

## **Senate Bill No. 1406**

### **CHAPTER 352**

An act to amend Sections 3041 and 3152 of, and to add and repeal Section 3041.10 of, the Business and Professions Code, relating to optometry.

[Approved by Governor September 26, 2008. Filed with  
Secretary of State September 26, 2008.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**SB 1406, 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 X-rays necessary for the diagnosis of conditions or diseases of the eye or adnexa, perform venipuncture for testing patients suspected of having diabetes, administer oral fluorescein to patients suspected of having diabetic retinopathy, prescribe lenses or devices that incorporate a medication or therapy the optometrist is certified to prescribe or provide, and use specified instruments within the central 3 millimeters of the cornea. 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 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.

Until January 1, 2010, this bill would also provide for a Glaucoma Diagnosis and Treatment Advisory Committee to consist of 6 members appointed by the State Board of Optometry for purposes of establishing certain requirements for glaucoma certification. The bill would require the committee to submit its final recommendations to the Office of Examination

Resources of the Department of Consumer Affairs by April 1, 2009, would require the office to present its findings and any modifications thereof to the board by July 1, 2009, and require the board to adopt the office's findings by January 1, 2010.

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

SECTION 1. Section 3041 of the Business and Professions Code is amended to read:

3041. (a) The practice of optometry includes 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, as well as the provision of rehabilitative optometric services, and is the doing of any or all of the following:

(1) The examination of the human eye or eyes, or its or their appendages, and the analysis of the human vision system, either subjectively or objectively.

(2) The determination of the powers or range of human vision and the accommodative and refractive states of the human eye or eyes, including the scope of its or their functions and general condition.

(3) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics.

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

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

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

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

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

(C) Ocular inflammation, nonsurgical in cause except when comanaged with the treating physician and surgeon, limited to inflammation resulting from traumatic iritis, peripheral corneal inflammatory keratitis, episcleritis, and unilateral nonrecurrent nongranulomatous idiopathic iritis in patients over 18 years of age. Unilateral nongranulomatous idiopathic iritis recurring within one year of the initial occurrence shall be referred to an ophthalmologist. An optometrist shall consult with an ophthalmologist or appropriate physician and surgeon if a patient has a recurrent case of episcleritis within one year of the initial occurrence. An optometrist shall

consult with an ophthalmologist or appropriate physician and surgeon if a patient has a recurrent case of peripheral corneal inflammatory keratitis within one year of the initial occurrence.

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

(E) Corneal surface disease and dry eyes.

(F) Ocular pain, nonsurgical in cause except when comanaged with the treating physician and surgeon, associated with conditions optometrists are authorized to treat.

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

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

(c) In diagnosing and treating the conditions listed in subdivision (b), an optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 may use all of the following therapeutic pharmaceutical agents:

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

(2) Topical lubricants.

(3) Antiallergy agents. In using topical steroid medication for the treatment of ocular allergies, an optometrist shall consult with an ophthalmologist if the patient’s condition worsens 21 days after diagnosis.

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

(A) Unilateral nonrecurrent nongranulomatous idiopathic iritis or episcleritis, an optometrist shall consult with an ophthalmologist or appropriate physician and surgeon if the patient’s condition worsens 72 hours after the diagnosis, or if the patient’s condition has not resolved three weeks after diagnosis. If the patient is still receiving medication for these conditions six weeks after diagnosis, the optometrist shall refer the patient to an ophthalmologist or appropriate physician and surgeon.

(B) Peripheral corneal inflammatory keratitis, excluding Moorens and Terrien diseases, an optometrist shall consult with an ophthalmologist or appropriate physician and surgeon if the patient’s condition worsens 72 hours after diagnosis.

(C) Traumatic iritis, an optometrist shall consult with an ophthalmologist or appropriate physician and surgeon if the patient’s condition worsens 72 hours after diagnosis and shall refer the patient to an ophthalmologist or appropriate physician and surgeon if the patient’s condition has not resolved one week after diagnosis.

(5) Topical antibiotic agents.

