WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

ENROLLED
Committee Substitute for
HOUSE BILL No. 1005

(By Mr. Sommerville)

PASSED February 20, 1976
In Effect thirty days from Passage

(See Message on back)
AN ACT to amend and reenact section one, article five, and sections two, four and five, article eight, all of chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the profession of optometry; adding, within the definition of "prescription," optometrist to the licensed professionals who order drugs or medicines or combinations or mixtures thereof in certain cases; providing for the redefinition of the practice of optometry; exempting the practice of osteopathy from the provisions of law regulating the practice of optometry; accreditation of schools and colleges of optometry and the qualifications, education, examination and certification of applicants to practice optometry.

Be it enacted by the Legislature of West Virginia:

That section one, article five, and sections two, four and five, article eight, all of chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 5. PHARMACISTS, ASSISTANT PHARMACISTS AND DRUGSTORES.

§30-5-1. Definitions.

The following words and phrases as used in this article, shall have the following meanings, unless the context otherwise requires:

(1) The term "drug" means (a) articles in the official United States Pharmacopoeia, or official National Formulary, or any other supplement to either of them, which are intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, and (b) all other articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, and (c) articles, other than food, intended to affect the structure or any function of the body of man or other animals and (d) articles intended for use as a component of any articles specified in clause (a), (b), or (c).

(2) The term "poisonous drug" means any drug likely to be destructive to adult human life in quantities of five grains or less.

(3) The term "deleterious drug" means any drug likely to be destructive to adult human life in quantities of sixty grains or less.

(4) The term "habit-forming drug" means any drug which has been or may be designated as habit forming under the regulations promulgated in accordance with Section 502 (d) of the Federal Food, Drug and Cosmetic Act of June twenty-fifth, nineteen hundred and thirty-eight.

(5) The term "pharmacy" or "drugstore" or "apothecary" shall be held to mean and include every store or shop or other place (a) where drugs are dispensed, or sold at retail, or displayed for sale at retail, or (b) where physicians' prescriptions are compounded; or (c) which has upon it or displayed within it, or affixed to or used in connection with it, a sign bearing the word or words "pharmacy," "pharmacists," "apothecary," "drugstore," "drugs," "druggists," "medicine," "medicine store," "drug sundries," "remedies," or any...
word or words of similar or like import; or (d) any store
or shop or other place, with respect to which any of the
above words are used in any advertisement.

(6) The term “prescription” shall be held to mean an
order for drugs or medicines or combinations or mixtures
thereof, written or signed by a duly licensed physician,
dentist, optometrist, as authorized by section two, article
eight of this chapter, veterinarian or other medical practi-
tioner licensed to write prescriptions intended for the treat-
ment or prevention of disease of man or animals. The
term “prescription” shall also include orders for drugs or
medicines or combinations or mixtures thereof transmitted
to the pharmacist by word of mouth, telephone or other means
of communication by a duly licensed physician, dentist,
optometrist, veterinarian or other medical practitioner licensed
to write prescriptions intended for treatment or prevention of
disease of man or animals, and such prescriptions received
by word of mouth, telephone or other means of communication
shall be recorded in writing by the pharmacist and the record
so made by the pharmacist shall constitute the original prescrip-
tion to be filed by the pharmacist. All such prescriptions shall
be preserved on file for a period of five years, subject to in-
Spection by the proper officer of the law. The above shall apply
except for narcotic prescriptions, when all narcotic laws and
regulations must be complied with.

(7) The term “cosmetic,” which shall be held to include
“dentifrice” and “toilet article,” means (a) articles intended
to be rubbed, poured, sprinkled, or sprayed on, introduced
into, or otherwise applied to the human body, or any part
thereof for cleansing, beautifying, promoting attractiveness, or
altering the appearance, and (b) articles intended for use
as a component of any such articles, except that such term
shall not include soap.

ARTICLE 8. OPTOMETRISTS.

§30-8-2. Practice of optometry defined.

