

SENATE BILL 565

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CF 9lr3041

By: **Senators Patterson, Bailey, Benson, Gallion, Hayes, Hershey, Jennings, Lam,
Nathan–Pulliam, Ready, Salling, and West**

Introduced and read first time: February 4, 2019

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – Practice of Optometry – Therapeutically Certified**
3 **Optometrists**

4 FOR the purpose of increasing the number of hours of continuing education that
5 therapeutically certified optometrists are required to attend; providing that
6 continuing education on use and management of certain therapeutic pharmaceutical
7 agents include a certain topic; prohibiting certain provisions of law regarding
8 therapeutic pharmaceutical agents from being construed to authorize the optometric
9 use of certain pharmaceutical agents, medical devices, or technologies; altering the
10 types of therapeutic pharmaceutical agents a therapeutically certified optometrist is
11 authorized to administer or prescribe; altering the circumstances under which a
12 therapeutically certified optometrist is authorized to administer or prescribe certain
13 therapeutic pharmaceutical agents; prohibiting therapeutically certified
14 optometrists from administering or prescribing an oral pharmaceutical agent to a
15 patient who is under a certain age; altering the circumstances under which a
16 therapeutically certified optometrist is authorized to administer and prescribe
17 certain pharmaceutical agents for a certain type of glaucoma; authorizing
18 therapeutically certified optometrists to order certain tests and photos under certain
19 circumstances; authorizing a therapeutically certified optometrist to administer or
20 prescribe oral glaucoma medications only for a certain period and to certain patients;
21 requiring a therapeutically certified optometrist who administers or prescribes oral
22 glaucoma medications to consult immediately with an ophthalmologist and refer the
23 patient to an ophthalmologist; altering the type of instruments a therapeutically
24 certified optometrist is authorized to use to remove a certain foreign body from a
25 patient's eye; altering the location in a patient's eye from which a therapeutically
26 certified optometrist is authorized to remove a certain foreign body; requiring a
27 therapeutically certified optometrist to comply with a certain notice requirement;
28 establishing a certain penalty; and generally relating to the practice of optometry.

29 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health Occupations
2 Section 11–309(b)(4), 11–404.2, and 11–505
3 Annotated Code of Maryland
4 (2014 Replacement Volume and 2018 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
6 That the Laws of Maryland read as follows:

7 **Article – Health Occupations**

8 11–309.

9 (b) (4) (i) In each licensing period, a therapeutically certified optometrist
10 shall attend [30] **40** hours of continuing education on the use and management of
11 therapeutic pharmaceutical agents, **INCLUDING ANTIBIOTIC DRUG RESISTANCE**.

12 (ii) The [30] **40** hours of continuing education required under
13 subparagraph (i) of this paragraph shall be counted toward the total number of required
14 hours of continuing education in a licensing period.

15 11–404.2.

16 (a) In this section, “refer” means that a therapeutically certified optometrist:

17 (1) Informs the patient that the patient should see an ophthalmologist and
18 give the ophthalmologist an opportunity to physically examine the patient; and

19 (2) Refrains from rendering further treatment for the specific condition
20 that is the basis for the referral until the patient has been physically examined by an
21 ophthalmologist.

22 **(B) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE THE**
23 **OPTOMETRIC USE OF PHARMACEUTICAL AGENTS, MEDICAL DEVICES, OR**
24 **TECHNOLOGIES THAT:**

25 **(1) ARE DELIVERED INTRAVENOUSLY, BY INJECTION, OR THROUGH A**
26 **SUSTAINED DELIVERY DEVICE OR MATERIAL;**

27 **(2) ARE USED FOR THE TREATMENT OF A SYSTEMIC DISEASE UNLESS**
28 **THE PHARMACEUTICAL AGENT IS SPECIFIC TO THE TREATMENT OF AN OCULAR**
29 **CONDITION OR DISEASE; OR**

30 **(3) INVOLVE CUTTING, ALTERING, OR OTHERWISE INFILTRATING**
31 **HUMAN TISSUE BY ANY MEANS.**

1 **[(b)] (C) (1) [A] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS**
2 **SECTION FOR THE TREATMENT OF PRIMARY OPEN-ANGLE GLAUCOMA, A**
3 **therapeutically certified optometrist may administer and prescribe [topical] therapeutic**
4 **pharmaceutical agents [limited to:**

5 (i) Ocular antihistamines, decongestants, and combinations
6 thereof;

7 (ii) Ocular antiallergy pharmaceutical agents;

8 (iii) Ocular antibiotics and combinations of ocular antibiotics,
9 excluding specially formulated or fortified antibiotics;

