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I N   S E N A T E

May 28, 2014

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Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to authorizing optometrists to prescribe and use limited categories of oral medicines

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 1 of section 7101-a of the education law is  
2 amended by adding a new paragraph (g) to read as follows:

3     (G) PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENTS. PHASE THREE THERA-  
4 PEUTIC PHARMACEUTICAL AGENTS SHALL MEAN THOSE ORALLY ADMINISTERED DRUGS  
5 USED FOR THERAPEUTIC PURPOSES FOR THE TREATMENT OF DISEASES OF THE EYE  
6 AND ADNEXA AND SHALL BE LIMITED TO:

7     (I) ANTIBIOTICS;

8     (II) DECONGESTANTS/ANTI-ALLERGENIC/ANTI-HISTAMINES;

9     (III) ANTIGLAUCOMAS; PROVIDED HOWEVER, WHEN PRESCRIBED OR ADMINISTERED  
10 FOR THE TREATMENT OF ACUTE ANGLE CLOSURE GLAUCOMA, THE PRESCRIBING OPTO-  
11 METRIST SHALL MAKE ALL REASONABLE EFFORTS IMMEDIATELY THEREAFTER TO  
12 REFER THE PATIENT TO A LICENSED PHYSICIAN SPECIALIZING IN DISEASES OF  
13 THE EYE AND PROVIDE NOTIFICATION IN ACCORDANCE WITH SUBDIVISION SIX-A OF  
14 THIS SECTION;

15     (IV) ANTIVIRALS;

16     (V) ONE, THREE DAY SUPPLY OF ANALGESICS, BUT SHALL NOT INCLUDE THOSE  
17 LISTED IN SCHEDULES I AND II OF THE UNIFORM CONTROLLED SUBSTANCES ACT;

18     (VI) NONSTEROIDAL ANTI-INFLAMMATORY DRUGS;

19     (VII) ONE, FOURTEEN DAY SUPPLY OF CORTICOSTEROIDS.

20     S 2. Paragraphs (c) and (d) of subdivision 4 of section 7101-a of the  
21 education law are relettered paragraphs (d) and (e) and a new paragraph  
22 (c) is added to read as follows:

23     (C) BEFORE USING OR PRESCRIBING PHASE THREE THERAPEUTIC PHARMACEUTICAL  
24 AGENTS, AN OPTOMETRIST MUST BE CERTIFIED TO PRESCRIBE DIAGNOSTIC PHARMA-  
25 CEUTICAL AGENTS, AND PHASE ONE AND PHASE TWO THERAPEUTIC PHARMACEUTICAL  
26 AGENTS, AND HAVE COMPLETED A THIRTY HOUR PHASE THREE THERAPEUTIC PHARMA-  
27 CEUTICAL AGENT CERTIFICATION COURSE, WITH A CURRICULUM DEVELOPED BY AN  
28 ACCREDITED COLLEGE OF OPTOMETRY IN COLLABORATION WITH AN ACCREDITED

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 MEDICAL SCHOOL. THE CURRICULUM, WHICH SHALL BE APPROVED BY THE DEPART-  
2 MENT, SHALL INCLUDE, BUT NOT BE LIMITED TO, INSTRUCTION IN PHARMACOLOGY  
3 AND DRUG INTERACTION AND BE TAUGHT THROUGH CLINICAL CASE SCENARIOS AND  
4 EMPHASIZE CLINICAL DECISION MAKING. SUCH COURSE SHALL QUALIFY TOWARDS  
5 MEETING THE THIRTY-SIX HOURS OF CONTINUING EDUCATION PER TRIENNIAL  
6 REGISTRATION PERIOD REQUIRED BY SUBDIVISION SEVEN OF THIS SECTION. THIS  
7 REQUIREMENT FOR THE THIRTY HOUR PHASE THREE THERAPEUTIC PHARMACEUTICAL  
8 AGENT CERTIFICATION COURSE SHALL NOT APPLY TO THOSE OPTOMETRISTS WHO (I)  
9 GRADUATED FROM AN ACCREDITED COLLEGE OF OPTOMETRY SUBSEQUENT TO JANUARY  
10 FIRST, TWO THOUSAND FOUR AND (II) HAVE TAKEN AND SUCCESSFULLY PASSED  
11 EITHER THE TREATMENT AND MANAGEMENT OF OCULAR DISEASES PORTION OF THE  
12 NATIONAL BOARD OF EXAMINERS IN OPTOMETRY OR AN EXAMINATION ACCEPTABLE TO  
13 THE BOARD.