(6) Topical hyperosmotics.

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

(A) The optometrist shall refer the patient to an ophthalmologist if requested by the patient or if angle closure glaucoma develops.

(B) If the glaucoma patient also has diabetes, the optometrist shall consult with the physician treating the patient's diabetes in developing the glaucoma treatment plan and shall inform the physician in writing of any changes in the patient's glaucoma medication.

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

(9) Oral antihistamines.

(10) Prescription oral nonsteroidal antiinflammatory agents.

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

(A) If the patient has been diagnosed with a central corneal ulcer and the central corneal ulcer has not improved 48 hours after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(B) If the patient has been diagnosed with preseptal cellulitis or dacryocystitis and the condition has not improved 48 hours after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

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

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

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

(13) Oral analgesics that are not controlled substances.

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

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

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

- (1) Corneal scraping with cultures.
  - (2) Debridement of corneal epithelia.
  - (3) Mechanical epilation.
  - (4) Venipuncture for testing patients suspected of having diabetes.
  - (5) Suture removal, with prior consultation with the treating physician and surgeon.
  - (6) Treatment or removal of sebaceous cysts by expression.
  - (7) Administration of oral fluorescein to patients suspected as having diabetic retinopathy.
  - (8) Use of an auto-injector to counter anaphylaxis.
  - (9) Ordering of smears, cultures, sensitivities, complete blood count, mycobacterial culture, acid fast stain, urinalysis, and X-rays necessary for the diagnosis of conditions or diseases of the eye or adnexa. An optometrist may order other types of images subject to prior consultation with an ophthalmologist or appropriate physician and surgeon.
  - (10) Punctal occlusion by plugs, excluding laser, diathermy, cryotherapy, or other means constituting surgery as defined in this chapter.
  - (11) The prescription of therapeutic contact lenses, including lenses or devices that incorporate a medication or therapy the optometrist is certified to prescribe or provide.
  - (12) Removal of foreign bodies from the cornea, eyelid, and conjunctiva with any appropriate instrument other than a scalpel or needle. Corneal foreign bodies shall be nonperforating, be no deeper than the midstroma, and require no surgical repair upon removal.
  - (13) For patients over 12 years of age, lacrimal irrigation and dilation, excluding probing of the nasal lacrimal tract. The board shall certify any optometrist who graduated from an accredited school of optometry before May 1, 2000, to perform this procedure after submitting proof of satisfactory completion of 10 procedures under the supervision of an ophthalmologist as confirmed by the ophthalmologist. Any optometrist who graduated from an accredited school of optometry on or after May 1, 2000, shall be exempt from the certification requirement contained in this paragraph.
- (f) The board shall grant a certificate to an optometrist certified pursuant to Section 3041.3 for the treatment of glaucoma, as described in subdivision (j), in patients over 18 years of age after the optometrist meets the following applicable requirements:
- (1) For licensees who graduated from an accredited school of optometry on or after May 1, 2008, submission of proof of graduation from that institution.
  - (2) For licensees who were certified to treat glaucoma under this section prior to January 1, 2009, submission of proof of completion of that certification program.
  - (3) For licensees who have substantially completed the certification requirements pursuant to this section in effect between January 1, 2001, and December 31, 2008, submission of proof of completion of those requirements on or before December 31, 2009. “Substantially completed” means both of the following:

(A) Satisfactory completion of a didactic course of not less than 24 hours in the diagnosis, pharmacological, and other treatment and management of glaucoma.

(B) Treatment of 50 glaucoma patients with a collaborating ophthalmologist for a period of two years for each patient that will conclude on or before December 31, 2009.

(4) For licensees who completed a didactic course of not less than 24 hours in the diagnosis, pharmacological, and other treatment and management of glaucoma, submission of proof of satisfactory completion of the case management requirements for certification established by the board pursuant to Section 3014.10.

(5) For licensees who graduated from an accredited school of optometry on or before May 1, 2008, and not described in paragraph (2), (3), or (4), submission of proof of satisfactory completion of the requirements for certification established by the board pursuant to Section 3014.10.

