a), 449.04 (2) (b), 449.04
8 (2) (c), 449.06 (1), 449.08 (1) (d), 449.17 (2), 449.17 (5), 449.18 (5), 449.19, 961.39
9 (intro.), 961.39 (2) and 961.39 (3) (a); *to repeal and recreate* 449.06 (title); and
10 *to create* 449.02 (3), 449.06 (2m), 449.17 (1), 449.17 (1m), 449.17 (8) (title),
11 449.18 (1) (a), (b) and (c), 449.18 (2) (title), 449.18 (2) (e), 449.18 (6) (title) and
12 449.18 (6) (am) (intro.) of the statutes; **relating to:** the regulation of

BILL

1 optometrists, providing an exemption from emergency rule procedures, and
2 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes changes to the regulation of optometrists regarding all of the following: 1) topical ocular diagnostic pharmaceutical agents; 2) therapeutic pharmaceutical agents and removals of foreign bodies from eyes; 3) the examination required for an optometrist license; 4) continuing education; and 5) other changes.

Diagnostic pharmaceutical agents

Under current law, an optometrist licensed by the Optometry Examining Board in the Department of Regulation and Licensing (DRL) may use topical ocular diagnostic pharmaceutical agents (DPAs) only if the optometrist is certified by DRL and satisfies certain requirements. To obtain certification, an optometrist must complete a specified course of study and pass an examination. The examination must be prepared or approved by DRL in consultation with the Optometry Examining Board, the Medical Examining Board, and the Pharmacy Examining Board. Unlike a license to practice optometry, a certification does not have to be renewed every two years, and remains in effect as long as the optometrist is licensed, unless DRL suspends or revokes the certification. Also, DRL may not charge a fee for the certification.

Under this bill, certification is no longer required for an optometrist to use DPAs if he or she is licensed after the bill's effective date. An optometrist who was licensed before the bill's effective date may use DPAs only if he or she is certified. Under the bill, the Optometry Examining Board, instead of DRL, makes the certifications. However, an optometrist who was certified by DRL under current law may continue to use DPAs under the bill. As under current law, no fee may be charged for certification. Also, a certification does not have to be renewed every two years, but remains in effect as long as the optometrist is licensed, unless the Optometry Examining Board (rather than DRL) suspends or revokes the certification.

The bill makes other changes to the requirements regarding DPAs. Under current law, DRL must promulgate rules specifying the DPAs that optometrists are allowed to use if they are certified, and DRL must consult with the Optometry Examining Board, the Medical Examining Board, and the Pharmacy Examining Board in promulgating the rules. Under the bill, the Optometry Examining Board promulgates the rules and no consultation is required. Also under the bill, the Optometry Examining Board, rather than DRL, approves the examination required for certification and does not have to consult with the Medical Examining Board or Pharmacy Examining Board.

no P In addition, under current law, an optometrist who is certified to use DPAs may use them only if he or she has established a plan for referring patients to appropriate medical services if the patients experience adverse reactions. The plan must be approved by DRL in consultation with the Optometry Examining Board, the Medical

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Examining Board, and the Pharmacy Examining Board. Under the bill, a plan is still required, but approval is not.

Therapeutic pharmaceutical agents and foreign body removals

Under current law, a licensed optometrist may use therapeutic pharmaceutical agents (TPAs) or remove foreign bodies from eyes and appendages to eyes only if he or she is certified by the board and satisfies certain requirements. To obtain certification, an optometrist must be certified to use DPAs as described above, complete a specified course of study, and pass an examination. The examination must be conducted by or approved by the Optometry Examining Board and DRL must periodically review the examination. Like a license to practice optometry, a certification must be renewed every two years. However, no fee may be charged for issuing or renewing the certification.

Under the bill, certification is no longer required for an optometrist who is licensed after the bill's effective date. An optometrist who was licensed before the bill's effective date may use TPAs or remove foreign bodies only if he or she is certified by the Optometry Examining Board. The requirements for certification are the same as under current law. Also, as under current law, no fee can be charged for certification. However, unlike under current law, a certification does not have to be renewed every two years.

The bill also requires the Optometry Examining Board, without consulting with other boards, to promulgate rules specifying the TPAs that optometrists may use. Under current law, such rules are required to be promulgated by DRL in consultation with the Optometry Examining Board, the Medical Examining Board, and the Pharmacy Examining Board.

Examination required for optometrist license

The bill provides that the examination that is required for an optometrist license must test knowledge regarding the use of DPAs and TPAs and the removal of foreign bodies. Also, the bill requires the examination to test knowledge of state laws and rules regarding the practice of optometry. In addition, the bill eliminates a requirement under current law that a person have five years of training in optometry before he or she may take the examination.

