

SB0210S01 compared with SB0210

~~{deleted text}~~ shows text that was in SB0210 but was deleted in SB0210S01.

inserted text shows text that was not in SB0210 but was inserted into SB0210S01.

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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 ~~{procedures}~~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 ~~{procedures}~~procedure; and

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- ▶ creates a sunset date.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-16a-102, as last amended by Laws of Utah 2020, Chapter 339

58-16a-501, as last amended by Laws of Utah 2020, Chapter 339

58-16a-502, as last amended by Laws of Utah 2020, Chapter 25

58-16a-601, as last amended by Laws of Utah 2017, Chapter 292

58-67-201, as last amended by Laws of Utah 2022, Chapter 284

63I-1-258, as last amended by Laws of Utah 2023, Chapter 303

ENACTS:

58-16a-602, Utah Code Annotated 1953

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

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

58-16a-102. Definitions.

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

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

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

(a) has a spherical, cylindrical, or prismatic power or curvature;

(b) is made pursuant to a current prescription; and

(c) is intended to be worn on the surface of the eye.

(3) (a) "Contact lens prescription" means a written or verbal order for contact lenses

that includes:

(i) the commencement date of the prescription;

(ii) the base curve, power, diameter, material or brand name, and expiration date;

(iii) for a written order, the signature of the prescribing optometrist or physician; and

(iv) for a verbal order, a record maintained by the recipient of:

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- (A) the name of the prescribing optometrist or physician; and
- (B) the date when the prescription was issued or ordered.
- (b) A prescription may include:
 - (i) a limit on the quantity of lenses that may be ordered under the prescription if required for medical reasons documented in the patient's files; and
 - (ii) the expiration date of the prescription, which shall be two years from the commencement date, unless documented medical reasons require otherwise.
- (c) When a provider prescribes a private label contact lens for a patient the prescription shall include:
 - (i) the name of the manufacturer;
 - (ii) the trade name of the private label brand; and
 - (iii) if applicable, the trade name of the equivalent national brand.
- (4) "Contact lens prescription verification" means a written request from a person who sells or provides contact lenses that:
 - (a) is sent to the prescribing optometrist or physician; and
 - (b) seeks the confirmation of the accuracy of a patient's prescription.
- (5) "Eye and its adnexa" means the human eye and all structures situated within the orbit, including the conjunctiva, lids, lashes, and lacrimal system.
- (6) "Fitting of a contact lens" means:
 - (a) the using of a keratometer to measure the human eye;
 - (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and
 - (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit and performance, to determine a tentative contact lens prescription for a patient if the patient:
 - (i) has not worn contact lenses before; or
 - (ii) has changed to a different type or base curve.
- (7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized by means of laser or ionizing radiation.
- (8) "Ophthalmic lens" means any lens used to treat the eye and that:
 - (a) has a spherical, cylindrical, or prismatic power;
 - (b) is made pursuant to an unexpired prescription; and
 - (c) is intended to be used in eyeglasses or spectacles.

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

(a) working under the direct and immediate supervision of a licensed optometrist; and

(b) engaged in specific tasks assigned by the licensed optometrist in accordance with the standards and ethics of the profession.

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

(11) "Optometry" and "practice of optometry" mean any one or any combination of the following practices:

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

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

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

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

(i) examine the eyes;

(ii) fit glasses or contact lenses; or

(iii) adjust frames;

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

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

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

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

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

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

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

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

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

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

58-16a-501. Unlawful conduct.

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

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

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

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

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

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

58-16a-502. Unprofessional conduct.

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

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

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

(b) applicable state law or division rule;

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

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

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

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

(4) knowingly prescribing, selling, giving away, or administering any prescription drug

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unless:

- (a) for a legitimate medical purpose;
- (b) upon a proper diagnosis indicating the use of the drug in the amount prescribed or provided; and
- (c) in compliance with Section 58-17b-309;
- (5) giving or receiving directly or indirectly any fee, commission, rebate, or other compensation for professional services not actually and personally rendered, except as part of a legal relationship within a lawful professional partnership, corporation, or association;
- (6) failure to transfer pertinent and necessary information from a patient's medical records to another optometrist or physician when so requested by the patient or his representative, as designated in writing;
- (7) failure to provide a contact lens prescription to a person who sells contact lenses in accordance with Section 58-16a-306; [or]
- (8) falsely making an entry in, or altering, a medical record with the intent to conceal:
 - (a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or
 - (b) conduct described in Subsections (1) through (7) or Subsection 58-1-501(1)[~~]; or~~
- (9) falsely reporting data required under Section 58-16a-602.

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

58-16a-601. Scope of practice.

