



**BOARD OF EXAMINERS IN OPTOMETRY
STATE OF OKLAHOMA**

OFFICE OF THE EXECUTIVE DIRECTOR
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October 3, 2016

Dr. Barcelow:

At this time there are 900 Oklahoma Board certified optometrists. There are 672 doctors practicing in the state. Oklahoma scope of practice is :

Section 581. Practice of Optometry - Definition

A. The practice of optometry is defined to be the science and art of examining the human eye and measurement of the powers of vision by the employment of any means, including the use or furnishing of any self-testing device, the use of any computerized or automatic refracting device, including applications designed to be used on a computer or video conferencing via an Internet device either in person or in remote locations, the use of pharmaceutical agents, the diagnosis of conditions of the human eye, and the correcting and relief of ocular abnormalities by means including but not limited to prescribing and adaptation of lenses, contact lenses, spectacles, eyeglasses, prisms and the employment of vision therapy or orthoptics for the aid thereof, low vision rehabilitation, laser surgery procedures, excluding retina, laser in-situ keratomileusis (LASIK), and cosmetic lid surgery. The practice of optometry is further defined to be non-laser surgery procedures as authorized by the Oklahoma Board of Examiners in Optometry, pursuant to rules promulgated under the Administrative Procedures Act.

B. The practice of optometry shall also include the prescribing of dangerous drugs and controlled dangerous substances for all schedules specified in the Uniform Controlled Dangerous Substances Act except Schedules I and II but allowing for the prescribing of hydrocodone or hydrocodone-containing drugs regardless of schedule for a period not exceeding five (5) days of supply, and the issuance of refills for such prescriptions following sufficient physical examination of the patient for the purpose of diagnosis and treatment of ocular abnormalities. The practice of optometry shall not include the dispensing of drugs but may include the dispensing of professional samples to patients."

C. Optometrists shall be certified by the Board of Examiners in Optometry prior to administering drugs, prescribing drugs, or performing laser or nonlaser surgery procedures.

D. Nothing in this title shall be construed as allowing any agency, board, or other entity of this state other than the Board of Examiners in Optometry to determine what constitutes the practice of optometry.

At this time 798 optometrists are anterior segment laser certified. All 900 doctors are certified by licensure to provide non-laser anterior segment surgery.

Pharmaceutical agents (topical, injectable, oral) are all authorized by the Board when treating an ocular abnormality. As you note in the attached Oklahoma Law time-line (1981), optometry began using pharmaceutical agents "the use of ocular pharmaceutical agents topically applied." In 1994, legislation

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amended the Optometric Practice Act to allow use of controlled substances and other oral medication by Optometric Physicians. Board Rule 505:10-5-17 allowed use of pharmaceutical agents and the Board allowed the application to include topical, injectable, and oral administration.

In 1988, an optometrist received training to use anterior segment lasers when attending the Academy of Ophthalmology. The doctor petitioned the Board to receive permission to treat post cataract surgery capsular fibrosis with YAG capsulotomy. Since our law allowed the treatment of ocular abnormalities and the doctor had received proper training, he was allowed in 1989 to treat his patients with anterior segment laser. Other doctors received similar training and likewise treated capsular fibrosis. The Board required all doctors to submit follow-up data on patients treated with laser to determine if adverse outcomes were occurring. A lawsuit outcome in 1997 prevented optometrists from using laser technology unless authorized with specific language in the optometry scope of practice.

By 1998, the Board had collected documentation for over 5000 post laser treatments. Only a few adverse outcomes were noted such CME which was successfully treated with medication. Legislation was filed to expand the scope of optometry to include use of anterior segment lasers and PRK lasers. This legislation successfully passed in 1998. At this time there has not been a single complaint registered to the Board regarding optometrists using lasers since 1989. That calculates to being 27 years of successful use of ophthalmic lasers being provided by optometrists in Oklahoma.

