

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENGROSSED

House Bill 4783

By Delegates Summers, Tully, Worrell, Sheedy, Miller,
Griffith, Shamblin, Young, Hornbuckle and Espinosa

[Introduced January 16, 2024; Referred
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §30-8-3, §30-8-6 and §30-8-9 of the Code of West Virginia, 1931, as
2 amended, and to amend and reenact §30-8A-1 of said code; all relating to the practice of
3 optometry; defining terms; removing obsolete areas of the code; updating contract
4 provisions; and permitting a licensee to perform certain procedures trained by an approved
5 by an accredited body.

Be it enacted by the Legislature of West Virginia:

ARTICLE **8.** **OPTOMETRISTS.**
§30-8-3. **Definitions.**

1 As used in this article:

2 (a) "Accreditation Council on Optometric Education (ACOE)" is the accrediting body for
3 professional optometric degree (O.D.) programs, optometric residency programs, and optometric
4 technician programs in the United States and Canada and is recognized as an accrediting body by
5 the U.S. Department of Education (USDE) and the Council on Higher Education Accreditation
6 (CHEA).

7 "Appendages" means the eyelids, the eyebrows, the conjunctiva and the lacrimal
8 apparatus.

9 (b) "Applicant" means any person making application for a license, certificate or temporary
10 permit under the provisions of this article.

11 (c) "Board" means the West Virginia Board of Optometry.

12 (d) "Business entity" means any firm, partnership, association, company, corporation,
13 limited partnership, limited liability company or other entity owned by licensees that practices
14 optometry.

15 (e) "Certificate" means a prescription certificate issued under section fifteen of this article.

16 (f) "Certificate holder" means a person authorized to prescribe certain drugs under section
17 fifteen of this article.

18 (g) "Examination, diagnosis and treatment" means a method compatible with accredited
19 optometric education and professional competence pursuant to this article.

20 (h) "License" means a license to practice optometry.

21 (i) "Licensee" means an optometrist licensed under the provisions of this article.

22 (j) ~~"Ophthalmologist" means a physician specializing in ophthalmology licenced licensed in~~
23 ~~West Virginia to practice medicine and surgery under article thereof this chapter or osteopathy~~
24 ~~under article fourteen of this chapter.~~

25 (k) "Permittee" means a person holding a temporary permit.

26 (l) "Practice of optometry" means the examining, diagnosing, and treating of any visual
27 defect or abnormal condition of the human eye or its appendages within the scope established in
28 this article or associated rules.

29 (m) "Temporary permit" or "permit" means a permit issued to a person who has graduated
30 from an approved school, has taken the examination prescribed by the board, and is awaiting the
31 results of the examination.

§30-8-6.

Rulemaking.

1 (a) The board shall propose rules for legislative approval, in accordance with the
2 provisions of §29A-3-1 *et seq.* of this code, to implement the provisions of this article, including:

- 3 (1) Standards and requirements for licenses, certificates, and permits;
- 4 (2) Procedures for examinations and reexaminations;
- 5 (3) Requirements for third parties to prepare and/or administer examinations and
6 reexaminations;
- 7 (4) Educational and experience requirements;
- 8 (5) The passing grade on the examinations;
- 9 (6) Standards for approval of courses and curriculum;
- 10 (7) Procedures for the issuance and renewal of licenses, certificates and permits;
- 11 (8) A fee schedule;

12 (9) A prescription drug formulary classifying those categories of oral drugs rational to the
13 diagnosis and treatment of visual defects or abnormal conditions of the human eye and its
14 appendages, which may be prescribed by licensees from Schedules III, IV, and V of the Uniform
15 Controlled Substances Act. The drug formulary may also include oral antibiotics, oral nonsteroidal
16 anti-inflammatory drugs, and oral carbonic anhydrase inhibitors;

17 (10) Requirements for prescribing and dispensing contact lenses that contain and deliver
18 pharmaceutical agents that have been approved by the Food and Drug Administration as a drug;

