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HOUSE BILL 374
42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996
INTRODUCED BY
TERRY T. MARQUARDT

AN ACT
RELATING TO LICENSING; AMENDING SECTIONS OF THE OPTOMETRY ACT TO
CHANGE LICENSE FEES AND OTHER PROVISIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-2-10.2 NMSA 1978 (being Laws 1995,
Chapter 20, Section 5) is amended to read:

"61-2-10.2. DESIGNATION OF ORAL PHARMACEUTICAL AGENTS--
CERTIFICATION FOR USE OF CERTAIN AGENTS. --

A. Subject to the provisions of the Optometry Act,
optometrists qualified and certified by the board may
prescribe or administer the following classes of oral
pharmaceutical agents:

- (1) anti-infective medications, not including
anti fungals;
- (2) anti-glaucoma medications, not including

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1 osmotic medications;
2 (3) anti-allergy medications;
3 (4) anti-inflammatory medications, not
4 including oral corticosteroids and immunosuppression agents; and
5 (5) analgesic medications, including schedules
6 III through V controlled substances, as provided in the
7 Controlled Substances Act.

8 B. The board shall issue certification for the use
9 of oral pharmaceutical agents as set forth in Subsection A of
10 this section to optometrists currently licensed by the board who
11 are certified for the use of topical ocular pharmaceutical
12 agents. To be certified, an optometrist shall submit to the
13 board proof of having satisfactorily completed a course in
14 pharmacology as applied to optometry, with particular emphasis
15 on the administration of oral pharmaceutical agents for the
16 purpose of examination of the human eye, and analysis of ocular
17 functions and treatment of visual defects or abnormal conditions
18 of the human eye and its adnexa. The course shall constitute a
19 minimum of twenty hours of instruction in clinical pharmacology,
20 including systemic pharmacology as applied to optometry, and
21 shall be taught by an accredited institution approved by the
22 board.

23 C. As of July 1, 1996, all applicants for licensure
24 shall meet the requirements for certification in the use of
25 diagnostic, topical therapeutic and oral pharmaceutical agents

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1 as set forth in the Optometry Act and shall successfully
2 complete the board's examination in diagnostic, topical and oral
3 pharmaceutical agents prior to licensure.

4 [C-] D. The certification authorized by this section
5 shall be displayed in a conspicuous place in the optometrist's
6 principal office or place of business. "

7 Section 2. Section 61-2-11 NMSA 1978 (being Laws 1973,
8 Chapter 353, Section 9, as amended) is amended to read:

9 "61-2-11. LICENSE FEES--LICENSURE UNDER PRIOR LAW. --

10 A. ~~[Applicants for licensure as an optometrist shall~~
11 ~~pay the following fees:~~

12 ~~(1) for licensure without written examination,~~
13 ~~a fee set by the board in an amount not to exceed one hundred~~
14 ~~fifty dollars (\$150);~~

15 ~~(2) for licensure by examination, a fee set by~~
16 ~~the board in an amount not to exceed one hundred dollars (\$100);~~

17 ~~(3) for the issuance of a certificate of~~
18 ~~license, a fee set by the board in an amount not to exceed~~
19 ~~twenty five dollars (\$25.00);~~

20 ~~(4) for the annual renewal of license, a fee~~
21 ~~set by the board in an amount not to exceed one hundred dollars~~
22 ~~(\$100); and~~

23 ~~(5) for late renewal after September 1 of any~~
24 ~~year, a late charge set by the board in an amount not to exceed~~
25 ~~twenty five dollars (\$25.00), which late fee is in addition to~~

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1 ~~any other fees.]~~ The board shall set fees for the following by
2 regulation:

3 (1) application fee in an amount not to exceed
4 five hundred dollars (\$500):

5 (2) examination fee in an amount not to exceed
6 five hundred dollars (\$500):

7 (3) licensure fee in an amount not to exceed
8 four hundred dollars (\$400):

9 (4) issuance fee for pharmaceutical
10 certification in an amount not to exceed one hundred dollars
11 (\$100):

12 (5) annual license renewal fee in an amount not
13 to exceed three hundred dollars (\$300); and

14 (6) late renewal penalty fee in an amount not to
15 exceed one hundred dollars (\$100).

16 B. Any person licensed as an optometrist under any
17 prior laws of this state, whose license is valid on [~~the~~
18 ~~effective date of the Optometry Act~~] April 3, 1973, shall be
19 held to be licensed under the provisions of the Optometry Act
20 and shall be entitled to the annual renewal of his present
21 license as provided in that act.

