

INTERIM STUDY PROPOSAL 2017-136

State of Arkansas  
91st General Assembly  
Third Extraordinary Session, 2018

**A Bill**

JMB/JMB  
HOUSE BILL

By: Representatives Miller, Eubanks

Filed with: House Committee on Public Health, Welfare, and Labor  
pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

AN ACT TO AMEND THE DEFINITION OF "PRACTICE OF OPTOMETRY"; TO EXPAND THE TYPES OF OPHTHALMIC SURGERY THAT MAY BE PERFORMED BY OPTOMETRISTS; TO PERMIT THE PRESCRIPTION AND ADMINISTRATION OF CERTAIN DRUGS THROUGH ALL ROUTES OF ADMINISTRATION BY OPTOMETRISTS; TO MODERNIZE THE PRACTICE OF OPTOMETRY; AND FOR OTHER PURPOSES.

**Subtitle**

TO AMEND THE DEFINITION OF "PRACTICE OF OPTOMETRY"; TO EXPAND THE TYPES OF OPHTHALMIC SURGERY THAT MAY BE PERFORMED BY OPTOMETRISTS; AND TO MODERNIZE THE PRACTICE OF OPTOMETRY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-90-101(a), concerning the definition of "practice of optometry", is amended to read as follows:

(a)(1) The "practice of optometry" means the examination, diagnosis, surgical and nonsurgical treatment, and management of conditions of the human eye, lid, adnexa, and visual system, including the removal of foreign bodies from the cornea, conjunctiva, lid, or adnexa ~~but shall exclude other surgery of the lid, adnexa, or visual system which requires anything other than a topical anesthetic.~~

1           (2)(A) "Optometry" shall include utilizing any method or means  
2 which the licensed optometrist is educationally qualified to provide, as  
3 established and determined by the State Board of Optometry.

4           (B) In administering this chapter, the board shall by rule  
5 ~~or regulation~~ prescribe those acts, services, procedures, and practices which  
6 constitute both primary optometric eye care and the practice of optometry.

7           (3)(A) The "practice of optometry" ~~shall include, but not be~~  
8 ~~limited to,~~ includes without limitation the prescribing and sale of  
9 eyeglasses and contact lenses, the prescribing and administering ~~of all oral~~  
10 ~~and topical drugs~~ through all routes of administration of pharmaceutical  
11 agents for the diagnosis or treatment only of conditions of the eye, lids,  
12 and adnexa, and the prescribing and administering of epinephrine, benadryl,  
13 or other comparable medication for the emergency treatment of anaphylaxis or  
14 anaphylactic reactions.

15           (B) All licensed optometrists are prohibited from ~~using~~  
16 ~~ophthalmic lasers for surgical procedures,~~ performing cataract surgery,  
17 performing radial keratotomy surgery, and selling prescription drugs.

18           (C)(i) Optometrists are excluded from possessing,  
19 administering, or prescribing those pharmaceutical agents listed in Schedules  
20 I and II of the Uniform Controlled Substances Act, § 5-64-101 et seq., except  
21 hydrocodone combination drugs, regardless of their schedule, in combination  
22 with oral analgesic drugs.

23           (ii) A prescription written by an optometrist for  
24 hydrocodone combination drugs, regardless of their schedule, in combination  
25 with oral analgesic drugs, shall not exceed seventy-two (72) hours and shall  
26 not authorize refills.

27           (D) The "practice of optometry" includes employing vision  
28 therapy or orthoptics, low vision rehabilitation, ophthalmic surgery,  
29 correction and relief of ocular abnormalities by surgical procedures, and  
30 laser surgery procedures excluding retinal surgery, laser in situ  
31 keratomileusis and photorefractive keratectomy.

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33           SECTION 2. Arkansas Code Title 17, Chapter 90, Subchapter 1, is  
34 amended to add an additional section to read as follows:

35           17-90-112. Ophthalmic surgery.

1       (a) As used in this section, "ophthalmic surgery" means a surgical  
2 procedure on the human eye or adnexa in which in vivo tissue is injected,  
3 cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the  
4 use of surgical instrumentation such as a scalpel, cryoprobe, or laser, and  
5 surgical procedures such as electric cauterly, or ionizing radiation, and  
6 preoperative and postoperative care.

