

# STATE OF NEW YORK

10634--A

## IN ASSEMBLY

June 10, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. McDonald) --  
read once and referred to the Committee on Higher Education -- commit-  
tee discharged, bill amended, ordered reprinted as amended and recom-  
mitted to said committee

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 Assem-  
bly, do enact as follows:

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

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

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

22 § 2. Section 6527 of the education law is amended by adding a new  
23 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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1 9. (a) Nothing in this article shall be construed to affect or prevent  
2 a person in training or trained and deemed qualified by a supervising  
3 licensed physician, to assist the licensed physician in the care of a  
4 patient for the purpose of instilling mydriatic or cycloplegic eye drops  
5 and anesthetic eye drops in conjunction with such dilating drops to the  
6 surface of the eye of a patient, provided that the person instilling  
7 such eyedrops is:

8 (i) under the on-site supervision of a supervising licensed physician;

9 (ii) at least eighteen years of age; and

10 (iii) complies with standards issued by the department.

11 (b) The supervising licensed physician shall submit a form prescribed  
12 by the department detailing the identity of each person instilling  
13 mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunc-  
14 tion with such dilating drops to the surface of the eye of a patient,  
15 under his or her supervision, attesting to compliance with the above  
16 requirements.

17 (c) The supervising licensed physician's use of any such person pursu-  
18 ant to the terms of this subdivision shall be undertaken with profes-  
19 sional judgment in order to ensure the safety and well-being of the  
20 patient. Such use shall subject the licensed physician to the full  
21 disciplinary and regulatory authority of the office of professional  
22 medical conduct and the board of regents. The licensed physician must  
23 notify the patient or the patient's designated health care surrogate  
24 that the licensed physician may utilize the services of an individual to  
25 administer certain eyedrops and must provide the patient or the  
26 patient's designated health care surrogate the opportunity to refuse the  
27 licensed physician's plan to utilize such person.

28 § 3. Subdivision 4 of section 7106 of the education law is REPEALED.

29 § 4. Section 7105 of the education law is amended by adding a new  
30 subdivision d to read as follows:

31 d. 1. A person in training or appropriately trained and deemed quali-  
32 fied by the supervising licensed optometrist, to assist a licensed opto-  
33 metrist in the care of a patient for the purpose of instilling mydriatic  
34 or cycloplegic eye drops and anesthetic eye drops in conjunction with  
35 such dilating drops to the surface of the eye of a patient, provided  
36 that the person instilling such eyedrops is:

37 (i) under the on-site supervision of a supervising licensed optome-  
38 trist;

39 (ii) at least eighteen years of age; and

40 (iii) complies with standards issued by the department.

41 2. The supervising licensed optometrist shall submit a form prescribed  
42 by the department, detailing the identity of each person instilling  
43 mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunc-  
44 tion with such dilating drops to the surface of the eye of a patient,  
45 under his or her supervision, attesting to compliance with the above  
46 requirements.

47 3. The supervising licensed optometrist's use of any such person  
48 pursuant to the terms of this subdivision shall be undertaken with  
49 professional judgment in order to ensure the safety and well-being of  
50 the patient. Such use shall subject the licensed optometrist to the full  
51 disciplinary and regulatory authority of the board of regents and the  
52 department pursuant to this title. The licensed optometrist must notify  
53 the patient or the patient's designated health care surrogate that the  
54 licensed optometrist may utilize the services of an individual to admin-  
55 ister certain eyedrops and must provide the patient or the patient's

1 designated health care surrogate the opportunity to refuse the licensed  
2 optometrist's plan to utilize such person.

3 § 5. This act shall take effect on the same date and in the same  
4 manner as section one of chapter 517 of the laws of 2019 takes effect.  
5 Effective immediately the addition, amendment and/or repeal of any rule  
6 or regulation necessary for the implementation of this act on its effec-  
7 tive date are authorized to be made and completed on or before such  
8 date.