

# HOUSE BILL No. 4407

February 28, 1991, Introduced by Reps. Bennane, Hertel, Kosteva, Stopczynski, Baade, Bobier, Bender, Dobronski, Hoekman, Hoffman, Pitoniak, Bennett, Weeks, Olshove, Brackenridge, Bryant, Willis Bullard, Law, Nye, Knight, Oxender, Bankes, Harder, Fitzgerald, Middleton, Gnodtke, Bodem, Munsell, Robertson, Saunders, Wozniak, Kilpatrick and Emerson and referred to the Committee on Public Health.

A bill to amend sections 16263, 17401, 17412, 17708, and 17749 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

section 16263 as amended by Act No. 216 of the Public Acts of 1990 and section 17401 as amended and sections 17412 and 17749 as added by Act No. 42 of the Public Acts of 1984, being sections 333.16263, 333.17401, 333.17412, 333.17708, and 333.17749 of the Michigan Compiled Laws; to add sections 17435, 17437, and 17750a; and to repeal certain parts of the act.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 16263, 17401, 17412, 17708, and 17749  
2 of Act No. 368 of the Public Acts of 1978, section 16263 as  
3 amended by Act No. 216 of the Public Acts of 1990 and section  
4 17401 as amended and sections 17412 and 17749 as added by Act

1 No. 42 of the Public Acts of 1984, being sections 333.16263,  
2 333.17401, 333.17412, 333.17708, and 333.17749 of the Michigan  
3 Compiled Laws, are amended and sections 17435, 17437, and 17750a  
4 are added to read as follows:

5       Sec. 16263. (1) Except as provided in subsection (2), the  
6 following words, titles, or letters or a combination thereof,  
7 with or without qualifying words or phrases, are restricted in  
8 use only to those persons authorized under this article to use  
9 the terms and in a way prescribed in this article:

10       (a) "Chiropractic", "doctor of chiropractic",  
11 "chiropractor", "d.c.", and "chiropractic physician".

12       (b) "Dentist", "doctor of dental surgery", "oral and maxil-  
13 lofacial surgeon", "orthodontist", "prosthodontist",  
14 "periodontist", "endodontist", "oral pathologist", "pediatric  
15 dentist", "dental hygienist", "registered dental hygienist",  
16 "dental assistant", "registered dental assistant", "R.D.A.",  
17 "d.d.s.", "d.m.d.", and "r.d.h.".

18       (c) "Doctor of medicine" and "m.d.".

19       (d) "Physician's assistant" and "p.a.".

20       (e) "Registered professional nurse", "registered nurse",  
21 "r.n.", "licensed practical nurse", "l.p.n.", "nurse midwife",  
22 "nurse anesthetist", "nurse practitioner", "trained attendant",  
23 and "t.a.".

24       (f) "Doctor of optometry", "optometrist", and "OPTOMETRIC  
25 PHYSICIAN", "o.d.".

26       (g) "Osteopath", "osteopathy", "osteopathic practitioner",  
27 "doctor of osteopathy", "diplomate in osteopathy", and "d.o.".

1 (h) "Pharmacy", "pharmacist", "apothecary", "drugstore",  
2 "druggist", "medicine store", "prescriptions", and "r.ph."

3 (i) "Physical therapy", "physical therapist",  
4 "physiotherapist", "registered physical therapist", "licensed  
5 physical therapist", "physical therapy technician", "p.t.",  
6 "r.p.t.", "l.p.t.", and "p.t.t."

7 (j) "Chiropodist", "chiropody", "chiropodical", "podiatry",  
8 "podiatrist", "podiatric", "doctor of podiatric medicine", "foot  
9 specialist", "podiatric physician and surgeon", and "d.p.m."

10 (k) "Consulting psychologist", "psychologist",  
11 "psychological assistant", and "psychological examiner",  
12 "licensed psychologist", and "limited licensed psychologist".

13 (l) "Licensed professional counselor", "licensed counselor",  
14 "professional counselor", and "l.p.c."

15 (m) "Sanitarian", "registered sanitarian", and "r.s."

16 (n) "Veterinary", "veterinarian", "veterinary doctor",  
17 "veterinary surgeon", "doctor of veterinary medicine", "v.m.d.",  
18 "d.v.m.", "animal technician", or "animal technologist".

19 (o) "Occupational therapist", "occupational therapist  
20 registered", "certified occupational therapist", "o.t.",  
21 "o.t.r.", "c.o.t.", "certified occupational therapy assistant",  
22 "occupational therapy assistant", or "c.o.t.a."

