

**OPTOMETRY BOARD LAWS
AS OF THE 2019 LEGISLATIVE SESSION**

**TITLE 37, CHAPTER 10
OPTOMETRY**

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CHAPTER 10 OPTOMETRY

Chapter Cross-References

Professional service corporations, Title 35, ch. 4.

Optometrist to report child abuse, 41-3-201.

Duty of optometrist to report violation of Montana Elder and Persons With Developmental Disabilities Abuse Prevention Act, 52-3-811.

Chapter Administrative Rules

Title 24, chapter 168, ARM Board of Optometry.

Chapter Case Notes

Police Regulation: The practice of optometry is a proper subject for police regulation. *Johnson v. Great Falls*, 38 M 369, 99 P 1059 (1909).

Part 1 General

37-10-101. Definitions — practice of optometry. (1) The practice of optometry is the profession constituting the art and science of visual care and includes any one of the following acts:

(a) the optometric examination or optometric diagnosis of all of those physiological or anatomical parts or functions that consummate the process of human vision to ascertain the presence of abnormal conditions or functions that may be optometrically diagnosed, corrected, remedied, or relieved;

(b) the employment of any optometric means for the purpose of detecting any condition of the process of vision that may have any significance in a complete optometric eye and vision examination, including the employment and administration of drugs topically applied for examination purposes, limited to cycloplegics, mydriatics, topical anesthetics, dyes such as fluorescein, and for emergency use only, miotics;

(c) the application or prescription of ophthalmic lenses, contact lenses, prisms, orthoptics, visual training, and any physical, mechanical, or physiological therapy and the furnishing or application of any prosthetic or therapeutic devices for the correction or relief of visual anomalies;

(d) the administration, dispensation, and prescription of the oral analgesics codeine, propoxyphene, hydrocodone, and dihydrocodeine, alone or in combination with nonscheduled or nonregulated drugs; and

(e) the administration, dispensation, and prescription of those drugs approved by the board for use in ocular treatment limited to the anterior segment of the eye and adnexa. Glaucoma may be treated.

(2) Subsection (1) does not prohibit an optometrist from removing from the eye or adnexa a foreign body that is not intraocular.

(3) Subsection (1) does not allow an optometrist to perform surgery or laser surgery for any purpose.

(4) Unless the context requires otherwise, in this chapter:

(a) "board" means the board of optometry provided for in 2-15-1736; and

(b) "department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

History: (1), (2)En. Ch. 138, L. 1907; Sec. 1607, Rev. C. 1907; re-en. Sec. 3155, R.C.M. 1921; re-en. Sec. 3155, R.C.M. 1935; amd. Sec. 1, Ch. 252, L. 1959; amd. Sec. 1, Ch. 361, L. 1977; Sec. 66-1301, R.C.M. 1947; (3)En. 66-1301.1 by Sec. 129, Ch. 350, L. 1974; Sec. 66-1301.1, R.C.M. 1947; R.C.M. 1947, 66-1301, 66-1301.1; amd. Sec. 3, Ch. 274, L. 1981; amd. Sec. 2, Ch. 588, L. 1987; amd. Sec. 3, Ch. 121, L. 1993; amd. Sec. 1, Ch. 306, L. 1993; amd. Sec. 1, Ch. 34, L. 1999; amd. Sec. 119, Ch. 483, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 483 in (4)(b) substituted reference to department of labor and industry for reference to department of commerce and substituted "part 17" for "part 18". Amendment effective July 1, 2001.

1999 Amendment: Chapter 34 in (1)(b) near beginning after "optometric means" deleted "excluding the use of surgery"; in (1)(c) at end after "anomalies" deleted "excluding surgery"; in (1)(e) near middle of first sentence before "drugs" deleted "topical" and in second sentence after "Glaucoma may" deleted "not"; inserted (3) clarifying that the section does not allow an optometrist to perform surgery; and made minor changes in style. Amendment effective October 1, 1999.

1993 Amendments: Chapter 121 in (3)(a) substituted "optometry" for "optometrists"; and made minor changes in style.

Chapter 306 in first sentence of (1)(e), after "drugs", deleted "not including corticosteroids"; and made minor changes in style.

1987 Amendment: Inserted (1)(d) including in the practice of optometry the administration, dispensation, and prescription of named oral analgesics; inserted (1)(e) including in the practice of optometry the administration, dispensation, and prescription of Board-approved topical drugs, except for the treatment of glaucoma; and in (2) substituted "Nothing in subsection (1) prohibits an optometrist from removing from the eye or adnexa a foreign body that is not intraocular" for "Nothing in subsection (1) allows optometrists to treat diseases of the eye."

