TO THE HONORABLE SENATE:

The Committee on Government Operations to which was referred Senate Bill No. 158 entitled “An act relating to optometrists’ scope of practice” respectfully reports that it has considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 26 V.S.A. chapter 30 is amended to read:

CHAPTER 30. OPTOMETRY

* * *

§ 1703. DEFINITIONS

As used in this chapter:

(1) “Board” means the State Board of Optometry.

(2) The “practice of optometry” means any one or combination of the following practices:

(A) Examining the human eyes and visual system for purposes of:

(i) diagnosing refractive and functional ability; or

(ii) diagnosing the presence of eye and adnexa disease or injury,

treating the disease or injury with the appropriate pharmaceutical agents and procedures in accordance with this chapter, and making referrals to the appropriate health care provider when warranted.
(B) Diagnosing and correcting anomalies of the refractive and functional ability of the visual system and the enhancement of visual performance including the following:

(i) prescribing and using ophthalmic lenses, prisms, autorefractor or other automatic testing devices, frames, ophthalmic aids, and prosthetic materials as consistent with the health of the eye;

(ii) prescribing and employing contact lenses; and

(iii) administering visual training, vision therapy, orthoptics, and pleoptics.

(C) Prescribing appropriate pharmaceutical agents for the diagnosis, management, and treatment of the eye and adnexa.

(D) Removing superficial foreign bodies from the eye and adnexa; epilating the eyelashes, including by electrolysis; and punctal dilation, lacrimal irrigation, and punctal plugs insertion.

(E) Managing the following types of glaucoma in patients who are 16 years of age or older:

(i) adult primary open angle glaucoma;

(ii) exfoliative glaucoma;

(iii) pigmentary glaucoma;

(iv) low tension glaucoma;

(v) inflammatory (uveitic) glaucoma; and
(vi) emergency treatment of angle closure glaucoma.

(2) “Contact lenses” means those lenses that are worn for cosmetic, therapeutic, or refractive purposes.

(3) “Diagnostic and therapeutic pharmaceutical agent” means any prescription or nonprescription drug delivered by any route of administration, used or prescribed for the diagnosis, treatment, prevention, or mitigation of abnormal conditions and diseases of the human eye and its adnexa, and visual system or those that may be used for such purposes, and approved narcotics when used in the treatment of disorders or diseases of the eye and its adnexa.

It shall not include any drug or other substance listed in Schedule I of the federal Uniformed Controlled Substances law that shall be prohibited from use by a licensed doctor of optometry.

(3)(4) “Director” means the Director of the Office of Professional Regulation.

(4)(5) “Financial interest” means being:

(A) a licensed practitioner of optometry; or

(B) a person who deals in goods and services that are uniquely related to the practice of optometry; or

(C) a person who has invested anything of value in a business that provides optometric services.
(5) “Contact lenses” means those lenses that are worn for cosmetic, therapeutic, or refractive purposes.

(6) “Ophthalmic surgery” means a procedure upon the human eye and adnexa in which in vivo tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation.

(7)(A) The “practice of optometry” means any one or combination of the following practices:

(i) employing primary eye care procedures, including the prescription of diagnostic and therapeutic pharmaceutical agents, medical devices and ophthalmic surgery, and measuring the powers and range of vision of the human eye using subjective and objective means, including the use of lenses and prisms before the eye and auto-refractors and other automated testing devices to determine its accommodative and refractive state and general scope of function;

(ii) the adaptation, sale, and dispensing of frames and lenses in all their forms, including plano or zero power contact lenses, to overcome errors of refraction and restore as near as possible normal human vision, or for orthotic, prosthetic, therapeutic, or cosmetic purposes with respect to contact lenses;
(iii) the examination, diagnosis, and treatment of abnormal conditions and diseases of the human eye, its adnexa, and visual system, including the use or prescription of vision therapy, ocular exercises, rehabilitation therapy, subnormal vision therapy, ordering of appropriate diagnostic lab or imaging tests, and the dispensing of samples to initiate treatment, and:

(I) the management of glaucoma in patients who are 16 years of age or older; and

(II) the removal of superficial foreign bodies from the eye and adnexa; epilating the eyelashes, including by electrolysis; and punctal dilation, lacrimal irrigation, and punctal plugs insertion; and

(iv) the preoperative and postoperative care for ophthalmic surgery procedures.

(B) The “practice of optometry” shall include ophthalmic surgery procedures when an applicant has been granted an ophthalmic surgery endorsement by the Board pursuant to this chapter.

