

SENATE BILL REPORT

SB 5542

As Reported by Senate Committee On:
Health & Long Term Care, February 2, 2022

Title: An act relating to the practice of optometry.

Brief Description: Concerning the practice of optometry.

Sponsors: Senators Cleveland, Rivers, Conway, Lovick and Robinson.

Brief History:

Committee Activity: Health & Long Term Care: 1/26/22, 2/02/22 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Clarifies the scope of practice for optometry.
- Expands the scope of medications and therapeutic procedures an optometrist may prescribe or perform.
- Grants the Board of Optometry greater authority over the practice of optometry and rule-making authority relating to educational standards.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5542 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Conway, Holy, Randall, Rivers, Robinson, Sefzik and Van De Wege.

Minority Report: Do not pass.

Signed by Senators Muzzall, Ranking Member; Keiser.

Minority Report: That it be referred without recommendation.

Signed by Senators Frockt, Vice Chair; Padden.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Julie Tran (786-7283)

Background: Licensed optometrists in Washington State can test patients' visual acuity, prescribe eyeglasses or contact lenses, prescribe visual therapy, and adapt prosthetic eyes. With additional education requirements, a qualified optometrist may also use or prescribe some topical or oral drugs for therapeutic or diagnostic purposes. To earn the right to apply topical drugs for diagnostic purposes, an optometrist must complete 60 hours of didactic and clinical instruction in general and ocular pharmacology and receive certification from an accredited institution. To earn the right to prescribe topical drugs for therapeutic purposes, an optometrist must complete the requirements above as well as an additional 75 hours of instruction. To use or prescribe oral drugs, an optometrist must meet the above requirements for use and prescription of topical drugs as well as complete an additional 16 hours of didactic and eight hours of supervised clinical instruction, and receive certification from an accredited institution.

In 2003, the Legislature expanded the scope for this profession to allow the range of drugs an optometrist may use or prescribe beyond topical drugs to include some oral drugs for diagnostic or therapeutic purposes, as well as injectable epinephrine for treatment of anaphylactic shock. In 2015, the Legislature authorized optometrists to use, prescribe, dispense, purchase, possess, or administer Schedule II hydrocodone combination products. The Board of Optometry may include Schedule II hydrocodone combination products in its list of approved oral controlled substances and oral legend drugs.

Board of Optometry. The Board of Optometry (board) consists of five optometrists and one public member. The optometrist members must be United States citizens and Washington State residents; must have been in active practice as a licensed optometrist in Washington for at least four years immediately preceding appointment; and may not have any connection with any school or college embracing the teaching of optometry or with any optical supply business.

The board must develop and administer or approve a licensure examination. The board must adopt rules and regulations to promote safety, protection and the welfare of the public, to carry out the board's purpose, to aid the board in the performance of its powers and duties, and to govern the practice of optometry. Three members constitutes a quorum for the transaction of the board's business. The board must meet at least once a year or more frequently upon a call of the chair or the Secretary of Health (Secretary) at such times and places designated by the chair or the Secretary with three day's notice.

Sunrise Review. In a December 2021 draft report, the Department of Health (DOH) conducted a sunrise review to expand the scope of practice for optometrists in Washington State. DOH recognizes that all provider types should be able to practice to their highest level of education. However, DOH found the submitted bill proposal as written to be too broad and it does not adequately describe what procedures would be allowed. DOH made several recommendations to ensure patient safety.

Summary of Bill (First Substitute): Scope of Practice. The practice of optometry is defined as the evaluation of ocular health and refractive state, diagnosis, and treatment of the eye and its appendages to correct and relieve ocular abnormalities in any authorized manner, including, but not limited to:

- prescribing and adapting lenses, contact lenses, spectacle eyeglasses, prisms, other ocular devices, and of administration of pharmaceutical agents;
- the use of oral, topical, and other medications to treat and relieve disease or abnormalities of the ocular tissues and ocular adnexa;
- the prescription and provision of visual therapy, ocular exercises, visual rehabilitation therapy, subnormal vision therapy, orthoptics, and the adaptation of prosthetic eyes;
- ordering necessary diagnostic lab or imaging tests and the dispensing of samples to initiate treatment;
- performing nonpenetrating ocular foreign body removal or debridement of tissue by any means, epilation of misaligned eyelashes, placement of punctal or lacrimal plugs, dilation and irrigation of the lacrimal system, placement of biologic membranes, orthokeratology, prescription and fitting of contact lenses with the purpose of altering refractive error, or other similar procedures;
- the use of diagnostic or therapeutic instruments utilizing laser, ultrasound, or other technology in the performance of primary eye care; and
- other ophthalmic surgery procedures, except those procedures listed that are not included in the practice of optometry.

"Ophthalmic surgery procedures" means a procedure upon the human eye in which in vivo human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation.

The practice of optometry does not include:

- retinal laser procedures, laser-assisted in situ keratomileus, photorefractive keratectomy, laser epithelial keratomileusis, or any forms of refractive surgery;
- penetrating keratoplasty, corneal transplant, or lamellar keratoplasty;
- the administration of general anesthesia;
- surgery performed with general anesthesia;
- laser or nonlaser injection into the vitreous chamber of the eye to treat any macular or retinal disease;
- surgery related to the removal of the eye from a living human being;
- surgery requiring a full thickness incision or excision of the cornea or sclera other than paracentesis in an emergency situation requiring immediate reduction of the pressure inside of the eye;
- surgery requiring incision of the iris and ciliary body, including iris diathermy or cryotherapy;
- surgery requiring incision of the vitreous or retina;
- surgical extraction of the crystalline lens;
- surgical intraocular implants;

- incisional or excisional surgery of the extraocular muscles;
- surgery of the eyelid for malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis, or tarsorrhaphy;
- surgery of the bony orbit, including orbital implants;
- incisional or excisional surgery of the lacrimal system other than lacrimal probing or related procedures;
- surgery requiring full thickness conjunctivoplasty with graft or flap;
- any surgical procedure that does not provide for the correction and relief of ocular abnormalities;
- incision into the eyeball;
- retrobulbar or intraorbital injection; or
- pterygium surgery.

