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I N A S S E M B L Y

May 2, 2016

Introduced by M. of A. PAULIN, COOK, CYMBROWITZ, ABINANTI, GUNTHER, FARRELL, WEPRIN, HEVESI, RYAN, TITUS, STIRPE, SKOUFIS, BUCHWALD, GOLD-FEDER, DiPIETRO, BRABENEC, GRAF -- Multi-Sponsored by -- M. of A. BARCLAY, BLANKENBUSH, CAHILL, CROUCH, FRIEND, GALEF, GOODELL, GOTTFRIED, HIKIND, KEARNS, PALMESANO, RIVERA, SKARTADOS, STEC, WOERNER -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to the use of oral medications by optometrists; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Paragraph (e) of subdivision 1 of section 7101-a of the
2 education law, as added by chapter 517 of the laws of 1995, is amended
3 to read as follows:

4 (e) [Phase one] TOPICAL therapeutic pharmaceutical agents. [Phase one]
5 TOPICAL THERAPEUTIC pharmaceutical agents shall mean those drugs which
6 shall be limited to topical application to the surface of the eye for
7 therapeutic purposes and shall be limited to:

- 8 (i) antibiotic/antimicrobials;
- 9 (ii) decongestants/anti-allergenic;
- 10 (iii) non-steroidal anti-inflammatory agents;
- 11 (iv) steroidal anti-inflammatory agents;
- 12 (v) antiviral agents;
- 13 (vi) hyperosmotic/hypertonic agents;
- 14 (vii) cycloplegics;
- 15 (viii) artificial tears and lubricants; AND
- 16 (IX) IMMUNOSUPPRESSIVE AGENTS.

17 S 2. Paragraph (f) of subdivision 1 of section 7101-a of the education
18 law, as added by chapter 517 of the laws of 1995, is amended to read as
19 follows:

20 (f) [Phase two therapeutic] THERAPEUTIC pharmaceutical agents FOR
21 TREATMENT OF GLAUCOMA AND OCULAR HYPERTENSION. [Phase two] THERAPEUTIC
22 pharmaceutical agents FOR TREATMENT OF GLAUCOMA AND OCULAR HYPERTENSION

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

LBD15035-03-6

1 shall mean those drugs which shall be limited to topical application to
2 the surface of the eye and shall be limited to:

- 3 (i) beta blockers;
- 4 (ii) alpha agonists;
- 5 (iii) direct acting cholinergic agents;
- 6 (IV) PROSTAGLANDIN ANALOGS; AND
- 7 (V) CARBONIC ANHYDRASE INHIBITORS.

8 S 3. Subdivision 1 of section 7101-a of the education law is amended
9 by adding a new paragraph (g) to read as follows:

10 (G) ORAL THERAPEUTIC PHARMACEUTICAL AGENTS. ORAL THERAPEUTIC PHARMA-
11 CEUTICAL AGENTS SHALL MEAN THOSE ORALLY ADMINISTERED DRUGS USED FOR
12 THERAPEUTIC PURPOSES SOLELY FOR THE TREATMENT OF DISEASES OF THE EYE AND
13 ADNEXA AND SHALL BE LIMITED TO:

14 (I) THE FOLLOWING ANTIBIOTICS:

- 15 (1) AUGMENTIN;
- 16 (2) KEFLEX;
- 17 (3) AZITHROMYCIN;
- 18 (4) BACTRIM;
- 19 (5) DOXYCYCLINE; AND
- 20 (6) TETRACYCLINE;

21 (II) THE FOLLOWING DECONGESTANTS/ANTI-ALLERGENIC/ANTI-HISTAMINES:

- 22 (1) CLARINEX;
- 23 (2) XYZAL; AND
- 24 (3) SINGULAIR;

