

GOVERNOR'S VETO
AB 2236 (Low)
As Enrolled September 2, 2022
2/3 vote

SUMMARY

Expands the scope of practice for optometrists certified to use therapeutic pharmaceutical agents to perform specified advanced procedures after graduating from an accredited school of optometry and meeting additional education and hands-on training requirements, including instruction involving both simulated eyes and live human patients.

Senate Amendments

- 1) Adds neuromuscular blockers to the listed classes of agents that are excluded from the practice of optometry absent an explicit United States Food and Drug Administration (FDA) approved indication for treatment of a condition or disease authorized by statute.
- 2) Authorizes an optometrist certified to treat glaucoma to become additionally certified to perform the following set of advanced procedures:
 - a) Laser trabeculoplasty.
 - b) Laser peripheral iridotomy for the prophylactic treatment of a clinically significant narrow drainage angle of the anterior chamber of the eye.
 - c) Laser posterior capsulotomy after cataract surgery.
 - d) Excision or drainage of nonrecurrent lesions of the adnexa evaluated consistent with the standard of care by the optometrist to be noncancerous, not involving the eyelid margin, lacrimal supply, or drainage systems, no deeper than the orbicularis muscle, excepting chalazia, and smaller than five millimeters in diameter. Tissue excised that is not fully necrotic shall be submitted for surgical pathological analysis.
 - e) Closure of a wound resulting from a procedure to excise or drain nonrecurrent lesions of the adnexa.
 - f) Injections for the treatment of chalazia and to administer local anesthesia required to excise or drain nonrecurrent lesions of the adnexa.
 - g) Corneal crosslinking procedure, or the use of medication and ultraviolet light to make the tissues of the cornea stronger.
- 3) Requires an optometrist seeking to become certified to perform the above advanced procedures to complete a California State Board of Optometry (CBO)-approved training program within three years, which shall include the following practical training:
 - a) Hands-on instruction on no less fifteen simulated eyes before performing the related procedure on live human patients, as specified.

- b) The performance of at least 43 complete surgical procedures on live human patients, as specified.
- 4) Specifies additional requirements for a CBO-approved training program.
- 5) Requires an optometrist seeking to become certified to perform advanced procedures to complete a CBO-approved course of at least 32 hours on those procedures, and pass the Laser and Surgical Procedures Examination of the National Board of Examiners in Optometry, within two years prior to beginning a CBO-approved training program.
- 6) Requires the program course administrator to certify that an optometrist is competent to perform advanced procedures using a form approved by the CBO.
- 7) 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 the optometrist makes an intraoperative determination that a procedure being performed does not meet the statutory standard or if the optometrist receives a pathology report for a lesion indicating the possibility of malignancy.
- 8) Expressly states that the bill does not does not authorize performing blepharoplasty or any cosmetic surgery procedure, including injections, with the exception of removing acrochordons that meet other qualifying criteria.
- 9) Requires an optometrist to attest that they have performed each of the delineated procedures during the period of licensure preceding the renewal with each subsequent license renewal after being certified to perform the advanced procedures.
- 10) Requires an optometrist to monitor and report the following information to the California State Board of Optometry on a form provided by the CBO or using an internet-based portal:
 - a) At the time of license renewal or in response to a request of the CBO, the number and types of procedures authorized by this section that the optometrist performed and the diagnosis of the patient at the time the procedure was performed.
 - b) Within three weeks of the event, any adverse treatment outcomes that required a referral to or consultation with another health care provider.
- 11) Requires the CBO 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 its patient safety authority, and to provide a report on the data.
- 12) Authorizes the CBO to adopt regulations and set a fee for the implementation of the bill.
- 13) Makes additional technical changes to existing provisions relating to optometric scope of practice.

Governor's Veto Message

This bill would authorize optometrists to perform ocular surgical procedures currently performed by ophthalmologists after completing specified education and training.

I am not convinced that the education and training required is sufficient to prepare optometrists to perform the surgical procedures identified. This bill would allow optometrists to perform advanced surgical procedures with less than one year of training. In comparison, physicians who perform these procedures must complete at least a three year residency program.

COMMENTS

Scope of Practice Comparison with Ophthalmology. Optometry and ophthalmology are two distinct professions that share a great deal of practice scope and interest. Whereas optometrists are often considered mid-level practitioners with a narrow focus on diagnosing and treating specific eye conditions, ophthalmologists are physicians and surgeons working within a specialty that also places an emphasis on conditions of the eye. As a result, ophthalmologists may engage in virtually any activity within the practice of optometry, while also being authorized to perform a greater number of treatments and procedures than optometrists.