19 (11) Continuing education requirements for licensees;

20 (12) The procedures for denying, suspending, revoking, reinstating, or limiting the practice
21 of licensees, certificate holders, and permittees;

22 (13) Requirements for inactive or revoked licenses, certificates, or permits;

23 ~~(14) Requirements for an expanded scope of practice for those procedures that are taught~~
24 ~~at fifty percent of all accredited optometry schools and~~

25 ~~(15) (14) Any other rules necessary to effectuate the provisions of this article.~~

26 ~~(b) All of the board's rules in effect on July 1, 2010, shall remain in effect until they are~~
27 ~~amended or repealed, and references to provisions of former enactments of this article are~~
28 ~~interpreted to mean provisions of this article.~~

29 ~~(c) The board shall promulgate procedural and interpretive rules in accordance with~~
30 ~~section eight, article three, chapter twenty-nine-a of this code~~

§30-8-9. Scope of practice.

1 (a) A licensee may:

2 (1) Examine, diagnose, and treat diseases and conditions of the human eye and its
3 appendage within the scope established in this article or associated rules;

4 (2) Administer or prescribe any drug for topical application to the anterior segment of the
5 human eye for use in the examination, diagnosis, or treatment of diseases and conditions of the
6 human eye and its appendages: *Provided*, That the licensee has first obtained a certificate;

7 (3)(A) Administer or prescribe any drug from the drug formulary, as established by the
8 board pursuant to section six of this article, for use in the examination, diagnosis or treatment of
9 diseases and conditions of the human eye and its appendages: *Provided*, That the licensee has
10 first obtained a certificate;

11 (B) New drugs and new drug indications may be added to the drug formulary by approval of
12 the board;

13 (4) Administer epinephrine by injection to treat emergency cases of anaphylaxis or
14 anaphylactic shock;

15 (5) Prescribe and dispense contact lenses that contain and deliver pharmaceutical agents
16 and that have been approved by the Food and Drug Administration as a drug;

17 (6) Prescribe, fit, apply, replace, duplicate or alter lenses, prisms, contact lenses,
18 orthoptics, vision training, vision rehabilitation;

19 (7) Perform the following procedures:

20 (A) Remove a foreign body from the ocular surface and adnexa utilizing a noninvasive
21 method;

22 (B) Remove a foreign body, external eye, conjunctival, superficial, using topical
23 anesthesia;

24 (C) Remove embedded foreign bodies or concretions from conjunctiva, using topical
25 anesthesia, not involving sclera;

26 (D) Remove corneal foreign body not through to the second layer of the cornea using
27 topical anesthesia;

28 (E) Epilation of lashes by forceps;

29 (F) Closure of punctum by plug; and

30 (G) Dilation of the lacrimal puncta with or without irrigation;

31 (8) Furnish or provide any prosthetic device to correct or relieve any defects or abnormal
32 conditions of the human eye and its appendages;

33 (9) Order laboratory tests rational to the examination, diagnosis, and treatment of a
34 disease or condition of the human eye and its appendages;

35 (10) Use a diagnostic or therapeutic laser; and

36 ~~(11) A licensee is also permitted to perform those procedures authorized by the board prior~~
37 ~~to January 1, 2010.~~

38 (11) A licensee may perform those procedures he or she was taught and trained through
39 schools or colleges of optometry accredited by the Accreditation Council on Optometric
40 Education, or its successors or equivalents.

41 (b) A licensee may not:

42 (1) Perform surgery except as provided in this article; ~~or by legislative rule~~

43 ~~(2) Use a therapeutic laser;~~

44 ~~(3)~~(2) Use Schedule II controlled substances. However, an oral pharmaceutical certified
45 licensee may prescribe hydrocodone and hydrocodone containing drugs for a duration of no more
46 than three days;

47 ~~(4)~~(3) Treat systemic disease; or

48 ~~(5)~~(4) Present to the public that he or she is a specialist in surgery of the eye.

