

45:12-1

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 45:12-1 (Optomotrists---writing perscriptions)

LAWS OF: 1991 CHAPTER: 385

Bill No: S3539

Sponsor(s): Lesniak

Date Introduced: June 13, 1991

Committee: Assembly: ---

Senate: Labor

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: January 10, 1991

Senate: December 19, 1991

Date of Approval: January 16, 1992

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clipping---attached

KBG/dgw

Legislative History Checklist
(Compiled by the Office of Legislative Services Library)

Optometrists - may prescribe medication

NJSA: 45:12-1

LAWS OF: 1991

CHAPTER: 385

Bill No: S3539 (Substituted for A743)

Sponsor(s): Lesniak

Date Introduced: June 13, 1991

Committee: Assembly: Commerce and Regulated Professions (A743)

Senate: Labor, Industry and Professions

Amended During Passage: Yes

Date of Passage: Assembly: January 10, 1992

Senate: December 19, 1991

Date of Approval: January 16, 1992

Following Statements Are Attached If Available:

Sponsor Statement: Yes

Committee Statement: Assembly: Yes (A743)

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following Were Printed:

Reports: No

Hearings: No

§§1, 11
Notes to §§2-10
§§6-10
C.45:12-9.8
to
45:12-9.12

P.L.1991, CHAPTER 385, *approved January 16, 1992*
1991 Senate No. 3539 (*First Reprint*)

AN ACT concerning the practice of optometry, amending R.S.45:12-1, R.S.45:14-13, R.S.45:14-14 and R.S.45:14-15 and supplementing chapter 12 of Title 45 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Consumer Access to Eye Care Act of 1991."

2. R.S.45:12-1 is amended to read as follows:

45:12-1. Optometry is hereby declared to be a profession, and the practice of optometry is defined to be the employment of objective or subjective means, or both, for the examination of the human eye for the purposes of ascertaining any departure from the normal, measuring its powers of vision and adapting lenses or prisms for the aid thereof, or the use and prescription of pharmaceutical agents, excluding ¹controlled dangerous substances as provided in sections 5, 6, 7 and 8 of P.L.1970, c.226 (C.24:21-5 through C.24:21-8) and section 4 of P.L.1971, c.3 (C.24:21-8.1) and excluding¹ those prescription medications taken orally or by injection, except for injections to counter anaphylactic reaction, for the purposes of treating deficiencies, deformities, diseases, or anomalies of the human eye including the removal of superficial foreign bodies from the eye and adnexae. An optometrist utilizing pharmaceutical agents for treatment purposes shall be held to a standard of patient care in the use of such agents commensurate to that of a physician utilizing ocular pharmaceutical agents for treatment purposes. A person shall be deemed to be practicing optometry within the meaning of this chapter who in any way advertises himself as an optometrist, or who shall employ any means for the measurement of the powers of vision or the adaptation of lenses or prisms for the aid thereof, practice, offer or attempt to practice optometry as herein defined, either on his own behalf or as an employee or student of another, whether under the personal supervision of his employer or perceptor or not, or to use testing appliances for the purposes of measurement of the powers of vision or diagnose any ocular deficiency or deformity, visual or muscular anomaly of the human eye or prescribe lenses, prisms or ocular exercise for the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Senate SLI committee amendments adopted December 9, 1991.

correction or the relief thereof, or who uses or prescribes pharmaceutical agents for the purposes of diagnosing and treating deficiencies, deformities, diseases or anomalies of the human eye or who holds himself out as qualified to practice optometry.

(cf: P.L.1954, c.227, s.1)

3. R.S.45:14-13 is amended to read as follows:

45:14-13. No person who is not a registered pharmacist of this State, or an apprentice employed in a pharmacy under the immediate personal supervision of a registered pharmacist, shall compound, dispense, fill or sell prescriptions of physicians, dentists, optometrists, veterinarians, any other medical practitioners or certified nurse midwives licensed or approved to write prescriptions for drugs and medicines.

(cf: P.L.1991, c.97, s.7)

4. R.S.45:14-14 is amended to read as follows:

45:14-14. The term "prescription" as used in R.S.45:14-13, and R.S.45:14-15 to R.S.45:14-17 means an order for drugs or medicines or combinations or mixtures thereof, written or signed by a duly licensed physician, dentist, optometrist, veterinarian, other medical practitioner or a certified nurse midwife licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and includes orders for drugs or medicines or combinations or mixtures thereof transmitted to pharmacists through word of mouth, telephone, telegraph or other means of communication by a duly licensed physician, dentist, optometrist, veterinarian, other medical practitioner or a certified nurse midwife licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and such prescriptions received by word of mouth, telephone, telegraph or other means of communication shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be filed by the pharmacist, as provided for in R.S.45:14-15, but no prescription, for any narcotic drug, except as provided in section 15 of P.L.1970, c.226 (C.24:21-15), shall be given or transmitted to pharmacists, in any other manner, than in writing signed by the physician, dentist, ¹[optometrist,]¹ veterinarian, other medical practitioner or certified nurse midwife giving or transmitting the same, nor shall such prescription be renewed or refilled.

