

Sen. Pearl, Dist 17
May 23, 2024
2024-2177s
09/05

Floor Amendment to HB 1410-FN

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to certain professional licenses and relative to the board of optometry and
4 the regulation of optometry.
5

6 Amend the bill by inserting after section 21 the following and renumbering the original section 22 to
7 read as 38:
8

9 22 Providing Controlled Drug Prescription Health and Safety Information. Amend RSA 126-
10 A:93, I(b)(2) to read as follows:

11 (2) The board of dentistry, the board of medicine, the board of nursing, the board of
12 ~~[registration in]~~ optometry, the board of podiatry, the board of veterinary medicine, and the
13 pharmacy board; provided, however, that the request is pursuant to the boards' official duties and
14 responsibilities and the disclosures to each board relate only to its licensees and only with respect to
15 those licensees whose prescribing or dispensing activities indicate possible fraudulent conduct.

16 23 Office of Professional Licensure and Certification; Definitions; Establishment. Amend RSA
17 310:2, II(ii) to read as follows:

18 (ii) Board of ~~[registration in]~~ optometry under RSA 327.

19 24 Administration of the Office of Professional Licensure and Certification; Funding. Amend
20 RSA 310:5, III to read as follows:

21 III. There is hereby established a dedicated, nonlapsing fund to be known as the New
22 Hampshire health professionals' program administration fund for the administration of the
23 professionals' health program, including the professionals' health program in RSA 329:13-b, the
24 alternative recovery monitoring program in RSA 326-B:36-a, and the impaired pharmacist program
25 set forth in RSA 318:29-a, with a fee charged to licensees at the time of initial licensure, renewal
26 licensure, or reinstatement of licensure, for the board of medicine, board of dental examiners,
27 pharmacy board, board of nursing, board of veterinary medicine, board of psychologists, board of
28 chiropractic examiners, board of mental health practice, midwifery council, board of ~~[registration in]~~
29 optometry, board of podiatry, board of licensed dietitians, and board of licensing for alcohol and other
30 drug use professionals, not to exceed 125 percent of the actual cost of providing the services. Other
31 health and technical professions boards may be added to the program at the same annual fee per
32 licensee. The moneys in this fund shall be continually appropriated to the office.

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1 25 Pharmacy Board; Inspectional Services. Amend RSA 318:9-a to read as follows:

2 318:9-a Inspectional Services. The office of professional licensure and certification shall provide
3 inspectional services under this chapter and RSA 318-B:25 to the board of medicine, the board of
4 veterinary medicine, the board of podiatry, the board of ~~[registration in]~~ optometry, the board of
5 dental examiners, the board of nursing, and the naturopathic board of examiners. Pharmacy board
6 inspections shall be provided by pharmacists or pharmacy technicians licensed by the New
7 Hampshire board of pharmacy who have training and experience regarding pharmacy statutes and
8 rules.

9 26 Controlled Drug Prescription Health and Safety Program; Rulemaking for Prescribing
10 Controlled Drugs. Amend RSA 318-B:41, I(a)(4) to read as follows:

11 (4) The board of ~~[registration in]~~ optometry, concerning optometrists.

12 27 Optometry; Definitions. Amend RSA 327:1 to read as follows:

13 327:1 Definitions. In this chapter:

14 I. "Board" means the board of ~~[registration in]~~ optometry.

15 II. "Dispensing pharmaceutical agents" means that a licensed optometrist authorized to use
16 pharmaceutical agents may dispense a pharmaceutical agent to a patient if no charge is imposed for
17 the pharmaceutical agent and the amount dispensed does not exceed a 24-hour supply, except that if
18 the minimum available quantity for dispensing is greater than a 24-hour supply, the optometrist
19 may dispense the minimum available quantity. Nothing in this paragraph shall prohibit a licensed
20 optometrist authorized to use pharmaceutical agents pursuant to RSA 327:6-a from dispensing
21 therapeutic contact lenses for a fee.

