

Senator Curtis S. Bramble proposes the following substitute bill:

OPTOMETRIST PRACTICE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill allows an optometrist to perform certain laser procedures.

Highlighted Provisions:

This bill:

- ▶ creates a certification for an optometrist to perform a certain laser procedure;
- ▶ requires an optometrist to obtain training to obtain the certification;
- ▶ requires a certified optometrist to comply with reporting requirements and other standards;
- ▶ requires the Office of Professional Licensure Review to make a recommendation after reviewing outcome data on whether optometrists should continue performing the laser procedure; and
- ▶ creates a sunset date.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 26 **58-16a-102**, as last amended by Laws of Utah 2020, Chapter 339
- 27 **58-16a-501**, as last amended by Laws of Utah 2020, Chapter 339
- 28 **58-16a-502**, as last amended by Laws of Utah 2020, Chapter 25
- 29 **58-16a-601**, as last amended by Laws of Utah 2017, Chapter 292
- 30 **58-67-201**, as last amended by Laws of Utah 2022, Chapter 284
- 31 **63I-1-258**, as last amended by Laws of Utah 2023, Chapter 303

32 ENACTS:

33 **58-16a-602**, Utah Code Annotated 1953

34

35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **58-16a-102** is amended to read:

37 **58-16a-102. Definitions.**

38 In addition to the definitions in Section **58-1-102**, as used in this chapter:

39 (1) "Board" means the Optometrist Licensing Board created in Section **58-16a-201**.

40 (2) "Contact lens" means any lens that:

- 41 (a) has a spherical, cylindrical, or prismatic power or curvature;
- 42 (b) is made pursuant to a current prescription; and
- 43 (c) is intended to be worn on the surface of the eye.

44 (3) (a) "Contact lens prescription" means a written or verbal order for contact lenses
45 that includes:

- 46 (i) the commencement date of the prescription;
- 47 (ii) the base curve, power, diameter, material or brand name, and expiration date;
- 48 (iii) for a written order, the signature of the prescribing optometrist or physician; and
- 49 (iv) for a verbal order, a record maintained by the recipient of:
 - 50 (A) the name of the prescribing optometrist or physician; and
 - 51 (B) the date when the prescription was issued or ordered.

52 (b) A prescription may include:

53 (i) a limit on the quantity of lenses that may be ordered under the prescription if
54 required for medical reasons documented in the patient's files; and

55 (ii) the expiration date of the prescription, which shall be two years from the
56 commencement date, unless documented medical reasons require otherwise.

57 (c) When a provider prescribes a private label contact lens for a patient the prescription
58 shall include:

- 59 (i) the name of the manufacturer;
- 60 (ii) the trade name of the private label brand; and
- 61 (iii) if applicable, the trade name of the equivalent national brand.

62 (4) "Contact lens prescription verification" means a written request from a person who
63 sells or provides contact lenses that:

- 64 (a) is sent to the prescribing optometrist or physician; and
- 65 (b) seeks the confirmation of the accuracy of a patient's prescription.

66 (5) "Eye and its adnexa" means the human eye and all structures situated within the
67 orbit, including the conjunctiva, lids, lashes, and lacrimal system.

68 (6) "Fitting of a contact lens" means:

- 69 (a) the using of a keratometer to measure the human eye;
- 70 (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and
- 71 (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit
72 and performance, to determine a tentative contact lens prescription for a patient if the patient:

- 73 (i) has not worn contact lenses before; or
- 74 (ii) has changed to a different type or base curve.

75 (7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized
76 by means of laser or ionizing radiation.

77 (8) "Ophthalmic lens" means any lens used to treat the eye and that:

- 78 (a) has a spherical, cylindrical, or prismatic power;
- 79 (b) is made pursuant to an unexpired prescription; and
- 80 (c) is intended to be used in eyeglasses or spectacles.

81 (9) "Optometric assistant" means an unlicensed individual:

- 82 (a) working under the direct and immediate supervision of a licensed optometrist; and
- 83 (b) engaged in specific tasks assigned by the licensed optometrist in accordance with
84 the standards and ethics of the profession.

85 (10) "Optometrist" or "optometric physician" means an individual licensed under this
86 chapter.

