Lack of Optometry Board Complaints Equals Safety?

There is no way for us to know the number of complaints received by optometry boards or how they resolve those complaints. According to the Association of Boards of Optometry, Inc at https://www.arbo.org/faq.php, there is no public access to this data.

"Sharing of Information

In the age of the Internet, disciplinary sanctions imposed by a board are frequently reported on a state board's web site, or through a centralized repository of state licensure disciplinary actions. Visit your state regulatory board's web site to view the policy governing disclosure in your state.

State Boards are also obligated to report certain information to the Health Care Integrity & Protection Data Bank (HIP-DB), a program established by the US Department of Health & Human Services, however, this databank does not currently offer public access to the data it collects.

ARBO operates a limited national Disciplinary Data Bank that houses records of disciplinary actions reported by some of our state regulatory board members. This information is limited in scope and is only available to state optometry boards."

In contrast, the names of physicians who are sued or who lose hospital privileges are available for public viewing at the National Practitioner Data Bank.

The National Practitioner Data Bank (NPDB) is a web-based repository of reports containing information on medical malpractice payments and certain adverse actions related to health care practitioners, providers, and suppliers. Established by Congress in 1986, it is a workforce tool that prevents practitioners from moving state to state without disclosure or discovery of previous damaging performance.

In Oklahoma, Kentucky, and Louisiana, optometrists are performing surgical procedures in their offices, not in hospitals or ambulatory surgical centers. There is no mandatory reporting entity for in-office bad outcomes. In-office bad outcomes reported to the optometry boards are only made available to the public at the discretion of those optometry boards.

Cynthia A. Bradford, M.D.
Professor of Ophthalmology
Dean McGee Eye Institute
University of Oklahoma College of Medicine

February 25, 2019

The Texas House of Representatives
Texas State Capitol
Austin, TX
Via email

Dear Honorable Representative:

I am writing in opposition to House Bill 1798, which would allow optometrists—who are not medical doctors or trained surgeons—to perform eye surgery in Texas. As an ophthalmologist in the neighboring state of Oklahoma, I have heard those in the optometric profession claim that there have been "great experiences and no complications" with regards to surgery being performed by optometrists in our state. I would like to share my professional observations and concerns based on a few sample patients, which demonstrate that a long weekend's worth of "additional training" is a highly inadequate pathway to performing eye surgery. Allowing optometrists to have greater scope of practice in Oklahoma has not increased access and has indeed caused patient confusion and complications. The patient summaries below are various examples:

The first patient is a lady with symptoms of distortion of the vision in one eye. The optometrist performed laser iridotomy. In this surgery, a laser is used to burn a small opening in the iris so that fluid can flow through the hole and exit through the eye drainage system. The objective of performing this procedure is to decrease the pressure in the eye. In this example, the optometrist performed this surgery in both eyes of the patient. The patient continued to have distortion and sought a second opinion from an ophthalmologist.

Records from the optometrist were obtained and reviewed. There was no documentation of history or examination findings to warrant the laser surgeries. There was documentation that insurance would pay for the laser surgeries. The ophthalmologist diagnosed the cause for the patient's symptoms of distorted vision—a wrinkle in the retina. The patient did not need the lasers and the insurance company paid for unneeded surgeries. Net result - patient risk without any chance of benefit, and increased health care costs. Exactly the opposite of the goal of medical care which is patient benefit and lowest risk with reasonable cost.

Another patient emergently came to the VA hospital after an optometrist attempted to do a laser iridotomy and encountered hemorrhaging at the laser site and could not proceed and left the opening incomplete. The optometrist then moved to the second eye and tried to do a laser iridotomy in the second eye and once again encountered hemorrhaging and could not complete the procedure. The bleeding in both eyes resulted in very elevated eye

pressure, which then became an emergency which an ophthalmologist, a medical doctor and surgeon, came to the aid of the patient. There is no doubt, it requires medical education, clinical surgical experience and the judgment that comes with years of medical and surgical training to learn not to put patients' vision at risk.

Even with the training that has been established to perform eye surgery there can be complications. When you massively decrease the education and experience, there can be no outcome other than increased complications. In this patient's case, he realized that he had to go to another doctor who could take care of his problem and went to the VA hospital. It was identified that the patient was on anticoagulants, and it should not have been surprising for the patient to hemorrhage.

