

HOUSE BILL 1296

J2

8lr2746
CF 8lr3423

By: **Delegates K. Young, Frush, Pena–Melnyk, Pendergrass, and Sample–Hughes**
Introduced and read first time: February 9, 2018
Assigned to: Health and Government Operations

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 training 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; repealing certain provisions of law requiring a
8 therapeutically certified optometrist to refer a certain patient to an ophthalmologist
9 under certain circumstances; prohibiting certain provisions of law regarding
10 therapeutic pharmaceutical agents from being construed to authorize the optometric
11 use of certain pharmaceutical agents, medical devices, or technologies or to authorize
12 a therapeutically certified optometrist to administer or prescribe certain therapeutic
13 pharmaceutical agents to a patient who is under a certain age; altering the types of
14 therapeutic pharmaceutical agents a therapeutically certified optometrist is
15 authorized to administer or prescribe; altering the circumstances under which a
16 therapeutically certified optometrist is authorized to administer or prescribe certain
17 therapeutic pharmaceutical agents; prohibiting therapeutically certified
18 optometrists from administering or prescribing certain substances and agents;
19 altering the circumstances under which a therapeutically certified optometrist is
20 authorized to administer and prescribe certain pharmaceutical agents for a certain
21 type of glaucoma; altering the circumstances under which a therapeutically certified
22 optometrist who treats a patient with a certain type of glaucoma is required to
23 consult with an ophthalmologist; authorizing therapeutically certified optometrists
24 to order certain tests and cultures under certain circumstances; altering the type of
25 instruments a therapeutically certified optometrist is authorized to use to remove a
26 certain foreign body from a patient's eye; altering the location in a patient's eye
27 where a certain foreign body is located that a therapeutically certified optometrist is
28 authorized to remove; requiring a therapeutically certified optometrist to comply
29 with a certain notice requirement; establishing a certain penalty; and generally
30 relating to the practice of optometry.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Health Occupations
3 Section 11–309(b)(4), 11–404.2, and 11–505
4 Annotated Code of Maryland
5 (2014 Replacement Volume and 2017 Supplement)

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

8 **Article – Health Occupations**

9 11–309.

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

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

16 11–404.2.

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

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

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

23 **(A) NOTHING IN THIS SECTION MAY BE CONSTRUED TO AUTHORIZE:**

24 **(1) THE OPTOMETRIC USE OF PHARMACEUTICAL AGENTS, MEDICAL**
25 **DEVICES, OR TECHNOLOGIES THAT:**

26 **(I) ARE DELIVERED INTRAVENOUSLY OR BY INJECTION;**

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

30 **(III) EXCEPT AS AUTHORIZED IN SUBSECTION (F) OF THIS**
31 **SECTION, FOR THE REMOVAL OF A FOREIGN BODY, INVOLVE CUTTING, ALTERING,**

1 OR OTHERWISE INFILTRATING HUMAN TISSUE BY ANY MEANS; OR

2 (2) A THERAPEUTICALLY CERTIFIED OPTOMETRIST TO ADMINISTER
3 OR PRESCRIBE AN ORAL PHARMACEUTICAL AGENT TO A PATIENT UNDER THE AGE
4 OF 13 YEARS.

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

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

11 (ii) Ocular antiallergy pharmaceutical agents;

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

14 (iv) Anti-inflammatory agents;

15 (v) Ocular lubricants and artificial tears;

16 (vi) Tropicamide;

17 (vii) Homatropine;

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

19 (ix) Primary open-angle glaucoma medications, in accordance with
20 subsection (c) of this section] FOR THE PREVENTION, MANAGEMENT, OR TREATMENT
21 OF CONDITIONS AND DISEASES SPECIFIC TO THE EYE AND OCULAR ADNEXAE.

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

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

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

30 (3) [Except as provided in paragraph (4) of this subsection, if] IF a
31 therapeutically certified optometrist administers or prescribes a [topical] therapeutic

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

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

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

8 (i) Antiviral agents;

9 (ii) Antifungal agents;

10 (iii) Antimetabolite agents; or

11 (iv) Antiparasitic agents.

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

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

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

19 **(4) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT**
 20 **ADMINISTER OR PRESCRIBE:**

21 **(I) CONTROLLED DANGEROUS SUBSTANCES;**

22 **(II) ORAL IMMUNOSUPPRESSIVE AND IMMUNOMODULATORY**
 23 **AGENTS;**

24 **(III) ORAL ANTIFUNGAL AGENTS; OR**

25 **(IV) ORAL AND TOPICAL ANTIMETABOLITE AGENTS.**

26 (c) (1) A therapeutically certified optometrist may administer and prescribe
 27 topical **AND ORAL** therapeutic pharmaceutical agents for glaucoma only:

28 (i) For patients with **[primary]** open-angle glaucoma; **AND**

29 **[(ii) After the optometrist refers the patient to an ophthalmologist;**

1 and

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

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

11 (II) AFTER THE OPTOMETRIST:

12 1. INFORMS THE PATIENT THAT THE PATIENT MAY SEE
13 AN OPHTHALMOLOGIST TO CONFIRM THE DIAGNOSIS;

14 2. DISCUSSES WITH THE PATIENT ALL THE TREATMENT
15 OPTIONS AVAILABLE; AND

16 3. DOCUMENTS IN THE PATIENT'S MEDICAL CHART:

17 A. THE COMPLETION OF ITEMS 1 AND 2 OF THIS ITEM,
18 INCLUDING A DESCRIPTION OF THE OPTIONS DISCUSSED UNDER ITEM 2 OF THIS
19 ITEM; AND

20 B. ANY DECISIONS MADE BY THE PATIENT.

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

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

26 [(3) (2) A therapeutically certified optometrist who treats a patient with
27 [primary] open-angle glaucoma in accordance with this section:

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

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

3 [(iii)] (I) Shall consult with an ophthalmologist if:

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

6 2. The target intraocular pressure is not reached; or

7 3. There is worsening in a patient's visual field or optic nerve
8 head **BASED ON AN EXAMINATION AND, IF NECESSARY, ANCILLARY TESTING;** [and

9 (iv)] (II) May perform and evaluate visual field tests, nerve fiber
10 layer photos, and optic disc photos[. The tests or photos shall be provided to an
11 ophthalmologist for review by the ophthalmologist]; **AND**

12 (III) **MAY ORDER BLOOD TESTS, CULTURES, AND IMAGING**
13 **TESTS, INCLUDING X-RAYS.**

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

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

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

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

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

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

30 (f) A therapeutically certified optometrist may remove superficial foreign bodies
31 from the human eye only if:

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

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

5 (g) [(1) Except as provided in paragraph (2) of this subsection, a therapeutically
6 certified optometrist may not order laboratory tests for a patient.

7 (2)] A therapeutically certified optometrist may order **CULTURES,**
8 **INCLUDING** a conjunctival culture, **BLOOD TESTS, OR IMAGING TESTS, INCLUDING**
9 **X-RAYS.**

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

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

16 [(j) **(I)** A therapeutically certified optometrist shall be [held]:

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

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

21 11-505.

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

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

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

29 (ii) An individual supervised by an individual licensed under Title
30 14, Subtitle 3 of this article.

31 (2) A person who violates § 11-501, § 11-502, or § 11-504 of this subtitle

1 is subject to a civil fine not exceeding \$50,000 to be assessed by the Board in accordance
2 with regulations adopted by the Board.

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2018.