7       (b) The State Board of Optometry shall adopt rules regarding  
8 ophthalmic surgery within the practice of optometry which shall include that:

9           (1) A licensed optometrist shall be required to meet  
10 credentialing requirements as established by the board before performing  
11 ophthalmic surgery;

12           (2) As technology advances, ophthalmic surgery may include  
13 additional instrumentations or procedures if the board determines that the  
14 additional instrumentations or procedures constitute the practice of  
15 optometry; and

16           (3) A licensed optometrist shall not perform the following types  
17 of ophthalmic surgery:

18                   (A) Retinal laser procedures;

19                   (B) Penetrating keratoplasty or corneal transplant;

20                   (C) Administration of general anesthesia;

21                   (D) Surgery performed using general anesthesia;

22                   (E) Laser or nonlaser procedures into the vitreous chamber  
23 of the eye to treat any retinal or macular disease;

24                   (F) Surgery related to the removal of the eye from a  
25 living human being;

26                   (G) Surgery requiring:

27                           (i) Full thickness incision or excision of the  
28 cornea or sclera other than paracentesis in an emergency situation requiring  
29 immediate reduction of pressure inside the eye;

30                                   (ii) Incision of:

31   (a) The iris and ciliary body, including  
32 diathermy or cryotherapy;

33   (b) The vitreous humor; or

34   (c) The retina; or

35                                   (iii) Full thickness conjunctivoplasty with graft or  
36 flap;

1                   (H) Surgical extraction of the crystalline lens;

2                   (I) Surgical intraocular implants;

3                   (J) Incisional or excisional surgery of:

4                         (i) The extraocular muscles; or

5                         (ii) The lacrimal system other than probing or  
6 related procedures;

7                   (K) Surgery of:

8                         (i) The eyelid for suspected malignancies or for  
9 incisional cosmetic or mechanical repair of blepharochalasis, ptosis, and  
10 tarsorrhaphy treatment; or

11                         (ii) The bony orbit, including orbital implants; or

12                   (L) Pterygium surgery.

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14           SECTION 3. Arkansas Code § 17-90-204 is amended to read as follows:  
15           17-90-204. Powers and duties.

16           (a) The State Board of Optometry shall have the following powers in  
17 addition to those conferred elsewhere within this chapter:

18                   (1) To make rules ~~and regulations~~ for the administration and  
19 enforcement of this chapter;

20                   (2) To revoke, suspend, or refuse to renew any certificate of  
21 license in the manner and for the causes set ~~forth~~ out in this chapter;

22                   (3) To determine what acts on the part of any person licensed  
23 under this chapter shall constitute unprofessional conduct;

24                   (4) To employ or retain the services of attorneys and other  
25 necessary assistants in carrying out the provisions of this chapter;

26                   (5) To bring suit in its proper name to enforce, or restrain the  
27 violation of, any provision of this chapter;

28                   (6) To administer oaths, to have an official seal, or to issue a  
29 subpoena for any witness or a subpoena duces tecum to compel the production  
30 of any books, records, papers, or documents pertinent to any matters coming  
31 before the board;

32                   (7)(A) To levy civil penalties, after providing notice and a  
33 hearing, in an amount not to exceed one thousand dollars (\$1,000) for each  
34 violation against ~~these~~ individuals, firms, or corporations found to be in  
35 violation of this chapter or rules ~~and regulations~~ promulgated ~~thereunder~~  
36 under this chapter.

1 (B) ~~These~~ The penalties shall be used for the purposes of  
2 defraying the expenses of the board and as required for carrying out the  
3 provisions of this chapter.

4 (C) ~~These~~ The penalties shall be in addition to other  
5 penalties which may be imposed by the board ~~pursuant to~~ under this chapter.

6 (D) Unless ~~the~~ a penalty assessed under this section is  
7 paid within fifteen (15) days following the date for an appeal from the  
8 order, the board shall have the power to file suit in the Pulaski County  
9 Circuit Court to obtain a judgment for the amount of penalty not paid; and

10 (8) To promulgate rules limiting the amount of Schedule II  
11 narcotics that may be prescribed and dispensed by licensees of the board; and

12 (9) To establish credentialing requirements for a licensee to  
13 administer or prescribe certain drugs or perform ophthalmic surgery and other  
14 advanced procedures.

15 (b) The board has the sole authority to determine what constitutes the  
16 practice of optometry and may issue advisory opinions and declaratory rulings  
17 related to this chapter.

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20 Referred by Representative Miller

21 Prepared by: JMB/JMB  
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1 Prepared by: JMB/BAT

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