January 29, 2026

TO: Chair Lyons
Vice Chair Gulick
Senator Cummings
Senator Morely
Senator Benson

FR: Jessica Oski, for **Vermont Ophthalmological Society**

RE: S.64 An act relating to amendments to the scope of practice for optometrists

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Next Wednesday the Vermont Ophthalmological Society will be presenting witnesses to your committee regarding S.64 An act relating to amendments to the scope of practice for optometrists.

Please see attached, the following background information:

1. A **Veto Letter** issued by the Governor of New Mexico explaining her veto of bill, very similar to S.64, the would have allowed non-surgeons to perform eye surgery.
2. An **article** from New Mexico media regarding the Governor's veto.
3. An **editorial** from VT Digger from Dr. Jessica McNally, a Vermont Ophthalmologist
4. An **article** from the Burlington Free Press about the bill

We look forward to discussing this important issue with you next week and addressing your questions and concerns.

State of New Mexico

Michelle Lujan Grisham
Governor

April 11, 2025

HOUSE EXECUTIVE MESSAGE NO. 18

The Honorable Javier Martínez, Speaker of the House and
Members of the House of Representatives
State Capitol Building
Santa Fe, New Mexico 87501

Honorable Speaker Martínez and Members of the House:

I have decided to veto HOUSE BILL 36, as amended ("HB 36"), which would amend sections of the Optometry Act.

I am vetoing this bill because it sets a dangerous precedent for allowing non-surgeons to perform surgical procedures. When changes are made to the scope of practice for health care providers, there are two main considerations. First, whether the change in scope increases access to care for patients. Second, whether the change will ensure good medical care for patients. I do not feel that this bill adequately meets that threshold.

To begin, there is no persuasive evidence that this bill would increase access to care. Data shows that expansion of laser authority for optometrists has not resulted in a statistically significant increase in access to these procedures for patients, as optometrists that are currently performing more limited laser procedures cover an area similar to ophthalmologists, typically within a 30-minute drive for the vast majority of patients.

Next, I do not believe that this change in scope would increase or even maintain the current standard of care. In short, this bill allows non-surgeons to perform procedures that are currently performed by medical doctors with significantly more educational and hands-on training requirements to receive their degrees. These are not abstract concerns. As recently as last month, an optometrist in a neighboring state performed an unauthorized surgical procedure that this statute would legalize, resulting in complications so severe that the patient had to be transferred to the University of New Mexico for intervention by an ophthalmologist.

I do note that there was a proposed Senate floor amendment that would have required additional supervision and training requirements for optometrists wanting to perform these procedures that

was determined to be an unfriendly amendment that ultimately failed to pass. I would consider signing a bill in the next session if it contained similar oversight and supervision requirements.

Because of these issues, and pursuant to my authority under Article IV, Section 22 of the New Mexico Constitution, I have vetoed HOUSE BILL 36, as amended, enacted by the Fifty-Seventh Legislature, First Session, 2025.

Respectfully yours,

Michelle Lujan Grisham
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR

Time: 8:16 a.m. p.m.
Date: 4/11 2025

~~For~~ ~~By~~ _____
Secretary of State

Time: _____ a.m. p.m.
Date: _____ 2025

By _____
Chief Clerk of the House

State Capitol • Room 400 • Santa Fe, New Mexico 87501 • 505-476-2200 • fax: 505-476-2226

Governor vetoes controversial bill allowing non-surgeons to perform laser eye surgery