23 (2) Notwithstanding section 16261, a person who was spe-  
24 cially trained at an institution of higher education in this  
25 state to assist a physician in the field of orthopedics and upon  
26 completion of training, received a 2-year associate of science  
27 degree as an orthopedic physician's assistant before January 1,

1 1977, may use the title "orthopedic physician's assistant"  
2 whether or not the person is licensed under this article.

3 Sec. 17401. (1) As used in this part:

4 (a) "Optometrist" means ~~an individual~~ A PHYSICIAN licensed  
5 under this article to engage in the practice of optometry.

6 (b) "Practice of optometry" means 1 or more of the  
7 following:

8 (i) The examination of the human eye ~~to ascertain the pres-~~  
9 ~~ence of defects or abnormal conditions which may be corrected,~~  
10 ~~remedied, or relieved, or the effects of which may be corrected,~~  
11 ~~remedied, or relieved by the use of lenses, prisms, or other~~  
12 ~~mechanical devices~~ AND RELATED STRUCTURES FOR THE PURPOSE OF  
13 DIAGNOSIS, TREATMENT, OR REFERRAL FOR CONSULTATION AND TREATMENT  
14 OF VISUAL DEFECTS, ABNORMAL CONDITIONS, OR DISEASES.

15 (ii) The employment of ~~objective or subjective physical~~  
16 ~~means to determine the accommodative or refractive conditions or~~  
17 ~~the range of powers of vision or muscular equilibrium of the~~  
18 ~~human eye~~ INSTRUMENTS, DEVICES, DIAGNOSTIC PHARMACEUTICAL AGENTS  
19 AND THERAPEUTIC PHARMACEUTICAL AGENTS, AND NONINVASIVE PROCEDURES  
20 FOR THE PURPOSE OF INVESTIGATION, EXAMINATION, DIAGNOSIS, TREAT-  
21 MENT, OR CORRECTION OF VISUAL DEFECTS, ABNORMAL CONDITIONS, OR  
22 DISEASES OF THE HUMAN EYE AND RELATED STRUCTURES.

23 (iii) ~~The adaptation or the adjustment of the lenses or~~  
24 ~~prisms to correct, remedy, or relieve a defect or abnormal condi-~~  
25 ~~tion or to correct, remedy, or relieve the effect of a defect or~~  
26 ~~abnormal condition of the human eye.~~ THE PRESCRIPTION AND  
27 APPLICATION OF LENSES, PRISMS, DEVICES CONTAINING LENSES OR

1 PRISMS, ORTHOPTICS, VISUAL THERAPY, DIAGNOSTIC PHARMACEUTICAL  
2 AGENTS AND THERAPEUTIC PHARMACEUTICAL AGENTS, PROSTHETIC DEVICES,  
3 AND OTHER NONINVASIVE PROCEDURES FOR THE PURPOSE OF CORRECTION,  
4 ALLEVIATION, OR TREATMENT OF VISUAL DEFECTS, ABNORMAL CONDITIONS,  
5 OR DISEASES OF THE HUMAN EYE AND RELATED STRUCTURES.

6 (iv) The examination of the human eye for contact lenses and  
7 the fitting or insertion of contact lenses to the HUMAN eye.

8 ~~(v) The employment of objective or subjective means,~~  
9 ~~including topical ocular diagnostic pharmaceutical agents by an~~  
10 ~~optometrist who meets the requirements of section 17412, for the~~  
11 ~~examination of the human eye for the purpose of ascertaining a~~  
12 ~~departure from the normal, measuring of powers of vision, and~~  
13 ~~adapting lenses for the aid thereof.~~

14 (c) "~~Topical ocular diagnostic~~ DIAGNOSTIC pharmaceutical  
15 agent" means ANY PHARMACEUTICAL USED FOR THE PURPOSE OF ASCER-  
16 TAINING OR AIDING IN A DIAGNOSIS AND NOT ADMINISTERED BY  
17 INJECTION.

18 ~~(i) The following commercially prepared topical~~  
19 ~~anesthetic: Proparacaine HCL 0.5%.~~

20 ~~(ii) The following commercially prepared~~  
21 ~~cycloplegic/mydriatic: Tropicamide in strength not greater than~~  
22 ~~1%.~~

23 (D) "THERAPEUTIC PHARMACEUTICAL AGENT" MEANS 1 OR MORE OF  
24 THE FOLLOWING:

25 (i) TOPICALLY ADMINISTERED AGENTS USED FOR THE PURPOSE OF  
26 TREATING OR ALLEVIATING THE EFFECTS OF DISEASES OR ABNORMAL

1 CONDITIONS OF THE ANTERIOR SEGMENT OF THE HUMAN EYE OR RELATED  
2 STRUCTURES.

3 (ii) ORALLY ADMINISTERED AGENTS USED FOR THE PURPOSE OF  
4 TREATING OR ALLEVIATING THE EFFECTS OF DISEASES OR ABNORMAL CON-  
5 DITIONS OF THE ANTERIOR SEGMENT OF THE HUMAN EYE OR RELATED  
6 STRUCTURES.

