

HOUSE BILL REPORT

SSB 5389

As Passed House - Amended:

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 Care & Wellness: 3/24/23, 3/29/23 [DPA].

Floor Activity:

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

Brief Summary of Substitute Bill (As Amended by House)

- Modifies the scope of practice for optometry, enumerates the advanced procedures an optometrist may perform with a license endorsement, and specifies procedures that an optometrist may not perform.
- Requires optometrists to submit information to the Optometry Board (Board) on the outcomes of every advanced procedure and for the Board, in coordination with the Department of Health, to issue a report on the outcomes annually until December 31, 2028.
- Authorizes the Board to provide rulemaking regarding the allowable procedures and their educational requirements for the practice of optometry.

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.

- Allows the State Health Officer to authorize optometrists to administer inoculations for systemic health reasons during public health emergencies.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 14 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard, Graham, Harris, Macri, Maycumber, Mosbrucker, Simmons, Stonier, Thai and Tharinger.

Minority Report: Without recommendation. Signed by 3 members: Representatives Bronoske, Davis and Orwall.

Staff: Kim Weidenaar (786-7120).

Background:

Optometry Scope of Practice.

The practice of optometry is defined as the examination of the human eye, the examination and ascertaining any defects of the human vision system, and the analysis of the process of vision. The practice of optometry includes:

- the employment of any objective or subjective means or method, including the use of drugs, for diagnostic and therapeutic purposes; the use of any diagnostic instruments or devices for the examination or analysis of the human vision system; the measurement of the powers or range of human vision; or the determination of the refractive powers of the human eye or its functions in general;
- the prescription and fitting of lenses, prisms, therapeutic or refractive contact lenses and the adaption or adjustment of frames and lenses;
- the prescription and provision of visual therapy, therapeutic aids, and other optical devices;
- the ascertainment of the perceptive, neural, muscular, or pathological condition of the visual system; and
- the adaptation of prosthetic eyes.

In order to use topical drugs for diagnostic purposes, an optometrist must have at least 60 hours of didactic and clinical instruction in general and ocular pharmacology for optometry and certification from an institution of higher learning. To prescribe topical drugs, the optometrist must be certified to use topical drugs and have an additional 75 hours of didactic and clinical instruction. To use or prescribe oral drugs for diagnostic or therapeutic purposes, the optometrist must be certified to prescribe topical drugs and have an additional 16 hours of didactic and eight hours of supervised clinical instruction and be certified by an

institution of higher education to administer, dispense, or prescribe drugs.

Optometrists are prohibited from prescribing, dispensing, or administering oral corticosteroids and from prescribing an oral drug within 90 days following ophthalmic surgery, unless the optometrist consults with the treating ophthalmologist. Except for the administration of epinephrine by injection for anaphylactic shock, no injections or infusions may be administered by an optometrist.

Optometry Board.

The Optometry Board (Board) consists of three members of the examining committee for optometry and two additional optometrists and one consumer member appointed by the Governor. The optometrist members must be Washington 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 2021 the Department of Health (DOH) conducted a sunrise review to expand the scope of practice for optometrists in Washington. The proposal made changes to the scope of practice for optometrists including: clarifying language regarding what is and is not included in the scope of practice for optometry; granting the Board greater authority over the practice of optometry; expanding the scope of medications and therapeutic procedures an optometrist may prescribe or perform; granting the Board authority for rulemaking regarding educational standards; and specifying in an exclusive list which procedures are not considered the practice of optometry. In the final report, the DOH found that aspects of the proposal meet the sunrise criteria, but that the proposal was too broad and did not adequately describe allowed procedures and issued a number of recommendations for ensure patient safety.

Summary of Amended Bill:

Scope of Practice.

The practice of optometry is expanded to specifically include the following in addition to the existing procedures and services:

- the prescription and fitting of contact lenses for altering refractive error or to treat eye disease;
- the prescription and provision of neuro-optometry rehabilitation, subnormal vision therapy, and orthoptics;
- ordering diagnostic lab or imaging tests including finger-stick testing and collecting samples for culturing;
- dispensing of medication samples to initiate treatment; and

- removal of nonpenetrating foreign bodies; debridement of tissue; 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; non-laser light therapy; and placement of biologic membranes.