(cf: P.L.1991, c.97, s.8)

5. R.S.45:14-15 is amended to read as follows:

45:14-15. The registered pharmacist compounding, dispensing, filling or selling a prescription shall place the original written prescription in a file kept for that purpose for a period of not less than five years if such period is not less than two years after the last refilling, and affix to the container in which the prescription is dispensed, a label bearing the name and complete address of the pharmacy or drug store in which dispense, the brand name or

generic name of the product dispensed unless the prescriber states otherwise on the original written prescription, the date on which the prescription was compounded and an identifying number under which the prescription is recorded in his files, together with the name of the physician, dentist, optometrist, veterinarian, other medical practitioner or certified nurse midwife prescribing it and the directions for the use of the prescription by the patient, as directed on the prescription of the physician, dentist, optometrist, veterinarian, other medical practitioner or certified nurse midwife licensed or approved to write prescriptions. Every registered pharmacist who fills or compounds a prescription, or who supervises the filling or compounding of a prescription by a person other than a pharmacist registered in this State, shall place his name or initials on the original prescription or on the label affixed to the container in which the prescription is dispensed or in a book kept for the purpose of recording prescriptions. The board of pharmacy or any of its agents is hereby empowered to inspect the prescription files and other prescription records of a pharmacy and to remove from said files and take possession of any original prescription; providing, that the authorized agent removing or taking possession of an original prescription shall place in the file from which it was removed a copy certified by said person to be a true copy of the original prescription thus removed; provided further, that the original copy shall be returned by the board of pharmacy to the file from which it was removed after it has served the purpose for which it was removed.

(cf: P.L.1991, c.97, s.9)

6. (New section) The New Jersey State Board of Optometrists shall prescribe the application form, procedure and fees for certification for the use and prescription of pharmaceutical agents for treatment purposes in the practice of optometry and promulgate the rules and regulations necessary to effectuate the purposes of this amendatory and supplementary act.

7. (New section) The New Jersey State Board of Optometrists shall establish the testing requirements which shall be fulfilled before a person may be certified to use or prescribe pharmaceutical agents for treatment purposes in the practice of optometry. In addition, the board shall establish continuing education requirements for the renewal of certification for the use and prescription of pharmaceutical agents for treatment purposes in the practice of optometry. No licensee shall be tested by the board for certification to use or prescribe pharmaceutical agents for treatment purposes in the practice of optometry before having first satisfactorily completed all educational requirements in ocular pharmacology at a school duly accredited by the United States Department of Education and the Council on Postsecondary Accreditation. These educational standards shall be no less than that required of currently enrolled

students as part of their requirements for graduation from that school. This certification process shall be required of all persons seeking to utilize pharmaceutical agents for treatment purposes in the practice of optometry regardless of licensure either prior or subsequent to the effective date of this amendatory and supplementary act.

8. (New section) No licensee shall be certified by the New Jersey State Board of Optometrists to use or prescribe pharmaceutical agents for treatment purposes in the practice of optometry before having received a satisfactory score on an examination in ocular pharmacology approved and administered by the board. Until such time as a majority of the optometrist board members are certified to use and prescribe pharmaceutical agents for treatment purposes in the practice of optometry, an interim three member panel of experts in ocular pharmacology shall be established to prepare or endorse an examination for board approval. The interim advisory panel of experts in ocular pharmacology shall be comprised of a physician selected by the State Board of Medical Examiners, a doctor of pharmacology selected by the Board of Pharmacy, and a representative of a school of optometry duly accredited by the United States Department of Education and the Council on Postsecondary Accreditation, to be selected by the New Jersey State Board of Optometrists. The interim panel shall be selected by the respective boards within 90 days of the effective date of this amendatory and supplementary act. Panel members shall be directly responsible to the Director of the Division of Consumer Affairs, who may order the replacement of any panel member for failure to promptly and equitably fulfill their duties. The panel shall have 120 days following appointment of a majority of the panel to submit to the New Jersey State Board of Optometrists an examination in ocular pharmacology. Should the panel fail within the 120 day period to submit an examination to the New Jersey State Board of Optometrists, the Director of the Division of Consumer Affairs shall designate, within 90 days thereafter, the examination for the interim period. Should the Director of the Division of Consumer Affairs fail to designate an examination within the 90 day period, the test shall be designated by the New Jersey State Board of Optometrists.

9. (New section) Whenever in any law there is a requirement or duty with respect to the prescription, administration or dispensing of any drug which applies to any person authorized to prescribe that drug, the same shall apply to an optometrist when prescribing, administering or dispensing a pharmaceutical agent pursuant to R.S.45:12-1, except that an optometrist shall not dispense a prescription as provided for in R.S.45:12-1 in an amount exceeding a 72-hour supply of that prescription unless the prescription is dispensed at no charge to the patient.

10. (New section) Notwithstanding any other provision of law

to the contrary, an optometrist shall not be prohibited from practicing optometry at a rented location in a retail or commercial store or office or ophthalmic dispenser's office, provided the optometrist is identified as an independent doctor of optometry; and, provided further, that the landlord or any officer, employee or agent of the landlord or any other person who does not possess a valid certificate of registration as an optometrist or physician in this State shall not directly or indirectly control, influence, interfere with or supervise the professional judgment of the optometrist in the practice of optometry, including but not limited to, the level or type of care or services rendered or the professional fees charged therefor, except as otherwise provided by P.L.1969, c.232 (C.14A:17-1 et seq.).

