

SENATE, No. 3841

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MAY 15, 2023

Sponsored by:

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Senators Cryan, Singer, Pou, Singleton, Burgess and Cruz-Perez

SYNOPSIS

Updates scope of practice of optometrists.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/27/2023)

1 AN ACT concerning the practice of optometry and amending various
2 parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. R.S.45:12-1 is amended to read as follows:

8 45:12-1 Optometry is hereby declared to be a profession, and the
9 practice of optometry is defined to be the employment of objective
10 or subjective means, or both, for the examination of the human eye
11 and adnexae for the purposes of ascertaining any departure from the
12 normal, measuring its powers of vision and adapting lenses **[or],**
13 prisms, or vision training for the aid thereof**],** or the use and
14 prescription of pharmaceutical agents, excluding injections, except
15 for injections to counter anaphylactic reaction, and excluding
16 controlled dangerous substances as provided in sections 5 and 6 of
17 P.L.1970, c.226 (C.24:21-5 and C.24:21-6), except as otherwise
18 authorized by section 9 of P.L.1991, c.385 (C.45:12-9.11), **]** and the
19 administration and performance of any diagnostic or therapeutic
20 modality reasonable for the purposes of diagnosing and treating
21 deficiencies, deformities, diseases, or abnormalities of the human
22 eye and adnexae, including **[**the removal of superficial foreign
23 bodies from the eye and adnexae. The practice of optometry shall
24 include the administration of immunizations against coronaviruses
25 and influenza by any route or modality, provided that
26 administration of the immunization is consistent with
27 recommendations issued by the Advisory Committee for
28 Immunization Practices in the federal Centers for Disease Control
29 and Prevention and complies with the requirements of section 2 of
30 P.L.2021, c.101 (C.45:12-1.1)**]**, but not limited to:

31 a. the employment of any means for the measurement of the
32 powers of vision or the adaptation of lenses or prisms for the aid
33 thereof;

34 b. the use of testing appliances for the purposes of
35 measurement of the powers of vision or the diagnosis or any
36 ocular deficiency, disease, or deformity, or visual or muscular
37 anomaly of the human eye;

38 c. prescribing of lenses, prisms, eyeglass lenses, prosthetic
39 eyes, vision therapy, orthotic therapy or ocular exercises for the
40 correction, relief or rehabilitation of any (1) ocular deficiency or
41 deformity, (2) visual or muscular anomaly or (3) disease of the
42 human eye or the process of vision;

43 d. the use and prescription of pharmaceutical agents by any
44 route of administration including controlled dangerous substances;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 e. the prescription or administration, or both, of epinephrine or
2 equivalent medication to counteract anaphylaxis or anaphylactic
3 reactions;
- 4 f. the removal of superficial foreign bodies from the eye and
5 adnexae;
- 6 g. the performance or ordering of procedures and laboratory
7 tests appropriate for the diagnosis of conditions or diseases of the
8 eye, adnexae, and visual system;
- 9 h. the administration of immunizations against coronaviruses,
10 influenza, and varicella-zoster virus by any route or modality,
11 provided that administration of the immunization is consistent with
12 recommendations issued by the Advisory Committee on
13 Immunization Practices in the United States Centers for Disease
14 Control and Prevention. An optometrist shall not administer an
15 immunization against a coronavirus, influenza, or varicella-zoster
16 virus pursuant to this section to any patient who is younger than 18
17 years of age. An immunization against a coronaviruses, influenza,
18 and varicella-zoster virus administered to a patient by an
19 optometrist under this section shall be reported by the optometrist to
20 the New Jersey Immunization Information System established
21 pursuant to section 4 of P.L.2004, c.138 (C.26:4-134) for inclusion
22 in the patient's registry;
- 23 i. simple ophthalmologic procedures including non-invasive
24 application of laser and ultrasound, reasonable and limited to the
25 diagnosis and treatment of conditions or disease of the eye,
26 adnexae, and visual systems, including but not limited to
27 trabeculectomy, capsulotomy, and iridotomy performed with topical
28 anesthesia, as determined solely by the New Jersey State Board of
29 Optometrists;
- 30 j. minor procedures including simple ophthalmologic
31 procedures including, but not limited to, treatment of chalazions,
32 excision of skin tags and other lesions without clinical
33 characteristics of malignancy, performed with a local anesthesia as
34 determined by the New Jersey State Board of Optometrists, except
35 that these applications and minor procedures shall not include:
- 36 (1) invasive, intra-ocular surgery, defined as those surgical
37 procedures which require a full thickness incision of the globe of
38 the eye;
- 39 (2) orbital surgery including strabismus surgery or any surgical
40 procedure which requires an incision of the orbital septum, surgical
41 procedures, or repair of wounds which require suturing in layers;
42 and
- 43 (3) any surgical procedure performed under general anesthesia
44 or the administration of general anesthesia; and
- 45 k. provision of pre- and post-operative care of procedures
46 included in paragraphs (1), (2), and (3) of subsection j. of this
47 section.

