
THIRD READING

Bill No: AB 2236
Author: Low (D)
Amended: 8/25/22 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.

Senate Floor Amendments of 8/25/22 clarify reference to “board” in the bill means the Board; delete a provision that permitted a course administrator, on a case-by-case basis to certify competency if not all specified procedures are completed and instead allows an optometrist seeking initial certification to, once, substitute completion of training in one type of procedure for a similar procedure; delete the requirement that a qualified educator notify their respective licensing board of their participation as a qualified educator; clarify the requirements for renewing an advanced procedure certificate and; resolve chaptering conflicts.

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, which 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. Permits one time per optometrist seeking initial certification to substitute a procedure that imparts similar skills to achieve the total number of complete procedures, as specified but does not apply to a corneal crosslinking procedure, as specified.
- 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 acrochordons 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) 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.
- 7) Permits the Board to adopt regulations, as specified, and permits the Board to set the fee for a certificate authorizing advanced procedures.
- 8) 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.
- 9) 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.
- 10) 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 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 are completed under a preceptorship model. A qualified educator, as defined in this bill is 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 specified 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, this bill will result in unknown fiscal impact to the Board, likely ranging in the high-hundreds of thousands to low-millions of dollars. The analysis also notes that the Board would likely need a delayed implementation date to fully stand-up the new certification and that absent delayed implementation, there will be additional Board cost and workload pressures.

SUPPORT: (Verified 8/25/22)

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

OPPOSITION: (Verified 8/25/22)

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

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/26/22 15:41:28

**** END ****