

House of Representatives, April 2, 1998. The Committee on Public Health reported through REP. MCDONALD, 148th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING SUPERVISION BY HEALTH PROFESSIONALS OF THE USE OF OCULAR AGENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-9 of the general
2 statutes, as amended by section 17 of public act
3 97-311, is repealed and the following is
4 substituted in lieu thereof:

5 (a) No person shall, for compensation, gain
6 or reward, received or expected, diagnose, treat,
7 operate for or prescribe for any injury,
8 deformity, ailment or disease, actual or
9 imaginary, of another person, nor practice
10 surgery, until he has obtained such a license as
11 provided in section 20-10, and then only in the
12 kind or branch of practice stated in such license.

13 (b) The provisions of this chapter shall not
14 apply to:

15 (1) Dentists while practicing dentistry only;

16 (2) [any] ANY person in the employ of the
17 United States government while acting in the scope
18 of his employment;

19 (3) [any] ANY person who furnishes medical or
20 surgical assistance in cases of sudden emergency;

21 (4) [any] ANY person residing out of this
22 state who is employed to come into this state to

23 render temporary assistance to or consult with any
24 physician or surgeon who has been licensed in
25 conformity with the provisions of this chapter;

26 (5) [any] ANY physician or surgeon then
27 actually residing out of this state who is
28 employed to come into this state to treat, operate
29 or prescribe for any injury, deformity, ailment or
30 disease from which the person who employed such
31 physician, or the person on behalf of whom such
32 physician is employed, is suffering at the time
33 when such nonresident physician or surgeon is so
34 employed;

35 (6) [any] ANY person rendering service as an
36 advanced practice registered nurse if such service
37 is rendered under the direction of a licensed
38 physician;

39 (7) [any] ANY nurse-midwife practicing
40 nurse-midwifery in accordance with the provisions
41 of chapter 377;

42 (8) [any] ANY podiatrist licensed in
43 accordance with the provisions of chapter 375;

44 (9) [any] ANY Christian Science practitioner
45 who does not use or prescribe in his practice any
46 drugs, poisons, medicines, chemicals, nostrums or
47 surgery;

48 (10) [any] ANY person licensed to practice
49 any of the healing arts named in section 20-1, who
50 does not use or prescribe in his practice any
51 drugs, medicines, poisons, chemicals, nostrums or
52 surgery;

53 (11) [any] ANY graduate of any school or
54 institution giving instruction in the healing arts
55 who has been issued a permit in accordance with
56 subsection (a) of section 20-11a and who is
57 serving as an intern or resident in a hospital;

58 (12) [any] ANY student participating in a
59 clinical clerkship program who has the
60 qualifications specified in subsection (b) of
61 section 20-11a;

62 (13) [any] ANY person, otherwise qualified to
63 practice medicine in this state except that he is
64 a graduate of a medical school located outside of
65 the United States or the Dominion of Canada which
66 school is recognized by the American Medical
67 Association or the World Health Organization, to
68 whom the Connecticut Medical Examining Board,
69 subject to such regulations as the Commissioner of
70 Public Health, with advice and assistance from the

71 board, prescribes, has issued a permit to serve as
72 an intern or resident in a hospital in this state
73 for the purpose of extending his education;

74 (14) [any] ANY person rendering service as a
75 physician assistant licensed pursuant to section
76 20-12b, a registered nurse, a licensed practical
77 nurse or a licensed paramedic, if such service is
78 rendered under the supervision, control and
79 responsibility of a licensed physician;

80 (15) [any] ANY student enrolled in an
81 accredited physician assistant program or
82 paramedic program approved in accordance with
83 regulations adopted pursuant to section 19a-179,
84 who is performing such work as is incidental to
85 his course of study;

86 (16) [any] ANY person who, on June 1, 1993,
87 has worked continuously in this state since 1978
88 performing diagnostic radiology services and who
89 continues to render such services under the
90 supervision, control and responsibility of a
91 licensed physician solely within the setting where
92 such person was employed on June 1, 1993;

93 (17) [any] ANY person performing athletic
94 training as described in section 19a-16a;

