

## **BILL ANALYSIS**

Senate Research Center  
87R22541 KKR-F

C.S.S.B. 993  
By: Hancock  
Business & Commerce  
5/5/2021  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Therapeutic optometrists and optometric glaucoma specialists are doctors of optometry who diagnose, manage, and treat conditions of the eye and the ocular adnexa. Optometrists examine approximately 10 million Texans each year, and they perform approximately 70 percent of the eye care in Texas.

In 1981, the Texas Legislature granted optometrists the ability to use topical diagnostic eye drop medications to dilate the eye in order to facilitate comprehensive eye examinations.

In 1991, the Texas Legislature granted optometrists the ability to become licensed as therapeutic optometrists, allowing doctors of optometry to treat eye conditions with certain topical medications.

In 1999, the Texas Legislature granted therapeutic optometrists the ability to become licensed as optometric glaucoma specialists, allowing doctors of optometry to prescribe a limited formulary of oral medications to treat eye conditions, and to diagnose, manage, and treat glaucoma with certain restrictions.

Today, all optometrists from the two Texas schools of optometry graduate as therapeutic optometrists and are immediately eligible to become optometric glaucoma specialists once they complete a board-required skills demonstration following graduation.

Even with these changes, approximately one in four optometry students leave Texas to practice in other states where the laws allow them to practice to the full extent of their training and provide patients with more services. Texas ranks 49th in the nation for patient access to optometric eye care. According to the Department of Health and Human Services, Texas is quickly heading toward a major crisis in eye care.

S.B. 993 seeks to remove the restricted oral medication formulary so that optometric glaucoma specialists may use all medications appropriate for treatment of the eye for any length of time that is medically necessary. Additionally, S.B. 993 seeks to restore the ability for optometric glaucoma specialists to prescribe no more than a three-day supply of hydrocodone or hydrocodone combination products for conditions of the eye causing intense eye pain. The bill repeals the requirement that they consult with an ophthalmologist at the time that a patient is newly diagnosed with glaucoma. S.B. 993 allows for therapeutic optometrists to order the appropriate tests needed to diagnose and manage ocular diseases. The bill also expands the therapeutic optometrist's ability to provide minor, in-office surgical procedures, while at the same time creating a list of surgical procedures that optometrists are specifically not allowed to perform. Lastly, S.B. 993 designates the Texas Optometry Board as the sole authority for determining the scope of practice of optometrists with respect to the limitations found in the chapter.

(Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 993 amends current law relating to the practice of therapeutic optometry.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Optometry Board in SECTION 1 (Section 351.2034, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter E, Chapter 351, Occupations Code, by adding Section 351.2034, as follows:

Sec. 351.2034. COMPLAINTS RESULTING FROM GLAUCOMA TREATMENT. (a) Requires the Texas Optometry Board (TOB), in collaboration with the Texas Medical Board (TMB), to adopt rules for investigating and reviewing complaints filed with TOB regarding a therapeutic optometrist's treatment of a patient for glaucoma. Requires that the rules ensure that:

- (1) a person who files a complaint has the opportunity to explain the allegations made in the complaint;
- (2) a complaint is not dismissed without appropriate consideration by TOB;
- (3) a complaint is resolved within six months after the date the complaint is filed;
- (4) TOB notifies TMB of the receipt and disposition of a complaint; and
- (5) a complaint is reviewed as provided by this section.

(b) Requires TOB, after a complaint regarding a therapeutic optometrist's treatment of a patient for glaucoma is filed with TOB, to select at least one physician licensed in this state who specializes in ophthalmology to:

- (1) review the complaint and determine if the therapeutic optometrist's treatment of the patient for glaucoma violated the standard of care applicable to a physician specializing in ophthalmology; and
- (2) submit to TOB a written report on the physician's determination.

(c) Requires TOB, if the report under Subsection (b) states that the standard of care was violated, to forward the complaint and report to an expert panel appointed by TOB and TMB. Requires the panel to be composed of an equal number of physicians who specialize in ophthalmology and therapeutic optometrists. Requires each member of the expert panel to be licensed to practice medicine or therapeutic optometry, as applicable, in this state. Authorizes a physician who serves on an expert panel to also serve as an expert physician for TMB.