1981 Amendment: Substituted "department of commerce" for "department of professional and occupational licensing" in (3)(b); changed internal references to the department and the board.

Cross-References

Exemptions from physician's licensing requirements, 37-3-103.

Administrative Rules

ARM 24.168.301 Definitions.

ARM 24.168.421 Postoperative care.

Attorney General's Opinions

Optometry — Who May Fit Contact Lenses: Only duly licensed medical practitioners, commissioned officers of the U.S. Armed Forces whose regular duty includes eye care and treatment, and duly licensed optometrists may prescribe and fit a contact lens or lenses or dispense an ophthalmic lens or lenses in this state. 28 A.G. Op. 46 (1959).

37-10-102. Exemptions. Nothing in this chapter shall be construed to apply to:

- (1) physicians and surgeons authorized to practice under the laws of the state of Montana;
- (2) a person employed in the office of and acting under the direct personal supervision of a physician or surgeon;
- (3) an optician performing the required mechanical work under an order or prescription signed by a duly licensed physician, surgeon, or optometrist;
- (4) commissioned officers of the armed forces of the United States performing functions of this chapter in the line of their regular duty; or
- (5) persons who sell spectacles or eyeglasses without attempting to traffic upon assumed skill in adapting them to the eye.

History: Ap. p. Ch. 138, L. 1907; Sec. 1621, Rev. C. 1907; re-en. Sec. 3169, R.C.M. 1921; re-en. Sec. 3169, R.C.M. 1935; amd. Sec. 6, Ch. 252, L. 1959; amd. Sec. 1, Ch. 512, L. 1977; Sec. 66-1316, R.C.M. 1947; Ap. p. Ch. 138, L. 1907; Sec. 1608, Rev. C. 1907; re-en. Sec. 3156, R.C.M. 1921; amd. Sec. 1, Ch. 171, L. 1925; re-en. Sec. 3156, R.C.M. 1935; amd. Sec. 1, Ch. 130, L. 1939; amd. Sec. 2, Ch. 252, L. 1959; amd. Sec. 1, Ch. 88, L. 1967; amd. Sec. 130, Ch. 350, L. 1974; Sec. 66-1302, R.C.M. 1947; R.C.M. 1947, 66-1302(part), 66-1316.

Attorney General's Opinions

Optometry — Who May Fit Contact Lenses: Only duly licensed medical practitioners, commissioned officers of the U.S. Armed Forces whose regular duty includes eye care and treatment, and duly licensed optometrists may prescribe and fit a contact lens or lenses or dispense an ophthalmic lens or lenses in this state. 28 A.G. Op. 46 (1959).

37-10-103. Use of drugs not prohibited by pharmacy law. The use of drugs by a licensed optometrist as stated in 37-10-101 is not prohibited by Title 37, chapter 7.

History: En. 66-1301.2 by Sec. 2, Ch. 361, L. 1977; R.C.M. 1947, 66-1301.2; amd. Sec. 3, Ch. 588, L. 1987.

Compiler's Comments

1987 Amendment: After "optometrist" deleted "for examination purposes".

Administrative Rules

ARM 24.168.911 Ocular therapeutic approved drugs.

37-10-104. Public agencies — discrimination prohibited. All agencies of the state and its subdivisions administering relief, public assistance, public welfare assistance, social security health insurance, or other health service under the laws of this state shall accept the services of licensed optometrists for any service covered by their licenses rendered to any person receiving benefits from said agents or bodies and shall pay for such services in the same manner as other ocular practitioners rendering similar services. None of the governmental agencies or agents, officials, or employees thereof, including the public schools, shall, in the performance of their duties, discriminate in any way among licensed ocular practitioners.

History: En. 66-1317 by Sec. 7, Ch. 252, L. 1959; R.C.M. 1947, 66-1317.

Cross-References

Illegal discrimination, Title 49, ch. 2.

Governmental code of fair practices, Title 49, ch. 3.

37-10-105. Purpose. The legislature finds that the practice of the profession of optometry is a privilege and is not a natural right of individuals. The legislature considers it necessary, in the interests of protecting the public health, safety, and welfare and in order to provide for the optometric needs of the public, to provide laws and delegate rulemaking authority regarding the granting of licenses and their subsequent use so that the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of optometry.