Continuing education

Under current law, licensed optometrists who are certified to use TPAs or remove foreign bodies are required to complete no more than 30 hours of continuing education every two years. The continuing education must be approved by the Optometry Examining Board, and the board must promulgate rules establishing criteria for approval.

Under the bill, the Optometry Examining Board must promulgate rules that require all licensed optometrists to complete no more than 30 hours of continuing education every two years. As under current law, the continuing education must be approved by the Optometry Examining Board in accordance with criteria established in the rules. Also, the rules must include continuing education requirements that only apply to optometrists who are allowed under the bill to use DPAs or TPAs or remove foreign bodies.

BILL

if the other state's licensure requirements are substantially similar to this state's requirements and

Other changes

The bill makes other changes to the regulation of optometrists, including the following:

1. Under current law, a person may not practice optometry unless he or she is licensed by the Optometry Examining Board. The bill creates an exception for a person who practices under the supervision of a licensed optometrist. The bill requires the Optometry Examining Board to promulgate rules specifying the conditions required for supervision.

this licensure privilege applies

2. The bill allows a person licensed as an optometrist in any other state to obtain a license, if he or she satisfies certain other requirements. Under current law, these requirements apply only to a person licensed in another state that has substantially similar requirements for licensure as this state and that grants equal privileges regarding licensure to residents of this state.

3. The bill repeals provisions under current law relating to the powers of Wisconsin Vision Services, Inc. *that relate*

4. Under the bill, an optometrist may split fees with associates who are health care professionals. Under current law, an optometrist may split fees only with associates who are optometrists.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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A-1

SECTION 1. 71.45 (4) of the statutes is amended to read:

71.45 (4) NET BUSINESS LOSS CARRY-FORWARD. Insurers computing tax under this subchapter may subtract from Wisconsin net income any Wisconsin net business loss sustained in any of the next 15 preceding taxable years to the extent not offset by Wisconsin net business income of any year between the loss year and the taxable year for which an offset is claimed and computed without regard to sub. (2) (a) 8. and 9. and this subsection and limited to the amount of net income, but no loss incurred for a taxable year before taxable year 1987 by a nonprofit service plan of sickness care under ch. 148, or dental care under s. 447.13 ~~or prepaid optometric service plans under s. 449.15~~ may be treated as a net business loss of the successor service insurer under ch. 613 operating by virtue of s. 148.03, or 447.13 ~~or 449.15.~~

as affected by 2005 Wisconsin Act 25; LRB-2428/1 CTS:cmh:jf SECTION 2

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SECTION 2. 440.05 (intro.) of the statutes is amended to read:

440.05 Standard fees. (intro.) The following standard fees apply to all initial credentials, except as provided in ss. 440.42, 440.43, 440.44, 440.51, 440.9935, 444.03, 444.11, 446.02 (2) (c), 447.04 (2) (c) 2., 449.17 (1m) (d), and 449.18 (2) (d):

SECTION 3. 440.08 (2) (a) (intro.) of the statutes is amended to read:

440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04, 444.03, 444.11, 448.065, 447.04 (2) (c) 2., 449.17 (1m) (d), and 449.18 (2) (d), the renewal dates and renewal fees for credentials are as follows:

SECTION 4. 449.02 (3) of the statutes is created to read:

449.02 (3) This section does not apply to a person who practices optometry under the supervision of an optometrist licensed under this chapter. The examining board shall promulgate rules specifying the conditions for supervision required under this subsection.

SECTION 5. 449.03 (title) of the statutes is amended to read:

449.03 (title) Rule making; enforcement Enforcement.

SECTION 6. 449.03 (1) of the statutes is repealed.

SECTION 7. 449.03 (2) of the statutes is renumbered 449.03.

SECTION 8. 449.04 (1) of the statutes is amended to read:

449.04 (1) Licenses to engage in the practice of optometry shall be issued only to persons who pass an examination approved or conducted by the examining board. An applicant who qualifies under s. 449.05 (1) may take any examination approved or administered by the examining board upon payment of the fee specified in s. 440.05 (1).

SECTION 9. 449.04 (2) (intro.) of the statutes is amended to read:

BILL**SECTION 9**

1 449.04 (2) (intro.) The examination shall ~~include a written and practical~~
2 ~~examination,~~ shall reasonably relate to the skills likely to be needed for an applicant
3 to practice optometry in this state at the time of examination and shall seek to
4 determine the applicant's preparedness to exercise such skills. ~~In regard to the~~
5 ~~written examination, the~~ The examination shall test knowledge regarding general
6 and ocular pharmacology as it relates to optometry with particular emphasis on the
7 use of topical ocular diagnostic pharmaceutical agents and therapeutic
8 pharmaceutical agents, including the treatment of adverse reactions to such
9 pharmaceutical agents, and knowledge regarding the removal of foreign bodies from
10 an eye or from an appendage to the eye. The examination shall also test knowledge
11 of state laws and administrative rules regarding the practice of optometry. The
12 examining board may do any of the following:

13 **SECTION 10.** 449.04 (2) (a) of the statutes is amended to read:

14 449.04 (2) (a) Prepare, administer, and grade the examination;

15 **SECTION 11.** 449.04 (2) (b) of the statutes is amended to read:

16 449.04 (2) (b) Approve in whole or in part an examination prepared,
17 administered, and graded by the national board of examiners in optometry; or
18 another examination provider approved by the examining board.