In the wake of what many regard to be a physician shortage in California, efforts have been made to expand the scope of practice for optometrists to provide services traditionally reserved for physicians and surgeons specializing in ophthalmology. For example, legislation enacted in recent years have allowed optometrists to treat glaucoma, use therapeutic pharmaceutical agents, employ the use of new drugs and technologies to treat certain conditions, and treat patients with topical and oral therapeutic pharmaceutical agents. These efforts have drawn on the extensive training optometrists receive to empower them to provide additional services and alleviate the need for patients to obtain care from an ophthalmologist.

Additional Advanced Procedures. Optometrists who meet the bill's requirements for may perform specified additional advanced procedures that may currently only be performed by ophthalmologists. Only optometrists who have met the requirements to become certified to use therapeutic pharmaceutical agents are eligible to obtain this further certification. The procedures are as follows:

- 1) *Laser trabeculoplasty* – a laser treatment for glaucoma that uses short pulses of low-energy light to target the melanin, or pigment, in specific ocular cells to improve drainage and lower intraocular pressure.
- 2) *Laser peripheral iridotomy* – a procedure that uses a laser to create a hole in the iris, allowing the aqueous humor to traverse directly from the posterior to the anterior chamber, relieving a pupillary block; this bill would allow the procedure to be performed for the prophylactic treatment of a clinically significant narrow drainage angle of the anterior chamber of the eye.
- 3) *Laser posterior capsulotomy* – the use of a laser to create an opening in an artificial lens that was placed into the eye during cataract surgery and subsequently became cloudy.
- 4) *Excision or drainage of nonrecurrent lesions of the adnexa* – these procedures remove or drain noncancerous lesions of the parts of the area outside of the eyeball but within its orbit, not including the eyelid margin, lacrimal supply, or drainage systems, no deeper than the orbicularis muscle.
- 5) *Closure of wounds, injections, and the administration of local anesthesia* required to perform the above excision or drainage.

- 6) *Corneal crosslinking procedure* – a treatment where eyedrop medication and ultraviolet light is used to strengthen the tissues in the cornea, which treats conditions like keratoconus by reinforcing collagen fibers in the eye.

Optometrists seeking this certification would be required to complete a CBO-approved course of at least 32 hours that is designed to provide education on the advanced procedures, including, but not limited to, medical decisionmaking that includes cases that would be poor surgical candidates, an overview and case presentations of known complications, practical experience performing the procedures, including a detailed assessment of the optometrist's technique, and a written examination for which the optometrist achieves a passing score. The optometrists would also be required to pass both sections of the Laser and Surgical Procedures Examination of the National Board of Examiners in Optometry or its equivalent.

In addition to the above coursework requirement, this bill would also require optometrists to complete a CBO-approved training program. This program would include the performance of all required procedures involving sufficient direct experience with live human patients to permit certification of competency, by an accredited California school of optometry. The bill requires that there be at least fifteen procedures on simulated eyes, divided equally between laser procedures, excision and drainage procedures, and corneal crosslinking procedures.

After the completion of the hands-on instruction using simulated eyes, this bill would require the performance of at least 43 complete surgical procedures on live human patients. At a minimum, these procedures would be required to include the following:

- 1) Eight laser trabeculoplasties.
- 2) Eight laser posterior capsulotomies.
- 3) Five laser peripheral iridotomies.
- 4) Five chalazion excisions.
- 5) Four chalazion intralesional injections.
- 6) Seven excisions of an authorized lesion of greater than or equal to two millimeters in size.
- 7) Five excisions or drainages of other authorized lesions.
- 8) One surgical corneal crosslinking involving removal of epithelium.

This bill's hands-on training requirements are intended to compensate for the additional practical instruction received by ophthalmologists in medical school that is not typically received by optometrists during their prelicensure education. The bill would allow some of the procedures to be completed under a preceptorship model and some under a cohort model. Upon the optometrist's completion of all certification requirements, the course administrator, who must be a qualified educator, is required to certify that the optometrist is competent to perform advanced procedures using a form approved by the CBO.

In order to gauge whether the performance of advanced procedures by optometrists as authorized under the bill correlates with any increase in patient harm, this bill would require optometrists to report any adverse treatment outcomes that required a referral to or consultation with another

health care provider to the CBO. The CBO would then review these 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 its patient safety authority. The CBO would subsequently be required to compile a report summarizing the data collected, including, but not limited to, percentage of adverse outcome distributions by unidentified licensee and CBO interventions, and would make the report available on its internet website.

Currently, ten other states reportedly allow optometrists to perform procedures involving lasers to treat eye conditions. This includes Alaska, Arkansas, Colorado, Indiana, Kentucky, Louisiana, Mississippi, Oklahoma, Virginia, and Wyoming. This bill would provide very specific types of laser procedures to be performed for specified conditions. These procedures are consistent with those allowed in most other states where advanced procedures are permitted.