87 (11) "Optometry" and "practice of optometry" mean any one or any combination of the

88 following practices:

89 (a) examination of the human eye and its adnexa to detect and diagnose defects or
90 abnormal conditions;

91 (b) determination or modification of the accommodative or refractive state of the
92 human eye or its range or power of vision by administration and prescription of pharmaceutical
93 agents or the use of diagnostic instruments;

94 (c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact
95 lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to
96 diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its
97 adnexa;

98 (d) display of any advertisement, circular, sign, or device offering to:

99 (i) examine the eyes;

100 (ii) fit glasses or contact lenses; or

101 (iii) adjust frames;

102 (e) removal of a foreign body from the eye or its adnexa, that is not deeper than the
103 anterior 1/2 of the cornea; ~~and~~

104 (f) consultation regarding the eye and its adnexa with other appropriate health care
105 providers, including referral to other appropriate health care providers[-]; and

106 (g) performing a procedure that is described in Section [58-16a-602](#).

107 (12) "Pharmaceutical agent" means any diagnostic or therapeutic drug or combination
108 of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation
109 of abnormal conditions or symptoms of the eye and its adnexa.

110 (13) "Physician" has the same meaning as defined in Sections [58-67-102](#) and
111 [58-68-102](#).

112 (14) "Prescription drug" has the same definition as in Section [58-17b-102](#).

113 (15) "Unexpired" means a prescription that was issued:

114 (a) for ophthalmic lenses which does not expire unless the optometrist or physician
115 includes an expiration date on the prescription based on medical reasons that are documented
116 in the patient's file; and

117 (b) in accordance with Subsection (3) for a contact lens.

118 Section 2. Section **58-16a-501** is amended to read:

119 **58-16a-501. Unlawful conduct.**

120 "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

121 (1) buying, selling, or fraudulently obtaining, any optometry diploma, license,
122 certificate, or registration;

123 (2) selling or providing contact lenses or ophthalmic lenses in a manner inconsistent
124 with Section 58-16a-801 or intentionally altering a prescription unless the person selling or
125 providing the lenses is a licensed optometrist or ophthalmologist; [or]

126 (3) representing oneself as or using the title of "optometrist," "optometric physician,"
127 "doctor of optometry," or "O.D.," unless currently licensed under this chapter[-]; or

128 (4) performing a procedure described in Section 58-16a-602 without obtaining the
129 certification described in Section 58-16a-602.

130 Section 3. Section 58-16a-502 is amended to read:

131 **58-16a-502. Unprofessional conduct.**

132 "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

133 (1) using or employing the services of an optometric assistant to assist a licensee in any
134 manner not in accordance with:

135 (a) the generally recognized practices and standards of ethics of the profession; or

136 (b) applicable state law or division rule;

137 (2) failure to refer a patient to an appropriate licensed practitioner when:

138 (a) the patient's condition does not respond to treatment; or

139 (b) the treatment is not within the scope of competence or licensure of the licensee;

140 (3) providing confidential information regarding a patient to any third party who does
141 not have a legal and professional ground for obtaining the information;

142 (4) knowingly prescribing, selling, giving away, or administering any prescription drug
143 unless:

144 (a) for a legitimate medical purpose;

145 (b) upon a proper diagnosis indicating the use of the drug in the amount prescribed or
146 provided; and

147 (c) in compliance with Section 58-17b-309;

148 (5) giving or receiving directly or indirectly any fee, commission, rebate, or other

149 compensation for professional services not actually and personally rendered, except as part of a

- 150 legal relationship within a lawful professional partnership, corporation, or association;
- 151 (6) failure to transfer pertinent and necessary information from a patient's medical
- 152 records to another optometrist or physician when so requested by the patient or his
- 153 representative, as designated in writing;
- 154 (7) failure to provide a contact lens prescription to a person who sells contact lenses in
- 155 accordance with Section [58-16a-306](#); [~~or~~]
- 156 (8) falsely making an entry in, or altering, a medical record with the intent to conceal:
- 157 (a) a wrongful or negligent act or omission of an individual licensed under this chapter
- 158 or an individual under the direction or control of an individual licensed under this chapter; or
- 159 (b) conduct described in Subsections (1) through (7) or Subsection [58-1-501\(1\)](#)[~~];~~ or
- 160 (9) falsely reporting data required under Section [58-16a-602](#).

