

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5389

68th Legislature
2023 Regular Session

Passed by the Senate April 18, 2023
Yeas 47 Nays 1

President of the Senate

Passed by the House April 10, 2023
Yeas 81 Nays 15

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5389** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5389

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Senate Health & Long Term Care (originally sponsored by Senators Cleveland, Rivers, Robinson, Van De Wege, Conway, Holy, Schoesler, L. Wilson, Lovick, Randall, and C. Wilson)

READ FIRST TIME 02/17/23.

1 AN ACT Relating to the practice of optometry, including expanding
2 the optometric scope of practice to include specified procedures not
3 including the use of lasers, requiring a licensing endorsement to
4 perform these procedures that is based upon mandated educational
5 criteria and hands-on training, and amending the board of optometry's
6 operating procedures; amending RCW 18.53.010, 18.54.050, and
7 18.54.070; adding a new section to chapter 18.54 RCW; and providing
8 an expiration date.

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

10 **Sec. 1.** RCW 18.53.010 and 2015 c 113 s 1 are each amended to
11 read as follows:

12 (1) The practice of optometry is defined as the examination of
13 the human eye, the examination and ascertaining any defects of the
14 human vision system, and the analysis of the process of vision. The
15 practice of optometry may include, but not necessarily be limited to,
16 the following:

17 (a) The employment of any objective or subjective means or
18 method, including the use of drugs, for diagnostic and therapeutic
19 purposes by those licensed under this chapter and who meet the
20 requirements of subsections ~~((+2))~~ (4) and ~~((+3))~~ (6) of this
21 section, and the use of any diagnostic instruments or devices for the

1 examination or analysis of the human vision system, the measurement
2 of the powers or range of human vision, or the determination of the
3 refractive powers of the human eye or its functions in general;
4 (~~and~~)

5 (b) The prescription and fitting of lenses, prisms, therapeutic
6 or refractive contact lenses and the adaption or adjustment of frames
7 and lenses used in connection therewith; (~~and~~)

8 (c) The prescription and fitting of contact lenses for the
9 purpose of altering refractive error or to treat eye disease;

10 (d) The prescription and provision of visual therapy, neuro-
11 optometry rehabilitation, therapeutic aids, subnormal vision therapy,
12 orthoptics, and other optical devices; (~~and~~

13 ~~(d)~~) (e) The ascertainment of the perceptive, neural, muscular,
14 or pathological condition of the visual system; (~~and~~

15 ~~(e)~~) (f) The adaptation of prosthetic eyes;

16 (g) Ordering necessary diagnostic lab or imaging tests including,
17 but not limited to, finger-stick testing and collecting samples for
18 culturing;

19 (h) Dispensing of medication samples to initiate treatment is
20 permitted; and

21 (i) Removal of nonpenetrating foreign bodies, debridement of
22 tissue, epilation of misaligned eyelashes, placement of punctal or
23 lacrimal plugs, including devices containing pharmaceutical agents
24 implanted in the lacrimal system, dilation and irrigation of the
25 lacrimal system, nonlaser light therapy, and placement of biologic
26 membranes.

27 (2)(a) The practice of optometry may include the following
28 advanced procedures:

29 (i) Common complication of the lids, lashes, and lacrimal
30 systems;

31 (ii) Chalazion management, including injection and excision;

32 (iii) Injections, including intramuscular injections of
33 epinephrine and subconjunctival and subcutaneous injections of
34 medications;

35 (iv) Management of lid lesions, including intralesional injection
36 of medications;

37 (v) Preoperative and postoperative care related to these
38 procedures;

39 (vi) Use of topical and injectable anesthetics; and

1 (vii) Eyelid surgery, excluding any cosmetic surgery or surgery
2 requiring the use of general anesthesia.

3 (b) An optometrist shall not perform any advanced procedures
4 listed in this subsection until he or she receives a license
5 endorsement issued by the optometry board. The board may not issue an
6 endorsement unless the licensed optometrist meets the educational,
7 training, and competence criteria set forth in this section.