14 S 3. Subdivision 5 of section 7101-a of the education law, as added by  
15 chapter 517 of the laws of 1995, is amended to read as follows:

16 5. Suspension of certification. The department shall suspend the  
17 certification for the use and prescribing of phase one therapeutic  
18 agents of any optometrist who fails to receive certification for phase  
19 two therapeutic pharmaceutical agents within three years of having been  
20 certified for phase one therapeutic pharmaceutical agents. THE DEPART-  
21 MENT SHALL SUSPEND THE CERTIFICATION FOR THE USE AND PRESCRIBING OF  
22 PHASE ONE AND PHASE TWO THERAPEUTIC AGENTS OF ANY OPTOMETRIST WHO FAILS  
23 TO RECEIVE CERTIFICATION FOR PHASE THREE THERAPEUTIC PHARMACEUTICAL  
24 AGENTS WITHIN THREE YEARS OF APPROVAL BY THE DEPARTMENT OF A THIRTY HOUR  
25 PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENT CERTIFICATION COURSE PURSU-  
26 ANT TO PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS SECTION.

27 S 4. The subdivision heading of subdivision 6 of section 7101-a of the  
28 education law, as added by chapter 517 of the laws of 1995, is amended  
29 and two new subdivisions 6-a and 6-b are added to read as follows:

30 Consultation WITH USE OF CERTAIN PHASE TWO THERAPEUTIC PHARMACEUTICAL  
31 AGENTS.

32 6-A. NOTIFICATION OF USE OF PHASE THREE THERAPEUTIC PHARMACEUTICAL  
33 AGENTS. AN OPTOMETRIST SHALL, AS SOON AS PRACTICABLE, DOCUMENT IN THE  
34 PATIENT'S RECORD THE PRESCRIPTION OF USE OF PHASE THREE THERAPEUTIC  
35 PHARMACEUTICAL AGENTS. WITHIN SEVENTY-TWO HOURS OF PRESCRIBING OR USING  
36 A PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENT, AN OPTOMETRIST SHALL  
37 NOTIFY THE PATIENT'S PRIMARY CARE PRACTITIONER, AND DOCUMENT SUCH  
38 NOTIFICATION WITH THE FOLLOWING INFORMATION:

39 (A) THE NAME OF SUCH AGENT;

40 (B) THE DOSE;

41 (C) THE FREQUENCY OF USE; AND

42 (D) THE DURATION OF USE OR PRESCRIPTION;

43 6-B. CONSULTATION WITH USE OF PHASE THREE THERAPEUTIC PHARMACEUTICAL  
44 AGENTS. IF IN THE PROFESSIONAL JUDGMENT OF THE OPTOMETRIST, A PATIENT'S  
45 CONDITION DOES NOT RESULT IN AN ADEQUATE CLINICAL RESPONSE TO THE PHASE  
46 THREE THERAPEUTIC PHARMACEUTICAL AGENT THERAPY, THE OPTOMETRIST SHALL  
47 CONSULT WITH THE PATIENT'S PRIMARY CARE PRACTITIONER AS SOON AS CLIN-  
48 ICALLY PRUDENT.

49 S 5. Subdivision 7 of section 7101-a of the education law, as added by  
50 chapter 517 of the laws of 1995, is amended to read as follows:

51 7. Continuing education. Each optometrist certified to use phase one  
52 [or], phase two OR PHASE THREE therapeutic pharmaceutical agents shall  
53 complete a minimum of thirty-six hours of continuing education per  
54 triennial registration period. The education shall be in the area of  
55 ocular disease and pharmacology, AT LEAST SIX HOURS OF WHICH SHALL  
56 RELATE SPECIFICALLY TO SYSTEMIC DRUG USE AND INTERACTION, and may

1 include both didactic and clinical components. Such educational programs  
2 shall be approved in advance by the department and evidence of the  
3 completion of this requirement shall be submitted with each application  
4 for license renewal as required by section sixty-five hundred two of  
5 this chapter.