95 (18) [when] WHEN deemed by the Connecticut
96 Medical Examining Board to be in the public's
97 interest, based on such considerations as academic
98 attainments, specialty board certification and
99 years of experience, to a foreign physician or
100 surgeon whose professional activities shall be
101 confined within the confines of a recognized
102 medical school;

103 (19) [any] ANY technician engaging in
104 tattooing in accordance with the provisions of
105 section 19a-92a and any regulations adopted
106 thereunder; OR

107 (20) ANY PERSON ADMINISTERING OCULAR
108 AGENTS-D, AS DEFINED IN SUBSECTION (a) OF SECTION
109 20-127, AS AMENDED BY THIS ACT, UNDER THE DIRECT
110 SUPERVISION OF A LICENSED PHYSICIAN OR
111 OPTOMETRIST.

112 (c) This section shall not authorize anyone
113 to practice optometry as defined in chapter 380 or
114 to practice dentistry or dental hygiene as defined
115 in chapter 379.

116 (d) The provisions of subsection (a) of this
117 section shall apply to any individual whose
118 practice of medicine includes any ongoing, regular

119 or contractual arrangement whereby, regardless of
120 residency in this or any other state, he provides,
121 through electronic communications or interstate
122 commerce, diagnostic or treatment services,
123 including primary diagnosis of pathology
124 specimens, slides or images, to any person located
125 in this state. In the case of electronic
126 transmissions of radiographic images, licensure
127 shall be required for an out-of-state physician
128 who provides, through an ongoing, regular or
129 contractual arrangement, official written reports
130 of diagnostic evaluations of such images to
131 physicians or patients in this state. The
132 provisions of subsection (a) of this section shall
133 not apply to a nonresident physician who, while
134 located outside this state, consults (A) on an
135 irregular basis with a physician licensed by
136 section 20-10 who is located in this state or (B)
137 with a medical school within this state for
138 educational or medical training purposes.
139 Notwithstanding the provisions of this subsection,
140 the provisions of subsection (a) of this section
141 shall not apply to any individual who regularly
142 provides the types of services described in this
143 subsection pursuant to any agreement or
144 arrangement with a short-term acute care general
145 hospital, licensed by the Department of Public
146 Health, provided such agreement or arrangement was
147 entered into prior to February 1, 1996, and is in
148 effect as of October 1, 1996.

149 Sec. 2. Section 20-127 of the general
150 statutes is repealed and the following is
151 substituted in lieu thereof:

152 (a) For the purposes of this chapter:

153 (1) The "practice of advanced optometric
154 care" means any one or more of the following
155 practices and procedures: (A) Measuring,
156 examining, diagnosing, preventing, enhancing,
157 managing or treating visual functions, defects of
158 vision, muscular functions or anomalies, or other
159 conditions or diseases of the visual system, the
160 eye and ocular adnexae; (B) the prescribing,
161 supplying, adjusting, fitting or adapting of
162 ophthalmic devices and lenses, spectacles, prisms,
163 orthoptic therapy, visual therapy, visual
164 rehabilitation, oculomotor therapy, tinted lenses,
165 filters, contact lenses, diagnosing, preventing,
166 enhancing, managing, treating or relieving visual

