



HOUSE BILL No. 4331

February 23, 1993, Introduced by Reps. Bennane, Harder, Weeks, Brackenridge, DeMars, Bullard, Baade, Hill, Agee, Shepich, Stille, Munsell, McBryde, Gernaat, Middleton, Bender, Hoffman, Walberg, Gnodtke, Middaugh, Oxender, Bobier, Bankes, Fitzgerald, Saunders, Dobronski, Stallworth, Cropsey, Olshove, Emerson, O'Neill, Pitoniak, Dolan and Crissman and referred to the Committee on Public Health.

A bill to amend sections 17401, 17412, 17432, 17708, and 17749 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

section 17401 as amended and sections 17412, 17432, and 17749 as added by Act No. 42 of the Public Acts of 1984, being sections 333.17401, 333.17412, 333.17432, 333.17708, and 333.17749 of the Michigan Compiled Laws; to add sections 17435, 17437, and 17750a; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 17401, 17412, 17432, 17708, and 17749
2 of Act No. 368 of the Public Acts of 1978, section 17401 as
3 amended and sections 17412, 17432, and 17749 as added by Act
4 No. 42 of the Public Acts of 1984, being sections 333.17401,
5 333.17412, 333.17432, 333.17708, and 333.17749 of the Michigan

1 Compiled Laws, are amended and sections 17435, 17437, and 17750a
2 are added to read as follows:

3 Sec. 17401. (1) As used in this part:

4 (A) "OCULAR ADNEXA" MEANS THE STRUCTURES SURROUNDING THE
5 EYEBALL INCLUDING THE EYELIDS, EYEBROWS, TEAR DRAINAGE SYSTEM,
6 ORBITAL WALLS, AND ORBITAL CONTENTS.

7 (B) ~~(a)~~ "Optometrist" means an individual licensed under
8 this article to engage in the practice of optometry.

9 (C) ~~(b)~~ "Practice of optometry" means 1 or more of the
10 following, BUT DOES NOT INCLUDE THE TREATMENT OF DISEASES OR
11 ABNORMAL CONDITIONS OF THE POSTERIOR SEGMENT OF THE HUMAN EYE OR
12 THE TREATMENT OF NONLOCALIZED OR SYSTEMIC DISEASES OR
13 CONDITIONS:

14 (i) The examination of the human eye ~~to ascertain the pres-~~
15 ~~ence of defects or abnormal conditions which may be corrected,~~
16 ~~remedied, or relieved, or the effects of which may be corrected,~~
17 ~~remedied, or relieved by the use of lenses, prisms, or other~~
18 ~~mechanical devices~~ AND OCULAR ADNEXA FOR THE PURPOSE OF DIAGNO-
19 SIS, TREATMENT, OR REFERRAL FOR CONSULTATION AND TREATMENT OF
20 LOCALIZED VISUAL DEFECTS, LOCALIZED ABNORMAL CONDITIONS, OR
21 LOCALIZED DISEASES OF THE ANTERIOR SEGMENT OF THE HUMAN EYE OR
22 THE OCULAR ADNEXA.

23 (ii) The employment of ~~objective or subjective physical~~
24 ~~means to determine the accommodative or refractive conditions or~~
25 ~~the range of powers of vision or muscular equilibrium of the~~
26 ~~human eye~~ INSTRUMENTS, DEVICES, DIAGNOSTIC PHARMACEUTICAL AGENTS
27 AND THERAPEUTIC PHARMACEUTICAL AGENTS, AND NONINVASIVE PROCEDURES

1 FOR THE PURPOSE OF INVESTIGATION, EXAMINATION, DIAGNOSIS,
 2 TREATMENT, OR CORRECTION OF LOCALIZED VISUAL DEFECTS, LOCALIZED
 3 ABNORMAL CONDITIONS, OR LOCALIZED DISEASES OF THE ANTERIOR SEG-
 4 MENT OF THE HUMAN EYE OR THE OCULAR ADNEXA.