10 (iv) Anti-inflammatory agents;

11 (v) Ocular lubricants and artificial tears;

12 (vi) Tropicamide;

13 (vii) Homatropine;

14 (viii) Nonprescription drugs that are commercially available; and

15 (ix) Primary open-angle glaucoma medications, in accordance with
16 subsection (c) of this section] **FOR THE PREVENTION, MANAGEMENT, OR TREATMENT**
17 **OF CONDITIONS AND DISEASES SPECIFIC TO THE EYE AND OCULAR ADNEXA.**

18 (2) **[Except as provided in paragraph (4) of this subsection, if] IF a**
19 **therapeutically certified optometrist administers or prescribes a [topical] therapeutic**
20 **pharmaceutical agent [listed in paragraph (1)(i) through (vii) of this subsection,] and the**
21 **patient does not have the expected response within 72 hours:**

22 (i) The therapeutically certified optometrist shall consult with an
23 ophthalmologist; and

24 (ii) The ophthalmologist may determine that the ophthalmologist
25 needs to physically examine the patient.

26 (3) **[Except as provided in paragraph (4) of this subsection, if] IF a**
27 **therapeutically certified optometrist administers or prescribes a [topical] therapeutic**
28 **pharmaceutical agent under paragraph (2) of this subsection, the therapeutically certified**
29 **optometrist shall communicate with the patient to determine the response of the patient to**
30 **the therapeutic pharmaceutical agent as soon as practicable after 72 hours of the time the**
31 **agent was administered or prescribed.**

32 **[(4) A therapeutically certified optometrist may administer or prescribe**

1 topical steroids in accordance with a practice protocol established by the Board.

2 (5) A therapeutically certified optometrist may not administer or prescribe:

- 3 (i) Antiviral agents;
- 4 (ii) Antifungal agents;
- 5 (iii) Antimetabolite agents; or
- 6 (iv) Antiparasitic agents.

7 (6) A therapeutically certified optometrist may dispense a topical
8 therapeutic pharmaceutical agent listed in paragraph (1) of this subsection only if:

- 9 (i) No charge is imposed for the therapeutic pharmaceutical agent
10 or for dispensing the agent; and
- 11 (ii) The amount dispensed does not exceed a 72-hour supply, except
12 that if the minimum available quantity for dispensing is greater than a 72-hour supply,
13 the minimum available quantity may be dispensed.]

14 **(D) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT ADMINISTER**
15 **OR PRESCRIBE ANY ORAL PHARMACEUTICAL AGENT TO A PATIENT UNDER THE AGE**
16 **OF 19 YEARS.**

17 **[(c)] (E)** (1) A therapeutically certified optometrist may administer and
18 prescribe topical therapeutic pharmaceutical agents for glaucoma only:

- 19 (i) For patients with primary open-angle glaucoma;
- 20 (ii) After the optometrist refers the patient to an ophthalmologist;
21 and
- 22 (iii) After the ophthalmologist and optometrist jointly [and promptly
23 develop a written individualized treatment plan that is signed by the ophthalmologist and
24 optometrist and] **AGREE ON A TREATMENT PLAN INDICATED IN THE PATIENT'S**
25 **MEDICAL CHART OF EACH PROVIDER THAT** includes:

- 26 1. All tests and examinations that led to the diagnosis;
- 27 2. An initial schedule of all tests and examinations necessary
28 to treat the patient's condition;
- 29 3. A medication plan;

1 4. A target intraocular pressure; and

2 5. Criteria for surgical intervention by the ophthalmologist.

3 (2) (i) A treatment plan developed under this subsection may be
4 modified only after both the optometrist and the ophthalmologist consult together and
5 consent to the modification.

6 (ii) Each modification shall be noted in the optometric record of the
7 patient.

8 (3) (I) A therapeutically certified optometrist who treats a patient with
9 primary open-angle glaucoma in accordance with this section:

10 [(i) Shall refer the patient to an ophthalmologist at least once a year
11 after the initial mandatory referral under paragraph (1) of this subsection;

12 (ii) May continue to render treatment under the joint treatment plan
13 until the patient is examined by an ophthalmologist;]

14 [(iii)] 1. Shall consult with an ophthalmologist if:

15 [1.] A. The patient does not have the expected response to
16 treatment;

17 [2.] B. The target intraocular pressure is not reached; or

18 [3.] C. There is worsening in a patient's visual field or optic
19 nerve head **BASED ON AN EXAMINATION AND ANCILLARY TESTING**; and

20 [(iv)] 2. May perform and evaluate visual field tests, nerve fiber
21 layer photos, and optic disc photos.