History: En. Sec. 2, Ch. 121, L. 1993.

Part 2 Board of Optometry

Part Cross-References

Right to know, Art. II, sec. 9, Mont. Const.

Seal defined, 1-4-201.

Manner of making seal, 1-4-202.

Open meetings, Title 2, ch. 3, part 2.

Meeting defined, 2-3-202.

Adoption and publication of rules, Title 2, ch. 4, part 3.

Allocation of boards for administrative purposes, 2-15-121.

Quasi-judicial boards, 2-15-124.

Board established, 2-15-1736.

Duties of Department, Director, and boards, Title 37, ch. 1, part 1.

Duty of Department to provide facilities, 37-1-101.

Disrupting meeting as disorderly conduct, 45-8-101.

Part Administrative Rules

Title 24, chapter 168, subchapter 1, ARM Organizational rule.

Title 24, chapter 168, subchapter 2, ARM Procedural rules.

37-10-201. Organization — meetings. The board shall annually choose from its members a president and secretary, both of whom may administer oaths and take affidavits. The board shall meet at least once each year, at Helena or some other place within the state designated by the president and, in addition, whenever the president and secretary call a meeting at a location within the state. The department shall keep a record of the proceedings of the board, which must be open to public inspection.

History: En. Ch. 138, L. 1907; Sec. 1610, Rev. C. 1907; re-en. Sec. 3158, R.C.M. 1921; amd. Sec. 3, Ch. 171, L. 1925; amd. Sec. 1, Ch. 44, L. 1927; re-en. Sec. 3158, R.C.M. 1935; amd. Sec. 132, Ch. 350, L. 1974; R.C.M. 1947, 66-1304; amd. Sec. 4, Ch. 121, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 121 in second sentence, after "place", inserted "within the state", after "president" deleted "on the fourth Monday of July", after "whenever" deleted "and wherever", and after "meeting" inserted "at a location within the state"; and made minor changes in style. Amendment effective March 18, 1993.

Administrative Rules

ARM 24.168.203 Board meetings.

37-10-202. Rulemaking power — seal. (1) The board may adopt rules for the regulation, conduct, supervision, and procedure governing all applicants for licensure as optometrists and the practice of optometry not inconsistent with the provisions of this chapter.

(2) The board shall have a common seal.

History: En. Ch. 138, L. 1907; Sec. 1609, Rev. C. 1907; re-en. Sec. 3157, R.C.M. 1921; amd. Sec. 2, Ch. 171, L. 1925; re-en. Sec. 3157, R.C.M. 1935; amd. Sec. 2, Ch. 130, L. 1939; amd. Sec. 131, Ch. 350, L. 1974; R.C.M. 1947, 66-1303; amd. Sec. 30, Ch. 126, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 126 in (1) near middle after "applicants for" substituted "licensure" for "certificates of registration". Amendment effective July 1, 2005.

Administrative Rules

Title 24, chapter 168, ARM Board of Optometry.

37-10-203. Compensation of members — expenses — deposit of moneys. (1) Each member of the board is entitled to receive compensation and travel expenses as provided for in 37-1-133.

(2) Money collected by the department shall be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6).

History: En. Ch. 138, L. 1907; Sec. 1617, Rev. C. 1907; re-en. Sec. 3165, R.C.M. 1921; amd. Sec. 5, Ch. 171, L. 1925; re-en. Sec. 3165, R.C.M. 1935; amd. Sec. 5, Ch. 252, L. 1959; amd. Sec. 121, Ch. 147, L. 1963; amd. Sec. 23, Ch. 93, L. 1969; amd. Sec. 136, Ch. 350, L. 1974; amd. Sec. 32, Ch. 439, L. 1975; R.C.M. 1947, 66-1311; amd. Sec. 15, Ch. 474, L. 1981; amd. Sec. 1, Ch. 277, L. 1983.

Compiler's Comments

1983 Amendment: Substituted reference to state special revenue fund for reference to earmarked revenue fund.

1981 Amendment: In (1) after "board" substituted language that refers to compensation and travel expenses for "may receive as compensation the sum of \$25 and travel expenses as provided for in 2-18-501 through 2-18-503 for each day actually engaged in the duties of his office".

Board Compensation and Travel Expenses — Preamble: The preamble of SB 463 (Ch. 474, L. 1981), which provided for uniform compensation and travel expenses for Board members, is located in the compiler's comments under 37-1-133.

