

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6506, 6507, 7101, 7101-a, of the Education Law and Chapter 506 of the Laws of 2021

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) [Phase one] 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.

(2) [Phase two] Topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension shall mean:

(i) those drugs identified in paragraph (f) of subdivision (1) of section 7101-a [(1)(f)] of the Education Law, and

(ii) carbonic anhydrase inhibitors and prostaglandin analogs. Such drugs shall be limited to topical application to the surface of the eye for therapeutic purposes].

(3) Oral therapeutic pharmaceutical agents solely for the treatment of diseases of the eye and adnexa shall mean those drugs identified in paragraph (g) of subdivision (1) of section 7101-a of the Education Law.

(4) Acceptable accrediting agency shall mean an organization accepted by the department as a reliable authority for the purpose of accrediting at the postsecondary level, applying its criteria for granting accreditation in a fair, consistent, and

nondiscriminatory manner, such as an agency recognized for these purposes by the United States Department of Education.

[(4)] (5) Education Review Committee shall mean that committee appointed by the commissioner in consultation with the chancellor of the State University of New York, pursuant to subdivision 9 of section 7101-a of the Education Law, whose function is to advise and assist the commissioner in evaluating acceptable clinical training.

[(5)] (6) Temporary Evaluation Committee shall mean that committee appointed by the commissioner of education to advise the commissioner in the evaluation of optometric use of therapeutic pharmaceutical agents, pursuant to section 3 of Chapter 517 of the Laws of 1995.

(b) Certification requirements.

(1) [Phase one] Topical therapeutic pharmaceutical agents. To receive a certificate issued by the department to use [phase one] topical therapeutic pharmaceutical agents, 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 [phase one] topical therapeutic pharmaceutical agents shall be used in accordance with the provisions of Article 143 of the Education Law.

(2) [Phase two] Topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension. To receive a certificate issued by the department to use [phase two] topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension, an optometrist shall be licensed in New York and certified in the use of [phase one] topical therapeutic pharmaceutical agents, as set forth

in paragraph (1) of this subdivision, and meet the clinical training requirements set forth in paragraph (2) of subdivision (c) of this section and the examination requirements set forth in subdivision (d) of this section. After certification, such [phase two] topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension shall be used in accordance with the provisions of Article 143 of the Education Law.

(3) Oral therapeutic pharmaceutical agents solely for the treatment of diseases of the eye and adnexa. To receive a certificate issued by the Department to use oral therapeutic pharmaceutical agents, an optometrist shall be licensed in New York and certified in the use of diagnostic drugs as set forth in subdivision (b) of section 66.4 of this part, topical therapeutic pharmaceutical agents as set forth in paragraph (1) of this subdivision, and topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension as set forth in paragraph (2) of this subdivision, and meet the certification course requirements set forth in paragraph (3) of subdivision (c) of this section and the examination requirements set forth in subdivision (d) of this section. After certification, such oral therapeutic pharmaceutical agents shall be used in accordance with the provisions of Article 143 of the Education Law.

(c) Clinical training and course requirements for certification.

(1) To meet the clinical training requirements for certification in the use of [phase one] topical therapeutic pharmaceutical agents, the applicant shall present satisfactory evidence of [either] any of the following:

(i) graduation after January 1, 1993 from a professional program of study in optometry that is registered by the department pursuant to Part 52 of this Title, or is

accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program; or

(ii) graduation on or before January 1, 1993 from a professional program of study in optometry that is registered by the department pursuant to Part 52 of this Title, or is accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program; and completion of at least 300 hours of acceptable clinical training, as prescribed in subdivision 4(a) and 9-a of section 7101-a of the Education Law; or

(iii) certification to use [phase one] topical therapeutic pharmaceutical agents in another jurisdiction, provided that such optometrist has been certified for at least five years to use [phase one] topical therapeutic pharmaceutical agents 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 [phase one] topical therapeutic pharmaceutical agents without consultation with a licensed physician.

(2) [to] To meet the clinical training requirements for certification in the use of [phase two] topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension, the applicant shall present satisfactory evidence of [either] any of the following:

(i) Graduation after January 1, 1993 from a professional program of study in optometry that is registered by the department pursuant to Part 52 of this Title, or is accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program; or

(ii) Graduation on or before January 1, 1993 from a professional program of study in optometry that is registered by the department pursuant to Part 52 of this Title, or is accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program and completion of at least an additional 100 hours over that obtained for certification to use [phase one] topical therapeutic pharmaceutical agents of acceptable clinical training, as prescribed in subdivisions 4(b) and 9-a of section 7101-a of the Education Law; or

(iii) Certification to use [phase two] topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension in another jurisdiction, provided that such optometrist has been certified for at least five years to use [phase two] topical therapeutic agents for the treatment of glaucoma and ocular hypertension 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 [phase two] topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension without consultation with a licensed physician.

(3) To meet the course requirements for certification in the use of oral therapeutic pharmaceutical agents, the applicant shall present satisfactory evidence of either:

(i) graduation after January 1, 2022 from a professional program of study in optometry that is registered by the department pursuant to part 52 of this Title, or is accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program, and that the applicant has taken and successfully passed the National Board of Examiners in Optometry examination or an examination acceptable to the Department; or

(ii) graduation on or before January 1, 2022 from a professional program of study in optometry that is registered by the department pursuant to Part 52 of this Title, or is accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program, and that the applicant has completed a course of at least 40 hours, as prescribed in paragraph (c) of subdivision 4 of section 7101-a of the Education Law.

(4) Applicants who meet the clinical training requirements for certification by complying with the requirements of subparagraph (ii) of paragraph (1) or subparagraph (ii) of paragraph (2) of this subdivision shall submit a written application to the department in a form approved by the department. The department shall submit each application to the education review committee for its review and recommendation, as prescribed in subdivisions 9 and 9-a of section 7101-a of the Education Law.

(d) Examination.

(1) To meet the examination requirement for either certification in the use of [phase one] topical therapeutic pharmaceutical agents or certification in the use of [phase two] topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension, the applicant shall present evidence of [successful completion] passing of:

[(1)] (a) the treatment and management of ocular diseases portion of the examination of the National Board of Examiners in Optometry; or

[(2)] (b) an examination determined by the State Board for Optometry to be equivalent in scope and content to the ocular diseases portion of the examination of the National Board of Examiners in Optometry.

(2) To meet the examination requirement for certification in the use of oral therapeutic pharmaceutical agents, the applicant shall present evidence of passing an examination as prescribed in paragraph (c) of subdivision 4 of section 7101-a of the Education Law, and which is acceptable to the Department. Provided, however, that pursuant to subparagraph (v) of paragraph (c) of subdivision 4 of section 7101-a of the Education Law, such examination requirement shall not apply to applicants who meet the course requirements prescribed in subparagraph (i) or paragraph (3) of subdivision (c) of this section.

(e) Reporting requirement. An optometrist certified to use [phase two] topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension shall file with the temporary evaluation committee a [phase two] report for each patient treated with [phase two] topical therapeutic pharmaceutical agents for the treatment of glaucoma and ocular hypertension within seven days following the initial and each subsequent visit by the same patient. The report shall be in a form developed by the temporary evaluation committee and approved by the commissioner.