

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3278

By Delegates Summers and Tully

[Introduced February 03, 2023; Referred to the
Committee on Health and Human Resources then
Government Organization]

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, all relating to the practice of optometry; establishing the Accreditation Council
 3 on Optometric Education as an accrediting body; defining ophthalmic surgery; removing
 4 obsolete areas of the code; and requiring certain procedures to be approved by an
 5 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 "Ophthalmic Surgery" means an invasive procedure in which human tissue is cut, ablated
23 or otherwise penetrated by incision or other means to treat diseases of the human eye.

24 "Ophthalmic surgery" does not include those procedures described under §30-8-9 of this code or
25 other procedures within the education and training at or through accredited schools or colleges of
26 Optometry.

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

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

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

34 (m) "Temporary permit" or "permit" means a permit issued to a person who has graduated
35 from an approved school, has taken the examination prescribed by the board, and is awaiting the
36 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~~ all procedures employed by Doctors of Optometry which are within the
- 38 education and training at or through schools or colleges of optometry accredited by the
- 39 Accreditation Council on Optometric Education (ACOE) or its successors or equivalents.
- 40 (b) A licensee may not:
- 41 (1) ~~Perform surgery except as provided in this article or by legislative rule~~ Perform
- 42 ophthalmic surgery unless the procedure is within the scope of education and training from an
- 43 accredited school or college of optometry.
- 44 ~~(2) Use a therapeutic laser;~~
- 45 ~~(3)~~(2) Use Schedule II controlled substances. However, an oral pharmaceutical certified
- 46 licensee may prescribe hydrocodone and hydrocodone containing drugs for a duration of no more
- 47 than three days;
- 48 ~~(4)~~(3) Treat systemic disease; or
- 49 ~~(5)~~(4) Present to the public that he or she is a specialist in surgery of the eye.

NOTE: The purpose of this bill is to update the practice of optometry. The bill establishes the Accreditation Council on Optometric Education as an accrediting body. The bill removes obsolete areas of the code. Finally, the bill requires certain procedures to be approved by an accredited body.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.