

FIRST REGULAR SESSION

# HOUSE BILL NO. 830

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WASSON.

Read 1st time February 12, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2031L.02I

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### AN ACT

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

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

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336.040, 336.050, 336.060, 336.070, 2 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, and 336.225, RSMo, are repealed and 3 twelve new sections enacted in lieu thereof, to be known as sections 336.010, 336.020, 336.030, 4 336.040, 336.050, 336.060, 336.070, 336.080, 336.140,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

336.010. [Any one or any combination of the following practices constitutes the 2 "practice of optometry":

3 (1) The examination of the human eye, without the use of drugs, medicines or surgery, 4 to ascertain the presence of defects or abnormal conditions which can be corrected by the use of 5 lenses, prisms or ocular exercises;

6 (2) The employment of objective or subjective mechanical means to determine the 7 accommodative or refractive states of the human eye or the range of power of vision of the 8 human eye;

9 (3) The prescription or adaptation without the use of drugs, medicines or surgery, of 10 lenses, prisms, or ocular exercises to correct defects or abnormal conditions of the human eye 11 or to adjust the human eye to the conditions of special occupation.] **1. The "practice of**

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

12 **optometry" is the examination, diagnosis, treatment, and preventative care of the eye,**  
13 **adnexa, and vision. The practice includes, but is not limited to:**

14 **(1) The examination of the eye, adnexa, and vision to determine the accommodative**  
15 **and refractive states, visual perception, conditions, and diseases;**

16 **(2) The diagnosis and treatment of conditions or diseases of the eye, adnexa, and**  
17 **vision;**

18 **(3) The performance of diagnostic procedures and ordering of laboratory and**  
19 **imaging tests for the diagnosis of vision and conditions and diseases of the eye and adnexa;**

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

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

24 **(6) The employment of objective or subjective mechanical means to determine the**  
25 **accommodative or refractive states of the human eye;**

26 **(7) The prescription or adaptation of lenses, prisms, devices, or ocular exercises to**  
27 **correct defects or abnormal conditions of the human eye or vision or to adjust the human**  
28 **eye to special conditions;**

29 **(8) The prescription and fitting of ophthalmic or contact lenses and devices;**

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

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

32 **2. An optometrist may not perform surgery, including the use of lasers for**  
33 **treatment of any disease or condition or for the correction of refractive error.**

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

36 **(1) "Eye", the human eye;**

37 **(2) "Adnexa", all structures adjacent to the eye and the conjunctiva, lids, lashes,**  
38 **and lacrimal system;**

39 **(3) "Board", the Missouri state board of optometry;**

40 **(4) "Diagnostic pharmaceutical agents", topically applied pharmaceuticals used for**  
41 **the purpose of conducting an examination of the eye, adnexa, and vision;**

42 **(5) "Low vision care", the examination, treatment, and management of patients**  
43 **with visual impairments not treatable by conventional eyewear or contact lenses and may**  
44 **include a vision rehabilitation program to enhance remaining vision skills;**

45 **(6) "Pharmaceutical agents", any diagnostic and therapeutic drug or combination**  
46 **of drugs that assist the diagnosis, prevention, treatment, or mitigation of abnormal**  
47 **conditions or symptoms of the human eye, adnexa, and vision;**

48 (7) "Therapeutic pharmaceutical agents", those pharmaceuticals, excluding  
49 injectable agents, used for the treatment of conditions or diseases of the eye, adnexa, and  
50 vision;

51 (8) "Vision therapy", a treatment regimen to improve a patient's diagnosed visual  
52 dysfunctions, prevent the development of visual problems, or enhance visual performance  
53 to meet the defined needs of the patient.

336.020. It shall be unlawful for any person to practice [optometry or] , to attempt to  
2 practice [optometry], or to **offer to practice optometry, or to** be employed by [a] **any person,**  
3 corporation, partnership, [or] association [for the purpose of practicing optometry] , **or other**  
4 **entity that practice or attempts to practice** without a [certificate of registration] **license** as [a  
5 registered] **an optometrist** issued by the [state] board [of optometry]. **Nothing in this section**  
6 **shall be construed to prohibit a person licensed or registered under chapter 334, RSMo,**  
7 **whose license is in good standing from acting within the scope of his or her practice.**

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

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

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

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

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

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

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

19 2. **The board may adopt reasonable rules and regulations providing for the**  
20 **examination and certification of optometrists who apply to the board for the authority to**  
21 **practice optometry in this state.**

336.040. Every person who desires to obtain a [certificate of registration] **license to**  
2 **practice optometry** shall apply [therefor] to the [state] board [of optometry], in writing, on

3 [blanks] **forms** prepared and furnished by the [state] board [of optometry]. [Each] **The**  
4 application shall [contain proof of the particular] **state the required** qualifications [required] of  
5 the applicant, [shall contain a statement that it is] **that the representations are** made under oath  
6 or affirmation and [that its representations] are true and correct to the **applicant's** best  
7 knowledge [and belief of the person signing same], subject to the penalties of making a false  
8 affidavit or declaration and shall be accompanied by the examination fee.