KUNM | By Daniel Montaño

Published April 11, 2025 at 6:56 PM MDT

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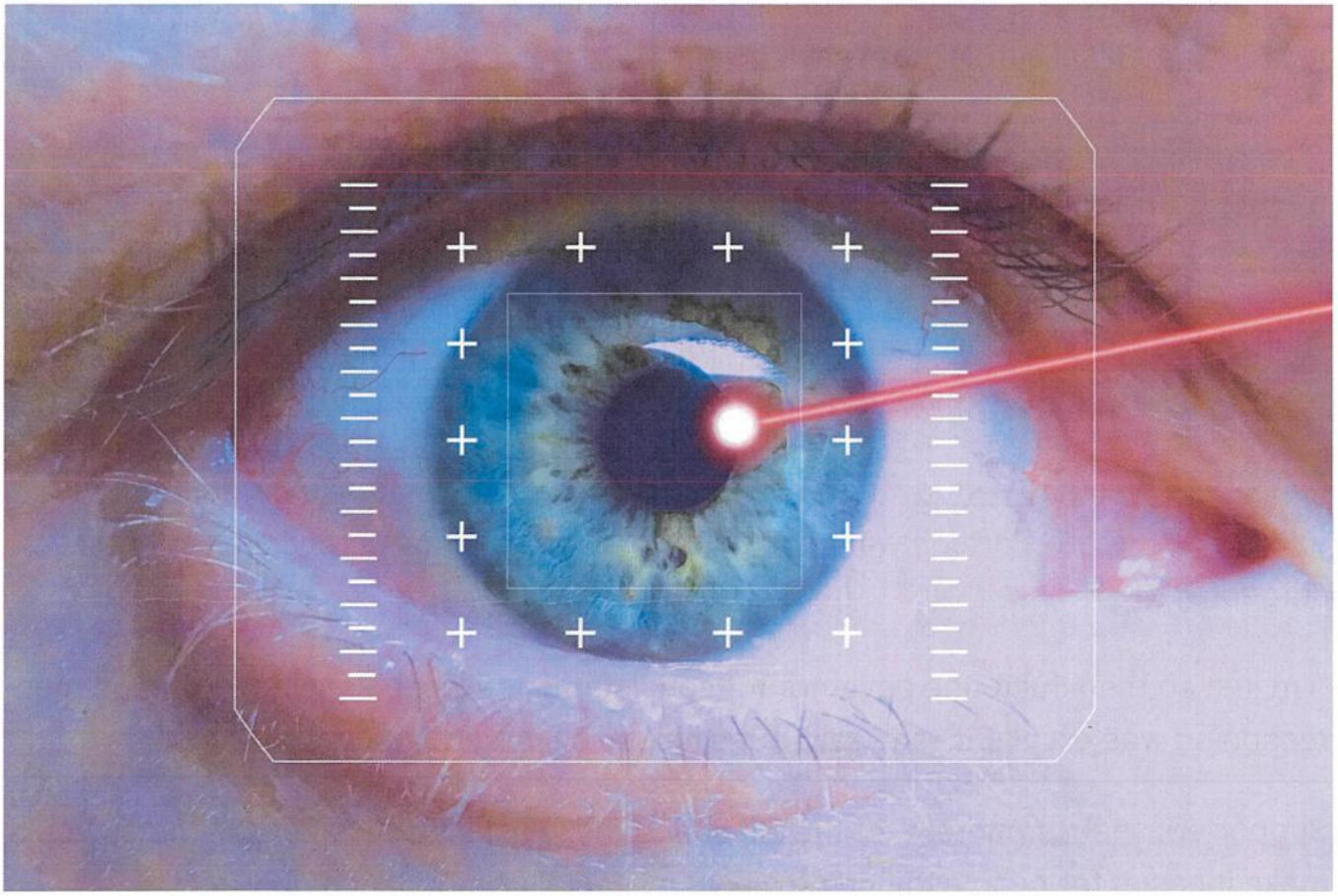

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KUNM
All That Jazz

surgeon.

Governor Michelle Lujan Grisham vetoed 16 bills Friday morning, including one that would have allowed optometrists — who specialize in primary eye care and corrective lenses, and do not attend medical school — to perform certain delicate laser eye surgeries.

A professional association of eye surgeons celebrated the governor's decision.

The New Mexico Academy of Ophthalmology campaigned for the governor's veto saying the bill could put New Mexicans' safety at risk.

President of the academy and pediatric ophthalmologist, Dr. Rebecca Leeneheer, said House Bill 36 would have allowed optometrists to do the work of ophthalmologists, who take eight years of specialized schooling and training after their bachelor's including medical school and residency.