5 ~~(iii) The adaptation or the adjustment of the lenses or~~
 6 ~~prisms to correct, remedy, or relieve a defect or abnormal condi-~~
 7 ~~tion or to correct, remedy, or relieve the effect of a defect or~~
 8 ~~abnormal condition of the human eye.~~ THE PRESCRIPTION AND APPLI-
 9 CATION OF LENSES, PRISMS, DEVICES CONTAINING LENSES OR PRISMS,
 10 ORTHOPTICS, VISUAL THERAPY, DIAGNOSTIC PHARMACEUTICAL AGENTS AND
 11 THERAPEUTIC PHARMACEUTICAL AGENTS, PROSTHETIC DEVICES, AND OTHER
 12 NONINVASIVE PROCEDURES FOR THE PURPOSE OF CORRECTION, ALLEVIA-
 13 TION, OR TREATMENT OF LOCALIZED VISUAL DEFECTS, LOCALIZED ABNOR-
 14 MAL CONDITIONS, OR LOCALIZED DISEASES OF THE ANTERIOR SEGMENT OF
 15 THE HUMAN EYE OR THE OCULAR ADNEXA.

16 (iv) The examination of the human eye for contact lenses and
 17 the fitting or insertion of contact lenses to the HUMAN eye.

18 ~~(v) The employment of objective or subjective means,~~
 19 ~~including topical ocular diagnostic pharmaceutical agents by an~~
 20 ~~optometrist who meets the requirements of section 17412, for the~~
 21 ~~examination of the human eye for the purpose of ascertaining a~~
 22 ~~departure from the normal, measuring of powers of vision, and~~
 23 ~~adapting lenses for the aid thereof.~~

24 (D) ~~(c) "Topical ocular diagnostic pharmaceutical agent"~~
 25 ~~means:~~ "DIAGNOSTIC PHARMACEUTICAL AGENT" MEANS A TOPICALLY
 26 APPLIED PRESCRIPTION DRUG OR OTHER DRUG USED FOR THE PURPOSE OF
 27 ASCERTAINING OR AIDING IN A DIAGNOSIS.

1 ~~(i) The following commercially prepared topical~~
2 ~~anesthetic: Proparacaine HCL 0.5%.~~

3 ~~(ii) The following commercially prepared~~
4 ~~cycloplegic/mydriatic: Tropicamide in strength not greater than~~
5 ~~1%.~~

6 (E) "THERAPEUTIC PHARMACEUTICAL AGENT" MEANS A TOPICALLY
7 ADMINISTERED PRESCRIPTION DRUG OR OTHER DRUG USED FOR THE PURPOSE
8 OF TREATING OR ALLEVIATING THE EFFECTS OF DISEASES OR ABNORMAL
9 CONDITIONS OF THE ANTERIOR SEGMENT OF THE HUMAN EYE OR THE OCULAR
10 ADNEXA.

11 (F) "NONINVASIVE PROCEDURE" MEANS A PROCEDURE USED TO DIAG-
12 NOSE OR TREAT A DISEASE OR ABNORMAL CONDITION OF THE ANTERIOR
13 SEGMENT OF THE HUMAN EYE OR THE OCULAR ADNEXA THAT DOES NOT
14 REQUIRE AN INCISION OR THE APPLICATION OF LASERS FOR THE TREAT-
15 MENT OF THE DISEASE OR ABNORMAL CONDITION.

16 (G) "DRUG" MEANS THAT TERM AS DEFINED IN SECTION 17703, BUT
17 DOES NOT INCLUDE A CONTROLLED SUBSTANCE AS DEFINED IN SECTION
18 1704 OR A PRESCRIPTION DRUG.

19 (H) "PRESCRIPTION DRUG" MEANS THAT TERM AS DEFINED IN
20 SECTION 17708, BUT DOES NOT INCLUDE A CONTROLLED SUBSTANCE AS
21 DEFINED IN SECTION 7104.

22 (I) "PHYSICIAN" MEANS A PHYSICIAN AS DEFINED IN
23 SECTION 17001 OR 17501.