19 **SECTION 12.** 449.04 (2) (c) of the statutes is amended to read:

20 449.04 (2) (c) Approve and administer an examination prepared and graded by
21 or under the direction of the national board of examiners in optometry or another
22 examination provider approved by the examining board.

23 **SECTION 13.** 449.05 (1) (intro.) of the statutes is renumbered 449.05 (intro.) and
24 amended to read:

BILL

1 **449.05 ~~Qualification~~ Qualifications for examination.** (intro.) No person
2 shall be examined by the board unless all of the following are satisfied:

3 **SECTION 14.** 449.05 (1) (b) of the statutes is renumbered 449.05 (1m) and
4 amended to read:

5 449.05 (1m) ~~Unless he or she~~ The person presents proof satisfactory to the
6 examining board that, subject to ss. 111.321, 111.322, and 111.335, he or she does not
7 have an arrest or conviction record;

8 **SECTION 15.** 449.05 (1) (c) of the statutes is renumbered 449.05 (2m) and
9 amended to read:

10 449.05 (2m) ~~Unless the~~ The person has graduated from an accredited college
11 of optometry approved and recognized by the examining board; ~~and.~~

12 **SECTION 16.** 449.05 (1) (d) of the statutes is repealed.

13 **SECTION 17.** 449.05 (2) of the statutes is renumbered 449.055 and amended to
14 read:

15 **449.055 Reciprocity.** Any person who is licensed in good standing to practice
16 optometry in another state, ~~having substantially similar requirements and granting~~
17 ~~equal privileges to residents of Wisconsin,~~ may be issued a license and certificate of
18 registration in the discretion of the examining board upon passing an examination
19 in pathology and practical optometry, payment of the fee specified in s. 440.05 (1),
20 and production of a certificate showing that the person has passed an examination
21 in such other state and satisfactory evidence that the person has actually practiced
22 there for 5 years.

23 **SECTION 18.** 449.06 (title) of the statutes is repealed and recreated to read:

24 **449.06 (title) Renewal; continuing education.**

25 **SECTION 19.** 449.06 (1) of the statutes is amended to read:

INS 7-23

BILL

SECTION 19

1 449.06 (1) Persons practicing optometry shall, on or before the applicable
2 renewal date specified under s. 440.08 (2) (a), register with the department and, pay
3 the applicable renewal fee specified under s. 440.08 (2) (a), and provide evidence
4 satisfactory to the examining board that he or she has complied with the rules
5 promulgated under sub. (2m).

6 **SECTION 20.** 449.06 (2) of the statutes is renumbered 449.065 and amended to
7 read:

8 **449.065 Display of registration.** Every practicing optometrist shall display
9 in a conspicuous place, at the entrance of his or her office, the name of the person so
10 practicing therein and shall keep the certificate of registration issued by the
11 examining board conspicuously displayed in that place of business so that it can
12 easily be seen and read.

13 **SECTION 21.** 449.06 (2m) of the statutes is created to read:

14 **449.06 (2m)** The examining board shall promulgate rules requiring a person
15 who is issued a license to practice optometry to complete, during the 2-year period
16 immediately preceding the renewal date specified in s. 440.08 (2) (a), not less than
17 30 hours of continuing education. The rules shall include requirements that apply
18 only to optometrists who are allowed to use topical ocular diagnostic pharmaceutical
19 agents under s. 449.17 or who are allowed to use therapeutic pharmaceutical agents
20 or remove foreign bodies from an eye or from an appendage to the eye under s. 449.18.

21 **SECTION 22.** 449.08 (1) (d) of the statutes is amended to read:

22 **449.08 (1) (d)** Splitting or dividing any fee for ~~optometric~~ a professional service
23 with any person, except an associate licensed ~~optometrist~~ who is a health care
24 professional, as defined in s. 180.1901 (1m); or

25 **SECTION 23.** 449.13 of the statutes is repealed.

INS 8-24

BILL

1 **SECTION 24.** 449.15 of the statutes is repealed.

