

ACT 164

H.B. NO. 223

A Bill for an Act Relating to Optometry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Since the current optometry law was implemented in August 1999, a joint formulary advisory committee, established by the department of commerce and consumer affairs, has been responsible for determining which medications could be used by therapeutically certified optometrists, as limited by chapter 459, Hawaii Revised Statutes. The joint formulary advisory committee, composed of two optometrists, two ophthalmologists, and two pharmacists, has not demonstrated a comprehensive knowledge of the current education, training, and national credentialing standards of optometrists in the diagnosis, treatment, and management of eye disease. During the past three years, the joint formulary advisory committee has not worked effectively, and its meetings have resulted in limited prescriptive authority for optometrists, placing greater restrictions on optometrists beyond the limitations set in chapter 459, Hawaii Revised Statutes.

The purpose of this Act is to repeal the joint formulary advisory committee and transfer the responsibility for formulary selection to the board of examiners in optometry, a board appointed by the governor to ensure public safety by regulating the practice of optometry. This Act further allows therapeutically certified optometrists to prescribe, under certain restrictions, topical steroidal and anti-viral agents, and prohibits the use of anti-fungal, injectable, and oral agents by optometrists.

SECTION 2. Chapter 459, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§459- Restrictions on the use of topical steroidal agents and topical anti-viral agents. (a) A therapeutically certified optometrist may prescribe topical steroidal agents with the following restrictions:

- (1) An ophthalmologist shall be consulted:

- (A) If the patient's condition worsens or does not improve seventy-two hours after initiating treatment with a topical steroid; or
 - (B) If the inflammation is still present two weeks after diagnosis; and
 - (C) When treating a corneal ulcer or peripheral inflammatory keratitis with a topical steroid; provided that children under the age of fifteen may be treated with a topical steroid only after consultation with an ophthalmologist;
- (2) The patient shall be referred to an ophthalmologist if a topical steroid is still indicated three weeks after diagnosis; and
 - (3) The only type of anterior uveitis to be treated under this section is traumatic iritis.
- (b) A therapeutically certified optometrist may prescribe topical anti-viral agents for corneal epithelial lesions; provided that if the patient's condition does not improve seventy-two hours after initiating treatment with a topical anti-viral agent, the patient shall be immediately referred to an ophthalmologist."

SECTION 3. Section 459-1, Hawaii Revised Statutes, is amended to read as follows:

"§459-1 Optometry; practice of, defined. (a) The practice of optometry, for the purpose of this chapter, is defined to be:

- (1) The examination, diagnosis, treatment, and management of diseases and disorders of the human visual system, the eye, and the eyelids;
- (2) The employment of trial frame or trial lenses, and any objective or subjective means or methods, other than the use of surgery, including refractive or therapeutic laser surgery, but including the use and prescription of topically applied pharmaceutical agents, as established by the board, and the performance of non-invasive diagnostic procedures or ordering of laboratory tests related to the use of topically applied pharmaceutical agents for the purpose of examining, diagnosing, treating, and managing visual, muscular, or other diseases and disorders of the human visual system, the eye, and the eyelids; or
- (3) The prescribing, fitting, or adaptation of any ophthalmic lenses, contact lenses, prisms, frames, mountings, or orthoptic exercises for the correction or relief of the visual or muscular anomalies of the human eye.

Superficial foreign bodies may be removed from the human eye and eyelids, including the removal of corneal superficial foreign bodies above Bowman's Layer.

(b) Any person who engages in the prescribing of visual training, with or without the use of scientific instruments to train the visual system or other abnormal condition of the eyes, or claims to be able to do so, shall be deemed to be engaged in the practice of optometry and shall first secure and hold an unrevoked and unsuspended license as provided in this chapter; provided that an orthoptist may give visual training, including exercises, under the supervision of a physician or optometrist. The use and prescription of topically applied pharmaceutical agents and the removal of superficial foreign bodies from the human eye and eyelid shall be granted to an optometrist licensed under this chapter who has met the requirements under ~~[section]~~ sections 459-7[-] and 459-7.4.

(c) If while examining or treating a patient a licensed optometrist finds, by history or examination, any ocular abnormality or any evidence of systemic disease requiring further diagnosis and possible treatment beyond the scope of practice as defined in this section, the optometrist shall refer that patient to an appropriate licensed physician."