ARTICLE 8A. EYE CARE CONSUMER PROTECTION LAW.

§30-8A-1. Definitions.

1 As used in this article:

2 (a) "Contact Lens" means a lens placed directly on the surface of the eye, regardless of
3 whether it is intended to correct a visual defect. Contact lens includes, but is not limited to, a
4 cosmetic, therapeutic, or corrective lens.

5 (b) "Board" means the West Virginia Board of Optometry.

6 (c) "Diagnostic contact lens" means a contact lens used to determine a proper contact lens
7 fit.

8 (d) "Direct supervision" means supervision that occurs when a licensee is actually present
9 in the building.

10 (e) "Examination and evaluation" means an assessment of the ocular health and visual
11 status of a patient that does not consist solely of objective refractive data or information generated
12 by an automated refracting device or other automated testing device for the purpose of writing a
13 valid prescription.

14 (f) "Licensee" means a person who is authorized to engage in the practice of optometry
15 under §30-8-1 *et seq.* of this code.

16 (g) "Special requirements" means the type of lens design, lens material, tint, or lens
17 treatments.

18 (h) "Spectacles" means an optical instrument or device worn or used by an individual that
19 has one or more lenses designed to correct or enhance vision to address the visual needs of the
20 individual wearer. This includes spectacles that may be adjusted to achieve different types or
21 levels of visual correction or enhancement.

22 (i) "Valid prescription" means one of the following, as applicable:

23 (1) For a contact lens, a written or electronic order by a licensee who has conducted an
24 examination and evaluation of a patient and has determined a satisfactory fit for the contact lens
25 based on an analysis of the physiological compatibility of the lens or the cornea and the physical fit
26 and refractive functionality of the lens on the patient's eye. To be a valid prescription under this
27 subdivision, it shall at least include the following:

28 (A) A statement that the prescription is for a contact lens;

29 (B) The contact lens type or brand name, or for a private label contact lens, the name of the
30 manufacturer, trade name of the private label brand, and, if applicable, trade name of the
31 equivalent or similar brand;

32 (C) All specifications necessary to order and fabricate the contact lens, including, if
33 applicable, the power, material, base curve or appropriate designation, and diameter;

- 34 (D) The quantity of contact lenses to be dispensed;
- 35 (E) The number of refills;
- 36 (F) Specific wearing instructions and contact lens disposal parameters;
- 37 (G) The patient's name;
- 38 (H) The date of the examination and evaluation;
- 39 (I) The date the prescription is originated;
- 40 (J) The prescribing licensee's name, address, and telephone number;
- 41 (K) The prescribing licensee's written or electronic signature, or other form of
- 42 authentication; and
- 43 (L) An expiration date of not less than ~~one year~~ 18 months from the date of the examination
- 44 and evaluation or a statement of the reasons why a shorter time is appropriate based on the
- 45 medical needs of the patient.

46 (2) For spectacles, a written or electronic order by a licensee who has examined and

47 evaluated a patient. To be a valid prescription under this subdivision, it shall include at least the

48 following:

- 49 (A) A statement that the prescription is for spectacles;
- 50 (B) As applicable and as specified for each eye, the lens power including the spherical
- 51 power, cylindrical power including axis, prism, and power of the multifocal addition;
- 52 (C) Any special requirements, the omission in the opinion of the prescribing licensee,
- 53 would adversely affect the vision or ocular health of the patient;
- 54 (D) The patient's name;
- 55 (E) The date of the examination and evaluation;
- 56 (F) The date the prescription is originated;
- 57 (G) The prescribing licensee's name, address, and telephone number;
- 58 (H) The prescribing licensee's written or electronic signature, or other form of
- 59 authentication; and

60 (l) An expiration date of not less than ~~one year~~ two years from the date of the examination
61 and evaluation or a statement of the reasons why a shorter time is appropriate based on the
62 medical needs of the patient.