

AMENDED IN ASSEMBLY JULY 1, 2008  
AMENDED IN ASSEMBLY JUNE 19, 2008  
AMENDED IN SENATE MAY 27, 2008  
AMENDED IN SENATE MAY 23, 2008  
AMENDED IN SENATE APRIL 22, 2008

**SENATE BILL**

**No. 1406**

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**Introduced by Senators Correa and Aanestad**

February 21, 2008

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An act to amend Sections 3041 and 3152 of the Business and Professions Code, relating to optometry.

LEGISLATIVE COUNSEL'S DIGEST

SB 1406, as amended, Correa. Optometry.

Existing law, the Optometry Practice Act, creates the State Board of Optometry, which licenses optometrists and regulates their practice. The act defines the practice of optometry as including the prevention and diagnosis of disorders and dysfunctions of the visual system, and the treatment and management of certain disorders and dysfunctions of the visual system. The act also prescribes certain eye or eye appendage conditions which an optometrist who is certified to use therapeutic pharmaceutical agents may diagnose and treat, as specified and subject to certain limitations, and requires additional certification for the performance of primary open-angle glaucoma and lacrimal irrigation and dilation procedures, respectively.

This bill would revise and recast those provisions to further allow an optometrist who is certified to use therapeutic pharmaceutical agents to, among others, treat glaucoma, as defined, under specified

certification standards, order any test or procedure necessary for the diagnosis of conditions or diseases of the eye or adnexa, to perform ~~punctual~~ *punctal* occlusion by cautery, to prescribe lenses or devices that incorporate a medication or therapy the optometrist is certified to prescribe or provide, to use sharp instruments within the central 3 millimeters of the cornea, ~~to probe the nasal lacrimal tract in patients over 12 years of age~~, and to perform nonintraorbital injections. The bill would further allow an optometrist who graduated from an accredited school of optometry on or after May 1, 2000, to perform lacrimal irrigation and dilation procedures without additional certification. The bill would also make other changes with regard to the circumstances under which an ophthalmologist *or an appropriate physician and surgeon or other health care provider* is required to be consulted with, or patients referred to, and to certain age requirements related to treatment or diagnosis, as specified. The bill would further make a conforming change to a related provision, *and would make a statement of legislative intent, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 3041 of the Business and Professions
- 2 Code is amended to read:
- 3 3041. (a) The practice of optometry includes the prevention
- 4 and diagnosis of disorders and dysfunctions of the visual system,
- 5 and the treatment and management of certain disorders and
- 6 dysfunctions of the visual system, as well as the provision of
- 7 rehabilitative optometric services, and is the doing of any or all of
- 8 the following:
- 9 (1) The examination of the human eye or eyes, or its or their
- 10 appendages, and the analysis of the human vision system, either
- 11 subjectively or objectively.
- 12 (2) The determination of the powers or range of human vision
- 13 and the accommodative and refractive states of the human eye or
- 14 eyes, including the scope of its or their functions and general
- 15 condition.
- 16 (3) The prescribing or directing the use of, or using, any optical
- 17 device in connection with ocular exercises, visual training, vision
- 18 training, or orthoptics.

1 (4) The prescribing of contact and spectacle lenses for, or the  
2 fitting or adaptation of contact and spectacle lenses to, the human  
3 eye, including lenses that may be classified as drugs or devices by  
4 any law of the United States or of this state.

5 (5) The use of *topical* pharmaceutical agents for the purpose of  
6 the examination of the human eye or eyes for any disease or  
7 pathological condition.

8 (b) (1) An optometrist who is certified to use therapeutic  
9 pharmaceutical agents, pursuant to Section 3041.3, may also  
10 diagnose and treat the human eye or eyes, or any of its appendages,  
11 for all of the following conditions:

12 (A) Through medical treatment, infections of the anterior  
13 segment and adnexa, excluding the lacrimal gland, the lacrimal  
14 drainage system and the sclera in patients under 12 years of age.

15 (B) Ocular allergies of the anterior segment and adnexa.