37-10-204. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 6, Ch. 588, L. 1987.

Licensing

Part Cross-References

- Adoption and publication of rules, Title 2, ch. 4, part 3.
- Licensing to follow contested case procedure, 2-4-631.
- Affidavits, Title 26, ch. 1, part 10.
- Unfair trade practices and consumer protection, Title 30, ch. 14.
- Duty of Department to administer and grade examinations, 37-1-101.
- Standardized forms, 37-1-104.
- Reporting disciplinary actions against licensees, 37-1-105.
- Duty of Board to adopt and enforce licensing and certification rules, 37-1-131.
- Licensing boards to establish fees commensurate with costs, 37-1-134.
- Licensing investigation and review — record access, 37-1-135.
- Disciplinary authority of boards — injunctions, 37-1-136.
- Grounds for disciplinary action as grounds for license denial — conditions to new licenses, 37-1-137.
- Licensure of criminal offenders, Title 37, ch. 1, part 2.
- Nondiscrimination in licensing, 49-3-204.

37-10-301. License required for practice — unlawful acts — injunction. (1) A person may not:

- (a) practice optometry in this state unless that person has first obtained a license;
- (b) sell, barter, or offer to sell or barter a license issued by the department;
- (c) purchase or procure by barter a license with intent to use the license as evidence of the holder's qualification to practice optometry;
- (d) materially alter with fraudulent intent a license;
- (e) use or attempt to use a license that has been purchased, fraudulently issued, counterfeited, or materially altered as a valid license;
- (f) practice optometry under a false or assumed name;
- (g) willfully make a materially false statement in an application for a license;
- (h) advertise by displaying a sign or by otherwise claiming to be an optometrist without having at the time a valid license;
- (i) replace or duplicate ophthalmic lenses with or without a prescription or to dispense ophthalmic lenses from prescriptions without having at the time a valid license as an optometrist. However, this subsection (1)(i) does not prevent an optical mechanic from:
 - (i) doing the merely mechanical work on an ophthalmic lens that is ordered on a prescription signed by a registered optometrist and is dispensed only by the optometrist or a person employed by the optometrist and who does so in the office of and under the direct personal supervision of an optometrist; or
 - (ii) replacing or duplicating an existing lens for glasses;
 - (j) take or make measurements for the purpose of fitting or adapting ophthalmic lenses to the human eye without having at the time a valid license. A person who takes or makes measurements or uses mechanical devices for this purpose or who, in the sale of spectacles, eyeglasses, or lenses, uses in the testing of the eyes lenses other than the lenses actually sold is practicing optometry. However, this section does not apply to the prescriptions of qualified optometrists when sent to a recognized optical laboratory.
 - (k) measure, fit, or adapt a lens to direct, contiguous contact to the human eyeball without having at the time a valid license as an optometrist.

(2) When the board has reasonable cause to believe that a person is violating this section or a rule issued under this chapter, the board may, in addition to other remedies provided in this chapter, bring an action for injunctive relief in district court in the county where the violation occurs to enjoin the person from engaging in or continuing the violation. The department may employ legal counsel to prosecute these actions. In these actions and on notice and hearing, an order or judgment may be entered awarding a temporary restraining order or final injunction as considered proper by the judge of the district court in the county where the violation occurred.

History: En. Ch. 138, L. 1907; Sec. 1608, Rev. C. 1907; re-en. Sec. 3156, R.C.M. 1921; amd. Sec. 1, Ch. 171, L. 1925; re-en. Sec. 3156, R.C.M. 1935; amd. Sec. 1, Ch. 130, L. 1939; amd. Sec. 2, Ch. 252, L. 1959; amd. Sec. 1, Ch. 88, L. 1967;

amd. Sec. 130, Ch. 350, L. 1974; R.C.M. 1947, 66-1302(part); amd. Sec. 3, Ch. 66, L. 1981; amd. Sec. 4, Ch. 543, L. 1981; amd. Sec. 5, Ch. 121, L. 1993; amd. Sec. 31, Ch. 126, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 126 throughout section in 11 places substituted "license" for "certificate of registration"; and made minor changes in style. Amendment effective July 1, 2005.

1993 Amendment: Chapter 121 in (1)(g), after "application", deleted "for an examination by the department"; and made minor changes in style.

1981 Amendments: Chapter 66 deleted "and filed it or a certified copy with the county clerk and recorder of the county of his residence" from (1)(a).