11. This act shall take effect 180 days following enactment.

REGULATED PROFESSIONS

Permits optometrists to prescribe and utilize medication.

SENATE, No. 3539

STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1991

By Senator LESNIAK

1 AN ACT concerning the practice of optometry, amending
2 R.S.45:12-1, R.S.45:14-13, R.S.45:14-14 and R.S.45:14-15 and
3 supplementing chapter 12 of Title 45 of the Revised Statutes.

4

5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. This act shall be known and may be cited as the "Consumer
8 Access to Eye Care Act of 1991."

9 2. R.S.45:12-1 is amended to read as follows:

10 45:12-1. Optometry is hereby declared to be a profession, and
11 the practice of optometry is defined to be the employment of
12 objective or subjective means, or both, for the examination of the
13 human eye for the purposes of ascertaining any departure from
14 the normal, measuring its powers of vision and adapting lenses or
15 prisms for the aid thereof, or the use and prescription of
16 pharmaceutical agents, excluding those prescription medications
17 taken orally or by injection, except for injections to counter
18 anaphylactic reaction, for the purposes of treating deficiencies,
19 deformities, diseases, or anomalies of the human eye including
20 the removal of superficial foreign bodies from the eye and
21 adnexae. An optometrist utilizing pharmaceutical agents for
22 treatment purposes shall be held to a standard of patient care in
23 the use of such agents commensurate to that of a physician
24 utilizing ocular pharmaceutical agents for treatment purposes. A
25 person shall be deemed to be practicing optometry within the
26 meaning of this chapter who in any way advertises himself as an
27 optometrist, or who shall employ any means for the measurement
28 of the powers of vision or the adaptation of lenses or prisms for
29 the aid thereof, practice, offer or attempt to practice optometry
30 as herein defined, either on his own behalf or as an employee or
31 student of another, whether under the personal supervision of his
32 employer or perceptor or not, or to use testing appliances for the
33 purposes of measurement of the powers of vision or diagnose any
34 ocular deficiency or deformity, visual or muscular anomaly of the
35 human eye or prescribe lenses, prisms or ocular exercise for the
36 correction or the relief thereof, or who uses or prescribes
37 pharmaceutical agents for the purposes of diagnosing and treating
38 deficiencies, deformities, diseases or anomalies of the human eye
39 or who holds himself out as qualified to practice optometry.
40 (cf: P.L.1954, c.227, s.1)

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. R.S.45:14-13 is amended to read as follows:

2 45:14-13. No person who is not a registered pharmacist of this
3 State, or an apprentice employed in a pharmacy under the
4 immediate personal supervision of a registered pharmacist, shall
5 compound, dispense, fill or sell prescriptions of physicians,
6 dentists, optometrists, veterinarians, any other medical
7 practitioners or certified nurse midwives licensed or approved to
8 write prescriptions for drugs and medicines.
9 (cf: P.L.1991, c.97, s.7)

10 4. R.S.45:14-14 is amended to read as follows:

11 45:14-14. The term "prescription" as used in R.S.45:14-13, and
12 R.S.45:14-15 to R.S.45:14-17 means an order for drugs or
13 medicines or combinations or mixtures thereof, written or signed
14 by a duly licensed physician, dentist, optometrist, veterinarian,
15 other medical practitioner or a certified nurse midwife licensed
16 or approved to write prescriptions intended for the treatment or
17 prevention of disease in man or animals, and includes orders for
18 drugs or medicines or combinations or mixtures thereof
19 transmitted to pharmacists through word of mouth, telephone,
20 telegraph or other means of communication by a duly licensed
21 physician, dentist, optometrist, veterinarian, other medical
22 practitioner or a certified nurse midwife licensed or approved to
23 write prescriptions intended for the treatment or prevention of
24 disease in man or animals, and such prescriptions received by
25 word of mouth, telephone, telegraph or other means of
26 communication shall be recorded in writing by the pharmacist and
27 the record so made by the pharmacist shall constitute the original
28 prescription to be filed by the pharmacist, as provided for in
29 R.S.45:14-15, but no prescription, for any narcotic drug, except
30 as provided in section 15 of P.L.1970, c.226 (C.24:21-15), shall be
31 given or transmitted to pharmacists, in any other manner, than in
32 writing signed by the physician, dentist, optometrist,
33 veterinarian, other medical practitioner or certified nurse
34 midwife giving or transmitting the same, nor shall such
35 prescription be renewed or refilled.
36 (cf: P.L.1991, c.97, s.8)

37 5. R.S.45:14-15 is amended to read as follows:

38 45:14-15. The registered pharmacist compounding, dispensing,
39 filling or selling a prescription shall place the original written
40 prescription in a file kept for that purpose for a period of not less
41 than five years if such period is not less than two years after the
42 last refilling, and affix to the container in which the prescription
43 is dispensed, a label bearing the name and complete address of
44 the pharmacy or drug store in which dispense, the brand name or
45 generic name of the product dispensed unless the prescriber
46 states otherwise on the original written prescription, the date on
47 which the prescription was compounded and an identifying
48 number under which the prescription is recorded in his files,
49 together with the name of the physician, dentist, optometrist,

