

Regular Session, 2014

SENATE BILL NO. 568

BY SENATOR NEVERS

OPTOMETRISTS. Provides relative to the practice of optometry and the regulation of such profession. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 37:1041(C)(2)(a), (3),(4)(a), and (5), to enact R.S. 37:1041(C)(6)  
3 and (D), 1048(15) and (16), and 1049(8), and to repeal R.S. 37:1041(C)(2)(b) and  
4 (d) and 1061(A)(29), relative to the practice of optometry; to provide definitions; to  
5 provide for the powers of the board in the control and regulation of the practice of  
6 optometry; to provide for the qualifications and requirements of applicants desiring  
7 to become licensed to practice optometry; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:1041(C)(2)(a), (3), (4)(a), and (5) are hereby amended and  
10 reenacted and R.S. 37:1041(C)(6) and (D), 1048(15) and (16), and 1049(8) are hereby  
11 enacted to read as follows:

12 §1041. Legislative declaration; statement of purpose; definitions

13 \* \* \*

14 C. As used in this Chapter, the following terms have the meaning ascribed  
15 to them in this Section, unless the context clearly indicates otherwise:

16 \* \* \*

17 (2)(a) "Diagnostic and therapeutic pharmaceutical agent" means any ~~chemical~~

1           ~~in solution, suspension, emulsion, ointment base, or other form that when used~~  
2           ~~topically or orally has the property of assisting in~~ **prescription or nonprescription**  
3           **drug delivered by any route of administration, used or prescribed for** the  
4           diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology  
5           of the human eye and its adnexa, or those which may be used for such purposes, and  
6           certain approved narcotics, when used in treatment of disorders or diseases of the eye  
7           and its adnexa.

\*       \*       \*

9           (3) "Licensed optometrist" means a person **who is an optometric physician**  
10          licensed and holding a certificate issued under the provisions of this Chapter.

11          (4)(a) "Ophthalmic surgery" means a procedure upon the human eye ~~or its~~  
12          ~~adnexa~~ in which in vivo human tissue is injected, cut, burned, frozen, sutured,  
13          vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such  
14          as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing  
15          radiation. Nothing in this Chapter shall limit an optometrist's ability to use diagnostic  
16          **or therapeutic** instruments utilizing laser or ultrasound technology in the  
17          performance of primary eye care **or limit an optometrist's ability to perform**  
18          **ophthalmic surgery except for those procedures excluded in Paragraph (6) of**  
19          **this Subsection**. Only persons licensed to practice medicine by the Louisiana State  
20          Board of Medical Examiners under the laws of this state may perform ophthalmic  
21          surgery **procedures listed in Paragraph (6) of this Subsection**.

\*       \*       \*

23          (5) "Optometry" means that practice in which a person employs primary eye  
24          care procedures ~~or applies any means other than~~ **including** ophthalmic surgery, for  
25          ~~the measurement of~~ **except those procedures specifically excluded in Paragraph**  
26          **(6) of this Subsection; measures** the powers and ~~testing the~~ range of vision of the  
27          human eye; ~~and determines~~ **using subjective or objective means, including the use**  
28          **of lenses and prisms before the eye and autorefractors or other automated**  
29          **testing devices to determine** its accommodative and refractive state; **and** general

1 scope of function; and the adaptation, sale, and dispensing of frames and lenses in  
2 all their forms, including plano or zero power contact lenses, to overcome errors of  
3 refraction and restore as near as possible, normal human vision, or for orthotic,  
4 prosthetic, therapeutic, or cosmetic purposes with respect to contact lenses.  
5 Optometry also includes the examination, diagnosis, and treatment, ~~other than by~~  
6 ~~ophthalmic surgery~~ of abnormal conditions and pathology of the human eye and its  
7 adnexa, including the ~~provision~~ **use or prescription of vision therapy, ocular**  
8 **exercises, rehabilitation therapy, subnormal vision therapy, ordering of**  
9 **appropriate diagnostic lab or imaging tests; the dispensing** of samples, ~~use, to~~  
10 **initiate treatment**; and the **use or** prescription of diagnostic and therapeutic  
11 pharmaceutical agents. With respect to frames and lenses, including those containing  
12 diagnostic and therapeutic pharmaceutical agents, an optometrist may provide  
13 samples or dispense such products to his own patients, provided however that such  
14 dispensing activities shall conform to rules relative to packaging, labeling, and  
15 ~~record keeping~~ **recordkeeping** promulgated by the board.

16 **(6) The following ophthalmic surgery procedures are excluded from the**  
17 **scope of practice of optometry, except for the preoperative and postoperative**  
18 **care of these procedures:**

19 **(a) Retina laser procedures, Laser-Assisted in situ Keratomileus**  
20 **(LASIK), Photorefractive Keratectomy (PRK), Photorefractive Keratectomy**  
21 **(LASEK), and any form of refractive surgery.**

22 **(b) Penetrating keratoplasty (corneal transplant) or lamellar**  
23 **keratoplasty.**

24 **(c) The administration of general anesthesia.**

25 **(d) Laser or nonlaser injection into the vitreous chamber of the eye to**  
26 **treat any macular or retinal disease.**

27 **(e) The following nonlaser surgical procedures:**

28 **(i) Surgery related to removal of the eye from a living human being.**

29 **(ii) Surgery requiring full thickness incision or excision of the cornea or**

1           sclera other than paracentesis in an emergency situation requiring immediate  
2           reduction of the pressure inside the eye.