Chapter 543 inserted (1)(i)(ii) which allows optical mechanic to do merely mechanical work on lens prescribed and dispensed by an optometrist; deleted subsection relating to advertising at a price or stated terms of a price or as being free, examination or treatment of the eyes, furnishing of optometrical services, or furnishing lenses; and inserted "measure, fit, or" in (1)(k).

Legislative Audit Committee Bill: Chapter 543, L. 1981 (SB 426), was introduced at the request of the Legislative Audit Committee. See State of Montana Report to the Legislature, Sunset Review Board of Optometrists, 79SS-5, Legislative Auditor, 1980.

County Registration — Preamble: The preamble to SB 307 (Ch. 66, L. 1981) provided: "WHEREAS, during the course of its sunset audits the legislative audit committee noted that licensees of several professions are required to register their licenses with the county clerk and recorder; and

WHEREAS, all such licensees are licensed by the state and county registration serves no public purpose.

THEREFORE, it is the intent of this bill to delete county registration requirements for members of various professions."

Cross-References

Willfully defined, 1-1-204.

Issuance of injunctions on nonjudicial days, 3-1-302, 3-5-302.

Contempts, Title 3, ch. 1, part 5.

Injunctions, Title 27, ch. 19.

Administrative Rules

ARM 24.168.411 General practice requirements.

ARM 24.168.2301 Unprofessional conduct.

Attorney General's Opinions

Optometry — Who May Fit Contact Lenses: Only duly licensed medical practitioners, commissioned officers of the U.S. Armed Forces whose regular duty includes eye care and treatment, and duly licensed optometrists may prescribe and fit a contact lens or lenses or dispense an ophthalmic lens or lenses in this state. 28 A.G. Op. 46 (1959).

37-10-302. Qualifications — application. (1) The board shall adopt rules relative to and governing the qualifications of applicants for licensure as optometrists.

(2) A person is not eligible to receive a license unless that person is of good moral character.

(3) A person is not eligible to receive a license unless that person has graduated from an accredited school of optometry in which the practice and science of optometry is taught in a course of study that is accredited by the association of regulatory boards of optometry.

(4) An applicant for a license shall file a completed application on a form provided by the department and pay a fee prescribed by the board.

History: En. Ch. 138, L. 1907; Sec. 1611, Rev. C. 1907; amd. Sec. 1, Ch. 128, L. 1917; re-en. Sec. 3159, R.C.M. 1921; amd. Sec. 4, Ch. 171, L. 1925; re-en. Sec. 3159, R.C.M. 1935; amd. Sec. 3, Ch. 130, L. 1939; amd. Sec. 3, Ch. 252, L. 1959; amd. Sec. 24, Ch. 94, L. 1973; amd. Sec. 133, Ch. 350, L. 1974; R.C.M. 1947, 66-1305(1) thru (5); amd. Sec. 3, Ch. 241, L. 1981; amd. Sec. 23, Ch. 345, L. 1981; amd. Sec. 6, Ch. 121, L. 1993; amd. Sec. 32, Ch. 126, L. 2005; amd. Sec. 47, Ch. 467, L. 2005; amd. Sec. 15, Ch. 502, L. 2007; amd. Sec. 28, Ch. 109, L. 2009.

Compiler's Comments

2009 Amendment: Chapter 109 in (3) at end substituted "association of regulatory boards of optometry" for "international association of boards of examiners in optometry". Amendment effective October 1, 2009.

Saving Clause: Section 53, Ch. 109, L. 2009, was a saving clause.

Severability: Section 54, Ch. 109, L. 2009, was a severability clause.

2007 Amendment: Chapter 502 in (2) before "of good" deleted "18 years of age or older and"; in (3) near middle after "accredited" deleted "high school and from a"; and in (4) at beginning substituted "An applicant for" for "A person desiring". Amendment effective October 1, 2007.

Saving Clause: Section 52, Ch. 502, L. 2007, was a saving clause.

2005 Amendments — Composite Section: Chapter 126 in (1) near end of first sentence after "applicants for" substituted "licensure" for "certificates of registration" and near end of fifth sentence after "requirements for a" substituted "license" for "certificate" (amendment in fifth sentence rendered void by Ch. 467 amendment); in (2) after "receive a" substituted "license" for "certificate of registration"; in (3) near beginning after "receive a" substituted "license" for "certificate of registration", after "person has" substituted "graduated" for "certificates of graduation", and near middle after "study" deleted "covering 8 semesters or 4 years of actual attendance and"; in (4) near beginning after "desiring a" substituted "license" for "certificate of registration"; and in (5) near end after "receive a" substituted "license" for "certificate of registration" (amendment in (5) rendered void by Ch. 467 amendment). Amendment effective July 1, 2005.

