

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 668 Session of 2017

INTRODUCED BY GORDNER, FOLMER, BAKER, YUDICHAK, WHITE, HUTCHINSON, STEFANO, SCARNATI, BREWSTER, RAFFERTY AND AUMENT, MAY 4, 2017

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 24, 2018

AN ACT

1 Amending the act of June 6, 1980 (P.L.197, No.57), entitled "An
2 act regulating the licensure and practice of optometry,
3 making repeals and providing penalties," further providing
4 for definitions; ~~repealing provisions related to AND FOR~~ <--
5 approval of drugs; ~~providing for imaging test; and further~~ <--
6 providing for exemptions and exceptions AND FOR VIOLATIONS <--
7 AND PENALTIES; AND PROVIDING FOR INSURANCE BILLING CODES.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The definitions of "examination and diagnosis,"
11 "optometrist" and "practice of optometry" in section 2 of the
12 act of June 6, 1980 (P.L.197, No.57), known as the Optometric
13 Practice and Licensure Act, are amended to read:

14 Section 2. Definitions.

15 The following words and phrases when used in this act shall
16 have, unless the context clearly indicates otherwise, the
17 meanings given to them in this section:

18 * * *

19 "Examination and diagnosis." Any examination or diagnostic
20 means or method compatible with optometric education and

1 professional competence. The term shall encompass the use of
2 pharmaceutical agents approved by the Food and Drug
3 Administration and published in the Code of Federal Regulations
4 for diagnostic purposes [classified as], including, but not
5 limited to, miotics, mydriatics, cycloplegics, topical
6 anesthetics and dyes when applied topically to the eye, [which
7 pharmaceutical agents shall be approved by the Secretary of
8 Health as provided in section 4.3 and,] subject to the rules and
9 regulations of the board, provided however that with respect to
10 optometrists licensed before March 1, 1974, only such
11 optometrists who have satisfactorily completed a course in
12 pharmacology as it applies to optometry, with particular
13 emphasis on the topical application of diagnostic pharmaceutical
14 agents to the eye, approved by the board shall be permitted to
15 use diagnostic pharmaceutical agents topically in the practice
16 of optometry.

17 * * *

18 "Optometrist." Any person who, following formal and
19 recognized training in the art and science of optometry has
20 received a doctor of optometry degree from an accredited
21 institution and is qualified to seek or has acquired a license
22 to practice the profession of optometry. An optometrist shall be
23 identified either by "Doctor of Optometry," ["O.D.," or "Dr."
24 followed by "Optometrist] "O.D." or "Doctor."

25 "Practice of optometry."

26 (1) The use of any and all means or methods for the
27 examination, diagnosis and treatment of all conditions of the
28 human visual system, including all conditions of the anterior
29 segment of the human eye applicable to this act⁷. [and shall <--
30 include the examination for, and adapting and fitting of, any

1 and all kinds and types of lenses including contact lenses.] <--

2 THE TERM SHALL INCLUDE:

3 (I) THE EXAMINATION FOR, AND ADAPTING AND FITTING
4 OF, ANY AND ALL KINDS AND TYPES OF LENSES, INCLUDING
5 CONTACT LENSES.

6 (II) THE ADMINISTRATION AND PRESCRIPTION OF ALL
7 LEGEND AND NONLEGEND DRUGS APPROVED BY THE BOARD IN
8 SECTION 4.3 FOR THE TREATMENT OF DISEASES AND CONDITIONS
9 OF THE EYE AND ADNEXA, INCLUDING CODEINE AND HYDROCODONE
10 COMBINATIONS WHICH WERE RECLASSIFIED FROM SCHEDULE III TO
11 SCHEDULE II PRIOR TO THE EFFECTIVE DATE OF THIS
12 SUBPARAGRAPH. THE PRESCRIPTION OF SCHEDULE II CONTROLLED
13 SUBSTANCES CONTAINING CODEINE AND HYDROCODONE
14 COMBINATIONS MAY NOT EXCEED A 72-HOUR SUPPLY.

