

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 565 (Senator Patterson, *et al.*)
Education, Health, and Environmental Affairs

Health Occupations - Practice of Optometry - Therapeutically Certified
Optometrists

This bill alters various provisions relating to the practice of optometry by therapeutically certified optometrists (TCOs), including (1) increasing the required number of hours of continuing education from 30 to 40, which must now include information on antibiotic drug resistance; (2) prohibiting specified provisions from being construed as authorizing the use of certain pharmaceutical agents, medical devices, or technologies; (3) altering the types of and circumstances under which a TCO may administer, prescribe, or dispense pharmaceutical agents; (4) altering the circumstances for a TCO to treat glaucoma; (5) altering when and how a foreign body may be removed from a patient's eye; and (6) subjecting a TCO to a specified notice requirement. The bill also establishes a penalty for violations of the Maryland Optometry Act related to the practice of optometry by TCOs. Upon conviction, violators are subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Fiscal Summary

State Effect: The bill is not anticipated to directly affect governmental operations or finances.

Local Effect: The bill is not anticipated to directly affect local operations or finances.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Violations of the Maryland Optometry Act

Under current law, a person who violates any provision of the Maryland Optometry Act is guilty of a misdemeanor. Upon conviction, a violator is subject to a fine of up to \$500 and/or imprisonment for up to six months.

The bill establishes a new misdemeanor penalty for violations relating to the practice of optometry by TCOs. The maximum fine and imprisonment penalties are twice that of the existing penalty.

Prohibition on Provisions Being Construed as Authorization

The provisions of law related to the practice of optometry do not authorize the optometric use of pharmaceutical agents, medical devices, or technologies that are (1) delivered intravenously, by injection, or through a sustained delivery device or material; (2) are used for the treatment of a systemic disease unless the pharmaceutical agent is specific to the treatment of an ocular condition or disease; or (3) involve cutting, altering, or otherwise infiltrating human tissue.

Prescribing, Administering, and Dispensing Therapeutic Pharmaceutical Agents

Under current law, a TCO may only administer and prescribe specified *topical* therapeutic pharmaceutical agents. If a TCO prescribes or administers a specified pharmaceutical agent, the TCO must communicate with the patient as soon as practicable after 72 hours to determine the patient's response to the agent. If the TCO learns that the patient has not had the expected response, a TCO must (1) consult with an ophthalmologist and (2) the ophthalmologist may determine there is a need to physically examine the patient.

The bill repeals the limitation on a TCO to administer or prescribe only *specified topical* therapeutic pharmaceutical agents and instead permits a TCO to administer and prescribe therapeutic pharmaceutical agents *for the prevention, management, or treatment of conditions and diseases specific to the eye and ocular adnexa*. The provisions relating to consultation with a patient and ophthalmologist after 72 hours are expanded to include all therapeutic pharmaceutical agents rather than just *topical* agents.

The bill prohibits a TCO from administering or prescribing any oral pharmaceutical agent to a patient younger than age 19.

Under current law, a TCO may administer or prescribe topical steroids within specified protocols, but may not prescribe antiviral, antifungal, antimetabolite, or antiparasitic agents. A TCO may also dispense specified topical therapeutic pharmaceutical agents, if (1) no charge is imposed for the therapeutic pharmaceutical agent or for dispensing the agent and (2) the amount dispensed does not exceed the lesser of a 72-hour supply or the minimum available quantity for dispensing. The bill repeals these provisions.

A TCO is prohibited from prescribing or administering any oral pharmaceutical agent for any purpose, with the exception of oral tetracycline and its derivatives for specified purposes. A TCO may administer or prescribe nonprescription drugs that are commercially available.

The bill repeals the prohibition against administering or prescribing any oral pharmaceutical agent.

Treatment of Glaucoma

Under current law, a TCO may administer and prescribe topical therapeutic pharmaceutical agents for glaucoma only (1) for patients with primary open-angle glaucoma; (2) after the optometrist refers the patient to an ophthalmologist; and (3) after the ophthalmologist and optometrist jointly and *promptly develop a written individualized treatment plan that is signed by both* and includes specified information. Additionally, modifications to the treatment plan can only be made after consultation and consent between the TCO and the ophthalmologist.

The bill requires that the ophthalmologist and optometrist jointly *agree on a treatment plan indicated in the patient's medical chart of each provider* that includes the same specified information and with the same requirements for modification under current law.

Under current law, a TCO that treats a patient with primary open-angle glaucoma (1) must refer the patient to an ophthalmologist at least once a year after the initial mandatory referral; (2) may continue to render treatment under the joint treatment plan until the patient is examined by an ophthalmologist; (3) must consult with an ophthalmologist under specified circumstances; and (4) may perform and evaluate visual field tests, nerve fiber layer photos, and optic disc photos but must provide the tests or photos to an ophthalmologist for review.

The bill repeals the first two requirements but leaves in place the requirement that a TCO consult with an ophthalmologist under specified circumstances.

The bill additionally permits a TCO to administer or prescribe oral glaucoma medications for up to 24 hours to a patient who presents in the office with uncontrolled intraocular

pressure. However, the TCO must consult with and refer the patient to an ophthalmologist immediately.

Removal of Foreign Bodies

Under currently law, a TCO may remove superficial 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) the foreign body has not penetrated beyond that Bowman's membrane of the cornea and is not within 2.5 millimeters of the visual axis.

The bill modifies these circumstances allowing superficial foreign bodies to be removed if (1) the foreign body may be removed with *any appropriate instrument, not including a scalpel* and (2) the foreign body has not penetrated beyond the *mid-stroma* of the cornea.

Notice Requirement

Under § 14-508 of the Health-General Article, an individual practicing medicine in the State must notify a patient in writing if they do not maintain medical professional liability insurance or if coverage for such insurance has lapsed and not been renewed. The bill requires a TCO to comply with this notice requirement.

Background: According to the State Board of Examiners in Optometry, there are currently 945 licensed optometrists in the State. Of these, 868 are TCOs, 69 are certified to administer topical ocular diagnostic pharmaceutical agents, and 11 have no certifications.

Additional Information

Prior Introductions: HB 1296 of 2018, a bill with similar provisions, was withdrawn.

Cross File: HB 835 (Delegate Reznik) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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mm/jc

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