25 (III) THE FOLLOWING ANTIGLAUCOMA AGENTS USED FOR THE MANAGEMENT OF
26 ACUTE INCREASES IN INTRAOCULAR PRESSURE; PROVIDED, HOWEVER, AN OPTOME-
27 TRIST MAY USE OR PRESCRIBE A MAXIMUM OF ONE TWENTY-FOUR HOUR
28 PRESCRIPTION AND SHALL IMMEDIATELY REFER THE PATIENT TO A LICENSED
29 PHYSICIAN SPECIALIZING IN DISEASES OF THE EYE:

- 30 (1) DIAMOX; AND
- 31 (2) NEPTAZANE;

32 (IV) THE FOLLOWING ANTIVIRAL AGENTS FOR HERPES ZOSTER OPHTHALMICUS;
33 PROVIDED AN OPTOMETRIST SHALL USE OR PRESCRIBE IN MAXIMUM, SEVEN-DAY
34 PRESCRIPTIONS; PROVIDED, HOWEVER, IF A PATIENT IS DIAGNOSED WITH HERPES
35 ZOSTER OPHTHALMICUS AND HAS NOT ALREADY BEEN EXAMINED BY A PRIMARY CARE
36 PHYSICIAN OR OTHER APPROPRIATE PHYSICIAN FOR SUCH VIRAL CONDITION, AN
37 OPTOMETRIST SHALL REFER THE PATIENT TO A LICENSED PRIMARY CARE PHYSI-
38 CIAN, LICENSED PHYSICIAN SPECIALIZING IN DISEASES OF THE EYE, OR OTHER
39 APPROPRIATE PHYSICIAN WITHIN THREE DAYS OF SUCH DIAGNOSIS:

- 40 (1) VALCYCLOVIR; AND
- 41 (2) ACYCLOVIR; AND

42 (V) THE FOLLOWING NON-STEROIDAL ANTI-INFLAMMATORY AGENTS:

- 43 (1) COX-2 INHIBITORS;
- 44 (2) IBUPROFEN; AND
- 45 (3) NAPROXEN.

46 S 4. The subdivision heading and paragraph (a) of subdivision 4 of
47 section 7101-a of the education law, as added by chapter 517 of the laws
48 of 1995, is amended to read as follows:

49 [Phase one] TOPICAL therapeutic pharmaceutical agents. (a) Before
50 using or prescribing [phase one] TOPICAL therapeutic pharmaceutical
51 agents, each optometrist shall have completed at least three hundred
52 hours of clinical training in the diagnosis, treatment and management of
53 patients with ocular disease other than glaucoma and ocular hyperten-
54 sion, not fewer than twenty-five hours of such training shall have been
55 completed subsequent to June thirtieth, nineteen hundred ninety-three
56 and additionally shall either have taken and successfully passed the

1 treatment and management of ocular diseases portion of the National
2 Board of Examiners in Optometry test or have taken and successfully
3 passed an examination acceptable to the board.

4 S 5. Paragraph (b) of subdivision 4 of section 7101-a of the education
5 law, as added by chapter 517 of the laws of 1995, is amended to read as
6 follows:

7 (b) Before using or prescribing [phase two] therapeutic pharmaceutical
8 agents FOR TREATMENT OF GLAUCOMA AND OCULAR HYPERTENSION, an optometrist
9 must be certified for diagnostic and [phase one] TOPICAL therapeutic
10 agents and have completed an additional one hundred hours of clinical
11 training in the diagnosis, treatment and management of patients with
12 glaucoma and ocular hypertension, not fewer than twenty-five hours of
13 such training shall have been completed subsequent to July first, nine-
14 teen hundred ninety-four, and shall have taken and successfully passed
15 an oral or written examination acceptable by the board.