8 (3) The practice of optometry does not include:

9 (a) Performing retinal laser procedures, laser-assisted in situ
10 keratomileus, photorefractive keratectomy, laser epithelial
11 keratomileusis, or any forms of refractive surgery, other than light
12 adjustable lens procedures;

13 (b) Penetrating keratoplasty, corneal transplant, or lamellar
14 keratoplasty;

15 (c) Administering intravenous or general anesthesia;

16 (d) Performing surgery with general anesthesia;

17 (e) Providing laser or nonlaser injections into the vitreous
18 chamber of the eye to treat any macular or retinal disease;

19 (f) Performing surgery related to the removal of the eye from a
20 living human being;

21 (g) Performing surgery requiring a full thickness incision or
22 excision of the cornea or sclera other than paracentesis in an
23 emergency situation requiring immediate reduction of the pressure
24 inside of the eye;

25 (h) Performing surgery requiring incision of the iris and ciliary
26 body, including iris diathermy or cryotherapy;

27 (i) Performing surgery requiring incision of the vitreous or
28 retina;

29 (j) Performing surgical extraction of the crystalline lens;

30 (k) Performing surgical intraocular implants;

31 (l) Performing incisional or excisional surgery of the
32 extraocular muscles;

33 (m) Performing surgery of the eyelid for malignancies or for
34 incisional cosmetic or mechanical repair of blepharochalasis, ptosis,
35 or tarsorrhaphy;

36 (n) Performing surgery of the bony orbit, including orbital
37 implants;

38 (o) Performing incisional or excisional surgery of the lacrimal
39 system other than lacrimal probing or related procedures;

1 (p) Performing surgery requiring full thickness conjunctivoplasty
2 with graft or flap;

3 (q) Performing any surgical procedure that does not provide for
4 the correction and relief of ocular abnormalities;

5 (r) Suturing;

6 (s) Providing an incision into the eyeball;

7 (t) Providing sub-tenon, retrobulbar, intraorbital, or botulinum
8 toxin injection; or

9 (u) Performing pterygium surgery.

10 (4)(a) Those persons using topical and oral drugs for diagnostic
11 and therapeutic purposes in the practice of optometry shall have a
12 minimum of ((sixty)) 60 hours of didactic and clinical instruction in
13 general and ocular pharmacology as applied to optometry, as
14 established by the optometry board, and certification from an
15 institution of higher learning, accredited by those agencies
16 recognized by the United States ((office of education or the council
17 on postsecondary)) department of education or the council on higher
18 education accreditation to qualify for certification by the optometry
19 board of Washington to use drugs for diagnostic and therapeutic
20 purposes.

21 (b) Those persons using or prescribing topical drugs for
22 therapeutic purposes in the practice of optometry must be certified
23 under (a) of this subsection, and must have an additional minimum of
24 ((seventy-five)) 75 hours of didactic and clinical instruction as
25 established by the optometry board, and certification from an
26 institution of higher learning, accredited by those agencies
27 recognized by the United States ((office of education or the council
28 on postsecondary)) department of education or the council on higher
29 education accreditation to qualify for certification by the optometry
30 board of Washington to use drugs for therapeutic purposes.

31 (c) Those persons using or prescribing drugs administered orally
32 for diagnostic or therapeutic purposes in the practice of optometry
33 shall be certified under (b) of this subsection, and shall have an
34 additional minimum of ((sixteen)) 16 hours of didactic and eight
35 hours of supervised clinical instruction as established by the
36 optometry board, and certification from an institution of higher
37 learning, accredited by those agencies recognized by the United
38 States ((office of education or the council on postsecondary))
39 department of education or the council on higher education
40 accreditation to qualify for certification by the optometry board of

1 Washington to administer, dispense, or prescribe oral drugs for
2 diagnostic or therapeutic purposes.

3 (d) Those persons administering epinephrine by injection for
4 treatment of anaphylactic shock in the practice of optometry must be
5 certified under (b) of this subsection and must have an additional
6 minimum of four hours of didactic and supervised clinical
7 instruction, as established by the optometry board, and certification
8 from an institution of higher learning, accredited by those agencies
9 recognized by the United States (~~office of education or the council~~
10 ~~on postsecondary~~) department of education or the council on higher
11 education accreditation to qualify for certification by the optometry
12 board to administer epinephrine by injection.

13 (e) Such course or courses shall be the fiscal responsibility of
14 the participating and attending optometrist.

15 (f) ~~((i))~~ All persons receiving their initial license under this
16 chapter on or after January 1, 2007, must be certified under (a),
17 (b), (c), and (d) of this subsection.

