

SENATE BILL REPORT

SSB 5389

As Amended by House, April 10, 2023

Title: An act relating to the practice of optometry, including expanding the optometric scope of practice to include specified procedures not including the use of lasers, requiring a licensing endorsement to perform these procedures that is based upon mandated educational criteria and hands-on training, and amending the board of optometry's operating procedures.

Brief Description: Concerning the practice of optometry.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by 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, 2/17/23 [DPS].

Floor Activity: Passed Senate: 3/6/23, 46-2.

Passed House: 4/10/23, 81-15.

Brief Summary of First Substitute Bill

- Clarifies the scope of practice for optometry and enumerates the advanced procedures an optometrist may perform with a license endorsement.
- Permits optometrists to purchase and utilize certain diagnostic and therapeutic pharmaceuticals.
- Grants the Board of Optometry rule-making authority relating to procedures and educational standards within the confines of the statute.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5389 be substituted therefor, and the substitute bill do pass.

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.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Padden, Randall and Van De Wege.

Staff: Greg Attanasio (786-7410)

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 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 First Substitute Bill: Scope of Practice. In addition to the existing scope of practice for optometry, the scope includes:

- the prescription and fitting of contact lenses for the purpose of altering refractive error or to treat eye disease;
- the prescription and provision of visual therapy, neuro-optometry rehabilitation, therapeutic aids, subnormal vision therapy, orthoptics, and other optical devices;
- the ascertainment of the perceptive, neural, muscular, or pathological condition of the visual system;
- the adaptation of prosthetic eyes;
- ordering necessary diagnostic lab or imaging tests including, but not limited to, finger-stick testing and collecting samples for culturing;
- dispensing of medication samples to initiate treatment is permitted; and
- removal of nonpenetrating foreign bodies by any means, debridement of tissue by any means, epilation of misaligned eyelashes, placement of punctal or lacrimal plugs, including devices containing pharmaceutical agents implanted in the lacrimal system, dilation and irrigation of the lacrimal system, light therapy, and placement of biologic membranes.

The practice of optometry may include the following advanced procedures:

- common complication of the lids, lashes, and lacrimal systems;
- chalazion management, including injection and excision;
- injections, including intramuscular injections of epinephrine and subconjunctival and subcutaneous injections of medications;
- management of lid lesions, including intralesional injection of medications;
- preoperative and postoperative care related to these procedures;
- use of topical and injectable anesthetics;
- suturing of the eyelid; and
- eyelid surgery, excluding any cosmetic surgery or surgery requiring the use of general anesthesia.

An optometrist shall not perform any advanced procedures until he or she receives a license endorsement issued by the optometry board. To receive an endorsement an optometrist must complete educational requirements that include hands-on training and pass an examination. These advanced procedures do not constitute ophthalmic surgery.

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.

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 within the confines of the scope of practice defined in statute; 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: *The committee recommended a different version of the bill than what was heard.* 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.

EFFECT OF HOUSE AMENDMENT(S):

- Requires an optometrist applying for an endorsement for advanced procedures to have an agreement with a physician or osteopathic physician for rapid response if complications occur during an advanced procedure.
- Removes suturing from the advance procedures authorized through an endorsement.
- Modifies the definition of the practice of optometry by: (1) restricting light therapy to non-laser light therapy; (2) removing references to "by any means" as it relates to removal of nonpenetrating foreign bodies and debridement of tissues.
- Specifies that the following procedures are prohibited: providing sub-tenon or botulinum toxin injections; and administering intravenous anesthesia.
- Requires optometrists who are prescribing oral corticosteroids for more than seven days to consult with a licensed physician.
- Requires the Board to develop a process for an optometrist with an endorsement to submit information to the Board on the outcome of every advanced procedure performed, which an optometrist must submit every year at license renewal until December 31, 2028.
- Requires the Optometry Board in coordination with the Department of Health to issue an annual report on the outcomes and complications of the advanced procedures authorized until December 31, 2028.
- Corrects outdated references by replacing the United States Office of Education and

Council on Postsecondary Accreditation with the United States Department of Education and the Council on Higher Education Accreditation.