The patient said he told the optometrist about the anti-coagulant use and the optometrist said it would not be a problem. The patient was hospitalized and managed by ophthalmologists at the VA hospital. Ultimately it was determined that the patient did not even need the laser treatment. From the weekend laser course (which is all the "additional training" required for optometrists in Oklahoma to legally perform the procedure), the optometrist did not really know when to do the laser and did not recognize the risks for this patient. The patient suffered damage to both eyes and there were costs to the VA hospital that were unnecessary. Poor quality of patient care with increased costs is not what should be perpetuated.

Another patient was referred to a glaucoma specialist and underwent SLT glaucoma laser surgery. His follow up was with his local optometrist for pressure checks. At his first visit with the optometrist the eye pressure was elevated. Rather than talk with the ophthalmologist on the best management for the patient, the optometrist decided to do paracentesis—insertion of a needle into the eye and withdrawing some fluid to lower the pressure. The optometrist did not understand that the eye refills with fluid and the eye pressure returns to the same pressure within 15-30 minutes.

The patient returned one week later, and the pressure was elevated. He repeated the paracentesis and did this again a week later with the same result. Fortunately, the patient did not suffer an eye infection. But unfortunately, he was put at risk for infection without any chance of benefit of the procedure. This is due to lack of understanding from inadequate education, training, and clinical experience. The optometrist called the ophthalmologist to ask what to do next and the ophthalmologist assumed the care of the patient until his eye pressure was controlled.

The final patient complication to share involves a child. The child had blunt trauma to one eye. He was seen at the emergency room and referred to a local optometrist. The optometrist saw blood filling the front of the eye and measured an elevated eye pressure. The optometrist decided to manage the eye injury. He performed anterior chamber paracentesis on the child. The child developed inflammation and the eye pressure increased.

Ultimately the patient was referred to a glaucoma specialist. It was not clear how many times the optometrist placed a needle into the eye since no records could be obtained from the optometrist. The glaucoma specialist/MD recognized that the lens of the eye was

ruptured and worsening the damage of the original blunt eye injury. The lens rupture was due to the optometrist's blind placement of a needle into an eye filled with blood. The optometrist's intervention actually worsened the child's eye injury and made the management much more complicated.

The ophthalmologist took the child to surgery and removed the blood from the front of the eye and also removed the ruptured lens. The child was left without a lens in the eye. Although the child had an eye injury, due to lack of education and experience, the optometrist made the eye injury worse.

I have had patients come in and say that they went to get new glasses and the optometrist saw a bump on the eyelid and told them they needed to have it removed. The optometrist wanted to cut it off. Fortunately, the patients did not consent to have it done. These were very small cysts that did not need to be removed.

The sample patients mentioned above demonstrate the negative impact on the quality of care with increased cost when the state legislature passes legislation that decreases the educational and clinical surgery standards to perform eye surgery. As a professor of ophthalmology who teaches residents to do surgery, it is an extended process to teach how to diagnose, know what the management should be, if surgical intervention is an option, which procedure is the best option and to recognize potential risks of the procedure.

In Oklahoma, any scope expansion for optometry has not resulted in increased access, but it has increased patient risk with higher cost of care due to lowering of the educational standard. For these reasons of clinical patient safety and quality of surgical care, I urge you to protect the citizens of Texas by voting "No" on HB 1798.

Sincerely,

Cindy Bradford MD

Cynthia A. Bradford, MD
Professor of Ophthalmology
Dean McGee Eye Institute, University of Oklahoma College of Medicine
Past President, Oklahoma Academy of Ophthalmology
Past President, American Academy of Ophthalmology
Oklahoma City, OK

UKHealthCare

March 4, 2019

The Texas House of Representatives
Texas State Capitol
Austin, TX
Via email

Dear Honorable Representative:

I am writing today to request that you oppose SB 1223 and HB 1798, which if enacted would allow optometrists—who have not attended medical school or surgical residency—to perform eye surgery.

In 2011, I witnessed first-hand how a similar "Access to Care" bill was rushed through the Kentucky State Legislature in one week with scant discussion of the legislation. Newspapers from Kentucky's largest cities noted the impropriety of lowering the standard of care and putting the eyes of Kentucky citizens at risk. In the aftermath, we have seen unnecessary surgeries using the type of lasers that are included in SB 1223 and HB 1798.

