

2063

2015-2016 Regular Sessions

I N S E N A T E

January 21, 2015

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 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.
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

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

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

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

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

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

33 Consultation WITH USE OF CERTAIN PHASE TWO THERAPEUTIC PHARMACEUTICAL
34 AGENTS.

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

42 (I) THE NAME OF SUCH AGENT;

43 (II) THE DOSE;

44 (III) THE FREQUENCY OF USE; AND

45 (IV) THE DURATION OF USE OR PRESCRIPTION.

46 6-B. CONSULTATION WITH USE OF PHASE THREE THERAPEUTIC PHARMACEUTICAL
47 AGENTS. IF IN THE PROFESSIONAL JUDGMENT OF THE OPTOMETRIST, A PATIENT'S
48 CONDITION DOES NOT RESULT IN AN ADEQUATE CLINICAL RESPONSE TO THE PHASE
49 THREE THERAPEUTIC PHARMACEUTICAL AGENT THERAPY, THE OPTOMETRIST SHALL
50 CONSULT WITH THE PATIENT'S PRIMARY CARE PRACTITIONER OR THE APPROPRIATE
51 HEALTHCARE PROVIDER AS SOON AS CLINICALLY PRUDENT.

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

54 7. Continuing education. Each optometrist certified to use phase one
55 [or], phase two, OR PHASE THREE therapeutic pharmaceutical agents shall
56 complete a minimum of thirty-six hours of continuing education per

1 triennial registration period. The education shall be in the area of
2 ocular disease and pharmacology, AT LEAST SIX HOURS OF WHICH SHALL
3 RELATE SPECIFICALLY TO SYSTEMIC DRUG USE AND INTERACTION, and may
4 include both didactic and clinical components. Such educational programs
5 shall be approved in advance by the department and evidence of the
6 completion of this requirement shall be submitted with each application
7 for license renewal as required by section sixty-five hundred two of
8 this chapter.

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

12 Notice to patient WITH USE OF CERTAIN PHASE TWO THERAPEUTIC PHARMACEU-
13 TICAL AGENTS.

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

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

19 (a) Diagnostic pharmaceuticals.

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

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

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

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

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

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

45 12. Responsibilities of the commissioner of health. [The] IN ORDER TO
46 SATISFY THE REQUIREMENT THAT AN OPTOMETRIST AUTHORIZED TO USE PHARMACEU-
47 TICAL AGENTS FOR USE IN THE DIAGNOSIS, TREATMENT OR PREVENTION OF OCULAR
48 DISEASE SHALL BE HELD TO THE SAME STANDARD OF CARE IN DIAGNOSIS, USE OF
49 SUCH AGENTS, AND TREATMENT AS THAT DEGREE OF SKILL AND PROFICIENCY
50 COMMONLY EXERCISED BY A PHYSICIAN IN THE SAME COMMUNITY, THE commission-
51 er of health [may recommend to the commissioner additions or deletions
52 to the department's regulations relating to optometric use of drugs
53 except that such recommendations shall be limited only to additions
54 which have been determined to be equivalent to those drugs already
55 authorized or deletions based upon a finding that the drugs are no long-
56 er appropriate for their current use or for other similar reasons.]

1 SHALL RECOMMEND TO THE COMMISSIONER ADDITIONS OR DELETIONS TO THE LIST
2 OF APPROVED CATEGORIES OF DIAGNOSTIC, THERAPEUTIC AND ORAL PHARMACEU-
3 TICAL AGENTS WHICH ARE CONSISTENT WITH THE STANDARD OF CARE IN THE
4 COMMUNITY FOR THE DIAGNOSIS AND TREATMENT OF DISEASES OF THE EYE AND
5 ADNEXA.

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