

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 565

BY SENATORS TAYLOR, CLEMENTS, GARCIA, HAMILTON,

MORRIS, ROBERTS, ROSE, RUCKER, AND DEEDS

[Passed April 10, 2025; in effect 90 days from
passage (July 9, 2025)]

1 AN ACT to amend and reenact §30-8-3, §30-8-6, §30-8-9, and §30-8A-1 of the Code of West
2 Virginia, 1931, as amended; to amend the code by adding a new section, designated §30-
3 8-23; and to amend the code by adding a new article, designated §30-8B-1, §30-8B-2,
4 §30-8B-3, §30-8B-4, §30-8B-5, §30-8B-6, §30-8B-7, and §30-8B-8, relating to the practice
5 of optometry; defining terms; updating rule-making authority; modifying scope of practice;
6 permitting the performance of certain procedures when trained; permitting the board to
7 regulate the use of lasers by optometrists; setting forth laser certification requirements;
8 establishing the minimum training; providing treatment guidelines; prohibiting certain
9 practices; and providing for exemption from specified review requirements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. OPTOMETRISTS.

§30-8-3. Definitions.

1 As used in this article:

2 "Accreditation Council on Optometric Education (ACOE)" is the accrediting body for
3 professional optometric degree (O.D.) programs, optometric residency programs, and optometric
4 technician programs in the United States and Canada and is recognized as an accrediting body
5 by the Council on Higher Education Accreditation (CHEA);

6 "Appendages" means the eyelids, the eyebrows, the conjunctiva, and the lacrimal
7 apparatus;

8 "Applicant" means any person making application for a license, certificate, or temporary
9 permit under the provisions of this article;

10 "Board" means the West Virginia Board of Optometry;

11 "Business entity" means any firm, partnership, association, company, corporation, limited
12 partnership, limited liability company, or other entity owned by licensees that practices optometry;

13 "Certificate" means a prescription certificate issued under §30-8-15 of this code;

"Certificate holder" means a person authorized to prescribe certain drugs under §30-8-15 of this code;

"Examination, diagnosis, and treatment" means a method compatible with accredited optometric education and professional competence pursuant to this article;

"License" means a license to practice optometry;

"Licensee" means an optometrist licensed under the provisions of this article;

"Permittee" means a person holding a temporary permit;

"Practice of optometry" means the examining, diagnosing, and treating of any visual defect or abnormal condition of the human eye or its appendages within the scope established in this article or associated rules and the performance of those procedures taught and trained through schools or colleges of optometry accredited by the Accreditation Council on Optometric Education, or its successors or equivalents;

"Temporary permit" or "permit" means a permit issued to a person who has graduated from an approved school, has taken the examination prescribed by the board, and is awaiting the results of the examination.

§30-8-6. Rulemaking.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to implement the provisions of this article, including:

(1) Standards and requirements for licenses, certificates, and permits;

(2) Procedures for examinations and reexaminations;

(3) Requirements for third parties to prepare and/or administer examinations and reexaminations;

(4) Educational and experience requirements;

(5) The passing grade on the examinations;

(6) Standards for approval of courses and curriculum;

(7) Procedures for the issuance and renewal of licenses, certificates, and permits;

(8) A fee schedule;

(9) A prescription drug formulary classifying those categories of oral drugs rational to the diagnosis and treatment of visual defects or abnormal conditions of the human eye and its appendages, which may be prescribed by licensees from Schedules III, IV, and V of the Uniform Controlled Substances Act. The drug formulary may also include oral antibiotics, oral nonsteroidal anti-inflammatory drugs, and oral carbonic anhydrase inhibitors;

(10) Requirements for prescribing and dispensing contact lenses that contain and deliver pharmaceutical agents that have been approved by the Food and Drug Administration as a drug;

(11) Continuing education requirements for licensees;

(12) The procedures for denying, suspending, revoking, reinstating, or limiting the practice of licensees, certificate holders, and permittees;

(13) Requirements for inactive or revoked licenses, certificates, or permits; and

(14) Any other rules necessary to effectuate the provisions of this article.

(b) The board shall promulgate procedural and interpretive rules in accordance with §29A-3-8 of this code.

§30-8-9. Scope of practice.

