

CHAPTER 153.

OPTOMETRY.

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153.01 Practice. The practice of optometry is the employment of any means, other than the use of drugs, for the measurement of the powers of vision and the adaption of lenses, prisms and mechanical therapy for the aid thereof. No person shall practice optometry without a certificate of registration properly filed. This shall not apply to physicians and surgeons nor to the sale of spectacles containing simple lenses of a plus power only at an established place of business and as incidental to other business conducted therein without attempting to test the eyes and without advertising other than price marking on the spectacles. The term "simple lens" shall not include bifocals. The furnishing, using or employment of any means, device or machine, designed or calculated to aid any person in the selection or fitting of spectacles or eyeglasses, the measurement of the powers or defects of vision and the adaption of lenses in and thereof shall constitute the practice of optometry. [1931 c. 222]

Note: A corporation, in employing licensed and registered optometrists to assist in its business of serving its customers by adjusting glasses to their eyes, furnishing certain devices and machines to be used by such employe, and selling lenses to persons on prescriptions written by such employe, did not violate the statutes regulating the practice of optometry although the corporation itself was not licensed to practice optometry. State ex rel. Harris v. Kindy Optical Co. 235 W 498, 292 NW 283.

Displaying of illustration of pair of glasses or of eye without wording or lettering on same is violation of optometry law. 20 Atty. Gen. 773.

Corporation cannot practice optometry. 24 Atty. Gen. 472.

Peddler traveling from house to house selling glasses, even though they be simple lenses, violates this section. 26 Atty. Gen. 54.

Exemption of physicians and surgeons applies to osteopathic physicians and surgeons. 30 Atty. Gen. 4.

153.02 Board. (1) The Wisconsin board of examiners in optometry consists of five members, appointed by the governor for terms of five years, whose duty it shall be to carry out the purposes and enforce the provisions of this chapter. Each shall have been a resident of this state actively engaged in the practice of optometry for at least five years immediately preceding appointment. They shall file oath of office.

(2) The board shall choose annually from its members president and secretary, who may severally administer oaths and take affidavits, certifying thereto under seal of the board. The secretary shall give such bond as the board determines. The board shall meet at least once every six months at the state capital, and in addition upon call of its officers. The secretary shall keep of its proceedings a full record which shall be open to inspection at reasonable times. The board shall have a seal.

(3) It shall, on January first each year, report its proceedings to the governor, including account of moneys received and disbursed. President and secretary shall file annually with the governor a verified list of optometrists qualified to serve as members of the board. [1931 c. 118 s. 1]

153.03 Application. Applicants shall be examined at time and place fixed by the board, must pay twenty-five dollars in advance and be at least twenty-one years of age, and have attended an optometry school for at least two years, of not less than two thousand hours actual instruction, or after having attended any such school for one such year shall have served as assistant to a registered optometrist for at least two years, and shall have registered with the board as an assistant optometrist at least two years before appearing for examination, and such registration shall not have been made before the nineteenth birthday of the applicant.

153.04 Eligibility; examination. Every person before beginning to practice optometry in this state, after the taking effect of this section, shall have a high school education or the equivalent thereof as determined by the board, and shall pass an examination before said board of examiners, for which a fee of ten dollars shall be paid, except as hereinafter provided. Said examination shall be confined to such knowledge as is essential to the practice of optometry, and shall include anatomy, physiology, pathology of the eye and its appendages, normal and abnormal refractive, accommodative and muscular conditions and co-ordinations of the eye, and subjective and objective optometry, including the fitting of glasses, the principles of lens construction and frame adjusting, and such other subjects the board deems necessary. The board may make rules and regulations for conduct-

ing examinations and for the standard of professional or special qualifications. In case of failure at any examination, the applicant shall have the privilege of taking another examination upon the payment of a fee of ten dollars at any future regular meeting of the board. Assistant optometrists registered by the board prior to the passage of this act and registered optometrists may take the examination as provided by section 153.03 of the statutes of 1923. All persons qualified, who prior to the passage of this act have completed one thousand hours actual instruction in an optometry school, and who have made formal application to the board, accompanied by the examination fee of twenty-five dollars, prior to July 1, 1925, may take the examination as provided by section 153.03 of the statutes of 1923. This section shall not apply to duly licensed physicians and surgeons nor to optometrists registered prior to July 1, 1925.