2 **SECTION 25.** 449.17 (1) of the statutes is created to read:

3 449.17 (1) **APPLICABILITY.** An optometrist may use topical ocular diagnostic
4 pharmaceutical agents only if the optometrist establishes a plan specified in sub. (2)
5 and if one of the following applies:

6 (a) The examining board initially issues a license to practice optometry to the
7 optometrist on or after the effective date of this paragraph [revisor inserts date].

8 (b) The department issued a certificate to the optometrist under s. 449.17, 2003
9 stats.

10 (c) The examining board issues a certificate under sub. (1m) to an optometrist
11 issued a license to practice optometry before the effective date of this paragraph
12 [revisor inserts date].

13 **SECTION 26.** 449.17 (1m) of the statutes is created to read:

14 449.17 (1m) **LICENSES ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION ...**
15 [REVISOR INSERTS DATE]. (a) The examining board shall certify an optometrist to use
16 topical ocular diagnostic pharmaceutical agents if the optometrist was issued a
17 license to practice optometry before the effective date of this paragraph [revisor
18 inserts date], and the optometrist satisfies the education requirements under par. (b)
19 and successfully completes an examination under par. (c).

20 **SECTION 27.** 449.17 (2) of the statutes is amended to read:

21 449.17 (2) **PLAN.** Topical ocular diagnostic pharmaceutical agents may be used
22 only by optometrists who have established a plan ~~approved by the secretary after~~
23 ~~consultation with the examining board and the medical examining board~~ for the
24 referral of patients who experience adverse reactions from the application of such
25 agents to appropriate medical services.

BILL**SECTION 28**

1 **SECTION 28.** 449.17 (3) of the statutes is renumbered 449.17 (1m) (c) and
2 amended to read:

3 449.17 (1m) (c) ~~Topical ocular diagnostic pharmaceutical agents may be used~~
4 ~~only by~~ The examining board may issue certificates under par. (a) only to
5 optometrists who successfully complete an examination approved or conducted by
6 the examining board on the subject of general and ocular pharmacology as it relates
7 to optometry with particular emphasis on the use of topical ocular diagnostic
8 pharmaceutical agents, including the treatment of ~~any~~ adverse reactions ~~that may~~
9 ~~occur to such pharmaceutical agents.~~ The examination shall be prepared or
10 approved by the ~~department in consultation with the examining board, the medical~~
11 ~~examining board and the pharmacy examining board.~~ The department examining
12 board shall periodically review the validity, reliability, and appropriateness of the
13 examination. ~~In regard to the examination, the department~~ The examining board
14 may do any of the following:

15 1. Prepare, administer, and grade the examination;

16 2. Approve in whole or in part an examination prepared, administered, and
17 graded by the national board of examiners in optometry ~~or by the optometry~~
18 ~~examining board;~~ or another examination provider approved by the examining
19 board.

20 3. Approve and administer an examination prepared and graded by or under
21 the direction of the national board of examiners in optometry or another examination
22 provider approved by the examining board.

23 **SECTION 29.** 449.17 (4) of the statutes is renumbered 449.17 (1m) (b) and
24 amended to read:

BILL

1 449.17 (1m) (b) In addition to the requirements of sub. (3), under par. (c), the
2 examining board may issue certificates under par. (a) only to optometrists who wish
3 to use topical ocular diagnostic pharmaceutical agents shall successfully complete
4 60 classroom hours of study in general and ocular pharmacology as it relates to
5 optometry with particular emphasis on the use of topical ocular diagnostic
6 pharmaceutical agents. At least 30 of the 60 classroom hours of study shall be in
7 ocular pharmacology and shall emphasize the systemic effects of and reactions to
8 pharmaceutical agents, including the treatment of any adverse reactions that may
9 occur. The course of study shall be offered by an institution approved by the ~~secretary~~
10 examining board and accredited by a regional or professional accrediting
11 organization which is recognized by the ~~council on post-secondary accreditation and~~
12 the U.S. office Council for Higher Education Accreditation or its successor or the
13 federal department of education, and shall be completed prior to entering the
14 examination required by sub. (3) under par. (c).

15 **SECTION 30.** 449.17 (5) of the statutes is amended to read:
16 449.17 (5) RULES. ~~The secretary shall, after consultation with the examining~~
17 ~~board, the medical examining board and the pharmacy examining board, shall~~
18 promulgate rules specifying the topical ocular diagnostic pharmaceutical agents
19 which optometrists may utilize in this state.

20 **SECTION 31.** 449.17 (6) of the statutes is repealed.

21 **SECTION 32.** 449.17 (7) of the statutes is renumbered 449.17 (1m) (d) and
22 amended to read:

23 449.17 (1m) (d) No fee may be charged for a certificate issued under this ~~section~~
24 subsection. A certificate issued under this ~~section~~ subsection or s. 449.17, 2003
25 stats., remains in effect while the optometrist's license to practice optometry remains

BILL

1 in effect unless the certificate is suspended or revoked by the department examining
2 board.