(a) A licensee may:

(1) Examine, diagnose, and treat diseases and conditions of the human eye and its appendages within the scope established in this article or associated rules;

(2) Administer or prescribe any drug for topical application to the anterior segment of the human eye for use in the examination, diagnosis, or treatment of diseases and conditions of the human eye and its appendages: *Provided*, That the licensee has first obtained a certificate;

(3)(A) Administer or prescribe any drug from the drug formulary, as established by the board pursuant to §30-8-6 of this code, for use in the examination, diagnosis, or treatment of diseases and conditions of the human eye and its appendages: *Provided*, That the licensee has first obtained a certificate;

(B) New drugs and new drug indications may be added to the drug formulary by approval of the board;

(4) Administer epinephrine by injection to treat emergency cases of anaphylaxis or anaphylactic shock;

(5) Prescribe and dispense contact lenses that contain and deliver pharmaceutical agents and that have been approved by the Food and Drug Administration as a drug;

(6) Prescribe, fit, apply, replace, duplicate, or alter lenses, prisms, contact lenses, orthoptics, vision training, vision rehabilitation;

(7) Perform the following procedures:

(A) Remove a foreign body from the ocular surface and adnexa utilizing a noninvasive method;

(B) Remove a foreign body, external eye, conjunctival, superficial, using topical anesthesia;

(C) Remove embedded foreign bodies or concretions from conjunctiva, using topical anesthesia, not involving sclera;

(D) Remove corneal foreign body not through to the second layer of the cornea using topical anesthesia;

(E) Epilation of lashes by forceps;

(F) Closure of punctum by plug; and

(G) Dilation of the lacrimal puncta with or without irrigation;

(8) Furnish or provide any prosthetic device to correct or relieve any defects or abnormal conditions of the human eye and its appendages;

(9) Order laboratory tests rational to the examination, diagnosis, and treatment of a disease or condition of the human eye and its appendages;

(10) Use a diagnostic or therapeutic laser; and

(11) A licensee may perform those procedures he or she was taught and trained through schools or colleges of optometry accredited by the Accreditation Council on Optometric Education, or its successors or equivalents.

(12) A licensee may perform laser procedures as outlined in section §30-8B-1 *et seq.* of this code.

(b) A licensee may not:

(1) Perform surgery except as provided in this article; or by legislative rule;

(2) Use Schedule II controlled substances. However, an oral pharmaceutical certified licensee may prescribe hydrocodone and hydrocodone containing drugs for a duration of no more than three days;

(3) Treat systemic disease; or

(4) Present to the public that he or she is a specialist in surgery of the eye.

§30-8-23. Exemption from review requirements.

The addition of therapeutic laser procedures, as set forth in §30-8B-6 of this code, to the scope of practice of a licensee, as defined pursuant to §30-8-3 of this code, is exempt from the requirements of §30-1A-1 *et seq.* of this code.

ARTICLE 8A. EYE CARE CONSUMER PROTECTION LAW.

§30-8A-1. Definitions.

As used in this article:

"Contact lens" means a lens placed directly on the surface of the eye, regardless of whether it is intended to correct a visual defect. Contact lens includes, but is not limited to, a cosmetic, therapeutic, or corrective lens;

"Board" means the West Virginia Board of Optometry;

"Diagnostic contact lens" means a contact lens used to determine a proper contact lens fit;

"Direct supervision" means supervision that occurs when a licensee is actually present in the building;

"Examination and evaluation" means an assessment of the ocular health and visual status of a patient that does not consist solely of objective refractive data or information generated by an automated refracting device or other automated testing device for the purpose of writing a valid prescription;

"Licensee" means a person who is authorized to engage in the practice of optometry under §30-8-1 *et seq.* of this code;

"Special requirements" means the type of lens design, lens material, tint, or lens treatments;

"Spectacles" means an optical instrument or device worn or used by an individual that has one or more lenses designed to correct or enhance vision to address the visual needs of the individual wearer. This includes spectacles that may be adjusted to achieve different types or levels of visual correction or enhancement;

"Valid prescription" means one of the following, as applicable:

