
THIRD READING

Bill No: AB 2236
Author: Low (D)
Amended: 8/11/22 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-1, 6/27/22
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Leyva, Newman,
Ochoa Bogh
NOES: Pan
NO VOTE RECORDED: Melendez, Bates, Jones, Min

SENATE APPROPRIATIONS COMMITTEE: 4-0, 8/11/22
AYES: Portantino, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates, Bradford, Jones

ASSEMBLY FLOOR: 65-0, 5/12/22 (Consent) - See last page for vote

SUBJECT: Optometry: certification to perform advanced procedures

SOURCE: California Optometric Association

DIGEST: This bill adds advanced procedures that an optometrist is authorized to perform pursuant to the Optometric Practice Act (Act) if specified education and training conditions are met. This bill authorizes the Board of Optometry (Board) to charge a fee to issue a certificate to an optometrist who is authorized to perform advanced procedures.

ANALYSIS:

Existing law:

- 1) Requires an optometrist diagnosing or treating eye disease to be held to the same standards of care for physicians and surgeons and osteopathic physicians and surgeons, as specified. (Business and Professions Code (BPC) § 3041.1)

- 2) Requires an optometrist seeking certification to use therapeutic pharmaceutical agents, diagnose, and treat specified conditions to apply for a certificate from the Board and meet additional education and training requirements. (BPC § 3041.3)

This bill:

- 1) States that an optometrist certified to treat glaucoma, as specified, is certified to perform certain advanced procedures after meeting specified requirements which include graduating from an accredited school of optometry. Requires an optometrist to satisfy the following to perform the advanced procedures
 - a) Complete a Board-approved course of at least 32 hours that is designed to provide education on the advanced procedures, including, but not limited to, medical decision-making that includes cases that would be poor surgical candidates, an overview and case presentations of known complications, practical experience performing the procedure including a detailed assessment of the optometrist's technique and a written examination for which the optometrist obtains a passing score, and pass both sections of the National Board of Examiners in Optometry's Laser and Surgical Procedures Examination, unless waived as specified, within two-years prior to beginning the requirements in b) below.
 - b) Within three years, complete a board-approved training program in California, that includes all of the required procedures, which involve sufficient direct experience with live human patients to permit certification of competency by an accredited California school of optometry and contain hands-on instruction and performing at least 43 complete surgical procedures on live human patients. The training required must include at least a certain percent of the 43 procedures performed in a cohort model where, for each patient and under the direct supervision of a qualified educator, each member of the cohort independently assesses the patient, develops a treatment plan, evaluates the clinical outcome post treatment, develops a plan to address any adverse or unintended clinical outcomes, and discusses and defends medical decision-making. The board-approved program is responsible for determining the percentage of the required procedures.
 - c) Any procedures not completed under the terms above may be completed under a preceptorship model where, for each patient and under the direct, in-person supervision of a qualified educator, the optometrist independently assesses the patient, develops a treatment plan, evaluates the clinical

outcome post-treatment, develops a plan to address any adverse or unintended clinical outcomes, and discusses and defends medical decision-making.

- d) The qualified educator must certify the competent performance of procedures completed on a form approved by the Board. Upon the optometrist's completion of all certification requirements, the course administrator, who must be a qualified educator for all procedures authorized, on behalf of the program and relying on the certifications of procedures by qualified educators and certify that the optometrist is competent to perform advanced procedures using a form approved by the Board. On a case-by-case basis the course administrator may certify competence, if the optometrist performs at least 43 procedures on live human patients, is deemed competent to perform all procedures, but is unable to perform the specified number of each advanced procedure, as required.
- 2) Requires an optometrist to make a timely referral of a patient and all related records to an ophthalmologist, or in an urgent or emergent situation and an ophthalmologist is unavailable, a qualified center to provide urgent or emergent care, after stabilizing the patient to the degree possible, if either the optometrist makes an intraoperative determination that a procedure being performed does not meet specified criterion or if he optometrist receives a pathology report for a lesion indicating the possibility of malignancy.
- 3) States that the provisions of this bill do not authorize performing blepharoplasty or any cosmetic surgery procedure, including injections, with the exception of removing acrocordons that meet other qualifying criteria.
- 4) Requires an optometrist to monitor and report specified information to the Board including information about advanced procedures and adverse outcomes. Requires with each subsequent licensure renewal after being certified to perform the advanced procedures, as specified, the optometrist shall attest that they have performed at least two each of the advanced procedures required for certification during the period of licensure preceding the renewal which may include procedures performed during a certification process and within the timeframe.
- 5) Subjects an advanced procedures certification to restriction in the category for which the optometrist did not complete the required advanced procedures and specifies the requirements to cure the deficiency, as specified.

