

Regular Session, 2014

HOUSE BILL NO. 1065

BY REPRESENTATIVES POPE, ANDERS, BARROW, BROWN, HENSGENS,
HODGES, AND HOWARD

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), (3), (4)(a), and (5), to enact R.S. 37:1041(D)
3 and (E), 1048(15), 1048.1, and 1049(8), and to repeal R.S. 37:1041(C)(2)(b) and (d)
4 and 1061(A)(29); and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 37:1041(C)(2)(a), (3), (4)(a), and (5) are hereby amended and
7 reenacted and R.S. 37:1041(D) and (E), 1048(15), 1048.1, and 1049(8) are hereby enacted
8 to read as follows:

9 §1041. Legislative declaration; statement of purpose; definitions; scope of practice

10 * * *

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

13 * * *

14 (2)(a) "Diagnostic and therapeutic pharmaceutical agent" means any
15 ~~chemical in solution, suspension, emulsion, ointment base, or other form that when~~
16 ~~used topically or orally has the property of assisting in~~ prescription or
17 nonprescription drug delivered by any route of administration, used or prescribed for
18 the diagnosis, prevention, treatment, or mitigation of abnormal conditions and
19 pathology of the human eye and its adnexa, or those which may be used for such
20 purposes, and certain approved narcotics, when used in treatment of disorders or
21 diseases of the eye and its adnexa.

22 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 tests; the dispensing of samples, ~~use~~, to initiate treatment; and the use or prescription
2 of diagnostic and therapeutic pharmaceutical agents. With respect to frames and
3 lenses, including those containing diagnostic and therapeutic pharmaceutical agents,
4 an optometrist may provide samples or dispense such products to his own patients,
5 provided however that such dispensing activities shall conform to rules relative to
6 packaging, labeling, and ~~record keeping~~ recordkeeping promulgated by the board.

7 D. The following ophthalmic surgery procedures are excluded from the
8 scope of practice of optometry, except for the preoperative and postoperative care
9 of these procedures:

10 (1) Retina laser procedures, Laser-Assisted In Situ Keratomileus (LASIK),
11 Photorefractive Keratectomy (PRK), and any form of refractive surgery.

12 (2) Penetrating keratoplasty, corneal transplant, or lamellar keratoplasty.

13 (3) The administration of general anesthesia.

14 (4) Laser or nonlaser injection into the vitreous chamber of the eye to treat
15 any macular or retinal disease.

16 (5) The following nonlaser surgical procedures:

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

18 (b) Surgery requiring full thickness incision or excision of the cornea or
19 sclera other than paracentesis in an emergency situation requiring immediate
20 reduction of the pressure inside the eye.

21 (c) Surgery requiring incision of the iris and ciliary body, including iris
22 diathermy or cryotherapy.

23 (d) Surgery requiring incision of the vitreous.

24 (e) Surgery requiring incision of the retina.

25 (f) Surgical extraction of the crystalline lens.

26 (g) Surgical intraocular implants.

27 (h) Incisional or excisional surgery of the extraocular muscles.

28 (i) Surgery of the eyelid for suspect eyelid malignancies or for incisional
29 cosmetic or mechanical repair of blepharochalasis, ptosis, and tarsorrhaphy.

- 1 (j) Surgery of the bony orbit, including orbital implants.
- 2 (k) Incisional or excisional surgery of the lacrimal system other than lacrimal
- 3 probing or related procedures.
- 4 (l) Surgery requiring full thickness conjunctivoplasty with graft or flap.
- 5 (m) Any surgical procedure that does not provide for the correction and
- 6 relief of ocular abnormalities.
- 7 (n) Injection or incision into the eyeball.
- 8 (o) Retrobulbar injection.
- 9 E. In a public health emergency, the state health officer may authorize
- 10 therapeutically licensed optometrists to administer inoculations for systemic health
- 11 reasons.

* * *

§1048. Powers of the board

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

* * *

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

§1048.1. Regulation of optometry; construction of laws; board as sole authority

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

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

1 §1049. Qualifications and requirements of applicants

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

3 * * *

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

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

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

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)]

Pope

HB No. 1065

Abstract: Provides relative to the practice and regulation of optometry, and authorizes optometrists to perform certain ophthalmic surgery procedures.

Present law relative to the practice of optometry defines "diagnostic and therapeutic pharmaceutical agent", in part, as 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. Proposed law revises the definition by deleting reference to such chemical used or prescribed for diagnosis, prevention, and treatment; and inserting in lieu thereof reference to prescription or nonprescription drugs delivered by any route of administration and used or prescribed for diagnosis, prevention, and treatment.

Present law defines "licensed optometrist" as a person licensed and holding a certificate issued under the provisions of present law. Proposed law revises the definition by specifying that an optometrist is an optometric physician who possesses such license and certificate.

Present law defines "optometry" as the practice in which a person employs primary eye care procedures, or applies any means other than ophthalmic surgery, for the following:

- (1) Measurement of the powers and testing the range of vision of the human eye.
- (2) Determining the accommodative and refractive state of the eye, and its general scope of function.

- (3) 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.

Present law provides that 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 provision of samples, use, and prescription of diagnostic and therapeutic pharmaceutical agents.

Proposed law revises present law to provide that, with the exception of certain procedures specified in proposed law, the practice of optometry includes ophthalmic surgery.

Present law defines "ophthalmic surgery", and specifies that only persons licensed to practice medicine by the La. State Board of Medical Examiners under the laws of this state may perform such surgery. Proposed law revises present law to provide that nothing in present law limits an optometrist's ability to perform ophthalmic surgery procedures, other than the following procedures that are specifically excluded from the scope of practice by proposed law:

- (1) Retina laser procedures, Laser-Assisted In Situ Keratomileus (LASIK), Photorefractive Keratectomy (PRK), and any form of refractive 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 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) Retrobulbar injection.

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

Present law provides that the La. State Board of Optometry Examiners is responsible for the control and regulation of the practice of optometry, and authorizes certain functions that the board may undertake in exercising such control and regulation. Proposed law adds to present law an authorization for the board to require that any therapeutically licensed optometrist meet educational and competence criteria as established by the board in order to perform expanded therapeutic procedures.

Proposed law provides that all persons desiring to become licensed to practice optometry shall meet the credentialing requirements of the board to perform authorized ophthalmic surgery procedures.

Proposed law stipulates that nothing in present law or proposed law shall 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. Provides further that the La. State Board of Optometry Examiners shall have the sole authority to determine what constitutes the practice of optometry and sole jurisdiction to exercise any other powers and duties provided in present law and proposed law; and may issue advisory opinions and declaratory rulings related to present law, proposed law, and administrative regulations issued pursuant thereto.

Proposed law deletes present law limiting to a maximum of 48 hours the use or prescription by an optometrist of a pharmaceutical agent listed in Schedules III through V of the Uniform Controlled Dangerous Substances Law.

Present law establishes causes and offenses for which the La. State Board of Optometry Examiners may take any of the following actions:

- (1) Assess a fine not in excess of \$5,000.
- (2) Refuse to license, register, certify, or permit an applicant.
- (3) Refuse to renew a person's license or permit.
- (4) Revoke or suspend a license, registration, certificate, or permit.
- (5) Place a person on probation, reprimand a person, or issue a warning to a person.

Proposed law deletes from the list of offenses for which the board may take adverse action the practice of medicine or surgery by a person in his practice of optometry.

Effective upon signature of 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(D) and (E), 1048(15), 1048.1, and 1049(8); Repeals R.S. 37:1041(C)(2)(b) and (d) and 1061(A)(29))