16 (C) Ocular inflammation, limited to inflammation resulting from  
17 traumatic iritis, peripheral corneal inflammatory keratitis,  
18 episcleritis, and unilateral nonrecurrent nongranulomatous  
19 idiopathic iritis in patients over 12 years of age. Unilateral  
20 nongranulomatous idiopathic iritis recurring within one year of  
21 the initial occurrence shall be referred to an ophthalmologist. An  
22 optometrist shall consult with an ophthalmologist or appropriate  
23 ~~health care provider~~ *physician and surgeon* if a patient has a  
24 recurrent case of episcleritis within one year of the initial  
25 occurrence. An optometrist shall consult with an ophthalmologist  
26 or appropriate ~~health care provider~~ *physician and surgeon* if a  
27 patient has a recurrent case of peripheral corneal inflammatory  
28 keratitis within one year of the initial occurrence.

29 (D) Traumatic or recurrent conjunctival or corneal abrasions  
30 and erosions.

31 (E) Corneal surface disease and dry eyes.

32 (F) Ocular pain associated with conditions optometrists are  
33 authorized to treat.

34 (G) Pursuant to subdivision (f), glaucoma in patients over 18  
35 years of age, as described in subdivision (j).

36 (2) For purposes of this section, “treat” means the use of  
37 therapeutic pharmaceutical agents, as described in subdivision (c),  
38 and the procedures described in subdivision (e).

39 (c) In diagnosing and treating the conditions listed in subdivision  
40 (b), an optometrist certified to use therapeutic pharmaceutical

1 agents pursuant to Section 3041.3, may use all of the following  
2 therapeutic pharmaceutical agents:

3 (1) Pharmaceutical agents as described in paragraph (5) of  
4 subdivision (a), as well as topical miotics.

5 (2) Topical lubricants.

6 (3) Antiallergy agents.

7 (4) Topical and oral antiinflammatories. In using steroid  
8 medication for:

9 (A) Unilateral nonrecurrent nongranulomatous idiopathic iritis  
10 or episcleritis, an optometrist shall consult with an ophthalmologist  
11 or other appropriate health care provider if the patient's condition  
12 worsens 72 hours after the diagnosis, or if the patient's condition  
13 has not resolved three weeks after diagnosis. If the patient is still  
14 receiving medication for these conditions six weeks after diagnosis,  
15 the optometrist shall refer the patient to an ophthalmologist or  
16 other appropriate health care provider.

17 (B) Peripheral corneal inflammatory keratitis, excluding  
18 Moorens and Terriens diseases, an optometrist shall consult with  
19 an ophthalmologist or other appropriate health care provider if the  
20 patient's condition worsens 72 hours after diagnosis.

21 (C) Traumatic iritis, an optometrist shall consult with an  
22 ophthalmologist or ~~other appropriate health care provider~~  
23 *appropriate physician and surgeon* if the patient's condition  
24 worsens 72 hours after diagnosis and shall refer the patient to an  
25 ophthalmologist or ~~other appropriate health care provider~~  
26 *appropriate physician and surgeon* if the patient's condition has  
27 not resolved one week after diagnosis.

28 (5) Topical antibiotic agents.

29 (6) Topical hyperosmotics.

30 (7) Topical and oral antiglaucoma agents pursuant to the  
31 certification process defined in subdivision (f).

32 (A) ~~The optometrist shall consult with, or refer the patient to,~~  
33 *refer the patient to* an ophthalmologist if requested by the patient  
34 or if angle closure glaucoma develops.

35 (B) If the glaucoma patient also has diabetes, the optometrist  
36 shall ~~inform, in writing,~~ *consult with* the physician treating the  
37 patient's diabetes in developing the glaucoma treatment plan and  
38 shall inform the physician in writing of any changes in the patient's  
39 glaucoma medication. ~~The physician shall provide written~~  
40 ~~confirmation of those consultations and notifications.~~

1 (8) Nonprescription medications used for the rational treatment  
2 of an ocular disorder.

3 (9) Oral antihistamines.