The bill would have allowed optometrists to perform certain surgeries after only a 36-hour course and four hours practicing on a model unsupervised by an actual eye surgeon.

"Surgery should be done by surgeons," she said. "And the optometrists are great at their their job, but they're not ready to be doing surgeries."

Leeneheer points to a study that found patients were 189% more likely to require additional surgeries after having one done by an optometrist versus an actual eye surgeon.

"I'm just so thankful to the governor for considering the issue seriously. I thought her reasoning was excellent," she said. "She helped save New Mexicans' vision."

Supporters' main argument for the bill during the legislative session was that it would make it easier for people to find providers, especially in rural areas.

But in her message accompanying the veto, Lujan Grisham referenced data that shows allowing optometrists to perform these surgeries has not increased access to

care for patients in other states, because optometrists who do choose to start providing laser surgeries typically set up shop within a 30-minute drive of a practicing ophthalmologist.

She also said the bill would have set "a dangerous precedent" by allowing non-surgeons to perform surgeries, but added if the bill comes back in a future session with more stringent training requirements, she might consider signing it into law.

Support for this coverage comes from the W.K. Kellogg Foundation.

Tags Public Health New Mexico | Governor Michelle Lujan Grisham | 2025 Legislative Session | medical bills | ophthamologist | optometrists

Print

Daniel Montaño

Daniel Montaño is a reporter with KUNM's Public Health, Poverty and Equity project. He is also an occasional host of Morning Edition, All Things Considered, and Let's Talk New Mexico since 2021, is a born and bred Burqueño who first started with KUNM about two decades ago, as a production assistant while he was in high school. During the intervening years, he studied journalism at UNM, lived abroad, fell in and out of love, conquered here and there, failed here and there, and developed a taste for advocating for human rights.

See stories by Daniel Montaño

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OPINION

Dr. Jessica McNally: Vermont eye surgery safety at risk

I will not remain silent as our lawmakers consider allowing optometrists, who have no standardized surgical training, to perform scalpel and laser eye surgeries on vulnerable Vermonters.

February 28, 2024, 8:01 am

This commentary is by Jessica McNally, MD of Montpelier. She is a comprehensive ophthalmologist at Central Vermont Medical Center, and the current president of the Vermont Ophthalmological Society.

Commentaries
Opinion pieces by community members

A patient who needs surgery expects it will be performed by a trained and skilled surgeon. That makes sense. Yet, when it comes to your most sensitive organ — your eyes — some are lobbying Vermont lawmakers to legalize optometrists to do laser and scalpel surgery. I am a Vermont ophthalmologist, a medical doctor and surgeon specializing in eye care, raising the alarm about the safety risks of lowering standards for performing invasive eye surgery.

The training between ophthalmologists and optometrists is very different. All ophthalmologists are physicians (medical doctors) and surgeons. They attend four years of medical school and complete a four-year supervised, hands-on surgical residency program. They then can go on to complete a fellowship for further experience in surgery on specific parts of the eye. Optometrists complete a four-year optometry program with no required further training and are not medical doctors or surgeons. Optometrists provide primary vision care by performing routine eye exams and providing straightforward medical eyecare. They are trained to refer to an ophthalmologist if further care or intervention is needed. They are not trained to do surgery.

In Vermont, with something as precious as eyesight, we should not take unnecessary risks. But that is exactly what a special interest business lobbying group is pushing state lawmakers to do.

As part of a national drive to expand their business, the Vermont optometry lobby is making the false claim that there are not enough ophthalmologists to take care of patient needs. In Vermont we are extremely fortunate in that we have enough ophthalmologists to provide all scalpel and laser surgical care in and around the eye. If a Vermont patient needs urgent eye surgery, they can get the care they need right away from a trained physician surgeon.