- 6) Subjects an optometrist's certification to further restriction if one or more of the advanced procedures, required for renewal, remain unattested for two sequential renewal cycles, as specified.
- 7) Requires the Board to review adverse treatment outcome reports in a timely manner, requesting additional information as necessary to make decisions regarding the need to impose additional training, or to restrict or revoke certifications based on patient safety authority. Further requires the Board to compile a report summarizing the data collected, including, but not limited to, percentage of adverse outcomes, distributions by unidentified licensee and Board interventions and make the report available on its website.
- 8) Permits the Board to adopt regulations, as specified, and permits the Board to set the fee for a certificate authorizing advanced procedures.
- 9) Defines a "complete procedure" to mean all reasonably included steps to perform a surgical procedure, including, but not limited to, preoperative care, informed consent, all steps of the actual procedure, required reporting and review of any specimen submitted for pathologic review, and postoperative care, and multiple surgical procedures performed on a patient during a surgical session, is to be considered a single surgical procedure.
- 10) Defines a "qualified educator" to mean a person nominated by an accredited California school of optometry as a person who is believed to be a suitable instructor, is subject to the regulatory authority of that person's licensing board in carrying out required responsibilities and is either a California licensed optometrist, as specified or a California licensed physician and surgeon, as specified. Authorizes the Medical Board of California to establish reasonable standards and expectations for a licensed physician and surgeon who acts as a qualified educator.
- 11) Requires a "qualified educator" to notify their licensing board of their participation as a qualified educator, as specified.
- 12) Makes other technical and conforming changes.

Background

Optometrists and the Board of Optometry. Optometrists examine, diagnose, treat, and manage diseases, injuries, and disorders of the visual system, the eye, and associated structures, as well as identify related systemic conditions affecting the eye. The Board is responsible for issuing optometry certifications for Diagnostic Pharmaceutical Agents, Therapeutic Pharmaceutical Agents, Lacrimal Irrigation

and Dilation, and Glaucoma. The practice of optometry is specified in BPC Section 3041, and 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 any or all of the acts further specified in BPC Section 3041. To obtain an optometry license in California, an individual must have a degree of optometry issued by an accredited school or college of optometry, pass the three –part National Board of Examiners in Optometry (NBEO) examination and the California Laws and Regulations Examination, and not have been convicted of a crime, or disciplined for acts substantially related to the profession. There are currently three accredited schools of optometry located in California.

Current Practice of Optometry. A “scope of practice” typically specifies what a healthcare provider can and cannot do for their patients, and generally how they can operate within their profession. As currently drafted, this bill modifies the current scope of practice for optometrists by allowing an optometrist who meets additional training and certification requirements, as prescribed in this bill, to perform specific advanced optometric procedures including laser trabeculoplasty, laser peripheral iridotomy for a defined purpose, laser posterior capsulotomy after cataract surgery, and excision and or drainage of noncurrent lesions of the adnexa, as specified, which is less than five millimeters in diameter, closure of wounds for excision, injections for treatment of chalazia, and corneal crosslinking procedure, as specified.

As part of the certification requirements to be eligible to perform the advanced procedures noted above, an optometrist would need to be licensed in California and certified to treat glaucoma as prescribed in existing law, complete a minimum 32-hour, board-approved course that is designed to provide education on the advanced procedures and take and pass the NBEO’s, Laser and Surgical Examination. Within three years of completing that course and passing the examination, the individual would additionally be required to complete a board-approved training program in California that includes the performance of 43 specified procedures on a live human patient.

