

SUBJECT: Revising practice of therapeutic optometry and complaint procedures

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Klick, Guerra, Allison, Collier, Jetton, Oliverson, Price, Smith, Zwiener

1 nay — Campos

1 absent — Coleman

SENATE VOTE: On final passage, May 13 — 30-0

WITNESSES: No public hearing.

BACKGROUND: Occupations Code ch. 351 governs the scope of practice for optometrists and therapeutic optometrists. It defines "practice of therapeutic optometry" as using authorized means, excluding surgery and laser surgery, to:

- determine or measure the powers of vision of the human eye;
- examine or diagnose visual defects, abnormal conditions, or diseases of the human eye or adnexa;
- prescribe or fit lenses or prisms to correct or remedy a defect or abnormal condition of vision;
- administer or prescribe a drug or physical treatment; or
- treat the visual system, including the eye or adnexa.

Under sec. 351.358, only therapeutic optometrists and licensed physicians may treat the eye for a defect or administer or prescribe a drug or physical treatment. Sec. 351.358(c) allows a therapeutic optometrist to prescribe oral medications only in specified classifications:

- one 10-day supply of oral antibiotics;
- one 72-hour supply of oral antihistamines;

- one seven-day supply of oral nonsteroidal anti-inflammatories;
- one three-day supply of any analgesic identified in Schedules III, IV, and V of the U.S. Controlled Substances Act; and
- any other oral pharmaceutical recommended by the Optometric Health Care Advisory Committee and approved by the Texas Optometry Board and the Texas State Board of Medical Examiners, also known as the Texas Medical Board.

Under sec. 351.3581(a), a therapeutic optometrist may not administer or prescribe an oral or parenteral medication or treat glaucoma unless the person holds a certificate issued by the Texas Optometry Board. Sec. 351.3581(d) requires a therapeutic optometrist to refer a patient to an ophthalmologist if:

- the patient is younger than 16 years old and has been diagnosed with glaucoma;
- the patient has been diagnosed with acute closed angle glaucoma, malignant glaucoma, or neovascular glaucoma; or
- if a determination is made, after consulting a physician or ophthalmologist, as applicable, that the glaucoma patient should be seen by a physician, ophthalmologist, or other specialist.

Ch. 351, subch. E governs public interest information and complaint procedures for the Texas Optometry Board.

Concerns have been raised that about one in four optometry students leave Texas to practice in other states that allow them to provide more services. Suggestions have been made to remove certain restrictions on the prescribing of oral medications by therapeutic optometrists and allow therapeutic optometrists who are appropriately certified to independently manage most types of glaucoma cases.

DIGEST: SB 993 would revise the type of oral medications therapeutic optometrists could prescribe and under what circumstances they would have to refer a glaucoma patient to an ophthalmologist. The bill also would establish complaint procedures regarding a therapeutic optometrist's treatment of a

glaucoma patient.

Oral medications. The bill would remove limits on certain classifications of oral medications a therapeutic optometrist could prescribe under Occupations Code sec. 351.358(c), including oral antibiotics, oral antihistamines, and oral nonsteroidal anti-inflammatories.

The bill would limit the type of oral medication a therapeutic optometrist could prescribe to no more than one three-day supply of any medication classified as a controlled substance under Schedule III, IV, or V of the U.S. Controlled Substances Act.

Referral of glaucoma patients. The bill would revise under what circumstances a therapeutic optometrist would be required to refer a glaucoma patient to an ophthalmologist under Occupations Code sec. 351.3581(d).

Complaints. The Texas Optometry Board, in collaboration with the Texas Medical Board, would have to adopt rules for investigating and reviewing complaints filed with the Optometry Board regarding a therapeutic optometrist's treatment of a patient for glaucoma. The rules would have to ensure that:

- a person who filed a complaint had the opportunity to explain the allegations;
- a complaint was not dismissed without appropriate consideration by the Optometry Board;
- a complaint was resolved within six months after the date it was filed;
- the board notified the Medical Board of receipt and disposition of a complaint; and
- a complaint was reviewed as specified in the bill.

After a complaint regarding a therapeutic optometrist's treatment of a patient for glaucoma was filed with the Optometry Board, the board would be required to select at least one licensed physician in the state who

specialized in ophthalmology to:

- review the complaint and determine if the therapeutic optometrist's treatment of the glaucoma patient violated the standard of care applicable to a physician specializing in ophthalmology; and
- submit to the board a written report on the physician's determination.

Expert review panel. If the report stated that the standard of care was violated, the Optometry Board would have to forward the complaint and report to an expert panel appointed by the board and the Medical Board. The panel would have to include an equal number of ophthalmology physician specialists and therapeutic optometrists. Each member of the expert panel would have to be licensed to practice medicine or therapeutic optometry in the state. A physician who served on an expert panel for the Optometry Board also could serve as an expert physician for the Medical Board.

Under the bill, the selected expert panel would have to review the physician's determination on whether a therapeutic optometrist's treatment of a glaucoma patient violated the standard of care applicable to an ophthalmology physician specialist. The expert panel also would have to recommend to the Optometry Board whether the therapeutic optometrist should be subject to certain disciplinary action.

The bill would prohibit certain persons from reviewing a complaint or serving on an expert panel.

Public information. The bill would require the Optometry Board to maintain and make available online information on the number of filed complaints for the treatment of glaucoma patients by therapeutic optometrists and the disposition of those complaints. The board also would have to post a searchable list of each therapeutic optometrist whose certificate was suspended or revoked by the board.

The bill's provisions relating to complaints, the expert panel, and public

information would expire September 1, 2027.

Other provisions. By December 1, 2021, the Texas Optometry Board would have to adopt rules to implement the bill's provisions.

The bill would make certain conforming changes and would repeal certain provisions regarding the requirement that a therapeutic optometrist consult with an ophthalmologist after a patient was diagnosed with glaucoma.

The bill would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, the Texas Optometry Board indicates that if the number or complexity of expert review of complaints increases, the board does not anticipate being able to absorb these expenses within existing appropriations and may have to raise fees.

The House companion bill, HB 2340 by Klick, was considered by the House Public Health Committee in a public hearing on March 31 and left pending.