3 **SECTION 33.** 449.17 (8) (title) of the statutes is created to read:

4 449.17 (8) (title) REIMBURSEMENT PROHIBITED.

5 **SECTION 34.** 449.18 (1) of the statutes is renumbered 449.18 (1) (intro.) and
6 amended to read:

7 449.18 (1) APPLICABILITY. (intro.) No optometrist may use therapeutic
8 pharmaceutical agents or remove foreign bodies from an eye or from an appendage
9 to the eye unless ~~the optometrist is certified by the examining board under this~~
10 ~~section.~~ one of the following applies:

11 **SECTION 35.** 449.18 (1) (a), (b) and (c) of the statutes are created to read:

12 449.18 (1) (a) The examining board initially issues a license to practice
13 optometry to the optometrist on or after the effective date of this paragraph
14 [revisor inserts date].

15 (b) The department issued a certificate to the optometrist under s. 449.18, 2003
16 stats.

17 (c) The examining board issues a certificate under sub. (2) to an optometrist
18 issued a license to practice optometry before the effective date of this paragraph
19 [revisor inserts date].

20 **SECTION 36.** 449.18 (2) (title) of the statutes is created to read:

21 449.18 (2) (title) LICENSES ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION
22 [REVISOR INSERTS DATE].

23 **SECTION 37.** 449.18 (2) (intro.) of the statutes is renumbered 449.18 (2) (a)
24 (intro.) and amended to read:

BILL

1 449.18 (2) (a) (intro.) The examining board shall certify an optometrist to use
2 therapeutic pharmaceutical agents and remove foreign bodies from an eye or from
3 an appendage to the eye if the optometrist was issued a license to practice optometry
4 before the effective date of this paragraph ... [revisor inserts date], and the
5 optometrist satisfies all of the following:

6 **SECTION 38.** 449.18 (2) (a) of the statutes is renumbered 449.18 (2) (a) 1. and
7 amended to read:

8 449.18 (2) (a) 1. The optometrist is certified under s. 449.17, 2003 stats., or s.
9 449.17 (1m) (a) to use topical ocular diagnostic pharmaceutical agents.

10 **SECTION 39.** 449.18 (2) (b) of the statutes is renumbered 449.18 (2) (a) 2. and
11 amended to read:

12 449.18 (2) (a) 2. The optometrist has successfully completed 100 hours of
13 approved study in the use of therapeutic pharmaceutical agents and the removal of
14 superficial foreign bodies from an eye or from an appendage to the eye. The course
15 of study shall be offered by an institution approved by the examining board and
16 accredited by a regional or professional accrediting organization that is recognized
17 by the ~~council on postsecondary accreditation of~~ Council for Higher Education
18 Accreditation or its successor or the federal department of education.

19 **SECTION 40.** 449.18 (2) (c) of the statutes is renumbered 449.18 (2) (a) 3. and
20 amended to read:

21 449.18 (2) (a) 3. The optometrist has passed an examination ~~under sub. (3)~~
22 conducted or approved by the examining board. The examining board shall
23 periodically review the validity, reliability, and appropriateness of the examination
24 that it conducts or approves under this subdivision.

25 **SECTION 41.** 449.18 (2) (e) of the statutes is created to read:

BILL

1 449.18 (2) (e) A certificate issued under par. (a) or s. 449.18, 2003 stats.,
2 remains in effect while the optometrist's license to practice optometry remains in
3 effect unless the certificate is suspended or revoked by the examining board.

4 **SECTION 42.** 449.18 (3) and (4) of the statutes are repealed.

5 **SECTION 43.** 449.18 (4m) of the statutes is renumbered 449.18 (2) (d) and
6 amended to read:

7 449.18 (2) (d) No fee may be charged for the issuance ~~or renewal~~ of a certificate
8 under ~~this section~~ par. (a).

9 **SECTION 44.** 449.18 (5) of the statutes is amended to read:

10 449.18 (5) REMOVALS FROM EYES. An optometrist who is ~~certified under this~~
11 ~~section~~ allowed under sub. (1) to remove a foreign body from an eye or from an
12 appendage to an eye may not remove a foreign body from an eye or from an
13 appendage to an eye if the foreign body is deeper than Bowman's layer of the cornea
14 or deeper than the conjunctiva.

15 **SECTION 45.** 449.18 (6) (title) of the statutes is created to read:

16 449.18 (6) (title) USE OF THERAPEUTIC PHARMACEUTICALS.

17 **SECTION 46.** 449.18 (6) (intro.) of the statutes is repealed.

18 **SECTION 47.** 449.18 (6) (a) of the statutes is renumbered 449.18 (6) (am) 1. and
19 amended to read:

20 449.18 (6) (am) 1. ~~May not prescribe~~ Prescribe or administer any therapeutic
21 pharmaceutical agent that he or she is prohibited from prescribing or administering
22 under the rules promulgated under ~~sub. (8)~~ par. (cm).