3                   (iii) Surgery requiring incision of the iris and ciliary body, including iris  
4                   diathermy or cryotherapy.

5                   (iv) Surgery requiring incision of the vitreous.

6                   (v) Surgery requiring incision of the retina.

7                   (vi) Surgical extraction of any part of the crystalline lens.

8                   (vii) Surgical intraocular implants.

9                   (viii) Incisional or excisional surgery of the extraocular muscles.

10                   (ix) Surgery of the eyelid for suspect eyelid malignancies or for  
11                   incisional cosmetic or mechanical repair of blepharochalasis, ptosis, and  
12                   tarsorrhaphy.

13                   (x) Surgery of the bony orbit, including orbital implants.

14                   (xi) Incisional or excisional surgery of the lacrimal system other than  
15                   lacrimal probing or related procedures.

16                   (xii) Surgery requiring full thickness conjunctivoplasty with graft or  
17                   flap.

18                   (xiii) Any surgical procedure that does not provide for the correction  
19                   and relief of ocular abnormalities.

20                   (xiv) Injection or incision into the eyeball.

21                   (xv) Retrobulbar injection.

22                   D. In a public health emergency, the state health officer may authorize  
23                   therapeutically licensed optometrists to administer inoculations for systemic  
24                   health reasons.

25                                   \*       \*       \*

26                   §1048. Powers of the board

27                   The board shall be responsible for the control and regulation of the practice  
28                   of optometry and may:

29                                   \*       \*       \*

1                   **(15) Require that any therapeutically licensed optometrist authorized**  
2                   **to practice pursuant to this Chapter shall meet the educational and competence**  
3                   **criteria established by the board in order to perform expanded therapeutic**  
4                   **procedures. Evidence of proof of continuing competency shall be determined**  
5                   **by the board.**

6                   **(16) Nothing in this Chapter shall be construed as allowing any agency,**  
7                   **board, or other entity of this state other than the Louisiana State Board of**  
8                   **Optometry Examiners to determine what constitutes the practice of optometry.**

9                   §1049. Qualifications and requirements of applicants

10                   All persons desiring to become licensed to practice optometry shall:

11   \*           \*           \*

12                   **(8) Meet the credentialing requirements of the board to perform**  
13                   **authorized ophthalmic surgery procedures.**

14                   Section 2. R.S. 37:1041(C)(2)(b) and (d) and 1061(A)(29) are hereby repealed in  
15                   their entirety.

16                   Section 3. This Act shall become effective upon signature by the governor or, if not  
17                   signed by the governor, upon expiration of the time for bills to become law without signature  
18                   by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
19                   vetoed by the governor and subsequently approved by the legislature, this Act shall become  
20                   effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Christopher D. Adams.

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DIGEST

Nevers (SB 568)

Present law defines "diagnostic and therapeutic pharmaceutical agent" as meaning any chemical in solution, suspension, emulsion, ointment base, or other form that when used topically or orally has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics, when used in treatment of disorders or diseases of the eye and its adnexa.

Proposed law amends the definition of "diagnostic and therapeutic pharmaceutical agent" to mean any prescription or nonprescription drug delivered by any route of administration used or prescribed for the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa.

Present law provides "diagnostic and therapeutic pharmaceutical agent" as defined in present law listed in Schedules III, IV, and V of the Uniform Controlled Dangerous Substances Law is limited to use or to be prescribed by a licensed optometrist for a maximum of 48 hours when used in treatment of disorders or diseases of the eye and its adnexa.

Proposed law repeals present law in its entirety.

Present law authorizes a licensed optometrist to prescribe one additional 48-hour prescription if warranted by a follow-up exam.

Proposed law repeals present law in its entirety.

Present law defines "licensed optometrist" as meaning a person licensed and holding a certificate issued under the provisions of present law.

Proposed law amends the definition of "licensed optometrist" to mean a person who is an optometric physician licensed and holding a certificate issued under the provisions of present law.

Present law defines "ophthalmic surgery" as meaning a procedure upon the human eye or its adnexa in which in vivo human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such as, but not limited to a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation. Specifies that nothing in present law limits an optometrist's ability to use diagnostic instruments utilizing laser or ultrasound technology in the performance of primary eye care. Further, specifies that only persons licensed to practice medicine by the La. State Board of Medical Examiners under the laws of this state may perform ophthalmic surgery.

Proposed law provides present law does not limit an optometrist's ability to perform ophthalmic surgery except those procedures excluded from the scope of practice in proposed law.