167 functions, defects of vision, muscular functions
168 or anomalies, or diseases of the visual system,
169 the eye and ocular adnexae; (C) the administration
170 or prescription of any pharmaceutical agents
171 related to the diagnosis and treatment of
172 conditions and diseases of the eye and ocular
173 adnexae, excluding nonemergency oral glaucoma
174 agents but including controlled substances under
175 schedules II, III, IV and V in accordance with
176 section 21a-252, subject to the limitations of
177 subsection (f) of this section relating to
178 quantities dispensed, performance or ordering of
179 procedures or laboratory tests related to the
180 diagnosis and treatment of conditions and diseases
181 of the eye and ocular adnexae; these procedures
182 include, but are not limited to, removal of
183 superficial foreign bodies of the corneal
184 epithelium that have not perforated bowman's
185 membrane, ultrasound and topical, oral or
186 injectable medication to counteract anaphylaxis or
187 anaphylactic reaction; (D) the nonsurgical
188 treatment of glaucoma consistent with subsection
189 (k) of this section; or (E) the use of punctal
190 plugs. The "practice of advanced optometric care"
191 does not include surgical treatment of glaucoma,
192 treatment of ocular cancer, treatment of
193 infectious diseases of the retina, diagnosis and
194 treatment of systemic diseases, use of therapeutic
195 lasers, use of injectable medications other than
196 to counteract anaphylaxis or anaphylactic
197 reaction, surgical procedures other than
198 noninvasive procedures, use of general anesthesia,
199 use of intravenous injections, procedures that
200 require the cutting or opening of the globe,
201 enucleation of the eye, extraocular muscle surgery
202 or any invasive procedure performed on the human
203 body other than noninvasive procedures performed
204 on the eye or ocular adnexae.

205 (2) "Optometrist" means an individual
206 licensed pursuant to this chapter to engage in the
207 practice of optometry.

208 (3) The "practice of optometry" means any one
209 or more of the following practices and procedures:
210 (A) The examination of the human eye and the
211 eyelid for the purpose of diagnosis, treatment
212 excluding the lacrimal drainage system and
213 lacrimal gland or referral for consultation, as
214 authorized by this section or, where appropriate,

215 referral to an ophthalmologist; (B) the use of
216 tests, instruments, devices, ocular agents-D,
217 ocular agents-T and noninvasive procedures for the
218 purpose of investigation, examination, diagnosis,
219 treatment excluding the lacrimal drainage system
220 and lacrimal gland, or correction, as authorized
221 by this section, of visual defects, abnormal
222 conditions or diseases of the human eye and
223 eyelid; (C) the prescription and application of
224 ophthalmic lenses, prisms, filters, devices
225 containing lenses or prisms or filters or any
226 combination thereof, orthoptics, vision training,
227 ocular agents-D for the purpose of diagnosing
228 visual defects, abnormal conditions or diseases of
229 the human eye and eyelid, ocular agents-T and
230 noninvasive procedures for the purpose of
231 correction, alleviation or treatment, as
232 authorized by this section, of visual defects,
233 abnormal conditions or diseases of the human eye
234 and eyelid excluding the lacrimal drainage system,
235 lacrimal gland and structures posterior to the
236 iris but including the treatment of iritis; (D)
237 the examination of the human eye for purposes of
238 prescribing, fitting or insertion of contact
239 lenses to the human eye. The practice of optometry
240 shall not include the use of surgery, x-ray,
241 photocoagulation or ionizing radiation, or the
242 treatment of glaucoma. Nothing in this subdivision
243 shall be construed to limit the scope of practice
244 of opticians licensed pursuant to chapter 381 or
245 the practice of physicians licensed pursuant to
246 chapter 370.

247 (4) "Ocular agents-D" means: (A) Topically
248 administered agents used for the purpose of
249 diagnosing visual defects, abnormal conditions or
250 the diseases of the human eye and eyelid known
251 generally as cycloplegics not to exceed one per
252 cent, mydriatics other than phenylephrine
253 hydrochloride ten per cent and topical
254 anesthetics, which are administered topically for
255 the examination of the human eye and the analysis
256 of ocular functions; (B) those vision training or
257 optical devices which have been designated drugs
258 for preclearance testing by the federal Food and
259 Drug Administration or similar agency; and (C)
260 fluorescein and similar dyes used in fitting
261 contact lenses. The drugs described in
262 subparagraph (A) of this subdivision may be

263 acquired and used only for diagnostic purposes.
264 Nothing in this subdivision shall be construed to
265 allow an optometrist to acquire or use a
266 controlled substance listed under section 21a-243.