24 (2) In addition to the definitions in this part, article 1
25 contains general definitions and principles of construction
26 applicable to all articles in this code and part 161 contains
27 definitions applicable to this part.

1 Sec. 17412. (1) ~~Subject to subsection (2), a~~ A licensee
2 may administer a ~~topical ocular~~ diagnostic pharmaceutical agent
3 ~~to the anterior segment of the human eye during an eye~~
4 ~~examination~~ in the course of his or her practice ~~solely for the~~
5 ~~purposes of determining the refractive, muscular, or functional~~
6 ~~origin of sources of visual discomfort or difficulty and detect~~
7 ~~ing abnormalities which may be evidence of disease~~ if the
8 licensee is certified by the Michigan board of optometry as being
9 qualified to administer ~~topical ocular~~ diagnostic pharmaceuti-
10 cal agents pursuant to this section.

11 ~~(2) The topical anesthetic described in section~~
12 ~~+740+(1)(c)(i) shall be utilized only in diagnostic procedures~~
13 ~~which aid in detecting glaucoma.~~

14 (2) ~~(3)~~ The Michigan board of optometry shall certify a
15 licensee as qualified to administer ~~topical ocular~~ diagnostic
16 pharmaceutical agents if the licensee meets all of the following
17 requirements:

18 (a) Has successfully completed 60 classroom hours of study
19 in general and clinical pharmacology as it relates to the prac-
20 tice of optometry, with particular emphasis on the use of
21 ~~topical ocular~~ diagnostic pharmaceutical agents for examination
22 purposes. Not less than 30 of the 60 classroom hours shall be in
23 ocular pharmacology and shall emphasize the systemic effects of
24 and reactions to ~~topical ocular~~ diagnostic pharmaceutical
25 agents, including the emergency management and referral of any
26 adverse reactions that may occur. The course of study shall be
27 approved by the Michigan board of optometry, and shall be offered

1 by a school or college of optometry ~~which~~ THAT is recognized by
2 the Michigan board of optometry as fully accredited. The course
3 of study shall be completed before ~~taking~~ THE LICENSEE TAKES
4 the examination required by this section.

5 (b) Has successfully completed an examination approved by
6 the Michigan board of optometry on the subject of general and
7 ocular pharmacology as it relates to the practice of optometry
8 with particular emphasis on the use of ~~topical-ocular~~ diagnos-
9 tic pharmaceutical agents, including emergency management and
10 referral of any adverse reactions that may occur.

11 (c) Has successfully completed a course in cardiopulmonary
12 resuscitation APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH AND
13 offered or approved by the red cross, American heart association,
14 an accredited hospital, or a comparable organization or
15 institution.

16 (d) Has established an emergency plan for the management and
17 referral to appropriate medical services of patients who ~~may~~
18 experience adverse drug reactions resulting from the application
19 of ~~topical-ocular~~ diagnostic pharmaceutical agents. The plan
20 shall be approved by the Michigan board of optometry and shall,
21 at a minimum, require the optometrist to do all of the
22 following:

23 (i) Refer patients who notify the optometrist of an adverse
24 drug reaction to appropriate medical specialists or facilities.

25 (ii) Routinely advise each patient to immediately contact
26 the optometrist if the patient experiences an adverse drug
27 reaction.

1 (iii) Place in the patient's permanent record information
 2 describing any adverse drug reaction experienced by the patient
 3 ~~and~~ and the date and time that any referral was made.

4 (iv) Include in the plan the names of not less than 3 physi-
 5 cians, physician clinics, or hospitals to whom the optometrist
 6 will refer patients who experience an adverse drug reaction, ~~or~~
 7 ~~At~~ AT least 1 of ~~the physicians, physician clinics, or hospi-~~
 8 ~~tals shall be~~ WHICH IS skilled or ~~shall specialize~~ SPECIALIZES
 9 in the diagnosis and treatment of diseases of the eye. ~~As used~~
 10 ~~in this subparagraph, "physician" means a physician as defined in~~
 11 ~~section 17001 or 17501.~~ HOWEVER, IF A PATIENT BEING TREATED BY
 12 THE OPTOMETRIST HAS A PRIMARY CARE PHYSICIAN, THE OPTOMETRIST MAY
 13 SUBSTITUTE THE PATIENT'S PRIMARY CARE PHYSICIAN FOR A PHYSICIAN
 14 NAMED IN THE PLAN.