Chapter 467 in (1) deleted former second through sixth sentences that read: "If the applicant does not meet the requirements of the rules, the applicant is not eligible to take an examination to practice optometry in this state. If the applicant meets the requirements of the rules, the applicant must pass an examination given by the national board of examiners in optometry on behalf of the department, subject to 37-1-101. Examinations must be practical in character and designed to ascertain the applicant's fitness to practice the profession of optometry and must be conducted in the English language. The department shall publish and distribute the examination requirements for a certificate to practice optometry in this state. The board may accept the grades an applicant has received in the written examinations given by the national board of examiners in optometry"; in (4) after "file" substituted "a completed application on a form provided by the department" for "an application, in the manner prescribed by the board"; deleted former (5) that read: "(5) A person who successfully passes the examination administered by the national board of examiners in optometry and who has met the requirements for qualification as an optometrist must be registered in a register kept by the department and, on the payment of a fee prescribed by the board, must receive a certificate of registration signed by the members of the board"; and made minor changes in style. Amendment effective July 1, 2005.

1993 Amendment: Chapter 121 in (1), in third sentence before "department", inserted "national board of examiners in optometry on behalf of the"; in (2) and at beginning of (3), after "eligible to", substituted "receive a certificate of registration" for "take the examination"; deleted former second sentence of (3) that read: "Instead of the certificates of graduation, an applicant for examination may, with like effect, furnish an affidavit that he has practiced optometry exclusively for a period of at least 6 years in some other state or states"; in (4), near beginning after "desiring", substituted "a certificate of registration" for "to be examined in optometry" and near middle, after "board", substituted "pay a fee prescribed by the board" for "at least 4 weeks before the examination is held, and a fee prescribed by the board shall accompany the application"; in (5), near beginning after "examination", inserted "administered by the national board of examiners in optometry and who has met the requirements for qualification as an optometrist"; and made minor changes in style. Amendment effective March 18, 1993.

1981 Amendments: Chapter 341 deleted "a citizen of the United States" and inserted "or older" after "18 years of age" in (2).

Chapter 345 substituted "and a fee prescribed by the board" for "and a fee of \$25" near the end of (4); and substituted "the payment of a fee prescribed by the board" for "the payment of a fee of \$10" in the middle of (5).

Fees Prescribed by Board — Statement of Intent and Preamble: Chapter 345, L. 1981 (SB 412), which amended this section relating to the Board prescribing fees, contained a statement of intent and a preamble. For the texts see compiler's comments at 37-1-134.

Citizenship Qualifications — Preamble: The preamble to SB 412 (Ch. 341, L. 1981), provided: "WHEREAS, the Legislative Audit Committee in its sunset reviews determined that a few professions and occupations require citizenship as a qualification for licensure; and

WHEREAS, a number of courts, including the United States Supreme Court, have found citizenship qualifications for licensure unconstitutional.

THEREFORE, it is the intent of this act to delete citizenship requirements as a qualification for licensure by those boards presently having a citizenship requirement."

Administrative Rules

ARM 24.168.401 Fee schedule.

ARM 24.168.402 Licensure requirements.

ARM 24.168.2307 Screening panel.

37-10-303. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Ch. 138, L. 1907; Sec. 1611, Rev. C. 1907; amd. Sec. 1, Ch. 128, L. 1917; re-en. Sec. 3159, R.C.M. 1921; amd. Sec. 4, Ch. 171, L. 1925; re-en. Sec. 3159, R.C.M. 1935; amd. Sec. 3, Ch. 130, L. 1939; amd. Sec. 3, Ch. 252, L. 1959; amd. Sec. 24, Ch. 94, L. 1973; amd. Sec. 133, Ch. 350, L. 1974; R.C.M. 1947, 66-1305(6); amd. Sec. 7, Ch. 121, L. 1993.

37-10-304. Course in use of diagnostic and therapeutic drugs required. (1) (a) In addition to the requirements of 37-10-302, each person desiring to practice optometry shall satisfactorily complete a course with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions.

(b) A person presently licensed to practice optometry who wishes to employ diagnostic agents shall satisfactorily complete a course referred to in subsection (1)(a) and shall pass an examination.