161 Section 4. Section **58-16a-601** is amended to read:

162 **58-16a-601. Scope of practice.**

163 (1) An optometrist may:

- 164 (a) provide optometric services not specifically prohibited under this chapter or
- 165 division rules if the services are within the optometrist's training, skills, and scope of
- 166 competence; and
- 167 (b) prescribe or administer pharmaceutical agents for the eye and its adnexa, including
- 168 oral agents, subject to the following conditions:
- 169 (i) an optometrist may prescribe oral antibiotics for only eyelid related ocular
- 170 conditions or diseases, and other ocular conditions or diseases specified by division rule; and
- 171 (ii) an optometrist may administer or prescribe a hydrocodone combination drug, or a
- 172 Schedule III controlled substance, as defined in Section [58-37-4](#), only if:
- 173 (A) the substance is administered or prescribed for pain of the eye or adnexa;
- 174 (B) the substance is administered orally or topically or is prescribed for oral or topical
- 175 use;
- 176 (C) the amount of the substance administered or prescribed does not exceed a 72-hour
- 177 quantity; and
- 178 (D) if the substance is prescribed, the prescription does not include refills.
- 179 (2) An optometrist may not:
- 180 (a) except as provided in Section [58-16a-602](#), perform surgery, including laser surgery;

181 or

182 (b) prescribe or administer a Schedule II controlled substance, as defined in Section
183 [58-37-4](#), except for a hydrocodone combination drug, if so scheduled and prescribed or
184 administered in accordance with Subsection (1)(b).

185 (3) For purposes of Sections [31A-22-618](#) and [31A-45-303](#), an optometrist is a health
186 care provider.

187 Section 5. Section **58-16a-602** is enacted to read:

188 **58-16a-602. Certification for certain laser procedures.**

189 (1) As used in this section:

190 (a) "Certified optometrist" means an optometrist who has obtained:

191 (i) a full certification; or

192 (ii) a limited certification.

193 (b) "Full certification" means a certification indicating that an optometrist may perform
194 a YAG laser capsulotomy without any form of supervision.

195 (c) "Limited certification" means a certification indicating that an optometrist may
196 perform a YAG laser capsulotomy if under the direct supervision of an ophthalmologist.

197 (d) "Physician board" means the board created in Section [58-67-201](#).

198 (e) "Qualifying coursework" means coursework that:

199 (i) meets minimum standards for performing a YAG laser capsulotomy as determined
200 by the division through rule in consultation with the board and the physician board; and

201 (ii) includes a course on informed consent; and

202 (iii) may be completed:

203 (A) as part of a an accredited optometry doctoral program; or

204 (B) as a course or multiple courses after graduation.

205 (f) "Supervising professional" means:

206 (i) an ophthalmologist; or

207 (ii) a certified optometrist who is a professor or adjunct professor at an accredited
208 optometry school located in the state if the optometrist being supervised graduated from an
209 accredited school of optometry in the state after July 1, 2026.

210 (g) "YAG laser capsulotomy" means using a neodymium-doped yttrium aluminum
211 garnet laser to treat opacification of the lens capsule after cataract surgery or lens replacement

212 surgery.

213 (2) To obtain a limited certification to perform YAG laser capsulotomy, an optometrist
214 shall provide proof of:

215 (a) completing qualifying coursework; and

216 (b) establishing a relationship with a supervising professional.

217 (3) A certified optometrist with a limited certification may obtain a full certification
218 after providing:

219 (a) proof of:

220 (i) performing at least ten YAG laser capsulotomy procedures on live patients under
221 the direct supervision of a supervising professional; and

222 (ii) being engaged in the practice of optometry for at least 3,000 hours in the preceding
223 two years; and

224 (b) documentation signed by the supervising professional that:

225 (i) confirms the completion of the procedures described in Subsection (3)(a)(i); and

226 (ii) based on the supervising professional's observation, nothing indicates the certified
227 optometrist should not obtain a full certification.

228 (4) A certified optometrist may not perform a YAG laser capsulotomy on a patient that
229 had cataract surgery within the previous year unless the surgeon who performed the cataract
230 surgery approves the procedure.

231 (5) A certified optometrist shall:

232 (a) if the certified optometrist has a limited certification, maintain a relationship with a
233 supervising professional until the certified optometrist obtains a full certification;

234 (b) submit to the division all patient outcome data requested by the division under this
235 section;

236 (c) meet continuing education requirements;

237 (d) disclose procedure risk to any patient undergoing a procedure;

238 (e) provide to the patient:

239 (i) a form detailing how to file a complaint with the division regarding procedures
240 provided by the certified optometrist;

241 (ii) a statement informing the patient that:

242 (A) the certified optometrist is certified to perform the procedure;

243 (B) the certified optometrist has a license under this chapter and is a doctor of
244 optometry; and

245 (C) a license to practice as a doctor of optometry is not the same type of license issued
246 under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical
247 Practice Act; and

248 (iii) a statement informing the patient on how to contact the certified optometrist if the
249 patient experiences reduced vision or pain following the procedure;

250 (f) maintain a 24-hour, 7-day on-call service to manage complications or questions for
251 patients who received a YAG laser capsulotomy;

252 (g) obtain any necessary disclosures from a patient to be able to comply with the data
253 reporting requirements of this section; and

254 (h) report to the division any adverse outcomes that need an ophthalmologist's attention
255 after performing a YAG laser capsulotomy.