15 (e) Has paid the certification fee to administer ~~topical~~
 16 ~~ocular~~ diagnostic pharmaceutical agents prescribed in section 61
 17 of the state license fee act, Act No. 152 of the Public Acts of
 18 1979, being section 338.2261 of the Michigan Compiled Laws.

19 (3) ~~(4)~~ The course of study and examination required by
 20 subsection ~~(3)(a)~~ (2)(A) and (b) shall be completed ~~prior to~~
 21 BEFORE certification, except that the Michigan board of optometry
 22 may certify applicants who have graduated from a school of optom-
 23 etry recognized by the Michigan board of optometry as accredited
 24 ~~within the 5 years immediately preceding the effective date of~~
 25 ~~this section~~ ON OR AFTER APRIL 12, 1979, if the school's curric-
 26 ulum includes a course of study and examination meeting the
 27 requirements of subsection ~~(3)(a)~~ (2)(A) and (b).

1 ~~(5) Approvals of the course of study, examination, and~~
2 ~~emergency plan required by subsection (3)(a), (b), and (d) shall~~
3 ~~be given by the Michigan board of optometry only after consulta-~~
4 ~~tion with the Michigan board of medicine, the Michigan board of~~
5 ~~osteopathic medicine and surgery, and the Michigan board of~~
6 ~~pharmacy. The recommendations of the Michigan board of medicine,~~
7 ~~the Michigan board of osteopathic medicine and surgery, and the~~
8 ~~Michigan board of pharmacy shall be made within 120 days after~~
9 ~~they are requested by the Michigan board of optometry.~~

10 ~~(6) An optometrist shall not purchase, possess, administer,~~
11 ~~prescribe, or give any prescription drug as defined in section~~
12 ~~17708 or a topical ocular diagnostic pharmaceutical agent except~~
13 ~~as expressly authorized by this section.~~

14 Sec. 17432. (1) Whether or not ~~topical ocular~~ diagnostic
15 pharmaceutical agents OR THERAPEUTIC PHARMACEUTICAL AGENTS have
16 been used, if an optometrist determines from interviewing or
17 examining a patient, using judgment and that degree of skill,
18 care, knowledge, and attention ordinarily possessed and exercised
19 by optometrists in good standing under like circumstances, that
20 there are present in that patient signs or symptoms ~~which~~ THAT
21 may be evidence of disease THAT THE OPTOMETRIST IS NOT AUTHORIZED
22 UNDER THIS PART TO TREAT, then the optometrist shall do both of
23 the following:

24 (a) Promptly advise that patient to seek evaluation by an
25 appropriate physician for diagnosis and possible treatment.

1 (b) Not attempt to treat such condition by the use of
2 ~~drugs~~ DIAGNOSTIC PHARMACEUTICAL AGENTS, THERAPEUTIC
3 PHARMACEUTICAL AGENTS, or any other means.

4 (2) ~~As used in this section, "physician" means a physician~~
5 ~~as defined in section 17001 or 17501.~~ IF AN OPTOMETRIST TREATS A
6 PATIENT FOR A CONDITION OR DISEASE THAT THE OPTOMETRIST IS AUTHO-
7 RIZED TO TREAT UNDER THIS PART, AND IF THAT CONDITION OR DISEASE
8 MAY BE RELATED TO A NONLOCALIZED OR SYSTEMIC CONDITION OR DISEASE
9 OR DOES NOT DEMONSTRATE ADEQUATE CLINICAL PROGRESS AS A RESULT OF
10 TREATMENT, THE OPTOMETRIST SHALL CONSULT AN APPROPRIATE PHYSICIAN
11 FOR FURTHER DIAGNOSIS AND POSSIBLE TREATMENT AND TO DETERMINE IF
12 THE CONDITION OR DISEASE IS RELATED TO A NONLOCALIZED OR SYSTEMIC
13 CONDITION OR DISEASE.

