

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6506, 6507, 7101-a of the Education Law and Section (1) of Chapter 516 of the Laws of 2024.

1. Section 66.5 of the Regulations of the Commissioner of Education is amended to read as follows:

§66.5 Use of therapeutic pharmaceutical agents.

(a) Definitions. As used in this section:

(1) Topical therapeutic pharmaceutical agents shall mean those drugs identified in paragraph (e) of subdivision (1) of section 7101-a of the Education Law, which shall be limited to topical application to the surface of the eye for therapeutic purposes[.] or nasal sprays for the treatment of dry eye disease identified in subparagraph (iii) of paragraph (f) of section 7101-a of the Education Law.

(2) ...

(i) ...

(3) ...

(4) ...

(5) ...

(6) ...

(b) Certification requirements.

(1) Topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease. To receive a certificate issued by the department to use topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry

eye disease, an optometrist shall be licensed in New York and meet the clinical training requirements set forth in paragraph (1) of subdivision (c) of this section and the examination requirements set forth in subdivision (d) of this section. After certification, such topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease, shall be used in accordance with the provisions of Article 143 of the Education Law.

(2) ...

(3) ...

(c) Clinical training and course requirements for certification.

(1) To meet the clinical training requirements for certification in the use of topical therapeutic pharmaceutical agents[,] and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease, the applicant shall present satisfactory evidence of any of the following:

(i) ...

(ii) ...

(iii) certification to use topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease in another jurisdiction, provided that such optometrist has been certified for at least five years to use topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease in another jurisdiction during which time such use was demonstrated in independently managed patients, meaning that the optometrist demonstrated that he or she has treated patients with topical therapeutic pharmaceutical agents and nasal sprays as

topical therapeutic pharmaceutical agents for the treatment of dry eye disease without consultation with a licensed physician.

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(i) ...

(ii) ...

(iii) ...

(3) ...

(i) ...

(ii) ...

(4) ...

(d) Examination.

(1) To meet the examination requirement for either certification in the use of topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease or certification in the use of topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension the applicant shall present evidence of passing of:

(a) ...

(b) ...

(2) ...

(e) ...

2. Section 66.6 of the Regulations of the Commissioner of Education is amended to read as follows:

§66.6 Continuing education for licensed optometrists certified to use certain therapeutic pharmaceutical agents.

(a) ...

(b) Applicability of requirements.

(1) Each optometrist, required under article 143 of the Education Law to register with the department to practice in New York State and certified to use topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents, and/or oral therapeutic pharmaceutical agents, shall comply with the mandatory continuing education requirements as prescribed in subdivision (c) of this section, except those licensees exempt from the requirement or who obtain an adjustment to the requirement pursuant to paragraph (2) of this subdivision or who are subject to a different requirement pursuant to this section.

(2) ...

(i) ...

(ii) ...

Mandatory continuing education requirements.

(1) General requirements.

(i) During each triennial registration period, meaning a registration period of three years' duration, an optometrist certified to use topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease and/or therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension, seeking to apply for registration shall complete at least 36

hours of continuing education, acceptable to the department, as prescribed in paragraph (3) of this subdivision.

(ii) ...

(2) Proration.

(i) ...

(ii) During each registration or certification period of less than three years duration, an applicant shall complete acceptable continuing education, as prescribed in paragraph (3) of this subdivision, on a prorated basis at the rate of one hour of continuing education per month for those certified to administer topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease and/or therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension and, for those certified to administer oral therapeutic pharmaceutical agents, on a prorated basis at the rate of one and one-half hour of continuing education per month for such registration or certification period.

(3) Acceptable formal continuing education. To be acceptable to the department, continuing education shall meet the requirements of this paragraph. Such continuing education must be in subjects prescribed in subparagraph (i) of this paragraph and be the types of learning activities prescribed in subparagraph (ii) of this paragraph and subject to the prohibition contained in subparagraph (iii) of this paragraph.

(i) Subjects.

