

House Bill 2541

Sponsored by Representative NOBLE, Senator KNOPP, Representatives SMITH DB, MOORE-GREEN, OWENS, PRUSAK, SCHOUTEN, SMITH G, ZIKA, Senators BEYER, DEMBROW, FINDLEY, HANSELL, LIEBER, LINTHICUM, MANNING JR (at the request of Oregon Optometric Physicians Association) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that licensed optometrist may perform specified ophthalmic surgery procedures. Defines "ophthalmic surgery." Removes requirement that optometrist treating patient with antiglaucoma medication consult with ophthalmologist.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to optometry; creating new provisions; amending ORS 683.010, 683.200 and 683.240; and
3 prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 683.010 to**
6 **683.340.**

7 **SECTION 2. (1) Nothing in ORS 683.010 to 683.340 shall limit the ability of a licensed**
8 **optometrist to use diagnostic or therapeutic instruments that include laser or ultrasound**
9 **technology in the practice of optometry to perform ophthalmic surgery that is within the**
10 **scope of practice of the licensed optometrist, as determined by the Oregon Board of**
11 **Optometry, except for the following:**

12 (a) **Retinal laser procedures;**

13 (b) **Penetrating keratoplasty or corneal transplants;**

14 (c) **The administration of, or surgery using, general anesthesia;**

15 (d) **Laser procedures into the vitreous chamber of the human eye to treat a retinal or**
16 **macular disease;**

17 (e) **Surgery:**

18 (A) **Related to the removal of the eye from a living human being;**

19 (B) **Requiring a full-thickness incision or excision of the cornea or sclera, other than**
20 **emergency paracentesis procedures;**

21 (C) **Requiring physical incision of the iris and ciliary body, including the diathermy, and**
22 **cryotherapy;**

23 (D) **Requiring incision of the vitreous humor or retina;**

24 (E) **Requiring full-thickness conjunctivoplasty with a graft or flap;**

25 (F) **Of the eyelid for incisional cosmetic or functional repair, or blepharochalasis, ptosis**
26 **or tarsorrhaphy treatment;**

27 (G) **Of the bony orbit, including orbital implants;**

28 (H) **Requiring surgical extraction of the crystalline lens; or**

29 (I) **Requiring surgical anterior or posterior chamber intraocular implants;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (f) **Incisional or excisional surgery of the:**

2 (A) **Extraocular muscles; or**

3 (B) **Lacrimal system, other than probing or related procedures; or**

4 (g) **Pterygium surgery.**

5 (2) **The board may adopt rules to carry out this section.**

6 **SECTION 3.** ORS 683.010 is amended to read:

7 683.010. As used in ORS 683.010 to 683.310, unless the context requires otherwise:

8 (1) "Licensed optometrist" means an optometrist licensed under ORS 683.010 to 683.340.

9 (2) "Optometric nontopical formulary" means the list of nontopical pharmaceutical agents for
10 the treatment of diseases of the human eye and the protocols for their usage adopted by the Council
11 on Optometric Nontopical Formulary under ORS 683.240 (2).

12 (3) **"Ophthalmic surgery" means:**

13 (a) **A surgical procedure performed on the human eye or adnexa in which in vivo tissue**
14 **is injected, cut, burned, frozen, sutured, vaporized, coagulated or photodisrupted by the use**
15 **of surgical instrumentation including a scalpel, cryoprobe or laser, or surgical procedures**
16 **that include electric cautery or ionizing radiation; and**

17 (b) **Preoperative and postoperative care for a surgical procedure described in paragraph**
18 **(a) of this subsection.**

19 [(3) "Practice of optometry" means the use of any means other than invasive or laser surgery, or
20 the prescription of Schedule I and II drugs or pharmaceutical agents that are not on the optometric
21 nontopical formulary, for diagnosis and treatment in the human eye, for the measurement or assistance
22 of the powers or range of human vision or the determination of the accommodative and refractive states
23 of the human eye or the scope of its functions in general or the adaptation of lenses or frames for the
24 aid thereof, subject to the limitations of ORS 683.040. "Practice of optometry" includes the prescription
25 of Schedule II hydrocodone-combination drugs for the purposes listed in this subsection and the use
26 of telemedicine as defined in ORS 683.230.]

27 (4)(a) **"Practice of optometry" includes:**

28 (A) **The use of means other than the prescription of Schedule I or II drugs or pharma-**
29 **ceutical agents that are not on the optometric nontopical formulary to evaluate, diagnose**
30 **or prevent diseases, disorders or conditions of the human eye and its adjacent structures;**

31 (B) **The surgical and nonsurgical treatment of the diseases, disorders and conditions de-**
32 **scribed in this subsection and their impact on the human body;**

33 (C) **The measurement or assistance of the powers or range of human vision;**

34 (D) **The determination of the accommodative and refractive states of the human eye or**
35 **the scope of the functions of the human eye in general;**

36 (E) **The adaptation of lenses, frames, prisms or other ocular devices or the use of vision**
37 **therapy, orthoptics or low-vision rehabilitation to aid in the functions and powers of the**
38 **human eye;**

39 (F) **The prescription of Schedule II hydrocodone-combination drugs for the purposes**
40 **listed in this subsection; and**

41 (G) **The use of telemedicine as defined in ORS 683.230.**

42 (b) **"Practice of optometry" does not include retinal surgery, laser-assisted in-situ**
43 **keratomileusis or photorefractive keratectomy.**

44 [(4)] (5) "Trial frames" or "test lenses" means any frame or lens that is used in testing the eye
45 and that is not sold and not for sale.