22 III. "Pharmaceutical agent" means the following pharmaceutical products:

23 (a) Non-legend, over the counter, agents.

24 (b) Mydriatic and cycloplegic agents ~~[which are topically applied]~~.

25 (c) Miotic agents approved pursuant to RSA 327:6-a, VI.

26 (d) Antibiotics, ~~[sulfonamides]~~ **sulfonamides**, and combinations thereof~~[which are~~
27 ~~topically applied or orally administered]~~ to treat or alleviate the effects of disease or abnormal
28 conditions of the human eye, adnexa, and eyelids, ~~[or]~~ **excluding** structures posterior to the iris,
29 approved pursuant to RSA 327:6-a, VI.

30 (e) Anti-allergy medications, including but not limited to antihistamines, decongestants,
31 and mast-cell stabilizers ~~[which are topically applied]~~.

32 (f) Anesthetics and dyes ~~[which are topically applied]~~.

33 (g) Ocular lubricants and **ocular** hypertonic agents ~~[which are topically applied]~~.

34 (h) Orally administered analgesic agents used for the purpose of alleviating pain caused
35 by a disease or abnormal condition of the human eye or eyelid, ~~[or]~~ **excluding** structures posterior to
36 the iris. This may include class III and IV controlled substances approved pursuant to RSA 327:6-a,

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1 ***VI, or hydrocodone in combination with analgesics when limited to 72 hours with no refills***
2 ***and included in the formulary.***

3 (i) Other pharmaceutical agents, any solely diagnostic agents, and diagnostic agents
4 combined with pharmaceutical agents as defined in this paragraph and as approved pursuant to
5 RSA 327:6-a, VI.

6 (j) Non-steroidal anti-inflammatory agents approved pursuant to RSA 327:6-a, VI.

7 (k) Anti-glaucoma agents provided that an optometrist may dispense or prescribe such
8 agents if the optometrist has met the requirements of RSA 327:6-c.

9 (l) Corticosteroids ~~[which are topically applied,]~~ as approved by the board.

10 (m) Antivirals which are approved pursuant to RSA 327:6-a, VI.

11 ~~[(n) Corticosteroids or antivirals, provided that optometrists with patients on~~
12 ~~corticosteroids or antivirals who demonstrate no improvement in 10 days shall be referred to an~~
13 ~~ophthalmologist.]~~

14 ~~[(o)]~~ (n) Influenza, COVID-19, and shingles vaccines which have been approved by the
15 Food and Drug Administration to adults.

16 IV. "Practice of optometry":

17 (a) Means the employment of any methods or means, other than surgery, for the:

18 ~~[(a)]~~ (1) Diagnosis and treatment of any optical defect, deficiency, deformity, or disease
19 of the human eye, adnexa and eyelids.

20 ~~[(b)]~~ (2) Diagnosis and treatment of any visual or muscular anomaly of the visual
21 system.

22 ~~[(c)]~~ (3) Adaptation or prescribing of spectacle lenses, contact lenses, prisms or ocular
23 exercises for the correction, relief or aid of the visual functions.

24 ~~[(d)]~~ (4) Prescribing, administering or dispensing of pharmaceutical agents.

25 ~~[(e)]~~ (5) Application, prescribing, or removal of Food and Drug Administration approved
26 medical devices, as approved by the board and consistent with the practice of optometry as set forth
27 in this chapter, including, but not limited to, contact lenses, plano lenses, and punctal plugs. The
28 term "plano lenses" means contact lenses with no refractive power.