267 (5) "Ocular agents-T" means: (A) Topically
268 administered ophthalmic agents used for the
269 purpose of treating or alleviating the effects of
270 diseases or abnormal conditions of the human eye
271 or eyelid excluding the lacrimal drainage system,
272 lacrimal gland and structures posterior to the
273 iris, but including the treatment of iritis,
274 excluding allergens, alpha adrenergic agonists,
275 antiparasitics, antifungal agents,
276 antimetabolites, antineoplastics, beta adrenergic
277 blocking agent, carbonic anhydrase inhibitors,
278 collagen corneal shields, epinephrine
279 preparations, miotics used for the treatment of
280 glaucoma, temporary collagen implants and succus
281 cineraria maritima; (B) orally administered
282 antibiotics, antihistamines and antiviral agents
283 used for the purpose of treating or alleviating
284 the effects of diseases or abnormal conditions of
285 the human eye or eyelid excluding the lacrimal
286 drainage system, lacrimal gland and structures
287 posterior to the iris, but including the treatment
288 of iritis; and (C) orally administered analgesic
289 agents used for the purpose of alleviating pain
290 caused by diseases or abnormal conditions of the
291 human eye or eyelid excluding the lacrimal
292 drainage system, lacrimal gland and structures
293 posterior to the iris, but including the treatment
294 of iritis. "Ocular agent-T" does not include any
295 controlled substance or drug administered by
296 injection.

297 (6) "Noninvasive procedures" means procedures
298 used to diagnose or treat a disease or abnormal
299 condition of the human eye or eyelid excluding the
300 lacrimal drainage system, lacrimal gland and
301 structures posterior to the iris and which exclude
302 the removal of superficial foreign bodies of the
303 corneal epithelium which have perforated bowman's
304 membrane but including the treatment of iritis,
305 provided the procedures do not require an incision
306 or use of a laser.

307 (b) Optometrists who were first licensed
308 prior to April 1, 1985, shall be permitted to
309 acquire and use ocular agents-D topically in the
310 practice of optometry only after they have

311 completed a course which (1) consists of a minimum
312 of forty-five classroom hours and fifteen clinic
313 hours, (2) is conducted by an institution
314 accredited by a regional professional
315 accreditation organization recognized or approved
316 by the National Commission on Accrediting or the
317 United States Commissioner of Education and (3) is
318 approved by the Department of Public Health, and
319 have passed an examination, prescribed by said
320 department with the advice and consent of the
321 board of examiners in optometry, in pharmacology
322 as it applies to optometry, with a particular
323 emphasis on the topical application of ocular
324 agents-D to the eye for the purpose of examination
325 of the human eye and the analysis of ocular
326 functions. Optometrists licensed on and after
327 April 1, 1985, shall not be required to take a
328 course or pass an examination in order to acquire
329 and use said agents topically in the practice of
330 optometry.

331 (c) Optometrists who were first licensed in
332 this state prior to January 1, 1991, shall be
333 permitted to acquire, administer, dispense and
334 prescribe ocular agents-T in the practice of
335 optometry only after they have (1) successfully
336 completed a minimum of ninety-six classroom hours
337 and fourteen clinical hours in the didactic and
338 clinical use of ocular agents-T for the purposes
339 of treating deficiencies, deformities, diseases or
340 abnormalities of the human eye, including the
341 removal of foreign bodies from the eye and
342 adnexae, conducted by a duly accredited school or
343 college of optometry or medical school, and have
344 passed an examination as administered by the
345 accredited school or college of optometry or
346 medical school which conducted the course of study
347 and (2) successfully completed a course in
348 cardiopulmonary resuscitation offered by an
349 accredited hospital, the American Heart
350 Association or a comparable institution or
351 organization. Proof of successful completion of
352 the courses required under subdivisions (1) and
353 (2) of this subsection shall be reported to the
354 Department of Consumer Protection. Optometrists
355 licensed on and after January 1, 1991, and who
356 have graduated from an accredited school or
357 college of optometry on or after January 1, 1991,
358 shall not be required to take either a course in

359 the didactic and clinical use of ocular agents-T
360 or a course in cardiopulmonary resuscitation or
361 pass an examination in order to acquire,
362 administer, dispense and prescribe such ocular
363 agents-T.

