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) (Presession 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

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

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

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

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

(a) Retinal laser procedures;
(b) Penetrating keratoplasty or corneal transplants;
(c) The administration of, or surgery using, general anesthesia;
(d) Laser procedures into the vitreous chamber of the human eye to treat a retinal or macular disease;
(e) Surgery:
   (A) Related to the removal of the eye from a living human being;
   (B) Requiring a full-thickness incision or excision of the cornea or sclera, other than emergency paracentesis procedures;
   (C) Requiring physical incision of the iris and ciliary body, including the diathermy, and cryotherapy;
   (D) Requiring incision of the vitreous humor or retina;
   (E) Requiring full-thickness conjunctivoplasty with a graft or flap;
   (F) Of the eyelid for incisional cosmetic or functional repair, or blepharochalasis, ptosis or tarsorrhaphy treatment;
   (G) Of the bony orbit, including orbital implants;
   (H) Requiring surgical extraction of the crystalline lens; or
   (I) Requiring surgical anterior or posterior chamber intraocular implants;

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

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(f) Incisional or excisional surgery of the:
   (A) Extraocular muscles; or
   (B) Lacrimal system, other than probing or related procedures; or
   (g) Pterygium surgery.
   (2) The board may adopt rules to carry out this section.

SECTION 3. ORS 683.010 is amended to read:

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

(1) “Licensed optometrist” means an optometrist licensed under ORS 683.010 to 683.340.

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

(3) “Ophthalmic surgery” means:
   (a) A surgical procedure performed on the human eye or adnexa in which in vivo tissue
       is injected, cut, burned, frozen, sutured, vaporized, coagulated or photodisrupted by the use
       of surgical instrumentation including a scalpel, cryoprobe or laser, or surgical procedures
       that include electric cautery or ionizing radiation; and
   (b) Preoperative and postoperative care for a surgical procedure described in paragraph
       (a) of this subsection.

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

   (4)(a) “Practice of optometry” includes:
   (A) The use of means other than the prescription of Schedule I or II drugs or pharma-
       ceutical agents that are not on the optometric nontopical formulary to evaluate, diagnose
       or prevent diseases, disorders or conditions of the human eye and its adjacent structures;
   (B) The surgical and nonsurgical treatment of the diseases, disorders and conditions de-
       scribed in this subsection and their impact on the human body;
   (C) The measurement or assistance of the powers or range of human vision;
   (D) The determination of the accommodative and refractive states of the human eye or
       the scope of the functions of the human eye in general;
   (E) The adaptation of lenses, frames, prisms or other ocular devices or the use of vision
       therapy, orthoptics or low-vision rehabilitation to aid in the functions and powers of the
       human eye;
   (F) The prescription of Schedule II hydrocodone-combination drugs for the purposes
       listed in this subsection; and
   (G) The use of telemedicine as defined in ORS 683.230.

   (b) “Practice of optometry” does not include retinal surgery, laser-assisted in-situ
       keratomileusis or photorefractive keratectomy.

   [(3) (5) “Trial frames” or “test lenses” means any frame or lens that is used in testing the eye
   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 im-
ageing 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 ab-
normal 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

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or more members of the council.

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

(2) After public hearings, the council shall determine the substances to be included in the optometric nontopical formulary that may be used by an optometrist under ORS 683.010 [(3)] (4). The council shall review the formulary periodically. Immediately upon adoption or revision of the formulary, the council shall transmit the approved formulary to the Oregon Board of Optometry.

The board shall adopt the formulary or a portion of the formulary. If the council approves protocols for the use of a nontopical pharmaceutical agent and the board adopts the portion of the formulary listing that agent, the board must also adopt those protocols. The board may not expand or add to the formulary submitted for adoption in any manner.

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

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

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