

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5632

Chapter 180, Laws of 1991
(partial veto)

52nd Legislature
1991 Regular Session

OCULARISTS--REVISED REGULATORY PROVISIONS

EFFECTIVE DATE: 7/28/91

Passed by the Senate April 22, 1991
Yeas 45 Nays 0

JOEL PRITCHARD
President of the Senate

Passed by the House April 19, 1991
Yeas 98 Nays 0

JOE KING
**Speaker of the
House of Representatives**

Approved May 15, 1991, with
the exception of sections 10
and 11, which are vetoed.

BOOTH GARDNER
Governor of the State of Washington

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5632** as passed by the Senate and the House of Representatives on the dates hereon set forth.

GORDON A. GOLOB
Secretary

FILED

May 15, 1991 - 11:30 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5632

AS AMENDED BY THE HOUSE

Passed Legislature - 1991 Regular Session

State of Washington 52nd Legislature 1991 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators West, Niemi and Johnson).

Read first time March 6, 1991.

1 AN ACT Relating to ocularists; amending RCW 18.55.020, 18.55.040,
2 18.55.050, and 18.55.060; and adding new sections to chapter 18.55 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds it necessary to
5 regulate the practice of ocularist to protect the public health,
6 safety, and welfare. The legislature intends that only individuals who
7 meet and maintain minimum standards of competence and conduct may
8 provide service to the public.

9 **Sec. 2.** RCW 18.55.020 and 1980 c 101 s 2 are each amended to read
10 as follows:

11 The terms defined in this section shall have the meaning ascribed
12 to them wherever appearing in this chapter, unless a different meaning
13 is specifically used to such term in such statute.

1 (1) (~~("Director" means the director of licensing)~~) "Department"
2 means the department of health.

3 (2) "Secretary" means the secretary of health.

4 (3) "Ocularist" means a person ((who designs, fabricates, and fits
5 ocular prosthetic appliances. An ocularist is authorized to perform
6 the necessary procedures to provide an ocular prosthetic service for
7 the patient in the ocularist's office or laboratory on prescription of
8 a physician. The ocularist is authorized to make judgment on the
9 needed care, replacement, and use of an ocular prosthetic appliance.
10 The ocularist is authorized to design, fabricate, and fit human
11 prosthetics in the following categories:

12 (a) ~~Stock and custom prosthetic eyes;~~

13 (b) ~~Stock and custom therapeutic scleral shells;~~

14 (c) ~~Stock and custom therapeutic painted iris shells;~~

15 (d) ~~External orbital and facial prosthetics; and~~

16 (e) ~~Ocular conformers: PROVIDED, That nothing herein shall be~~
17 ~~construed to allow the fitting or fabricating of contact lenses.~~

18 (3) ~~"Apprentice" means a person designated an apprentice in the~~
19 ~~records of the director at the request of a licensed ocularist, and who~~
20 ~~shall thereafter receive from such licensee training and direct~~
21 ~~supervision in the work of an ocularist)) licensed under this chapter.~~

22 (4) "Advisory committee" means the state ocularist advisory
23 committee.

24 (5) "Apprentice" means a person designated an apprentice in the
25 records of the secretary to receive from a licensed ocularist training
26 and direct supervision in the work of an ocularist.

27 (6) "Stock-eye" means an ocular stock prosthesis that has not been
28 originally manufactured or altered by the ocularist or service provider
29 selling or fitting, or both, said prosthesis to a patient or customer.

30 "Altered" means either taking away or adding materials, or

1 colorization, or otherwise changing the prosthesis' appearance,
2 function, or fit in the socket or on the implant of the patient or
3 customer.

4 (7) "Modified stock-eye" means a stock-eye, as defined in
5 subsection (6) of this section, that has been altered in some manner by
6 the ocularist or service provider selling or fitting, or both, said
7 prosthesis to a patient or customer. "Altered" is as defined in
8 subsection (6) of this section. A modified stock-eye cannot be defined
9 as either a "custom" or "impression-fitted" eye or prosthesis by adding
10 material that incorporates an impression-surface of the patient or
11 customer socket or implant surfaces.