29 ~~[(f) Diagnosis of acute angle closure glaucoma. Upon such diagnosis, an optometrist may~~
30 ~~administer emergency care and shall immediately refer the patient to an ophthalmologist. Oral~~
31 ~~pharmaceutical agents may be used for the emergency treatment of acute angle closure glaucoma.]~~

32 (b) ***Notwithstanding RSA 327:1, VI, the following ophthalmic procedures shall***
33 ***be permitted only upon authorization to perform ophthalmic procedures pursuant to RSA***
34 ***327:6-d:***

35 (1) ***Laser capsulotomy.***

36 (2) ***Laser trabeculoplasty.***

37 (3) ***Laser peripheral iridotomy.***

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(4) Injection of corticosteroid into a chalazion.

V. "Prescription of pharmaceutical agents" means a written or oral direction to dispense a pharmaceutical agent, including inscription, subscription, transcription, and renewal.

VI. "Surgery" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical means. Surgical procedures shall include the use of lasers for therapeutic and photorefractive purposes, ionizing radiation, therapeutic ultrasound, or medication administered by injection, provided that the removal of ~~[superficial]~~ **non-perforating** foreign bodies from the eye, adnexa or eyelid shall not be considered a surgical procedure prohibited by this chapter. ~~[With respect to a foreign body, any part of which is situated within 3 millimeters of the visual axis, "superficial foreign body" means that which has not penetrated deeper than the corneal epithelium.]~~

VI-a. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

VII. "Therapeutic contact lenses" means contact lenses which contain one or more medications and which deliver such medication to the eye.

28 Optometry; Examining Board; Board. Amend RSA 327:2, I to read as follows:

I. There shall be a board of ~~[registration in]~~ optometry consisting of 5 members; including 4 optometrists and one public member, each to be appointed by the governor, with the approval of the council, to a term of 5 years. No member shall be appointed to more than 2 consecutive terms.

29 Optometry; Examinations and Licenses; Authorization for Pharmaceutical Agents. Amend RSA 327:6-a, II to read as follows:

II. An optometrist licensed to practice optometry prior to January 1, 1993, shall complete a post-graduate course of study approved by the board covering the subjects of ocular pharmacology and the treatment and management of eye diseases and shall pass an examination administered by the National Board of Examiners in Optometry or its successor and approved by the board. Every optometrist licensed to practice optometry after January 1, 1993, shall pass an examination administered by the National Board of Examiners in Optometry or its successor and approved by the board. To meet the requirements of this section, an approved course shall be given by an accredited school or college of optometry in the United States and shall consist of a minimum of 105 hours, of which a minimum of 25 hours shall be in direct clinical training. The board shall adopt rules, under RSA 541-A, to carry out the provisions of this section and to ~~[insure]~~ **ensure** the safety of the public.

30 Optometry; Examinations and Licenses; Authorization for Pharmaceutical Agents. Amend RSA 327:6-a, IV to read as follows:

IV. Nothing in this section shall be construed to permit an optometrist to ~~[administer any pharmaceutical product by injection; or to]~~ administer, prescribe or dispense any pharmaceutical product designated as a schedule I or schedule II controlled substance under RSA 318-B:1-a, **except hydrocodone in combination with analgesics when limited to 72 hours with no refills**; or to

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1 administer, prescribe or dispense any pharmaceutical product except for the diagnosis or treatment
2 of disease or conditions of the human eye, adnexa or eyelids.

3 31 Optometry; Examinations and Licenses; Treatment of Glaucoma. Amend RSA 327:6-c to
4 read as follows:

5 327:6-c Treatment of Glaucoma.

6 I.(a) Optometrists seeking authorization to treat glaucoma shall complete at least 40 hours
7 of classroom education, approved by the board, incorporating: epidemiology of the glaucomas;
8 genetics of the glaucomas; anatomy, physiology, and mechanics of aqueous inflow and aqueous
9 outflow; optic nerve anatomy and pathophysiology; neurotoxicity and neuroprotectants; receptor
10 biology; pharmacology, clinical use and toxic effects of alpha and beta adrenergic agents, carbonic
11 anhydrase inhibitors, and cholinergic agents.