The training, which is to include live patients, must include a percentage of procedures be performed in a cohort model. That percentage required is to be determined by the board-approved education program. For those procedures not completed under the cohort model, those procedures may be completed under a preceptorship model. A qualified educator, as defined in this bill as a person nominated by an accredited school of optometry who is believed to be a suitable

instructor and is either a California-licensed optometrist who is certified to perform advance procedures or a California-licensed physician and surgeon. As stated in this bill, the qualified educator will be responsible for certifying the competent performance of the procedures completed.

In order to implement the educational and training requirements prescribed by this bill, an additional education course will need to be developed, and the Board will need to approve the education program.

Other States. There are reportedly 10 other states that allow optometrists to utilize lasers for the treatment of certain eye conditions including Alaska, Wyoming, Colorado, Oklahoma, Arkansas, Mississippi, Louisiana, Kentucky, Mississippi, and Virginia.

This bill requires an optometrist who is certified to perform advanced procedures to provide specified reports to the Board, including adverse treatment reports. In addition, as part of the optometrist license renewal, those certified to perform advance procedures will be required to provide an attestation to the Board, that they have completed a two of each procedures in the past two years. For those areas where the required number of procedures were not completed, the optometrists advance procedure certification may be restricted for those specified procedures.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, unknown fiscal impact, likely ranging in the high-hundreds of thousands to low-millions of dollars, to the Board of Optometry (Optometry Fund), which would include, among other things:

- One-time costs to promulgate regulations, establish the certification fee, and develop the various required forms to be used by licensees performing procedures under the new certification, qualified educators, and course administrators.
- One-time costs for information technology changes to create a portal to allow optometrists to submit to the Board the required reports on procedures performed pursuant to the new certification and any subsequent adverse outcomes.
- One-time and ongoing costs to approve required educational and training courses. Given the specificity of the procedures required under the new certification, the Board will likely need additional specialized staff on at least a

temporary basis with subject matter expertise to create guidelines and procedures for nontechnical staff.

- Ongoing costs to implement the new certification, track reports of all minor procedures performed or any subsequent adverse outcomes, and perform other enforcement activities related to the new certification.
- Ongoing costs for workload associated with auditing the attestations to ensure compliance with proscribed training requirements.
- There will be an unknown, ongoing increase in revenue, likely in the high-hundreds of thousands of dollars, which may offset the Board's administrative and enforcement costs to some extent. Any actual increase in fee revenue will depend on the fee amount determined during the initial workload analysis during the first year of implementation of the certification.

Actual ongoing administrative costs to the Board are unknown and would depend on, among other things, the number of glaucoma certified optometrists who would also apply for and maintain the anterior segment certification. For context, the Board currently has 4,750 glaucoma certified optometrists, with 10 to 12 percent of those licensees expected to apply for the new certification. The Board notes that since the educational criteria to become certified is now considered basic curriculum for newly graduating optometrists, it is expected that there will be a higher volume of graduating students applying for both certification in glaucoma and anterior segment upon graduation which could increase this assumption in future years.

Additionally, the Board would likely need a delayed implementation date to fully stand-up the new certification. Absent delayed implementation, there will be additional cost and workload pressures to meet the requirements of the bill.

SUPPORT: (Verified 8/12/22)

California Optometric Association (source)
American Optometric Student Association
Western University of Health Sciences
One individual

OPPOSITION: (Verified 8/12/22)

American Medical Association
California Academy of Eye Physicians and Surgeons
California Medical Association

California Society of Plastic Surgeons
Union of American Physicians and Dentists

ARGUMENTS IN SUPPORT: Supporters note that optometrist are already trained to perform these procedures as part of their education in school and this bill provides additional training that will be more rigorous than any other state and that this bill requires additional testing to ensure competency.

ARGUMENTS IN OPPOSITION: Opponents note concerns with the proposed training and education requirements for optometrists to provide additional procedures, and further note concerns of patient harm.

ASSEMBLY FLOOR: 65-0, 5/12/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

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