

SB0447/824130/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 447
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Young” and substitute “Young, Patterson, and Simonaire”; strike beginning with “requiring” in line 4 down through “regulations” in line 31 and substitute “repealing certain provisions of law requiring a therapeutically certified optometrist to refer a certain patient to an ophthalmologist under certain circumstances; altering the types of therapeutic pharmaceutical agents a therapeutically certified optometrist is authorized to administer or prescribe; prohibiting therapeutically certified optometrists from administering or prescribing certain substances and agents except under certain circumstances; prohibiting therapeutically certified optometrists from administering or prescribing certain substances and agents to certain patients except under certain circumstances; altering the circumstances under which a therapeutically certified optometrist is authorized to administer and prescribe certain pharmaceutical agents for a certain type of glaucoma; authorizing therapeutically certified optometrists to order certain tests under certain conditions; altering the circumstances under which a therapeutically certified optometrist is authorized to remove certain foreign bodies from a human eye; requiring a therapeutically certified optometrist to comply with a certain notice requirement”; and in line 31, after “altering” insert “and repealing”.

On page 2, in line 1, strike “certain terms” and substitute “a certain term”; in line 2, after “Act;” insert “providing for a delayed effective date for certain provisions of this Act;”; strike lines 4 through 8, inclusive; in line 11, strike “11-101(g) and (h), 11-301, 11-309, 11-402 through 11-404, 11-404.1,” and substitute “11-101.”; and strike lines 15 through 19, inclusive, and substitute:

“BY repealing

Article – Health Occupations

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Section 11-503
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)".

AMENDMENT NO. 2

On pages 2 through 15, strike in their entirety the lines beginning with line 23 on page 2 through line 14 on page 15, inclusive, and substitute:

"11-101.

- (a) In this title the following words have the meanings indicated.
- (b) "Board" means the State Board of Examiners in Optometry.
- (c) "Diagnostically certified optometrist" means a licensed optometrist who is certified by the Board to administer topical ocular diagnostic pharmaceutical agents to the extent permitted under § 11-404 of this title.
- (d) "License" means, unless the context requires otherwise, a license issued by the Board to practice optometry.
- (e) "Licensed optometrist" means, unless the context requires otherwise, an optometrist who is licensed by the Board to practice optometry.
- (f) "Optometrist" means an individual who practices optometry.
- (g) (1) "Practice optometry" means:
 - (i) Subject to §§ 11-404 and 11-404.2 of this title, to use any means known in the science of optics or eye care, except surgery:

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1. To detect, diagnose, **MANAGE**, and **TREAT**, subject to §§ 11–404 and 11–404.2 of this title, [treat, subject to this title,] any optical or diseased condition in the human eye **AND THE ADNEXA OF THE EYE**; or

2. To prescribe eyeglasses, lenses, or contact lenses to correct any optical or visual condition in the human eye;

(ii) To give advice or direction on the fitness or adaptation of eyeglasses or lenses to any individual for the correction or relief of a condition for which eyeglasses or lenses are worn; or

(iii) To use or permit the use of any instrument, test card, test type, test eyeglasses, test lenses, or other device to aid in choosing eyeglasses or lenses for an individual to wear.

(2) Subject to §§ 11–404 and 11–404.2 of this title, “practice optometry” includes:

(i) The administration of [topical ocular diagnostic] pharmaceutical agents;

[(ii) The administration and prescription of therapeutic pharmaceutical agents; and]

[(iii)] **(II)** The removal of superficial foreign bodies from the cornea and conjunctiva;

(III) THE DIAGNOSIS, TREATMENT, AND MANAGEMENT OF OPEN-ANGLE GLAUCOMA;

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(IV) THE ORDERING OF CULTURES AND BLOODWORK TESTING; AND

(V) THE ORDERING AND PERFORMING OF IN-OFFICE, NONINVASIVE, NONRADIOGRAPHIC IMAGING.

(h) “Therapeutically certified optometrist” means a licensed optometrist who is certified by the Board to practice optometry to the extent permitted under § 11-404.2 of this title.

(I) (1) “SURGERY” MEANS A PROCEDURE USING ANY INSTRUMENTS, INCLUDING LASERS, SCALPELS, NEEDLES, CAUTERY, A CRYOPROBE, OR SUTURES IN WHICH HUMAN TISSUE IS CUT, BURNED, VAPORIZED, REMOVED, OR OTHERWISE PERMANENTLY ALTERED BY ANY MECHANICAL MEANS, LASER, IONIZING RADIATION, ULTRASOUND, OR OTHER MEANS.

