

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 831 Session of
2001

INTRODUCED BY PICCOLA, FUMO, M. WHITE, LAVALLE, KUKOVICH,
BOSCOLA, GERLACH, STACK, MADIGAN, LOGAN, LEMMOND, WOZNIAK,
SCARNATI, MURPHY, THOMPSON, MUSTO, KITCHEN, TARTAGLIONE,
EARLL, KASUNIC, D. WHITE, PUNT, SCHWARTZ, HELFRICK, WAUGH,
ROBBINS, RHOADES AND WAGNER, MAY 2, 2001

SENATOR DENT, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS
AMENDED, OCTOBER 8, 2002

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 defining
4 "examination and diagnosis" and "practice of optometry"; and
5 ~~adding to the powers and duties of the State Board of~~ <—
6 ~~Optometry.~~ PROVIDING FOR REQUIREMENTS CONCERNING <—
7 PHARMACEUTICAL AGENTS FOR THE TREATMENT OF GLAUCOMA AND FOR
8 APPROVAL OF DRUGS.

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

11 Section 1. The definitions of "examination and diagnosis"
12 and "practice of optometry" in section 2 of the act of June 6,
13 1980 (P.L.197, No.57), known as the Optometric Practice and
14 Licensure Act, amended October 30, 1996 (P.L.721, No.130), are
15 amended to read:

16 Section 2. Definitions.

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

1 * * *

2 ~~"Examination and diagnosis." Any examination or diagnostic~~ <—
3 ~~means or method compatible with optometric education and~~
4 ~~professional competence. The term shall encompass the use of~~
5 ~~pharmaceutical agents for diagnostic purposes classified as~~
6 ~~miotics, mydriatics, cycloplegics, topical anesthetics and dyes~~
7 ~~when applied topically to the eye, which pharmaceutical agents~~
8 ~~shall be approved by the [Secretary of Health and] State Board~~
9 ~~of Optometry, subject to the rules and regulations of the board,~~
10 ~~provided however that with respect to optometrists licensed~~
11 ~~before March 1, 1974, only such optometrists who have~~
12 ~~satisfactorily completed a course in pharmacology as it applies~~
13 ~~to optometry, with particular emphasis on the topical~~
14 ~~application of diagnostic pharmaceutical agents to the eye,~~
15 ~~approved by the board shall be permitted to use diagnostic~~
16 ~~pharmaceutical agents topically in the practice of optometry.~~

17 * * *

18 ~~"Practice of optometry."~~

19 ~~(1) The use of any and all means or methods for the~~
20 ~~examination, diagnosis and treatment of conditions of the~~
21 ~~human visual system and shall include the examination for,~~
22 ~~and adapting and fitting of, any and all kinds and types of~~
23 ~~lenses including contact lenses.~~

24 ~~(2) The administration and prescription of legend and~~
25 ~~nonlegend drugs as approved by the [Secretary of Health]~~
26 ~~State Board of Optometry for treatment of the [anterior~~
27 ~~segment of the] eye, the eyelids, the lacrimal system and the~~
28 ~~conjunctiva and the removal of superficial foreign bodies~~
29 ~~from the ocular surface and adnexa, [so long as treatment of~~
30 ~~diseases or conditions of the visual system as authorized~~

~~under this paragraph shall not continue beyond six weeks from the initiation of treatment unless the prescribing optometrist documents consultation with a licensed physician. As used in this paragraph, the initiation of treatment may, but need not, include the prescription or administration of pharmaceutical agents for therapeutic purposes.]~~

~~(3) The prescribing and administering of diphenhydramine, epinephrine or other medication to counteract anaphylaxis or anaphylactic reaction.~~

~~(4) The provision of low vision rehabilitation through the examination, diagnosis and management of the low vision patient, including prescription, low vision rehabilitation therapy and interdisciplinary consultation when indicated.~~

