

Senate Engrossed  
**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 179

# **SENATE BILL 1033**

AN ACT

AMENDING SECTIONS 32-1702, 32-1706, 32-1722, 32-1723 AND 32-1725, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 32, CHAPTER 16, ARTICLE 5, ARIZONA REVISED STATUTES, TO "NONRESIDENT DISPENSERS OF REPLACEMENT SOFT CONTACT LENSES"; RELATING TO THE STATE BOARD OF OPTOMETRY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1702, Arizona Revised Statutes, is amended to  
3 read:

4 32-1702. Board of optometry; appointment; qualifications; term;  
5 removal

6 ~~A. There is established a state board of optometry which consists of~~  
7 ~~six members appointed by the governor. Terms of office are for four years~~  
8 ~~expiring on July 1 of the respective year. Four members shall have been~~  
9 ~~licensed and engaged in the active practice of the profession of optometry in~~  
10 ~~this state for at least three years immediately prior to appointment, one~~  
11 ~~member shall be a physician licensed pursuant to chapter 13 or 17 of this~~  
12 ~~title, and one member shall be a lay person with no interest, direct or~~  
13 ~~indirect, in the practices of optometry, opticianry or medicine.~~

14 A. THE STATE BOARD OF OPTOMETRY IS ESTABLISHED CONSISTING OF THE  
15 FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR TO STAGGERED FOUR-YEAR  
16 TERMS THAT END ON JULY 1:

17 1. FIVE MEMBERS WHO HAVE BEEN LICENSED AND ENGAGED IN THE ACTIVE  
18 PRACTICE OF OPTOMETRY IN THIS STATE FOR AT LEAST THREE YEARS IMMEDIATELY  
19 BEFORE THE APPOINTMENT.

20 2. ONE PUBLIC MEMBER WHO DOES NOT HAVE A DIRECT OR INDIRECT INTEREST  
21 IN THE PRACTICE OF OPTOMETRY, OPTICIANRY OR MEDICINE.

22 3. ONE MEMBER WHO IS A PHYSICIAN LICENSED PURSUANT TO CHAPTER 13 OR 17  
23 OF THIS TITLE.

24 B. The governor may remove any professional member for incompetency or  
25 unprofessional conduct or ~~when his~~ IF THE MEMBER'S license has been revoked  
26 or suspended or ~~when he~~ IF THE MEMBER has been censured or placed on  
27 probation. The governor may remove any member for neglect of duty or  
28 improper conduct. The unexcused absence of a member for more than two  
29 consecutive meetings is justification for removal. Appointment by the  
30 governor to fill a vacancy caused other than by expiration of a term is for  
31 the unexpired portion of the term.

32 C. A member of the board is ineligible to serve more than two  
33 consecutive full terms. The completion of the unexpired portion of a full  
34 term does not constitute a full term for purposes of this subsection.

35 D. The board shall conduct regular meetings at least six times each  
36 year at times and places designated by the board or the governor. Special  
37 meetings may be called that the president determines are necessary to carry  
38 out the functions of the board, including meetings using communications  
39 equipment that allows all members participating in the meetings to hear each  
40 other.

41 E. A majority of the members of the board constitutes a quorum and a  
42 majority vote of a quorum present at any meeting governs all actions taken by  
43 the board.

1           Sec. 2. Section 32-1706, Arizona Revised Statutes, is amended to read:  
2           32-1706. Use of pharmaceutical agents

3           A. A licensee may prescribe, dispense and administer over-the-counter  
4 pharmaceuticals and topical prescription pharmaceuticals subject to the  
5 pharmaceutical agent classifications specified in section 32-1728.

6           B. A licensee may prescribe, dispense and administer the following  
7 oral prescription pharmaceuticals subject to the pharmaceutical agent  
8 classifications specified in section 32-1728:

