



THE REPORT OF THE CHIEF MEDICAL OFFICER OF THE DIVISION OF PUBLIC HEALTH ON THE PROPOSAL TO MAKE CHANGES IN THE SCOPE OF PRACTICE OF OPTOMETRISTS

Date: February 17, 2023

To: The Speaker of the Nebraska Legislature
The Chairperson of the Executive Board of the Legislature
The Chairperson and Members of the Legislative Health and Human Services Committee

From: Matthew Donahue, MD
State Epidemiologist & Interim Chief Medical Officer
Division of Public Health
Department of Health and Human Services

Introduction

The Regulation of Health Professions Act (as defined in Neb. Rev. Stat., Section 71-6201, et. seq.) is commonly referred to as the Credentialing Review Program. The Department of Health and Human Services Division of Public Health administers this Act. As interim Chief Medical Officer I am presenting this report under the authority of this Act.

Summary of the Optometry Proposal

The proposed change in scope of practice would authorize Doctors of Optometry to perform a procedure called "Selective Laser Trabeculoplasty (SLT) for the treatment of glaucoma. The current Optometric Practice Act contains a categorical prohibition on the use of lasers by Optometrists.

The full text of their proposal can be found under the Optometry review area of the credentialing review program link at <https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx>

Summary of Technical Committee and Board of Health Recommendations

The technical review committee members recommended against this proposal. After much deliberation, The Board of Health recommended in favor of this proposal.

The Chief Medical Officer's Recommendations on the Proposal

After carefully considering the application, the Technical Review Committee report, the Board of Health report, published literature, and multiple supporting documents from proponents and opponents, I recommend against this proposal given weaknesses in support for Criterion one and Criterion Four. A detailed opinion on proponent and opponent arguments for each criterion follows:

Criterion one: *The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice.*

- I believe this criterion is NOT met
- Proponents argue SLT is becoming a frontline therapy, that optometrists are already successfully treating patients with glaucoma, and that scope expansion will improve the care of patients with glaucoma throughout the state.
- Opposition argues Nebraska is currently performing SLT at a rate higher than 7 out of 9 post-expansion states, indicating unmet need in Nebraska is lower than most states where scope expansion has already happened.
- Evidence that might support criterion one could include a retrospective cohort study among patients in Nebraska being treated for glaucoma by optometrists, with primary outcomes including proportion for whom SLT was indicated (and patient willing) but not pursued due to scope restriction. Similarly, a retrospective cohort study among patients in Nebraska who received SLT from an ophthalmologist, that examines the proportion who might have preferred SLT at their local optometrist's office could also support the proponents' position.

Criterion two: *Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public.*

- I believe this criterion IS met
- The inconveniences of establishing care elsewhere, additional appointments, and additional travel are not inconsequential. Scope expansion would very likely increase access to SLT. Although the degree to which access would increase is called into question, access could only increase, which could benefit the health and welfare of the public.

Criterion three: *The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public.*

- I believe this criterion IS met
- As described, the procedure overall has a favorable safety profile with known potential complications falling within the existing scope of optometrists to manage. This procedure requires a familiarity of slit lamp and gonioscopy examination, which optometrists are trained in and use frequently. While potentially vision-threatening side effects exist, apparently few have been reported.
- I'm unable to find concrete evidence of harm reported from post-expansion states. While proponents state few complaints have reached the boards of optometry [for discipline] in post-expansion states, it's also apparent boards don't receive all complaints, as evidenced by

substantial differences between the number of complaints reported by the boards and the number of malpractice claims. Simultaneously, opponents' malpractice claims cited in both Vermont and Kentucky fail to compare to a pre-expansion baseline.

- Either proponents' or opponents' arguments could be strengthened by analyzing malpractice data before AND after scope expansion within post-expansion states, which does not appear to have been pursued.
- Either proponents' or opponents' arguments could be strengthened by conducting a simple case-control analysis within post-expansion states by engaging a random sample of glaucoma patients who received SLT performed by either optometry or ophthalmology, in order to understand differences in outcomes and complications. Such an analysis would require sufficient power and thorough matching. The Stein study is noted, which identified increased frequency of repeat SLT for patients treated by optometrists in Oklahoma. While repeat procedures and office visits are concerning, the reasons for that finding are unclear. In absence of the identification of additional harm, the increased frequency of repeat SLT might be a nonfactor for some patients given the potential benefit of increased access.

Criterion four: The current education and training for the health profession adequately prepares practitioners to perform the new skill or service.

- I believe this criterion is NOT met
- Proponents argue that despite potential inconsistencies in laser training across optometry schools, two key safety net measures might ensure competency prior to credentialing in Nebraska: an accredited 16-hour course and performance of three supervised SLT procedures.
- Proponents' argue that comparisons between optometry training and ophthalmology training are immaterial to the six specific criteria of the credentialing review process, which should be evaluated on their own accord. I find that argument resonates, however, the existing standard of training in Nebraska to care for patients' eligible for SLT involves a minimum of 5 proctored procedures and an average of 60-80 proctored procedures prior to independent practice. The question of "how much training is sufficient" is yet unanswered until more granular case-control analyses assessing differences in outcomes and complications between optometrists and ophthalmologists are completed in post-expansion states, or until better comparisons examining changes in malpractice claim trends pre- and post-expansion are available (as described above for criterion three).
- Opponents argue that since only two optometry schools are located in post-expansion states, the ability of optometry schools throughout the nation to provide consistency in clinical oversight (in comparison with laboratory training) appears extremely variable. While the proponents' safety net measures add reasonable safety protections, it is unclear whether these measures are able to account for the variability in the original clinical training.
- Proponents might seek greater standardization from the Accreditation Council on Optometric Education (ACOE) in order to ensure sufficient clinical training and hands-on experience prior to graduation, as well as incorporating and requiring the now optional Lasers and Surgical Procedures Examination (LSPE); both actions might preclude the need for additional certification procedures and go farther to address criterion four.

Criterion five: *There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill of service in a safe manner.*

- I believe this criterion IS met
- Continuing education should be adequately addressed by the board, similarly to other professions, and this intention is well-documented throughout the application.

Criterion six: *There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.*

- I believe this criterion IS met
- The board of optometry, board of health, and attorney general's office are well-positioned to evaluate need for and enforce discipline in response to incompetency, just as they do for other licensed, certified, and registered professions.
- Additionally, precedence exists for holding optometrists to the same standard as physicians. Neb. Rev. Stat. § 38-2617 states, "(1) A licensed optometrist who administers or prescribes pharmaceutical agents for examination or for treatment shall provide the same standard of care to patients as that provided by a physician licensed in this state to practice medicine and surgery utilizing the same pharmaceutical agents for examination or treatment."