14 SEC. 17435. (1) A LICENSEE MAY ADMINISTER AND PRESCRIBE
15 THERAPEUTIC PHARMACEUTICAL AGENTS IN THE COURSE OF HIS OR HER
16 PRACTICE IF THE LICENSEE IS CERTIFIED BY THE MICHIGAN BOARD OF
17 OPTOMETRY AS BEING QUALIFIED TO ADMINISTER AND PRESCRIBE THERA-
18 PEUTIC PHARMACEUTICAL AGENTS PURSUANT TO THIS SECTION.

19 (2) THE MICHIGAN BOARD OF OPTOMETRY SHALL CERTIFY A LICENSEE
20 AS QUALIFIED TO ADMINISTER AND PRESCRIBE THERAPEUTIC PHARMACEUTI-
21 CAL AGENTS IF THE LICENSEE MEETS ALL OF THE FOLLOWING
22 REQUIREMENTS:

23 (A) HAS BEEN CERTIFIED BY THE MICHIGAN BOARD OF OPTOMETRY TO
24 ADMINISTER DIAGNOSTIC PHARMACEUTICAL AGENTS.

25 (B) HAS SUCCESSFULLY EARNED AT LEAST 10 QUARTER HOURS OF
26 CREDIT OR SUCCESSFULLY COMPLETED 100 CLASSROOM HOURS OF STUDY IN
27 COURSES RELATING TO THE DIDACTIC AND CLINICAL USE OF THERAPEUTIC

1 PHARMACEUTICAL AGENTS FROM A SCHOOL OR COLLEGE OF OPTOMETRY THAT
2 IS RECOGNIZED BY THE MICHIGAN BOARD OF OPTOMETRY AS FULLY ACCRED-
3 ITED OR HAS SUCCESSFULLY COMPLETED AN EXAMINATION APPROVED BY THE
4 MICHIGAN BOARD OF OPTOMETRY ON THE SUBJECT OF TREATMENT AND MAN-
5 AGEMENT OF OCULAR DISEASE.

6 (C) HAS ESTABLISHED A MANAGEMENT PLAN IN THE EVENT A PATIENT
7 HAS AN OCULAR CONDITION OR DISEASE THAT MAY BE RELATED TO A NON-
8 LOCALIZED OR SYSTEMIC CONDITION OR DISEASE OR TO AN ADVERSE DRUG
9 REACTION, OR THAT DOES NOT DEMONSTRATE ADEQUATE CLINICAL PROGRESS
10 AS A RESULT OF TREATMENT. THE PLAN SHALL BE APPROVED BY THE
11 BOARD AND, AT A MINIMUM, SHALL INCLUDE THE NAME OF 1 OR MORE
12 APPROPRIATE PHYSICIANS OR THE NAME OF 1 OR MORE APPROPRIATE PHY-
13 SICIAN CLINICS WITH WHICH THE OPTOMETRIST MAY CONSULT OR TO WHICH
14 THE OPTOMETRIST MAY REFER. HOWEVER, IF A PATIENT BEING TREATED
15 BY THE OPTOMETRIST HAS A PRIMARY CARE PHYSICIAN, THE OPTOMETRIST
16 MAY SUBSTITUTE THE PATIENT'S PRIMARY CARE PHYSICIAN FOR A PHYSI-
17 CIAN NAMED IN THE PLAN.

18 (D) HAS PAID THE CERTIFICATION FEE TO ADMINISTER THERAPEUTIC
19 PHARMACEUTICAL AGENTS PRESCRIBED IN SECTION 61 OF THE STATE
20 LICENSE FEE ACT, ACT NO. 152 OF THE PUBLIC ACTS OF 1979, BEING
21 SECTION 338.2261 OF THE MICHIGAN COMPILED LAWS.