~~[(3)] (5) The term shall not include:~~

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

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

~~[(iii) the use of beta blockers and the use of steroids;~~

~~(iv)] (iii) treatment of systemic disease, except for anaphylaxis. [; and~~

~~(v) the treatment of glaucoma.]~~

~~***~~

~~Section 2. Section 3(b) of the act is amended by adding paragraphs to read:~~

~~Section 3. Powers and duties of the board.~~

~~***~~

1 ~~(b) The board shall have the following powers:~~

2 * * *

3 ~~(14.1) To approve, consistent with the rules and~~
4 ~~regulations promulgated by the board, those acts, services,~~
5 ~~procedures and practices which may be performed by a licensed~~
6 ~~optometrist and, prior to authorization, by appropriate~~
7 ~~examination, establish the competence of every optometrist to~~
8 ~~perform the approved acts, services, procedures and~~
9 ~~practices.~~

10 ~~(14.2) To issue advisory opinions on those acts,~~
11 ~~services, procedures or practices which may be legally~~
12 ~~performed by individuals licensed under its jurisdiction. Any~~
13 ~~licensee wishing to receive an advisory opinion must submit a~~
14 ~~written request to the board. The request must describe the~~
15 ~~act, service, procedure or practice the licensee is~~
16 ~~questioning, and must do so in sufficient detail to enable~~
17 ~~the board to make a decision. Upon receipt of such a request,~~
18 ~~the board shall notify the licensee whether it will issue an~~
19 ~~advisory opinion, and, if so, the time, date and place of the~~
20 ~~meeting at which it will be considered. All advisory opinions~~
21 ~~must be approved by majority vote of the board. No person~~
22 ~~acting in good faith on an advisory opinion issued to him by~~
23 ~~the board shall be subject to criminal or civil penalties for~~
24 ~~so acting, provided that the material facts are as stated in~~
25 ~~the request for an advisory opinion.~~

26 * * *

27 ~~Section 3. The act is amended by adding a section to read:~~

28 ~~Section 6.1. Certain acts to constitute practice of optometry.~~

29 ~~(a) Any person who prescribes or provides comprehensive low~~
30 ~~vision examination for the rehabilitation and treatment of the~~

~~visually impaired or legally blind patient; prescribes
corrective eyeglasses, contact lenses, prisms, or sunfilters;
employs any means for the adaptation of lenses, low vision
devices, prisms or sunfilters; evaluates the need for,
recommends or prescribes optical low vision devices is engaged
in the practice of optometry; or recommends or provides low
vision rehabilitation services independent of documentation of
collaboration/communication with an optometrist, physician or
osteopath is engaged in the practice of optometry.~~

~~(b) Any person who assesses, diagnoses, treats or prescribes
treatment for conditions of the visual system or manages a
patient with vision therapy, visual training, orthoptics or eye
exercises or who holds themselves out as being able to do so for
the treatment of physical, physiological, sensorimotor,
neuromuscular or perceptual anomalies of the eyes or vision
system or who prescribes or utilizes lenses, prisms, sunfilters,
occlusion or other optical devices for the enhancement and/or
treatment of the visual system or prevention of visual
dysfunction, except under the supervision and management of a
licensed optometrist, physician or osteopath is engaged in the
practice of optometry.~~

~~Section 4. This act shall take effect immediately.~~

~~"EXAMINATION AND DIAGNOSIS." ANY EXAMINATION OR DIAGNOSTIC
MEANS OR METHOD COMPATIBLE WITH OPTOMETRIC EDUCATION AND
PROFESSIONAL COMPETENCE. THE TERM SHALL ENCOMPASS THE USE OF
PHARMACEUTICAL AGENTS FOR DIAGNOSTIC PURPOSES CLASSIFIED AS
MIOTICS, MYDRIATICS, CYCLOPLEGICS, TOPICAL ANESTHETICS AND DYES
WHEN APPLIED TOPICALLY TO THE EYE, WHICH PHARMACEUTICAL AGENTS
SHALL BE APPROVED BY THE SECRETARY OF HEALTH AS PROVIDED IN
SECTION 4.3 AND, SUBJECT TO THE RULES AND REGULATIONS OF THE~~

<—

1 BOARD, PROVIDED HOWEVER THAT WITH RESPECT TO OPTOMETRISTS
2 LICENSED BEFORE MARCH 1, 1974, ONLY SUCH OPTOMETRISTS WHO HAVE
3 SATISFACTORILY COMPLETED A COURSE IN PHARMACOLOGY AS IT APPLIES
4 TO OPTOMETRY, WITH PARTICULAR EMPHASIS ON THE TOPICAL
5 APPLICATION OF DIAGNOSTIC PHARMACEUTICAL AGENTS TO THE EYE,
6 APPROVED BY THE BOARD SHALL BE PERMITTED TO USE DIAGNOSTIC
7 PHARMACEUTICAL AGENTS TOPICALLY IN THE PRACTICE OF OPTOMETRY.