Advanced Procedures.

With a license endorsement from the Optometry Board (Board), the practice of optometry may include:

- 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; and
- eyelid surgery, excluding any cosmetic surgery or surgery requiring the use of general anesthesia.

To receive a license endorsement, a licensed optometrist must:

- successfully complete postgraduate courses as designated by the Board. Any course offered by an accredited institution of higher education and approved by the Board to qualify for an endorsement must contain supervised hands-on experience with live patients or be supplemented by a residency, internship, or other supervised program that offers hands-on experience;
- successfully complete a national exam for advanced procedures, including the lasers and surgical procedures exam, injections skill exam, or other equivalent exam as designated by the Board; and
- enter into an agreement with a qualified physician or osteopathic physician for rapid response if complications occur during an advanced procedure.

Upon completion of these requirements, proof of training must be submitted to the Board for approval. No optometrist may perform the advanced procedures until the optometrist has received confirmation of the endorsement in writing.

Prescription and Use of Pharmaceutical Agents.

Any optometrist authorized by the Board may purchase diagnostic pharmaceutical agents and is authorized to prescribe therapeutic pharmaceutical agents in the practice of optometry. Optometrists authorized by the Optometry Board to purchase pharmaceutical agents must obtain them from licensed wholesalers or pharmacists, using prescriptions or chart orders placed in the same or similar manner as any physician or other practitioner. 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. The prohibitions on prescribing, dispensing, or administering oral corticosteroids or prescribing an oral drug within 90 days of ophthalmic surgery are removed. If an optometrist prescribes oral corticosteroids for more than seven days, the optometrist must consult with a licensed physician.

In a public health emergency, the State Health Officer may authorize optometrists to administer inoculations for systemic health reasons.

Prohibited Procedures.

The practice of Optometry does not include:

- performing retinal laser procedures, laser-assisted in situ keratomileus, photorefractive keratectomy, laser epithelial keratomileusis, or any forms of refractive surgery, other than light adjustable lens procedures;
- penetrating keratoplasty, corneal transplant, or lamellar keratoplasty;
- administering intravenous or general anesthesia;
- performing surgery with general anesthesia;
- providing laser or nonlaser injections into the vitreous chamber of the eye to treat any macular or retinal disease;
- performing surgery related to removal of the eye;
- performing 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;
- performing surgery requiring incision of the iris and ciliary body, including iris diathermy or cryotherapy;
- performing surgery requiring incision of the vitreous or retina;
- performing surgical extraction of the crystalline lens;
- performing surgical intraocular implants;
- performing incisional or excisional surgery of the extraocular muscles;
- performing surgery of the eyelid for malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis, or tarsorrhaphy;
- performing surgery of the bony orbit, including orbital implants;
- performing incisional or excisional surgery of the lacrimal system other than lacrimal probing or related procedures;
- performing surgery requiring full thickness conjunctivoplasty with graft or flap;
- performing any surgical procedure that does not provide for the correction and relief of ocular abnormalities;
- providing an incision into the eyeball;
- suturing;
- providing retrobulbar, sub-tenon, intraorbital, or botulinum toxin injection; or
- performing pterygium surgery.

Reporting.

The Board must develop a process for an optometrist to submit information to the Board on the outcome, including any complication or adverse event, of every advanced procedure that the optometrist completed in the previous year. An optometrist with a license endorsement must file this information with the Board at the time of license renewal. All information submitted is confidential and may not be disclosed under chapter 42.56 RCW.

By December 1, 2024, and annually thereafter, the Board, in coordination with the Department of Health, must analyze and report on the outcomes of the advanced procedures during the previous year. The report must include any complications or adverse events and may not identify any individual provider or facility. This requirement expires December 31, 2028.

Optometry Board.