7 (iii) ORALLY ADMINISTERED ANALGESIC AGENTS INCLUDED IN  
8 SCHEDULES 3 AND 4 UNDER SECTIONS 7215 TO 7218 FOR THE PURPOSE OF  
9 ALLEVIATING PAIN CAUSED BY DISEASES OR ABNORMAL CONDITIONS OF THE  
10 ANTERIOR SEGMENT OF THE HUMAN EYE OR RELATED STRUCTURES.

11 (E) "NONINVASIVE PROCEDURES" MEANS PROCEDURES USED TO DIAG-  
12 NOSE OR TREAT A DISEASE OR ABNORMAL CONDITION OF THE ANTERIOR  
13 SEGMENT OF THE HUMAN EYE OR RELATED STRUCTURES THAT DO NOT  
14 REQUIRE AN INCISION WITH CLOSURE.

15 (2) In addition to the definitions in this part, article 1  
16 contains general definitions and principles of construction  
17 applicable to all articles in this code and part 161 contains  
18 definitions applicable to this part.

19 Sec. 17412. (1) ~~Subject to subsection (2), a~~ A licensee  
20 may administer a ~~topical ocular~~ diagnostic pharmaceutical agent  
21 ~~to the anterior segment of the human eye during an eye~~  
22 ~~examination~~ in the course of his or her practice ~~solely~~ for  
23 the ~~purposes~~ PURPOSE of determining the refractive, muscular,  
24 or functional origin of sources of visual discomfort or diffi-  
25 culty and ~~detecting abnormalities which may be evidence~~  
26 DIAGNOSIS of disease AND ABNORMAL CONDITIONS if the licensee is  
27 certified by the Michigan board of optometry as being qualified

1 to administer ~~topical ocular~~ diagnostic pharmaceutical agents  
2 pursuant to this section.

3 ~~(2) The topical anesthetic described in section~~  
4 ~~1740(1)(c)(i) shall be utilized only in diagnostic procedures~~  
5 ~~which aid in detecting glaucoma.~~

6 (2) ~~(3)~~ The Michigan board of optometry shall certify a  
7 licensee as qualified to administer ~~topical ocular~~ diagnostic  
8 pharmaceutical agents if the licensee meets all of the following  
9 requirements:

10 (a) Has successfully completed 60 classroom hours of study  
11 in general and clinical pharmacology as it relates to the prac-  
12 tice of optometry, with particular emphasis on the use of  
13 ~~topical ocular~~ diagnostic pharmaceutical agents for examination  
14 purposes. Not less than 30 of the 60 classroom hours shall be in  
15 ocular pharmacology and shall emphasize the systemic effects of  
16 and reactions to ~~topical ocular~~ diagnostic pharmaceutical  
17 agents, including the emergency management and referral of any  
18 adverse reactions that may occur. The course of study shall be  
19 approved by the Michigan board of optometry, and shall be offered  
20 by a school or college of optometry ~~which~~ THAT is recognized by  
21 the Michigan board of optometry as fully accredited. The course  
22 of study shall be completed before ~~taking~~ THE LICENSEE TAKES  
23 the examination required by this section.

24 (b) Has successfully completed an examination approved by  
25 the Michigan board of optometry on the subject of general and  
26 ocular pharmacology as it relates to the practice of optometry  
27 with particular emphasis on the use of ~~topical ocular~~

1 diagnostic pharmaceutical agents, including emergency management  
2 and referral of any adverse reactions that may occur.

3 (c) Has successfully completed a course in cardiopulmonary  
4 resuscitation APPROVED BY THE DEPARTMENT AND offered or approved  
5 by the red cross, American heart association, an accredited hos-  
6 pital, or a comparable organization or institution.

7 (d) Has established an emergency plan for the management and  
8 referral to appropriate medical services of patients who ~~may~~  
9 experience adverse drug reactions resulting from the application  
10 of ~~topical-ocular~~ diagnostic pharmaceutical agents. The plan  
11 shall be approved by the Michigan board of optometry and shall,  
12 at a minimum, require the optometrist to do all of the  
13 following:

14 (i) Refer patients who notify the optometrist of an adverse  
15 drug reaction to appropriate medical specialists or facilities.

