

## § 3041. Acts Constituting Practice of Optometry

**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 which 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 sole 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 ~~exclusively~~ 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. ~~Nothing in this section shall authorize any optometrist to treat a person with AIDS for ocular infections.~~**

**(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, ~~not related to surgery~~, 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), ~~primary open-angle~~ 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 ~~exclusively~~:**

(1) All of the topical **Pharmaceutical agents** listed in paragraph (5) of subdivision (a) as well as **topical miotics** for diagnostic purposes.

(2) **Topical lubricants.**

(3) **Topical 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.** shall do the following:

~~-(A) Consult with an ophthalmologist if the patient's condition worsens 72 hours after diagnosis.~~

~~-(B) Consult with an ophthalmologist if the inflammation is still present three weeks after diagnosis.~~

~~-(C) Refer the patient to an ophthalmologist if the patient is still on the medication six weeks after diagnosis.~~

~~-(D) Refer the patient to an ophthalmologist if the patient's condition recurs within three months.~~

(4) **Topical and oral antiinflammatories.** In using topical 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 Terriens diseases,** an optometrist shall consult with an ophthalmologist **or appropriate physician and surgeon** if the patient's condition worsens ~~48~~ **72** hours after diagnosis. If the patient is still receiving the medication two weeks after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

(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.** ~~not use more than two concurrent topical medications in treating the patient for primary open angle glaucoma. A single combination medication that contains two pharmacological agents shall be considered as two medications.~~

(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.** ~~The optometrist shall refer the patient to an ophthalmologist if requested by the patient, if treatment goals are not achieved with the use of two topical medications or if indications of narrow angle or secondary glaucoma develop.~~

~~-(C) If the glaucoma patient also has diabetes, the optometrist shall consult in writing with the physician treating the patient's diabetes in developing the glaucoma treatment plan and shall notify the physician in writing of any changes in the patient's glaucoma medication. The physician shall provide written confirmation of such consultations and notifications.~~

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

(9) **Oral antihistamines.** In using oral antihistamines for the treatment of ocular allergies, the optometrist shall refer the patient to an ophthalmologist if the patient's condition has not resolved two weeks after diagnosis.

**(10) Prescription oral nonsteroidal antiinflammatory agents.** The agents shall be limited to three days' use. If the patient's condition has not resolved three days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

**(11) Oral antibiotics for medical treatment of ocular disease.** The following oral antibiotics for medical treatment as set forth in subparagraph (A) of paragraph (1) of subdivision (b): tetracyclines, dicloxacillin, amoxicillin, amoxicillin with clavulanate, erythromycin, clarythromycin, cephalixin, cephadroxil, cefaclor, trimethoprim with sulfamethoxazole, ciprofloxacin, and azithromycin. The use of azithromycin shall be limited to the treatment of eyelid infections and chlamydial disease manifesting in the eyes.

**(A) If the patient has been diagnosed with a central corneal ulcer and the central corneal ulcer condition has not improved 24 48 hours after diagnosis, the optometrist shall refer the patient to consult with an ophthalmologist.** If the central corneal ulcer has not improved 48 hours after diagnosis, the optometrist shall refer the patient to an ophthalmologist. If the patient is still receiving antibiotics 10 days 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 72 48 hours after diagnosis, the optometrist shall refer the patient to an ophthalmologist.** If a patient with preseptal cellulitis or dacryocystitis is still receiving oral antibiotics 10 days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.

**(C) If the patient has been diagnosed with blepharitis and the patient's condition does not improve after six weeks of treatment, the optometrist shall consult with an ophthalmologist.**

**(D) For the medical treatment of all other medical conditions as set forth in subparagraph (A) of paragraph (1) of subdivision (b), if the patient's condition worsens 72 hours after diagnosis, the optometrist shall consult with an ophthalmologist. If the patient's condition has not resolved 10 days after diagnosis, the optometrist shall refer the patient to an ophthalmologist.**

**(12) Topical and oral antiviral medication and ~~oral acyclovir~~ 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.**

~~(C) In all cases, the use of topical antiviral medication shall be limited to three weeks, and the use of oral acyclovir shall be limited to 10 days.~~

**(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, 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. Mechanical epilation.

(2) Debridement of corneal epithelia. Ordering of smears, cultures, sensitivities, complete blood count, mycobacterial culture, acid fast stain, and urinalysis.

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

(4) Venipuncture for testing patients suspected of having diabetes. The prescription of therapeutic contact lenses.

(5) Suture removal, with prior consultation with the treating physician and surgeon. Removal of foreign bodies of the cornea, eyelid, and conjunctiva. Corneal foreign bodies shall be nonperforating, be no deeper than the anterior stroma, and require no surgical repair upon removal. Within the central three millimeters of the cornea, the use of sharp instruments is prohibited.

(6) Treatment or removal of sebaceous cysts by expression. For patients over the age of 12 years, lacrimal irrigation and dilation, excluding probing of the nasal lacrimal tract. The State Board of Optometry shall certify an optometrist to perform this procedure after completing 10 of the procedures under the supervision of an ophthalmologist as confirmed by the ophthalmologist.