1 veterinarian, other medical practitioner or certified nurse
2 midwife prescribing it and the directions for the use of the
3 prescription by the patient, as directed on the prescription of the
4 physician, dentist, optometrist, veterinarian, other medical
5 practitioner or certified nurse midwife licensed or approved to
6 write prescriptions. Every registered pharmacist who fills or
7 compounds a prescription, or who supervises the filling or
8 compounding of a prescription by a person other than a
9 pharmacist registered in this State, shall place his name or
10 initials on the original prescription or on the label affixed to the
11 container in which the prescription is dispensed or in a book kept
12 for the purpose of recording prescriptions. The board of
13 pharmacy or any of its agents is hereby empowered to inspect the
14 prescription files and other prescription records of a pharmacy
15 and to remove from said files and take possession of any original
16 prescription; providing, that the authorized agent removing or
17 taking possession of an original prescription shall place in the file
18 from which it was removed a copy certified by said person to be a
19 true copy of the original prescription thus removed; provided
20 further, that the original copy shall be returned by the board of
21 pharmacy to the file from which it was removed after it has
22 served the purpose for which it was removed.

23 (cf: P.L.1991, c.97, s.9)

24 6. (New section) The New Jersey State Board of Optometrists
25 shall prescribe the application form, procedure and fees for
26 certification for the use and prescription of pharmaceutical
27 ~~agents for treatment purposes in the practice of optometry and~~
28 ~~promulgate the rules and regulations necessary to effectuate the~~
29 purposes of this amendatory and supplementary act.

30 7. (New section) The New Jersey State Board of Optometrists
31 shall establish the testing requirements which shall be fulfilled
32 before a person may be certified to use or prescribe
33 pharmaceutical agents for treatment purposes in the practice of
34 optometry. In addition, the board shall establish continuing
35 education requirements for the renewal of certification for the
36 use and prescription of pharmaceutical agents for treatment
37 purposes in the practice of optometry. No licensee shall be
38 tested by the board for certification to use or prescribe
39 pharmaceutical agents for treatment purposes in the practice of
40 optometry before having first satisfactorily completed all
41 educational requirements in ocular pharmacology at a school duly
42 accredited by the United States Department of Education and the
43 Council on Postsecondary Accreditation. These educational
44 standards shall be no less than that required of currently enrolled
45 students as part of their requirements for graduation from that
46 school. This certification process shall be required of all persons
47 seeking to utilize pharmaceutical agents for treatment purposes
48 in the practice of optometry regardless of licensure either prior
49 or subsequent to the effective date of this amendatory and

1 supplementary act.

2 8. (New section) No licensee shall be certified by the New
3 Jersey State Board of Optometrists to use or prescribe
4 pharmaceutical agents for treatment purposes in the practice of
5 optometry before having received a satisfactory score on an
6 examination in ocular pharmacology approved and administered
7 by the board. Until such time as a majority of the optometrist
8 board members are certified to use and prescribe pharmaceutical
9 agents for treatment purposes in the practice of optometry, an
10 interim three member panel of experts in ocular pharmacology
11 shall be established to prepare or endorse an examination for
12 board approval. The interim advisory panel of experts in ocular
13 pharmacology shall be comprised of a physician selected by the
14 State Board of Medical Examiners, a doctor of pharmacology
15 selected by the Board of Pharmacy, and a representative of a
16 school of optometry duly accredited by the United States
17 Department of Education and the Council on Postsecondary
18 Accreditation, to be selected by the New Jersey State Board of
19 Optometrists. The interim panel shall be selected by the
20 respective boards within 90 days of the effective date of this
21 amendatory and supplementary act. Panel members shall be
22 directly responsible to the Director of the Division of Consumer
23 Affairs, who may order the replacement of any panel member for
24 failure to promptly and equitably fulfill their duties. The panel
25 shall have 120 days following appointment of a majority of the
26 panel to submit to the New Jersey State Board of Optometrists
27 an examination in ocular pharmacology. Should the panel fail
28 within the 120 day period to submit an examination to the New
29 Jersey State Board of Optometrists, the Director of the Division
30 of Consumer Affairs shall designate, within 90 days thereafter,
31 the examination for the interim period. Should the Director of
32 the Division of Consumer Affairs fail to designate an examination
33 within the 90 day period, the test shall be designated by the New
34 Jersey State Board of Optometrists.

35 9. (New section) Whenever in any law there is a requirement
36 or duty with respect to the prescription, administration or
37 dispensing of any drug which applies to any person authorized to
38 prescribe that drug, the same shall apply to an optometrist when
39 prescribing, administering or dispensing a pharmaceutical agent
40 pursuant to R.S.45:12-1, except that an optometrist shall not
41 dispense a prescription as provided for in R.S.45:12-1 in an
42 amount exceeding a 72-hour supply of that prescription unless the
43 prescription is dispensed at no charge to the patient.