For example, optometrists in Kentucky have performed needless YAG capsulotomies on patients who did not require that type of surgery. In other cases, we have seen complications from YAG capsulotomies such as a worsening of macular degeneration. In other words, we have seen a rise in surgical complications from the enactment of the Kentucky optometric scope legislation. But, we really do not know the true complication rate because optometric surgeries in Kentucky are performed outside the auspices of the Kentucky Board of Medical Licensure, which oversees all other surgical procedures, performed by doctors of medicine.

These recent optometric surgical complications are in addition to numerous misdiagnoses, inappropriate therapy and overlooked problems I have treated, while optometrists have proudly stated they have had "no problems" resulting from prescribing prescription drugs. There are multiple cases of missed corneal infections, inappropriately treated corneal ulcers, and missed glaucoma that were never reported because there is no medical board oversight or supervision of optometrists in Kentucky.

Optometrists in both Kentucky and Texas have stated that "over 25,000 procedures have been performed without complication or complaint" and that is simply *not* true. We have no way of knowing how many procedures have been performed by optometrists nor what those procedures were since there is no database or surgical log like those maintained by hospitals or outpatient surgical centers. Likewise, these "procedures" without being more specific, most likely include pulling an eyelash out, removing a non-embedded foreign body from the eye, or placing a bandage contact lens on the cornea.

UKHealthCare

In Kentucky as in Texas, optometrists often cry out "Access to Care" as a priority reason to push forward a surgery scope bill. In Texas as in Kentucky, the "Access to Care" statement upon examination does not hold water. For example, in Kentucky, it's not uncommon at all for folks to drive forty minutes or more to shop at a Walmart or a shopping mall. It is very likely the same shopping patterns hold true in rural Texas. To drive approximately 30 to 60 minutes for something as critical as ensuring your eyes are being operated on by a medical physician and surgeon is not exactly the "lack of access" that optometry often paints it to be.

There is an established pathway for people interested in performing eye surgery to learn about the eye and its relation to the human body: Go to medical school and complete an ophthalmology residency. Please do not put patients at risk.

Respectfully submitted,

Woodford S. Van Meter, MD
Professor of Ophthalmology, University of Kentucky
Chairman, Eye Bank Association of America
Lions Eye Bank of Lexington
Past President, Kentucky Academy of Eye Physicians and Surgeon
2013 Recipient, American Academy of Ophthalmology Lifetime Achievement Award

My name is Charlotte Allison. I would like to tell my story so that other eyecare patients will be protected and benefit from what has happened to me.

We moved to a rural area in northeast Texas, in 1980. An optometrist was the only eyecare available. (Optometrist #1)

In 2005, we had settled in central Texas, in the hill country. From this date, we have been under the care of an ophthalmologist.

I had a few floaters and was told there was nothing available for removal. It was explained to me that the brain would kick in and override them. I have had cataract surgery and the laser posterior capsulotomy.

The floaters progressed rapidly in 2018. I was plagued with many, many fibrous sheets...flowing and rearranging on a 24 hour basis. I had reached a point of such frustration and began searching on the internet, for answers. An ophthalmologist in Florida had a YouTube video of the laser surgery successes. I showed my husband the video as he was on his way to a men's morning Bible Study. My husband shared the information with a friend who is an optometrist. (Optometrist #2)

My husband came home with news that we could travel to Louisiana for laser surgery instead of going to Florida. It was in fact Optometrist #1 who has the laser surgical suite in Louisiana. Our long time friend - amazing! Optometrist #2 told me, "laser surgery for floaters is outlawed in Texas." I understood this to mean that neither ophthalmologists nor optometrists could be licensed.

In April 2018, we drove 375 miles to see Optometrist #1 in his Texas clinic the day prior to going to his Louisiana clinic. He is licensed in both Texas and Louisiana. Optometrist #2 joined us in Louisiana. He was there during the entire 2.5 hours (with one 30 minute break). I have a picture. There is a viewing scope (almost vertical) where he could see the procedure. At one point, Optometrist #1 asked the visiting Optometrist #2 if he would like to take over. "This is easy." The hairs on the back of my neck arose. I was afraid. He chose not to take the seat. (Incidentally, Optometrist #2 is licensed in Louisiana, but to my knowledge on that day...it was the first time seeing the laser in operation!)

My eyes were very uncomfortable, after the procedure. The next day, I could barely hold them open. The intense pressure from the contact held to my eye(s) is what I believe, caused the swelling of my eyelids and discomfort. That said, when I could open them (as we were traveling back home), I cried tears of joy! Leaves on trees were distinct and formation of clouds, as well. My joy was marked by the haze. Yes, a haze in both eyes that was not present before laser surgery.