4 (10) Prescription oral nonsteroidal antiinflammatory agents.

5 (11) Oral antibiotics for medical treatment of ocular disease.

6 (A) If the patient has been diagnosed with a central corneal ulcer  
7 and the central corneal ulcer has not improved 72 hours after  
8 diagnosis, the optometrist shall refer the patient to an  
9 ophthalmologist.

10 (B) If the patient has been diagnosed with preseptal cellulitis  
11 or dacryocystitis and the condition has not improved 72 hours after  
12 diagnosis, the optometrist shall refer the patient to an  
13 ophthalmologist.

14 (12) Topical and oral antiviral medication for the medical  
15 treatment of the following: herpes simplex viral keratitis, herpes  
16 simplex viral conjunctivitis, and periocular herpes simplex viral  
17 dermatitis; and varicella zoster viral keratitis, varicella zoster viral  
18 conjunctivitis, and periocular varicella zoster viral dermatitis.

19 (A) If the patient has been diagnosed with herpes simplex  
20 keratitis or varicella zoster viral keratitis and the patient's condition  
21 has not improved seven days after diagnosis, the optometrist shall  
22 refer the patient to an ophthalmologist. If a patient's condition has  
23 not resolved three weeks after diagnosis, the optometrist shall refer  
24 the patient to an ophthalmologist.

25 (B) If the patient has been diagnosed with herpes simplex viral  
26 conjunctivitis, herpes simplex viral dermatitis, varicella zoster  
27 viral conjunctivitis, or varicella zoster viral dermatitis, and if the  
28 patient's condition worsens seven days after diagnosis, the  
29 optometrist shall consult with an ophthalmologist. If the patient's  
30 condition has not resolved three weeks after diagnosis, the  
31 optometrist shall refer the patient to an ophthalmologist.

32 (13) Oral analgesics that are not controlled substances.

33 (14) Codeine with compounds and hydrocodone with  
34 compounds as listed in the California Uniform Controlled  
35 Substances Act (Section 11000 of the Health and Safety Code et  
36 seq.) and the United States Uniform Controlled Substances Act  
37 (21 U.S.C. Sec. 801 et seq.). The use of these agents shall be  
38 limited to three days, with a referral to an ophthalmologist if the  
39 pain persists.

1 (d) In any case where this chapter requires that an optometrist  
2 consult with an ophthalmologist, the optometrist shall maintain a  
3 written record in the patient's file of the information provided to  
4 the ophthalmologist, the ophthalmologist's response and any other  
5 relevant information. Upon the consulting ophthalmologist's  
6 request and with the patient's consent, the optometrist shall furnish  
7 a copy of the record to the ophthalmologist.

8 (e) An optometrist who is certified to use therapeutic  
9 pharmaceutical agents pursuant to Section 3041.3 may also perform  
10 all of the following:

11 (1) Procedures necessary for the diagnosis or treatment of a  
12 condition of the eye or visual system, including, but not limited  
13 to:

14 (A) Biopsies not requiring sutures.

15 (B) Corneal scraping with cultures.

16 (C) Debridement.

17 (D) Epilation, including with cryo or electro cautery.

18 (E) Nonintraorbital injections.

19 ~~(F) Lacrimal probing, with or without dilation.~~

20 ~~(G) Skin lesion removal.~~

21 ~~(H)~~

22 (F) Removal of skin tags.

23 ~~(I)~~

24 (G) Shaving of epidermal or dermal lesions.

25 ~~(J)~~

26 (H) Stromal micropuncture.

27 ~~(K)~~

28 (I) Suture removal, with prior consultation.

29 ~~(L)~~

30 (J) Treatment or removal of lymphatic or sebaceous cysts.

31 (2) Ordering of smears, cultures, sensitivities, complete blood  
32 count, mycobacterial culture, acid fast stain, urinalysis, and other  
33 tests or procedures necessary for the diagnosis of conditions or  
34 diseases of the eye or adnexa.

35 (3) Punctal occlusion by plugs and cautery, excluding laser,  
36 diathermy, cryotherapy, or other means constituting surgery as  
37 defined in this chapter.