44 10. (New section) Notwithstanding any other provision of law
45 to the contrary, an optometrist shall not be prohibited from
46 practicing optometry at a rented location in a retail or
47 commercial store or office or ophthalmic dispenser's office,
48 provided the optometrist is identified as an independent doctor of
49 optometry; and, provided, further, that the landlord or any

1 officer, employee or agent of the landlord or any other person
2 who does not possess a valid certificate of registration as an
3 optometrist or physician in this State shall not directly or
4 indirectly control, influence, interfere with or supervise the
5 professional judgment of the optometrist in the practice of
6 optometry, including but not limited to, the level or type of care
7 or services rendered or the professional fees charged therefor,
8 except as otherwise provided by P.L. 1969, c. 232 (C. 14A:17-1 et
9 seq.).
10 11. This act shall take effect 180 days following enactment.
11
12

13 STATEMENT 14

15 This bill is designed to provide New Jersey vision care
16 consumers with improved access to quality, affordable eye care.
17 Specifically, the bill updates New Jersey law to authorize
18 State-licensed and certified Doctors of Optometry to prescribe
19 and utilize medications to treat common eye ailments. The bill
20 also eliminates certain outmoded barriers in State law which
21 restrict the practice of optometry in commercial or mercantile
22 locations.

23 Optometrists who would be authorized to use and prescribe
24 ocular pharmaceutical agents under this bill are highly trained
25 health care professionals. As with physicians, podiatrists and
26 dentists, optometrists are degree-recipients from four-year
27 undergraduate schools and four-year optometric colleges.
28 Additionally, the New Jersey State Board of Optometrists also
29 requires 50 hours of continuing education for the renewal of a
30 license. This is the highest level of State-mandated continuing
31 education in the health care professions. Consistent with these
32 high standards, this bill contains additional requirements for
33 continuing education for the renewal of certification for the use
34 and prescribing of pharmaceutical agents for treatment purposes.

35 This legislation establishes requirements to be followed by the
36 New Jersey State Board of Optometrists in the certification of
37 doctors of optometry to use and prescribe pharmaceutical
38 agents. This certification process shall be required of all persons
39 seeking to utilize pharmaceutical agents for treatment purposes
40 in the practice of optometry regardless of licensure either prior
41 or subsequent to the effective date of this bill. Further, until
42 such time as a majority of the optometrist board members are
43 certified to use and prescribe pharmaceutical agents for
44 treatment purposes in the practice of optometry, the bill
45 establishes an interim advisory panel of three experts in ocular
46 pharmacology. This three member advisory panel consists of a
47 physician appointed by the State Board of Medical Examiners, a
48 doctor of pharmacology appointed by the Board of Pharmacy, and
49 a representative of a school of optometry appointed by the New

1 Jersey State Board of Optometrists. No licensee may be
2 certified by the board to use and prescribe pharmaceutical agents
3 for treatment purposes in the practice of optometry unless the
4 licensee has received a satisfactory score on an examination in
5 ocular pharmacology that has been approved and administered by
6 the board.

7 Twenty-six states have enacted legislation similar to this bill,
8 including Rhode Island, Maine, Florida, Indiana, Iowa, Nebraska,
9 South Dakota, North Dakota, New Mexico, Kentucky, Tennessee,
10 Oklahoma, Kansas, Wyoming, Montana, Georgia, Virginia, West
11 Virginia, Colorado, Idaho, Missouri, North Carolina, Arkansas,
12 Washington, Wisconsin and Utah.

13 Permitting optometrists to use and prescribe pharmaceutical
14 agents for treatment purposes will improve the quality of primary
15 eye care services in New Jersey while lowering the cost of
16 delivering such essential health care services. Under current law,
17 when a diagnosis is made by an optometrist that indicates a need
18 for therapeutic relief, the patient must be referred to another
19 health care practitioner licensed to use and prescribe
20 pharmaceutical agents for treatment purposes. For the majority
21 of routine eye ailment diagnoses by optometrists, this referral
22 process results in unnecessary delay in treatment and adds
23 substantially to the cost of such treatment. This bill would
24 permit optometrists to treat patients for routine eye ailments in
25 their offices, thereby offering immediate care to patients. It
26 would have a beneficial impact on consumers throughout New
27 Jersey, both as individuals and as participants in public or private
28 health care programs by reducing the number of optometric
29 patients who must be referred, needlessly and at additional cost,
30 for treatment of common, localized eye diseases.

31 Existing State law permits retail optical shops to operate in
32 department stores, but severely restricts the practice of
33 optometry at such locations. Optometrists who choose to
34 practice at such retail commercial locations are required to
35 maintain a separate entrance to the building. This archaic
36 restriction imposes substantial additional costs and limits
37 consumer access to quality, affordable eye care services.

38 The "Consumer Access to Eye Care Act of 1991" is designed to
39 eliminate this outmoded and senseless restriction while also
40 maintaining the State's legitimate interest in protecting the
41 independence and autonomous professional judgement of the
42 optometrist. In this respect, the act strikes an appropriate
43 balance between the State's interest in promoting consumer
44 convenience and maintaining high standards of professional eye
45 care.

46

47

REGULATED PROFESSIONS

48

49 Permits optometrists to prescribe and utilize medication.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 3539

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 9, 1991

The Senate Labor, Industry and Professions Committee reports without recommendation and with committee amendments Senate, No. 3539.

This bill authorizes licensed optometrists who have been certified pursuant to the provisions of this bill to prescribe and utilize certain medications to treat common eye ailments.

Optometrists certified pursuant to this bill by the New Jersey State Board of Optometrists would be allowed to use and prescribe pharmaceutical agents for the purpose of treating deficiencies, deformities, disease or anomalies of the human eye including the removal of superficial foreign bodies from the eye and adnexae. However, these optometrists would not be allowed to use and prescribe controlled dangerous substances or to use or prescribe pharmaceutical agents taken orally or by injection, except for injections to counter anaphylactic reaction.

