

Regular Session, 2013

HOUSE BILL NO. 527

BY REPRESENTATIVES HOFFMANN, ANDERS, BARROW, BERTHELOT,
BROADWATER, HAZEL, HENSGENS, HILL, HODGES, KATRINA JACKSON,
LEBAS, MACK, POPE, PUGH, REYNOLDS, ST. GERMAIN, AND WILLMOTT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

OPTOMETRISTS: Provides relative to the practice of optometry and the regulation of such
profession

1 AN ACT

2 To amend and reenact R.S. 37:1041(C)(2)(a) and (c), (3), (4)(a), and (5), to enact R.S.
3 37:1041(C)(6) and (D), 1048(15), (16), and (17), and 1049(8), and to repeal R.S.
4 37:1041(C)(2)(b) and (d) and 1061(A)(29), relative to the practice of optometry; to
5 provide definitions; to provide for the powers of the board in the control and
6 regulation of the practice of optometry; to provide for the qualifications and
7 requirements of applicants desiring to become licensed to practice optometry; and
8 to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 37:1041(C)(2)(a) and (c), (3), (4)(a), and (5) are hereby amended and
11 reenacted and R.S. 37:1041(C)(6) and (D), 1048(15), (16), and (17), and 1049(8) are hereby
12 enacted to read as follows:

13 §1041. Legislative declaration; statement of purpose; definitions

14 * * *

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

17 * * *

(2)(a) "Diagnostic and therapeutic pharmaceutical agent" means any chemical in solution, suspension, emulsion, ointment base, or other form that when used topically or orally has the property of assisting in 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, or those which may be used for such purposes, and including certain approved narcotics, when used in treatment of disorders or diseases of the eye and its adnexa controlled substances in Schedule III, IV, and V of the Uniform Controlled Substances Law and hydrocodone combination drugs.

* * *

(c) "Diagnostic and therapeutic pharmaceutical agent" shall not include any drug or other substance listed in Schedules I and II of the Uniform Controlled Dangerous Substances Law provided in R.S. 40:963 and 964 which shall be prohibited from use by a licensed optometrist, except for hydrocodone combination drugs.

* * *

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

(4)(a) "Ophthalmic surgery" means 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. Nothing in this Chapter shall limit an optometrist's ability to use diagnostic instruments utilizing laser or ultrasound technology in the performance of primary eye care or limit an optometrist's ability to perform ophthalmic surgery except for those procedures excluded in Paragraph (6) of this Subsection. Only persons licensed to practice medicine by the Louisiana State Board of Medical

1 Examiners under the laws of this state may perform ophthalmic surgery procedures
2 listed in Paragraph (6) of this Subsection.

3 * * *

(5) "Optometry" means that practice in which a person employs primary eye care procedures ~~or applies any means other than~~ including ophthalmic surgery, except those procedures specifically excluded in Paragraph (6) of this Subsection; ~~for the measurement of~~ measures the powers and ~~testing the~~ 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, ~~and~~ ~~determines~~ 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. Optometry also 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 use or prescription provision of vision therapy, ocular exercises, rehabilitation therapy, ordering of appropriate diagnostic lab or imaging tests; the dispensing of samples to initiate treatment; ~~use,~~ and the use or prescription of diagnostic and therapeutic pharmaceutical agents. With respect to frames and lenses, including those containing diagnostic and therapeutic pharmaceutical agents, an optometrist may provide samples or dispense such products to his own patients, provided however that such dispensing activities shall conform to rules relative to packaging, labeling, and ~~record keeping~~ recordkeeping promulgated by the board.

(6) 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 (a) Retina laser procedures, Laser-Assisted In Situ Keratomileus (LASIK)
2 and Photorefractive Keratectomy (PRK).

3 (b) Penetrating keratoplasty (corneal transplant) or lamellar keratoplasty.

4 (c) The administration of general anesthesia.

