



**MEMORANDUM IN SUPPORT
S.1519 (Bailey) / A.1921 (Paulin)**

S.1519/A.1921 would allow optometrists to prescribe ten orally-administered drugs for the treatment of diseases of the eye. The New York State Optometric Association (NYSOA) strongly supports this legislation. This bill would improve patient care by ensuring specific oral medications are available to optometrists for the treatment of the most common or critical eye conditions for which patients are diagnosed.

The Assembly passed this longstanding legislation for the first time ever in 2020 and the Senate passed similar legislation in three of the past five years, including in 2019, and with overwhelming support.

Most of the provisions of this bill reflect a prior agreement with the New York State Ophthalmological Society, but this version of the bill reflects changes requested by the New York State Education Department (SED) and the Assembly.

The notable changes are as follows:

- Remove the proposed Oral Therapeutic Pharmaceutical Agent Implementation Review Committee, which would have been comprised of four private health providers who would have reviewed *every* oral prescription by *every* optometrist and the end of *every* quarter for a period of 5 years. SED has objected to the outside committee as unnecessary since pharmacists, investigators and even the public already monitor the prescription practices of all health professionals, including physicians, and this system is effective and works in “real-time” to protect patients. The Department also raised concerns that the outside committee would have created an unprecedented situation of an outside entity identifying and referring possible professional misconduct violations to, and directing who should be investigated by, SED’s Office of Professional Discipline.
- Increase the minimum continuing education hours that optometrists must complete to maintain their state license to 54 hours every three years. Such increase is 18 hours more than the 36 hours that optometrists must complete every three years under existing law – an overall increase of 50 percent! SED had objected to the previously proposed 75 hours of continuing education every three years since that amount would have been greater than all other health professions in New York State, including dentists (60 hours every three years) who have full prescriptive authority, as well as podiatrists (50 hours every three years) who also have full prescriptive authority.

This bill otherwise generally reflects agreed-upon provisions, including a specific list of ten oral medicines that optometrists may prescribe. The bill would not authorize the prescription of oral analgesics, including opioids, oral steroids, or non-steroidal anti-inflammatories. The bill would limit the duration of prescriptions for the two listed oral antiglaucoma drugs (*i.e.*, one, 24-hour prescription) and the two oral antiviral medications (*i.e.*, 7-day prescriptions) and would require referral to physicians with the use of such drugs.

In order to be certified to use oral medications, optometrists would have to complete a 40-hour certification course and pass an examination, both of which must be approved by the State Education

Department. Optometrists who graduated from a college of optometry after January 1, 2021 would not be subject to the coursework and examination requirement, provided they pass a national examination as part of their optometry school training. Optometrists certified to use oral medications would also be required to complete 54 hours of continuing education during each three year license period.

Currently, optometrists are expressly authorized to provide a full range of primary (*i.e.*, non-surgical) eye care to their patients, consistent with their education and training, including the prescription of *topical* medications (*e.g.*, eyedrops). As a result, many patients rely upon optometrists for effective and timely diagnosis and treatment of their eye conditions. In fact, in 13 of 15 Upstate counties underserved for eye care, optometrists are the only eye care provider available, and they provide services in many other rural and urban underserved areas as well.

Like other health care providers, optometrists need to use medications that are most appropriate for the treatment of their patients. In some cases, the use of an orally-administered medication is the best course of treatment. Because optometrists are not currently authorized to use such medications in New York State, this leaves the optometrist in the difficult position of using less effective alternatives such as topical drugs or referring a patient in immediate need of treatment to another health care provider. Such a delay can potentially result in an exacerbated eye condition that requires greater healing time or results in permanent damage to the patient's eyesight and health. This bill will address this gap in the ability of optometrists to provide the necessary level of patient treatment, by finally authorizing optometrists to use the most necessary oral medications for the treatment of eye conditions.

Forty-nine states, Guam, the District of Columbia, and the Veteran's Administration system in New York already permit optometrists to prescribe oral medications. Given that their practice in every other state permits prescription of oral medications, optometrists have long been educated and trained to use oral medications as part of their post-graduate, four year education at institutions like the SUNY College of Optometry in New York City - one of the leading optometric schools in the nation.

Notably, Massachusetts, which was previously the only other state to not allow optometrists to prescribe oral medications, just authorized optometrists to use of far more oral medications to treat patients' eye conditions than is being requested in this legislation. *See* Chapter 260 of the Acts of 2020 [Massachusetts]. New York is now the only state that prohibits patients from being treated with an oral medication prescribed by an optometrist.

By permitting optometrists to provide the full range of medication interventions that their patients require, S.1519/A.1921 will improve the quality and timeliness of health care through expert treatment and greater access to eye care services. Accordingly, the NYSOA strongly supports this bill and urges the Legislature to vote in favor of this legislation.

If you have any questions relating to the information in this memorandum, please contact Jim Walsh at Manatt, Phelps & Phillips, LLP, (518-431-6700) or jwalsh@manatt.com.