To become certified to use and prescribe pharmaceutical agents, a person must:

- a. Be an optometrist licensed in the State;
- b. Satisfactorily complete a course of study in ocular pharmacology at a school duly accredited by the United States Department of Education and the Council on Postsecondary Accreditation; and
- c. Pass an examination in ocular pharmacology approved and administered by the board.

Every optometrist certified to use and prescribe pharmaceutical agents must meet these qualifications because the bill does not grandfather anyone.

The bill requires the board to establish continuing education requirements for the renewal of certification for the use and prescription of pharmaceutical agents. It also prohibits an optometrist so certified from dispensing a prescription in an amount exceeding a 72-hour supply of the prescription unless the prescription is dispensed at no charge to the patient.

Until such time as a majority of the optometrist members of the New Jersey State Board of Optometrists are certified to use and prescribe pharmaceutical agents for treatment purposes in the practice of optometry, the bill establishes an interim advisory panel of three experts in ocular pharmacology to prepare or endorse an examination for board approval. The interim advisory panel would consist of a physician, pharmacist and representative of a school of optometry.

Finally, the bill overrides current restrictions on the practice of optometry by allowing an optometrist to practice in a rental location in a retail or commercial store or office or ophthalmic dispenser's office if the optometrist is identified as an independent doctor of optometry and the landlord does not control or supervise the professional judgment of the optometrist.

SENATE SLI COMMITTEE

AMENDMENTS

to

SENATE, No. 3539

(Sponsored by Senator Lesniak)

ADOPTED

DEC 9 1991

REPLACE SECTION 2 TO READ:

2. R.S.45:12-1 is amended to read as follows:

45:12-1. Optometry is hereby declared to be a profession, and the practice of optometry is defined to be the employment of objective or subjective means, or both, for the examination of the human eye for the purposes of ascertaining any departure from the normal, measuring its powers of vision and adapting lenses or prisms for the aid thereof, or the use and prescription of pharmaceutical agents, excluding ¹controlled dangerous substances as provided in sections 5, 6, 7 and 8 of P.L. 1970, c. 226 (C. 24:21-5 through C. 24:12-8) and section 4 of P.L. 1971, c. 3 (C. 24:21-8.1) and excluding¹ those prescription medications taken orally or by injection, except for injections to counter anaphylactic reaction, for the purposes of treating deficiencies, deformities, diseases, or anomalies of the human eye including the removal of superficial foreign bodies from the eye and adnexae. An optometrist utilizing pharmaceutical agents for treatment purposes shall be held to a standard of patient care in the use of such agents commensurate to that of a physician utilizing ocular pharmaceutical agents for treatment purposes. A person shall be deemed to be practicing optometry within the meaning of this chapter who in any way advertises himself as an optometrist, or who shall employ any means for the measurement of the powers of vision or the adaptation of lenses or prisms for the aid thereof, practice, offer or attempt to practice optometry as herein defined, either on his own behalf or as an employee or student of another, whether under the personal supervision of his employer or perceptor or not, or to use testing appliances for the purposes of measurement of the powers of vision or diagnose any ocular deficiency or deformity, visual or muscular anomaly of the human eye or prescribe lenses, prisms or ocular exercise for the correction or the relief thereof, or who uses or prescribes pharmaceutical agents for the purposes of diagnosing and treating deficiencies, deformities, diseases or anomalies of the human eye or who holds himself out as qualified to practice optometry.

(cf: P.L.1954, c.227, s.1) OK

REPLACE SECTION 4 TO READ:

4. R.S.45:14-14 is amended to read as follows:

45:14-14. The term "prescription" as used in R.S.45:14-13, and R.S.45:14-15 to R.S.45:14-17 means an order for drugs or medicines or combinations or mixtures thereof, written or signed by a duly licensed physician, dentist, optometrist, veterinarian, other medical practitioner or a certified nurse midwife licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and includes orders for drugs or medicines or combinations or mixtures thereof transmitted to pharmacists through word of mouth, telephone, telegraph or other means of communication by a duly licensed physician, dentist, optometrist, veterinarian, other medical practitioner or a certified nurse midwife licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and such prescriptions received by word of mouth, telephone, telegraph or other means of communication shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be filed by the pharmacist, as provided for in R.S.45:14-15, but no prescription, for any narcotic drug, except as provided in section 15 of P.L.1970, c.226 (C.24:21-15), shall be given or transmitted to pharmacists, in any other manner, than in writing signed by the physician, dentist, ¹[optometrist,]¹ veterinarian, other medical practitioner or certified nurse midwife giving or transmitting the same, nor shall such prescription be renewed or refilled.

(cf: P.L.1991, c.97, s.8) c k

[FIRST REPRINT]
SENATE, No. 3539

STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1991

By Senator LESNIAK

1 AN ACT concerning the practice of optometry, amending
2 R.S.45:12-1, R.S.45:14-13, R.S.45:14-14 and R.S.45:14-15 and
3 supplementing chapter 12 of Title 45 of the Revised Statutes.
4

5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. This act shall be known and may be cited as the "Consumer
8 Access to Eye Care Act of 1991."

