

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0322.01 Sarah Lozano x3858

HOUSE BILL 22-1233

HOUSE SPONSORSHIP

Lontine and Soper, McCormick, Ortiz, Titone

SENATE SPONSORSHIP

Simpson and Ginal,

House Committees

Health & Insurance
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF**
102 **OPTOMETRY BY THE STATE BOARD OF OPTOMETRY, AND, IN**
103 **CONNECTION THEREWITH, IMPLEMENTING THE**
104 **RECOMMENDATIONS IN THE 2021 SUNSET REPORT BY THE**
105 **DEPARTMENT OF REGULATORY AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Health and Insurance Committee. The bill implements the recommendations of the department of regulatory

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

agencies (department), as specified in the department's sunset review of the state board of optometry (board), as follows:

- **Sections 1 and 2** of the bill continue the board and the regulation of optometry for 11 years, until September 1, 2033;
- **Section 3** authorizes the board to expand the definition of the practice of optometry by rule to include any service, procedure, or treatment that is within the training and skills of optometrists based on the standardized examination required for licensure;
- **Section 4** removes the exemption for optometrists from the requirement to notify the board in the event that the optometrist is unable to treat patients with reasonable skill and safety; and
- **Section 5** removes references to the "National Board of Examiners in Optometry" and clarifies that the board may designate any national standardized examination that tests the applicant's ability to practice optometry as a requirement for licensure.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-275-130
3 as follows:

4 **12-275-130. Repeal of article - review of functions.** This article
5 275 is repealed, effective ~~September 1, 2022~~ SEPTEMBER 1, 2033. Before
6 the repeal, the functions of the board performed pursuant to this article
7 275 are scheduled for review in accordance with section 24-34-104.

8 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal**
9 (23)(a)(I); and **add** (34)(a)(II) as follows:

10 **24-34-104. General assembly review of regulatory agencies**
11 **and functions for repeal, continuation, or reestablishment - legislative**
12 **declaration - repeal.** (23) (a) The following agencies, functions, or both,
13 are scheduled for repeal on September 1, 2022:

14 (I) ~~The state board of optometry created in article 275 of title 12;~~

1 (34) (a) The following agencies, functions, or both, are scheduled
2 for repeal on September 1, 2033:

3 (II) THE STATE BOARD OF OPTOMETRY CREATED IN ARTICLE 275
4 OF TITLE 12.

5 **SECTION 3.** In Colorado Revised Statutes, 12-275-103, **amend**
6 (1)(a), (1)(b) introductory portion, (1)(b)(IV), (1)(b)(X), (1)(b)(XI), (1)(d)
7 introductory portion, (1)(d)(I), and (1)(d)(III); **repeal** (1)(d)(IV); and **add**
8 (1)(b)(XII), (1)(d)(V), (1)(d)(VI), (1)(d)(VII), (1)(d)(VIII), (1)(d)(IX),
9 (1)(d)(X), and (1)(d)(XI) as follows:

10 **12-275-103. Practice of optometry defined - prescribing drugs**
11 **- therapeutic optometrist.** (1) (a) As used in this article 275, the
12 "practice of optometry" means the evaluation, diagnosis, prevention, or
13 treatment of diseases, disorders, or conditions of the vision system, eyes,
14 THEIR APPENDAGES, and adjacent and associated structures, including the
15 use or prescription of lenses, prisms, vision therapy, vision rehabilitation,
16 and prescription or nonprescription drugs including schedule II controlled
17 narcotic substances limited to hydrocodone combination drugs and
18 schedule III, IV, and V controlled narcotic substances for ocular disease,
19 so long as an optometrist is practicing within the scope of his or her
20 education as is commonly taught in accredited schools and colleges of
21 optometry and is practicing in accordance with applicable federal and
22 Colorado law and board rules.

23 (b) The following are part of the practice of optometry **INCLUDES:**

24 (IV) The treatment of glaucoma ~~with all topical and oral~~
25 ~~antiglaucoma drugs;~~

26 (X) Debridement of corneal epithelium; **and**

27 (XI) Removal of corneal epithelium; **AND**

1 (XII) AS DETERMINED BY THE BOARD BY RULE, ANY SERVICE,
2 PROCEDURE, OR TREATMENT NOT PROHIBITED UNDER THIS ARTICLE 275
3 AND THAT IS WITHIN THE TRAINING AND SKILLS OF OPTOMETRISTS BASED
4 ON THE AREAS OF COMPETENCE TESTED BY A STANDARDIZED NATIONAL
5 EXAMINATION APPROVED BY THE BOARD PURSUANT TO SECTION
6 12-275-110 (1)(c).

7 (d) The FOLLOWING PROCEDURES ARE EXCLUDED FROM THE
8 "practice of optometry", ~~does not include~~ EXCEPT FOR THE PREOPERATIVE
9 AND POSTOPERATIVE CARE OF THE FOLLOWING PROCEDURES:

10 (I) Surgery of ~~or injections into~~ the globe, orbit, eyelids, or ocular
11 adnexa. AS USED IN THIS SECTION, "surgery" OR "SURGICAL" means any
12 procedure in which human tissue is cut, altered, or otherwise infiltrated
13 ~~by mechanical or laser means~~ REQUIRING SYSTEMIC OR GENERAL
14 ANESTHESIA.