(2) “SURGERY” DOES NOT INCLUDE:

(I) PREOPERATIVE AND POSTOPERATIVE CARE PROVIDED IN ACCORDANCE WITH §§ 11-404 AND 11-404.2 OF THIS TITLE;

(II) NONSURGICAL LIGHT THERAPIES USED ONLY FOR THE TREATMENT OF MEIBOMIAN GLAND DISEASE AND VISION THERAPY BUT NOT FOR CORNEAL COLLAGEN CROSS LINKING;

(III) ORTHOKERATOLOGY;

(IV) A NONINVASIVE PROCEDURE TO REMOVE A SUPERFICIAL FOREIGN BODY IN ACCORDANCE WITH § 11-404.2(D) OF THIS TITLE;

(V) CORNEAL SCRAPING OR CONJUNCTIVAL SWABS FOR CULTURES IN ACCORDANCE WITH § 11-404.2(E) OF THIS TITLE;

(VI) EPILATING WITH FORCEPS AN EYELASH FROM THE EYELID, ADNEXA, OR LACRIMAL SYSTEM OF A PATIENT; OR

(VII) NONINVASIVE MEIBOMIAN GLAND EXPRESSION.

11-404.2.

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

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

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

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

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

(ii) Ocular antiallergy pharmaceutical agents;

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

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- (iv) Anti-inflammatory agents;
- (v) Ocular lubricants and artificial tears;
- (vi) Tropicamide;
- (vii) Homatropine;
- (viii) Nonprescription drugs that are commercially available; and
- (ix) Primary open-angle glaucoma medications, in accordance with subsection (c) of this section] **THERAPEUTIC PHARMACEUTICAL AGENTS FOR THE PREVENTION, MANAGEMENT, OR TREATMENT OF CONDITIONS AND DISEASES OF THE EYE AND OCULAR ADNEXA.**

(2) (I) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT ADMINISTER OR PRESCRIBE:

- 1. CONTROLLED DANGEROUS SUBSTANCES;**
- 2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, NONTOPICAL SYSTEMIC IMMUNOSUPPRESSIVE AND IMMUNOMODULATORY AGENTS;**
- 3. ORAL ANTIFUNGAL AGENTS; OR**
- 4. ORAL AND TOPICAL ANTIMETABOLITE AGENTS.**

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY ADMINISTER OR PRESCRIBE ORAL CORTICOSTEROIDS FOR NOT MORE THAN 1 MONTH UNLESS THE THERAPEUTICALLY CERTIFIED OPTOMETRIST CONSULTS WITH A PHYSICIAN.

(3) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT ADMINISTER OR PRESCRIBE PHARMACEUTICAL AGENTS THAT ARE:

(I) DELIVERED INTRAVENOUSLY;

(II) GIVEN BY INJECTION, EXCEPT A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY GIVE AN INJECTION OF EPINEPHRINE IN THE APPROPRIATE DOSE FOR THE TREATMENT OF ACUTE ANAPHYLAXIS OR EMERGENCY RESUSCITATION;

(III) GIVEN OR DELIVERED BY A SUSTAINED DELIVERY DEVICE, EXCEPT FOR PUNCTAL PLUGS, CONTACT LENSES, OR OTHER EXTRAOCULAR DEVICES THAT RELEASE MEDICATION INTO THE TEAR FILM; OR

(IV) FOR THE TREATMENT OF A SYSTEMIC DISEASE UNLESS SPECIFIC TO THE TREATMENT OF AN OCULAR CONDITION OR DISEASE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT ADMINISTER OR PRESCRIBE ANY ORAL PHARMACEUTICAL AGENT TO A PATIENT UNDER THE AGE OF 18 YEARS.

(2) (I) AFTER A THERAPEUTICALLY CERTIFIED OPTOMETRIST CONSULTS WITH A PHYSICIAN, THE THERAPEUTICALLY CERTIFIED

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OPTOMETRIST MAY PRESCRIBE AND ADMINISTER ORAL ANTIBIOTICS TO A MINOR WHO IS AT LEAST 16 YEARS OLD AND UNDER THE AGE OF 18 YEARS.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST SHALL PROVIDE THE PHYSICIAN CONSULTED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH WITH A WRITTEN REPORT.