(1) For a contact lens, a written or electronic order by a licensee who has conducted an examination and evaluation of a patient and has determined a satisfactory fit for the contact lens based on an analysis of the physiological compatibility of the lens or the cornea and the physical fit and refractive functionality of the lens on the patient's eye. To be a valid prescription under this subdivision, it shall at least include the following:

(A) A statement that the prescription is for a contact lens;

(B) The contact lens type or brand name, or for a private label contact lens, the name of the manufacturer, trade name of the private label brand, and, if applicable, trade name of the equivalent or similar brand;

(C) All specifications necessary to order and fabricate the contact lens, including, if applicable, the power, material, base curve or appropriate designation, and diameter;

- (D) The quantity of contact lenses to be dispensed;
 - (E) The number of refills;
 - (F) Specific wearing instructions and contact lens disposal parameters;
 - (G) The patient's name;
 - (H) The date of the examination and evaluation;
 - (I) The date the prescription is originated;
 - (J) The prescribing licensee's name, address, and telephone number;
 - (K) The prescribing licensee's written or electronic signature, or other form of authentication; and
 - (L) An expiration date of not less than one year from the date of the examination and evaluation or a statement of the reasons why a shorter time is appropriate based on the medical needs of the patient;
- (2) For spectacles, a written or electronic order by a licensee who has examined and evaluated a patient. To be a valid prescription under this subdivision, it shall include at least the following:
- (A) A statement that the prescription is for spectacles;
 - (B) As applicable and as specified for each eye, the lens power including the spherical power, cylindrical power including axis, prism, and power of the multifocal addition;
 - (C) Any special requirements, the omission in the opinion of the prescribing licensee, would adversely affect the vision or ocular health of the patient;
 - (D) The patient's name;
 - (E) The date of the examination and evaluation;
 - (F) The date the prescription is originated;
 - (G) The prescribing licensee's name, address, and telephone number;
 - (H) The prescribing licensee's written or electronic signature, or other form of authentication; and

60 (l) An expiration date of not less than one year from the date of the examination and
61 evaluation or a statement of the reasons why a shorter time is appropriate based on the medical
62 needs of the patient.

ARTICLE 8B. LASER PROCEDURES.

§30-8B-1. General.

1 This article establishes requirements, procedures, and standards for the certification of
2 licensees to perform certain laser procedures.

§30-8B-2. Definitions.

1 "Laser certificate holder" means a licensee who has met the requirements of this rule and
2 has been issued an Ophthalmic Laser Utilization Certificate by the board.

3 "Ophthalmic laser" means any of the commercially available light amplification by
4 stimulated emission of radiation (LASER) devices approved by the US Food and Drug
5 Administration for use on the human eye and adnexa.

6 "Posterior capsulotomy" means the ophthalmic laser technique most commonly used to
7 treat the clouding of the eye's posterior lens capsule (PCO) that commonly occurs following
8 cataract surgery.

9 "Peripheral iridotomy" means the standard first-line treatment in angle-closure glaucoma
10 and eyes at risk for this condition most commonly treated utilizing ophthalmic lasers.

11 "Selective laser trabeculoplasty" means a simple, yet highly effective laser procedure that
12 reduces the intraocular pressure associated with glaucoma that uses short pulses of low-energy
13 light to target the melanin, or pigment, in specific cells of the affected eye. The surrounding, non-
14 pigmented cells are untouched and undamaged.

§30-8B-3. Certification generally.

1 (a) A licensee shall meet all the requirements as listed in this article in order to be certified
2 to utilize an ophthalmic laser.

(b) A licensee shall obtain ophthalmic laser utilization certification to utilize ophthalmic lasers in West Virginia.

(c) An applicant for licensure by examination, by reciprocity, or by reinstatement after May 1, 2025, shall only be granted licensure if the applicant meets the requirements for ophthalmic laser utilization certification.

(d) Upon the licensee's successful completion of the requirements and application listed in §30-8B-4 and §30-8B-5 of this code, and approval by the board, an Ophthalmic Laser Utilization Certificate may be issued.

§30-8B-4. Certification requirements.