Any one or any combination of the following practices
shall constitute the practice of optometry:

(a) The examination of the human eye, with or without
the use of drugs prescribable for the human eye, which drugs
may be used for diagnostic or therapeutic purposes for topical
application to the anterior segment of the human eye only, and,
by any method other than surgery, to diagnose, to treat or to
treat for consultation or treatment any abnormal condition of
the human eye or its appendages;

(b) The employment without the use of surgery of any in-
strument, device, method or diagnostic or therapeutic drug
for topical application to the anterior segment of the human
eye intended for the purpose of investigating, examining, treat-
ing, diagnosing, improving or correcting any visual defect or
abnormal condition of the human eye or its appendages;

(c) The prescribing and application or the replacement or
duplication of lenses, prisms, contact lenses, orthoptics, vision
training, vision rehabilitation, diagnostic or therapeutic drugs
for topical application to the anterior segment of the human
eye, or the furnishing or providing of any prosthetic device,
or any other method other than surgery necessary to correct
or relieve any defects or abnormal conditions of the human
eye or its appendages.

Nothing in this section shall be construed to permit an
optometrist to perform surgery, use drugs by injection or to
use or prescribe any drug for other than the specific purposes
authorized by this section.

§30-8-4. Registration prerequisite to practice of optometry; excep-
tions.

No person shall practice or offer to practice optometry in
this state without first applying for and obtaining a certificate of
registration for such purpose from the West Virginia board of
optometry; but the following persons, firms and corporations
are exempt from the operation of this article, except as
hereinafter provided:

(a) Persons who have heretofore been registered as op-
tometrists in this state, or who were engaged in the practice
of optometry in this state before the passage of any law by
this state regulating such practice, and who have heretofore
received from the board of examiners certificates of exemption
from examination;
(b) Persons authorized under the laws of this state to practice medicine and surgery or osteopathy;

(c) Persons, firms and corporations who sell eyeglasses or spectacles in a store, shop or other permanently established place of business on prescriptions from persons authorized under the laws of this state to practice either optometry or medicine and surgery;

(d) Persons, firms and corporations who manufacture or deal in eyeglasses or spectacles in a store, shop or other permanently established place of business, and who neither practice nor attempt to practice optometry.

§30-8-5. Qualifications of applicant for registration; examination.

An applicant for registration shall present satisfactory evidence that he is at least eighteen years of age, of good moral character and temperate habits, and has graduated from a high school or secondary school, or has completed an equivalent course of study approved by the West Virginia board of optometry, has satisfactorily completed all preoptometry or premedical college requirements and has graduated from a school or college of optometry approved by said board. No school or college of optometry shall be approved by the West Virginia board of optometry unless at first it has been accredited by a regional or professional accreditation organization which is recognized by the national commission on accreditation or the United States commission of education. Each applicant shall submit to and be examined in all phases of optometry as is provided by the school or college of optometry and shall include, but not be limited to, anatomy and physiology of the human eye, the use of instruments such as the ophthalmoscope, retinoscope, tonometer, slit lamp biomicroscope, the general laws of optics and refraction, general and ocular pharmacology, general and ocular pathology and other such subjects or instrumentation as the board of optometry may deem necessary.

The West Virginia board of optometry shall be responsible to determine the educational training received by the applicant from the schools and colleges of optometry, the educational qualifications of each applicant and the administering of the
examination and certifications of each applicant commensurate with his education. No optometrist shall be registered or certified to practice optometry in the state of West Virginia in any area that is beyond the scope of his educational training as determined by the West Virginia board of optometry: Provided, That any optometrist presently registered in the state of West Virginia and who desires to employ the use of pharmaceutical agents must submit to the West Virginia board of optometry evidence of satisfactory completion of all necessary educational requirements as made mandatory by the West Virginia board of optometry: Provided further, That the West Virginia board of optometry shall provide for continuing educational requirements to be completed from time to time by all optometrists desiring to employ the use of pharmaceutical agents.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within disappeared) this the 28th day of February, 1976.

Governor
March 2, 1976

Upon reconsideration as provided by the Constitution of the State, the House of Delegates has again passed Enr. Com. Sub. for H. B. 1005, notwithstanding the objections of His Excellency, the Governor.

Ordered, That Mr. Sommerville communicate to the Senate the action of the House of Delegates and request concurrence therein.

C. A. Blankenship, Clerk of the House of Delegates

March 4, 1976

A message from the Senate, by Mr. Ward, announced the Senate has again passed Enr. Com. Sub. H. B. 1005, notwithstanding the objections of His Excellency, the Governor.

J. C. Dillon, Clerk of the Senate