S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. PAULIN, COOK, CYMBROWITZ, ABINANTI, GUNTHER, FARRELL, WEPRIN, HEVESI, RYAN, TITUS, STIRPE, SKOUFIS, BUCHWALD -- Multi-Sponsored by -- M. of A. CAHILL, CROUCH, DiPIETRO, FRIEND, GALEF, GOODELL, GOTTFRIED, HIKIND, KEARNS, RIVERA, SIMANOWITZ, SKARTADOS, STEC -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the practice of optometry

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

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

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

(I) ANTIBIOTICS;

(II) DECONGESTANTS/ANTI-ALLERGENIC/ANTIHISTAMINES;

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

(IV) ANTIVIRALS;

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

(VI) NONSTEROIDAL ANTI-INFLAMMATORY DRUGS;

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

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(VII) ONE FOURTEEN-DAY SUPPLY OF CORTICOSTEROIDS.

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

(C) BEFORE USING OR PRESCRIBING PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENTS, AN OPTOMETRIST MUST BE CERTIFIED TO PRESCRIBE DIAGNOSTIC PHARMACEUTICAL AGENTS AND PHASE ONE AND PHASE TWO THERAPEUTIC PHARMACEUTICAL AGENTS AND HAVE COMPLETED A THIRTY HOUR PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENT CERTIFICATION COURSE, WITH A CURRICULUM DEVELOPED BY AN ACCREDITED COLLEGE OF OPTOMETRY IN COLLABORATION WITH A NEW YORK STATE ACCREDITED MEDICAL SCHOOL. THE CURRICULUM, WHICH SHALL BE APPROVED BY THE DEPARTMENT, SHALL INCLUDE, BUT NOT BE LIMITED TO, INSTRUCTION IN PHARMACOLOGY AND DRUG INTERACTION AND BE TAUGHT THROUGH CLINICAL CASE SCENARIOS AND EMPHASIZE CLINICAL DECISION MAKING. SUCH COURSE SHALL QUALIFY TOWARDS MEETING THE THIRTY-SIX HOURS OF CONTINUING EDUCATION PER TRIENNIAL REGISTRATION PERIOD REQUIRED BY SUBDIVISION SEVEN OF THIS SECTION. THIS REQUIREMENT FOR THE THIRTY HOUR PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENT CERTIFICATION COURSE SHALL NOT APPLY TO THOSE OPTOMETRISTS WHO (I) GRADUATED FROM AN ACCREDITED COLLEGE OF OPTOMETRY SUBSEQUENT TO JANUARY FIRST, TWO THOUSAND FOUR AND (II) HAVE TAKEN AND SUCCESSFULLY PASSED EITHER THE TREATMENT AND MANAGEMENT OF OCULAR DISEASES PORTION OF THE NATIONAL BOARD OF EXAMINERS IN OPTOMETRY OR AN EXAMINATION ACCEPTABLE TO THE BOARD.

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

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

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

Consultation WITH USE OF CERTAIN PHASE TWO THERAPEUTIC PHARMACEUTICAL AGENTS.

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

(I) THE NAME OF SUCH AGENT;

(II) THE DOSE;

(III) THE FREQUENCY OF USE; AND

(IV) THE DURATION OF USE OR PRESCRIPTION.

6-B. CONSULTATION WITH USE OF PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENTS. IF IN THE PROFESSIONAL JUDGMENT OF THE OPTOMETRIST, A PATIENT'S CONDITION DOES NOT RESULT IN AN ADEQUATE CLINICAL RESPONSE TO THE PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENT THERAPY, THE OPTOMETRIST SHALL

CONSULT WITH THE PATIENT'S PRIMARY CARE PRACTITIONER AS SOON AS CLINICALLY PRUDENT.

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

7. Continuing education. Each optometrist certified to use phase one [or], phase two, OR PHASE THREE therapeutic pharmaceutical agents shall complete a minimum of thirty-six hours of continuing education per triennial registration period. The education shall be in the area of ocular disease and pharmacology, AT LEAST SIX HOURS OF WHICH SHALL RELATE SPECIFICALLY TO SYSTEMIC DRUG USE AND INTERACTION, and may include both didactic and clinical components. Such educational programs shall be approved in advance by the department and evidence of the completion of this requirement shall be submitted with each application for license renewal as required by section sixty-five hundred two of this chapter.

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

Notice to patient WITH USE OF CERTAIN PHASE TWO THERAPEUTIC PHARMACEUTICAL AGENTS.

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

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

(a) Diagnostic pharmaceuticals.

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

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

(c) Those optometrists having been certified for phase two therapeutic pharmaceutical agents shall be authorized to use and prescribe phase two therapeutic pharmaceutical agents which are FDA approved and commercially available.

(D) THOSE OPTOMETRISTS HAVING BEEN CERTIFIED FOR PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENTS SHALL BE AUTHORIZED TO USE AND PRESCRIBE PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENTS WHICH ARE FDA APPROVED AND COMMERCIALLY AVAILABLE.

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

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

12. Responsibilities of the commissioner of health. [The] IN ORDER TO SATISFY THE REQUIREMENT THAT AN OPTOMETRIST AUTHORIZED TO USE PHARMACEUTICAL AGENTS FOR USE IN THE DIAGNOSIS, TREATMENT OR PREVENTION OF OCULAR DISEASE SHALL BE HELD TO THE SAME STANDARD OF CARE IN DIAGNOSIS, USE OF SUCH AGENTS, AND TREATMENT AS THAT DEGREE OF SKILL AND PROFICIENCY

COMMONLY EXERCISED BY A PHYSICIAN IN THE SAME COMMUNITY, THE commissioner of health [may recommend to the commissioner additions or deletions to the department's regulations relating to optometric use of drugs except that such recommendations shall be limited only to additions which have been determined to be equivalent to those drugs already authorized or deletions based upon a finding that the drugs are no longer appropriate for their current use or for other similar reasons.] SHALL RECOMMEND TO THE COMMISSIONER ADDITIONS OR DELETIONS TO THE LIST OF APPROVED CATEGORIES OF DIAGNOSTIC, THERAPEUTIC AND ORAL PHARMACEUTICAL AGENTS WHICH ARE CONSISTENT WITH THE STANDARD OF CARE IN THE COMMUNITY FOR THE DIAGNOSIS AND TREATMENT OF DISEASES OF THE EYE AND ADNEXA.

S 9. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided that any rule or regulation necessary for the timely implementation of this act on its effective date shall be promulgated on or before such effective date.