16 (ii) Routinely advise each patient to immediately contact  
17 the optometrist if the patient experiences an adverse drug  
18 reaction.

19 (iii) Place in the patient's permanent record information  
20 describing any adverse drug reaction experienced by the patient  
21 ~~—~~ and the date and time that any referral was made.

22 (iv) Include in the plan the names of not less than 3 physi-  
23 cians, physician clinics, or hospitals to whom the optometrist  
24 will refer patients who experience an adverse drug reaction, ~~—~~  
25 ~~At~~ AT least 1 of ~~the physicians, physician clinics, or hospi-~~  
26 ~~tals shall be~~ WHICH IS skilled or ~~shall specialize~~ SPECIALIZES  
27 in the diagnosis and treatment of diseases of the eye. As used



1 in this subparagraph, "physician" means a physician as defined in  
2 section 17001 or 17501.

3 (e) Has paid the certification fee to administer ~~topical~~  
4 ~~ocular~~ diagnostic pharmaceutical agents prescribed in section 61.  
5 of the state license fee act, Act No. 152 of the Public Acts of  
6 1979, being section 338.2261 of the Michigan Compiled Laws.

7 (3) ~~(4)~~ The course of study and examination required by  
8 subsection ~~(3)(a)~~ (2)(A) and (b) shall be completed prior to  
9 certification, except that the Michigan board of optometry may  
10 certify applicants who have graduated from a school of optometry  
11 recognized by the Michigan board of optometry as accredited  
12 ~~within the 5 years immediately preceding the effective date of~~  
13 ~~this section~~ ON OR AFTER APRIL 12, 1979, if the school's curric-  
14 ulum includes a course of study and examination meeting the  
15 requirements of subsection ~~(3)(a)~~ (2)(A) and (b).

16 ~~(5) Approvals of the course of study, examination, and~~  
17 ~~emergency plan required by subsection (3)(a), (b), and (d) shall~~  
18 ~~be given by the Michigan board of optometry only after consulta-~~  
19 ~~tion with the Michigan board of medicine, the Michigan board of~~  
20 ~~osteopathic medicine and surgery, and the Michigan board of~~  
21 ~~pharmacy. The recommendations of the Michigan board of medicine,~~  
22 ~~the Michigan board of osteopathic medicine and surgery, and the~~  
23 ~~Michigan board of pharmacy shall be made within 120 days after~~  
24 ~~they are requested by the Michigan board of optometry.~~

25 ~~(6) An optometrist shall not purchase, possess, administer,~~  
26 ~~prescribe, or give any prescription drug as defined in section~~

1 ~~17708 or a topical ocular diagnostic pharmaceutical agent except~~  
2 ~~as expressly authorized by this section.~~

3 SEC. 17435. (1) A LICENSEE MAY ADMINISTER AND PRESCRIBE  
4 THERAPEUTIC PHARMACEUTICAL AGENTS IN THE COURSE OF HIS OR HER  
5 PRACTICE IF THE LICENSEE IS CERTIFIED BY THE MICHIGAN BOARD OF  
6 OPTOMETRY AS BEING QUALIFIED TO ADMINISTER AND PRESCRIBE THERA-  
7 PEUTIC PHARMACEUTICAL AGENTS PURSUANT TO THIS SECTION.

8 (2) THE MICHIGAN BOARD OF OPTOMETRY SHALL CERTIFY A LICENSEE  
9 AS QUALIFIED TO ADMINISTER AND PRESCRIBE THERAPEUTIC PHARMACEUTI-  
10 CAL AGENTS IF THE LICENSEE MEETS ALL OF THE FOLLOWING  
11 REQUIREMENTS:

12 (A) HAS BEEN CERTIFIED BY THE MICHIGAN BOARD OF OPTOMETRY TO  
13 ADMINISTER DIAGNOSTIC PHARMACEUTICAL AGENTS.

14 (B) HAS SUCCESSFULLY EARNED AT LEAST 10 QUARTER HOURS OF  
15 CREDIT OR SUCCESSFULLY COMPLETED 100 CLASSROOM HOURS OF STUDY IN  
16 COURSES RELATING TO THE DIDACTIC AND CLINICAL USE OF THERAPEUTIC  
17 PHARMACEUTICAL AGENTS FROM A SCHOOL OR COLLEGE OF OPTOMETRY THAT  
18 IS RECOGNIZED BY THE MICHIGAN BOARD OF OPTOMETRY AS FULLY ACCRED-  
19 ITED OR HAS SUCCESSFULLY COMPLETED AN EXAMINATION APPROVED BY THE  
20 MICHIGAN BOARD OF OPTOMETRY ON THE SUBJECT OF TREATMENT AND MAN-  
21 AGEMENT OF OCULAR DISEASE.