12 (b) Optometrists shall pass an examination approved by the board that covers the
13 educational components listed in subparagraph (a). Upon passage of such exam, an optometrist
14 shall have prescriptive authority during the clinical management period pursuant to RSA 327:6-a.

15 (c) The board shall waive the requirements of this paragraph and of paragraph II for
16 optometrists who have either graduated after 2002 or who have proof of 12 months of credentialed
17 privileges to treat glaucoma by the United States Department of Defense or Department of Veteran
18 Affairs or the national Indian Health Service, or who are certified by the American Board of
19 Optometry, verified by the board.

20 II.(a) To be authorized to initiate treatment of glaucoma for patients 18 years of age or older,
21 a therapeutic pharmaceutical agent certified optometrist shall complete the educational
22 requirements in paragraph I and provide evidence of written referrals and consultations with an
23 ophthalmologist. For purposes of this section, "ophthalmologist"; means a physician licensed under
24 RSA 329 with a specialty in ophthalmology. The ~~[joint credentialing committee]~~ **board** shall review
25 evidence of glaucoma co-management submitted pursuant to subparagraph (b).

26 (b) Except as provided in subparagraph I(c) or paragraph III, therapeutic
27 pharmaceutical agent certified optometrists are required to provide evidence of successful
28 collaborative treatment and co-management of 25 glaucoma patients, up to 5 of which may be
29 established patients, during a period of not less than 18 months for each patient, to ophthalmologists
30 according to the following criteria:

31 (1) A new or existing glaucoma patient is examined and diagnosed by the
32 optometrist;

33 (2) The optometrist develops a proposed treatment plan and forwards the plan with
34 examination documentation to an ophthalmologist for consultation;

35 (3) The ophthalmologist reviews the optometrist's examination documentation and
36 proposed treatment plan;

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(4) The ophthalmologist, optometrist, and patient mutually agree to and document a treatment plan;

(5) The optometrist shall consult with the co-managing ophthalmologist when any of the following occurs: the patient's target pressure is not reached within 90 days; the patient is experiencing documented progression of optic nerve damage; the patient develops documented and repeated progression of visual field loss; or the patient develops angle-closure; and

(6) For each successfully co-managed glaucoma patient the optometrist and co-managing ophthalmologist shall complete a glaucoma credentialing reporting form and submit the form to the ~~[joint credentialing committee]~~ **board** upon completion of the 18 months of treatment.

III. The ~~[joint credentialing committee]~~ **board** may waive or reduce the requirements of RSA 327:6-c, I and II for the following categories of optometrists:

(a) Optometrists with a license and proof of practice for 12 months treating glaucoma patients in another state that currently authorizes the treatment of glaucoma by optometrists; or

(b) Optometrists who have proof of successful completion of a 12-month accredited optometric residency program or its equivalent.

IV. ~~[Upon certification]~~ **An optometrist certified** to treat glaucoma **but not having certification to perform ophthalmic procedures for the treatment of glaucoma shall refer the patient to the appropriate certified eye care provider** ~~[patients an optometrist shall consult with an ophthalmologist]~~ within 30 days when any of the following occurs:

(a) The patient is experiencing documented progression of optic nerve damage or the patient develops documented and repeated progression of visual field loss on maximum tolerated topical medical therapy; or

(b) The patient develops angle-closure.

32 New Section; Optometry; Examinations and Licenses; Authorization to Perform Ophthalmic Procedures. Amend RSA 327 by inserting after section 6-c the following new section:

327:6-d Authorization to Perform Ophthalmic Procedures.

I. The board of optometry shall adopt rules under RSA 541-A establishing the certification which shall be fulfilled before a person may be certified to perform ophthalmic procedures for the practice of optometry, including:

(a) Identification and categorization of ophthalmic procedures for the practice of optometry;

(b) Establishment of criteria to perform such procedures with proficiency;

(c) Establishment of minimum education, training, and live experience requirements for a person to perform such procedures with proficiency;

(d) Criteria for requiring proctoring and criteria for proctors; and

(e) Outcome reporting requirements for such procedures performed by certificate holders.