I had my annual visit with my ophthalmologist. I told her where I had been and why and presented her with backup paperwork. She was horrified, when looking at my eyes. The laser had hit my replacement lenses - the left eye around 35 times +/- and right eye, fewer. She shared that they had purchased the laser for floaters, in January. (Did Optometrist #2 have knowledge of this? He had told me it was against the law, in Texas!)

When the partner of my ophthalmologist considered me for laser surgery, pictures of my eyes were taken. He (thankfully) agreed to treat me and I am grateful. My vision from the floaters continues to improve. But, there was an issue with my ability to see clearly. Recent testing has proven what I couldn't verbalize. If I am in a room and natural light comes through a door or window...I cannot see objects...like

furniture...everything is black. There is a haze. From the damage to both replacement lenses, I am unable to be a candidate for surgery and lens replacement.

I have felt a moral obligation to talk with both the Optometrists. I wanted to show them the pictures. When Optometrist #2 saw them, he said there was absolutely no damage to my eyes. He was headed to the Louisiana clinic and was taking my pictures. Incidentally!!! He asked me to go (that day) to the ophthalmologist clinic and sign something to say that "I" didn't want my pictures shown anywhere by my ophthalmologist. He suggested the pictures could be used for political purposes.

Optometrist #2 has never seen me as a patient. When he saw the pictures of my eyes, he stated that due to the laser not hitting my line of site, there was no damage. He never examined me. Nor did he ask if I saw any changes.

I do not believe that the Optometrists wanted to harm me, but I was misled. I did not have to drive 7 hours over to Louisiana, spend the night and 7 hours to return home.

My life has been impacted by the damage to my eyes. I can no longer weave with small threads (100/inch). It is difficult to play my instruments due to the difficulty in seeing the music on printed page.

My intent has not been to file a lawsuit against the Optometrists. My hope is that many will listen to the patient(s) and make laws to protect us. Physicians who have studied and prepared themselves for such surgeries should be protected, as well. I hope my voice will make a difference. I only want to speak out so that others will not be misled or harmed or suffer damage to their vision.

Respectfully submitted,
Charlotte Allison
Fredericksburg, Texas

P.S. I spoke with Optometrist #2 a few days ago. He had taken my pictures and medical history to Louisiana. He said that my vision was not impacted by the laser hits on my lens, in either eye. This is "normal" and he has seen it to be true with patients in Louisiana. He was emphatic and told me (several times) I knew there were risks. Finally, he asked if I saw a difference in my vision. After explaining my changes, he was steadfast and defensive. What I have experienced is a normal occurrence.

Low Optometric Malpractice Rates Equals Safety?

There are several reasons why the national rate of optometric malpractice claims appears to be stable after allowing optometrists in some states to perform surgery:

Most optometrists in the United States do not manage patients with complex ophthalmic conditions (who are at higher risk of complications) or perform laser and incisional surgery. Therefore, the number of "opportunities" for potential malpractice is small.

Bringing a potential lawsuit has substantial costs, often on the order of $250,000 or more in many cases. An attorney is unlikely to pursue a lawsuit that will not settle or pay in excess of that amount, leaving multiple lesser lawsuit opportunities by the wayside, effectively "undiscovered".

Additionally, malpractice cases typically take three to four years to come to final adjudication. Without large numbers of cases having yet moved through the courts, there is little statistical information on which to base rate increases.

Ophthalmologists spend much of their time managing (including surgically) complex and sight-threatening cases and therefore have significantly more "opportunities" to incur malpractice allegations. It is impossible to compare the malpractice rates of optometrists to those of ophthalmologists.

It is important to note that OMIC, the Ophthalmic Mutual Insurance Company, has implemented underwriting guidelines to ensure that coverage is only extended to health care providers for surgical procedures for which they have the necessary education, training, and expertise to perform. OMIC does not offer coverage to optometrists for most surgical procedures (exceptions being limited to epilation, insertion of punctal plugs, and use of diagnostic devices). Timothy Padovese, President and CEO of OMIC, has stated the company does not have the experience to properly underwrite, rate, and administer claims arising from surgical procedures performed by optometrists and that there is a lack of data available on that liability risk.

These statements not only highlight the lack of qualifications optometrists have in performing surgery but also raise another point regarding why there seem to be so few malpractice claims for optometric surgery cases. As noted below, another issue leading to a seeming paucity of optometry malpractice claims, is the lack of discoverability of complaints, since typically the complaints go first to the Optometry Board.