A recent report from the Vermont Office of Professional Regulation (OPR) on the controversy reveals the weakness of the optometry lobby's key claims. The report concludes: "OPR is unable to determine whether expanding the optometric scope of practice would improve patient access to care." The report also invalidates the claim that lowering safety standards would save patients money. "OPR cannot determine the impact expansion of the optometric scope of practice would have on costs."

I recently testified in the Legislature to make sure our lawmakers know that, according to OPR's website, there have been 26 newly licensed optometrists in Vermont in the last six years. And yet anyone who has tried to get a routine eye exam lately by their optometrist knows that there is often a several months' wait. It is difficult to understand how expanding the workload of an already overworked optometrist to include surgeries could possibly improve access to primary eye care.

I also raised my concern about the real potential of a primary eye care provider performing surgery on a patient without having the underlying knowledge base and expertise to do so. Just last week a Vermont optometrist made an incorrect diagnosis for which the treatment would have been a laser potentially allowed by optometrists in OPR's report. Thankfully, the patient ended up in an ophthalmologist's office. The correct diagnosis was made of an infectious disease, not only saving the patient from a surgery that would have been ineffective and could have harmed them, but also protecting the patient and our community by treating the disease. This type of misdiagnosis leading to harmful use of laser surgery could be devastating.

For the safety of our patients, I plan to vigorously oppose any bill in the Legislature that risks patient safety. It is a startlingly dangerous proposal by the optometry lobbying group to push for risky surgeries, all to garner more business. Our eyes are one of the most sensitive and precious organs in our body. I will not remain silent as our lawmakers consider allowing optometrists, who have no standardized surgical training, to perform scalpel and laser eye surgeries on vulnerable Vermonters.

Burlington Free Press

NEWS

Who should be allowed to do surgery on your eyes? Vermont Legislature is debating

Dan D'Ambrosio
Burlington Free Press

March 11, 2024 | Updated March 14, 2024, 11:16 a.m. ET

Vermont's optometrists and ophthalmologists are battling over who is allowed to do surgery on your eyes.

A bill being considered by the Vermont Legislature would allow optometrists to perform certain surgeries that are currently the exclusive purview of ophthalmologists. Ophthalmologists are medical doctors and surgeons, while optometrists are primary eye care providers.

Dean Barcelow, president of the Vermont Optometric Association, explained optometrists complete four years of undergraduate training, followed by four years of graduate training on the eye, earning a Doctor of Optometry.

Dr. Jessica McNally, president of the Vermont Ophthalmological Society, said all ophthalmologists are physicians and surgeons, completing four years of an undergraduate degree program followed by four years of medical school. After medical school, ophthalmologists spend four to six years of residency and fellowship training that can include specialties such as general surgery, emergency medicine and internal medicine, but focuses primarily on advanced medical and surgical treatment of the eye, according to McNally.

Historically, optometrists have handed off to ophthalmologists for procedures including surgeries, injections and lasers, but that line is being blurred by legislation like that now being considered in Vermont. Recently, South Dakota became the latest state to expand the scope of work for optometrists – as the terminology goes – to include surgeries that previously only ophthalmologists could perform. The argument made by optometrists is that it expands on the in-office procedures they already do, increasing access and lowering costs for patients. The counter-argument made by ophthalmologists is that it's dangerous, because optometrists don't have the training or experience required.

What would optometrists like to do that they can't do now?

The surgical procedures Vermont optometrists want to add to their wheelhouse can be broken down into three "buckets," Barcelow said. The first bucket is injections into the "superficial eye," or the eyelid, not into the eye. Optometrists also want to be able to inject dye into a patient's veins to look for leaky blood vessels in the eye.

The second bucket is the removal of small, benign lesions, such as skin tags on the eyelid or close to the eyelid. The third bucket, Barcelow said, contains three "very well-defined laser procedures." The first is related to cataract surgery.

"When you have cataract surgery they put a new lens in the eye and take the cloudy one out," he said. "Sometimes six months, sometimes 10 years later a film will grow on the back of that lens and we'll zap it off with a laser. It takes two to three minutes, or longer if the film is thick or the patient is jumpy."