8 * * *

9 "PRACTICE OF OPTOMETRY."

10 (1) THE USE OF ANY AND ALL MEANS OR METHODS FOR THE
11 EXAMINATION, DIAGNOSIS AND TREATMENT OF CONDITIONS OF THE
12 HUMAN VISUAL SYSTEM AND SHALL INCLUDE THE EXAMINATION FOR,
13 AND ADAPTING AND FITTING OF, ANY AND ALL KINDS AND TYPES OF
14 LENSES INCLUDING CONTACT LENSES.

15 (2) THE ADMINISTRATION AND PRESCRIPTION OF LEGEND AND
16 NONLEGEND DRUGS AS APPROVED BY THE SECRETARY OF HEALTH AS
17 PROVIDED IN SECTION 4.3 FOR TREATMENT OF THE [ANTERIOR
18 SEGMENT OF THE] EYE, THE EYELIDS, THE LACRIMAL SYSTEM AND THE
19 CONJUNCTIVA AND THE REMOVAL OF SUPERFICIAL FOREIGN BODIES
20 FROM THE OCULAR SURFACE AND ADNEXA SO LONG AS TREATMENT OF
21 DISEASES OR CONDITIONS OF THE VISUAL SYSTEM, OTHER THAN
22 GLAUCOMA, AS AUTHORIZED UNDER THIS PARAGRAPH SHALL NOT
23 CONTINUE BEYOND SIX WEEKS FROM THE INITIATION OF TREATMENT
24 UNLESS THE PRESCRIBING OPTOMETRIST DOCUMENTS CONSULTATION
25 WITH A LICENSED PHYSICIAN. AS USED IN THIS PARAGRAPH, THE
26 INITIATION OF TREATMENT MAY, BUT NEED NOT, INCLUDE THE
27 PRESCRIPTION OR ADMINISTRATION OF PHARMACEUTICAL AGENTS FOR
28 THERAPEUTIC PURPOSES.

29 (3) THE TERM SHALL NOT INCLUDE:

30 (I) SURGERY, INCLUDING, BUT NOT LIMITED TO, LASER

SURGERY; THE USE OF LASERS FOR THERAPEUTIC PURPOSES; AND
THE USE OF INJECTIONS IN THE TREATMENT OF OCULAR DISEASE;

(II) THE USE OF SCHEDULE I AND SCHEDULE II
CONTROLLED SUBSTANCES;

[(III) THE USE OF BETA BLOCKERS AND THE USE OF
STEROIDS;

(IV) TREATMENT OF SYSTEMIC DISEASE; AND

(V) THE TREATMENT OF GLAUCOMA.]

(III) TREATMENT OF SYSTEMIC DISEASE; AND

(IV) THE TREATMENT OF GLAUCOMA, EXCEPT THAT

OPTOMETRISTS MAY USE ALL TOPICAL PHARMACEUTICAL AGENTS IN
THE TREATMENT OF PRIMARY OPEN ANGLE GLAUCOMA, EXFOLIATION
GLAUCOMA AND PIGMENTARY GLAUCOMA.

* * *

SECTION 2. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

SECTION 4.2. ADDITIONAL REQUIREMENTS TO PRESCRIBE AND

ADMINISTER PHARMACEUTICAL AGENTS FOR THE

TREATMENT OF CERTAIN TYPES OF GLAUCOMA.

(A) PRIOR TO TREATING GLAUCOMA FOR THE FIRST TIME, ALL

THERAPEUTICALLY CERTIFIED OPTOMETRISTS MUST HAVE PASSED AN

EXAMINATION THAT INCLUDED PRESCRIPTION AND ADMINISTRATION OF

PHARMACEUTICAL AGENTS FOR THERAPEUTIC PURPOSES AS REQUIRED IN

SECTION 4.1(A). THERAPEUTICALLY CERTIFIED OPTOMETRISTS WHO

PASSED THE EXAMINATION UNDER SECTION 4.1(A)(2) SHALL ALSO

COMPLETE AT LEAST 18 HOURS OF CONTINUING EDUCATION IN GLAUCOMA.