16 S 6. Paragraphs (c) and (d) of subdivision 4 of section 7101-a of the
17 education law are relettered paragraphs (d) and (e) and a new paragraph
18 (c) is added to read as follows:

19 (C) BEFORE USING OR PRESCRIBING ORAL THERAPEUTIC PHARMACEUTICAL
20 AGENTS, AN OPTOMETRIST MUST BE CERTIFIED TO PRESCRIBE DIAGNOSTIC PHARMA-
21 CEUTICAL AGENTS AND TOPICAL THERAPEUTIC AND THERAPEUTIC PHARMACEUTICAL
22 AGENTS FOR TREATMENT OF GLAUCOMA AND OCULAR HYPERTENSION, HAVE COMPLETED
23 AN ORAL THERAPEUTIC PHARMACEUTICAL AGENT CERTIFICATION COURSE AND HAVE
24 PASSED AN EXAMINATION, WITH A CURRICULUM AND EXAMINATION DEVELOPED BY
25 ACADEMIC FACULTY REPRESENTATIVES FROM A NEW YORK STATE ACCREDITED
26 COLLEGE OF OPTOMETRY, FROM A DEPARTMENT OF OPHTHALMOLOGY AT A NEW YORK
27 STATE ACCREDITED MEDICAL SCHOOL UPON THE RECOMMENDATION OF A STATEWIDE
28 PROFESSIONAL ORGANIZATION CONSISTING OF OPHTHALMOLOGISTS, AND FROM A
29 DEPARTMENT OF PHARMACOLOGY AT A NEW YORK STATE ACCREDITED MEDICAL
30 SCHOOL.

31 (I) THE CURRICULUM SHALL INCLUDE, BUT NOT BE LIMITED TO, INSTRUCTION
32 IN PHARMACOLOGY AND DRUG INTERACTION IN TREATING OCULAR DISEASE AND BE
33 TAUGHT THROUGH CLINICAL CASE SCENARIOS AND EMPHASIZE CLINICAL DECISION
34 MAKING AND SHALL BE NO LESS THAN FORTY HOURS, OF WHICH NO LESS THAN
35 TWENTY-FOUR HOURS SHALL BE LIVE INSTRUCTION.

36 (II) SUCH COURSE SHALL QUALIFY TOWARDS MEETING THE SEVENTY-FIVE HOURS
37 OF CONTINUING EDUCATION PER TRIENNIAL REGISTRATION PERIOD REQUIRED BY
38 SUBDIVISION SEVEN OF THIS SECTION.

39 (III) THE EXAMINATION SHALL TEST THE KNOWLEDGE OF MATERIALS IN THE
40 CURRICULUM.

41 (IV) IF AN OPTOMETRIST FAILS TO PASS THE EXAMINATION, SUCH OPTOMETRIST
42 MAY RETAKE THE EXAMINATION FOLLOWING COMPLETION OF THE CERTIFICATION
43 COURSE, AND MAY RETAKE THE EXAMINATION A MAXIMUM OF TWO ADDITIONAL
44 TIMES.

45 (V) THE INITIAL CURRICULUM AND EXAMINATION SHALL BE APPROVED BY THE
46 DEPARTMENT NO LATER THAN ONE HUNDRED EIGHTY DAYS FROM THE EFFECTIVE DATE
47 OF THIS PARAGRAPH AND SUBSEQUENT CURRICULUM AND EXAMINATIONS SHALL BE
48 APPROVED BY THE DEPARTMENT PERIODICALLY THEREAFTER.

49 (VI) THE REQUIREMENT FOR THE ORAL THERAPEUTIC PHARMACEUTICAL AGENT
50 CERTIFICATION COURSE AND EXAMINATION SHALL NOT APPLY TO THOSE OPTOME-
51 TRISTS WHO GRADUATED FROM AN ACCREDITED COLLEGE OF OPTOMETRY SUBSEQUENT
52 TO JANUARY FIRST, TWO THOUSAND SIX AND HAVE TAKEN AND SUCCESSFULLY
53 PASSED THE NATIONAL BOARD OF EXAMINERS IN OPTOMETRY TEST OR AN EXAMINA-
54 TION ACCEPTABLE TO THE BOARD.

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

1 5. Suspension of certification. The department shall suspend the
2 certification for the use and prescribing of [phase one] TOPICAL thera-
3 peutic agents of any optometrist who fails to receive certification for
4 [phase two] therapeutic pharmaceutical agents FOR TREATMENT OF GLAUCOMA
5 AND OCULAR HYPERTENSION within three years of having been certified for
6 [phase one] TOPICAL therapeutic pharmaceutical agents.

