

**Sixty-first Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2164  
(Senators Flakoll, Andrist)  
(Representatives Delmore, Karls, Nathe, Porter)

AN ACT to amend and reenact subsection 4 of section 43-13-01 and section 43-13-13.2 of the North Dakota Century Code, relating to optometrists dispensing therapeutic pharmaceutical agents.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 4 of section 43-13-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Pharmaceutical agent" means diagnostic pharmaceutical agents or therapeutic pharmaceutical agents. The term includes nonscheduled pharmaceutical agents, except for acetaminophen with thirty milligrams of codeine, that have documented use in the treatment of ocular-related disorders or diseases. As used in this subsection:
  - a. "Diagnostic pharmaceutical agents" means pharmaceutical agents administered for the evaluation and diagnosis of disorders of the human eye including anesthetics, mydriatics, myotics, cycloplegics, diagnostic dyes, diagnostic stains, and pharmaceutical agents to evaluate abnormal pupil responses.
  - b. "Therapeutic pharmaceutical agents" includes topically administered and prescribed pharmaceutical agents for treatment of ocular-related disorders or disease, locally administered pharmaceutical agents for primary eye care procedures, oral anti-infective agents, oral antihistaminic agents, and oral analgesics for the treatment of ocular-related disorders or diseases. ~~The dispensing of therapeutic pharmaceutical agents is not permitted under this chapter.~~

**SECTION 2. AMENDMENT.** Section 43-13-13.2 of the North Dakota Century Code is amended and reenacted as follows:

**43-13-13.2. Practice of optometry - Certification requirements - Notification.**

1. Any person engaged in visual training procedures or who employs or prescribes lenses, prisms, filters, ophthalmic instruments, or combinations thereof, held either in contact with the eye, or in frames or mounting, to aid, relieve, or correct any visual or ocular anomaly, or holds out as being able to do so, is deemed to be engaged in the practice of optometry.
2. Before any optometrist may prescribe and administer pharmaceutical agents in the treatment and management of ocular diseases, the optometrist must first be certified or qualify for certification in the use of diagnostic pharmaceutical agents. For additional certification to prescribe and administer pharmaceutical agents in the treatment and management of ocular disease, the board shall require at least seventy-six hours of didactic instruction and twenty-four hours of clinical application of pharmaceutical agents for the treatment and management of ocular diseases. The course for therapeutic certification must be provided by an institution accredited by a regional or professional accrediting organization that is recognized and approved by the United States department of education or the council on postsecondary accreditation.
3. An optometrist may not dispense therapeutic pharmaceutical agents, except an optometrist may:

- a. Provide a patient a drug sample at no cost to the patient; or
  - b. Sell contact lenses or ophthalmic devices that are classified by the federal food and drug administration as a drug.
4. The board shall provide the board of pharmacy upon request a list of licensed optometrists certified in the use of pharmaceutical agents.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2164.

Senate Vote:    Yeas    46        Nays    0        Absent    1

House Vote:    Yeas    88        Nays    0        Absent    6

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2009,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State