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

336.060. Whenever the provisions of this chapter have been complied with, and upon  
2 payment of the [certificate] **license** fee, the [state] board [of optometry] shall issue a [certificate  
3 of registration as a registered optometrist] **license as an optometrist**.

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

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

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

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

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

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

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

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

336.220. 1. [The state board of optometry may adopt reasonable rules and regulations  
2 providing for the examination and certification of registered optometrists who apply to the board  
3 for authority to administer pharmaceutical agents in the practice of optometry. Such  
4 pharmaceutical agents may be "diagnostic pharmaceutical agents" or "therapeutic pharmaceutical  
5 agents". As used in this section, the term "diagnostic pharmaceutical agents" means those  
6 topically applied pharmaceuticals used for the purpose of conducting an examination upon the  
7 eye or adnexa, and the term "therapeutic pharmaceutical agents" means those pharmaceuticals,  
8 excluding injectable agents, used for the treatment of conditions or diseases of the eye or the  
9 adnexa.

10 2. No registered optometrist shall administer diagnostic pharmaceutical agents or  
11 therapeutic pharmaceutical agents in the practice of optometry unless such person submits to the  
12 state board of optometry evidence of satisfactory completion of: a course of instruction in  
13 general and ocular pharmacology; which includes at least one hundred hours of approved,  
14 supervised, clinical training in the examination, diagnosis and treatment of conditions of the  
15 human eye and adnexa in a program supervised by a board-certified ophthalmologist; and such  
16 other educational requirements or examination as may be required by the board, and is certified  
17 by the board as qualified to administer diagnostic pharmaceutical agents and therapeutic  
18 pharmaceutical agents in the practice of optometry. An optometrist may not be certified by the  
19 board to administer therapeutic pharmaceutical agents unless the optometrist is certified to  
20 administer diagnostic pharmaceutical agents. The board shall not approve a course of instruction  
21 in general or ocular pharmacology unless it is taught by an institution utilizing both the didactic  
22 and clinical instruction in pharmacology and which is accredited by a regional or professional  
23 accrediting organization which is recognized by the United States Department of Education or  
24 its successors and the transcript for the course of instruction is certified to the board by the  
25 institution as being comparable in content to those courses in general and ocular pharmacology  
26 required by other licensing boards whose licenses or registrants are permitted the administration  
27 of pharmaceutical agents in the course of their professional practice for either diagnostic or  
28 therapeutic purposes or both.

29 3. In issuing a certificate of registration or a renewal of a certificate of registration, the  
30 state board of optometry shall:

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

34 (2) State upon the certificate of an optometrist certified by the board to administer  
35 therapeutic pharmaceutical agents in the practice of optometry that the optometrist is so certified.

36 4. Any provision of section 336.010 to the contrary notwithstanding, a registered

37 optometrist who is examined and so certified by the state board of optometry in the  
38 administration of diagnostic pharmaceutical agents or therapeutic pharmaceutical agents may  
39 administer those agents for which he is certified in the practice of optometry. An optometrist's  
40 prescriptions for therapeutic pharmaceutical agents should be dispensed by a pharmacist licensed  
41 under chapter 338, RSMo. When therapeutic pharmaceutical agents are dispensed by an  
42 optometrist the provisions of section 338.059, RSMo, shall apply.