SECTION 4. ORS 683.200 is amended to read:

683.200. (1) **Licensed** optometrists utilizing pharmaceutical agents shall be held to the same standards of liability as persons licensed as physicians to practice medicine and surgery by the Oregon Medical Board under ORS chapter 677.

(2) Notwithstanding ORS 683.010 [(3)] (4), [an] **a licensed** optometrist may remove superficial foreign bodies from the eye and its [appendages] **adjacent structures**.

[(3)(a) An optometrist treating a patient with antiglaucoma medication shall consult with an ophthalmologist if:]

[(A) The glaucoma progresses despite the use of two glaucoma medications;]

[(B) More than two medications are required to control the glaucoma; or]

[(C) A secondary glaucoma develops.]

[(b) Glaucoma shall be considered to be progressing if, in comparison to prior examinations, there is a reproducible worsening of the patient's visual field as measured by standard threshold testing or if there is a worsening of the patient's optic nerve as measured by direct observation or standard imaging technology or by rising eye pressure despite the use of medication. Glaucoma shall be considered to be under control if target eye pressure, individualized for each patient, is maintained with no abnormal glaucomatous progression.]

[(c) For purposes of this subsection, a combination medication that contains two pharmacologic agents shall be considered one medication.]

SECTION 5. ORS 683.240 is amended to read:

683.240. (1)(a) The Council on Optometric Nontopical Formulary is established and shall consist of seven members appointed as follows:

(A) One member of the Oregon Board of Optometry appointed by the Oregon Board of Optometry;

(B) One member who is a pharmacist licensed by the State Board of Pharmacy or a person with an advanced degree in pharmacology or pharmacognosy appointed by the State Board of Pharmacy;

(C) One member of the Oregon Medical Board appointed by the Oregon Medical Board;

(D) One member of the faculty of the Oregon Health and Science University School of Medicine appointed by the Oregon Medical Board;

(E) One member who is a physician licensed under ORS chapter 677 appointed by the Oregon Medical Board after consideration of three qualified nominees provided by the Oregon Academy of Ophthalmology;

(F) One member who is a practicing optometrist appointed by the Oregon Board of Optometry after consideration of three qualified nominees from the Oregon Optometric Physicians Association; and

(G) One member with a degree in optometry or ophthalmology who is a member of the faculty at a college of optometry appointed by the Oregon Board of Optometry.

(b)(A) The chair of the council shall be elected by a majority of the members.

(B) The term of office of each member of the council shall be two years. A member shall serve until a successor is appointed. If a vacancy occurs, it shall be filled for the unexpired term by a person with the same qualifications as the vacating member.

(C) Any member of the council who fails to attend two consecutive meetings of the council, whether regular or special, shall forfeit office unless the council member is prevented from attending by serious illness of the member or of a member of the council member's family.

(D) Meetings of the council shall be called at the request of the chair or at the request of two

1 or more members of the council.

2 (E) Members of the council shall serve without compensation.

3 (2) After public hearings, the council shall determine the substances to be included in the
4 optometric nontopical formulary that may be used by an optometrist under ORS 683.010 [(3)] (4).
5 The council shall review the formulary periodically. Immediately upon adoption or revision of the
6 formulary, the council shall transmit the approved formulary to the Oregon Board of Optometry.
7 The board shall adopt the formulary or a portion of the formulary. If the council approves protocols
8 for the use of a nontopical pharmaceutical agent and the board adopts the portion of the formulary
9 listing that agent, the board must also adopt those protocols. The board may not expand or add to
10 the formulary submitted for adoption in any manner.

11 **SECTION 6. (1) Section 2 of this 2021 Act and the amendments to ORS 683.010, 683.200**
12 **and 683.240 by sections 3 to 5 of this 2021 Act become operative on January 1, 2022.**

13 **(2) The Oregon Board of Optometry may take any action before the operative date spec-**
14 **ified in subsection (1) of this section that is necessary to enable the board to exercise, on**
15 **and after the operative date specified in subsection (1) of this section, all of the duties,**
16 **functions and powers conferred on the board by section 2 of this 2021 Act and the amend-**
17 **ments to ORS 683.010, 683.200 and 683.240 by sections 3 to 5 of this 2021 Act.**

18 **SECTION 7. This 2021 Act takes effect on the 91st day after the date on which the 2021**
19 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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