9 2. R.S.45:12-1 is amended to read as follows:

10 45:12-1. Optometry is hereby declared to be a profession, and
11 the practice of optometry is defined to be the employment of
12 objective or subjective means, or both, for the examination of the
13 human eye for the purposes of ascertaining any departure from
14 the normal, measuring its powers of vision and adapting lenses or
15 prisms for the aid thereof, or the use and prescription of
16 pharmaceutical agents, excluding ¹controlled dangerous
17 substances as provided in sections 5, 6, 7 and 8 of P.L.1970, c.226
18 (C.24:21-5 through C.24:21-8) and section 4 of P.L.1971, c.3
19 (C.24:21-8.1) and excluding¹ those prescription medications taken
20 orally or by injection, except for injections to counter
21 anaphylactic reaction, for the purposes of treating deficiencies,
22 deformities, diseases, or anomalies of the human eye including
23 the removal of superficial foreign bodies from the eye and
24 adnexae. An optometrist utilizing pharmaceutical agents for
25 treatment purposes shall be held to a standard of patient care in
26 the use of such agents commensurate to that of a physician
27 utilizing ocular pharmaceutical agents for treatment purposes. A
28 person shall be deemed to be practicing optometry within the
29 meaning of this chapter who in any way advertises himself as an
30 optometrist, or who shall employ any means for the measurement
31 of the powers of vision or the adaptation of lenses or prisms for
32 the aid thereof, practice, offer or attempt to practice optometry
33 as herein defined, either on his own behalf or as an employee or
34 student of another, whether under the personal supervision of his
35 employer or perceptor or not, or to use testing appliances for the
36 purposes of measurement of the powers of vision or diagnose any
37 ocular deficiency or deformity, visual or muscular anomaly of the
38 human eye or prescribe lenses, prisms or ocular exercise for the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Senate SLI committee amendments adopted December 9, 1991.

1 correction or the relief thereof, or who uses or prescribes
2 pharmaceutical agents for the purposes of diagnosing and treating
3 deficiencies, deformities, diseases or anomalies of the human eye
4 or who holds himself out as qualified to practice optometry.

5 (cf: P.L.1954, c.227, s.1)

6 3. R.S.45:14-13 is amended to read as follows:

7 45:14-13. No person who is not a registered pharmacist of this
8 State, or an apprentice employed in a pharmacy under the
9 immediate personal supervision of a registered pharmacist, shall
10 compound, dispense, fill or sell prescriptions of physicians,
11 dentists, optometrists, veterinarians, any other medical
12 practitioners or certified nurse midwives licensed or approved to
13 write prescriptions for drugs and medicines.

14 (cf: P.L.1991, c.97, s.7)

15 4. R.S.45:14-14 is amended to read as follows:

16 45:14-14. The term "prescription" as used in R.S.45:14-13, and
17 R.S.45:14-15 to R.S.45:14-17 means an order for drugs or
18 medicines or combinations or mixtures thereof, written or signed
19 by a duly licensed physician, dentist, optometrist, veterinarian,
20 other medical practitioner or a certified nurse midwife licensed
21 or approved to write prescriptions intended for the treatment or
22 prevention of disease in man or animals, and includes orders for
23 drugs or medicines or combinations or mixtures thereof
24 transmitted to pharmacists through word of mouth, telephone,
25 telegraph or other means of communication by a duly licensed
26 physician, dentist, optometrist, veterinarian, other medical
27 practitioner or a certified nurse midwife licensed or approved to
28 write prescriptions intended for the treatment or prevention of
29 disease in man or animals, and such prescriptions received by
30 word of mouth, telephone, telegraph or other means of
31 communication shall be recorded in writing by the pharmacist and
32 the record so made by the pharmacist shall constitute the original
33 prescription to be filed by the pharmacist, as provided for in
34 R.S.45:14-15, but no prescription, for any narcotic drug, except
35 as provided in section 15 of P.L.1970, c.226 (C.24:21-15), shall be
36 given or transmitted to pharmacists, in any other manner, than in
37 writing signed by the physician, dentist, ¹[optometrist,]¹
38 veterinarian, other medical practitioner or certified nurse
39 midwife giving or transmitting the same, nor shall such
40 prescription be renewed or refilled.

41 (cf: P.L.1991, c.97, s.8)

42 5. R.S.45:14-15 is amended to read as follows:

43 45:14-15. The registered pharmacist compounding, dispensing,
44 filling or selling a prescription shall place the original written
45 prescription in a file kept for that purpose for a period of not less
46 than five years if such period is not less than two years after the
47 last refilling, and affix to the container in which the prescription
48 is dispensed, a label bearing the name and complete address of
49 the pharmacy or drug store in which dispense, the brand name or

1 generic name of the product dispensed unless the prescriber
2 states otherwise on the original written prescription, the date on
3 which the prescription was compounded and an identifying
4 number under which the prescription is recorded in his files,
5 together with the name of the physician, dentist, optometrist,
6 veterinarian, other medical practitioner or certified nurse
7 midwife prescribing it and the directions for the use of the
8 prescription by the patient, as directed on the prescription of the
9 physician, dentist, optometrist, veterinarian, other medical
10 practitioner or certified nurse midwife licensed or approved to
11 write prescriptions. Every registered pharmacist who fills or
12 compounds a prescription, or who supervises the filling or
13 compounding of a prescription by a person other than a
14 pharmacist registered in this State, shall place his name or
15 initials on the original prescription or on the label affixed to the
16 container in which the prescription is dispensed or in a book kept
17 for the purpose of recording prescriptions. The board of
18 pharmacy or any of its agents is hereby empowered to inspect the
19 prescription files and other prescription records of a pharmacy
20 and to remove from said files and take possession of any original
21 prescription; providing, that the authorized agent removing or
22 taking possession of an original prescription shall place in the file
23 from which it was removed a copy certified by said person to be a
24 true copy of the original prescription thus removed; provided
25 further, that the original copy shall be returned by the board of
26 pharmacy to the file from which it was removed after it has
27 served the purpose for which it was removed.