364 (d) Optometrists shall be permitted to engage
365 in the practice of advanced optometric care only
366 after they have (1) successfully completed a
367 minimum of seventy-five classroom hours and
368 fifty-one clinical hours in the study of advanced
369 optometric care that includes the treatment of
370 deficiencies, deformities, diseases or
371 abnormalities of the human eye, including anterior
372 segment disease, lacrimology and glaucoma
373 conducted by a duly accredited school or college
374 of optometry or medical school, (2) passed an
375 examination as administered by the accredited
376 school or college of optometry or medical school
377 that conducted the course of study and (3) met the
378 requirements that permit them to acquire and use
379 ocular agents-D and to acquire, administer,
380 dispense and prescribe ocular agents-T pursuant to
381 subsections (b) and (c) of this section.

382 (e) No licensed optometrist authorized
383 pursuant to this section to acquire, administer,
384 dispense and prescribe an ocular agent-T shall
385 dispense such agent to any person unless no charge
386 is imposed for such agent and the quantity
387 dispensed does not exceed a seventy-two-hour
388 supply, except if the minimum available quantity
389 for said agent is greater than a seventy-two-hour
390 supply, the optometrist may dispense the minimum
391 available quantity.

392 (f) No licensed optometrist authorized
393 pursuant to this section to practice advanced
394 optometric care shall dispense controlled
395 substances under schedules II, III, IV and V or
396 under section 21a-252, to any person unless no
397 charge is imposed for such substances and the
398 quantity dispensed does not exceed a
399 seventy-two-hour supply, except if the minimum
400 available quantity for said agent is greater than
401 a seventy-two-hour supply, the optometrist may
402 dispense the minimum available quantity.

403 (g) No optometrist shall delegate to any
404 person the use, application or prescription of any
405 ocular agent-D or ocular agent-T except that: [an]
406 (1) AN optometrist may cause the same to be

407 self-administered by a patient under the care and
408 direction of the optometrist; AND (2) AN
409 OPTOMETRIST AUTHORIZED TO ACQUIRE AND USE ANY
410 OCULAR AGENT-D MAY DELEGATE THE ADMINISTRATION OF
411 ANY OCULAR AGENT-D PROVIDED IT IS ADMINISTERED
412 UNDER THE OPTOMETRIST'S DIRECT SUPERVISION.

413 (h) An optometrist shall refer any patient
414 with iritis or a corneal ulcer to an
415 ophthalmologist not later than seventy-two hours
416 after commencement of initial treatment of such
417 condition unless there is documented substantial
418 improvement of such condition within such time
419 period.

420 (i) Notwithstanding the provisions of section
421 52-184c, each optometrist authorized by this
422 section to practice advanced optometric care, or
423 to use ocular agents-D or ocular agents-T or both,
424 shall be held to the same standard of care as
425 ophthalmologists with regard to such advanced
426 optometric care, the use of such ocular agents-D
427 or ocular agents-T or both and any other
428 procedures authorized by this section.

429 (j) Each optometrist authorized pursuant to
430 this section to practice advanced optometric care,
431 or to use ocular agents-D or ocular agents-T or
432 both, shall post in a conspicuous location in each
433 office waiting room, a standardized notice stating
434 that said optometrist is authorized to practice
435 advanced optometric care, or to use ocular agents
436 for diagnosis or treatment or both, within the
437 scope of his practice.

438 (k) An optometrist engaged in the practice of
439 advanced optometric care and the nonsurgical
440 treatment of glaucoma shall refer to an
441 ophthalmologist or other physician, for
442 evaluation, any glaucoma patient who (1) presents
443 with an intraocular pressure over thirty-five, (2)
444 presents with the presence of pediatric glaucoma,
445 closed angle glaucoma or secondary glaucoma or (3)
446 does not have documented substantial improvement
447 in response to treatment. Nothing in this
448 subsection shall be construed to prohibit the
449 emergency administration, prior to referral, of
450 medication otherwise authorized under this
451 section.