18 ~~((ii) All persons licensed under this chapter on or after~~
19 ~~January 1, 2009, must be certified under (a) and (b) of this~~
20 ~~subsection.~~

21 ~~((iii) All persons licensed under this chapter on or after January~~
22 ~~1, 2011, must be certified under (a), (b), (c), and (d) of this~~
23 ~~subsection.~~

24 ~~(3))~~ (5)(a) To receive a license endorsement to perform the
25 advanced procedures listed in this section, a licensed optometrist
26 must:

27 (i) Successfully complete postgraduate courses as designated by
28 the optometry board that provide adequate training on those
29 procedures. Any course that is offered by an institution of higher
30 education accredited by those agencies recognized by the United
31 States department of education or the council on higher education
32 accreditation and approved by the optometry board to qualify for an
33 endorsement to perform advanced procedures must contain supervised
34 hands-on experience with live patients, or be supplemented by a
35 residency, internship, or other supervised program that offers hands-
36 on experience with live patients;

37 (ii) Successfully complete a national examination for advanced
38 procedures, including the lasers and surgical procedures examination,
39 injections skill examination, or other equivalent examination as
40 designated by the optometry board; and

1 (iii) Enter into an agreement with a qualified physician licensed
2 under chapter 18.71 RCW or an osteopathic physician licensed under
3 chapter 18.57 RCW for rapid response if complications occur during an
4 advanced procedure.

5 (b) Upon completion of the above listed requirements, proof of
6 training shall be submitted to the optometry board for approval. No
7 optometrist may perform the advanced procedures listed in subsection
8 (2) of this section until they have received confirmation of the
9 endorsement in writing.

10 (6) The optometry board shall establish a list of topical drugs
11 for diagnostic and treatment purposes limited to the practice of
12 optometry, and no person licensed pursuant to this chapter shall
13 prescribe, dispense, purchase, possess, or administer drugs except as
14 authorized and to the extent permitted by the optometry board.

15 ~~((4))~~ (7) The optometry board must establish a list of oral
16 Schedule III through V controlled substances and any oral legend
17 drugs, with the approval of and after consultation with the pharmacy
18 quality assurance commission. The optometry board may include
19 Schedule II hydrocodone combination products consistent with
20 subsection ~~((6))~~ (9) of this section. No person licensed under this
21 chapter may use, prescribe, dispense, purchase, possess, or
22 administer these drugs except as authorized and to the extent
23 permitted by the optometry board. ~~((No optometrist may use,~~
24 ~~prescribe, dispense, or administer oral corticosteroids))~~ To
25 prescribe oral corticosteroids for more than seven days, an
26 optometrist must consult with a licensed physician.

27 (a) The optometry board, with the approval of and in consultation
28 with the pharmacy quality assurance commission, must establish, by
29 rule, specific guidelines for the prescription and administration of
30 drugs by optometrists, so that licensed optometrists and persons
31 filling their prescriptions have a clear understanding of which drugs
32 and which dosages or forms are included in the authority granted by
33 this section.

34 (b) An optometrist may not ~~((÷~~
35 ~~(i) Prescribe)) prescribe, dispense, or administer a controlled
36 substance for more than seven days in treating a particular patient
37 for a single trauma, episode, or condition or for pain associated
38 with or related to the trauma, episode, or condition ~~((÷ or~~~~

1 ~~(ii) Prescribe an oral drug within ninety days following~~
2 ~~ophthalmic surgery unless the optometrist consults with the treating~~
3 ~~ophthalmologist)).~~

4 (c) If treatment exceeding the limitation in (b) ~~((+i))~~ of this
5 subsection is indicated, the patient must be referred to a physician
6 licensed under chapter 18.71 RCW.

7 (d) The prescription or administration of drugs as authorized in
8 this section is specifically limited to those drugs appropriate to
9 treatment of diseases or conditions of the human eye and the adnexa
10 that are within the scope of practice of optometry. The prescription
11 or administration of drugs for any other purpose is not authorized by
12 this section.

13 ~~((+5))~~ (8) The optometry board shall develop a means of
14 identification and verification of optometrists certified to ~~((use~~
15 ~~therapeutic drugs for the purpose of issuing prescriptions as~~
16 ~~authorized by this section))~~ perform advanced procedures.

17 ~~((+6))~~ (9) Nothing in this chapter may be construed to authorize
18 the use, prescription, dispensing, purchase, possession, or
19 administration of any Schedule I or II controlled substance, except
20 Schedule II hydrocodone combination products. The provisions of this
21 subsection must be strictly construed.