9           1. Antibiotics classified as tetracycline and its derivatives,  
10 cephalosporins, penicillin and its derivatives and macrolides and antivirals  
11 for the treatment of diseases of the eye and its adnexa. A licensee may  
12 prescribe these antibiotics and antivirals for any one patient for each  
13 occurrence for a period not more than the day limit recommended by the  
14 manufacturer or by the physicians' desk reference. If the patient's  
15 condition is other than blepharitis and does not improve during the first  
16 seventy-two hours of treatment by means of an oral antibiotic or an oral  
17 antiviral, the licensee shall consult with the patient's primary care  
18 physician or other family physician for the purpose of referral of the  
19 patient to a physician who specializes in ophthalmology, infectious diseases,  
20 internal medicine or neurology. After the referral has been made, the  
21 licensee shall consult with the specialist. The licensee shall note the  
22 consultation in the patient's file. If the treatment is by oral antibiotics  
23 for blepharitis and if the patient's condition does not improve during the  
24 first ten days of treatment, the licensee shall request the patient's primary  
25 care physician or other family physician to refer the patient to a physician  
26 who specializes in ophthalmology, infectious diseases, internal medicine or  
27 neurology. On notification of the referral the licensee shall consult with  
28 the specialist. The licensee shall note the consultation in the patient's  
29 file. If the condition is not resolved at the end of the normal treatment  
30 period, the licensee shall request the patient's primary care physician or  
31 other family physician to refer the patient to a physician who specializes in  
32 ophthalmology, infectious diseases, internal medicine or neurology. On  
33 notification of the referral the licensee shall consult with the specialist.  
34 The licensee shall note the consultation in the patient's file. A licensee  
35 shall not prescribe, dispense or administer an oral antibiotic or an oral  
36 antiviral to a person who is under six years of age. For the purposes of  
37 this paragraph, "physician" means a person who is licensed pursuant to  
38 chapter 13 or 17 of this title.

39           2. Antihistamines. A licensee may prescribe an antihistamine for not  
40 more than seven days for any one patient for each occurrence. If the  
41 patient's condition does not improve during the first seven days of  
42 treatment, the licensee shall refer the patient to the patient's primary care  
43 physician or other physician licensed pursuant to chapter 13 or 17 of this  
44 title.

1           3. ~~Nonprescription~~ Nonsteroidal anti-inflammatory agents. A LICENSEE  
2 MAY PRESCRIBE A NONSTEROIDAL ANTI-INFLAMMATORY AGENT FOR NOT MORE THAN  
3 FOURTEEN DAYS FOR ANY ONE PATIENT FOR EACH OCCURRENCE. A LICENSEE SHALL NOT  
4 PRESCRIBE, DISPENSE OR ADMINISTER A NONSTEROIDAL ANTI-INFLAMMATORY AGENT TO A  
5 PERSON WHO IS UNDER SIX YEARS OF AGE. ~~A licensee may prescribe, dispense and~~  
6 ~~administer these agents in dosages that exceed over the counter dosages but~~  
7 ~~that do not exceed maximum dosages of counterpart prescription nonsteroidal~~  
8 ~~anti-inflammatory agents.~~

9           C. A licensee may prescribe, dispense and administer a schedule III  
10 controlled substance only if it is an analgesic.

11           D. A licensee shall not prescribe, dispense or administer the  
12 following prescription substances:

- 13           1. An oral steroid.
- 14           2. An oral antifungal.
- 15           3. An oral carbonic anhydrase inhibitor.
- 16           4. An oral antimetabolite.
- 17           5. An oral immunosuppressive.
- 18           6. A substance administered intravenously.
- 19           7. Except as provided in subsection E OF THIS SECTION, substances  
20 administered by injection.
- 21           8. A schedule I, II, IV or V controlled substance.
- 22           9. An oral agent for the treatment of closed angle glaucoma attack.
- 23           ~~10. Except as provided in subsection B, paragraph 3, an oral~~  
24 ~~nonsteroidal anti-inflammatory agent.~~

25           E. A licensee may use epinephrine auto-injectors to counteract an  
26 anaphylactic reaction. A licensee who uses auto-injectors may order and  
27 maintain anaphylactic-related supplies. The board shall require a licensee  
28 to maintain in the licensee's office medically necessary supportive equipment  
29 and supplies that are used in connection with the treatment of an  
30 anaphylactic reaction, including oxygen equipment, airway maintenance  
31 equipment or other necessary equipment consistent with the prevailing  
32 standard of care as specified by the board.

33           Sec. 3. Section 32-1722, Arizona Revised Statutes, is amended to read:  
34           32-1722. Qualifications of applicant; applications

35           A. A person of good moral character who ~~desires~~ WISHES to engage in  
36 the practice of the profession of optometry shall file with the board ~~not~~  
37 ~~less than thirty days before the date on which an examination is to be held a~~  
38 verified application with the required application fee that includes:

- 39           1. The applicant's name, age and address.
- 40           2. Documentation of graduation from a university or college that  
41 teaches the profession of optometry and that is accredited by a nationally  
42 accepted accrediting body on optometric education.