The second procedure involves using a laser to add an "emergency drain" to the eye when the natural drain closes up and fluid begins to build up. The third laser procedure also has to do with improving draining by stimulating the tissue that drains the eye to become more efficient, which is particularly useful for glaucoma

patients in early stages of the disease, or who can't take drops, according to Barcelow.

"This isn't something that's a giant deviation," Barcelow said of the procedures. "We already use sharp and scary things around the eye."

Barcelow accused ophthalmologists of "saber-rattling" to make people nervous.

"Name anybody you would like to come near your eye with a scalpel," he said.

'You could do a lot of damage if you don't do it right'

McNally addressed each of Barcelow's buckets. First bucket: injections into the superficial eye – the eye ball – and the ability to inject dye into patients' veins to check for leaky blood vessels in the eye.

On the subject of injecting dye to check for leaky blood vessels, called a "fluorescein angiogram," McNally said the injection often causes nausea and sometimes vomiting and potentially anaphylaxis, a life-threatening allergic reaction.

"I don't do them in my office," McNally said of fluorescein angiography. "There's testing equipment – a camera – that provides similar if not the same results and is widely used by optometrists. We don't understand why they want to do angiograms."

With regard to the second bucket, removing small benign lesions in the eye, McNally said the question of whether a lesion is benign is fraught with uncertainty.

"Optometrists would say they are trained to figure out whether a lesion is benign or malignant and make a decision whether or not to take them off," McNally said.

"Our specialists who take care of eyelid lesions will tell you they've been surprised and taken off lesions they thought were benign and were malignant. We're very concerned about misdiagnosis. One of the things that concerns us is the simplicity with which (Barcelow) presents these lesion removals."

McNally also contends optometrists underplay the significance of cutting off a lesion near the eye.

"Removing lesions and cysts requires using a scalpel, with sutures afterward, and the potential for unexpected bleeding," McNally said. "We've discussed with the Office of Professional Regulation and legislators that it's very difficult to anticipate whether or not you're going to need to place sutures and you have to be ready for that."

And finally, lasers. McNally said she is very disturbed by the prospect of optometrists, who don't have the extensive training and experience of using lasers on patients that ophthalmologists have, doing the procedures in Barcelow's third bucket.

"The reason these lasers seem quick and easy, as optometrists claim, is because we're trained to use them, and it's supposed to be easy for the patient," McNally said. "It's not easy for the surgeon doing it. You could do a lot of damage if you don't do it right because you don't have the experience."

State report gives both sides victories, but should it have been written in the first place?

The Office of Professional Regulation issued a 258-page report requested by legislators on Oct. 31, 2023, that recommended expanding optometrists' scope of practice to include specific injection and laser and non-laser surgical procedures. OPR qualified that recommendation by saying only optometrists with a "specialty

endorsement license" should be permitted to perform these advanced procedures.

To get the specialty endorsement license, optometrists would have to complete a post-degree "preceptorship" – essentially instruction – in performing the advanced procedures on "live, human patients." Optometrists would also have to pass examinations showing they know how to do the laser and non-laser surgeries and injections.

Finally, optometrists performing these advanced procedures would be required to report the outcomes to OPR biennially, and to report "adverse events" to OPR immediately.

On the questions of improving access and lowering costs for the procedures optometrists would be able to do, OPR said it was unable to determine whether expanding the scope of practice for optometrists would do either, undermining a key argument optometrists make for taking this step. As a result, both sides claimed victory after the OPR report was issued.

McNally sees a bigger problem with the OPR report. She doesn't think OPR should have been put in the position of creating the report in the first place.

"How do you assure patients are safe when there's no standardized surgical training?" she said. "OPR has been forced into this position. They had to make a recommendation based on what they were asked to do. This is what they came up with. I don't feel they have the medical expertise to make recommendations. Clearly they don't think optometrists are trained to do these surgeries, or they wouldn't require them to go for more training."

Contact Dan D'Ambrosio at 660-1841 or ddambrosi@gannett.com. Follow him on X @DanDambrosioVT.