1 An optometrist **utilizing pharmaceutical agents**, for the
2 purposes of treatment of ocular conditions and diseases, shall be
3 held to a standard of patient care **in the use of such agents**
4 commensurate to that of a **physician utilizing pharmaceutical**
5 **agents for treatment purposes** licensee of the State Board of
6 Medical Examiners performing the same procedures.

7 A person shall be deemed to be practicing optometry within the
8 meaning of this chapter who in any way **advertises himself as an**
9 **optometrist, or who shall employ any means for the measurement of**
10 **the powers of vision or the adaptation of lenses or prisms for the aid**
11 **thereof, practice, offer or attempt to practice** practices optometry
12 as herein defined, either on his own behalf or as an employee or
13 student of another, whether under the personal supervision of his
14 employer or perceptor or not, or to use testing appliances for the
15 purposes of measurement of the powers of vision or diagnose any
16 ocular deficiency or deformity, visual or muscular anomaly of the
17 human eye and adnexae or prescribe lenses, prisms or ocular
18 exercise for the correction or the relief thereof, or who uses or
19 prescribes pharmaceutical agents for the purposes of diagnosing and
20 treating deficiencies, deformities, diseases or abnormalities of the
21 human eye and adnexae or who holds himself out as qualified to
22 practice optometry.

23 (cf: P.L.2021, c.101, s.1)

24

25 2. R.S.45:12-8 is amended to read as follows:

26 45:12-8 Every person practicing optometry shall display his
27 registration certificate or certificates, together with his registration
28 renewal certificate or certificates, in a conspicuous place in the
29 office or offices wherein he practices optometry, but not in such
30 manner that they may be seen from the outside of such office or
31 offices, and, whenever required, exhibit the registration and renewal
32 certificates to the board or its authorized representatives. Every
33 office where an optometrist is practicing shall have displayed on a
34 sign so as to be read on the outside of the office the name of each
35 optometrist practicing therein. When practicing the profession of
36 optometry outside of or away from the office he shall deliver to
37 each patient a bill for professional services rendered, which shall
38 contain his full name, **home post-office address and** the address
39 of his principal office in this State, the number of his certificates,
40 and his signature.

41 Every person practicing optometry in New Jersey shall notify the
42 board in writing of any change of address or location of his office
43 or offices at least 5 days prior to occupying said new office,
44 returning therewith the appropriate registration renewal certificate
45 or certificates and the board shall issue a new registration renewal
46 certificate or certificates for the new office location or locations.

47 (cf: P.L.1954, c.227, s.3)

1 3. Section 7 of P.L.1991, c.385 (C.45:12-9.9) is amended to
2 read as follows:

3 7. The New Jersey State Board of Optometrists shall **【establish**
4 the credentialing requirements which shall be fulfilled before a
5 person may be certified**】** authorize a licensee of the board to use or
6 prescribe pharmaceutical agents or perform simple ophthalmologic
7 procedures and other minor procedures for treatment purposes in
8 the practice of optometry upon submission to the board of evidence
9 of competence to perform the minor procedures requested.
10 Evidence of competence shall include completion of a course of
11 study administered by a school or college of optometry accredited
12 by the Accreditation Council on Optometric Education of the
13 American Optometric Association and by attestation from an
14 optometrist authorized to perform such procedures or an
15 ophthalmologist licensed in New Jersey and certified by the
16 American Board of Ophthalmology who has proctored the licensee
17 under direct supervision to perform such procedures. These
18 educational standards shall be no less than that required of
19 currently-enrolled students as part of the requirements for
20 graduation. Licensees shall be immediately authorized at their
21 current level of practice. A licensee currently certified to use and
22 prescribe pharmaceutical agents for treatment purposes pursuant to
23 P.L.1991, c.385 (C.45:12-9.8 et seq.) shall be immediately
24 credentialed and certified to use and prescribe pharmaceutical
25 agents authorized by that act for treatment purposes in the practice
26 of optometry.