256 (6) The division may:

257 (a) refuse to certify an optometrist under this section if the optometrist has a history of
258 complaints or negligence;

259 (b) require additional information from an optometrist described in Subsection (6)(a)
260 before issuing a certification; or

261 (c) revoke a certification for failing to comply with Subsection (5).

262 (7) The division shall:

263 (a) in consultation with the board and physician board, establish continuing education
264 requirements for a certified optometrist regarding YAG laser capsulotomy procedures;

265 (b) provide data collected under this section to the Office of Professional Licensure
266 Review in accordance with Subsection (9); and

267 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
268 make rules:

269 (i) to implement this section; and

270 (ii) in consultation with the Office of Professional Licensure Review, to determine the
271 data necessary for the report described in Subsection (9).

272 (8) (a) A limited certification and a full certification expires on the date an
273 optometrist's license under this chapter expires.

274 (b) The division shall renew a certification described in Subsection (8)(a) if the
275 optometrist has complied with Subsection (5) and any associated rules created under this
276 section.

277 (9) The Office of Professional Licensure Review shall obtain data collected by the
278 division to issue a written report before October 31, 2026, regarding:

279 (a) whether the practice of optometry should include conducting YAG laser
280 capsulotomy procedures;

281 (b) whether certification is necessary; and

282 (c) if certification is necessary, improvements or modifications to the certification
283 process or requirements.

284 (10) Notwithstanding any other provision of this section, the division, in consultation
285 with the board and the physician board, may waive or modify the requirements of this section
286 to obtain a limited certification or a full certification for an individual who:

287 (a) (i) is seeking to obtain a license by endorsement to engage in the practice of
288 optometry; and

289 (ii) has performed YAG laser capsulotomy procedures in accordance with another
290 state's laws; or

291 (b) is a licensed optometrist and has performed YAG laser capsulotomy procedures in
292 accordance with another state's laws.

293 Section 6. Section **58-67-201** is amended to read:

294 **58-67-201. Board.**

295 (1) There is created the Physicians Licensing Board consisting of nine physicians and
296 surgeons and two members of the general public.

297 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

298 (3) (a) In addition to any duty or responsibility described in Section 58-1-202 or
299 58-1-203, the board shall regulate anesthesiologist assistants licensed under Chapter 70b,
300 Anesthesiologist Assistant Licensing Act.

301 (b) The board may also designate one of the board's members on a permanent or
302 rotating basis to:

303 (i) assist the division in reviewing complaints concerning the unlawful or
304 unprofessional conduct of a licensee the board regulates; and

- 305 (ii) advise the division in the division's investigation of these complaints.
- 306 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
307 in the complaint's investigation may be disqualified from participating with the board when the
308 board serves as a presiding officer in an adjudicative proceeding concerning that complaint.
- 309 (5) At least one physician described in Subsection (1) shall be an ophthalmologist.
- 310 Section 7. Section **63I-1-258** is amended to read:
- 311 **63I-1-258. Repeal dates: Title 58.**
- 312 (1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July
313 1, 2026.
- 314 (2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
315 repealed July 1, 2026.
- 316 (3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.
- 317 (4) Section 58-16a-602, related to laser procedures, is repealed July 1, 2027.
- 318 [~~(4)~~] (5) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1,
319 2028.
- 320 [~~(5)~~] (6) Subsection 58-37-6(7)(f)(iii), relating to the seven-day opiate supply
321 restriction, is repealed July 1, 2032, and the Office of Legislative Research and General
322 Counsel is authorized to renumber the remaining subsections accordingly.
- 323 [~~(6)~~] (7) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
324 2033.
- 325 [~~(7)~~] (8) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
326 Act, is repealed July 1, 2029.
- 327 [~~(8)~~] (9) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
328 2025.
- 329 [~~(9)~~] (10) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
330 repealed July 1, 2033.
- 331 [~~(10)~~] (11) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1,
332 2024.
- 333 [~~(11)~~] (12) Subsection 58-55-201(2), which creates the Alarm System and Security
334 Licensing Advisory Board, is repealed July 1, 2027.
- 335 [~~(12)~~] (13) Subsection 58-60-405(3), regarding certain educational qualifications for

336 licensure and reporting, is repealed July 1, 2032.

337 [~~(13)~~] (14) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed
338 July 1, 2026.

339 [~~(14)~~] (15) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

340 Section 8. **Effective date.**

341 This bill takes effect on May 1, 2024.