23 **SECTION 48.** 449.18 (6) (am) (intro.) of the statutes is created to read:

24 449.18 (6) (am) An optometrist who is allowed under sub. (1) to use therapeutic
25 pharmaceutical agents may not do any of the following:

BILL

1 **SECTION 49.** 449.18 (6) (b) of the statutes is renumbered 449.18 (6) (bm), and
2 449.18 (6) (bm) (intro.) and 1., as renumbered, are amended to read:

3 449.18 (6) (bm) (intro.) ~~Shall~~ An optometrist who is allowed under sub. (1) to
4 use therapeutic pharmaceutical agents shall include with each prescription order all
5 of the following:

6 1. A statement that he or she is ~~certified under this section~~ allowed under sub.
7 (1) to use therapeutic pharmaceutical agents.

8 **SECTION 50.** 449.18 (6) (c) of the statutes is renumbered 449.18 (6) (am) 2. and
9 amended to read:

10 449.18 (6) (am) 2. ~~May not dispense~~ Dispense, as defined in s. 450.01 (7), other
11 than by prescribing or administering. ~~This paragraph subdivision~~ does not prohibit
12 the optometrist from providing a complimentary sample of a therapeutic
13 pharmaceutical agent to a patient to whom the optometrist has rendered therapeutic
14 care.

15 **SECTION 51.** 449.18 (7) of the statutes is repealed.

16 **SECTION 52.** 449.18 (8) of the statutes is renumbered 449.18 (6) (cm) and
17 amended to read:

18 449.18 (6) (cm) ~~The secretary shall, after consultation with the examining~~
19 ~~board, the medical examining board and the pharmacy examining board, shall~~
20 ~~promulgate rules specifying those therapeutic pharmaceutical agents that may or~~
21 ~~may not be prescribed or administered.~~

22 **SECTION 53.** 449.19 of the statutes is amended to read:

23 **449.19 Referral to other specialists health care professionals.** If, during
24 the course of examining a person, an optometrist determines the existence of a
25 pathological condition requiring treatment outside the scope of the practice of

BILL**SECTION 53**

1 optometry, the optometrist shall so advise the person and shall refer the person to
2 an appropriate ~~medical specialist~~ health care professional, as defined in s. 180.1901
3 (1m), for further evaluation.

4 **SECTION 54.** 961.39 (intro.) of the statutes is amended to read:

5 **961.39 Limitations on optometrists.** (intro.) An optometrist who is certified
6 allowed under s. 449.18 (1) to use therapeutic pharmaceutical agents:

7 **SECTION 55.** 961.39 (2) of the statutes is amended to read:

8 961.39 (2) May prescribe or administer only those controlled substances
9 included in schedules III, IV, and V that are permitted for prescription or
10 administration under the rules promulgated under s. 449.18 (8) (6) (cm).

11 **SECTION 56.** 961.39 (3) (a) of the statutes is amended to read:

12 961.39 (3) (a) A statement that he or she is certified allowed under s. 449.18
13 (1) to use therapeutic pharmaceutical agents.

14 **SECTION 57. Nonstatutory provisions.**

15 (1) RULES AND APPROVALS TRANSITION. All rules promulgated by the department
16 of regulation and licensing under section 449.17 (5), 2003 stats., and section 449.18
17 (8), 2003 stats., that are in effect on the effective date of this subsection remain in
18 effect until their specified expiration date or until amended or repealed by the
19 optometry examining board. All approvals issued by the department of regulation
20 and licensing under section 449.17 (2) and (4), 2003 stats., that are in effect on the
21 effective date of this subsection remain in effect until their specified expiration date
22 or until modified or rescinded by the optometry examining board.

23 (2) PENDING MATTERS TRANSITION. Any matter pending with the department of
24 regulation and licensing on the effective date of this subsection that relates to a rule
25 under section 449.17 (5), 2003 stats., or section 449.18 (8), 2003 stats., or an approval

BILL

1 under section 449.17 (2) or (4), 2003 stats., is transferred to the optometry examining
2 board and all materials submitted to or actions taken by the department with respect
3 to the pending matter are considered as having been submitted to or taken by the
4 board.

5 (3) CONTINUING EDUCATION RULES.

6 (a) The optometry examining board shall submit in proposed form the rules
7 required under section 449.06 (2m) of the statutes, as created by this act, to the
8 legislative council staff under section 227.15 (1) of the statutes no later than the first
9 day of the 10th month beginning after the effective date of this paragraph.

