

GREEN SHEET REDIGEST

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DIGEST

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Anders

HB No. 449

Abstract: Revises qualifications for licensure as an optometrist and expands the powers of the La. State Board of Optometry Examiners.

Present law (R.S. 37:1048) authorizes the La. State Board of Optometry Examiners (board) to regulate the practice of optometry.

Proposed law retains present law and provides the board with expanded regulatory power as follows:

- (1) The ability to levy civil penalties not to exceed \$1,000 against any person who fails to attend a hearing as a witness, or otherwise, after that person has been timely served with a summons or subpoena.
- (2) Authorization of the board's legal counsel to represent the state and the board in courts and before the agencies of this state or the U.S. to further the purposes of regulating the practice of optometry.
- (3) Whenever there is evidence that any person has engaged, is engaged, or is about to engage in acts or practices that violate the provisions in present law, the board may bring an action in the court having jurisdiction to stop such acts or practices and enforce compliance with state law or the board imposed rule, regulation, or order. Requires the court having jurisdiction to issue a temporary restraining order or a preliminary or permanent injunction commanding compliance with state law or the board imposed rule, regulation, or order. Further, the board may seek a mandatory injunction commanding that a person comply with state law or the board imposed rule, regulation, or order. Alternatively, the board may require the person to make restitution of any money received in violation of state law or the board imposed rule, regulation, or order. The board may also notify the district attorney having

jurisdiction over any such act, practice, or violation who may then institute criminal proceedings.

Present law (R.S. 37:1049) requires all persons desiring to practice optometry have graduated from a school or college of optometry that is approved by the board.

Proposed law retains present law and further requires those persons desiring to become licensed to practice optometry hold the graduate level Doctor of Optometry degree. Also, requires that applicants must have demonstrated that they have reached the qualification level necessary to become certified to treat abnormal conditions and pathology of the human eye and its adnexa, as established by state law and the rules, regulations, or orders administered by the board.

Present law (R.S. 37:1051) requires optometrists seeking to qualify for certification to treat abnormal conditions and pathology of the human eye and its adnexa to qualify for such certification from the board by furnishing proof of satisfactory completion of additional studies with an emphasis on the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and its adnexa. An optometrist seeking specialized certification must have current certification that he has completed a basic course in cardiopulmonary resuscitation and proof that he has an operable, automatic epinephrine injector in his office.

Proposed law makes present law only applicable to those optometrists who graduated from optometry school prior to 1993.

Present law (R.S. 37:1051) requires an applicant to pass the written portion of the examination given by the International Association of Boards of Optometry regarding the treatment and management of ocular disease to meet the requirement for additional studies in didactic education.

Proposed law provides the name of the written test in present law as the Treatment and Management of Ocular Disease examination. Further, changes the entity administering the examination from the International Association of Boards of Optometry to the National Board of Examiners in Optometry. Also, allows the board to approve other examinations concerning the use of pharmaceutical agents and the treatment and management of ocular disease.

Present law (R.S. 37:1052) provides that if an applicant successfully passes the required examination he will receive a board certificate entitling him to practice optometry in this state. Establishes that such certificate or renewal is the only evidence of the right of a person to practice optometry.

Proposed law changes present law by adding a requirement that applicants pay all applicable fees including the original license fee and the original therapeutic pharmaceutical agent certificate fee, within 90 days of the examination date, to receive certificates entitling him to practice optometry in La. Proposed law prohibits the issuance of certificates to practice optometry or therapeutic optometry to an applicant who fails to pay all applicable fees within 90 days of his examination date. Authorizes the licensure of the practice of therapeutic optometry which will be evidenced by certificates or renewals. Allows an applicant to file a new application and retake the examination.

Present law provides that the board, through its president, on motion in any court of competent jurisdiction, may cause to issue an injunction to enjoin any person from practicing optometry or violating any other of present law.

Proposed law retains present law.

Proposed law provides that the board may employ or retain legal counsel to represent the state and the board and to appear in the courts and before agencies of this state, or the courts and agencies of the United States, and of other states to carry out the purposes of present law.

Present law provides that any person adversely affected by a rule or decision of the board shall have standing in a court of competent jurisdiction to seek an injunction against enforcement of the rule or decision. If the court finds that the rule or decision is illegal, it shall issue an injunction against the board and may assess reasonable attorney fees and costs of court. The judgment for attorney fees and costs may be rendered in the same judgment in which the injunction is made absolute and shall be made payable by the board.

Proposed law removes present law.

Proposed law provides that the board, through its president, may file civil proceedings to collect civil penalties imposed by the board as a result of an investigation or other administrative proceeding which indicates that a violation of present law or of any rule or regulation of the board has occurred which is subject to civil penalties, or upon the failure of any person, firm, association, corporation, limited liability company, or trust to timely pay any civil penalty imposed by the board when due. The board shall be authorized to and shall be entitled to recover, from such party all costs of collection, including court costs, deposition, and other discovery costs, and reasonable attorney fees incurred by the board in collecting such civil penalty.

Proposed law provides that a judgment of a district court assessing civil penalties may be appealed suspensively to the appropriate court of appeal according to the provisions of the Louisiana Code of Civil Procedure. A judgment assessing civil penalties shall become executory when all delays for appeal have expired according to the Louisiana Code of Civil Procedure, and may be enforced as any other money judgment and shall be payable to the board.

Present law provides that proceedings shall be summary, with preference over ordinary proceedings, and tried by a judge without a jury.

Proposed law retains present law.

Proposed law provides that the board, through its president, may transmit such evidence as may be available concerning acts or practices or concerning apparent violations of this Chapter or of any rule, regulation, decision or order of the board, to the district attorney having jurisdiction over such acts, practices, and violations, who, in his or her discretion, may institute criminal proceedings.

Proposed law makes technical changes.

(Amends R.S. 37:1049(intro. para.) and (3), 1051(C)(1) and (3), 1052, 1063.1(C)(intro. para.) and 1064; Adds R.S. 37:1048(6)(c) and 1049(7))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Specifies that whenever the board has evidence that a person has engaged, is engaged, or is about to engage in any acts or practices that violates present law or board rule, regulation, or order the board may take certain actions.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the reengrossed bill.

1. Allows the board to institute civil proceedings and collect civil penalties, court costs, and reasonable attorney fees in a court of competent jurisdiction.

2. Allows the board to transmit evidence concerning acts or practices which violate present law to the district attorney having jurisdiction who, in his or her discretion, may institute criminal proceedings.
3. Technical amendments.