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

10 Consultation WITH USE OF CERTAIN TOPICAL THERAPEUTIC PHARMACEUTICAL
11 AGENTS FOR TREATMENT OF GLAUCOMA AND OCULAR HYPERTENSION.

12 S 9. Subdivision 7 of section 7101-a of the education law, as added by
13 chapter 517 of the laws of 1995, is amended to read as follows:

14 7. Continuing education. Each optometrist certified to use [phase one
15 or phase two] TOPICAL THERAPEUTIC PHARMACEUTICAL AGENTS, therapeutic
16 pharmaceutical agents FOR TREATMENT OF GLAUCOMA AND OCULAR HYPERTENSION,
17 OR ORAL THERAPEUTIC PHARMACEUTICAL AGENTS shall complete a minimum of
18 [thirty-six] SEVENTY-FIVE hours of continuing education per triennial
19 registration period. The education shall be in the area of ocular
20 disease and pharmacology, AT LEAST THIRTY-NINE HOURS OF WHICH SHALL
21 RELATE TO SYSTEMIC DISEASE AND THERAPEUTIC TREATMENT, and may include
22 both didactic and clinical components. Such educational programs shall
23 be approved in advance by the department and evidence of the completion
24 of this requirement shall be submitted with each application for license
25 renewal as required by section sixty-five hundred two of this chapter.

26 S 10. The subdivision heading and subparagraph (i) of paragraph (a) of
27 subdivision 8 of section 7101-a of the education law, as added by chap-
28 ter 517 of the laws of 1995, are amended to read as follows:

29 Notice to patient WITH THE USE OR PRESCRIPTION OF TOPICAL THERAPEUTIC
30 PHARMACEUTICAL AGENTS AND THERAPEUTIC PHARMACEUTICAL AGENTS FOR TREAT-
31 MENT OF GLAUCOMA AND OCULAR HYPERTENSION.

32 (i) An optometrist prescribing TOPICAL steroids or antiviral medica-
33 tion shall inform each patient that in the event the condition does not
34 improve within five days, a physician of the patient's choice will be
35 notified.

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

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

41 (a) Diagnostic pharmaceuticals.

42 (b) Those optometrists having been certified for [phase one] TOPICAL
43 therapeutic pharmaceutical agents shall be authorized [(i) to use and
44 recommend all nonprescription medications appropriate for ocular disease
45 whether intended for topical or oral use; and (ii)] to use and prescribe
46 all [phase one] TOPICAL therapeutic pharmaceutical agents SPECIFIED IN
47 PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION, which are FDA approved
48 and commercially available FOR TOPICAL USE.

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

53 (c) Those optometrists having been certified for [phase two] thera-
54 peutic pharmaceutical agents FOR TREATMENT OF GLAUCOMA AND OCULAR HYPERTEN-
55 SION shall be authorized to use and prescribe [phase two] therapeutic
56 pharmaceutical agents FOR TREATMENT OF GLAUCOMA AND OCULAR HYPERTENSION

1 SPECIFIED IN PARAGRAPH (F) OF SUBDIVISION ONE OF THIS SECTION, which are
2 FDA approved and commercially available.

3 (D) THOSE OPTOMETRISTS HAVING BEEN CERTIFIED FOR ORAL THERAPEUTIC
4 PHARMACEUTICAL AGENTS SHALL BE AUTHORIZED TO USE AND PRESCRIBE ORAL
5 THERAPEUTIC PHARMACEUTICAL AGENTS SPECIFIED IN PARAGRAPH (G) OF SUBDIVI-
6 SION ONE OF THIS SECTION, WHICH ARE FDA APPROVED AND COMMERCIALY AVAIL-
7 ABLE AND SHALL COMPLY WITH ALL SAFETY INFORMATION AND SIDE-EFFECT AND
8 WARNING ADVISORIES CONTAINED IN THE MOST CURRENT PHYSICIANS' DESK REFER-
9 ENCE.