(g) Other than for prescription ophthalmic devices described in subdivision (b) of Section 2541, any dispensing of a therapeutic pharmaceutical agent by an optometrist shall be without charge.

(h) The practice of optometry does not include performing surgery. "Surgery" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or laser means. "Surgery" does not include those procedures specified in subdivision (e). Nothing in this section shall limit an optometrist's authority to utilize diagnostic laser and ultrasound technology within his or her scope of practice.

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

(j) For purposes of this chapter, "glaucoma" means either of the following:

(1) All primary open-angle glaucoma.

(2) Exfoliation and pigmentary glaucoma.

(k) In an emergency, an optometrist shall stabilize, if possible, and immediately refer any patient who has an acute attack of angle closure to an ophthalmologist.

SEC. 2. Section 3041.10 is added to the Business and Professions Code, to read:

3041.10. (a) The Legislature hereby finds and declares that it is necessary to ensure that the public is adequately protected during the transition to full certification for all licensed optometrists who desire to treat and manage glaucoma patients.

(b) The board shall appoint a Glaucoma Diagnosis and Treatment Advisory Committee as soon as practicable after January 1, 2009. The committee shall consist of six members currently licensed and in active practice in their professions in California, with the following qualifications:

(1) Two members shall be optometrists who were certified by the board to treat glaucoma pursuant to the provisions of subdivision (f) of Section 3041, as that provision read on January 1, 2001, and who are actively managing glaucoma patients in full-time practice.

(2) One member shall be a glaucoma-certified optometrist currently active in educating optometric students in glaucoma.

(3) One member shall be a physician and surgeon board-certified in ophthalmology with a specialty or subspecialty in glaucoma who is currently active in educating optometric students in glaucoma.

(4) Two members shall be physicians and surgeons board-certified in ophthalmology who treat glaucoma patients.

(c) The board shall appoint the members of the committee from a list provided by the following organizations:

(1) For the optometrists' appointments, the California Optometric Association.

(2) For the physician and surgeons' appointments, the California Medical Association and the California Academy of Eye Physicians and Surgeons.

(d) The committee shall establish requirements for glaucoma certification, as authorized by Section 3041, by recommending both of the following:

(1) An appropriate curriculum for case management of patients diagnosed with glaucoma for applicants for certification described in paragraph (4) of subdivision (f) of Section 3041.

(2) An appropriate combined curriculum of didactic instruction in the diagnostic, pharmacological, and other treatment and management of glaucoma, and case management of patients diagnosed with glaucoma, for certification described in paragraph (5) of subdivision (f) of Section 3041.

In developing its findings, the committee shall presume that licensees who apply for glaucoma certification and who graduated from an accredited school of optometry on or after May 1, 2008, possess sufficient didactic and case management training in the treatment and management of patients diagnosed with glaucoma to be certified. After reviewing training programs for representative graduates, the committee in its discretion may recommend additional glaucoma training to the Office of Examination Resources pursuant to subdivision (f) to be completed before a license renewal application from any licensee described in this subdivision is approved.

(e) The committee shall meet at such times and places as determined by the board and shall not meet initially until all six members are appointed. Committee meetings shall be public and a quorum shall consist of four members in attendance at any properly noticed meeting.

(f) (1) The committee shall submit its final recommendations to the Office of Examination Resources of the department on or before April 1, 2009. The office shall examine the committee's recommended curriculum requirements to determine whether they will do the following:

(A) Adequately protect glaucoma patients.

(B) Ensure that defined applicant optometrists will be certified to treat glaucoma on an appropriate and timely basis.

(C) Be consistent with the department's and board's examination validation for licensure and occupational analyses policies adopted pursuant to subdivision (b) of Section 139.

(2) The office shall present its findings and any modifications necessary to meet the requirements of paragraph (1) to the board on or before July 1,

2009. The board shall adopt the findings of the office and shall implement certification requirements pursuant to this section on or before January 1, 2010.

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 3. Section 3152 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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