

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** H.F. 981  
**Version:** First engrossment

**DATE:** March 16, 2015

**Authors:** Peterson and others

**Subject:** Optometrists

**Analyst:** Lynn Aves

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### Overview

This bill updates the Optometry Practice Act.

#### Section

- 1** **Board of optometry.** Amends § 148.52. Clarifies that optometrists who are appointed to the board must be licensed in Minnesota.
- 2** **Board; seal.** Amends § 148.54. Adds the offices of vice president and secretary to the board.
- 3** **License.** Amends § 148.57. Strikes the application and endorsement fees. Strikes cross-references to sections repealed in this bill. Strikes subdivisions 3 (revocation, suspension) and 4 (peddling or canvassing forbidden).

Adds subdivision 5. Requires a regulated person to maintain a current name and address with the board and notify the board in writing within 30 days of any change. Requires a regulated person to request revised credentials from the board when the person has a name change. Establishes requirements for reissuance of lost, stolen, or destroyed credentials.

- 4** **Prohibitions relating to legend drugs.** Amends § 148.574. Strikes references to sections repealed in this bill.
- 5** **Requirement for use of legend drugs.** Amends § 148.575. Strikes subdivisions 1 (certificate required for use of legend drugs), 3 (display of certificate required), 5 (notice to Board of Pharmacy), and 6 (board certification required).

Strikes obsolete language related to board certification for use of legend drugs since the use of legend drugs is now part of the curriculum in optometric training.

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- 6 Standard of care.** Amends § 148.577. Strikes reference to a section repealed in this bill.
- 7 License and registration fees.** Amends § 148.59. Establishes fees. Provides that fees may not exceed the listed amounts, but may be adjusted lower by the board.
- 8 Grounds for disciplinary action.** Amends § 148.603.

**Subd. 1. Grounds listed.** Establishes the conduct that may be the basis for disciplinary action.

**Subd. 2. Conviction of a felony-level criminal sexual offense.** Paragraph (a) provides that the board may not grant or renew a license to a person who has been convicted of specified felony-level criminal sexual offenses.

Paragraph (b) provides that a valid license is automatically revoked when the licensee is convicted of an offense listed in paragraph (a).

Paragraph (c) states that a license denied or revoked under this section is not subject to the provisions of chapter 364 (criminal offenders; rehabilitation).

Paragraph (d) defines the term “conviction.”

Paragraph (e) allows the board to establish criteria that would allow an individual who is convicted of an offense listed in paragraph (a) to be eligible for relicensure.

Provides that if a patient or client of the applicant was the victim of the offense, then an application for relicensure must not be considered.

(The nursing, chiropractic, and medical practice acts include the language in this subdivision.)

**Subd. 3. Automatic suspension.** Provides that a license to practice is automatically suspended if a guardian is appointed for the licensee, if the licensee is civilly committed, or if the licensee has been found guilty of a felony related to the practice of optometry.

Allows the board to reinstate the license to practice when the individual demonstrates rehabilitation by clear and convincing evidence.

Allows the board to suspend a regulated person’s license without a hearing if the person fails to maintain a current name and address with the board and is under investigation by the board or the subject of disciplinary action.

**Subd. 4. Effective date.** Provides that an adverse licensing action remains effective during the pendency of an appeal unless the court orders otherwise.

**Subd. 5. Conditions on reissued license.** Allows the board to restore and reissue a license with conditions.

**Subd. 6. Temporary suspension of license.** Allows the board to temporarily suspend a license if the board finds the optometrist has violated a law or rule and continued practice would present a serious risk of harm to the public. Requires the board, at the time it issues the suspension notice, to schedule a disciplinary hearing

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with at least 20 days' notice provided to the licensee. Requires the hearing to begin within 90 days of the suspension order.

**Subd. 7. Evidence.** Allows a copy of the judgment in a criminal conviction or in a disciplinary action against the licensee in another state to be entered into evidence without further authentication.

**Subd. 8. Mental examination; access to medical data.** Allows the board to require a licensee to submit to a mental or physical examination when the board has probable cause to believe the licensee has is mentally ill, is unable to practice due to use of alcohol, drugs, chemicals, or as a result of any mental or physical condition, or is addicted to drugs or alcohol. Allows the board, in addition to ordering a mental or physical examination, to access the licensee's medical and health records.

### 9 **Reporting obligations.** Creates § 148.604.

**Subd. 1. Permission to report.** Allows any person to report conduct constituting grounds for discipline to the board.

**Subd. 2. Institutions.** Requires health care institutions and organizations to notify the board if the entity has taken action to revoke, suspend, restrict, or condition the optometrists practice privileges. Requires the institutions or organizations to notify the board if an optometrist has resigned prior to the conclusion of disciplinary proceedings.

**Subd. 3. Licensed professionals.** Requires licensed health professionals to report conduct constituting grounds for disciplinary action to the board.

**Subd. 4. Self-reporting.** Requires an optometrist to report to the board any personal conduct that constitutes grounds for disciplinary action.

**Subd. 5. Deadlines; forms; rulemaking.** Requires reports to be made to the board within 30 days after occurrence of the reportable event. Allows the board to provide forms for submission of reports and to adopt rules.

**Subd. 6. Subpoenas.** Allows the board to issue subpoenas for production of reports required by subdivisions 2 to 4.

### 10 **Immunity.** Creates § 148.605.

**Subd. 1. Reporting.** Provides that any individual or entity making a report under section 148.604 in good faith is immune from criminal and civil liability.

**Subd. 2. Investigation; indemnification.** Paragraph (a) provides that members and employees of the board, and consultants retained by the board, are immune from criminal and civil liability related to their duties in investigating complaints and imposing disciplinary action when acting in good faith.

Paragraph (b) provides that members and employees of the board engaged in maintaining records and making reports regarding adverse health care events are immune from civil and criminal liability when acting in good faith.

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Paragraph (c) states that for purposes of this section, a member of the board or a consultant is considered a state employee.

- 11**      **Optometrist cooperation.** Creates § 148.606. Requires an optometrist who is the subject of an investigation to cooperate fully with the investigation.
- 12**      **Disciplinary action.** Creates § 148.607. Lists the types of disciplinary action that can be taken by the board: revocation or suspension of the license, limitations or conditions placed on the license, civil penalties, and censure or reprimand.
- 13**      **Exceptions.** Amends § 364.09. Provides that this chapter related to rehabilitation of criminal offenders does not apply to a license to practice optometry, denied or revoked pursuant to section 148.603, subdivision 2.
- 14**      **Repealer.** Repeals §§ 148.57, subds. 3 (revocation, suspension) and 4 (peddling and canvassing prohibited); 148.571 (use of topical ocular drugs); 148.572 (advice to seek diagnosis and treatment); 148.573, subd. 1 (certificate required for use or possession of topical ocular drug); 148.575, subds. 1 (certificate required for use of legend drugs), 3 (display of certificate required), 5 (notice to Board of Pharmacy), and 6 (board certification required); 148.576, subds. 1 (authority to prescribe or administer legend drugs) and 2 (adverse reaction reports); and 151.37, subd. 11 (exclusion for health care educational programs to possess a legend drug that is not a controlled substance).