In 2004, non-laser surgery was added to the statute and authorized the Oklahoma State Board of Examiners in optometry to confirm the existing optometric scope of practice by promulgating rules. The following rule was promulgated:

Title 505:10-5-17 Proper scope of practice of nonlaser surgical procedures

(a) The practice of optometry is defined to be the science and art of examining the human eye and measurement of the powers of vision by the employment of any means, including the use or furnishing of any self-testing device, the use of any computerized or automatic refracting device, the use of pharmaceutical agents, the diagnosis of conditions of the human eye, and the correcting and relief of ocular abnormalities by means including but not limited to prescribing and adaptation of lenses, contact lenses, spectacles, eyeglasses, prisms and the employment of vision therapy or orthoptics for the aid thereof, low vision rehabilitation, laser surgery procedures, excluding retina, laser in-situ keratomileusis (LASIK), and cosmetic lid surgery. (59 O.S. § 581) In addition, the practice of optometry shall include the correction and relief of ocular abnormalities by Non-Laser Surgical procedures not excluded in paragraph (b) of this rule.

(b) Except for the Post Operative Care of these procedures, the following Non-Laser Surgeries are excluded from the scope of practice of optometry:

- (1) Non-Laser Surgery related to removal of the eye on a living human being;
- (2) Non-Laser Surgery requiring full thickness incision or excision of the cornea or sclera other than Paracentesis: In an emergency situation requiring immediate reduction of the pressure inside the eye;
- (3) Penetrating Keratoplasty (Corneal Transplant), or Lamellar Keratoplasty;
- (4) Non-Laser Surgery requiring incision of the Iris and Ciliary body, also includes Iris diathermy or cryotherapy;
- (5) Non-Laser Surgery requiring incision of the Vitreous;
- (6) Non-Laser Surgery requiring incision of the Retina;
- (7) Non-Laser Surgical Extraction of the Crystalline Lens;
- (8) Non-Laser Surgery Intraocular Implants;
- (9) Incisional or excisional Non-Laser Surgery of the Extraocular Muscles;
- (10) Non-Laser Surgery of the eyelid for incisional Cosmetic or Mechanical repair of Blepharochalasis, ptosis, and tarsorrhaphy or eyelid malignancies;

- (11) Non-Laser surgery of the boney Orbit, including Orbital Implants;
- (12) Incisional or excisional Non-Laser surgery of the Lacrimal System other than Lacrimal probing or related procedures;
- (13) Non-Laser Surgery requiring full thickness Conjunctivoplasty with graft or flap; and
- (14) Any Non-Laser Surgical procedure that does not provide for the correction and relief of ocular abnormalities.

(c) the language of the Oklahoma Statutes shall be controlling if there is any conflict between this rule and the statutes.

At this time the Board has not received a single complaint regarding the expanded scope of non-laser surgery (12 Years).

At this time the Board requires all applicants for licensure to be anterior segment certified. The doctor will later be PRK certified if he/she chooses after licensure to receive further training for PRK and meets the PRK Board requirements.

Sincerely,

A handwritten signature in blue ink that reads "Russell Laverty, OD, FAAO".

Russell Laverty, OD, FAAO
Executive Director
Oklahoma Board of Examiners in Optometry

Timeline of Laser Treatment and Legislation in Oklahoma

1979 Oklahoma's College of Optometry established at Northeastern State University.

1980 Common use of lasers on the eye began.

1981 Legislation changed Optometry statutes to allow for advances in treatment, technology, and patient need by adding the words "including but not limited to." Legislation also granted authority for "the use of any computerized or automatic refracting device" and "the use of ocular pharmaceutical agents topically applied." Legislation passed. Signed into law by Governor George Nigh.

1984 Legislation changed Pharmacist Practice Act, authorizing pharmacists to fill prescriptions from Doctors of Optometry. Legislation passed. Signed into law by Governor George Nigh.

1989 Oklahoma Board of Examiners in Optometry approves certification process to authorize use of lasers as a treatment method by Doctors of Optometry.

1992 Medical Association requested legislation to eliminate Doctors of Optometry from using lasers (SB 883). OSMA did not seek to eliminate podiatrists, veterinarians, osteopathic doctors, or dentists. Author pulled bill prior to consideration.

1993 In response to the Medical Association's efforts to discontinue Medicare/Medicaid payment to Doctors of Optometry, the Board of Examiners in Optometry issued a formal declaratory ruling stating that lasers are within the scope of Optometry. Both Medicare and Medicaid resumed reimbursement.