OMIC
OPHTHALMIC MUTUAL INSURANCE COMPANY
A Risk Retention Group
Sponsored by the American Academy of Ophthalmology

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Statement on Optometric Malpractice Rates
January 30, 2019

OMIC currently insures more than 5,250 ophthalmologists and more than 800 optometrists nationwide. During our 30+ years in operation, we have handled over 10,000 medical professional liability incidents and claims arising from the actions of the entire eye care team, from ophthalmologists to optometrists to technicians.

This statement addresses two issues that are frequently inquired about:

1. The stability of malpractice rates for optometrists; and
2. The complications that can arise from the performance of certain surgical procedures.

Insurance Premiums

Regarding the stability of optometric malpractice rates, the answer is very straightforward and is actuarial in nature.

- Most optometrists in the United States do not manage patients with complex ophthalmic conditions or perform laser and incisional surgery.
- Therefore, the number of "opportunities" for potential malpractice is relatively small, and such cases typically take three to four years to come to final adjudication.
- Without large numbers of cases having yet moved through the courts, there is little statistical information on which to base rate increases.
- This is particularly true compared to ophthalmologists who spend much of their time managing (including surgically) complex and sight-threatening cases and therefore have significantly more "opportunities" to incur malpractice allegations.

Surgical Complications

Regarding outcomes, every surgical procedure has associated potential complications. OMIC has drafted consent forms for most ophthalmic surgical procedures that explain the risks – or potential complications – for those procedures.

- For example, the consent form for laser iridotomy, which involves making a hole in the iris with the laser to treat narrow angle glaucoma, lists risks for this procedure that include:
  - Inflammation or bleeding in the eye,
  - Cataract formation, and
  - Damage to the cornea or retina from the laser light.
- All ocular surgical procedures have their own associated risks, including permanent loss of vision, even for surgeries seemingly as safe as draining a chalazion (an inflamed oil gland) of the eyelid.
- These complications cannot always be prevented, but the likelihood can be decreased by having a trained and skilled surgeon perform the procedure.

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OMIC is committed to risk management, loss prevention, and patient safety. **To this end, we have implemented underwriting guidelines to ensure that coverage is extended to health care providers only for those procedures for which they have the necessary education, training, and expertise. For this reason, as well as the company's assessment that it does not have the experience to properly underwrite, rate, and administer claims arising from surgical procedures performed by optometrists, and the lack of data available on this liability risk, OMIC does not offer coverage to optometrists for most surgical procedures** (exceptions being, e.g., limited forms of epilation, insertion of punctal plugs, and use of diagnostic lasers).

Timothy J. Padovese

Timothy J. Padovese
President & CEO
Ophthalmic Mutual Insurance Company

Truth in Advertising survey results

Education and training matters when it comes to who provides your health care, but do most patients know the qualifications of their health care provider? Surveys conducted between 2008 and 2018 found that while patients strongly support a physician-led health care team, many are confused about the level of education and training of their health care provider.[1] Key findings include:

- **Ninety-one percent of respondents said that a physician's years of medical education and training are vital to optimal patient care, especially in the event of a complication or medical emergency.**
- **Eighty-six percent of respondents said that patients with one or more chronic diseases benefit when a physician leads the primary health care team.**
- **Eighty-four percent of respondents said that they prefer a physician to have primary responsibility for the diagnosis and management of their health care.**

Truth in Advertising legislation can help provide the clarity and transparency necessary for patients to have the information they need to make informed decisions about their health care.

Patients are not sure who is—and who is not—a physician[2]

Is this person a physician?	Yes (%)	No (%)	Not sure (%)
Orthopaedic surgeon/Orthopaedist	90	5	5
Obstetrician/Gynecologist	88	6	6
Primary care physician	88	7	5
General or family practitioner	84	11	5
Dermatologist	80	13	8
Ophthalmologist	73	15	12
Psychiatrist	72	21	7
Anesthesiologist	70	22	8
Podiatrist	67	22	11
Dentist	61	33	6
Doctor of medical science	61	27	12
Optometrist	47	43	10
Psychologist	43	50	7
Doctor of nursing practice	39	50	11
Chiropractor	27	63	10
Nurse anesthetist	21	71	8
Nurse Practitioner	19	74	7
Physical Therapist	19	74	7
Physician assistant	17	76	7
Midwife	5	86	9

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