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§ 1717. SPECIALTY ENDORSEMENT; OPHTHALMIC SURGERY PROCEDURES

(a) Qualifications. The Board may grant a specialty endorsement for the practice of ophthalmic surgery procedures to a licensee who has successfully
completed a Council on Optometric Practitioner Education (COPE)-approved course in ophthalmic surgery procedures within the preceding two years that shall:

(1) be provided by an accredited optometry or medical school;

(2) be taught by full-time or adjunct faculty members of an accredited optometry or medical school;

(3) be a minimum of 32 clock hours in length; and

(4) meet or exceed the following requirements:

(A) classroom instruction shall cover laser physics, hazards, and safety; biophysics of lasers; laser application in clinical optometry; laser tissue interactions; laser indications, contraindications, and potential complications; gonioscopy; laser therapy for open angle glaucoma and for angle closure glaucoma; posterior capsulotomy; common complications for lids, lashes, and lacrimal; medicolegal aspects of anterior segment procedures; peripheral iridotomy; laser trabeculoplasty; minor surgical procedures; overview of surgical instruments, asepsis, and OSHA; the surgical anatomy of eyelids; emergency surgical procedures; chalazion management; epiluminescence microscopy; suture techniques and complications; anaphylaxis and other office emergencies; radiofrequency surgery; and postoperative wound care;
(B) include clinical or laboratory experience, including video tape
demonstration, in vitro observation or participation, in vivo observation, and a
formal or laboratory practical examination; and

(C) require passage of a written test utilizing the National Board of
Examiners in Optometry format.

(b) Scope of practice.

(1) Training and education. A licensee who has been granted an
endorsement under subsection (a) of this section may practice an ophthalmic
surgery procedure listed in subdivision (2) of this subsection:

(A) if it is within the scope of the licensee’s education and training
from an accredited optometry or medical school; and

(B) the procedure is one for which the licensee has completed not
less than six credit hours of “Surgery Procedures” continuing education
accredited by COPE within the previous two years.

(2) Approved procedures. A licensee who has been granted an
endorsement under subsection (a) of this section may practice one or more of
the following ophthalmic surgery procedures if the licensee complies with the
requirements of subdivision (1) of this subsection and any procedure being
performed does include any of the prohibited procedures listed in subdivision
(3) of this subsection:
(A) Laser procedures of the anterior segment, the surface of the eye, or adnexa; including:

(i) laser procedures to create a capsulorhexis prior to cataract surgery;

(ii) laser procedures to treat glaucoma such as laser trabeculoplasty;

(iii) laser procedures to treat narrow angles such as laser iridotomy, or laseriridoplasty; and

(iv) laser procedures to treat capsular opacification such as YAGcapsulotomy.

(B) Injections pertaining to the eye and its adnexa, intravenous injections, subcutaneous and intramuscular injections, including:

(i) injections for the administration of local anesthesia;

(ii) injections to perform fluorescein angiography;

(iii) injections of therapeutics into the eyelid or its adnexa or subconjunctival space;

(iv) injections for anaphylaxis; and

(v) injections for vaccination in a public health emergency.

(C) Removal and restoration of tissue or lesions with low risk of malignancy of the eye and its adnexa; including:

(i) excision and repair of chalazia;
(ii) excision and repair of lesions with low risk of malignancy;

(iii) corneal crosslinking, treatment of recurrent corneal erosion;

and

(iv) intense pulsed light and radio frequency therapy.

(3) Prohibited procedures. A licensee shall not practice any of the following procedures:

(A) retina laser procedures;

(B) penetrating keratoplasty or corneal transplant;

(C) the administration of general anesthesia;

(D) surgery done with general anesthesia;

(E) surgery related to removal of the eye from a living human being;

(F) 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;

(G) surgery requiring incision of the iris and ciliary body, including diathermy or cryotherapy;

(H) surgery requiring incision of the vitreous;

(I) surgery requiring incision of the retina;

(J) surgical extraction of the crystalline lens;

(K) surgical intraocular implants;

(L) incisional or excisional surgery of the extraocular muscles;
(M) surgery of the eyelid for suspect malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis, and tarsorrhaphy;

(N) surgery of the bony orbit, including orbital implants;

(O) incisional or excisional surgery of the lacrimal system other than probing or related procedures;

(P) surgery requiring full thickness conjunctivoplasty with graft or flap; and

(Q) pterygium surgery.

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§ 1719. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a, whether committed by a licensee, an applicant, or a person who later becomes an applicant.

(b) Unprofessional conduct means:

(1) conduct that evidences moral unfitness to practice the occupation;

(2) any of the following except when reasonably undertaken in an emergency situation in order to protect life, health, or property:

   (A) practicing or offering to practice beyond the scope permitted by law, which includes practicing or offering to practice ophthalmic surgery procedures without a specialty endorsement;
(B) Performing treatments or providing services that a licensee is not qualified to perform or that are beyond the scope of the licensee’s education, training, capabilities, experience, or scope of practice; and

(C) Performing occupational services that have not been authorized by the consumer or the consumer’s legal representative.

(c) After hearing, the Board may take disciplinary action against a licensee or applicant found guilty of unprofessional conduct.

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Sec. 2. 26 V.S.A. § 1716a is redesignated to read:

§ 1716a 1718a. RENEWAL

Sec. 3. EFFECTIVE DATE

This act shall take effect July 1, 2022.

(Committee vote: ____________)

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Senator ____________________

FOR THE COMMITTEE