(c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by a regional or professional accreditation organization that is recognized or approved by the national commission on accrediting or the United States commissioner of education.

(2) (a) Each person desiring to practice optometry shall:

(i) pass an examination, of the association of regulatory boards of optometry, on the diagnosis, treatment, and management of ocular disease; or

(ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular diseases. The course and examination must be conducted by an institution accredited by a regional or professional accreditation organization that is recognized or approved by the national commission on accrediting or the United States commissioner of education.

(b) A person presently licensed to practice optometry who wishes to employ therapeutic pharmaceutical agents must meet the requirements of subsection (2)(a).

History: En. 66-1305.1 by Sec. 3, Ch. 361, L. 1977; R.C.M. 1947, 66-1305.1; amd. Sec. 4, Ch. 588, L. 1987; amd. Sec. 48, Ch. 429, L. 1995; amd. Sec. 33, Ch. 126, L. 2005; amd. Sec. 46, Ch. 130, L. 2005; amd. Sec. 48, Ch. 467, L. 2005.

Compiler's Comments

2005 Amendments — Composite Section: Chapter 126 in (1)(a) near middle after "course" deleted "prescribed by the board of medical examiners with consultation and approval by the board of optometrists"; and made minor changes in style. Amendment effective July 1, 2005.

Chapter 130 in (1)(a) near middle after "board of" substituted "optometry" for "optometrists" (amendment in (1)(a) rendered void by Ch. 126 amendment); and made minor changes in style. Amendment effective October 1, 2005.

Chapter 467 in (1)(c) deleted former second sentence that read: "The course must also be approved by the board"; deleted former (1)(d) that read: "(d) The board shall provide for an examination in competency in the use of diagnostic drugs and shall issue a certificate to those applicants who pass the examination"; in (2)(a)(i) near beginning after "of the" substituted "association of regulatory boards" for "international association of boards of examiners"; in (2)(a)(ii) deleted former third sentence that read: "The course and examination must also be approved by the board"; deleted former (2)(c) that read: "(c) The board shall:

(i) provide for an examination in competency in the diagnosis, treatment, and management of therapeutic pharmaceutical agents; and

(ii) issue a certificate to an applicant who passes the examination"; and made minor changes in style. Amendment effective July 1, 2005.

1995 Amendment: Chapter 429 near beginning of (1), after "37-10-302", deleted "or 37-10-303, whichever is applicable"; at beginning of (2)(a) deleted "In addition to the requirements of 37-10-302 or 37-10-303, whichever is applicable"; and made minor changes in style.

Severability: Section 131, Ch. 429, L. 1995, was a severability clause.

Saving Clause: Section 132, Ch. 429, L. 1995, was a saving clause.

Applicability: Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

1987 Amendment: Redesignated former (1) through (4) as (1)(a) through (1)(d); inserted (2) providing requirements for applicants and licensees who desire to use therapeutic drugs in the practice of optometry; and corrected internal references.

Cross-References

Dispensing of drugs by health care practitioners, Title 37, ch. 2, part 1.
Board of Medical Examiners, Title 37, ch. 3, part 2.
Dangerous drugs, Title 45, ch. 9.

Administrative Rules

Title 24, chapter 168, subchapter 9, ARM Therapeutic pharmaceutical agents.
Title 24, chapter 168, subchapter 21, ARM Continuing education and renewals.

Attorney General's Opinions

Board: The word "board" as used in this section means the Board of Medical Examiners. 37 A.G. Op. 99 (1977).

37-10-305. Repealed. Sec. 4, Ch. 66, L. 1981.

History: En. Ch. 138, L. 1907; Sec. 1614, Rev. C. 1907; re-en. Sec. 3162, R.C.M. 1921; re-en. Sec. 3162, R.C.M. 1935; amd. Sec. 4, Ch. 130, L. 1939; amd. Sec. 135, Ch. 350, L. 1974; R.C.M. 1947, 66-1308.

37-10-306. License to be displayed in office. Every person to whom a license is granted shall display the license in a conspicuous part of the person's office in which the practice of optometry is conducted.

History: En. Ch. 138, L. 1907; Sec. 1616, Rev. C. 1907; re-en. Sec. 3164, R.C.M. 1921; re-en. Sec. 3164, R.C.M. 1935; R.C.M. 1947, 66-1310; amd. Sec. 34, Ch. 126, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 126 near beginning after "whom a" substituted "license" for "certificate of examination or registration"; and made minor changes in style. Amendment effective July 1, 2005.