12 (8) "Custom-eye" means an original, newly manufactured eye or
13 prosthesis that has been specifically crafted by an ocularist or
14 authorized service provider for the patient or customer to whom it is
15 sold or provided. The "custom-eye" may be either an impression-fitted
16 eye (an impression of the socket or implant surfaces) or an
17 empirical/wax pattern-fitted method eye, or a combination of either, as
18 delineated in the ocularist examination.

19 NEW SECTION. Sec. 3. An ocularist designs, fabricates, and
20 fits ocular prosthetic appliances. An ocularist is authorized to
21 perform the necessary procedures to provide an ocular prosthetic
22 service for the patient in the ocularist's office or laboratory on
23 referral of a physician. A referral is not required for the
24 replacement of an ocular prosthetic appliance. The ocularist is
25 authorized to make judgment on the needed care, replacement, and use of
26 an ocular prosthetic appliance. The ocularist is authorized to design,
27 fabricate, and fit human prosthetics in the following categories:

28 (1) Stock and custom prosthetic eyes;

29 (2) Stock and custom therapeutic scleral shells;

- 1 (3) Stock and custom therapeutic painted iris shells;
2 (4) External orbital and facial prosthetics; and
3 (5) Ocular conformers: PROVIDED, That nothing herein shall be
4 construed to allow the fitting or fabricating of contact lenses.

5 **Sec. 4.** RCW 18.55.040 and 1985 c 7 s 53 are each amended to read
6 as follows:

7 ~~((1))~~ No applicant ~~((for a license))~~ shall be ~~((registered))~~
8 licensed under this chapter until the applicant pays an examination fee
9 ~~((as shall be))~~ determined by the ~~((director))~~ secretary, as provided
10 in RCW ~~((43.24.086))~~ 43.70.250, and certifies under oath after
11 furnishing satisfactory documentation, that the applicant:

12 ~~((a))~~ (1) Is eighteen years or more of age;

13 ~~((b))~~ (2) Has graduated from high school or has received a
14 general equivalency degree;

15 ~~((c))~~ (3) Is of good moral character; and

16 ~~((d) Has either:~~

17 ~~(i))~~ (4)(a) Had at least ~~((five years))~~ ten thousand hours of
18 apprenticeship training under the direct supervision of a licensed
19 ocularist ~~((in the state of Washington)); or~~

20 ~~((ii))~~ (b) Successfully completed a prescribed course in
21 ocularist training programs ~~((in a college, teaching facility, or~~
22 ~~university approved by the director; or~~

23 ~~(iii) Been principally engaged in practicing as an ocularist~~
24 ~~outside the state of Washington for eight years and shall have been~~
25 ~~employed by a licensed ocularist or physician for one year in the state~~
26 ~~of Washington)) approved by the secretary; or~~

27 (c) Has had at least ten thousand hours of apprenticeship training
28 under the direct supervision of a practicing ocularist, or has the

1 equivalent experience as a practicing ocularist, or any combination of
2 training and supervision, not in the state of Washington; and

3 ~~((iv))~~ (5) Successfully passes ~~((with a grade of at least~~
4 ~~seventy five percent,))~~ an examination~~((,))~~ conducted or approved by
5 the ~~((director, which shall determine whether the applicant has a~~
6 ~~thorough knowledge of the principles governing the practice of an~~
7 ~~ocularist))~~ secretary.

