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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3602

02/13/2024 Authored by Carroll; Long; Hanson, J., and Bahner
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health occupations; clarifying optometry scope of practice and unlawful
1.3 practice of medicine; amending Minnesota Statutes 2022, sections 147.081,
1.4 subdivision 3; 148.56, subdivision 1.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2022, section 147.081, subdivision 3, is amended to read:

1.7 Subd. 3. Practice of medicine defined. (a) For purposes of this chapter, a person not
1.8 exempted under section 147.09 is "practicing medicine" or engaged in the "practice of
1.9 medicine" if the person does any of the following:

1.10 (1) advertises, holds out to the public, or represents in any manner that the person is
1.11 authorized to practice medicine in this state;

1.12 (2) offers or undertakes to prescribe, give, or administer any drug or medicine for the
1.13 use of another;

1.14 (3) offers or undertakes to prevent or to diagnose, correct, or treat in any manner or by
1.15 any means, methods, devices, or instrumentalities, any disease, illness, pain, wound, fracture,
1.16 infirmity, deformity or defect of any person;

1.17 (4) offers or undertakes to perform any surgical operation including any invasive or
1.18 noninvasive procedures involving the use of a laser or laser assisted device, upon any person;
1.19 or

1.20 (5) offers to undertake to use hypnosis for the treatment or relief of any wound, fracture,
1.21 or bodily injury, infirmity, or disease.

2.1 (b) For purposes of this chapter, a person not exempted under section 147.09 is "practicing
 2.2 medicine" or engaged in the "practice of medicine" if the person performs, advertises, or
 2.3 offers to perform an ophthalmic surgical procedure on the human eye or its accessory or
 2.4 subordinate anatomical parts. An ophthalmic surgical procedure may only be performed by
 2.5 a person licensed to practice medicine under this chapter or otherwise exempted under
 2.6 section 147.09. An ophthalmic surgical procedure includes any procedure performed for
 2.7 the purpose of structurally altering human or biologic tissue that entails using any technique
 2.8 or instrument to cut, incise, excise, penetrate, suture, ablate, photo-ablate, photo-disrupt,
 2.9 cross-link, scrape, vaporize, inject, burn, coagulate, cauterize, diathermize, ionize, freeze,
 2.10 irradiate, infuse, or sonicate tissues of or near the eye, eyelid, or orbit.

2.11 Sec. 2. Minnesota Statutes 2022, section 148.56, subdivision 1, is amended to read:

2.12 Subdivision 1. **Optometry defined.** (a) Any person shall be deemed to be practicing
 2.13 optometry within the meaning of sections 148.52 to 148.62 who shall in any way:

2.14 (1) advertise as an optometrist;

2.15 (2) employ any means, including the use of autorefractors or other automated testing
 2.16 devices, for the measurement of the powers of vision or the adaptation of lenses or prisms
 2.17 for the aid thereof;

2.18 (3) possess testing appliances for the purpose of the measurement of the powers of vision;

2.19 (4) diagnose ~~any~~ disease, optical deficiency or deformity, or visual or muscular anomaly
 2.20 of the visual system ~~consisting of~~ affecting the human eye and its accessory or subordinate
 2.21 anatomical parts;

2.22 (5) prescribe lenses, including plano or cosmetic contact lenses, or prisms for the
 2.23 correction or the relief of same;

2.24 (6) employ or prescribe ocular exercises, orthoptics, or habilitative and rehabilitative
 2.25 therapeutic vision care; or

2.26 (7) prescribe or administer legend drugs to aid in the diagnosis, cure, mitigation,
 2.27 prevention, treatment, or management of disease, deficiency, deformity, or abnormality of
 2.28 the human eye and adnexa included in the curricula of accredited schools or colleges of
 2.29 optometry, and as limited by Minnesota statute and adopted rules by the Board of Optometry,
 2.30 or who holds oneself out as being able to do so.

2.31 (b) In the course of treatment, nothing in this section shall allow:

3.1 (1) legend drugs to be administered intravenously, intramuscularly, or by injection,
3.2 except for treatment of anaphylaxis;

3.3 (2) ~~invasive~~ surgery, including, but not limited to, surgery using lasers, pursuant to
3.4 section 147.081, subdivision 3, paragraph (b);

3.5 (3) Schedule II and III oral legend drugs and oral steroids to be administered or
3.6 prescribed;

3.7 (4) oral antivirals to be prescribed or administered for more than ten days; or

3.8 (5) oral carbonic anhydrase inhibitors to be prescribed or administered for more than
3.9 seven days.