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

7 (e) The following nonlaser surgical procedures:

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

9 (ii) Surgery requiring full thickness incision or excision of the cornea or
10 sclera other than paracentesis in an emergency situation requiring immediate
11 reduction of the pressure inside the eye.

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

14 (iv) Surgery requiring incision of the vitreous.

15 (v) Surgery requiring incision of the retina.

16 (vi) Surgical extraction of the crystalline lens.

17 (vii) Surgical intraocular implants.

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

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

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

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

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

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

1 D. In a public health emergency, the Louisiana State Health Officer may
2 authorize therapeutically licensed optometrists to administer inoculations for
3 systemic health reasons.

4 * * *

5 §1048. Powers of the board

6 The board shall be responsible for the control and regulation of the practice
7 of optometry and may:

8 * * *

9 (15) Any therapeutically licensed optometrist authorized to practice pursuant
10 to this Chapter shall meet the educational and competence criteria established by the
11 board in order to perform expanded therapeutic procedures. Evidence of proof of
12 continuing competency shall be determined by the board.

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

16 (17) The board shall have the sole authority to determine what constitutes
17 the practice of optometry and sole jurisdiction to exercise any other powers and
18 duties provided in this Chapter. The board may issue advisory opinions and
19 declaratory rulings related to this Chapter and the administrative regulations
20 promulgated pursuant to this Chapter.

21 §1049. Qualifications and requirements of applicants

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

23 * * *

24 (8) Meet the credentialing requirements of the board to perform authorized
25 ophthalmic surgery procedures.

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Hoffmann

HB No. 527

Abstract: Provides relative to the practice of optometry.

Present law (R.S. 37:1041(C)(2)(a)) 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 modifies 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, including controlled substances in Schedule III, IV, and V of the Uniform Controlled Substances Law and hydrocodone combination drugs.

Present law (R.S. 37:1041(C)(2)(b)) specifies that "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 (R.S. 37:1041(C)(2)(c)) specifies that "diagnostic and therapeutic pharmaceutical agent" does not include any drug or other substance listed in certain schedules of the Uniform Controlled Dangerous Substances Law which is prohibited from use by a licensed optometrist.

Proposed law establishes an exception to present law which allows a licensed optometrist to use hydrocodone combination drugs.

Present law (R.S. 37:1041(C)(2)(d)) 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 (R.S. 37:1041(C)(3)) defines "licensed optometrist" as meaning a person licensed and holding a certificate issued under the provisions of present law.

Proposed law modifies present law by specifying that a "licensed optometrist" is a person who is an optometric physician, in addition to being licensed and holding a certain certificate.

Present law (R.S. 37:1041(C)(4)(a)) 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 specifies that 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 (R.S. 37:1041(C)(5)) 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.

Also, specifies that 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, 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 (R.S. 37:1041(C)(6)) specifies that 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) and Photorefractive Keratectomy (PRK).
- (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 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.

Proposed law (R.S. 37:1041(D)) specifies that in a public health emergency, the La. State Health Officer may authorize therapeutically licensed optometrists to administer inoculations for systemic health reasons.

Present law (R.S. 37:1048) establishes the responsibilities and powers of the board relative to the regulation of the practice of optometry.

Proposed law (R.S. 37:1048(15), (16), and (17)) adds the following responsibilities:

- (1) 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.
- (3) The board has the sole authority to determine what constitutes the practice of optometry and sole jurisdiction to exercise any other powers and duties under present law. Authorizes the board to issue advisory opinions and declaratory rulings related to present law and the administrative regulations promulgated pursuant to present law.

Present law (R.S. 37:1049) establishes 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 (R.S. 37:1061(A)(29)) 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.

(Amends R.S. 37:1041(C)(2)(a) and (c), and (3), (4)(a), and (5); Adds R.S. 37:1041(C)(6) and (D), 1048(15), (16), and (17), and 1049(8); Repeals R.S. 37:1041(C)(2)(b) and (d) and 1061(A)(29))