153.05 Registration. (1) If the applicant successfully passes, the board shall issue a certificate of registration.

(2) One who has been admitted to practice optometry in another state may be issued a certificate in the discretion of the board, upon the payment of twenty-five dollars and production of a certificate showing that he has passed an examination in such other state, and has actually practiced there for two years.

(3) Certificates shall be recorded in the board register, and the recipient shall pay annually on or before January first a re-registration fee of two dollars.

(4) The recipient shall present the certificate or a certified copy to the county clerk of his residence, with a fee of fifty cents, and the clerk shall record it in a book kept for that purpose. If he removes his residence to or desires to practice in another county he shall file a certified copy of the county clerk's record, or a new certificate, with the county clerk of such other county with a fee of fifty cents for like recording, before he shall practice therein. The board's fee for re-issuance of a certificate shall be one dollar and the county clerk's fee for certifying his record shall be one dollar. A certificate or certified record not recorded within six months after issuance is void.

(5) Everyone practicing optometry shall display in a conspicuous place, at the entrance of the place of business the name of each person so practicing therein.

Note: A revisor's bill amending a provision regulating the practice of optometry that "every person, firm, or corporation" shall display in a conspicuous place, at the entrance of its place of business, the name of each person employed therein in the

practice of optometry, so as to read, instead, that "everyone" etc., did not change the substance of such provision. State ex rel. Harris v. Kindy Optical Co., 235 W 498, 292 NW 283.

153.06 Revocation. (1) The board may revoke a certificate if the holder fails to pay the annual re-registration fee upon thirty days' notice of such proposed revocation.

(2) The board may revoke a certificate obtained through error or fraud, or if the recipient is grossly incompetent, guilty of immoral or unprofessional conduct, or has obtained, or sought to obtain, anything of value by fraudulent representation in the practice of optometry. The holder shall have notice in writing enumerating the charges and specifying a date not less than thirty days after the service of the notice for a hearing and he shall have opportunity to confront witnesses against him, and to produce testimony. A stenographic record of the proceedings shall be had and transcript kept in the board's files. The holder may within thirty days after revocation file with the secretary a written notice of appeal to the circuit court of the county wherein the holder resides, and the secretary shall transmit to the court and to the attorney-general a certified copy of the record, and the attorney-general shall defend the revocation. The circuit court shall affirm or reverse the revocation and its decision shall be final.

(3) One whose certificate has been revoked may, one year after such revocation, upon application and satisfactory proof to the board that the cause for revocation no longer exists, have the same regranted him.

(4) "Unprofessional conduct" as used in this section shall include, among other things, any conduct of a character likely to deceive or defraud the public; price advertising on lenses or complete glasses, advertising free examinations; advertising of any character in which untruthful or misleading statements are made; performance of any optometric service, or the sale of any optometric device in pursuance of any such advertising; loaning of an optometric license or certificate to any person; employment of "cappers" or "steerers" to obtain optometric business; splitting or dividing with any person any fee for optometric service; employing, either directly or indirectly, any unlicensed optometrist to perform any work covered by this chapter. [1931 c. 118 s. 1, 2]

Note: Board of optometry cannot by "rule" add to or change meaning of "unprofessional conduct." Advertisement of prices of frames in such manner as to deceive public into belief that price is for complete optical service is "unprofessional conduct." 21 Atty. Gen. 1111. Optometrist who advertises his profes-

sional services over name of deceased optometrist without indicating that he is successor of former optometrist is probably guilty of unprofessional conduct under (4). Services of optometrist should not be advertised by optometrist describing himself as optician. 23 Atty. Gen. 486.

153.07 Penalty. Anyone not having a certificate, who shall hold himself out as qualified to practice optometry, or anyone who shall violate this chapter, shall be imprisoned not less than one month nor more than three months or fined not less than twenty nor more than one hundred dollars, or both. The district attorney shall prosecute.

153.08 Unprofessional conduct defined. Any optometrist in the employ of any person who violates any of the provisions of this chapter, who, after being given thirty days' notice by the board of such violation, shall continue in the employ of such violator shall, for the purpose of enforcing the provisions of this chapter, be deemed to be guilty of unprofessional conduct. [1931 c. 118 s. 2]