

3811

2009-2010 Regular Sessions

I N S E N A T E

April 1, 2009

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

AN ACT in relation to authorizing and directing the state education department to re-evaluate the use of therapeutic drugs in optometric practice

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

1 Section 1. Legislative findings. The legislature finds that since  
2 1995, optometrists certified as having met certain standards of training  
3 and experience set forth in law have been authorized to use, and in some  
4 cases prescribe, topically applied therapeutic pharmaceutical agents for  
5 the treatment or prevention of ocular disease. Chapter 517 of the laws  
6 of 1995 included language providing for a short-term review of the law  
7 to determine whether such authorization was in the public interest, and  
8 a report based on that directive was issued in 1997. However, no review  
9 of the law has been undertaken since then.

10 There are a number of concerns regarding the current law permitting  
11 certified optometrists to prescribe drugs, and about whether it ensures  
12 patient safety. These concerns include optometrists who lack the legally  
13 mandated qualifications to write prescriptions; the prescription of  
14 controlled substances by optometrists; the prescription of oral medica-  
15 tions by optometrists; and the prescription of pharmaceutical agents  
16 intended for conditions unrelated to the eye by optometrists. If these  
17 concerns are valid, then there may be a need for the state to take steps  
18 to address the problems, such as instituting additional safeguards at  
19 the pharmacy level to insure that medications are being prescribed in  
20 accordance with the practitioners' legal prescribing authority.

21 In the interest of patient safety and to ensure the quality of care  
22 that the residents of New York state receive, the legislature finds that  
23 a further evaluation of the use of therapeutic drugs in optometric prac-  
24 tice as currently permitted by law is appropriate and necessary.

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

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1 S 2. (a) The legislature therefore directs the commissioner of educa-  
2 tion, in conjunction with the commissioner of health, to study and eval-  
3 uate the use of therapeutic pharmaceutical agents in optometric practice  
4 as currently authorized by section 7101-a of the education law. Such  
5 inquiry shall include an analysis of prescriptions of pharmaceutical  
6 agents by optometrists, and shall specifically consider (1) whether  
7 optometrists who have written prescriptions possess the legally required  
8 qualifications to prescribe those drugs; (2) whether this authorization  
9 has been inappropriately used by optometrists to prescribe controlled  
10 substances or medications not within their legally mandated scope of  
11 practice; and (3) whether this authorization has been improperly used by  
12 optometrists to prescribe pharmaceutical agents intended for conditions  
13 unrelated to the eye.

14 If the commissioner of education finds that any of the foregoing ille-  
15 gal practices are regularly occurring, the commissioner shall make  
16 recommendations to ensure that medications are being prescribed in  
17 accordance with the practitioner's legal prescribing authority, includ-  
18 ing, but not limited to, implementing additional safeguards at the phar-  
19 macy level.

20 (b) Nothing in this section shall prohibit the commissioner of educa-  
21 tion upon learning of a violation of section 7101-a of the education law  
22 or any other section of law, to take such actions as are appropriate to  
23 remedy such violation including, but not limited to, referring such  
24 violation to the proper enforcement authority.

25 (c) The commissioner of education shall submit a report of findings  
26 and recommendations to the governor and the legislature within one year  
27 of the effective date of this act.

28 S 3. This act shall take effect immediately.