10 (E) THOSE OPTOMETRISTS HAVING BEEN CERTIFIED FOR TOPICAL THERAPEUTIC
11 PHARMACEUTICAL AGENTS, THERAPEUTIC PHARMACEUTICAL AGENTS FOR TREATMENT
12 OF GLAUCOMA AND OCULAR HYPERTENSION OR ORAL THERAPEUTIC PHARMACEUTICAL
13 AGENTS SHALL BE AUTHORIZED TO USE AND RECOMMEND ALL NONPRESCRIPTION
14 MEDICATIONS, WHETHER INTENDED FOR TOPICAL OR ORAL USE, APPROPRIATE FOR
15 THE TREATMENT OF THE EYE AND ADNEXA.

16 S 12. Section 7101-a of the education law is amended by adding a new
17 subdivision 13 to read as follows:

18 13. ORAL THERAPEUTIC PHARMACEUTICAL AGENT IMPLEMENTATION REVIEW. (A)
19 EACH OPTOMETRIST CERTIFIED TO USE ORAL THERAPEUTIC PHARMACEUTICAL AGENTS
20 PURSUANT TO PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS SECTION SHALL
21 PROVIDE THE DEPARTMENT WITH INFORMATION, ON A FORM PRESCRIBED BY THE
22 COMMISSIONER, RELATED TO THE PRESCRIPTION OR USE OF ORAL THERAPEUTIC
23 PHARMACEUTICAL AGENTS PROVIDED FOR IN THIS SECTION. SUCH INFORMATION
24 SHALL INCLUDE THE OPTOMETRIST'S NAME, LICENSE NUMBER, WHETHER NO ORAL
25 PRESCRIPTIONS HAVE BEEN ISSUED AND IN THE EVENT THAT ORAL PRESCRIPTIONS
26 HAVE BEEN ISSUED, THEN THE FOLLOWING INFORMATION SHALL BE REQUIRED: THE
27 PRESCRIBED OR USED ORAL THERAPEUTIC PHARMACEUTICAL AGENT, THE DOSAGE OF
28 SUCH AGENT, THE DATE OF THE PRESCRIPTION, THE DIAGNOSIS OF THE PATIENT
29 FOR WHICH THE AGENT WAS PRESCRIBED OR USED, AND WHETHER A REFERRAL WAS
30 MADE IN ACCORDANCE WITH PARAGRAPH (G) OF SUBDIVISION ONE OF THIS
31 SECTION. SUCH INFORMATION SHALL NOT INCLUDE ANY PATIENT IDENTIFYING
32 INFORMATION AND MUST OTHERWISE BE IN COMPLIANCE WITH ALL STATE AND
33 FEDERAL REQUIREMENTS RELATED TO PROTECTED HEALTH INFORMATION. EACH FORM
34 SHALL BE SUBMITTED BY MAIL OR ELECTRONIC MEANS TO THE DEPARTMENT ON A
35 QUARTERLY BASIS. IF A DATABASE OF ALL ORAL THERAPEUTIC PHARMACEUTICAL
36 AGENTS PRESCRIBED OR USED BY OPTOMETRISTS IS, OR BECOMES, AVAILABLE TO
37 THE COMMITTEE PROVIDED FOR IN THIS SUBDIVISION, THEN OPTOMETRISTS WILL
38 BE ADVISED BY THE COMMISSIONER THAT QUARTERLY REPORTING FORMS WILL NO
39 LONGER BE REQUIRED. THE REQUIREMENTS OF THIS PARAGRAPH SHALL REMAIN IN
40 EFFECT FOR FIVE YEARS FOLLOWING APPROVAL BY THE DEPARTMENT OF THE
41 INITIAL ORAL THERAPEUTIC PHARMACEUTICAL AGENT CERTIFICATION COURSE AND
42 EXAMINATION PURSUANT TO PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS
43 SECTION, AFTER WHICH TIME THESE REQUIREMENTS SHALL EXPIRE AND NO LONGER
44 HAVE EFFECT.