28 (cf: P.L.1991, c.97, s.9)

29 6. (New section) The New Jersey State Board of Optometrists
30 shall prescribe the application form, procedure and fees for
31 certification for the use and prescription of pharmaceutical
32 agents for treatment purposes in the practice of optometry and
33 promulgate the rules and regulations necessary to effectuate the
34 purposes of this amendatory and supplementary act.

35 7. (New section) The New Jersey State Board of Optometrists
36 shall establish the testing requirements which shall be fulfilled
37 before a person may be certified to use or prescribe
38 pharmaceutical agents for treatment purposes in the practice of
39 optometry. In addition, the board shall establish continuing
40 education requirements for the renewal of certification for the
41 use and prescription of pharmaceutical agents for treatment
42 purposes in the practice of optometry. No licensee shall be
43 tested by the board for certification to use or prescribe
44 pharmaceutical agents for treatment purposes in the practice of
45 optometry before having first satisfactorily completed all
46 educational requirements in ocular pharmacology at a school duly
47 accredited by the United States Department of Education and the
48 Council on Postsecondary Accreditation. These educational
49 standards shall be no less than that required of currently enrolled

1 students as part of their requirements for graduation from that
2 school. This certification process shall be required of all persons
3 seeking to utilize pharmaceutical agents for treatment purposes
4 in the practice of optometry regardless of licensure either prior
5 or subsequent to the effective date of this amendatory and
6 supplementary act.

7 8. (New section) No licensee shall be certified by the New
8 Jersey State Board of Optometrists to use or prescribe
9 pharmaceutical agents for treatment purposes in the practice of
10 optometry before having received a satisfactory score on an
11 examination in ocular pharmacology approved and administered
12 by the board. Until such time as a majority of the optometrist
13 board members are certified to use and prescribe pharmaceutical
14 agents for treatment purposes in the practice of optometry, an
15 interim three member panel of experts in ocular pharmacology
16 shall be established to prepare or endorse an examination for
17 board approval. The interim advisory panel of experts in ocular
18 pharmacology shall be comprised of a physician selected by the
19 State Board of Medical Examiners, a doctor of pharmacology
20 selected by the Board of Pharmacy, and a representative of a
21 school of optometry duly accredited by the United States
22 Department of Education and the Council on Postsecondary
23 Accreditation, to be selected by the New Jersey State Board of
24 Optometrists. The interim panel shall be selected by the
25 respective boards within 90 days of the effective date of this
26 amendatory and supplementary act. Panel members shall be
27 directly responsible to the Director of the Division of Consumer
28 Affairs, who may order the replacement of any panel member for
29 failure to promptly and equitably fulfill their duties. The panel
30 shall have 120 days following appointment of a majority of the
31 panel to submit to the New Jersey State Board of Optometrists
32 an examination in ocular pharmacology. Should the panel fail
33 within the 120 day period to submit an examination to the New
34 Jersey State Board of Optometrists, the Director of the Division
35 of Consumer Affairs shall designate, within 90 days thereafter,
36 the examination for the interim period. Should the Director of
37 the Division of Consumer Affairs fail to designate an examination
38 within the 90 day period, the test shall be designated by the New
39 Jersey State Board of Optometrists.

40 9. (New section) Whenever in any law there is a requirement
41 or duty with respect to the prescription, administration or
42 dispensing of any drug which applies to any person authorized to
43 prescribe that drug, the same shall apply to an optometrist when
44 prescribing, administering or dispensing a pharmaceutical agent
45 pursuant to R.S.45:12-1, except that an optometrist shall not
46 dispense a prescription as provided for in R.S.45:12-1 in an
47 amount exceeding a 72-hour supply of that prescription unless the
48 prescription is dispensed at no charge to the patient.

49 10. (New section) Notwithstanding any other provision of law

1 to the contrary, an optometrist shall not be prohibited from
2 practicing optometry at a rented location in a retail or
3 commercial store or office or ophthalmic dispenser's office,
4 provided the optometrist is identified as an independent doctor of
5 optometry; and, provided further, that the landlord or any
6 officer, employee or agent of the landlord or any other person
7 who does not possess a valid certificate of registration as an
8 optometrist or physician in this State shall not directly or
9 indirectly control, influence, interfere with or supervise the
10 professional judgment of the optometrist in the practice of
11 optometry, including but not limited to, the level or type of care
12 or services rendered or the professional fees charged therefor,
13 except as otherwise provided by P.L.1969, c.232 (C.14A:17-1 et
14 seq.).

15 11. This act shall take effect 180 days following enactment.
16
17

18 REGULATED PROFESSIONS
19

20 Permits optometrists to prescribe and utilize medication.