_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING LAWS RELATED TO OPTOMETRY; REVISING DEFINITIONS; CLARIFYING LANGUAGE RELATING TO THE SCOPE OF PRACTICE FOR OPTOMETRY; CONSOLIDATING LICENSING PROVISIONS FOR OPTOMETRY; PROVIDING RULEMAKING AUTHORITY; REPEALING REDUNDANT PROVISIONS; AMENDING SECTIONS 37-10-102, 37-10-105, AND 37-10-202, MCA; AND REPEALING SECTIONS 37-10-101, 37-10-103, 37-10-201, 37-10-203, 37-10-301, 37-10-302, 37-10-304, AND 37-10-306, MCA.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in this chapter, the following definitions apply:

(1) "Board" means the board of optometry provided for in 2-15-1736.

(2) "Department" means the department of labor and industry provided for in 2-15-1701.

(3) "Optometrist" means an individual licensed to practice optometry.

(4) "Optometry" means the provision of the services specified under [section 2] by an individual who is licensed under this chapter.

NEW SECTION. **Section 2. Scope of practice.** (1) The practice of optometry is the profession constituting the art and science of visual care, including:

(a) examining and diagnosing physiological or anatomical aspects of human vision during optometric examinations, using any optometric methods, including topical drugs, to detect vision-related conditions, manage eye health, and identify abnormalities that can be corrected, treated, or enhanced;

(b) applying or prescribing ophthalmic lenses, contact lenses, prisms, orthoptics, visual training, and therapeutic devices to correct or alleviate visual or ocular issues, including replacing or duplicating ophthalmic lenses from a prescription, any physical, mechanical, or physiological therapy and the furnishing or

application of any prosthetic or therapeutic devices for the correction or relief of visual or ocular anomalies, taking measurements with mechanical devices to fit or adapt ophthalmic lenses, fitting lenses directly on the human eyeball, testing lenses for spectacles, and allowing opticians to perform mechanical work under an optometrist's direct supervision;

(c) prescribing, dispensing, and administering of drugs, limited to the eye and adnexa, and approved by the board, including treatment of glaucoma, and of the following oral analgesics:

(i) codeine;

(ii) propoxyphene;

(iii) hydrocodone; and

(iv) dihydrocodeine, alone or in combination with nonscheduled or nonregulated drugs; and

(d) conducting in-office surgical procedures and laser surgical procedures limited to the anterior segment of the eye and adnexa, excluding penetrating intraocular surgery, intravitreal injection, and refractive surgery.

(2) The use of drugs by a licensed optometrist is not prohibited by Title 37, chapter 7.

(3) Subsection (1) does not prohibit an optometrist from removing from the eye or adnexa a foreign body that is not intraocular.

(4) An optometrist may perform laser surgical procedures under subsection (1)(d) only if the optometrist is certified by the board in accordance with [section 3].

(5) This section does not prohibit an optician, employed by and under the supervision of an optometrist, from:

(a) performing the required mechanical work under an order or prescription signed by a licensed physician or optometrist; or

(b) replacing or duplicating an existing lens for glasses.

NEW SECTION. **Section 3. Optometrist license required -- qualifications -- endorsement.** (1) An individual may not practice optometry unless licensed under Title 37, chapter 1, and this chapter.

(2) An applicant for licensure as an optometrist must have:

(a) graduated from an optometry school accredited by the accreditation council on optometric

education; and

(b) passed examinations approved by the board.

(3) (a) The board shall certify an optometrist to perform laser surgical procedures on verification that the optometrist has successfully completed the required didactic and clinical training from an accredited optometry school or college.

(b) The training must cover the use of lasers for medically recognized and appropriate treatment of the human eye.

(c) On certification, the board shall issue an endorsement indicating that the optometrist is certified to perform laser surgery pursuant to this section.

Section 4. Section 37-10-102, MCA, is amended to read:

"**37-10-102. Exemptions.** Nothing in this chapter ~~shall~~ may be construed to apply to:

(1) physicians ~~and surgeons~~ authorized to practice under the laws of the state of Montana;

(2) a person employed in the office of and acting under the direct personal supervision of a physician ~~or surgeon~~;

(3) an optician performing the required mechanical work under an order or prescription signed by a ~~duly~~ licensed physician ~~surgeon,~~ or optometrist;

(4) commissioned officers of the armed forces of the United States performing functions of this chapter in the line of their regular duty; or

(5) persons who sell ~~spectacles or~~ eyeglasses without ~~attempting to traffic upon assumed skill in~~ claiming expertise in adapting them to ~~the eye~~ a particular individual."

Section 5. Section 37-10-105, MCA, is amended to read:

"**37-10-105. Purpose.** The legislature finds that the practice of ~~the profession of~~ optometry is ~~a~~ ~~privilege and is not a natural right of individuals. The legislature considers it necessary,~~ subject to regulation, in the interests of protecting the public health, safety, and welfare and in order to provide for the optometric needs of the public~~, to provide laws and delegate rulemaking authority regarding the granting of licenses and their subsequent use so that the public is protected from the unprofessional, improper, unauthorized, and unqualified~~

~~practice of optometry~~."

Section 6. Section 37-10-202, MCA, is amended to read:

"**37-10-202. Rulemaking power.** The board may adopt rules ~~for the regulation, conduct, supervision, and procedure governing all applicants for licensure as optometrists and the practice of optometry not inconsistent with~~ necessary to implement the provisions of this chapter, including rules regarding telehealth in accordance with 37-2-305, and qualifications for applicants for licensure."

NEW SECTION. **Section 7. Repealer.** The following sections of the Montana Code Annotated are repealed:

37-10-101. Definitions -- practice of optometry.
37-10-103. Use of drugs not prohibited by pharmacy law.
37-10-201. Organization -- meetings.
37-10-203. Compensation of members -- expenses -- deposit of moneys.
37-10-301. License required for practice -- unlawful acts.
37-10-302. Qualifications -- application.
37-10-304. Course in use of diagnostic and therapeutic drugs required.
37-10-306. License to be displayed in office.

NEW SECTION. **Section 8. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 37, chapter 10, part 1, and the provisions of Title 37, chapter 10, part 1, apply to [section 1].

(2) [Sections 2 and 3] are intended to be codified as an integral part of Title 37, chapter 10, part 3, and the provisions of Title 37, chapter 10, part 3, apply to [sections 2 and 3].

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