22 C. Prior to engaging in the active practice of
23 optometry in this state, each licensee shall furnish the board
24 evidence that he holds a registration number with the taxation
25 and revenue department and has completed, as a condition of

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1 licensure by endorsement, such continuing education requirements
2 as set by the regulations of the board. "

3 Section 3. Section 61-2-14 NMSA 1978 (being Laws 1973,
4 Chapter 353, Section 12, as amended) is amended to read:

5 "61-2-14. OFFENSES. --

6 A. Each of the following acts committed by any
7 person constitutes a fourth degree felony, punishable upon
8 conviction as provided in the Criminal Code:

9 (1) practicing or attempting to practice
10 optometry without a current license issued by the board;

11 (2) using or attempting to use pharmaceutical
12 agents without the certification issued by the board, unless,
13 however, the administration of pharmaceutical agents is done
14 under the direct supervision of a licensed optometrist certified
15 to administer the pharmaceutical agents in accordance with the
16 provisions of the Optometry Act;

17 (3) permitting any person in one's employ,
18 supervision or control to practice optometry or use
19 pharmaceutical agents unless that person is [~~licensed or~~]
20 licensed and certified in accordance with the provisions of the
21 Optometry Act, or unless the administration of pharmaceutical
22 agents is done under the direct supervision of a licensed
23 optometrist certified to administer the pharmaceutical agents in
24 accordance with the provisions of the Optometry Act; and

25 (4) practicing optometry, including the use of

1 pharmaceutical agents, during any period of time in which one's
2 license has been revoked or suspended as provided by the
3 Optometry Act.

4 B. Each of the following acts committed by any
5 person constitutes a misdemeanor, punishable upon conviction as
6 provided in the Criminal Code:

7 (1) making a willfully false oath or
8 affirmation where the oath or affirmation is required by the
9 Optometry Act;

10 (2) selling or using any designation, diploma
11 or certificate tending to imply that one is a practitioner of
12 optometry, unless one holds a license as provided by the
13 Optometry Act;

14 (3) refusal, after a request, to provide a
15 patient a copy of his spectacle prescription, not including a
16 contact lens prescription, providing the prescription is not
17 over one year old;

18 (4) duplicating or replacing an ophthalmic
19 lens, not including contact lenses, without a current
20 prescription not more than two years old or without a written
21 authorization from the patient if the prescription is not
22 available;

23 (5) except for licensed optometrists and as
24 provided in Subsection A of Section 61-2-15 NMSA 1978, using any
25 trial lenses, trial frames, graduated test cards or other

1 appliances or instruments for the purpose of examining the eyes
2 or rendering assistance to anyone who desires to have an
3 examination of the eyes; provided, however, that it is not the
4 intent of this paragraph to prevent any school nurse,
5 schoolteacher or employee in public service from ascertaining
6 the possible need of vision services, provided that such person,
7 clinic or program does not attempt to diagnose or prescribe
8 ophthalmic lenses for the eyes or recommend any particular
9 practitioner or system of practice;

10 (6) advertising by any means the fabricating,
11 adapting, employing, providing, sale or duplication of
12 eyeglasses or any part thereof. This paragraph does not
13 preclude the use of a business name, trade name or trademark not
14 relating to price or the use of the address, telephone number,
15 office hours and designation of the provider in or at retail
16 outlets, on business cards, eyeglass cleaners and cases or in
17 news media or in public directories, mailings and announcements
18 of location openings or the use of the words "doctors'
19 prescriptions for eyeglasses filled" or "eyeglass repairs,
20 replacements and adjustments"; or

21 (7) selling of prescription eyeglasses or
22 contact lenses, frames or mountings for lenses in an
23 establishment in which the majority of its income is not derived
24 from being engaged in that endeavor."

State of New Mexico House of Representatives

FORTY- SECOND LEGISLATURE

SECOND SESSION, 1996

February 1, 1996

Mr. Speaker:

Your RULES AND ORDER OF BUSINESS COMMITTEE, to
whom has been referred

HOUSE BILL 374

has had it under consideration and finds same to be
GERMANE in accordance with constitutional provisions.

Respectfully submitted,

Barbara A. Perea Casey,

Chairperson

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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Date _____

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4 The roll call vote was 10 For 0 Against

5 Yes: 10

6 Excused: Lujan, Olguin, Rodella, R. G. Sanchez, S. M Williams

7 Absent: None

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State of New Mexico House of Representatives

FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

February 6, 1996

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
been referred

HOUSE BILL 374

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Fred Luna, Chairman

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Gurule, Hobbs, Olguin, Rodella

Absent: Varela

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State of New Mexico House of Representatives

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

FEBRUARY 8, 1996

Mr. Speaker:

**Your APPROPRIATIONS AND FINANCE COMMITTEE, to
whom has been referred**

HOUSE BILL 374

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Max Coll, Chairman

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SECOND SESSION, 1996

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Bird, Gentry, Martinez, Salazar, Varela, Watchman

Absent: none

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SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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February 13, 1996

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10 Mr. President:

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Your FINANCE COMMITTEE, to whom has been referred

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HOUSE BILL 374

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has had it under consideration and reports same with

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recommendation that it DO PASS.

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Respectfully submitted,

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Ben D. Altamirano, Chairman

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Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

1 HB374

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Date _____

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The roll call vote was 8 For 0 Against

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Yes: 8

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No: 0

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Excused: Donisthorpe, Duran, Ingle, Kidd, Kysar

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Absent: None

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