22 (II) The tests or photos **PERFORMED UNDER SUBPARAGRAPH (I)2**
23 **OF THIS PARAGRAPH** shall be provided to an ophthalmologist for review by the
24 ophthalmologist.

25 (4) (I) **A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY**
26 **ADMINISTER OR PRESCRIBE ORAL GLAUCOMA MEDICATIONS ONLY FOR A PERIOD**
27 **NOT EXCEEDING 24 HOURS TO A PATIENT WHO PRESENTS IN THE OFFICE WITH**
28 **UNCONTROLLED INTRAOCULAR PRESSURE.**

29 (II) **A THERAPEUTICALLY CERTIFIED OPTOMETRIST WHO**
30 **ADMINISTERS OR PRESCRIBES ORAL GLAUCOMA MEDICATIONS UNDER**
31 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL CONSULT IMMEDIATELY WITH AN**

1 **OPHTHALMOLOGIST AND REFER THE PATIENT TO AN OPHTHALMOLOGIST.**

2 **[(d)] (F)** [(1) Except as provided in paragraphs (2) and (3) of this subsection, a
3 therapeutically certified optometrist may not administer or prescribe any oral
4 pharmaceutical agent for any purpose.

5 (2) (i) A therapeutically certified optometrist may administer and
6 prescribe oral tetracycline and its derivatives only for the diagnosis and treatment of
7 meibomitis and seborrheic blepharitis.

8 (ii) If a therapeutically certified optometrist administers or
9 prescribes oral tetracycline or its derivatives to a patient in accordance with subparagraph
10 (i) of this paragraph and the patient does not improve within 3 weeks of treatment, the
11 optometrist shall refer the patient to an ophthalmologist.

12 (3) A therapeutically certified optometrist may administer or prescribe
13 nonprescription drugs that are commercially available.

14 **[(e)] (G)** (1) Except as provided in paragraph (2) of this subsection, a
15 therapeutically certified optometrist may not perform any procedure on the eyelid of a
16 patient.

17 (2) A therapeutically certified optometrist may epilate with forceps an
18 eyelash from the eyelid, adnexa, or lacrimal system of a patient.

19 **[(f)] (H)** A therapeutically certified optometrist may remove superficial foreign
20 bodies from the human eye only if:

21 (1) The foreign body may be removed with [a cotton-tipped applicator or
22 blunt spatula] **ANY APPROPRIATE INSTRUMENT, NOT INCLUDING A SCALPEL**; and

23 (2) The foreign body has not penetrated beyond the [bowman's membrane]
24 **MID-STROMA** of the cornea [and is not within 2.5 millimeters of the visual axis].

25 **[(g)] (I)** (1) Except as provided in paragraph (2) of this subsection, a
26 therapeutically certified optometrist may not order laboratory tests for a patient.

27 (2) A therapeutically certified optometrist may order a conjunctival
28 culture.

29 **[(h)] (J)** A therapeutically certified optometrist may not provide any therapeutic
30 treatment listed in this section for a child under the age of 1 year.

31 **[(i)] (K)** Unless the standard of care requires an earlier referral, if a
32 therapeutically certified optometrist diagnoses a corneal ulcer or infiltrate, and the patient
33 does not have the expected response within 48 hours, the optometrist immediately shall

1 refer the patient to an ophthalmologist.

2 **[(j)] (L)** A therapeutically certified optometrist shall be **[held]:**

3 **(1) HELD** to the same standard of care as an ophthalmologist who is
4 licensed under Title 14 of this article and who is providing similar services; **AND**

5 **(2) REQUIRED TO COMPLY WITH THE NOTICE REQUIREMENT UNDER**
6 **§ 14-508 OF THIS ARTICLE.**

7 11-505.

8 (a) **[A] EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS**
9 **SECTION,** A person who violates any provision of this title is guilty of a misdemeanor and
10 on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 6
11 months or both.

12 (b) (1) This subsection does not apply to:

13 (i) An individual licensed under Title 14, Subtitle 3 of this article;
14 or

15 (ii) An individual supervised by an individual licensed under Title
16 14, Subtitle 3 of this article.

17 (2) A person who violates § 11-501, § 11-502, or § 11-504 of this subtitle
18 is subject to a civil fine not exceeding \$50,000 to be assessed by the Board in accordance
19 with regulations adopted by the Board.

20 **(C) A PERSON WHO VIOLATES ANY PROVISION OF § 11-404.2 OF THIS TITLE**
21 **IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT**
22 **EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2019.