22 (C) HAS PAID THE CERTIFICATION FEE TO ADMINISTER THERAPEUTIC  
23 PHARMACEUTICAL AGENTS PRESCRIBED IN SECTION 61 OF THE STATE  
24 LICENSE FEE ACT, ACT NO. 152 OF THE PUBLIC ACTS OF 1979, BEING  
25 SECTION 338.2261 OF THE MICHIGAN COMPILED LAWS.

26 SEC. 17437. AN OPTOMETRIST LICENSED AFTER THE EFFECTIVE  
27 DATE OF THIS SECTION SHALL OBTAIN CERTIFICATION TO ADMINISTER

1 DIAGNOSTIC PHARMACEUTICAL AGENTS AND TO ADMINISTER AND PRESCRIBE  
2 THERAPEUTIC PHARMACEUTICAL AGENTS AT THE TIME OF INITIAL  
3 LICENSURE.

4       Sec. 17708. (1) "Preceptor" means a pharmacist approved by  
5 the board to direct the training of an intern in an approved  
6 pharmacy.

7       (2) "Prescriber" means a licensed dentist, doctor of medi-  
8 cine, doctor of osteopathic medicine and surgery, doctor of podi-  
9 atric medicine and surgery, OPTOMETRIST, veterinarian, or other  
10 licensed health professional acting under the delegation and  
11 using, recording, or otherwise indicating the name of the dele-  
12 gating licensed doctor of medicine or doctor of osteopathic medi-  
13 cine and surgery.

14       (3) "Prescription" means an order for drugs or devices writ-  
15 ten and signed or transmitted by other means of communication by  
16 a prescriber to be filled, compounded, or dispensed. Prescribing  
17 shall be limited to a prescriber. An order transmitted in other  
18 than written form shall be recorded or written and immediately  
19 dated by the pharmacist, and that record constitutes the original  
20 prescription. In a medical institution an order for drugs or  
21 devices in the patient's chart constitutes for the purposes of  
22 this definition the original prescription.

23       (4) "Prescription drug" means any of the following:

24       (a) A drug dispensed pursuant to a prescription.

25       (b) A drug bearing the federal legend "CAUTION: federal law  
26 prohibits dispensing without prescription".

1 (c) A drug designated by the board as ~~one which~~ A DRUG  
2 THAT may only be dispensed pursuant to a prescription.

3 Sec. 17749. (1) Notwithstanding any provision of this act  
4 or any rule promulgated under this act, a wholesale distributor  
5 or pharmacist may dispense a ~~topical ocular~~ diagnostic pharma-  
6 ceutical agent OR A THERAPEUTIC PHARMACEUTICAL AGENT to a  
7 licensed optometrist for subsequent administration to optometric  
8 patients, if the optometrist provides the wholesale distributor  
9 or pharmacist with the number of the optometrist's certification  
10 of qualification to administer ~~topical ocular~~ diagnostic phar-  
11 maceutical agents AND TO ADMINISTER AND PRESCRIBE THERAPEUTIC  
12 PHARMACEUTICAL AGENTS.

13 (2) As used in this section, ~~"topical ocular"~~ "THERAPEUTIC  
14 PHARMACEUTICAL AGENT" AND "diagnostic pharmaceutical agent"  
15 ~~means that term~~ MEAN THOSE TERMS as defined in section 17401.

16 SEC. 17750A. (1) A PHARMACIST MAY DISPENSE A PRESCRIPTION  
17 FOR A THERAPEUTIC PHARMACEUTICAL AGENT ISSUED BY AN OPTOMETRIST  
18 CERTIFIED BY THE MICHIGAN BOARD OF OPTOMETRY AS QUALIFIED TO  
19 ADMINISTER AND PRESCRIBE THERAPEUTIC PHARMACEUTICAL AGENTS.

20 (2) AS USED IN THIS SECTION, "THERAPEUTIC PHARMACEUTICAL  
21 AGENT" MEANS THAT TERM AS DEFINED IN SECTION 17401.

22 Section 2. Sections 17432 and 17433 of Act No. 368 of the  
23 Public Acts of 1978, being sections 333.17432 and 333.17433 of  
24 the Michigan Compiled Laws, are repealed.