(7) Administration of oral fluorescein to patients suspected as having diabetic retinopathy. No injections other than the use of an auto-injector to counter anaphylaxis.

(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 for 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 certificate requirement contained in this paragraph.

(f) The State Board of Optometry board shall grant a certificate to an optometrist certified pursuant to Section 3041.3 for the treatment of primary open angle glaucoma, as described in subdivision (j) in patients over the age of 18 only after the optometrist meets the following 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.** Satisfactory completion of a didactic course of not less than 24 hours in the diagnosis, pharmacological and other treatment and management of glaucoma. The 24-hour glaucoma curriculum shall be developed by an accredited California school of optometry. Any applicant who graduated from an accredited California school of optometry on or after May 1, 2000, shall be exempt from the 24-hour didactic course requirement contained in this paragraph.

**(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.** After completion of the requirement contained in paragraph (1), collaborative treatment of 50 glaucoma patients for a period of two years for each patient under the following terms:

**(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 requirement on or before December 31, 2009.** When the requirements contained in paragraphs (1) and (2) have been satisfied, the optometrist shall submit proof of completion to the State Board of Optometry and apply for a certificate to treat primary open angle glaucoma. That proof shall include corroborating information from the collaborating ophthalmologist. If the ophthalmologist fails to respond within 60 days of a request for information from the State Board of Optometry, the board may act on the optometrist's application without that corroborating information.

"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.**

After the optometrist makes a provisional diagnosis of glaucoma, the optometrist and the patient shall identify a collaborating ophthalmologist.

**(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.** The optometrist shall develop a treatment plan that considers for each patient target intraocular pressures, optic nerve appearance and visual field testing for each eye, and an initial proposal for therapy.

(C) The optometrist shall transmit relevant information from the examination and history taken of the patient along with the treatment plan to the collaborating ophthalmologist. The collaborating ophthalmologist shall confirm or refute the glaucoma diagnosis within 30 days. To accomplish this, the collaborating ophthalmologist shall perform a physical examination of the patient.

(D) Once the collaborating ophthalmologist confirms the diagnosis and approves the treatment plan in writing, the optometrist may begin treatment.

(E) The optometrist shall use no more than two concurrent topical medications in treating the patient for glaucoma. A single combination medication that contains two pharmacologic agents shall be considered as two medications. The optometrist shall notify the collaborating ophthalmologist in writing if there is any change in the medication used to treat the patient for glaucoma.

(F) Annually after commencing treatment, the optometrist shall provide a written report to the collaborating ophthalmologist about the achievement of goals contained in the treatment plan. The collaborating ophthalmologist shall acknowledge receipt of the report in writing to the optometrist within 10 days.

(G) The optometrist shall refer the patient to an ophthalmologist if requested by the patient, if treatment goals are not achieved with the use of two topical medications, or if indications of secondary glaucoma develop. At his or her discretion, the collaborating ophthalmologist may periodically examine the patient.

(H) If the glaucoma patient also has diabetes, the optometrist shall consult in writing with the physician treating the patient's diabetes in preparation of the treatment plan and shall notify the

physician in writing if there is any change in the patient's glaucoma medication. The physician shall provide written confirmation of the consultations and notifications.

(l) The optometrist shall provide the following information to the patient in writing: nature of the working or suspected diagnosis, consultation evaluation by a collaborating ophthalmologist, treatment plan goals, expected follow up care, and a description of the referral requirements. The document containing the information shall be signed and dated by both the optometrist and the Ophthalmologist and maintained in their files.

**(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 3041.10.** After an optometrist has treated a total of 50 patients for a period of two years each and has received certification from the State Board of Optometry, the optometrist may treat the original 50 collaboratively treated patients independently, with the written consent of the patient. However, any glaucoma patients seen by the optometrist before the two-year period has expired for each of the 50 patients shall be treated under the collaboration protocols described in this section.

**(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 3041.10.**

**(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.** Notwithstanding any other provision of law, an optometrist shall not treat children under one year of age with therapeutic pharmaceutical agents.

**(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. Any dispensing of a therapeutic pharmaceutical agent by an optometrist shall be without charge.**

**(i) An optometrist licensed under this chapter is subject to the provisions of Section 2290.5 for purposes of practicing telemedicine.** Notwithstanding any other provision of law, 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 in a manner not specifically authorized by this act. Nothing in the act amending this section shall limit an optometrist's authority, as it existed prior to the effective date of the act amending this section, to utilize diagnostic laser and ultrasound technology.

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

**(1) All primary open-angle glaucoma**

**(2) Exfoliation and pigmentary glaucoma**

All collaborations, consultations, and referrals made by an optometrist pursuant to this section shall be to an ophthalmologist located geographically appropriate to the patient.

**(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).

Added Stats 1976 ch 418 § 2. Amended Stats 1989 ch 886 § 61; Stats 1995 ch 279 § 18 (AB 1471); Stats 1996 ch 13 § 6 (SB 668), effective February 21, 1996.

Amended Stats 2000 ch 676 § 3 (SB 929), 2008 ch 352.