(d) Requires an expert panel selected to review a complaint under Subsection (c) to:

- (1) review the physician's determination made under Subsection (b); and
- (2) recommend to TOB whether the therapeutic optometrist should be subject to disciplinary action and, if so, whether the disciplinary action should include suspension or revocation of the therapeutic optometrist's certificate issued under Section 351.3581(a).

(e) Provides that a person is not eligible to review a complaint under Subsection (b) or serve on an expert panel under Subsection (c) if:

(1) the person or the person's spouse is an officer, employee, or paid consultant of a Texas trade association, as defined by Section 351.053 (Membership and Employee Restrictions; Conflicts of Interest), in the field of health care; or

(2) the person is a member of the faculty or board of trustees of an optometry school or an institution of higher education with an affiliated school of optometry.

(f) Requires TOB to maintain and make publicly available online:

(1) information regarding the number of complaints filed with TOB regarding the treatment of patients for glaucoma by therapeutic optometrists and the disposition of those complaints; and

(2) a searchable list of each therapeutic optometrist whose certificate under Section 351.3581(a) was suspended or revoked by TOB.

(g) Provides that this section expires September 1, 2027.

SECTION 2. Amends Section 351.358(c), Occupations Code, as follows:

(c) Authorizes a therapeutic optometrist to prescribe not more than one three-day supply of any medication classified as a controlled substance under Schedule III, IV, or V of 21 U.S.C. Section 812. Deletes existing text authorizing a therapeutic optometrist to prescribe oral medications only in the following classifications of oral pharmaceuticals: one 10-day supply of oral antibiotics; one 72-hour supply of oral antihistamines; one seven-day supply of oral nonsteroidal anti-inflammatories; one three-day supply of any analgesic identified in Schedules III, IV, and V of 21 U.S.C. Section 812; and any other oral pharmaceutical recommended by the Optometric Health Care Advisory Committee and approved by TOB and the Texas State Board of Medical Examiners. Makes nonsubstantive changes.

SECTION 3. Amends the heading to Section 351.3581, Occupations Code, to read as follows:

Sec. 351.3581. TREATMENT OF GLAUCOMA.

SECTION 4. Amends Sections 351.3581(a) and (d), Occupations Code, as follows:

(a) Requires a therapeutic optometrist, to obtain a certificate issued by TOB, to complete an instructional clinical review course and pass an examination approved by TOB. Deletes existing text requiring a therapeutic optometrist, to obtain a certificate issued by TOB, as required under Section 351.165(c) (relating to required recommendations by the Optometric Health Care Advisory Committee), to complete an instructional clinical review course and pass an examination approved by TOB. Makes a nonsubstantive change.

(d) Requires a therapeutic optometrist to refer a patient to an ophthalmologist if the patient has definite optic disc, retinal nerve fiber layer, or macular imaging abnormalities consistent with glaucoma and visual field abnormalities in both hemifields, or loss within five degrees of fixation in at least one hemifield as tested with standard automated perimetry, or if the therapeutic optometrist determines that a patient's glaucoma is not responding to nonsurgical intervention. Deletes existing text requiring a therapeutic optometrist to refer a patient to an ophthalmologist if the therapeutic optometrist determines that a patient's glaucoma is caused by a diabetic complication and, after joint consultation with the physician treating the diabetes and an ophthalmologist by telephone, fax, or another method, the physician or ophthalmologist determines that the patient should be seen by the physician or ophthalmologist, or if the therapeutic optometrist determines that a patient's glaucoma is not responding appropriately to a treatment specified in Subsection (f) (relating to requiring a therapeutic optometrist to set

a certain target pressure to determine whether a patient's glaucoma is appropriately responding to treatment) and, after consulting a physician by telephone, fax, or another method, the physician determines that the patient should be seen by the physician or an appropriate specialist.

SECTION 5. Requires TOB, not later than December 1, 2021, to adopt rules necessary to implement the changes in law made by this Act to Chapter 351, Occupations Code.

SECTION 6. Repealers: Sections 351.3581(b) (relating to requiring a therapeutic optometrist to engage in consultation with an ophthalmologist to develop an individual treatment plan) and (c) (relating to certain required actions by a therapeutic optometrist required to engage in comanagement with an ophthalmologist for a patient with glaucoma), Occupations Code.

SECTION 7. Effective date: September 1, 2021.