

"I am returning herewith without my approval as to one section of House Bill No. 681 entitled:

"AN ACT Relating to medical devices and equipment."

I am vetoing Section 2 in order to allow the normal rules of statutory construction to apply.

With the exception of Section 2, which I have vetoed, the remainder of House Bill No. 681 is approved."

CHAPTER 58

[House Bill No. 83]

OPTOMETRISTS—USE OF PHARMACEUTICAL DIAGNOSTIC AGENTS

AN ACT Relating to the practice of optometry; amending section 1, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.005; amending section 1, chapter 144, Laws of 1919 as amended by section 2, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.010; amending section 7, chapter 144, Laws of 1919 as last amended by section 47, chapter 158, Laws of 1979 and RCW 18.53.140; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.005 are each amended to read as follows:

The legislature finds and declares that the practice of optometry is a learned profession and affects the health, welfare and safety of the people of this state, and should be regulated in the public interest and limited to qualified persons licensed and authorized to practice under the provisions of ((this 1975 amendatory act)) chapters 18.53 and 18.54 RCW.

Sec. 2. Section 1, chapter 144, Laws of 1919 as amended by section 2, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.010 are each amended to read as follows:

(1) The practice of optometry is defined as the examination of the human eye, the examination and ascertaining any defects of the human vision system and the analysis of the process of vision. The practice of optometry may include, but not necessarily be limited to, the following:

((1)) (a) The employment of any objective or subjective means or method including the use of pharmaceutical agents topically applied to the eye for diagnostic purposes by those licensed under this chapter and who meet the requirements of subsection (2) of this section, and the use of any diagnostic instruments or devices for the examination or analysis of the human vision system, the measurement of the powers or range of human vision, or the determination of the refractive powers of the human eye or its functions in general; and

((2)) (b) The prescription and fitting of lenses, prisms, therapeutic or refractive contact lenses and the adaption or adjustment of frames and lenses used in connection therewith; and

((3)) (c) The prescription and provision of visual therapy, therapeutic aids and other optical devices; and

~~((4))~~ (d) The ascertainment of the perceptive, neural, muscular or pathological condition of the visual system; and

~~((5))~~ (e) The adaptation of prosthetic eyes.

(2) Those persons using pharmaceutical agents for diagnostic purposes in the practice of optometry shall have a minimum of sixty hours of didactic and clinical instruction in general and ocular pharmacology as applied to optometry, and certification from an institution of higher learning, accredited by a regional or professional accrediting organization and recognized or approved by the accrediting commission for senior colleges and universities of the western association of schools and colleges to qualify for certification by the optometry board of Washington to use pharmaceutical agents for diagnostic purposes. Such course or courses shall be the fiscal responsibility of the participating and attending optometrist.

Sec. 3. Section 7, chapter 144, Laws of 1919 as last amended by section 47, chapter 158, Laws of 1979 and RCW 18.53.140 are each amended to read as follows:

It shall be unlawful for any person:

(1) To sell or barter, or offer to sell or barter any license issued by the director; or

(2) To purchase or procure by barter any license with the intent to use the same as evidence of the holder's qualification to practice optometry; or

(3) To alter with fraudulent intent in any material regard such license; or

(4) To use or attempt to use any such license which has been purchased, fraudulently issued, counterfeited or materially altered as a valid license; or

(5) To practice optometry under a false or assumed name, or as a representative or agent of any person, firm or corporation with which the licensee has no connection: PROVIDED, Nothing in this chapter nor in the optometry law shall make it unlawful for any lawfully licensed optometrist or association of lawfully licensed optometrists to practice optometry under the name of any lawfully licensed optometrist who may transfer by inheritance or otherwise the right to use such name; or

(6) To wilfully make any false statements in material regard in an application for an examination before the director, or for a license; or

(7) To practice optometry in this state either for himself or any other individual, corporation, partnership, group, public or private entity, or any member of the licensed healing arts without having at the time of so doing a valid license issued by the director of licensing; or

(8) To in any manner barter or give away as premiums either on his own account or as agent or representative for any other purpose, firm or corporation, any eyeglasses, spectacles, lenses or frames; or

(9) To use drugs in the examination of eyes except diagnostic agents, topically applied, known generally as cycloplegics, mydriatics, topical anesthetics, dyes such as florescein, and for emergency use only, miotics, which

legend drugs a certified optometrist is authorized to purchase, possess and administer; or

(10) To use advertising whether printed, radio, display, or of any other nature, which is misleading or inaccurate in any material particular, nor shall any such person in any way misrepresent any goods or services (including but without limitation, its use, trademark, grade, quality, size, origin, substance, character, nature, finish, material, content, or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted; or

(11) To advertise the "free examination of eyes," "free consultation," "consultation without obligation," "free advice," or any words or phrases of similar import which convey the impression to the public that eyes are examined free or of a character tending to deceive or mislead the public, or in the nature of "bait advertising;" or

(12) To use an advertisement of a frame or mounting which is not truthful in describing the frame or mounting and all its component parts. Or advertise a frame or mounting at a price, unless it shall be depicted in the advertisement without lenses inserted, and in addition the advertisement must contain a statement immediately following, or adjacent to the advertised price, that the price is for frame or mounting only, and does not include lenses, eye examination and professional services, which statement shall appear in type as large as that used for the price, or advertise lenses or complete glasses, viz.: frame or mounting with lenses included, at a price either alone or in conjunction with professional services; or

(13) To use advertising, whether printed, radio, display, or of any other nature, which inaccurately lays claim to a policy or continuing practice of generally underselling competitors; or

(14) To use advertising, whether printed, radio, display or of any other nature which refers inaccurately in any material particular to any competitors or their goods, prices, values, credit terms, policies or services; or

(15) To use advertising whether printed, radio, display, or of any other nature, which states any definite amount of money as "down payment" and any definite amount of money as a subsequent payment, be it daily, weekly, monthly, or at the end of any period of time; or

(16) To violate any provision of this chapter or any rules and regulations promulgated thereunder.

NEW SECTION. Sec. 4. If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 27, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 23, 1981.

Filed in Office of Secretary of State April 23, 1981.