A full record of the Board's proceedings must be kept in the office of the Board and must be open to inspection at all reasonable times. The administrative regulations the Board must adopt must include the classification and licensure of optometrists by examination or credentials, retirement of a license, and reinstatement of a license. The Board shall have the authority to provide rulemaking regarding the allowable procedures and their educational requirements for optometry. The Board must keep a registrar containing the name, address, license number, email, and phone number of every licensed optometrist to the best of the Board's ability.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Health care procedures and tools change rapidly and policy makers need to consider a profession's scope of practice on a regular basis to allow for these changes. This bill would be the first change to the scope of practice for optometrists in two decades. While this bill has been hotly contested, it is time to move forward with this modest update. This bill looks different than introduced because there was a lot of concern about laser eye procedures, so there was a lot of work to move forward and remove these procedures from the bill. This bill reflects the sunrise review recommendations and has been thoroughly vetted and worked. The Senate Health and Long-Term Care Committee passed this bill unanimously and it was voted off the floor with a strong bipartisan vote.

Over the last 20 years the level of education in optometric programs has continued to increase. By not updating the optometry scope of practice in 20 years, Washington has fallen behind its neighbors. In border communities residents often need to leave the state to

receive care. Optometrists have been authorized to do these procedures for years in other states. Those practicing in Washington sometimes have to refer patients to Oregon, but for those with Medicaid they cannot receive care out of state. By allowing optometrists to practice at the fullest extent of their training, patients can receive this care from optometrists they know and trust in Washington.

This increase has been independently verified by the Department of Health (DOH), which agreed in their sunrise review that optometrists are trained to safely provide these procedures. Optometrists learn with scalpels and already use far more complicated procedures and tools to debride something in an eye. Optometrists are given hundreds of hours of education before they even pick up a needle. Earlier bill drafts were revised to fully align with the sunrise review, which found optometrists have the training to safely complete these procedures.

There is an urgent need for safe, quality vision care and this bill will increase access to care and reduce wait times. While some claim there is no shortage of care, multiple articles have discussed this shortage. Thirteen counties in Washington do not have a practicing ophthalmologist while optometrists cover 94 percent of Washington counties. It currently takes weeks to months for patients to get lid lesions addressed, biopsies, or the prescription of oral steroids.

(Opposed) Ophthalmologists graduate from medical school with a strong foundation in medicine and surgery to care for patients with systemic disease. An ophthalmologist on average has 15,000 more hours of clinical training than an optometrist, including hundreds of hours of hands on, one-on-one directly supervised surgeries during a four year residency. Only 10 percent of optometrists have hands on surgical training on live patients in school. The University of Washington has only five ophthalmologist residents at once, while optometry programs can have up to 150 students per class. There cannot be the necessary one-on-one experience with this many students.

There is only one optometry program that offers this advanced training and it consists of only 32 hours of training to perform scalpel surgery, suturing, and injections. Optometrists are simply not trained to provide surgery. Everyone wants the most qualified person to perform surgery on their eyes. This bill should not be advanced. It is complex, vague, and sometimes contradictory. The reference to eye lid surgery leaves the door open to anything that does not include general anesthesia.

The optometrists have used county maps to claim that there is a shortage of ophthalmologists, but that is very misleading. Medicare data shows 96 percent of Washingtonians live within 30 minutes of an ophthalmologist and the DOH noted in the sunrise review that there is not a documented access to care issue. Optometrists are reimbursed at the same level as ophthalmologists. There are also claims that optometrists are performing these procedures in Oregon, but this is not true as they are prohibited from invasive surgery, suturing, and the use of lasers. The sunrise review suggested that the

Medical Commission should be involved in adopting the rules for advanced procedures, but that is not included in the bill.

Doctors train for so many years because its necessary to have a wide breadth of experience to know when to operate and when not to operate and how to prevent and manage complications. No one on the Optometry Board has ophthalmologic experience to set these rules. Only ophthalmologists should be performing eyelid surgery. Misplaced injections can puncture through the eyelid to the eye and cause blindness, could go further and infiltrate the brainstem causing respiratory depression, or cut into cancer and potentially spread cancer throughout the body. These are not theoretical risks, but have happened. If an ophthalmologists causes one of these issues, they have the medical knowledge and experience to quickly respond to the emergency.

Persons Testifying: (In support) Senator Annette Cleveland, prime sponsor; and Nicholas Jankowski, Justin Dalke, and Suzanne Zamberlan, Optometric Physicians of Washington.

(Opposed) Courtney Francis, Stephanie Cramer, Aaron Weingeist, Arash J. Amadi, and David Epley, Washington Academy of Eye Physicians and Surgeons; and Amy Brackenbury, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.