Present law defines "optometry" as meaning a practice in which a person employs primary eye care procedures or applies any means other than ophthalmic surgery, for the measurement of the powers and testing the range of vision of the human eye, and determines its accommodative and refractive state; general scope of function; and the adaptation, sale, and dispensing of frames and lenses in all their forms, including plano or zero power contact lenses, to overcome errors of refraction and restore as near as possible, normal human vision, or for orthotic, prosthetic, therapeutic, or cosmetic purposes with respect to contact lenses. Further provides that optometry includes the examination, diagnosis, and treatment, other than by ophthalmic surgery of abnormal conditions and pathology of the human eye and its adnexa, including the provision of and the prescription of diagnostic and therapeutic pharmaceutical agents.

Proposed law clarifies the definition of "optometry" by specifying that it does not include those procedures excluded by proposed law. Further specifies that "optometry" includes measurements of the powers and range of vision of the human eye using subjective or objective means, including the use of lenses and prisms before the eye and autorefractors or other automated testing devices to determine its accommodative and refractive state and general scope of function and the adaptation, sale, and dispensing of frames and lenses in all their forms, including plano or zero power contact lenses, to overcome errors of refraction and restore as near as possible, normal human vision, or for orthotic, prosthetic, therapeutic, or cosmetic purposes with respect to contact lenses.

Proposed law further provides optometry includes the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and its adnexa, including the use or prescription of vision therapy, ocular exercises, rehabilitation, subnormal vision therapy, ordering of appropriate diagnostic lab or imaging tests; the dispensing of samples to initiate

treatment and the use or prescription of diagnostic and therapeutic pharmaceutical agents.

Proposed law provides the following ophthalmic surgery procedures are excluded from the scope of practice of optometry, except for the preoperative and postoperative care of these procedures:

- (1) Retina laser procedures, Laser-Assisted in situ Keratomileus (LASIK), Photorefractive Keratectomy (PRK), Photorefractive Keratectomy (LASEK), and any form of retroactive surgery.
- (2) Penetrating keratoplasty (corneal transplant) or lamellar keratoplasty.
- (3) The administration of general anesthesia.
- (4) Laser or nonlaser injection into the vitreous chamber of the eye to treat any macular or retinal disease.
- (5) The following nonlaser surgical procedures:
  - (a) Surgery related to removal of the eye from a living human being.
  - (b) Surgery requiring full thickness incision or excision of the cornea or sclera other than paracentesis in an emergency situation requiring immediate reduction of the pressure inside the eye.
  - (c) Surgery requiring incision of the iris and ciliary body, including iris diathermy or cryotherapy.
  - (d) Surgery requiring incision of the vitreous.
  - (e) Surgery requiring incision of the retina.
  - (f) Surgical extraction of any part of the crystalline lens.
  - (g) Surgical intraocular implants.
  - (h) Incisional or excisional surgery of the extraocular muscles.
  - (i) Surgery of the eyelid for suspect eyelid malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis, and tarsorrhaphy.
  - (j) Surgery of the bony orbit, including orbital implants.
  - (k) Incisional or excisional surgery of the lacrimal system other than lacrimal probing or related procedures.
  - (l) Surgery requiring full thickness conjunctivoplasty with graft or flap.
  - (m) Any surgical procedure that does not provide for the correction and relief of ocular abnormalities.
  - (n) Injection or incision into the eyeball.
  - (o) Retro-babar injection.

Proposed law provides in a public health emergency, the state health officer may authorize therapeutically licensed optometrists to administer inoculations for systemic health reasons.

Present law establishes the responsibilities and powers of the board relative to the regulation of the practice of optometry.

Proposed law adds the following responsibilities:

- (1) Require that any therapeutically licensed optometrist authorized to practice pursuant to present law must meet the educational and competence criteria set forth by the board in order to perform expanded therapeutic procedures. Evidence of proof of continuing competency must be determined by the board.
- (2) Nothing in present law can be construed as allowing any agency, board, or other entity of this state other than the La. State Board of Optometry Examiners to determine what constitutes the practice of optometry.

Present law provides the qualifications and requirements for applicants desiring to become licensed to practice optometry.

Proposed law adds a requirement that applicants meet the credentialing requirements of the board to perform authorized ophthalmic surgery procedures.

Present law authorizes the board to assess a fine, not more than \$5,000, for each offense, refuse to license, register, certify, or permit any applicant, refuse to renew the license or permit of any person, or revoke, summarily suspend, suspend, place on probation, reprimand, issue a warning against the person who was issued the license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of optometry upon proof that the person practiced medicine or surgery for the use of carrying on the practice of optometry. Specifies that present law does not prevent the possession or use of ocular diagnostic and therapeutic pharmaceutical agents by a licensed optometrist as long as that person's conduct is in accordance with the provisions of present law.

Proposed law repeals present law in its entirety.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 37:1041(C)(2)(a), (3), (4)(a), and (5); adds R.S. 37:1041(C)(6) and (D), 1048(15) and (16), and 1049(8); repeals R.S. 37:1041(C)(2)(b) and (d) and 1061(A)(29))