(a) Acceptable continuing education of a licensee certified to use topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease and/or therapeutic

pharmaceutical agents for the treatment of glaucoma and ocular hypertension shall be in the area of ocular disease and pharmacology and may include both didactic and clinical components.

(b) ...

(ii)(a) Types of learning activities. Acceptable continuing education shall be the types of learning activities prescribed in this subparagraph and shall be subject to the limitations prescribed in this subparagraph and subparagraph (iii) of this paragraph.

(1) For optometrists certified for topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease and/or therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension, at least 27 hours of continuing education in a registration period shall consist of live instruction in a formal course of study offered by a sponsor approved by the department pursuant to subdivision (i) of this section, during which the student must be able to communicate and interact with the instructor and other students. Up to nine hours of such continuing education in a registration period may be completed through a self-study program, meaning structured study, provided by a sponsor approved pursuant to subdivision (i) of this section, that is based on audio, audio-visual, written, on-line, and other media, and does not include live instruction, transmitted in person or otherwise, during which the student may communicate and interact with the instructor and other students.

(2) ...

(iii) ...

(4) ...

(d) ...

(1) ...

(2) ...

(3) ...

(e) Requirement for lapse in practice.

(1) A licensee returning to the practice of optometry after a lapse in practice, as evidenced by not being registered to practice in New York State, whose first registration date after such lapse in practice occurs less than three years from January 1, 2023 shall be required to complete:

(i) at least one hour of acceptable continuing education for each month that the licensee was not registered to practice for a licensee certified to use topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease and/or therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension or at least one and one-half hours of acceptable continuing education for each month that a licensee was not registered to practice for a licensee certified to use oral therapeutic pharmaceutical agents from January 1, 2023 until the beginning of the new registration period.

(a) ...

(b) ...

(ii)(a) for a licensee who has not lawfully practiced as a licensed optometrist continuously in another jurisdiction throughout such lapse period, at least 12 hours of acceptable continuing education in each successive 12-month period of the new registration period for a licensee certified to use topical therapeutic pharmaceutical

agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease and/or therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension or at least 18 hours of acceptable continuing education for a licensee certified to use oral therapeutic pharmaceutical agents; or

(b) ...

(2) Except as prescribed in paragraph (1) of this subdivision for registrations therein specified, a licensee who returns to practice as a licensed optometrist after a lapse in practice in which the licensee was not registered to practice in New York State and did not lawfully practice continuously in another jurisdiction throughout the lapse period, shall be required to complete:

(i) ...

(ii) at least one hour of acceptable continuing education for each month of lapsed registration up to a maximum 36 hours if certified to use topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease and/or therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension or a maximum of 54 hours if certified to use oral therapeutic pharmaceutical agents. Such continuing education shall be completed in the 12 months before the beginning of the new registration period; and

(iii) at least 12 hours of acceptable continuing education in each succeeding 12-month period if certified to use topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease and/or therapeutic pharmaceutical agents for the treatment of glaucoma and

ocular hypertension or 18 hours if certified to use oral therapeutic pharmaceutical agents, after such registration is reissued, until the next registration date.

(3) Except as prescribed in paragraph (1) of this subdivision for registrations therein specified, a licensee who returns to the practice of optometry after a lapse in practice in which the licensee was not registered to practice in New York State but did lawfully practice optometry continuously in another jurisdiction throughout the lapse period, shall be required to complete:

(i) ...

(ii) at least one hour of acceptable continuing education if certified to use topical therapeutic pharmaceutical agents and nasal sprays as topical therapeutic pharmaceutical agents for the treatment of dry eye disease and/or therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension and one-and-one-half hours if certified to use oral therapeutic pharmaceutical agents for each month of lapsed registration up to a maximum of 36 hours. Such continuing education shall be completed in the new registration period or, at the option of the licensee, in the period beginning 36 months before the commencement of the new registration period and ending at the conclusion of the new registration period; and

(iii) ...

(f) ...

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(iv) ...

(v) ...

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(j) ...

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