45 (B) THE COMMISSIONER SHALL APPOINT A COMMITTEE TO ADVISE AND ASSIST
46 THE COMMISSIONER IN EVALUATING COMPLIANCE WITH THE PROVISIONS OF THIS
47 SECTION. THE COMMITTEE SHALL CONSIST OF THE SECRETARY OF THE BOARD OF
48 PHARMACY, ONE OPTOMETRIST UPON THE RECOMMENDATION OF A STATEWIDE PROFES-
49 SIONAL ORGANIZATION CONSISTING OF OPTOMETRISTS, ONE OPHTHALMOLOGIST UPON
50 THE RECOMMENDATION OF A STATEWIDE PROFESSIONAL ORGANIZATION CONSISTING
51 OF OPHTHALMOLOGISTS, AND ONE EXPERT IN THE FIELD OF PUBLIC HEALTH WHO
52 SHALL BE DESIGNATED AS CHAIR BY THE COMMISSIONER IN CONSULTATION WITH
53 THE COMMISSIONER OF THE DEPARTMENT OF HEALTH AND WHO SHALL BE NEITHER AN
54 OPHTHALMOLOGIST NOR AN OPTOMETRIST.

55 (C) THE COMMISSIONER SHALL SUBMIT EACH FORM RECEIVED PURSUANT TO THIS
56 SUBDIVISION TO THE COMMITTEE. THE COMMITTEE SHALL REVIEW THE FORMS AND

1 SHALL RANDOMLY CROSS-CHECK SUCH SUBMISSIONS WITH A PUBLICLY AVAILABLE OR
2 OTHER DATABASE CONTAINING ELECTRONIC PRESCRIBER INFORMATION. SHOULD A
3 DATABASE OF ALL ORAL THERAPEUTIC PHARMACEUTICAL AGENTS PRESCRIBED OR
4 USED BY OPTOMETRISTS BECOME AVAILABLE PURSUANT TO THIS SECTION, AND THE
5 COMMISSIONER DETERMINES AND ADVISES OPTOMETRISTS THAT QUARTERLY REPORTS
6 ARE NO LONGER NECESSARY, THEN THE COMMITTEE SHALL REVIEW THE DATABASE
7 AND ASCERTAIN THE PRESCRIBING INFORMATION FOR ALL OPTOMETRISTS CONSIST-
8 ENT WITH THIS SECTION. THE COMMITTEE SHALL ADVISE THE COMMISSIONER AS
9 TO COMPLIANCE WITH THE PROVISIONS OF THIS SECTION AND UPON FINDING
10 EVIDENCE OF NON-COMPLIANCE BY ANY OPTOMETRIST, THE COMMITTEE SHALL REFER
11 SUCH INFORMATION TO THE COMMISSIONER AND TO THE OFFICE OF PROFESSIONS
12 FOR INVESTIGATION AND, IF APPLICABLE, DISCIPLINARY ACTION.

13 S 13. This act shall take effect on the one hundred twentieth day
14 after it shall have become a law; provided that:

15 (a) subdivision 13 of section 7101-a of the education law added by
16 section twelve of this act shall expire and be deemed repealed five
17 years following the approval by the department of education of the
18 certification course and examination pursuant to paragraph (c) of subdi-
19 vision 4 of section 7101-a of the education law as added by section six
20 of this act;

21 (b) the commissioner of education shall notify the legislative bill
22 drafting commission upon approval of the certification course and exam-
23 ination required in section six of this act in order that the commission
24 may maintain an accurate and timely effective data base of the official
25 text of the laws of the state of New York in furtherance of effectuating
26 the provisions of section 44 of the legislative law and section 70-b of
27 the public officers law; and

28 (c) any rule or regulation necessary for the timely implementation of
29 this act on its effective date shall be promulgated on or before such
30 effective date.