27 Prior to authorization by the New Jersey State Board of
28 Optometrists to perform simple ophthalmologic procedures and
29 other minor procedures, as determined by the board, an optometrist
30 who holds an active license to practice optometry in New Jersey
31 shall be permitted to perform simple ophthalmologic procedures
32 and other minor procedures, as determined by the board, only when
33 enrolled in an approved program of training sponsored by a school
34 or college of optometry accredited by the Accreditation Council
35 on Optometric Education of the American Optometric Association,
36 and only when under the direct supervision of a properly authorized
37 optometrist authorized to perform such procedures or an
38 ophthalmologist licensed in New Jersey and certified by the
39 American Board of Ophthalmology in order to fulfill the
40 requirements of that training program. Training programs and each
41 licensee registered to participate in a recognized training program
42 shall be registered with the board prior to the commencement of the
43 program or the participation.

44 In addition, the board shall establish continuing education
45 requirements for the renewal of **【certification】** authorization for the
46 use and prescription of pharmaceutical agents and the performance
47 of simple ophthalmologic procedures and other minor procedures
48 for treatment purposes in the practice of optometry. **【No licensee**

1 shall be tested by the board for certification to use or prescribe
2 pharmaceutical agents for treatment purposes in the practice of
3 optometry before having first satisfactorily completed all
4 educational requirements in ocular pharmacology at a school duly
5 accredited by the United States Department of Education and the
6 Council on Postsecondary Accreditation. These educational
7 standards shall be no less than that required of currently enrolled
8 students as part of their requirements for graduation from that
9 school. This credentialing and certification process shall be
10 required of all persons seeking to utilize pharmaceutical agents for
11 treatment purposes in the practice of optometry regardless of
12 licensure either prior or subsequent to the effective date of
13 P.L.1991, c.385 (C.45:12-9.8 et seq.); except that licensees shall be
14 immediately certified at their current level of practice and those
15 licensees currently certified to use and prescribe pharmaceutical
16 agents for treatment purposes pursuant to P.L.1991, c.385 (C.45:12-
17 9.8 et seq.) shall be immediately credentialed and certified to use
18 and prescribe those pharmaceutical agents authorized by that act for
19 treatment purposes in the practice of optometry but not orally until
20 certified, except for injections to counter anaphylactic reactions.】

21 The board shall maintain a list of all approved 【credentialing】
22 courses, which list shall be made available upon request to licensees
23 or other interested persons. Upon receipt of verification of
24 satisfactory completion of an approved 【credentialing】 course of
25 study, the board shall 【certify】 authorize the optometrist applicant
26 【as certified】 in the use and prescription of those pharmaceutical
27 agents and the performance of simple ophthalmologic procedures
28 and other minor procedures.

29 (cf: P.L.2004, c.115, s.3)

30

31 4. Section 9 of P.L.1991, c.385 (C.45:12-9.11) is amended to
32 read as follows:

33 9. a. Whenever in any law there is a requirement or duty with
34 respect to the prescription, administration or dispensing of any drug
35 which applies to any person authorized to prescribe that drug, the
36 same shall apply to an optometrist when prescribing, administering
37 or dispensing a pharmaceutical agent pursuant to R.S.45:12-1,
38 except that an optometrist shall not dispense a prescription as
39 provided for in R.S.45:12-1 in an amount exceeding a 72-hour
40 supply of that prescription unless the prescription is dispensed at no
41 charge to the patient. 【Subject to the provisions of P.L.1991, c.385
42 (C.45:12-9.8 et seq.), an optometrist authorized to prescribe,
43 administer, or dispense a pharmaceutical agent shall be permitted to
44 prescribe, administer, and dispense for the purpose of diagnosing
45 and treating deficiencies, deformities, diseases, or abnormalities of
46 the human eye and adnexae pharmaceutical agents classified as
47 Schedule III, IV, and V controlled dangerous substances and,

