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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 391 Session of  
2019

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INTRODUCED BY GORDNER, SCARNATI, FOLMER, BAKER, WHITE,  
HUTCHINSON AND YUDICHAK, MARCH 5, 2019

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
MARCH 5, 2019

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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, for approval of drugs, for exemptions and  
5 exceptions and for violations and penalties; and providing  
6 for insurance billing codes.

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

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

13 Section 2. Definitions.

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

17 \* \* \*

18 "Examination and diagnosis." Any examination or diagnostic  
19 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 miotics,  
5 mydriatics, cycloplegics, topical anesthetics and dyes when  
6 applied topically to the eye, [which pharmaceutical agents shall  
7 be approved by the Secretary of Health as provided in section  
8 4.3 and,] subject to the rules and regulations of the board,  
9 provided however that with respect to optometrists licensed  
10 before March 1, 1974, only such optometrists who have  
11 satisfactorily completed a course in pharmacology as it applies  
12 to optometry, with particular emphasis on the [topical]  
13 application of diagnostic pharmaceutical agents to the eye,  
14 approved by the board shall be permitted to use diagnostic  
15 pharmaceutical agents [topically] in the practice of optometry.

16 \* \* \*

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

24 "Practice of optometry."

25 (1) The use of any and all means or methods for the  
26 examination, diagnosis, prevention and treatment of all  
27 conditions [of] affecting the human visual system [and shall  
28 include the examination for, and adapting and fitting of, any  
29 and all kinds and types of lenses including contact lenses.],  
30 including all conditions of the human eye and adnexa

1 applicable to this act. The term shall include:

2 (i) The examination for, and adapting and fitting  
3 of, any and all kinds and types of lenses, including  
4 contact lenses.

5 (ii) The administration and prescription of all  
6 legend and nonlegend drugs, by any means, methods or  
7 delivery systems, approved by the board in section 4.3  
8 for the treatment of diseases and conditions affecting  
9 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.

17 (v) Epinephrine auto-injectors for anaphylaxis.

18 (vi) The ordering and interpretation of angiography  
19 via noninvasive imaging, including, but not limited to,  
20 light wave imaging and other imaging tests.

21 (vii) The treatment of glaucoma.

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

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

5 (3) The term shall not include:

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

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

11 (iii) treatment of systemic disease; and

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

16 (4) The term shall not include:

17 (i) Surgery with a scalpel or scissors, refractive  
18 or therapeutic surgery with a laser and surgery with a  
19 CryoProbe.

20 (ii) Injection into the globe.

21 (iii) The use of Schedule I and Schedule II  
22 controlled substances, except for the use of codeine and  
23 hydrocodone combinations which were reclassified from  
24 Schedule III to Schedule II prior to the effective date  
25 of this subparagraph and any drugs approved by the board  
26 in section 4.3 for the treatment of ocular disease.

27 \* \* \*

28 Section 2. Sections 4.3 and 6(b) of the act are amended to  
29 read:

30 Section 4.3. Approval of drugs.

1 Drugs shall be approved as follows:

2 (1) All drugs currently approved by the Secretary of  
3 Health and in use in the practice of optometry on the  
4 effective date of this section shall be deemed approved under  
5 this section.

6 [(2) Within 90 days of the effective date of this  
7 section, the board shall submit a list of drugs authorized  
8 under this act to the Secretary of Health, who, in  
9 consultation with the Physician General, shall approve or  
10 disapprove for good cause each drug. Upon failure of the  
11 Secretary of Health to act within 90 days of receipt of the  
12 list of drugs, the drugs shall be deemed approved for use  
13 under this act.]

14 (3) The State Board of Optometry shall provide the  
15 Secretary of Health with lists of additional drugs for use  
16 under this act after such drugs are approved by the Food and  
17 Drug Administration, as published in the Code of Federal  
18 Regulations. The Secretary of Health, in consultation with  
19 the Physician General, shall approve or disapprove for good  
20 cause any such drug within 90 days of the receipt of the  
21 list. Upon failure of the Secretary of Health to act within  
22 90 days, the drugs shall be deemed approved for use under  
23 this act.]

24 (4) On and after the effective date of this paragraph,  
25 the board may approve drugs for use in the practice of  
26 optometry after the drugs are approved by the Food and Drug  
27 Administration, as published in the Code of Federal  
28 Regulations.

29 Section 6. Exemptions and exceptions.

30 \* \* \*

1 (b) The board shall permit externs, who are [fourth year]  
2 optometric students, to perform procedures and tests for the  
3 sole purpose of instruction and experience under the direct  
4 supervision and control of an optometrist licensed in this  
5 Commonwealth. Nothing contained in this act shall be construed  
6 to entitle an extern to practice optometry.

7 \* \* \*

8 Section 3. Section 8(a) of the act is amended by adding a  
9 paragraph to read:

10 Section 8. Violations and penalties.

11 (a) \* \* \*

12 (4) It is unlawful for an optometrist to advertise a  
13 service prohibited under this act. A person convicted of  
14 violating this paragraph commits a summary offense and shall,  
15 for a first offense, be subject to a fine of not more than  
16 \$500. For a second or subsequent violation, the board may  
17 impose a suspension of the person's license for up to 30  
18 days, in addition to the fine.

19 \* \* \*

20 Section 4. The act is amended by adding a section to read:

21 Section 10.1. Insurance billing codes.

22 An insurance billing code may not be used to define or  
23 interpret a procedure performed by an optometrist as surgery.

24 Section 5. This act shall take effect in 60 days.