AN ACT to amend the education law, in relation to instilling mydriatic or cycloplegic eye drops by persons trained and deemed qualified by supervising licensed physicians or supervising licensed optometrists; and to repeal certain provisions of such law relating thereto.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 25 of section 6530 of the education law, as amended by chapter 517 of the laws of 2019, is amended to read as follows:

25. [a.] Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, to perform them.

[b. A person shall be deemed qualified to assist a physician licensed pursuant to article one hundred thirty-one of this title in the care of a patient for the purpose of instilling mydriatic or cycloplegic eye drops (hereinafter "dilating eye drops") and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, provided that the person instilling such dilating eye drops and anesthetic eye drops is under the on-site supervision of a physician pursuant to such article one hundred thirty-one and such person is over the age of eighteen, successfully completes a curriculum and examination approved by the department demonstrating that such person has the requisite experience to instill dilating eye drops and anesthetic eye drops used in conjunction with such dilating eye drops to the surface of the eye and registers with the department after paying the requisite fee in accordance with the commissioner's regulations.]

§ 2. Section 6527 of the education law is amended by adding a new subdivision 9 to read as follows:

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

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9. (a) Nothing in this article shall be construed to affect or prevent a person in training or trained and deemed qualified by a supervising licensed physician, to assist the licensed physician in the care of a patient for the purpose of instilling mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, provided that the person instilling such eye drops is:
   (i) under the on-site supervision of a supervising licensed physician;
   (ii) at least eighteen years of age; and
   (iii) complies with standards issued by the department.
(b) The supervising licensed physician shall submit a form prescribed by the department detailing the identity of each person instilling mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, under his or her supervision, attesting to compliance with the above requirements.
(c) The supervising licensed physician's use of any such person pursuant to the terms of this subdivision shall be undertaken with professional judgment in order to ensure the safety and well-being of the patient. Such use shall subject the licensed physician to the full disciplinary and regulatory authority of the office of professional medical conduct and the board of regents. The licensed physician must notify the patient or the patient's designated health care surrogate that the licensed physician may utilize the services of an individual to administer certain eye drops and must provide the patient or the patient's designated health care surrogate the opportunity to refuse the licensed physician's plan to utilize such person.
§ 3. Subdivision 4 of section 7106 of the education law is REPEALED.
§ 4. Section 7105 of the education law is amended by adding a new subdivision d to read as follows:
   d. 1. A person in training or appropriately trained and deemed qualified by the supervising licensed optometrist, to assist a licensed optometrist in the care of a patient for the purpose of instilling mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, provided that the person instilling such eye drops is:
   (i) under the on-site supervision of a supervising licensed optometrist;
   (ii) at least eighteen years of age; and
   (iii) complies with standards issued by the department.
2. The supervising licensed optometrist shall submit a form prescribed by the department, detailing the identity of each person instilling mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, under his or her supervision, attesting to compliance with the above requirements.
3. The supervising licensed optometrist's use of any such person pursuant to the terms of this subdivision shall be undertaken with professional judgment in order to ensure the safety and well-being of the patient. Such use shall subject the licensed optometrist to the full disciplinary and regulatory authority of the board of regents and the department pursuant to this title. The licensed optometrist must notify the patient or the patient's designated health care surrogate that the licensed optometrist may utilize the services of an individual to administer certain eye drops and must provide the patient or the patient's
designated health care surrogate the opportunity to refuse the licensed optometrist's plan to utilize such person.

§ 5. This act shall take effect nine months after it shall have become a law; provided, however, that sections one and three of this act shall take effect on same date and in the same manner as chapter 517 of the laws of 2019 takes effect. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.