To be certified the licensee shall:

(1) Complete the required application form designed by the board; and

(2) Submit proof of attendance and satisfactory completion of education and training, including, but not limited to, a training requirement that at a minimum of five posterior capsulotomy, four peripheral iridotomy and five selective laser trabeculoplasty procedures be supervised for each individual person proposing certification. A licensee shall successfully demonstrate clinical proficiency to perform the procedure or procedures on a living human eye to the proctor's satisfaction. The procedures shall be proctored by an optometrist or ophthalmologist that already meets the above criteria and submitted to the board for review and any additional requirements as established by the board in §30-8B-5 of this code.

(3) A licensee may apply for certification for each approved procedure separately and may receive certification individually for each procedure based upon the above criteria applied individually for each approved procedure.

§30-8B-5. Education and training.

(a) Any license granted to an applicant who graduated from an accredited school or college of optometry in 2025 or thereafter, and who passed the Laser and Surgical Procedures Examination administered by the National Board of Examiners in Optometry or other equivalent

proficiency examination approved by the board shall be deemed to have met the education and training criteria listed in §30-8B-5 of this code.

(b) The board shall accept post graduate courses or training programs for certification that are provided by or through a school or college of optometry accredited by the Accreditation Council on Optometric Education or its successor organization provided, the courses or training programs include the criteria listed in §30-8B-5(c)(1) through §30-8B-5(c)(3);

(c) The board, at its discretion, may approve courses or training programs provided through organizations other than accredited schools or colleges of optometry certifying that the optometrist is competent in the utilization of ophthalmic lasers if, and only if, the courses or training programs meet the following minimum criteria:

(1) Each course or training program shall include indications, contra-indications, techniques, risks, and benefits.

(2) Each course or training program shall include appropriate follow up and management protocols and techniques;

(3) Each course or training program shall teach the procedures in a closely supervised environment with a proficiency assessment.

(d) A list of approved courses or training programs for ophthalmic laser utilization certification will be maintained by the board for public inspection.

§30-8B-6. Treatment guidelines.

(a) A certificate holder may utilize ophthalmic lasers which are considered rational to the diagnosis and treatment of the human eye or its appendages.

(b) The board will maintain a list of approved treatment indications and shall update the list as new treatments, technologies, and training become available.

(c) Approved treatment indications include:

(1) Posterior capsulotomy;

(2) Peripheral iridotomy; and

(3) Selective laser trabeculoplasty (SLT).

(d) The certificate holder shall follow all applicable Occupational Safety and Health Administration (OSHA) guidelines pertaining to ophthalmic lasers.

(e) The certificate holder shall adhere to generally accepted standards of care and follow established clinical guidelines for utilization of ophthalmic lasers. The certificate holder shall monitor the patient for any adverse reaction and provide appropriate follow up care.

(f) A certificate holder shall report any adverse outcomes related to surgical procedures performed under this article to the board within 10 business days. Such reports shall include the relevant patient records necessary to evaluate the incident, in accordance with applicable privacy laws.

§30-8B-7. Restrictions.

(a) The licensee shall perform only those ophthalmic laser procedures approved by the board.

(b) New ophthalmic laser procedures may be added to the list of approved procedures by a decision of the board based on the following criteria:

(1) A new or existing ophthalmic laser device or procedure has been approved by the Food and Drug Administration for the treatment of the eye or its appendages; and

(2) A new or existing ophthalmic laser device or procedure has gained accepted use in the eye care field. Such acceptance may be identified by its inclusion in the curriculum of an optometry school accredited by the Accreditation Council on Optometric Education or its successor, or approved post-graduate continuing education, through peer-reviewed, evidence-based research and professional journal articles, or by inclusion in established standards of practice and care published by professional organizations.

13 (c) A licensee may not perform a procedure on a pediatric patient. A licensee shall refer
14 a pediatric patient to an ophthalmologist.

§30-8B-8. Exemption from review requirements.

1 The addition of therapeutic laser procedures, as set forth in §30-8B-6 of this code, to the
2 scope of practice of a licensee, as defined pursuant to §30-8-3 of this code, is exempt from the
3 requirements of §30-1A-1 *et seq.* of this code.

The Clerk of the Senate and the Clerk of the House of Delegates hereby
certify that the foregoing bill is correctly enrolled.

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Clerk of the Senate

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Clerk of the House of Delegates

Originated in the Senate.

In effect 90 days from passage.

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President of the Senate

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Speaker of the House of Delegates

The within is this the.....
Day of, 2025.

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Governor