15 (III) THE REMOVAL OF SUPERFICIAL FOREIGN BODIES.

16 (IV) THE DRAINING OF SUPERFICIAL CYSTS OF THE
17 EYELIDS.

18 (V) EPINEPHRINE AUTO-INJECTORS FOR ANAPHYLAXIS.

19 (VI) THE ORDERING OF IMAGING TESTS APPROPRIATE FOR
20 DIAGNOSIS AND TREATMENT OF A DISEASE OR CONDITION OF THE
21 HUMAN VISUAL SYSTEM.

22 (VII) THE TREATMENT OF GLAUCOMA.

23 [(2) The administration and prescription of legend and
24 nonlegend drugs as approved by the Secretary of Health as
25 provided in section 4.3 for treatment of the eye, the
26 eyelids, the lacrimal system and the conjunctiva and the
27 removal of superficial foreign bodies from the ocular surface
28 and adnexa so long as treatment of diseases or conditions of
29 the visual system, other than glaucoma, as authorized under
30 this paragraph shall not continue beyond six weeks from the

1 initiation of treatment unless the prescribing optometrist
2 documents consultation with a licensed physician. As used in
3 this paragraph, the initiation of treatment may, but need
4 not, include the prescription or administration of
5 pharmaceutical agents for therapeutic purposes.

6 (3) The term shall not include:

7 (i) surgery, including, but not limited to, laser
8 surgery; the use of lasers for therapeutic purposes; and
9 the use of injections in the treatment of ocular disease;

10 (ii) the use of Schedule I and Schedule II
11 controlled substances;

12 (iii) treatment of systemic disease; and

13 (iv) the treatment of glaucoma, except that
14 optometrists may use all topical pharmaceutical agents in
15 the treatment of primary open angle glaucoma, exfoliation
16 glaucoma and pigmentary glaucoma.]

17 ~~(4) The administration and prescription of all legend <--~~
18 ~~and nonlegend drugs approved by the Commonwealth for the~~
19 ~~treatment of ocular conditions. The term shall include the~~
20 ~~use of nonopioid analgesic and all legend and nonlegend drugs~~
21 ~~approved by the Food and Drug Administration and published in~~
22 ~~the Code of Federal Regulations necessary and applicable for~~
23 ~~the treatment of diseases and conditions of the eye and the~~
24 ~~adnexa, including the removal of foreign bodies, drainage of~~
25 ~~superficial cysts of the eyelids, injection for anaphylaxis~~
26 ~~and into the upper and lower eyelids and into preplaced~~
27 ~~portals for the delivery of pharmaceuticals for purpose of~~
28 ~~treating diseases and conditions of the anterior segment. As~~
29 ~~used in this paragraph, the initiation of treatment shall~~
30 ~~include the prescription or administration of pharmaceutical~~

1 ~~agents by any means, methods or delivery systems.~~

2 ~~(5) (4) The term shall not include:~~ <--

3 ~~(i) Surgery with a scalpel or scissors, refractive~~
4 ~~or therapeutic surgery with a laser and surgery with a~~
5 ~~cryoprobe. An insurance procedure or billing code may~~ <--
6 ~~not be used to define or interpret a definition of~~
7 ~~surgery.~~

8 ~~(ii) Injection into the globe.~~

9 ~~(iii) The use of Schedule I and Schedule II~~
10 ~~controlled substances, except for the use of codeine and~~
11 ~~hydrocodone combinations which were reclassified from~~
12 ~~Schedule III to Schedule II prior to the effective date~~
13 ~~of this subparagraph and any drugs approved by the~~
14 ~~Commonwealth under this act~~ BOARD IN SECTION 4.3 for the <--
15 ~~treatment of ocular disease.~~

16 ~~(IV) PROCEDURES NOT SPECIFICALLY LISTED IN PARAGRAPH~~ <--

17 ~~(1).~~

18 * * *

19 Section 2. Section 4.3 of the act is ~~repealed~~ AMENDED TO <--

20 READ:

21 †Section 4.3. Approval of drugs. <--

22 Drugs shall be approved as follows:

23 (1) All drugs currently approved by the Secretary of
24 Health and in use in the practice of optometry on the
25 effective date of this section shall be deemed approved under
26 this section.