1 regardless of schedule, pharmaceutical agents containing
2 hydrocodone.】

3 b. Notwithstanding the provisions of subsection a. of this
4 section, an optometrist may dispense a pharmaceutical agent, as
5 provided for in R.S.45:12-1, that is delivered to the eye through a
6 contact lens or other medical device or through any other route of
7 administration approved by the board and may dispense such
8 pharmaceutical agent at a charge to the patient.

9 (cf: P.L.2015, c.65, s.1)

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11 5. Section 10 of P.L.2004, c.115 (C.45:12-9.13) is amended to
12 read as follows:

13 10. No licensee shall be certified by the New Jersey State Board
14 of Optometrists to use or prescribe pharmaceutical agents in the
15 practice of optometry before having completed credentialing
16 requirements in ocular pharmacology approved and administered by
17 the New Jersey State Board of Optometrists. 【Until such time as a
18 majority of the optometrist members of the New Jersey State Board
19 of Optometrists are certified to use and prescribe pharmaceutical
20 agents for treatment purposes in the practice of optometry, an
21 interim four-member panel of experts in ocular pharmacology shall
22 be established to prepare or endorse credentialing requirements for
23 board approval. The interim advisory panel of experts in ocular
24 pharmacology shall be comprised of a physician selected by the
25 State Board of Medical Examiners, a member selected by the Board
26 of Pharmacy, a representative of a school of optometry duly
27 accredited by the United States Department of Education and the
28 Council on Postsecondary Accreditation, to be selected by the New
29 Jersey State Board of Optometrists, and the Commissioner of the
30 Department of Health and Senior Services or his designee. The
31 interim panel shall be selected by the respective boards within 90
32 days of the effective date of this amendatory and supplementary act.
33 Panel members shall be directly responsible to the Director of the
34 Division of Consumer Affairs, who may order the replacement of
35 any panel member for failure to promptly and equitably fulfill their
36 duties. The panel shall have 120 days following appointment of a
37 majority of the panel to submit to the New Jersey State Board of
38 Optometrists credentialing requirements in ocular pharmacology.
39 Should the panel fail within the 120 day period to submit
40 credentialing requirements to the New Jersey State Board of
41 Optometrists, the Director of the Division of Consumer Affairs
42 shall designate, within 90 days thereafter, the credentialing
43 requirements for the interim period. Should the Director of the
44 Division of Consumer Affairs fail to designate credentialing
45 requirements within the 90-day period, the credentialing
46 requirements shall be designated by the New Jersey State Board of
47 Optometrists.】

48 (cf: P.L.2004, c.115, s.10)

S3841 DIEGNAN, OROHO

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1 6. Section 7 of P.L.1948, c.350 (C.45:12-18.1) is amended to
2 read as follows

3 7. The record of an optometrist of the examination of a patient,
4 including patient's name, address, age, occupation, and all findings
5 and pertinent facts concerning the patient discovered and disclosed
6 during the course of such examination, as well as the record of
7 professional services rendered and the fees charged therefor shall,
8 because of the confidential nature in the relationship, be the
9 exclusive property of the **【optometrist who】** optometric practice
10 that rendered the professional services to the patient. Any
11 unauthorized use by any other person, firm or corporation of the
12 information contained therein shall constitute an infringement of the
13 property rights of the patient and the **【optometrist】** optometric
14 practice, and shall subject the offender to a civil suit for damages by
15 the person aggrieved.

16 (cf: P.L.1948, c. 350, s.7)

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18 7. This act shall take effect immediately.

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20

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STATEMENT

22

23 This bill updates the statute governing optometrists licensed in
24 New Jersey by matching the scope of practice, services and
25 treatments optometrists can offer patients with the optometrists'
26 doctoral training, education, and clinical experience. Additionally,
27 the bill clarifies requirements that an optometrist must complete
28 prior to receiving authorization to perform certain services.