15 (III) SURGICAL OR INJECTABLE treatment of posterior uveitis; ~~or~~

16 (IV) ~~The use of injectable drugs, except for the use of an~~
17 ~~epinephrine auto-injector to counteract anaphylactic reaction.~~

18 (V) RETINAL LASER PROCEDURES;

19 (VI) LASER IN-SITU KERATOMILEUSIS, PHOTOREFRACTIVE
20 KERATECTOMY, LASER EPITHELIAL KERATOMILEUSIS, AND SMALL INCISION
21 LENTICULE EXTRACTION SURGERIES;

22 (VII) RETROBULBAR OR INTRAORBITAL INJECTIONS;

23 (VIII) INJECTIONS PENETRATING THE GLOBE INTO THE POSTERIOR
24 CHAMBER OF THE EYE;

25 (IX) ANY SURGERY THAT DOES NOT PROVIDE FOR THE CORRECTION
26 AND RELIEF OF OCULAR ABNORMALITY;

27 (X) ADMINISTRATION OF GENERAL ANESTHESIA; AND

- 1 (XI) ANY SURGERY REQUIRING SYSTEMIC OR GENERAL
2 ANESTHESIA, INCLUDING:
3 (A) SURGICAL EXTRACTION OF THE CRYSTALLINE LENS;
4 (B) SURGICAL IMPLANTATION OF AN INTRAOCULAR LENS;
5 (C) PENETRATING KERATOPLASTY AND LAMELLAR
6 KERATOPLASTY;
7 (D) PTERYGIUM EXCISION;
8 (E) SURGERY REQUIRING FULL THICKNESS CONJUNCTIVOPLASTY
9 WITH GRAFT OR FLAP;
10 (F) INCISIONAL OR EXCISIONAL SURGERY OF THE EXTRAOCULAR
11 MUSCLES;
12 (G) SURGERY OF THE EYELID FOR CONFIRMED MALIGNANCIES OR
13 FOR INCISIONAL COSMETIC OR MECHANICAL REPAIR OF
14 BLEPHAROCALASIS, PTOSIS, OR TARSORRHAPHY;
15 (H) SURGERY REQUIRING INCISION OF THE IRIS OR CILIARY BODY,
16 INCLUDING IRIS DIATHERMY AND CRYOTHERAPY;
17 (I) SURGERY OF THE BONY ORBIT, INCLUDING THE INSERTION OF
18 ORBITAL IMPLANTS;
19 (J) INCISIONAL OR EXCISIONAL SURGERY OF THE LACRIMAL
20 SYSTEM, EXCEPT LACRIMAL PROBING OR RELATED PROCEDURES;
21 (K) VITREORETINAL SURGERY;
22 (L) SURGICAL REMOVAL OF THE EYE FROM A LIVING PERSON; AND
23 (M) SURGICAL TRANSPLANTATION OF OCULAR TISSUE.

24 **SECTION 4.** In Colorado Revised Statutes, 12-275-106, **amend**
25 (1)(a) as follows:

26 **12-275-106. Persons excluded from operation of this article.**

27 (1) This article 275 does not apply to:

1 (a) Professional practice by a physician or surgeon licensed to
2 practice medicine under the laws of the state of Colorado and ancillary or
3 technical assistants working under the ~~direction of a licensed physician~~
4 ~~or surgeon, with the exception of the fitting of contact lenses that must be~~
5 ~~done under the physician's or surgeon's direct supervision;~~

6 **SECTION 5.** In Colorado Revised Statutes, 12-275-108, **amend**
7 (1)(h) as follows:

8 **12-275-108. Powers and duties of the board - rules - limitation**
9 **on authority.** (1) In addition to all other powers and duties conferred
10 upon the board by this article 275, the board has the following powers and
11 duties:

12 (h) To prescribe rules authorizing optometrists to utilize
13 therapeutic procedures and therapeutic techniques in the practice of
14 optometry. ~~These rules shall in no way expand the practice of optometry,~~
15 ~~nor shall the rules include the use of therapeutic or cosmetic lasers.~~ The
16 rules shall specify approved programs of education offered by an
17 accreditation organization recognized or approved by the Commission on
18 Recognition of Postsecondary Accreditation or the United States
19 department of education or their successors.

20 **SECTION 6.** In Colorado Revised Statutes, 12-30-108, **repeal**
21 (4)(b)(I) as follows:

22 **12-30-108. Confidential agreement to limit practice - violation**
23 **grounds for discipline.** (4) (b) Subsection (1)(a) of this section
24 regarding notification for confidential agreements does not apply to:

25 (I) ~~Article 275 of this title 12 concerning optometrists;~~

26 **SECTION 7.** In Colorado Revised Statutes, 12-275-110, **amend**
27 (1)(c) as follows:

1 **12-275-110. Application for license - licensure by**
2 **endorsement.** (1) A person who desires to practice optometry in the state
3 may file with the board an application for a license, giving the
4 information required in a form and manner approved by the board. The
5 applicant shall demonstrate that the applicant possesses the following
6 qualifications:

7 (c) The applicant has successfully passed ~~the written~~ A
8 STANDARDIZED NATIONAL examination ~~of the National Board of~~
9 ~~Examiners in Optometry.~~ The board shall have the authority, upon its
10 investigation and approval of the examination standards, to approve some
11 body other than the National Board of Examiners in Optometry as the
12 ~~examining body~~ APPROVED BY THE BOARD THAT TESTS THE
13 QUALIFICATIONS OF THE APPLICANT TO PRACTICE OPTOMETRY IN THE
14 STATE.

15 **SECTION 8. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly; except
18 that, if a referendum petition is filed pursuant to section 1 (3) of article V
19 of the state constitution against this act or an item, section, or part of this
20 act within such period, then the act, item, section, or part will not take
21 effect unless approved by the people at the general election to be held in
22 November 2022 and, in such case, will take effect on the date of the
23 official declaration of the vote thereon by the governor.