22 SEC. 17437. AN OPTOMETRIST LICENSED AFTER THE EFFECTIVE
23 DATE OF THIS SECTION WHO INTENDS TO OBTAIN CERTIFICATION TO
24 ADMINISTER DIAGNOSTIC PHARMACEUTICAL AGENTS AND TO ADMINISTER AND
25 PRESCRIBE THERAPEUTIC PHARMACEUTICAL AGENTS SHALL OBTAIN THE CER-
26 TIFICATION AT THE TIME OF INITIAL LICENSURE.

1 Sec. 17708. (1) "Preceptor" means a pharmacist approved by
2 the board to direct the training of an intern in an approved
3 pharmacy.

4 (2) "Prescriber" means a licensed dentist, doctor of medi-
5 cine, doctor of osteopathic medicine and surgery, doctor of podi-
6 atric medicine and surgery, OPTOMETRIST CERTIFIED UNDER PART 174
7 TO PRESCRIBE AND ADMINISTER THERAPEUTIC PHARMACEUTICAL AGENTS,
8 veterinarian, or other licensed health professional acting under
9 the delegation and using, recording, or otherwise indicating the
10 name of the delegating licensed doctor of medicine or doctor of
11 osteopathic medicine and surgery.

12 (3) "Prescription" means an order for drugs or devices writ-
13 ten and signed or transmitted by other means of communication by
14 a prescriber to be filled, compounded, or dispensed. Prescribing
15 shall be limited to a prescriber. An order transmitted in other
16 than written form shall be recorded or written and immediately
17 dated by the pharmacist, and that record constitutes the original
18 prescription. In a medical institution an order for drugs or
19 devices in the patient's chart constitutes for the purposes of
20 this definition the original prescription.

21 (4) "Prescription drug" means any of the following:

22 (a) A drug dispensed pursuant to a prescription.

23 (b) A drug bearing the federal legend "CAUTION: federal law
24 prohibits dispensing without prescription".

25 (c) A drug designated by the board as ~~one which~~ A DRUG
26 THAT may only be dispensed pursuant to a prescription.

1 Sec. 17749. (1) Notwithstanding any provision of this act
2 or any rule promulgated under this act, a wholesale distributor
3 or pharmacist may dispense a ~~topical-ocular~~ diagnostic pharma-
4 ceutical agent OR A THERAPEUTIC PHARMACEUTICAL AGENT to a
5 licensed optometrist for subsequent administration to optometric
6 patients, if the optometrist provides the wholesale distributor
7 or pharmacist with the number of the optometrist's certification
8 of qualification to administer ~~topical-ocular~~ diagnostic phar-
9 maceutical agents AND TO ADMINISTER AND PRESCRIBE THERAPEUTIC
10 PHARMACEUTICAL AGENTS.

11 (2) As used in this section, ~~"topical-ocular"~~ "THERAPEUTIC
12 PHARMACEUTICAL AGENT" AND "diagnostic pharmaceutical agent"
13 ~~means that term~~ MEAN THOSE TERMS as defined in section 17401.

14 SEC. 17750A. (1) A PHARMACIST MAY DISPENSE A PRESCRIPTION
15 FOR A THERAPEUTIC PHARMACEUTICAL AGENT ISSUED BY AN OPTOMETRIST
16 CERTIFIED BY THE MICHIGAN BOARD OF OPTOMETRY AS QUALIFIED TO
17 ADMINISTER AND PRESCRIBE THERAPEUTIC PHARMACEUTICAL AGENTS.

18 (2) AS USED IN THIS SECTION, "THERAPEUTIC PHARMACEUTICAL
19 AGENT" MEANS THAT TERM AS DEFINED IN SECTION 17401.

20 Section 2. Section 17433 of Act No. 368 of the Public Acts
21 of 1978, being section 333.17433 of the Michigan Compiled Laws,
22 is repealed.