452 (l) Each optometrist authorized pursuant to
453 this section to practice advanced optometric care
454 shall notify the Department of Public Health of

455 his intent to engage in such practice. The
456 Commissioner of Public Health shall develop
457 license renewal forms that indicate whether a
458 person holds himself out as authorized to practice
459 advanced optometric care.

460 Sec. 3. Subsection (a) of section 20-138a of
461 the general statutes is repealed and the following
462 is substituted in lieu thereof:

463 (a) No person shall engage in the practice of
464 optometry in this state unless such person has
465 first obtained a license from the Department of
466 Public Health but the provisions of this chapter
467 shall not prevent a licensed optometrist from
468 delegating optometric services to either a trained
469 optometric assistant or to an optometric
470 technician. Such delegated services shall be
471 performed only under the supervision, control, and
472 responsibility of the licensed optometrist, except
473 that optometric assistants and optometric
474 technicians shall not be authorized to use
475 prescription and or diagnostic drugs pursuant to
476 this chapter or chapter 417, OTHER THAN AS
477 PROVIDED IN SUBSECTION (g) OF SECTION 20-127, AS
478 AMENDED BY THIS ACT, nor shall optometric
479 assistants or optometric technicians be authorized
480 to refract eyes, detect eye health, prescribe
481 spectacles, eyeglasses or contact lenses.
482 Optometric services that may be delegated to an
483 optometric assistant or to an optometric
484 technician may be delegated to an optometric
485 assistant trainee, provided that such services are
486 performed only under the direct supervision,
487 control and responsibility of the employing
488 licensed optometrist. Any person in violation of
489 this section shall be fined not more than five
490 hundred dollars or imprisoned not more than five
491 years or both, for each offense. For purposes of
492 this section each instance of patient contact or
493 consultation which is in violation of any
494 provision of this section shall constitute a
495 separate offense. Failure to renew a license in a
496 timely manner shall not constitute a violation for
497 the purposes of this section.

498 STATEMENT OF LEGISLATIVE COMMISSIONERS: Reference
499 to the exception created in section 2 was added to
500 section 3 for internal consistency.

12

File No. 289

501 PH COMMITTEE VOTE: YEA 23 NAY 0 JFS

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

* * * * *

FISCAL IMPACT STATEMENT - BILL NUMBER sHB 5592

| | |
|------------------|--|
| STATE IMPACT | Minimal Workload Decrease, Potential Minimal Revenue Loss, see explanation below |
| MUNICIPAL IMPACT | None |
| STATE AGENCY(S) | Department of Public Health |

EXPLANATION OF ESTIMATES

To the extent that the Department of Public Health will no longer pursue disciplinary actions involving practitioners administering ocular agents-D contrary to current law, a workload decrease and minimal revenue loss from averted civil fines will ensue.

* * * * *

OLR BILL ANALYSIS

sHB 5592

AN ACT CONCERNING SUPERVISION BY HEALTH PROFESSIONALS OF THE USE OF OCULAR AGENTS

SUMMARY: This bill allows optometrists authorized to acquire and use any ocular agents-D to delegate their administration if they are administered to the patient under the optometrist's direct supervision. It also allows licensed physicians (which includes ophthalmologists) to delegate administration of ocular agents-D if under their direct supervision. "Ocular agents-D" are topically administered agents used for diagnosing visual defects, abnormal conditions, or

diseases of the eye and eyelid. Under current law, an optometrist can allow a patient to self-administer any ocular agent-D if under his care and direction.

EFFECTIVE DATE: October 1, 1998

BACKGROUND

Use of Ocular Agents-D

By law, optometrists first licensed before April 1, 1985 can acquire and use ocular agents-D topically in the practice of optometry after completing a course (1) consisting of at least 45 classroom hours and 15 clinic hours, (2) conducted by an institution accredited by a regional professional accreditation organization, and (3) approved by the Department of Public Health (DPH). The optometrist must also pass a DPH-prescribed examination in pharmacology as it applies to optometry with a particular emphasis on the topical application of ocular agents-D to the eye. Those optometrists licensed after April 1, 1985 do not have to take a course or pass an exam in order to acquire and use such agents topically in optometry practice.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute
Yea 23 Nay 0