10 (b) Using the procedure under section 227.24 of the statutes, the optometry
11 examining board may promulgate rules required under section 449.06 (2m) of the
12 statutes, as created by this act, for the period before the effective date of the rules
13 submitted under paragraph (a), but not to exceed the period authorized under section
14 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b),
15 and (3) of the statutes, the optometry examining board is not required to provide
16 evidence that promulgating a rule under this paragraph as an emergency rule is
17 necessary for the preservation of the public peace, health, safety, or welfare and is
18 not required to provide a finding of emergency for a rule promulgated under this
19 paragraph.

20 **SECTION 58. Effective date.**

21 (1) This act takes effect on the first day of the 4th month beginning after
22 publication.

23 (END)

INS 17-20

D-Note

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2428/2ins
CTS:.....

1
2
3
4

Insert A-1:

3. The bill repeals provisions in current law that generally prohibit an optometrist from advertising by using a name other than the name under which the optometrist is licensed.

Single
space

✓

INS 7-23

1 449.04 (2) (b) Approve in whole or in part an examination prepared,
2 administered, and graded by the national board of examiners in optometry; or
3 another examination provider approved by the examining board.

4 SECTION 11. 449.04 (2) (c) of the statutes is amended to read:

5 449.04 (2) (c) Approve and administer an examination prepared and graded by
6 or under the direction of the national board of examiners in optometry or another
7 examination provider approved by the examining g board.

8 SECTION 12. 449.05 (1) (intro.) of the statutes is renumbered 449.05 (intro.) and
9 amended to read:

10 **449.05 Qualification Qualifications for examination.** (intro.) No person
11 shall be examined by the board unless all of the following are satisfied:

12 SECTION 13. 449.05 (1) (b) of the statutes is renumbered 449.05 (1m) and
13 amended to read:

14 449.05 (1m) ~~Unless he or she~~ The person presents proof satisfactory to the
15 examining board that, subject to ss. 111.321, 111.322, and 111.335, he or she does not
16 have an arrest or conviction record;.

17 SECTION 14. 449.05 (1) (c) of the statutes is renumbered 449.05 (2m) and
18 amended to read:

19 449.05 (2m) ~~Unless the~~ The person has graduated from an accredited college
20 of optometry approved and recognized by the examining board; and.

21 SECTION 15. 449.05 (1) (d) of the statutes is repealed.

22 SECTION ~~16~~ [#] 449.05 (2) of the statutes is renumbered 449.055 (intro.) and
23 amended to read:

24 **449.055 Reciprocity.** (intro.) Any The examining board may issue a license
25 and certificate of registration to a person who is licensed in good standing to practice

(B)
Endorsement.

PWF

Prof

①
②

optometry in another state, having that has substantially similar requirements ~~and~~
granting grants equal privileges to residents of Wisconsin, may be issued a certificate
in the discretion of the examining board upon passing if all of the following conditions
are satisfied:

(1) The person has passed an examination in pathology and practical
optometry, payment of.

(3) The person pays the fee specified in s. 440.05 (1) and ~~production of a~~
certificate showing that the person has passed an examination in such other state
and.

(4) The person submits satisfactory evidence that the person has actually
practiced there in the other state for 5 years.

SECTION ~~17~~ 449.055 (2) of the statutes is created to read:

449.055 (2) The person passes an examination that tests knowledge of state
and federal laws and administrative rules and regulations regarding the practice of
optometry.

→ ****NOTE: The above is based on s. Opt. 4.01 (4), Wis. Adm. Code. Is it okay?

SECTION ~~18~~ 449.055 (5) of the statutes is created to read:

449.055 (5) The person satisfies the requirements under s. 449.05.

SECTION ~~19~~ 449.055 (6) of the statutes is created to read:

449.055 (6) The person has completed the study specified in ss. 449.17 (1m) (b)
and 449.18 (2) (a) 2. and passes the examinations specified in ss. 449.17 (1m) (c) and
449.18 (2) (a) 3.

End INS 7-23

****NOTE: Is the above okay, or should a person be allowed to demonstrate
competence to use diagnostic and therapeutic pharmaceutical agents even if he or she
doesn't satisfy the above requirements?

SECTION 20. 449.06 (title) of the statutes is repealed and recreated to read:

22

INS 8-24

1 allowed to use therapeutic pharmaceutical agents or remove foreign bodies from an
2 eye or from an appendage to the eye under s. 449.18.

3 SECTION 25. 449.06 (3) of the statutes is created to read:

4 449.06 (3) A person is not required to complete continuing education until after
5 the conclusion of the first renewal period that occurs after the date on which he or
6 she is issued a license to practice optometry.