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

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

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

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

(4) A therapeutically certified optometrist may administer or prescribe topical steroids in accordance with a practice protocol established by the Board.

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

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- (i) Antiviral agents;
- (ii) Antifungal agents;
- (iii) Antimetabolite agents; or
- (iv) Antiparasitic agents.

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

(i) No charge is imposed for the therapeutic pharmaceutical agent or for dispensing the agent; and

(ii) The amount dispensed does not exceed a 72-hour supply, except that if the minimum available quantity for dispensing is greater than a 72-hour supply, the minimum available quantity may be dispensed.]

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

(i) For patients with primary] **FOR A PATIENT WHO:**

(I) IS AT LEAST 18 YEARS OLD; AND

(II) HAS open-angle glaucoma[:

(ii) After the optometrist refers the patient to an ophthalmologist; and

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(iii) After the ophthalmologist and optometrist jointly and promptly develop a written individualized treatment plan that is signed by the ophthalmologist and optometrist and includes:

1. All tests and examinations that led to the diagnosis;
2. An initial schedule of all tests and examinations necessary to treat the patient's condition;
3. A medication plan;
4. A target intraocular pressure; and
5. Criteria for surgical intervention by the ophthalmologist].

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

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

[(3) (2) (1) A therapeutically certified optometrist who treats a patient with [primary] open-angle glaucoma in accordance with this section[:

(i) Shall] SHALL refer the patient to an ophthalmologist [at least once a year after the initial mandatory referral under paragraph (1) of this subsection;] FOR AN EXAMINATION WITHIN 3 MONTHS AFTER THE INITIAL DIAGNOSIS OR PRESENTATION TO THE THERAPEUTICALLY CERTIFIED OPTOMETRIST UNLESS

THE INTRAOCULAR PRESSURE HAS BEEN REDUCED 20% OR MORE FROM THE INITIAL PRESSURE.

(ii) A THERAPEUTICALLY CERTIFIED OPTOMETRIST WHO TREATS A PATIENT WITH OPEN-ANGLE GLAUCOMA IN ACCORDANCE WITH THIS SECTION SHALL REFER THE PATIENT TO AN OPHTHALMOLOGIST FOR AN EXAMINATION WITHIN 12 MONTHS AFTER THE INITIAL DIAGNOSIS OR PRESENTATION TO THE THERAPEUTICALLY CERTIFIED OPTOMETRIST UNLESS CLINICAL STABILITY HAS BEEN DOCUMENTED BY VISUAL FIELD OR IMAGING OF THE OPTIC NERVE STRUCTURE.

(3) FOR A PATIENT ON GLAUCOMA MEDICATIONS AT THE TIME OF PRESENTATION TO A THERAPEUTICALLY CERTIFIED OPTOMETRIST, IF THE THERAPEUTICALLY CERTIFIED OPTOMETRIST IS UNABLE TO CONFIRM EITHER THE DATE OF INITIAL OPEN-ANGLE GLAUCOMA DIAGNOSIS OR THE INTRAOCULAR PRESSURE AT THE TIME THE PATIENT WAS INITIALLY DIAGNOSED, THE THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY RENDER TREATMENT TO A PATIENT WITH OPEN-ANGLE GLAUCOMA WITHOUT REFERRING THE PATIENT TO AN OPHTHALMOLOGIST IF:

(i) THE INTRAOCULAR PRESSURE OF THE PATIENT REMAINS STABLE; AND

(ii) CLINICAL STABILITY IS DOCUMENTED BY VISUAL FIELD OR IMAGING OF THE OPTIC NERVE STRUCTURE WITHIN 12 MONTHS AFTER THE PATIENT IS FIRST EXAMINED BY THE OPTOMETRIST.

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

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(iii) Shall consult with an ophthalmologist if:

1. The patient does not have the expected response to treatment;

2. The target intraocular pressure is not reached; or

3. There is worsening in a patient's visual field or optic nerve head; and

(iv) May perform and evaluate visual field tests, nerve fiber layer photos, and optic disc photos. The tests or photos shall be provided to an ophthalmologist for review by the ophthalmologist.