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1 II. No optometrist shall practice under this section unless the optometrist has submitted
2 evidence of satisfactory completion of all requirements for specific procedures and the office has
3 certified the optometrist as qualified.

4 33 Optometry; License Renewal; Disciplinary Action. Amend RSA 327:20, II(i) to read as
5 follows:

6 (i) The use of any pharmaceutical agent by an optometrist not authorized under RSA
7 327:6-a or the use of any pharmaceutical agent other than those agents described in RSA 327:1 or
8 those previously approved by the ~~[joint credentialing committee]~~ **board**.

9 34 Optometry; Regulations and Penalties; Contact Lens Prescriptions to be Provided to Patient.
10 Amend RSA 327:25-a, IV to read as follows:

11 IV.(a) No person shall conduct or operate a business outside of the state for the sale at retail
12 of contact lenses to individuals within the state unless such business is registered with a permit
13 issued by the board of pharmacy if the out-of-state business is a pharmacy, or by the board of
14 ~~[registration in]~~ optometry if the out-of-state business is not a pharmacy.

15 (b) The board of pharmacy or the board of ~~[registration in]~~ optometry shall issue a
16 permit to such out-of-state business if the business discloses and provides proof:

17 (1) That the business is in compliance with all applicable laws and rules in the state
18 in which the business is located;

19 (2) Of the operating locations and the names and titles of all principal corporate
20 officers;

21 (3) That the business complies with all lawful directions and requests for
22 information from the board of pharmacy and the board of ~~[registration in]~~ optometry of all states in
23 which it conducts business;

24 (4) That the business agrees in writing to comply with all New Hampshire laws and
25 rules relating to the sale or dispensing of contact lenses; and

26 (5) That the business has paid the established fee.

27 35 Optometry; Regulation and Penalties; Rulemaking Authority. Amend RSA 327:31, I to read
28 as follows:

29 I. The qualifications of applicants in addition to those requirements set by RSA 327:6, ~~[and]~~
30 RSA 327:6-a, **RSA 327:6-c, and RSA 327:6-d**;

31 36 Optometry; Regulations and Penalties; Continuing Education Courses Required for
32 Pharmaceutical and Glaucoma Certification. Amend RSA 327:33-a to read as follows:

33 327:33-a Continuing Education Courses Required for Pharmaceutical and Glaucoma
34 Certification.

35 I. An optometrist certified to use pharmaceutical agents in the practice of optometry shall
36 complete a minimum of ~~[50 hours of continuing education every year in order to maintain~~
37 ~~pharmaceutical certification. A minimum of]~~ 20 hours **of continuing education every year** [shall

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1 be] by participation in formal **synchronous** courses ~~[and the remainder by independent study].~~
2 Each optometrist shall report continuing education hours to the board in accordance with rules
3 adopted by the board for the implementation of this section. Such continuing education courses and
4 activities shall satisfy the requirements of RSA 327:33.

5 II. An optometrist certified to treat glaucoma shall complete a minimum of 10 of the
6 required hours in **ocular pathology or pharmacology** ~~[glaucoma]~~ specific education. ~~[A minimum~~
7 ~~of 7 hours shall be by participation in formal courses and 3 hours may be by independent study.]~~

8 37 Repeal. RSA 327:6-b, relative to the optometry joint credentialing committee, is repealed.

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AMENDED ANALYSIS

This bill eliminates the board of registration of medical technicians and transfers authority over the registration of medical technicians to the office of professional licensure and certification. This bill further makes changes to the nurse practice act.

This bill further makes various amendments to the regulation of optometry, including changing the board's name to the board of optometry, definitional changes to include what constitutes the "practice of optometry", repealing the joint credentialing committee, modifying the rulemaking authority of the board, and modifying the prescribing authority of optometrists.