IN ORDER TO CONTINUE TREATING GLAUCOMA, THE THERAPEUTICALLY

CERTIFIED OPTOMETRIST SHALL, AS PART OF THE CONTINUING EDUCATION

REQUIRED FOR RENEWAL OF A LICENSE UNDER THIS ACT, COMPLETE AT

LEAST 4 HOURS IN THE STUDY OF THE PRESCRIPTION AND

ADMINISTRATION OF PHARMACEUTICAL AGENTS FOR THE TREATMENT OF

1 GLAUCOMA.

2 (B) THERAPEUTICALLY CERTIFIED OPTOMETRISTS WHO PRESCRIBE AND
3 ADMINISTER PHARMACEUTICAL AGENTS FOR THE TREATMENT OF GLAUCOMA
4 PERMITTED UNDER THIS ACT SHALL OBTAIN AND MAINTAIN PROFESSIONAL
5 LIABILITY INSURANCE IN ACCORDANCE WITH SECTION 3(A)(2.5), EXCEPT
6 THAT THE AMOUNT OF PROFESSIONAL LIABILITY INSURANCE MAINTAINED
7 SHALL BE A MINIMUM OF \$1,000,000 PER OCCURRENCE AND \$3,000,000
8 PER ANNUAL AGGREGATE.

9 SECTION 4.3. APPROVAL OF DRUGS.

10 DRUGS SHALL BE APPROVED AS FOLLOWS:

11 (1) ALL DRUGS CURRENTLY APPROVED BY THE SECRETARY OF
12 HEALTH AND IN USE IN THE PRACTICE OF OPTOMETRY ON THE
13 EFFECTIVE DATE OF THIS SECTION SHALL BE DEEMED APPROVED UNDER
14 THIS SECTION.

15 (2) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THIS
16 SECTION, THE BOARD SHALL SUBMIT A LIST OF DRUGS AUTHORIZED
17 UNDER THIS ACT TO THE SECRETARY OF HEALTH, WHO, IN
18 CONSULTATION WITH THE PHYSICIAN GENERAL, SHALL APPROVE OR
19 DISAPPROVE FOR GOOD CAUSE EACH DRUG. UPON FAILURE OF THE
20 SECRETARY OF HEALTH TO ACT WITHIN 90 DAYS OF RECEIPT OF THE
21 LIST OF DRUGS, THE DRUGS SHALL BE DEEMED APPROVED FOR USE
22 UNDER THIS ACT.

23 (3) THE STATE BOARD OF OPTOMETRY SHALL PROVIDE THE
24 SECRETARY OF HEALTH WITH LISTS OF ADDITIONAL DRUGS FOR USE
25 UNDER THIS ACT AFTER SUCH DRUGS ARE APPROVED BY THE FOOD AND
26 DRUG ADMINISTRATION, AS PUBLISHED IN THE CODE OF FEDERAL
27 REGULATIONS. THE SECRETARY OF HEALTH, IN CONSULTATION WITH
28 THE PHYSICIAN GENERAL, SHALL APPROVE OR DISAPPROVE FOR GOOD
29 CAUSE ANY SUCH DRUG WITHIN 90 DAYS OF THE RECEIPT OF THE
30 LIST. UPON FAILURE OF THE SECRETARY OF HEALTH TO ACT WITHIN

1 90 DAYS THE DRUGS SHALL BE DEEMED APPROVED FOR USE UNDER THIS
2 ACT.

3 SECTION 3. SECTION 8(A) OF THE ACT IS AMENDED BY ADDING A
4 PARAGRAPH TO READ:

5 SECTION 8. VIOLATIONS AND PENALTIES.

6 (A) * * *

7 (3) IT IS UNLAWFUL FOR OPTOMETRISTS TO HOLD THEMSELVES
8 OUT AS PERFORMING LASER SURGERY OR USING THERAPEUTIC LASERS.

9 * * *

10 SECTION 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.