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### ARBITRATION

Daniel Garrie of ARC and Yoav Griver of Zeichner, Ellman and Krause say inclusion of an information system expert in arbitration allows for early discovery planning. **PAGE 5**

### EDUCATION

While funding for technology projects is attractive for school districts, it is not without risks, caution Lynn Murphy and Greg Rodriguez of Fagen Friedman & Fulfroost. **PAGE 6**

### BOOK EXCERPT

George Kimball of Baker & McKenzie explains how competing interests and elements of outsourcing fit together to provide the right results. **PAGE 6**

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## Which Eye Doctor Will See You Now?

### A War Between Optometrists And Ophthalmologists Over Glaucoma Care Heats Up

By Evan George  
Daily Journal Staff Writer

Call it the battle of the lab coats. California's eye doctors are waging a tense and unlikely battle over who can, and can't, treat patients for serious vision loss.

In one corner are ophthalmologists — eye surgeons with medical degrees who treat the most serious cases; in the other, optometrists — eye specialists who treat other maladies without a medical degree and appear to be gaining ground in Sacramento.

The fight is over a pending regulation that would allow optometrists, with little to no hands-on training, to treat glaucoma, which leads to total blindness if not caught and managed. The new rule would require passing a brief training course, rather than the one-year residency under an expert that is now mandatory.

**'Would you want someone to fly an airplane without any flying experience?'**

CRAIG H. KLIGER

CALIFORNIA ACADEMY OF EYE PHYSICIANS & SURGEONS

"The bottom line is they would allow an optometrist to become certified without ever having seen a glaucoma patient before," said Craig H. Kliger, executive director of the California Academy of Eye Physicians & Surgeons, which represents ophthalmologists.

"Would you want someone to fly an airplane without any flying experience?"

Optometrists' lobbying group call that claim "absurd," because they help treat dozens, sometimes hundreds, of glaucoma patients as part of their student training.



S. TODD ROGERS / Daily Journal

Martin Fishman, a Los Gatos ophthalmologist, warns against allowing optometrists to treat glaucoma patients.

Both sides agree the new regulation will greatly relax the rules, giving optometrists across the state control over tens of thousands of patients they would otherwise have to refer to a specialist.

The surgeons are just scared of losing business, said Tim Hart, a spokesman for the California Optometric Association. "It has to do with perceived competition," Hart said. His group argues patients in California desperately need access to more glaucoma specialists.

"In 43 other states, optometrists can independently manage and treat glaucoma patients. What is the hold up in California?"

Observers said the escalating fight over glaucoma rules is just the latest saga in a decade-long dispute between the two types of professionals. Doctors in California have fought hard to keep other professionals from encroaching on their medical practice.

The Department of Consumer Affairs must sign off on the regulation before it can be approved. Ophthalmologists have filed a petition to block the new rule. The department is expected to make a decision in coming weeks.

Glaucoma is a big battle ground because so many people suffer from it and the consequences of failing to catch it are crippling.

Last summer, the U.S. Department of Veterans Affairs

investigated allegations that seven veterans went blind because optometrists at a VA hospital in Palo Alto failed to properly diagnose and treat the disease.

None of the optometrists at the VA have been found negligent, but two lawsuits are pending.

Despite heightened tensions, the new rule has been long in coming.

The issue surfaced in 2000, when optometrists first pushed the legislature to relax the rules that at the time said only physicians could treat the disease. Surgeons then agreed to a compromise, allowing optometrists to treat glaucoma patients but only if they met stringent criteria, including a 12-month program under the supervision of a trained expert, among other things.

Few made that commitment: only 132 optometrists have passed the training since 2000.

Optometrists tabled the push for eight years. But in 2008, lawmakers passed a bill sought by the California Optometric Association to loosen those stringent requirements. The law left it to a committee to decide what training would be required.

When that committee of three optometrists and three ophthalmologists reached a stalemate, a consultant was chosen to cast the deciding vote. The consultant was an optometrist, tipping the vote in their favor. The regula-

See Page 8 — REGULATION

### GUEST COLUMN

With 250 million pounds of pharmaceutical waste disposed of annually, health and environmental impacts must not be ignored, writes **George Mannina Jr.** of Nossaman

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By Robert Daily Journal

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## Regulation for Treating Glaucoma Is Pitting Optometrists Against Ophthalmologists

Continued from page 1

tion now would substitute the year of supervised training with a couple less intensive options, including a 16-hour course and a multiple choice test.

That perverted the process as imagined by the Legislature, charged Kliger, with the California Academy of Eye Physicians & Surgeons.

"They pushed something through because they believed they had the political clout to do so," Kliger added.

There are about 7,000 optometrists in California compared to 2,000 ophthalmologists, according to the trade groups. Both spend money lobbying and donating to campaigns. But the optometrists outpaced the ophthalmologists on the glau-

coma issue. Although eye surgeons also belong to the powerful California Medical Association, that group lobbies on several dozens of bills each session.

In the first quarter of 2009, the California Academy of Eye Physicians & Surgeons spent just \$33,000 in lobbying efforts while the California Optometric Association spent \$111,706, according to state records. Optometrists out-spent the ophthalmologists throughout the 2009-2010 session by \$120,000.

**D**uring the 2007-2008 year, when the bill was being considered, optometrists gave \$632,163 to political campaigns, while ophthalmologists donated \$408,778.

That may be starting to shift: The

California Optometric Association gave \$84,400 in contributions this year, but ophthalmologists handed out \$89,000 to candidates.

Glaucoma — a set of varying diseases — is the second leading cause of blindness, affecting more than 2.2 million Americans at last count. A 2005 study estimated that 30,000 cases of blindness were caused by glaucoma in California alone.

In simple terms, glaucoma is caused by abnormal, dangerous pressure on the eye. Diagnosing it hinges on measuring that intraocular pressure. And treating it requires managing the level of pressure, either with medicated eye drops or laser surgery.

Martin Fishman is an ophthalmologist

in Los Gatos who has spoken out against allowing all optometrists to treat patients for glaucoma.

Fishman said his private practice employs an optometrist to handle routine eye care like glasses, contact lenses and eye infections. But anything more serious gets kicked to him or another ophthalmologist.

The average optometry student, Fishman said, lacks the hands-on experience needed to handle patients facing serious vision loss.

"I'm not saying it takes medical school to do this necessarily," said Fishman, who also sits on the board of the California Medical Association. "Just show us you have an adequate amount of experience

in diagnosing and treating glaucoma patients," he said, adding that he believed that should include supervised clinical experience.

He said there were two common missteps: overlooking the disease, or not diagnosing the type and severity of glaucoma, or not prescribing the appropriate treatment.

Optometrists are already allowed prescribe some medications, even without a medical degree.

"They have not achieved that through their educational process," Fishman said. "They have achieved that only through the legislative process."

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