43         5. An optometrist certified in the administration of therapeutic pharmaceutical agents  
44 may:

45             (1) Administer and prescribe pharmaceutical agents, excluding injectable agents, for the  
46 diagnosis and treatment of conditions or diseases of the eye or adnexa; and

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

49         6. Each optometrist certified in the administration of therapeutic pharmaceutical agents  
50 shall, within one year of August 28, 1995, complete a course of instruction approved by the  
51 board that includes at least twenty-four hours of training in the treatment of glaucoma. The  
52 board shall not approve a course of instruction in the treatment of glaucoma unless it is taught  
53 by an institution that is accredited by a regional or professional accrediting organization that is  
54 recognized by the United States Department of Education or its successor and the content for the  
55 course of instruction is certified to the board by the institution as being comparable in the content  
56 to those courses in the treatment of glaucoma required by other licensing boards whose licensees  
57 or registrants are permitted to treat glaucoma in the course of their professional practice; except  
58 that, any optometrist initially licensed in Missouri after December 31, 1990, who had previously  
59 passed the examination of the National Board of Examiners in Optometry in the year 1990, or  
60 anytime after such year, shall be exempt from the requirement of completing the course of  
61 instruction in the treatment of glaucoma required by this subsection. Until December 31, 1999,  
62 as a condition for the annual renewal of the certificate of registration, each optometrist certified  
63 in the administration of therapeutic pharmaceutical agents shall, as a condition for the annual  
64 renewal of certification through December 31, 1999, complete a continuing course of instruction  
65 of at least six hours in the treatment of glaucoma as approved by the board; provided that, such  
66 six hours may be credited against the initial course of at least twenty-four hours required by this  
67 section and against the educational optometric program of at least eight hours required by section  
68 336.080.

69         7. An optometrist certified by the board in the administration of therapeutic  
70 pharmaceutical agents may remove superficial foreign bodies from the eye and adnexa. An  
71 optometrist may not perform surgery, including the use of lasers for treatment of any disease or  
72 condition or for the correction of refractive error. An optometrist certified to use pharmaceutical

73 agents as provided in this section shall be held to the same standard of care in the use of such  
74 agents in the optometrist's diagnosis and treatment as are physicians, licensed by the Missouri  
75 state board of registration for the healing arts, who exercise that degree of skill and proficiency  
76 commonly exercised by ordinary, skillful, careful and prudent physicians and surgeons engaged  
77 in the practice of medicine.

78       8. Any optometrist authorized by the board to administer diagnostic pharmaceutical  
79 agents shall refer a patient to a physician licensed under chapter 334, RSMo, if an examination  
80 of the eyes indicates a condition, including reduced visual acuity, which requires medical  
81 treatment, further medical diagnosis, or further refraction. This referral is not required on known  
82 or previously diagnosed conditions. The record of the referral in the optometrist's notes shall  
83 have the standing of any business record. Any optometrist violating this section shall be subject  
84 to the provisions of section 336.110.] **Notwithstanding the provisions of subsection 1 of**  
85 **section 336.010, any optometrist who is not certified to use either diagnostic or therapeutic**  
86 **pharmaceutical agents shall continue to be prohibited from administering, dispensing, or**  
87 **prescribing the respective pharmaceutical agents unless the optometrist has completed an**  
88 **approved course of study and has been certified by the board. Such status shall be noted**  
89 **on the license at each renewal.**

90       2. Any optometrist authorized by the board to administer only diagnostic  
91 pharmaceutical agents shall refer a patient to a physician licensed under chapter 334,  
92 RSMo, if an examination of the eyes indicates a condition, including reduced visual acuity,  
93 which requires medical treatment, further medical diagnosis, or further refraction. This  
94 referral is not required on known or previously diagnosed conditions. The record of the  
95 referral in the optometrist's notes shall have the standing of any business record. Any  
96 optometrist violating this section shall be subject to the provisions of section 336.110.

97       3. An optometrist's prescriptions for therapeutic pharmaceutical agents shall be  
98 dispensed by a pharmacist licensed under chapter 338, RSMo. When therapeutic  
99 pharmaceutical agents are dispensed by an optometrist, the provisions of section 338.059,  
100 RSMo, shall apply.

101       4. An optometrist certified to use pharmaceutical agents shall be held to the  
102 standard of care in the use of pharmaceutical agents in the optometrist's diagnosis and  
103 treatment as are physicians licensed by the Missouri State Board of Registration for the  
104 Healing Arts, who exercise that degree of skill and learning ordinarily used under the same  
105 or similar circumstances by physicians and surgeons engaged in the practice of medicine.

106       5. The board may adopt reasonable rules and regulations providing for the  
107 examination and certification of optometrists who apply to the board for authority to  
108 administer and prescribe pharmaceutical agents in the practice of optometry.



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

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

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

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

12 2. The board may by rule and regulation require applicants under this  
13 section to satisfactorily complete any practical examination or any examination  
14 on Missouri laws required pursuant to section 336.050.]  
15

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

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