38 (4) The prescription of therapeutic contact lenses, including  
39 lenses or devices that incorporate a medication or therapy the  
40 optometrist is certified to prescribe or provide.

1 (5) Removal of foreign bodies from the cornea, eyelid, and  
2 conjunctiva. Corneal foreign bodies shall be nonperforating, be  
3 no deeper than the midstroma, and require no surgical repair upon  
4 removal.

5 (6) For patients over 12 years of age, lacrimal irrigation and  
6 dilation, *excluding probing of the nasal lacrimal tract*. The board  
7 shall certify any optometrist who graduated from an accredited  
8 school of optometry before May 1, 2000, to perform this procedure  
9 after submitting proof of satisfactory completion of 10 procedures  
10 under the supervision of an ophthalmologist as confirmed by the  
11 ophthalmologist. Any optometrist who graduated from an  
12 accredited school of optometry on or after May 1, 2000, shall be  
13 exempt from the certification requirement contained in this  
14 paragraph.

15 (f) The board shall grant a certificate to an optometrist certified  
16 pursuant to Section 3041.3 for the treatment of glaucoma, as  
17 described in subdivision (j), in patients over 18 years of age after  
18 the optometrist meets the following applicable requirements:

19 (1) For licensees who graduated from an accredited school of  
20 optometry on or after May 1, 2008, submission of proof of  
21 graduation from that institution.

22 (2) For licensees who were certified to treat glaucoma under  
23 this chapter prior to January 1, 2009, submission of proof of  
24 completion of that certification program.

25 (3) For licensees who graduated from an accredited school of  
26 optometry on or after May 1, 2000, submission of proof of  
27 satisfactory completion of not less than 12 hours in case  
28 management of patients diagnosed with glaucoma.

29 (4) For licensees who have completed a didactic course of not  
30 less than 24 hours in the diagnosis, pharmacological, and other  
31 treatment and management of glaucoma developed by an accredited  
32 school of optometry, submission of proof of satisfactory completion  
33 of not less than 12 hours in case management of patients diagnosed  
34 with glaucoma.

35 (5) For licensees not described in the preceding paragraphs,  
36 submission of proof of satisfactory completion of a didactic course  
37 of not less than 24 hours in the diagnosis, pharmacological, and  
38 other treatment and management of glaucoma developed by an  
39 accredited school of optometry, and not less than 12 hours in case  
40 management of patients diagnosed with glaucoma.

1 (g) Any dispensing of a therapeutic pharmaceutical agent by an  
2 optometrist shall be without charge.

3 (h) The practice of optometry does not include performing  
4 surgery. “Surgery” means any procedure in which human tissue  
5 is cut, altered, or otherwise infiltrated by mechanical or laser means  
6 in a manner not specifically authorized by this chapter. Nothing  
7 in this section shall limit an optometrist’s authority to utilize  
8 diagnostic ~~and therapeutic~~ laser and ultrasound technology within  
9 his or her scope of practice.

10 (i) An optometrist licensed under this chapter is subject to the  
11 provisions of Section 2290.5 for purposes of practicing  
12 telemedicine.

13 (j) For purposes of this chapter, “glaucoma” means either of the  
14 following:

15 (1) All primary ~~open-angle~~ *open-angle* glaucoma.

16 (2) All secondary ~~open-angle~~ *open-angle* glaucoma, excluding  
17 irido-corneal endothelial syndrome and neovascular glaucoma.

18 (k) For purposes of reversal or stabilization, an optometrist shall  
19 immediately refer any patient who has an acute attack of angle  
20 closure to an ophthalmologist.

21 SEC. 2. Section 3152 of the Business and Professions Code is  
22 amended to read:

23 3152. The amount of fees and penalties prescribed by this  
24 chapter shall be established by the board in amounts not greater  
25 than those specified in the following schedule:

26 (a) The fee for applicants applying for a license shall not exceed  
27 two hundred seventy-five dollars (\$275).