8 ~~((2) The director shall issue a license without examination to any~~
9 ~~person who makes application therefor within six months after June 12,~~
10 ~~1980, pays a fee as determined by the director, and certifies under~~
11 ~~oath that the applicant has been actually and principally engaged in~~
12 ~~the practice of an ocularist in the state of Washington for a period of~~
13 ~~not less than five years immediately preceding June 12, 1980.~~

14 ~~(3) Any person who on June 12, 1980 (a) is employed as apprentice~~
15 ~~by a person who is principally engaged in the practice of an ocularist,~~
16 ~~(b) registers with the director prior to one hundred twenty days after~~
17 ~~June 12, 1980, and (c) furnishes the director a statement, under oath,~~
18 ~~and certified as correct by the employer, as to the length of time of~~
19 ~~such employment shall be given credit for such period towards~~
20 ~~compliance with the requirement for five years' apprenticeship.))~~

21 NEW SECTION. Sec. 5. The secretary may approve an examination
22 prepared or administered by a private testing agency or association of
23 licensing authorities. The examination shall determine if the
24 applicant has a thorough knowledge of the principles governing the
25 practice of an ocularist.

26 **Sec. 6.** RCW 18.55.050 and 1985 c 7 s 54 are each amended to read
27 as follows:

1 Every ~~((licensee))~~ individual licensed or registered under this
2 chapter shall pay an annual ~~((renewal))~~ license or registration renewal
3 fee determined by the ~~((director))~~ secretary, as provided by RCW
4 ~~((43.24.086))~~ 43.70.250, on or before the ~~((1st day of July of each~~
5 ~~year, and thereupon the license of such person shall be renewed for a~~
6 ~~period of one year))~~ expiration date established by the secretary. An
7 application for renewal shall be on the form provided by the
8 ~~((director))~~ secretary and shall be filed with the department of
9 ~~((licensing))~~ health not less than ten days prior to its expiration.
10 Each application for renewal shall be accompanied by a ~~((license))~~
11 renewal fee ~~((as shall))~~ in an amount to be determined by the
12 ~~((director))~~ secretary. Any license or registration not renewed as
13 provided in this section shall ~~((render the license))~~ be invalid ~~((but~~
14 ~~such licensee shall be reinstated upon written application therefore to~~
15 ~~the director and payment of a renewal fee to the director as provided~~
16 ~~in RCW 43.24.086, together with all delinquent annual renewal license~~
17 ~~fees))~~.

18 The secretary may provide by rule the procedures that may allow for
19 the reinstatement of a license or registration upon payment of the
20 renewal fee and a late renewal penalty fee.

21 **Sec. 7.** RCW 18.55.060 and 1980 c 101 s 5 are each amended to read
22 as follows:

23 (1) ~~((No licensee under this chapter may have more than two~~
24 ~~apprentices in training at one time.~~

25 (2) ~~The licensee shall be responsible for the acts of the~~
26 ~~apprentices in the performance of their work in the apprenticeship~~
27 ~~program.~~

28 (3)) A person wishing to work as an apprentice ocularist shall
29 submit to the secretary the registration fee and completed application

1 form signed by the applicant and the licensed ocularist who shall be
2 responsible for the acts of the apprentice in the performance of his or
3 her work in the apprenticeship program.

4 (2) Apprentices shall complete their ten thousand hours of
5 apprenticeship ~~((in))~~ within eight years and shall not work longer as
6 an apprentice unless the ~~((director))~~ secretary determines, after a
7 hearing, that the apprentice was prevented by causes beyond his or her
8 control from completing the apprenticeship and becoming a licensee
9 hereunder in eight years.

10 (3) No licensee under this chapter may have more than two
11 apprentices in training at one time.

12 NEW SECTION. Sec. 8. In addition to any other authority
13 provided by law, the secretary may:

14 (1) Adopt rules in accordance with chapter 34.05 RCW necessary to
15 implement this chapter;

16 (2) Establish forms necessary to administer this chapter;

17 (3) Issue a license to any applicant who has met the education,
18 training, and examination requirements for licensure and deny a license
19 to applicants who do not meet the minimum qualifications for licensure.
20 Proceedings concerning the denial of licenses based on unprofessional
21 conduct or impaired practice shall be governed by the uniform
22 disciplinary act, chapter 18.130 RCW;

23 (4) Employ clerical, administrative, and investigative staff as
24 needed to implement and administer this chapter and hire individuals,
25 including those licensed under this chapter, to serve as examiners or
26 consultants as necessary to implement and administer this chapter;

27 (5) Maintain the official departmental record of all applicants and
28 licensees;

1 (6) Determine the minimum education and experience requirements for
2 licensure, including but not limited to approval of educational
3 programs;

4 (7) Prepare and administer or approve the preparation and
5 administration of examinations for licensure; and

6 (8) Establish and implement by rule a continuing competency
7 program.