6 S 6. The subdivision heading of subdivision 8 of section 7101-a of the  
7 education law, as added by chapter 517 of the laws of 1995, is amended  
8 to read as follows:

9 Notice to patient WITH USE OF CERTAIN PHASE TWO THERAPEUTIC PHARMACEU-  
10 TICAL AGENTS.

11 S 7. Subdivision 10 of section 7101-a of the education law, as added  
12 by chapter 517 of the laws of 1995, is amended to read as follows:

13 10. Pharmaceutical agents. Optometrists who have been approved and  
14 certified by the department shall be permitted to use the following  
15 drugs:

16 (a) Diagnostic pharmaceuticals.

17 (b) Those optometrists having been certified for phase one therapeutic  
18 pharmaceutical agents shall be authorized [(i) to use and recommend all  
19 nonprescription medications appropriate for ocular disease whether  
20 intended for topical or oral use; and (ii)] to use and prescribe all  
21 phase one therapeutic pharmaceutical agents which are FDA approved and  
22 commercially available.

23 In the event an optometrist treats a patient with topical antiviral or  
24 steroidal drugs and the patient's condition either fails to improve or  
25 worsens within five days, the optometrist shall notify a physician  
26 designated by the patient or, if none, by the treating optometrist.

27 (c) Those optometrists having been certified for phase two therapeutic  
28 pharmaceutical agents shall be authorized to use and prescribe phase two  
29 therapeutic pharmaceutical agents which are FDA approved and commercial-  
30 ly available.

31 (D) THOSE OPTOMETRISTS HAVING BEEN CERTIFIED FOR PHASE THREE THERAPEU-  
32 TIC PHARMACEUTICAL AGENTS SHALL BE AUTHORIZED TO USE AND PRESCRIBE PHASE  
33 THREE THERAPEUTIC PHARMACEUTICAL AGENTS WHICH ARE FDA APPROVED AND  
34 COMMERCIALY AVAILABLE.

35 (E) THOSE OPTOMETRISTS HAVING BEEN CERTIFIED FOR PHASE ONE, PHASE TWO  
36 OR PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENTS SHALL BE AUTHORIZED TO  
37 USE AND RECOMMEND ALL NONPRESCRIPTION MEDICATIONS, WHETHER INTENDED FOR  
38 TOPICAL OR ORAL USE, APPROPRIATE FOR THE TREATMENT OF THE EYE AND  
39 ADNEXA.

40 S 8. Subdivision 12 of section 7101-a of the education law, as added  
41 by chapter 517 of the laws of 1995, is amended to read as follows:

42 12. Responsibilities of the commissioner of health. [The] IN ORDER TO  
43 SATISFY THE REQUIREMENT THAT AN OPTOMETRIST AUTHORIZED TO USE PHARMA-  
44 CEUTICAL AGENTS FOR USE IN THE DIAGNOSIS, TREATMENT OR PREVENTION OF  
45 OCULAR DISEASE SHALL BE HELD TO THE SAME STANDARD OF CARE IN DIAGNOSIS,  
46 USE OF SUCH AGENTS, AND TREATMENT AS THAT DEGREE OF SKILL AND PROFICIEN-  
47 CY COMMONLY EXERCISED BY A PHYSICIAN IN THE SAME COMMUNITY, THE commis-  
48 sioner of health [may recommend to the commissioner additions or  
49 deletions to the department's regulations relating to optometric use of  
50 drugs except that such recommendations shall be limited only to addi-  
51 tions which have been determined to be equivalent to those drugs already  
52 authorized or deletions based upon a finding that the drugs are no long-  
53 er appropriate for their current use or for other similar reasons] SHALL  
54 RECOMMEND TO THE COMMISSIONER ADDITIONS OR DELETIONS TO THE LIST OF  
55 APPROVED CATEGORIES OF DIAGNOSTIC, THERAPEUTIC AND ORAL PHARMACEUTICAL

1 AGENTS WHICH ARE CONSISTENT WITH THE STANDARD OF CARE IN THE COMMUNITY  
2 FOR THE DIAGNOSIS AND TREATMENT OF DISEASES OF THE EYE AND ADNEXA.  
3 S 9. This act shall take effect on the one hundred twentieth day after  
4 it shall have become a law; provided that any rule or regulation neces-  
5 sary for the timely implementation of this act on its effective date  
6 shall be promulgated on or before such effective date.