Medical Association requested legislation to define lasers as surgery and omit Optometric Physicians (SB 103). Proposal failed in Senate Committee.

1994 Legislation amended Optometric Practice Act to allow use of controlled substances and other oral medication by Optometric Physicians (SB 818). Legislation passed. Signed into law by Governor David Walters.

Medical Board of Licensure and Supervision sues Board of Examiners in Optometry to stop Optometric Physicians from using lasers.

1997 Appeal by the Medical Association of two previously unsuccessful lawsuits resulted in prohibiting optometrists from providing laser surgery procedures to their patients. Judge Eugene Mathews ruled that Optometry statutes do not authorize laser surgery and that only legislative action could accomplish this result.

1996 Legislation requested to eliminate medical licensure board's ability to file suit against other Boards (SB 995). Legislation passed. Signed into law by Governor Frank Keating.

1998 Oklahoma Optometric Physicians are requesting legislation to reinstate the previous privileges of Doctors of Optometry to perform certain laser treatments on eyes (SB 1192). This request is based on more than 10 years of education, training, and experience with more than 5,000 laser procedures performed and an unblemished record of quality patient care.

*Information provided by
the Oklahoma Association
of Optometric Physicians.*

OPTOMETRY SCOPE OF PRACTICE TIMELINE

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| 1982 | HB 1834 – Therapeutic Treatment Law for Optometry Enacted |
| 1994 | SB 818 – Full Prescribing Law for Optometry Enacted |
| 1998 | HB 1192 – Laser Law for Optometry Enacted |
| January 8, 2004 | Organized ophthalmology had an Oklahoma legislator ask for an opinion of the Oklahoma Attorney General. Can Oklahoma optometrists perform any non-laser surgical procedures other than the laser procedures already permitted under Oklahoma law? |
| April 6, 2004 | Oklahoma Attorney General issued an opinion stating: while Oklahoma optometrists were legally authorized to perform laser surgeries they were not authorized to perform other surgical procedures. This left the current optometric scope of practice on many non-laser, minor, surgical procedures murky and ill-defined. The American Medical Association classifies in-office minor procedures under the surgery section of CPT®, the coding standard for all payers. The Oklahoma Association of Optometric Physicians sought redress from the Oklahoma Legislature to overturn the OK Attorney General's opinion and restore the optometric scope of practice. |
| April 28, 2004 | The Attorney General's opinion was reversed by the state legislature and signed by the Governor into law with the passage of Oklahoma House Bill 2321. The law added the words non laser surgery to the statute and authorized the Oklahoma State Board of Examiners in Optometry confirm the existing optometric scope of practice by promulgating rules. |
| Summer 2004 | Both Optometry and Ophthalmology presented their arguments and proposals for Board rules to the Governor's office. |
| October, 2004 | The Oklahoma State Board of Optometry promulgated an emergency rule to more narrowly define the authorized surgical procedures of Oklahoma House Bill 2321. The emergency rule specifically lists surgery <u>exclusions</u> . The rule neither expanded nor contracted the optometric scope of practice that existed. It confirmed that optometrists could continue to practice at the same levels. |
| October 29, 2004 | Optometry minor surgery emergency rules signed by Governor Brad Henry. |
| March 10, 2005 | Permanent Rules duplicating emergency rules promulgated by the Board of Examiners. |
| May 5, 2005 | Board of Examiners in Optometry Permanent Rules officially adopted. |
| May 10, 2005 | HJR 1031 introduced by ophthalmology to rescind the Board of Optometry Rules. |
| May 30, 2005 | The legislative session ends with no change to Optometry Board of Examiners' rules. |
| February 2006 | Ophthalmology requested legislation to be introduced HB2740. |
| March 2006 | HB 2740 fully debated and defeated in the House Health Committee. |
| May 31, 2006 | Legislative Session ends with no change to the current Optometry Scope of Practice. |
| May 22, 2007 | Legislative Session ends with no change to the current Optometry Scope of Practice. |
| May 23, 2008 | Legislative Session ends with no change to the current Optometry Scope of Practice. |