1           3. Documentation of satisfactory completion of an equivalent course of  
2 study that is approved by the board in didactic education, pharmacology and  
3 clinical training in the examination, diagnosis and treatment of conditions  
4 of the human eye and its adnexa AND that either:

5           (a) Meets the contemporary educational requirements at colleges of  
6 optometry in the United States.

7           (b) Totals at least one hundred twenty hours.

8           4. Documentation of the successful passage of a written examination as  
9 prescribed by the board.

10          5. Background information on a form prescribed by the attorney general  
11 for the purpose of conducting an investigation into the existence of prior  
12 arrests and convictions.

13          6. Disclosure of any investigation conducted or pending by an  
14 optometric regulatory board in another jurisdiction in the United States.

15          B. On receipt of an application in proper form and containing the  
16 information prescribed in subsection A of this section, the board may  
17 investigate the applicant's character, ability and experience.

18          C. For the purposes of an investigation that is conducted pursuant to  
19 subsection B of this section, the board may subpoena witnesses, administer  
20 oaths and take testimony with respect to the character of the applicant or to  
21 any matter affecting the application at a hearing held after sufficient  
22 notice has been given.

23          D. If the board finds that the applicant has passed the examination  
24 provided for under section 32-1724 and that the applicant's character,  
25 ability and experience are satisfactory, the board shall issue a license.

26          Sec. 4. Section 32-1723, Arizona Revised Statutes, is amended to read:  
27 32-1723. Licensure by endorsement

28          The board shall waive the written examination requirements of this  
29 chapter if all of the following are true:

30          1. The applicant submits a license or a certified copy of a license to  
31 practice optometry issued by the regulatory board of another jurisdiction of  
32 the United States that has licensure requirements that the board determines  
33 meet or exceed the requirements of this chapter.

34          2. The license of the applicant has not been suspended or revoked by  
35 any other licensing jurisdiction of the United States for any cause that is a  
36 ground for suspension or revocation of a license under this chapter.

37          3. The applicant has been engaged in the practice of the profession of  
38 optometry continuously in the other licensing jurisdiction OR IN A UNITED  
39 STATES MILITARY BRANCH OF SERVICE for not less than four of the five years  
40 immediately preceding the application ~~or in the military.~~

41          4. The information provided by national data banks designated by the  
42 board has successfully verified the applicant.

43          5. The applicant meets the requirements of section 32-1722 concerning  
44 good moral character.

1           Sec. 5. Section 32-1725, Arizona Revised Statutes, is amended to read:  
2           32-1725. Issuance of license

3           THE BOARD SHALL ISSUE TO each applicant who satisfactorily passes the  
4 examination ~~shall upon payment of the issuance fee be issued~~ AND WHO PAYS THE  
5 LICENSE ISSUANCE FEE PURSUANT TO SECTION 32-1727 a license under the seal and  
6 signatures of the members of the board. ~~Failure to~~ AN APPLICANT WHO DOES NOT  
7 pay the issuance fee within sixty days ~~necessitates the retaking of the~~  
8 ~~examination.~~ MUST SUBMIT A NEW APPLICATION AND ALL APPLICABLE FEES PURSUANT  
9 TO SECTION 32-1727.

10          Sec. 6. Heading change

11          The article heading of title 32, chapter 16, article 5, Arizona Revised  
12 Statutes, is changed from "REPLACEMENT SOFT CONTACT LENSES" to "NONRESIDENT  
13 DISPENSERS OF REPLACEMENT SOFT CONTACT LENSES".

14          Sec. 7. Retention of members

15          Notwithstanding section 32-1702, Arizona Revised Statutes, as amended  
16 by this act, all persons serving as members of the state board of optometry  
17 on the effective date of this act may continue to serve until the expiration  
18 of their normal terms. The governor shall make all subsequent appointments  
19 as prescribed by statute.

APPROVED BY THE GOVERNOR APRIL 19, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2011.

Passed the House April 12, 2011,

Passed the Senate February 28, 2011,

by the following vote: 57 Ayes,

by the following vote: 26 Ayes,

2 Nays, 1 Not Voting

3 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

Cheryl Laube  
Chief Clerk of the House

Charmian Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14 day of April, 2011,

at 4:46 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 19<sup>th</sup> day of

April, 2011,

at 9:07 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19<sup>th</sup> day of April, 2011,

at 11:17 o'clock a M.

[Signature]  
Secretary of State

S.B. 1033