SECTION 4. Section 459-7.4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§459-7.4~~]]~~ **Therapeutically certified optometrists; scope; qualifications** ~~[; advisory committee]~~. (a) The use and prescription of topical therapeutic pharmaceutical agents as established by the ~~[joint formulary advisory committee and adopted by the]~~ board for the treatment and management of conditions of the anterior segment of the human eye, eyelids, and lacrimal system and the non-invasive surface removal of superficial foreign bodies from the anterior segment of the human eye and eyelids is authorized only for an optometrist licensed under this chapter who meets the requirements of a therapeutically certified optometrist as authorized in this section. The therapeutically certified optometrist shall not prescribe, dispense, or administer oral pharmaceutical agents except those available without prescription. Treatment of glaucoma, use of prescription anti-fungal, injectable, or oral agents, and performing any invasive surgery shall not be allowed. Therapeutic pharmaceutical agents shall not include any of the controlled substances enumerated in sections 329-14, 329-16, 329-18, 329-20, and 329-22.

(b) The board shall grant recognition as a therapeutically certified optometrist; provided the optometrist has:

- (1) A current, unencumbered license as an optometrist in this State;
- (2) Completed a one hundred hour board-approved course in the treatment and management of ocular diseases;
- (3) Passed the National Board of Examiners in Optometry Treatment and Management of Ocular Disease examination;
- (4) Completed one hundred hours of preceptorship under the supervision of an ophthalmologist. The supervising ophthalmologist shall certify completion of the one hundred hours of hands-on experience and the competency of the optometrist to prescribe, dispense, and administer therapeutic pharmaceutical agents on a form and format prescribed by the board; provided that the preceptorship shall include training in diagnosis, treatment, and management of ocular disease; and
- (5) The therapeutically certified optometrist shall renew the certification with the biennial renewal of license and submit proof of satisfying thirty-six hours of continuing education in the diagnosis, treatment, and management of ocular and systemic diseases. Completion of the thirty-six hours in the diagnosis, treatment, and management of ocular and systemic diseases shall fulfill the continuing education requirements pursuant to section 459-7 and this section.

~~[(c) The department of commerce and consumer affairs shall establish a joint formulary advisory committee composed of:~~

- ~~(1) Two persons licensed as optometrists;~~
- ~~(2) Two persons licensed as pharmacists; and~~
- ~~(3) Two persons licensed in medicine by the board of medical examiners and board certified in ophthalmology.~~

~~The joint formulary advisory committee shall recommend the applicable formulary for persons certified under this section. The board of optometry shall adopt the formulary as established by the joint formulary advisory committee in its rules.]”~~

SECTION 5. Section 461-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It shall be unlawful:

- (1) For any person to sell or offer for sale at public auction, or to sell or offer for sale at private sale in a place where public auctions are

- conducted, any prescription drugs without first obtaining a permit from the board of pharmacy to do so;
- (2) For any person to distribute or dispense samples of any prescription drugs without first obtaining a permit from the board to do so; provided that nothing in this paragraph shall interfere with the furnishing of samples or drugs directly to physicians, druggists, dentists, veterinarians, and optometrists for use in their professional practice;
 - (3) For wholesalers to sell, distribute, or dispense any prescription drug, except to a pharmacist, physician, dentist, veterinarian, or optometrist who is allowed to use pharmaceutical agents under chapter 459 or to a generally recognized industrial, agricultural, manufacturing, or scientific user of drugs for professional or business purposes; provided that it shall be unlawful for wholesalers to sell, distribute, or dispense any prescription pharmaceutical agent that is not [~~listed under section 459-7.4(e) to any optometrist;~~] approved by the board of examiners in optometry;
 - (4) For any wholesale prescription drug distributor to sell or distribute medical oxygen except to a:
 - (A) Licensed practitioner with prescriptive authority;
 - (B) Pharmacist;
 - (C) Medical oxygen distributor;
 - (D) Patient or a patient's agent pursuant to a prescription; or
 - (E) Emergency medical services for administration by trained personnel for oxygen deficiency and resuscitation;
 - (5) For any medical oxygen distributor to supply medical oxygen pursuant to a prescription order, to a patient or a patient's agent, without first obtaining a permit from the board to do so;
 - (6) For any person, as principal or agent, to conduct or engage in the business of preparing, manufacturing, compounding, packing, or re-packing any drug without first obtaining a permit from the board to do so; and
 - (7) For any out-of-state pharmacy or entity engaging in the practice of pharmacy, in any manner to distribute, ship, mail, or deliver prescription drugs or devices into the State without first obtaining a permit from the board; provided that the applicant shall:
 - (A) Provide the location, names, and titles of all principal corporate officers;
 - (B) Attest that the applicant or any personnel of the applicant has not been found in violation of any state or federal drug laws, including the illegal use of drugs or improper distribution of drugs;
 - (C) Submit verification of a valid unexpired license, permit, or registration in good standing to conduct the pharmacy in compliance with the laws of the home state and agree to maintain in good standing the license, permit, or registration; and
 - (D) Have in its employ a registered pharmacist whose registration is current and in good standing."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect on July 1, 2002.

(Approved June 18, 2002.)

Note

1. Edited pursuant to HRS §23G-16.5.