7 SECTION 26. 449.08 (1) (d) of the statutes is amended to read:

8 449.08 (1) (d) Splitting or dividing any fee for ~~optometric~~ a professional service
9 with any person, except an associate licensed ~~optometrist~~ who is a health care
10 professional, as defined in s. 180.1901 (1m); or

PWF

11 SECTION ~~27~~[#]. 449.08 (2) (intro.) and (a) of the statutes are consolidated,
12 renumbered 449.08 (2) and amended to read:

13 449.08 (2) Unprofessional advertising includes without limitation because of
14 enumeration: (a) Advertising advertising professional superiority or the
15 performance of professional services in a superior manner;

16 SECTION ~~28~~[#]. 449.08 (2) (d) of the statutes is repealed.

17 SECTION 29. 449.13 of the statutes is repealed.

18 SECTION 30. 449.15 of the statutes is repealed.

19 SECTION 31. 449.17 (1) of the statutes is created to read:

20 449.17 (1) APPLICABILITY. An optometrist may use topical ocular diagnostic
21 pharmaceutical agents only if the optometrist establishes a plan specified in sub. (2)
22 and if one of the following applies:

23 (a) The examining board initially issues a license to practice optometry to the
24 optometrist on or after the effective date of this paragraph [revisor inserts date].

INS 17-20

1 961.39 (2) May prescribe or administer only those controlled substances
2 included in schedules III, IV, and V that are permitted for prescription or
3 administration under the rules promulgated under s. 449.18 (8) (6) (cm).

4 **SECTION 65.** 961.39 (3) (a) of the statutes is amended to read:

5 961.39 (3) (a) A statement that he or she is certified allowed under s. 449.18
6 (1) to use therapeutic pharmaceutical agents.

7 **SECTION 66. Nonstatutory provisions.**

8 (1) RULES AND APPROVALS TRANSITION. All rules promulgated by the department
9 of regulation and licensing under section 449.17 (5), 2001 stats., and section 449.18
10 (8), 2001 stats., that are in effect on the effective date of this subsection remain in
11 effect until their specified expiration date or until amended or repealed by the
12 optometry examining board. All approvals issued by the department of regulation
13 and licensing under section 449.17 (2) and (4), 2001 stats., that are in effect on the
14 effective date of this subsection remain in effect until their specified expiration date
15 or until modified or rescinded by the optometry examining board.

16 (2) PENDING MATTERS TRANSITION. Any matter pending with the department of
17 regulation and licensing on the effective date of this subsection that relates to a rule
18 under section 449.17 (5), 2001 stats., or section 449.18 (8), 2001 stats., or an approval
19 under section 449.17 (2) or (4), 2001 stats., is transferred to the optometry examining
20 board and all materials submitted to or actions taken by the department with respect
21 to the pending matter are considered as having been submitted to or taken by the
22 board.

23 **SECTION 67. Initial applicability.**

24 (1) EXAMINATIONS. The treatment of section 449.04 (2) (intro.) of the statutes
25 first applies to examinations administered on the effective date of this subsection.

CS | INS 17-20 continued: |

ENDORSEMENT

1

(2) ~~RECIPROCAL LICENSES~~ The treatment of sections 449.05 (2) and 449.055 (2),

2

(5), and (6) of the statutes first applies to applications for licenses received on the

3

effective date of this subsection.

END INS 17-20

4

(3) CIVIL IMMUNITY. The treatment of section 449.20 (intro.) and (3) of the

5

statutes first applies to damages incurred on the effective date of this subsection.

6

SECTION 68. Effective date.

7

(1) This act takes effect on the first day of the 4th month beginning after

8

publication.

****NOTE: Is the delay okay, or should more time be allowed to implement the bill's changes?

9

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2428/2dn

CTS: *lgt*

Date

Sen. Brown:

This is a redraft of LRB-2428/1 based on instructions from Laura Rose. Please review the draft carefully to ensure it is consistent with your intent.

Note that the drafting instructions called for adding the language contained in section 22 of 2003 LRB-0678/P1 to the draft. However, section 21 of the current draft appears already to incorporate substantially the same language. Please contact me if you have any questions.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2428/2dn
CTS:kjf:pg

September 16, 2005

Sen. Brown:

This is a redraft of LRB-2428/1 based on instructions from Laura Rose. Please review the draft carefully to ensure it is consistent with your intent.

Note that the drafting instructions called for adding the language contained in section 22 of 2003 LRB-0678/P1 to the draft. However, section 21 of the current draft appears already to incorporate substantially the same language. Please contact me if you have any questions.

Christopher T. Sundberg
Legislative Attorney
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Barman, Mike

From: M nuk, Katie
Sent: Wednesday, November 09, 2005 10:57 AM
To: LRB.Legal

Good morning -- Sen. Brown needs to have LRB 2428/2 jacketed for introduction.

Thank you!
Katie M nuk
Chief of Staff
Ofc. of Sen. Ron Brown
office: (608) 266-8546
toll-free: (877) 763-6636