

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 3278**

By Delegates Summers and Tully

[Originating in the Committee on Health and Human

Resources; Reported on February 7, 2023]



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; defining terms; removing obsolete areas  
3 of the code; and permitting a licensee to perform certain procedures trained by an  
4 approved 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~~ may perform ~~those procedures authorized by the board~~  
37 ~~prior to January 1, 2010~~ all procedures taught within the education and training at or through  
38 schools or colleges of optometry accredited by the Accreditation Council on Optometric  
39 Education, 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~~

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

43 ~~(3)~~(2) Use Schedule II controlled substances. However, an oral pharmaceutical certified  
44 licensee may prescribe hydrocodone and hydrocodone containing drugs for a duration of no more  
45 than three days;

46 ~~(4)~~(3) Treat systemic disease; or

47 ~~(5)~~(4) Present to the public that he or she is a specialist in surgery of the eye.