27 [(2) Within 90 days of the effective date of this <--
28 section, the board shall submit a list of drugs authorized
29 under this act to the Secretary of Health, who, in
30 consultation with the Physician General, shall approve or

1 disapprove for good cause each drug. Upon failure of the
2 Secretary of Health to act within 90 days of receipt of the
3 list of drugs, the drugs shall be deemed approved for use
4 under this act.

5 (3) The State Board of Optometry shall provide the
6 Secretary of Health with lists of additional drugs for use
7 under this act after such drugs are approved by the Food and
8 Drug Administration, as published in the Code of Federal
9 Regulations. The Secretary of Health, in consultation with
10 the Physician General, shall approve or disapprove for good
11 cause any such drug within 90 days of the receipt of the
12 list. Upon failure of the Secretary of Health to act within
13 90 days, the drugs shall be deemed approved for use under
14 this act.]

15 Section 3. ~~The act is amended by adding a section to read:~~ <--

16 ~~Section 4.4. Imaging test.~~

17 ~~An optometrist may order an imaging test appropriate for~~
18 ~~diagnosis and treatment of a disease or condition of the human~~
19 ~~visual system.~~

20 (4) ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, <--
21 THE BOARD MAY APPROVE DRUGS FOR USE IN THE PRACTICE OF
22 OPTOMETRY FOR THE TREATMENT OF DISEASES AND CONDITIONS OF THE
23 EYE AND THE ADNEXA AFTER THE DRUGS ARE APPROVED BY THE FOOD
24 AND DRUG ADMINISTRATION, AS PUBLISHED IN THE CODE OF FEDERAL
25 REGULATIONS.

26 Section 4 3. Section 6(b) of the act is amended to read: <--

27 Section 6. Exemptions and exceptions.

28 * * *

29 (b) The board shall permit externs, who are [fourth year]
30 optometric students, to perform procedures and tests for the

1 sole purpose of instruction and experience under the direct
2 supervision and control of an optometrist licensed in this
3 Commonwealth. Nothing contained in this act shall be construed
4 to entitle an extern to practice optometry.

5 * * *

6 SECTION 4. SECTION 8 OF THE ACT IS AMENDED BY ADDING A
7 SUBSECTION TO READ: <--

8 SECTION 8. VIOLATIONS AND PENALTIES.

9 * * *

10 (A.1) IT IS UNLAWFUL FOR AN OPTOMETRIST TO ADVERTISE A
11 SERVICE PROHIBITED UNDER THIS ACT. A PERSON CONVICTED OF
12 VIOLATING THIS SUBSECTION COMMITS A SUMMARY OFFENSE AND SHALL,
13 FOR A FIRST OFFENSE, BE SUBJECT TO A FINE OF NOT MORE THAN \$500.
14 FOR A SECOND OR SUBSEQUENT VIOLATION, THE BOARD MAY IMPOSE A
15 SUSPENSION OF THE PERSON'S LICENSE FOR UP TO 30 DAYS, IN
16 ADDITION TO THE FINE.

17 * * *

18 SECTION 5. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
19 SECTION 10.1. INSURANCE BILLING CODES.

20 AN INSURANCE BILLING CODE MAY NOT BE USED TO DEFINE OR
21 INTERPRET A PROCEDURE PERFORMED BY AN OPTOMETRIST AS SURGERY.

22 Section 5 6. This act shall take effect in 60 days. <--