22 ~~((+7) With the exception of the administration of epinephrine by~~
23 ~~injection for the treatment of anaphylactic shock, no injections or~~
24 ~~infusions may be administered by an optometrist.~~

25 ~~(+8))~~ (10) Nothing in this chapter may be construed to authorize
26 optometrists to perform ophthalmic surgery. Ophthalmic surgery is
27 defined as any invasive procedure in which human tissue is cut,
28 ablated, or otherwise penetrated by incision, injection, laser,
29 ultrasound, or other means, in order to: Treat human eye diseases;
30 alter or correct refractive error; or alter or enhance cosmetic
31 appearance. Nothing in this chapter limits an optometrist's ability
32 to use diagnostic instruments utilizing laser or ultrasound
33 technology. Ophthalmic surgery, as defined in this subsection, does
34 not include the advanced procedures listed in subsection (2)(a) of
35 this section, removal of superficial ocular foreign bodies, epilation
36 of misaligned eyelashes, placement of punctal or lacrimal plugs,
37 diagnostic dilation and irrigation of the lacrimal system,
38 orthokeratology, prescription and fitting of contact lenses with the
39 purpose of altering refractive error, or other similar procedures
40 within the scope of practice of optometry.

1 (11) In a public health emergency, the state health officer may
2 authorize licensed optometrists to administer inoculations for
3 systemic health reasons.

4 (12)(a) Any optometrist authorized by the optometry board shall
5 be permitted to purchase diagnostic pharmaceutical agents for use in
6 the practice of optometry. Any optometrist authorized by the
7 optometry board shall be permitted to prescribe therapeutic
8 pharmaceutical agents in the practice of optometry. Optometrists
9 authorized by the optometry board to purchase pharmaceutical agents
10 shall obtain them from licensed wholesalers or pharmacists, using
11 prescriptions or chart orders placed in the same or similar manner as
12 any physician or other practitioner so authorized. Purchases shall be
13 limited to those pharmaceutical agents specified in this section,
14 based upon the authority conferred upon the optometrist by the
15 optometry board consistent with the educational qualifications of the
16 optometrist as established in this section.

17 (b) Diagnostic and therapeutic pharmaceutical agents are any
18 prescription or nonprescription drug delivered via any route of
19 administration used or prescribed for the diagnosis, treatment, or
20 mitigation of abnormal conditions and pathology of the human eye and
21 its adnexa. Diagnostic and therapeutic pharmaceutical agents do not
22 include Schedule I and Schedule II drugs, except for hydrocodone
23 combination products.

24 **Sec. 2.** RCW 18.54.050 and 2011 c 336 s 491 are each amended to
25 read as follows:

26 The board must meet at least once yearly or more frequently upon
27 call of the chair or the secretary of health at such times and places
28 as the chair or the secretary of health may designate by giving three
29 days' notice or as otherwise required by RCW 42.30.075. A full record
30 of the board's proceedings shall be kept in the office of the board
31 and shall be open to inspection at all reasonable times.

32 **Sec. 3.** RCW 18.54.070 and 1995 c 198 s 7 are each amended to
33 read as follows:

34 The board has the following powers and duties:

35 (1) To develop and administer, or approve, or both, a licensure
36 examination. The board may approve an examination prepared or
37 administered by a private testing agency or association of licensing
38 authorities.

1 (2) The board shall adopt rules and regulations to promote
2 safety, protection, and the welfare of the public, to carry out the
3 purposes of this chapter, to aid the board in the performance of its
4 powers and duties, and to govern the practice of optometry. The
5 administrative regulations shall include the classification and
6 licensure of optometrists by examination or credentials, retirement
7 of a license, and reinstatement of a license.

8 (3) The board shall have the authority to provide rule making
9 regarding the allowable procedures and their educational requirements
10 within the confines of this chapter and chapter 18.53 RCW.

11 (4) The board shall keep a register containing the name, address,
12 license number, email, and phone number of every person licensed to
13 practice optometry in this state to the best of their ability.

14 NEW SECTION. Sec. 4. A new section is added to chapter 18.54
15 RCW to read as follows:

16 (1) The board shall develop a process for an optometrist that has
17 received an endorsement to perform advanced procedures authorized
18 under RCW 18.53.010 to submit information to the board on the
19 outcome, including any complication or adverse event, of every
20 advanced procedure that the optometrist completed in the previous
21 year. An optometrist with a license endorsement must file this
22 information in the manner determined by the board at the time of
23 license renewal. All information submitted under this subsection is
24 confidential and may not be disclosed under chapter 42.56 RCW.

25 (2) By December 1, 2024, and annually thereafter, the board in
26 coordination with the department of health must analyze and report on
27 the outcomes of the advanced procedures authorized in RCW 18.53.010
28 during the previous year. The report should include any complications
29 or adverse events related to the performance of advanced procedures.
30 The data should be aggregated and not identify any individual
31 provider or facility and may not reveal any confidential information.
32 The department of health must make this report publicly available on
33 its website.

34 (3) This section expires December 31, 2028.

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