

2803

2015-2016 Regular Sessions

I N A S S E M B L Y

January 20, 2015

Introduced by M. of A. PAULIN, COOK, CYMBROWITZ, ABINANTI, GUNTHER, FARRELL, WEPRIN, HEVESI, RYAN, TITUS, STIRPE, SKOUFIS, BUCHWALD, GOLD-FEDER -- 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

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:

- 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.

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

LBD05046-02-5

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

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

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

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

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

39 Consultation WITH USE OF CERTAIN PHASE TWO THERAPEUTIC PHARMACEUTICAL
40 AGENTS.

41 6-A. NOTIFICATION OF USE OF PHASE THREE THERAPEUTIC PHARMACEUTICAL
42 AGENTS. AN OPTOMETRIST SHALL, AS SOON AS PRACTICABLE, DOCUMENT IN THE
43 PATIENT'S RECORD THE PRESCRIPTION OR USE OF PHASE THREE THERAPEUTIC
44 PHARMACEUTICAL AGENTS. WITHIN SEVENTY-TWO HOURS OF PRESCRIBING OR USING
45 A PHASE THREE THERAPEUTIC PHARMACEUTICAL AGENT, AN OPTOMETRIST SHALL
46 NOTIFY THE PATIENT'S PRIMARY CARE PRACTITIONER, AND DOCUMENT SUCH
47 NOTIFICATION WITH THE FOLLOWING INFORMATION:

48 (I) THE NAME OF SUCH AGENT;

49 (II) THE DOSE;

50 (III) THE FREQUENCY OF USE; AND

51 (IV) THE DURATION OF USE OR PRESCRIPTION.

52 6-B. CONSULTATION WITH USE OF PHASE THREE THERAPEUTIC PHARMACEUTICAL
53 AGENTS. IF IN THE PROFESSIONAL JUDGMENT OF THE OPTOMETRIST, A PATIENT'S
54 CONDITION DOES NOT RESULT IN AN ADEQUATE CLINICAL RESPONSE TO THE PHASE
55 THREE THERAPEUTIC PHARMACEUTICAL AGENT THERAPY, THE OPTOMETRIST SHALL

1 CONSULT WITH THE PATIENT'S PRIMARY CARE PRACTITIONER OR THE APPROPRIATE
2 HEALTHCARE PROVIDER AS SOON AS CLINICALLY PRUDENT.

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

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

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

19 Notice to patient WITH USE OF CERTAIN PHASE TWO THERAPEUTIC PHARMACEU-
20 TICAL AGENTS.

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

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

26 (a) Diagnostic pharmaceuticals.

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

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

37 (c) Those optometrists having been certified for phase two therapeutic
38 pharmaceutical agents shall be authorized to use and prescribe phase two
39 therapeutic pharmaceutical agents which are FDA approved and commercial-
40 ly available.

41 (D) THOSE OPTOMETRISTS HAVING BEEN CERTIFIED FOR PHASE THREE THERAPEU-
42 TIC PHARMACEUTICAL AGENTS SHALL BE AUTHORIZED TO USE AND PRESCRIBE PHASE
43 THREE THERAPEUTIC PHARMACEUTICAL AGENTS WHICH ARE FDA APPROVED AND
44 COMMERCIALY AVAILABLE.

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

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

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

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

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