According to the Author

"Today's optometrists are trained to do much more than they are permitted in California. Optometrists in other states are performing minor surgical procedures, including the use of lasers to treat glaucoma with no adverse events and little to no requirements on training. AB 2236 provides additional training that will be more rigorous than any other state and will ensure that patients will have access to the care they need. In some counties, Medi-Cal patients must wait months to get in with an ophthalmologist. Optometrists already provide 81 percent of the eye care under Medi-Cal. Optometrists are located in almost every county in California. Optometrists are well situated to bridge the provider gap for these eye conditions that are becoming more common as our population ages."

Arguments in Support

The *California Optometric Association* (COA) is sponsoring this bill. According to the COA: "For more than a decade, the California Optometric Association has been in discussions with the California Medical Association and California Academy of Eye Physicians and Surgeons about legislation to allow a certified optometrist to use the latest technology in treating patients, resulting in more effective and safer eye care than currently allowed by law." The COA argues: "These procedures present no increased risk to patients. An optometrist is already trained to perform these procedures as part of their education in school. The bill would provide additional training that will be more rigorous than any other state. The bill also requires national board testing on these procedures to ensure competency. In the eight other states that allow these procedures, there has been no increase in malpractice insurance premiums and no reported problems to the state optometry board."

Arguments in Opposition

The *California Medical Association* (CMA) opposes this bill, writing: "AB 2236 authorizes optometrists, who are not physicians, to perform surgical procedures on a patient's eye if they meet minimal specified education and training requirements. While the latest amendments increase the number of required surgeries to 43, that number is far below the clinical education requirements of ophthalmology residency programs. In contrast with optometrists, physicians are put through rigorous residency programs to develop clinical competency and judgment to identify, manage and mitigate complications during surgery to prevent permanent damage to patients' eyes and eyesight."

FISCAL COMMENTS

According to the Senate Appropriations Committee, unknown fiscal impact, likely ranging in the high-hundreds of thousands to low-millions of dollars, to the CBO, potentially offset by unknown, ongoing increase in revenue, likely in the high-hundreds of thousands of dollars.

VOTES**ASM BUSINESS AND PROFESSIONS: 19-0-0**

YES: Berman, Flora, Bloom, Mia Bonta, Chen, Cunningham, Megan Dahle, Fong, Gipson, Grayson, Irwin, Lee, McCarty, Medina, Mullin, Ward, Ting, Akilah Weber, Arambula

ASM APPROPRIATIONS: 14-0-2

YES: Holden, Bigelow, Bryan, Calderon, Carrillo, Megan Dahle, Davies, Mike Fong, Seyarto, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

ABS, ABST OR NV: Gabriel, Eduardo Garcia

ASSEMBLY FLOOR: 65-0-13

YES: 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

ABS, ABST OR NV: Boerner Horvath, Cunningham, Davies, Gray, Grayson, Kiley, Lackey, Lee, Quirk-Silva, Rodriguez, Blanca Rubio, Valladares, Ward

SENATE FLOOR: 28-4-8

YES: Atkins, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Eggman, Glazer, Gonzalez, Grove, Hueso, Laird, Leyva, Limón, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Portantino, Roth, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

NO: Borgeas, Melendez, Pan, Rubio

ABS, ABST OR NV: Allen, Archuleta, Bates, Durazo, Hertzberg, Hurtado, Jones, Kamlager

ASM BUSINESS AND PROFESSIONS: 11-2-5

YES: Berman, Mia Bonta, Chen, Megan Dahle, Gipson, Grayson, Lee, McCarty, Medina, Salas, Ting

NO: McKinnor, Akilah Weber

ABS, ABST OR NV: Flora, Alvarez, Cunningham, Fong, Irwin

ASSEMBLY FLOOR: 41-11-28

YES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Cooper, Megan Dahle, Daly, Mike Fong, Gabriel, Cristina Garcia, Gipson, Grayson, Irwin, Kalra, Lackey, Lee, Low, Mathis, Mayes, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Santiago, Stone, Ting, Villapudua, Voepel, Ward, Wicks, Wood, Rendon

NO: Alvarez, Arambula, Cervantes, Choi, Cooley, Davies, Gray, McKinnor, Medina, Waldron, Akilah Weber

ABS, ABST OR NV: Bigelow, Mia Bonta, Bryan, Calderon, Carrillo, Chen, Cunningham, Flora, Fong, Friedman, Gallagher, Eduardo Garcia, Haney, Holden, Jones-Sawyer, Kiley, Levine, Maienschein, McCarty, Patterson, Luz Rivas, Rodriguez, Blanca Rubio, Salas, Seyarto, Smith, Valladares, Wilson

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