8 NEW SECTION. **Sec. 9.** An ocularist or authorized service
9 provider shall explain to patients or customers exactly which type of
10 prosthesis or service they are receiving or purchasing. Failure to do
11 so, or misrepresentation of said services, constitutes unprofessional
12 conduct under this chapter and chapter 18.130 RCW.

14 *NEW SECTION. **Sec. 10.** *There is created a state advisory*
15 *committee appointed by the secretary who shall advise the secretary*
16 *concerning the administration of this chapter. One member of the*
17 *committee shall be a medical doctor, one member shall be a currently*
18 *licensed ocularist, and one member shall be an employee of the*
19 *department of health. The term of office is three years. Members of*
20 *the committee shall be compensated in accordance with RCW 43.03.240 and*
21 *shall be reimbursed for travel expenses in accordance with RCW*
22 *43.03.050 and 43.03.060.*

23 *Sec. 10 was vetoed, see message at end of chapter.

24 *NEW SECTION. **Sec. 11.** *The secretary, members of the committee,*
25 *and individuals acting on their behalf are immune from suit in any*
26 *action, civil or criminal, based on any acts performed in the course of*
27 *their duties.*

29 *Sec. 11 was vetoed, see message at end of chapter.

1 NEW SECTION. **Sec. 12.** An applicant holding a credential in
2 another state may be credentialed to practice in this state without
3 examination if the secretary determines that the other state's
4 credentialing standards are substantially equivalent to the standards
5 in this state.

6 NEW SECTION. **Sec. 13.** Sections 1, 3, 5, and 8 through 12 of
7 this act are added to chapter 18.55 RCW.

 Passed the Senate April 22, 1991.

 Passed the House April 19, 1991.

 Approved by the Governor May 15, 1991, with the exception of
 certain items which were vetoed.

 Filed in Office of Secretary of State May 15, 1991.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 10 and
3 11, Substitute Senate Bill No. 5632 entitled:

4 "AN ACT Relating to ocularists."

5 Section 10 of this bill establishes the state ocularist advisory
6 committee in statute. This three member committee, appointed by the
7 Secretary of the Department of Health, is comprised of a physician, an
8 ocularist, and a state department of health employee. The purpose of
9 this committee is to advise the Secretary of the Department of Health
10 on the administration of the ocularist practice act. I see no reason
11 for a state employee to be a member of this health profession advisory
12 committee nor is it necessary to establish this advisory committee by
13 statute. The Secretary of the Department of Health has authority under
14 RCW 18.122.070 to appoint advisory committees to assist in the
15 administration of health profession regulatory statutes. Therefore, I
16 have vetoed section 10 of this bill.

17 Section 11 of this bill restates substantially the immunity from
18 liability extended by RCW 18.122.070(5) to the secretary, members of
19 advisory committees or individuals acting on their behalf. RCW
20 18.122.070(5) provides immunity based on "official acts performed in
21 the course of their duties" for members of health care advisory
22 committees. Section 11 of this bill would extend immunity to the state
23 ocularist advisory committee for "any act performed in the course of
24 their duties."

25 Neither the bill nor its legislative history provides further
26 explanation of the change in immunity extended by section 11, nor a
27 justification for such change to members of a particular health care
28 advisory committee. Therefore, I have vetoed section 11 of this bill.

29 With the exception of sections 10 and 11, Substitute Senate Bill
30 No. 5632 is approved."