

SENATE BILL REPORT

SB 5389

As of January 31, 2023

Title: An act relating to the practice of optometry.

Brief Description: Concerning the practice of optometry.

Sponsors: Senators Cleveland, Rivers, Robinson, Van De Wege, Conway, Holy, Schoesler, Wilson, L., Lovick, Randall and Wilson, C..

Brief History:

Committee Activity: Health & Long Term Care: 1/31/23.

Brief Summary of 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

Staff: Andie Parnell (786-7439)

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

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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 optometry scope of practice 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 (board) may include Schedule II hydrocodone combination products in its list of approved oral controlled substances and oral legend drugs.

Board of Optometry. The board consists of three members of the examining committee for optometry, and two more optometrists appointed by the Governor. The optometrist members must be 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 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.

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 recommended the following changes to the bill proposal to ensure patient safety:

- restructure the bill to specifically enumerate the additional procedures rather than listing broad categories and allowing the board to further define those categories in rule;
- authorize the limited advanced procedures proposed by DOH as an endorsement to an optometrist credential, rather than making the expanded scope the baseline;
- include a requirement that clinical training on the advanced procedures include supervised hands-on experience with patients, rather than just laboratory experience;
- require the national examinations for advanced procedures including Lasers and Surgical Procedures Examination and Injections Skill Examination;
- clarify that the Legislature determines scope of practice;
- maintain the list of excluded procedures to ensure clarity on what is and is not allowable within the scope of practice of optometry; and
- maintain the provision allowing optometrists to administer inoculations for systemic health reasons if authorized by the state health officer.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed 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, including, but not limited to, YAG capsulotomy, laser peripheral iridotomy, and laser trabeculoplasty, or any other similar procedures approved by the board; 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 using 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 have additional didactic and supervised clinical instruction and certification to administer injections and advanced procedures.

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 to perform advanced procedures, 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.

Prior to performing proctored procedures, applicants must have proof of adequate training from an accredited school of optometry, postgraduate residency, postgraduate course, or completed a nationally standardized board examination which demonstrates competency in ophthalmic surgery procedures. Upon completion of one of the educational requirements, an optometrist seeking laser procedure endorsements must meet one of the following criteria:

- an optometrist seeking endorsements to perform advanced procedures must perform or assist in proctored procedures by a qualified provider as determined by the board

- and submitted to the board;
- an optometrist who has held a license in a state with consistent ophthalmic surgery procedures may request privilege reciprocity and receive endorsement as determined by the board; or
- any optometrist who has graduated from an optometry school or has received postgraduate training in which proctored ophthalmic procedures have been performed or assisted can submit the procedures in the manner of a case log or with a recommendation from the optometrist's proctor for endorsement by the board.

Upon completion of one education requirement and one training requirement, the optometrist must submit proof of completion to the board for approval. No optometrist may perform laser procedures without receiving confirmation of an endorsement in writing.

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.

The board has the following powers and duties:

- develop, administer and approve a licensure examination;
- adopt rules and regulations to promote public safety and welfare, and govern the practice of optometry;
- adopt administrative regulations that must include classification and licensure of optometrists by examination or credentials, retirement of a license, and reinstatement of a license;
- provide rule-making regarding the allowable procedures and their educational

- requirements; and
- keep a register containing the name, address, license number, email, and phone number of every person licensed to practice optometry in the state of Washington.

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 Proposed Substitute: PRO: Scope of practice bills are contentious, but we know that healthcare is patient-centered. Patient safety is critical and it is important that we ensure that patients, particularly in border communities, have access to services when scope of practice varies by state. Studies have shown that these procedures to be equally safe in the hands of optometrists and ophthalmologists. All optometry schools now provide ample education on eye disease, diagnosis, treatment, and management that include hands-on training for surgical intervention. This proposed legislation will provide ample safety measures to make sure optometrists are well educated for those requested procedures.

CON: Optometrists are not equivalent to ophthalmologists. Leave the eye surgery to the trained ocular surgeons. The Department of Health did not recommend expanding the scope of optometry. The bill needs to be restructured to specifically enumerate the additional procedures.

Persons Testifying: PRO: Senator Annette Cleveland, Prime Sponsor; Nicholas Jankowski, OD, Optometric Physicians of Washington; Melissa Dacumos, OD, Optometric Physicians of Washington; Jeffrey Mattson, OD, Optometric Physicians of Washington; Justin Dalke, O.D., Valley Vision Clinic; Rachel Spillane, O.D., Everett Optometry; Paul Barney, O.D., Pacific Cataract Laser Institute.

CON: Courtney Francis MD, Wa. Academy of Eye Physicians and Surgeons; Stephanie Cramer MD, Wa. Academy of Eye Physicians and Surgeons; Lisa Thatcher, Wa. Academy of Eye Physicians and Surgeons; Christopher Chambers MD, Wa. Academy of Eye Physicians and Surgeons; Aaron Weingeist MD, Wa. Academy of Eye Physicians and Surgeons; Chris Bandoli, Wa. Academy of Eye Physicians and Surgeons; Alyssa Bonnell MD, Univ of WA Ophthalmology Resident.

Persons Signed In To Testify But Not Testifying:

OTHER: Cori Tarzwell, AVAILABLE FOR QUESTIONS Washington State Department of Health.