

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 941**

Introduced by Gay, 14.

Read first time January 14, 2010

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Uniform Credentialing Act; to amend  
2 sections 38-2605 and 38-2617, Reissue Revised Statutes  
3 of Nebraska, and section 38-2850, Revised Statutes  
4 Supplement, 2009; to redefine the practice of optometry  
5 to include dispensing contact lenses as prescribed; to  
6 provide for rules and regulations; to exclude certain  
7 activities from regulation under the Pharmacy Practice  
8 Act; and to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 38-2605, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           38-2605 (1) The practice of optometry means one or a  
4 combination of the following:

5           (a) The examination of the human eye to diagnose, treat,  
6 or refer for consultation or treatment any abnormal condition of  
7 the human eye, ocular adnexa, or visual system;

8           (b) The employment of instruments, devices,  
9 pharmaceutical agents, and procedures intended for the purpose  
10 of investigating, examining, diagnosing, treating, managing, or  
11 correcting visual defects or abnormal conditions of the human eye,  
12 ocular adnexa, or visual system;

13           (c) The prescribing and application of lenses, devices  
14 containing lenses, prisms, contact lenses, ophthalmic devices,  
15 orthoptics, vision training, pharmaceutical agents, and prosthetic  
16 devices to correct, relieve, or treat defects or abnormal  
17 conditions of the human eye, ocular adnexa, or visual system;

18           (d) The dispensing and sale of a contact lens, including  
19 a cosmetic or plano contact lens or a contact lens containing an  
20 ocular pharmaceutical agent which is classified by the federal Food  
21 and Drug Administration as a drug;

22           ~~(d)~~ (e) The ordering of procedures and laboratory tests  
23 rational to the diagnosis or treatment of conditions or diseases of  
24 the human eye, ocular adnexa, or visual system; and

25           ~~(e)~~ (f) The removal of superficial eyelid, conjunctival,

1 and corneal foreign bodies.

2 (2) The practice of optometry does not include the use  
3 of surgery, laser surgery, oral therapeutic agents used in the  
4 treatment of glaucoma, oral steroids, or oral immunosuppressive  
5 agents or the treatment of infantile/congenital glaucoma, which  
6 means the condition is present at birth.

7 Sec. 2. Section 38-2617, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 38-2617 (1) A licensed optometrist who administers or  
10 prescribes pharmaceutical agents for examination or for treatment  
11 shall provide the same standard of care to patients as that  
12 provided by a physician licensed in this state to practice  
13 medicine and surgery utilizing the same pharmaceutical agents  
14 for examination or treatment.

15 (2) An optometrist who dispenses a contact lens  
16 containing an ocular pharmaceutical agent which is classified by  
17 the federal Food and Drug Administration as a drug shall comply  
18 with the rules and regulations of the board relating to packaging,  
19 labeling, and record keeping. The board shall adopt and promulgate  
20 rules and regulations relating to packaging, labeling, and record  
21 keeping for such contact lenses.

22 Sec. 3. Section 38-2850, Revised Statutes Supplement,  
23 2009, is amended to read:

24 38-2850 As authorized by the Uniform Credentialing Act,  
25 the practice of pharmacy may be engaged in by a pharmacist, a

1 pharmacist intern, or a practitioner with a pharmacy license. The  
2 practice of pharmacy shall not be construed to include:

3 (1) Persons who sell, offer, or expose for sale  
4 completely denatured alcohol or concentrated lye, insecticides, and  
5 fungicides in original packages;

6 (2) Practitioners, other than veterinarians, certified  
7 nurse midwives, certified registered nurse anesthetists, and nurse  
8 practitioners, who dispense drugs or devices as an incident to  
9 the practice of their profession, except that if such practitioner  
10 regularly engages in dispensing such drugs or devices to his or  
11 her patients for which such patients are charged, such practitioner  
12 shall obtain a pharmacy license;

13 (3) Persons who sell, offer, or expose for sale  
14 nonprescription drugs or proprietary medicines, the sale of which  
15 is not in itself a violation of the Nebraska Liquor Control Act;

16 (4) Medical representatives, detail persons, or persons  
17 known by some name of like import, but only to the extent of  
18 permitting the relating of pharmaceutical information to health  
19 care professionals;

20 (5) Licensed veterinarians practicing within the scope of  
21 their profession;

22 (6) Certified nurse midwives, certified registered  
23 nurse anesthetists, and nurse practitioners who dispense sample  
24 medications which are provided by the manufacturer and are  
25 dispensed at no charge to the patient;

1           (7) Hospitals engaged in the compounding and dispensing  
2 of drugs and devices pursuant to chart orders for persons  
3 registered as patients and within the confines of the hospital,  
4 except that if a hospital engages in such compounding and  
5 dispensing for persons not registered as patients and within  
6 the confines of the hospital, such hospital shall obtain a pharmacy  
7 license or delegated dispensing permit;

8           (8) Optometrists who prescribe or dispense eyeglasses or  
9 contact lenses to their own patients, including contact lenses  
10 that contain and deliver ocular pharmaceutical agents as authorized  
11 under the Optometry Practice Act;

12           (9) Registered nurses employed by a hospital who  
13 administer pursuant to a chart order, or procure for such  
14 purpose, single doses of drugs or devices from original drug or  
15 device containers or properly labeled prepackaged drug or device  
16 containers to persons registered as patients and within the  
17 confines of the hospital;

18           (10) Persons employed by a facility where dispensed drugs  
19 and devices are delivered from a pharmacy for pickup by a patient  
20 or caregiver and no dispensing or storage of drugs or devices  
21 occurs;

22           (11) Persons who sell or purchase medical products,  
23 compounds, vaccines, or serums used in the prevention or cure of  
24 animal diseases and maintenance of animal health if such medical  
25 products, compounds, vaccines, or serums are not sold or purchased

1 under a direct, specific, written medical order of a licensed  
2 veterinarian; and

3 (12) A pharmacy or a person accredited by an accrediting  
4 body which or who, pursuant to a medical order, (a) administers,  
5 dispenses, or distributes medical gas or medical gas devices to  
6 patients or ultimate users or (b) purchases or receives medical  
7 gas or medical gas devices for administration, dispensing, or  
8 distribution to patients or ultimate users.

9 Sec. 4. Original sections 38-2605 and 38-2617, Reissue  
10 Revised Statutes of Nebraska, and section 38-2850, Revised Statutes  
11 Supplement, 2009, are repealed.