Scope of Medications and Therapeutic Procedures. An optometrist must not administer drugs, prescribe drugs, or perform laser or nonlaser surgical procedures until they are authorized, licensed, or certified by the board. Any advanced procedure licensed optometrist authorized to practice must meet the educational and competence criteria set forth by the board to perform expanded therapeutic procedures.

To earn the right to apply topical and oral drugs for diagnostic purposes, an optometrist must have didactic and clinical instruction in general and ocular pharmacology and receive certification from an accredited institution. To earn the right to administer injections and advanced procedures for treatment in the practice of optometry, an optometrist must complete the requirements above as well as additional hours of didactic and supervised clinical instruction.

The board must designate the accepted postgraduate courses for certification to provide advanced ophthalmic surgical procedures. If a course is offered by an accredited institution, this course should contain continuing education including didactic and practical training or an equivalent course or exam may be ruled acceptable. Such course or courses shall be the fiscal responsibility of the participating and attending optometrist. The board must determine a date in which all optometrists licensed in Washington State must be certified to apply topical and oral drugs for diagnostic purposes and administer injections and advanced procedures for treatment.

Any optometrist authorized by the board for the practice of optometry must be permitted:

- to purchase diagnostic pharmaceutical agents;
- to prescribe therapeutic pharmaceutical agents; and
- to purchase pharmaceutical agents, and shall obtain them from licensed wholesalers or pharmacists, using prescriptions or chart orders placed in a similar manner as any authorized physician or other practitioner.

Purchases shall be limited to the specified pharmaceutical agents, based on the board's authority and the licensed optometrists who meet the education qualifications. Diagnostic

and therapeutic pharmaceutical agents are any prescription or nonprescription drug delivered via any route of administration used or prescribed for the diagnosis, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa. Diagnostic and therapeutic pharmaceutical agents do not include Schedule I and Schedule II drugs, except for hydrocodone combination products.

In a public health emergency, the state health officer may authorize therapeutically licensed optometrists to administer inoculations for systemic health reasons.

Board of Optometry. The board must meet at least annually and is subject to the call of the board's officers or the Secretary at such times and places as designated by the board's officers or the Secretary. A full record of the board's proceedings shall be kept in the office of the board and shall be open to inspection at all reasonable times. A majority of members constitutes a quorum for the transaction of the board's business.

The board must adopt rules and regulations which includes administrative regulations such as the classification and licensure of optometrists by examination or credentials, retirement of a license, and reinstatement of a license. The board has the sole authority to determine what constitutes the practice of optometry within the confines of what is outlined in statute. The board must keep a register containing the name, address, license number, email, and phone number of every person licensed to practice optometry in this state to the best of its ability.

EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):

- Restores the current language in statute relating to the member composition of the Optometry Board.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Our communities and our patients have been well served by allowing optometrists to perform at their highest levels and having the scope that matched the level of training and skillset. The level of education and optometry technology have expanded since the last scope of practice expansion. Optometrists have more than enough training to safely and effectively provide the types of procedures that we are requesting. This bill would expand the access of eye care to these

vulnerable populations and thereby, promote health equity in the state of Washington as optometrists have stepped up to fill the role especially to our rural patients who do not always have the access.

CON: This bill will further blur the distinctions between ophthalmology and optometry. People expect their surgeons to have gone to medical school, completed surgical residency, and be adequately trained on the procedures relating to the live human eye. Ophthalmologists are the only eye doctors who fit that description. This bill expands the scope of practice for optometrists to perform surgeries without the very necessary training and direct hands-on experience to ensure patient safety in our state. Their first patient may be a Washingtonian who is seeking eye care. This bill will not improve patients' access to care and it will not reduce patient cost. It will not give rural Washingtonians access to higher quality of care.

OTHER: There are several concerns. There is broad language on expanded scope, which leaves room for gray area on what procedures can be performed. The bill should specifically enumerate the advanced procedures. Also, the bill should remove the laser procedures until more data can be collected on the effects to patient safety because laser procedures carry substantial risk to the patient if not performed correctly. The bill does not have requirements that would test competency for performing advanced procedures such as requiring clinical hands-on experience and successful completion of national examinations.

Persons Testifying: PRO: Senator Annette Cleveland, Prime Sponsor; Nick Jankowski, Optometric Physicians of Washington; Richard Castillo, Northeastern State University; Melissa Dacumos, Optometric Physicians of Washington; Justin Dalke, Optometric Physicians of Washington; Robert Ford, PCLI; Nathan Lighthizer; Paul Barney, Optometric Physicians of Washington; Austin Eckel, Optometrist.

CON: Rachel Reinhardt MD, Wa. Academy of Eye Physicians and Surgeons; Stephanie Cramer MD, Wa. Academy of Eye Physicians and Surgeons; Aaron Weingeist MD, Wa. Academy of Eye Physicians and Surgeons; Courtney Francis MD, Wa. Academy of Eye Physicians and Surgeons; Nathan Schlicher MD, Wa. State Medical Association; Thomas Meirick MD, UW Ophthalmology Resident.

OTHER: Cori Tarzwell, Washington State Department of Health.

Persons Signed In To Testify But Not Testifying: No one.