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

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

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

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

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

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

(4) (I) FOR A PATIENT WHO IS AT LEAST 18 YEARS OLD, A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY ONLY ADMINISTER OR PRESCRIBE ORAL GLAUCOMA MEDICATIONS FOR UP TO 24 HOURS AFTER THE PATIENT PRESENTS IN THE OFFICE WITH UNCONTROLLED INTRAOCULAR PRESSURE.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST WHO ADMINISTERS OR PRESCRIBES ORAL GLAUCOMA MEDICATIONS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL IMMEDIATELY CONSULT WITH AN OPHTHALMOLOGIST AND REFER THE PATIENT TO AN OPHTHALMOLOGIST.

[(f)] (D) A therapeutically certified optometrist may remove superficial CONJUNCTIVAL OR CORNEAL foreign bodies from the human eye only if:

[(1) The foreign body may be removed with a cotton-tipped applicator or blunt spatula; and]

[(2)] (1) The foreign body [has]:

(I) HAS not penetrated beyond the bowman's membrane of the cornea and is [not] within 2.5 millimeters of the visual axis OF THE CORNEA; OR

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(II) IS PERIPHERAL AND ANTERIOR TO THE MID-STROMA; AND

(2) REMOVAL WILL NOT REQUIRE PERMANENT ALTERATION OF TISSUE.

[(g)] (E) (1) Except as provided [in paragraph (2)] PARAGRAPHS (2) AND (3) of this subsection, a therapeutically certified optometrist may not order ANY laboratory tests, GENETIC TESTS, EXTRAOCULAR IMAGING, OR OTHER TESTING for a patient.

(2) (I) A therapeutically certified optometrist may order [a]:

1. A conjunctival OR CORNEAL culture; OR
2. AFTER CONSULTING WITH A PHYSICIAN, A NONGENETIC BLOOD TEST.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST WHO ORDERS NONGENETIC BLOOD TESTS SHALL SEND THE WRITTEN RESULTS TO THE PHYSICIAN CONSULTED IN ACCORDANCE WITH SUBPARAGRAPH (I)2 OF THIS PARAGRAPH.

(3) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY ORDER AND PERFORM IN-OFFICE, NONINVASIVE, NONRADIOGRAPHIC IMAGING.

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

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[(i)] (G) Unless the standard of care requires an earlier referral, if a therapeutically certified optometrist diagnoses a corneal ulcer or infiltrate, and the patient does not have the expected response within 48 hours, the optometrist immediately shall refer the patient to an ophthalmologist.

[(i)] (H) A therapeutically certified optometrist shall be **[held]**:

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

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

AMENDMENT NO. 3

On page 15, in lines 18 and 19, strike “, **THERAPEUTICALLY CERTIFIED OPTOMETRISTS II,**”; and in line 24, strike “, **THERAPEUTICALLY CERTIFIED OPTOMETRISTS II,**”.

On page 16, after line 7, insert:

“**[11-503.**

An optometrist practicing in the State may not:

- (1) Use surgical lasers;
- (2) Perform any surgery, including cataract surgery or cryosurgery;
- (3) Perform a radial keratotomy;

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(4) Give an injection, except that an optometrist may give an injection of epinephrine in the appropriate dose for the treatment of acute anaphylaxis or emergency resuscitation; or

(5) Except as provided under this title, dispense a therapeutic pharmaceutical agent to any person.】”.

AMENDMENT NO. 4

On page 16, strike in their entirety lines 9 through 16, inclusive, and substitute:

“(a) This section does not apply to an individual who graduates on or after July 1, 2019, from an accredited college of optometry, an accredited university school of optometry, or an equivalent program of education as determined by the State Board of Examiners in Optometry.

(b) (1) Before July 1, 2020, a therapeutically certified optometrist certified under Title 11 of the Health Occupations Article shall demonstrate to the State Board of Examiners in Optometry successful completion of a 10–hour course in advanced pharmacology with emphasis on the use of oral pharmaceutical agents in treating ocular diseases.

(2) To fulfill the requirement of paragraph (1) of this subsection, a therapeutically certified optometrist may complete a course given by the Maryland Optometric Association or any other statewide association or nonprofit association.

(3) A course completed by a therapeutically certified optometrist in accordance with this section shall be counted toward the total number of hours of continuing education required under § 11–309 of the Health Occupations Article for the licensing period in which the course was completed.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect March 1, 2020.”;

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in line 17, strike “3.” and substitute “4.”; in the same line, after “That” insert “, except as provided in Section 3 of this Act.”; and in the same line, strike “July” and substitute “June”.