28 (b) The fee for renewal of an optometric license shall not exceed  
29 five hundred dollars (\$500).

30 (c) The annual fee for the renewal of a branch office license  
31 shall not exceed seventy-five dollars (\$75).

32 (d) The fee for a branch office license shall not exceed  
33 seventy-five dollars (\$75).

34 (e) The penalty for failure to pay the annual fee for renewal of  
35 a branch office license shall not exceed twenty-five dollars (\$25).

36 (f) The fee for issuance of a license or upon change of name  
37 authorized by law of a person holding a license under this chapter  
38 shall not exceed twenty-five dollars (\$25).

39 (g) The delinquency fee for renewal of an optometric license  
40 shall not exceed fifty dollars (\$50).

1 (h) The application fee for a certificate to treat lacrimal irrigation  
2 and dilation shall not exceed fifty dollars (\$50).

3 (i) The application fee for a certificate to treat glaucoma shall  
4 not exceed fifty dollars (\$50).

5 (j) The fee for approval of a continuing education course shall  
6 not exceed one hundred dollars (\$100).

7 (k) The fee for issuance of a statement of licensure shall not  
8 exceed forty dollars (\$40).

9 (l) The fee for biennial renewal of a statement of licensure shall  
10 not exceed forty dollars (\$40).

11 (m) The delinquency fee for renewal of a statement of licensure  
12 shall not exceed twenty dollars (\$20).

13 (n) The application fee for a fictitious name permit shall not  
14 exceed fifty dollars (\$50).

15 (o) The renewal fee for a fictitious name permit shall not exceed  
16 fifty dollars (\$50).

17 (p) The delinquency fee for renewal of a fictitious name permit  
18 shall not exceed twenty-five dollars (\$25).

19 *SEC. 3. (a) It is the intent of the Legislature that interested*  
20 *parties come to resolution on the following questions related to*  
21 *proposed amendments to existing law made by this act:*

22 *(1) In paragraph (5) of subdivision (a) of Section 3041 of the*  
23 *Business and Professions Code, whether it needs to be made clear*  
24 *that optometrists certified to use only diagnostic pharmaceutical*  
25 *agents may use only topical pharmaceutical agents for diagnostic*  
26 *purposes.*

27 *(2) In subparagraph (C) of paragraph (1) of subdivision (b) of*  
28 *Section 3041 of the Business and Professions Code, whether it*  
29 *needs to be made clear that treatment of postsurgical ocular*  
30 *inflammation in cases comanaged by the operating ophthalmologist*  
31 *and optometrist is permitted.*

32 *(3) In paragraph (7) of subdivision (c) of Section 3041 of the*  
33 *Business and Professions Code, whether it needs to be made clear*  
34 *that glaucoma-certified optometrists may use oral glaucoma*  
35 *therapeutic pharmaceutical agents only for the purpose of*  
36 *reversing or stabilizing angle-closure glaucoma prior to immediate*  
37 *referral, as specified in subdivision (k) of Section 3041 of the*  
38 *Business and Professions Code.*

39 *(4) In subparagraph (A) of paragraph (1) of subdivision (e) of*  
40 *Section 3041 of the Business and Professions Code, whether it*

1 *needs to be made clear that optometrists are authorized to perform*  
2 *biopsies not requiring sutures for testing purposes to confirm*  
3 *diagnoses.*

4 *(5) As provided in subparagraph (J) of paragraph (1) of*  
5 *subdivision (e) of Section 3041 of the Business and Professions*  
6 *Code, whether optometrists should be authorized to treat or remove*  
7 *lymphatic or sebaceous cysts.*

8 *(b) It is the intent of the Legislature that interested parties come*  
9 *to resolution on a collaborative process for certification of*  
10 *optometrists by the State Board of Optometry described in*  
11 *paragraphs (3), (4), and (5) as added to subdivision (f) of Section*  
12 *3041 of the Business and Professions Code by this act, that both*  
13 *ensures that the public will be protected and that qualified*  
14 *applicants will be certified on an appropriate and timely basis.*

O