37-10-307. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Ch. 138, L. 1907; Sec. 1613, Rev. C. 1907; amd. Sec. 2, Ch. 128, L. 1917; re-en. Sec. 3161, R.C.M. 1921; amd. Sec. 4 1/2, Ch. 171, L. 1925; re-en. Sec. 3161, R.C.M. 1935; amd. Sec. 4, Ch. 252, L. 1959; amd. Sec. 120, Ch. 147, L. 1963; amd. Sec. 1, Ch. 75, L. 1971; amd. Sec. 134, Ch. 350, L. 1974; R.C.M. 1947, 66-1307; amd. Sec. 24, Ch. 345, L. 1981; amd. Sec. 4, Ch. 390, L. 1983; amd. Sec. 17, Ch. 492, L. 1997; amd. Sec. 16, Ch. 271, L. 2003.

37-10-308. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. 66-1318 by Sec. 1, Ch. 79, L. 1971; amd. Sec. 139, Ch. 350, L. 1974; R.C.M. 1947, 66-1318; amd. Sec. 8, Ch. 121, L. 1993.

37-10-309 and 37-10-310 reserved.

37-10-311. Repealed. Sec. 128, Ch. 429, L. 1995.

History: (1) thru (3)En. Ch. 138, L. 1907; Sec. 1618, Rev. C. 1907; amd. Sec. 3, Ch. 128, L. 1917; re-en. Sec. 3166, R.C.M. 1921; amd. Sec. 6, Ch. 171, L. 1925; re-en. Sec. 3166, R.C.M. 1935; amd. Sec. 5, Ch. 130, L. 1939; amd. Sec. 137, Ch. 350, L. 1974; Sec. 66-1312, R.C.M. 1947; (4)En. Sec. 3166-A by Sec. 2, Ch. 44, L. 1927; re-en. Sec. 3166.1, R.C.M. 1935; Sec. 66-1313, R.C.M. 1947; R.C.M. 1947, 66-1312, 66-1313; amd. Sec. 5, Ch. 543, L. 1981; amd. Sec. 5, Ch. 588, L. 1987; amd. Sec. 9, Ch. 121, L. 1993; amd. Sec. 13, Ch. 619, L. 1993.

37-10-312. Duty of county attorneys and attorney general. It is the duty of a county attorney of a county wherein a violation under this chapter, except 37-10-104, is alleged to have occurred to prosecute such violation in the district court in said county. The state attorney general shall appear as counsel for the board in the state supreme court.

History: En. Ch. 138, L. 1907; Sec. 1620, Rev. C. 1907; re-en. Sec. 3168, R.C.M. 1921; re-en. Sec. 3168, R.C.M. 1935; amd. Sec. 1, Ch. 204, L. 1965; R.C.M. 1947, 66-1315.

Cross-References

Duties of Attorney General, 2-15-501.

Prosecutorial duties of County Attorney, 7-4-2712.

Duties of County Attorney relating to state matters, 7-4-2716.

37-10-313. Penalty for violations — deposit of fines. A person who violates this chapter, except 37-10-104, or the rules of the board is guilty of a misdemeanor and on conviction shall be fined not less than \$200 and not more than \$500 or imprisoned in the county jail not exceeding 6 months or both fined and imprisoned. Fines collected, except those collected by a justice's court, must be deposited in the state general fund.

History: En. Ch. 138, L. 1907; Sec. 1619, Rev. C. 1907; re-en. Sec. 3167, R.C.M. 1921; amd. Sec. 8, Ch. 171, L. 1925; re-en. Sec. 3167, R.C.M. 1935; amd. Sec. 6, Ch. 130, L. 1939; amd. Sec. 122, Ch. 147, L. 1963; amd. Sec. 138, Ch. 350, L. 1974; R.C.M. 1947, 66-1314; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 25, Ch. 557, L. 1987; amd. Sec. 35, Ch. 126, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 126 at end of second sentence after "state" substituted "general fund" for "special revenue fund for the use of the board, subject to 37-1-101(6)"; and made minor changes in style. Amendment effective July 1, 2005.

1987 Amendment: Near beginning of last sentence, after "collected", inserted "except those collected by a justice's court".

1983 Amendment: Substituted reference to state special revenue fund for reference to earmarked revenue fund.

Cross-References

Collection and disposition of fines, penalties, forfeitures, and fees, 3-10-601.

Criminal responsibility and accountability of corporations, 45-2-311, 45-2-312.