- (1) An optometrist may:
 - (a) provide optometric services not specifically prohibited under this chapter or division rules if the services are within the optometrist's training, skills, and scope of competence; and
 - (b) prescribe or administer pharmaceutical agents for the eye and its adnexa, including oral agents, subject to the following conditions:
 - (i) an optometrist may prescribe oral antibiotics for only eyelid related ocular conditions or diseases, and other ocular conditions or diseases specified by division rule; and
 - (ii) an optometrist may administer or prescribe a hydrocodone combination drug, or a Schedule III controlled substance, as defined in Section 58-37-4, only if:
 - (A) the substance is administered or prescribed for pain of the eye or adnexa;

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(B) the substance is administered orally or topically or is prescribed for oral or topical use;

(C) the amount of the substance administered or prescribed does not exceed a 72-hour quantity; and

(D) if the substance is prescribed, the prescription does not include refills.

(2) An optometrist may not:

(a) except as provided in Section 58-16a-602, perform surgery, including laser surgery;

or

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

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

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

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

(1) As used in this section:

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

(i) a full certification; or

(ii) a limited certification.

(b) "Full certification" means a certification ~~under this section.~~

~~(b) "Selective laser trabeculoplasty" means using a laser to treat glaucoma by targeting the trabecular meshwork.~~

~~(c) indicating that an optometrist may perform a YAG laser capsulotomy without any form of supervision.~~

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

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

(e) "Qualifying coursework" means coursework that:

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

(ii) includes a course on informed consent; and

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(iii) may be completed:

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

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

(f) "Supervising professional" means:

(i) an ophthalmologist; or

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

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

(2) To obtain a **limited** certification to perform YAG laser capsulotomy ~~or a certification to perform selective laser trabeculoplasty~~, an optometrist shall provide proof of:

(a) completing ~~{32 hours of coursework on laser procedures from an accredited college or school of optometry that contains a written competency exam and a clinical competency exam;~~

~~_____ (b) for the procedure in which certification is requested, performing at least five procedures under the direct supervision of a certified optometrist or an ophthalmologist; and~~

~~_____ (c) qualifying coursework; and~~

(b) establishing a relationship with ~~{an ophthalmologist.~~

~~_____ (3) a supervising professional.~~

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

(a) proof of:

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

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

(b) documentation signed by the supervising professional that:

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

(ii) based on the supervising professional's observation, nothing indicates the certified

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optometrist should not obtain a full certification.

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

(5) A certified optometrist shall:

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

(~~f~~~~a~~~~b~~) submit to the division all patient outcome data requested by the division under this section;

(~~f~~~~b~~~~c~~) meet continuing education requirements;

(~~f~~~~c~~~~d~~) disclose procedure risk to any patient undergoing a procedure;

(~~f~~~~d~~~~e~~) provide to the patient:

~~{~~ (i) a form with information regarding when to seek treatment from an ophthalmologist; and

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

(~~f~~~~e~~) if required by the ophthalmologist described in Subsection (2)(c), notify the ophthalmologist:

~~—~~ (i) regarding when a procedure will take place; and

~~—~~ (ii) of any complications that arise when performing a procedure; and

(~~f~~~~i~~~~i~~) a statement informing the patient that:

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

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

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

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

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

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

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

(~~4~~6) The division may:

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

(b) require additional information from an optometrist described in Subsection (~~4~~6)(a) before issuing a certification; or

(c) revoke a certification for failing to comply with Subsection (~~3~~5).

(~~5~~7) The division shall:

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

(b) provide data collected under this section to the Office of Professional Licensure Review in accordance with Subsection (~~7~~9); and

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

(i) to implement this section; and

(ii) in consultation with the Office of Professional Licensure Review, to determine the data necessary for the report described in Subsection (~~7~~9).

(~~6~~8) (a) A limited certification and a full certification expires on the date an optometrist's license under this chapter expires.

(b) The division shall renew a certification described in Subsection (8)(a) if the optometrist has complied with Subsection (~~3~~5) and any associated rules created under this section.

(~~7~~9) The Office of Professional Licensure Review shall obtain data collected by the division to issue a written report before ~~May 1~~ October 31, ~~2028~~ 2026, regarding:

(a) whether the practice of optometry should include conducting YAG laser capsulotomy ~~for selective laser trabeculoplasty~~ procedures;

(b) whether certification is necessary; and

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

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

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

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

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

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

58-67-201. Board.

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

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

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

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

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

(ii) advise the division in the division's investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in the complaint's investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning that complaint.

(5) At least one physician described in Subsection (1) shall be an ophthalmologist.

Section ~~63I-1-258~~7. Section **63I-1-258** is amended to read:

63I-1-258. Repeal dates: Title 58.

(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July

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1, 2026.

(2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(4) Section 58-16a-602, related to laser procedures, is repealed July 1, ~~2029~~2027.

~~(4)~~ (5) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

~~(5)~~ (6) Subsection 58-37-6(7)(f)(iii), relating to the seven-day opiate supply restriction, is repealed July 1, 2032, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

~~(6)~~ (7) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.

~~(7)~~ (8) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

~~(8)~~ (9) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

~~(9)~~ (10) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2033.

~~(10)~~ (11) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

~~(11)~~ (12) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

~~(12)~~ (13) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2032.

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

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

Section ~~(7)~~8. **Effective date.**

This bill takes effect on May 1, 2024.