

Senate Health and Human Services Committee

Sophie Walsh 271-3469

HB 349-FN, relative to the practice of optometry and authorization to perform ophthalmic laser procedures.

Hearing Date: February 4, 2026

Time Opened: 11:38 a.m.

Time Closed: 12:37 p.m.

Members of the Committee Present: Senators Rochefort, Birdsell, Prentiss and Long

Members of the Committee Absent: Senator Avard

Bill Analysis: This bill authorizes optometrists who meet criteria established by the board of registration in optometry to perform certain ophthalmic laser procedures.

Sponsors:

Rep. Kofalt
Sen. Rochefort
Sen. Ward

Rep. Gregg
Sen. Altschiller
Sen. Prentiss

Rep. Peternel
Sen. Pearl

Who supports the bill: 115 people signed in support of the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (sophie.walsh@gc.nh.gov).

Who opposes the bill: 55 people signed in opposition to the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (sophie.walsh@gc.nh.gov).

Who is neutral on the bill: No one.

Summary of testimony presented:

Representative Jim Kofalt, Hillsborough – District 32

- This bill expands the scope of practice for licensed optometrists to perform three specific ophthalmic laser procedures, provided that the practitioner is first certified by the Board of Optometry. The procedures are laser capsulotomy, laser trabeculoplasty, and laser peripheral iridotomy.
- While this bill contains similar elements to SB 440 from 2024, it is far more limited.
- Representative Kofalt noted that optometry is the only profession in which permitted procedures are delineated in statute.

- This bill was amended in the House to add live patient training requirements and requirements for the completion of multiple instances of successful procedures under proctored supervision.
- This bill also authorizes the Board of Optometry to adopt rules, criteria for proctoring, and outcome reporting requirements.
- This bill would reduce wait times and travel burdens for patients.
- Rural areas of New Hampshire face significant shortages of ophthalmologists. The average wait time for these specific procedures in New Hampshire is between 3.5 and 4.5 months on average. Some patients, particularly those in the north country, must travel long distances to receive care.
- Patients undergoing eye procedures may be unable to drive themselves, meaning there is an additional burden in arranging transportation.
- The number of people practicing ophthalmology is declining, while the number of new optometrists is rising.
- Representative Kofalt shared a story about a retired individual living in rural New Hampshire who has vision in one eye. As they cannot drive, they are dependent on others to assist them in basic errands. There is a significant wait time for this individual to receive the procedures they need.
- This bill has the potential to reduce health care costs, as an increased availability of care can give patients a greater range of options and lead to lower costs.
- Representative Kofalt acknowledged concerns about optometrists never performing these procedures in New Hampshire and explained that some optometrists in the state have been authorized to and have performed these procedures in other states.
- We should allow optometrists to perform their duties to the fullest extent that they are trained to do so if we want to encourage them to move to and practice in New Hampshire.
- 14 states currently allow optometrists to perform these procedures. Optometrists have been performing them in Kentucky, Oklahoma, and Louisiana for over a decade.
- Evidence from other states indicates adverse events in in 2 cases out of over 146,000. Representative Kofalt noted that he was not able to find such data for ophthalmologists.
- There is no difference in malpractice insurance rates for optometrists who perform these procedures in comparison to those who do not.
- Senator Birdsell asked what the training and certification requirements are in the states that allow optometrists to perform these procedures.
- Representative Kofalt said he is not sure and emphasized that optometrists are generally trained to perform these procedures. He explained that these are

extremely low risk procedures typically performed in an outpatient setting. They do not involve any incision or cutting into the eye.

- Senator Rochefort referenced page 2 lines 1-4 and asked how the minimum amount of procedures for certification was determined.
- Representative Kofalt explained that he was not involved in the amendment process, but he expects that they are likely based on other states and what is considered reasonable.

Dr. Alison Loranger

- Dr. Loranger stated that she is speaking in support of the bill.
- The optometric scope of practice in New Hampshire has not seen a significant update in over 20 years. Meanwhile, advances have been made nationwide in optometry education and training.
- These are in-office laser procedures that are already performed by optometrists in 14 states. They involve no scalpels or general anesthesia and do not lead to cataract surgery.
- Historically, organized medicine has opposed scope expansions for any non-MD providers. Dr. Loranger explained that the American Medical Association (AMA) has a 'stop scope creep' campaign designed to restrict other providers using the rhetoric that non-MD providers are not trained and pose a risk to patient safety. She emphasized that predictions of widespread harm historically made have not come to fruition with past scope expansions.
- Dr. Loranger acknowledged potential concerns about referrals and patient selection. She emphasized that just as not every ophthalmologist performs every procedure, not every optometrist will pursue laser certification.
- Dr. Loranger acknowledged potential concerns about complication management. She explained that the most common complications are already managed every day by optometrists. Rare, severe complications would require a referral to a retina specialist regardless of who performed the procedure.
- Several adjustments have been made to this bill to strengthen the legislation and address concerns.
- Senator Rochefort repeated his earlier question about procedure minimums for certification.
- Dr. Loranger explained that those numbers were mirrored off of the minimum numbers required for ophthalmology residents.
- Senator Birdsell asked how an optometrist would receive training for this certification.
- Dr. Loranger explained that optometry schools have been training on lasers for years. There are also continuing education and post-graduate courses available, which is how ophthalmologists advance and stay current on their requirements. She noted that New Hampshire also has live case requirements.

- Senator Birdsell asked where someone who did not get laser experience in school would receive their training.
- Dr. Loranger explained that there are optometrists experienced in performing these procedures on live patients in other states or through the Department of Veterans Affairs (VA) who could serve as proctors and certify other optometrists. She emphasized that the numbers in the bill are just minimums and they would have to show competency before certification.
- Senator Birdsell confirmed that the VA does this.
- Dr. Loranger explained that they once allowed lasers, but it was stripped away due to the politics of it. In their community care program, they still send out referrals and will allow veterans to have laser procedures by optometrists in the community.

Cathy Stratton, New Hampshire Medical Society

- Ms. Stratton stated that she is speaking in opposition to the bill.
- The education and training of ophthalmologists make them uniquely qualified to perform laser eye surgery. They receive 4 years of postgraduate education and complete 3-5 years of residency, receiving 12,000-16,000 hours of rigorous and standardized training.
- While optometrists also receive 4 years of postgraduate education, residencies including direct experience caring for patients is not required.
- Ms. Stratton shared a personal story about her mother getting laser eye surgery. Skill, training, and expertise mattered to her family.
- This bill would extend surgical privileges to professionals with limited training, limited surgical experience, and almost no medical oversight.
- Ms. Stratton said a lot has changed in the past year, emphasizing that ophthalmologists have met the challenge of providing care in the north country.
- Senator Prentiss referenced Ms. Stratton's comment about lack of supervision and noted that it is built into the bill through training and continuous credentialing.
- Ms. Stratton clarified that she was speaking to medical supervision on the licensing board. She noted that the Board of Optometry does not include a physician.
- Senator Prentiss said while that is something that we can move towards, in terms of preparing someone to perform these procedures and keeping them prepared to do so, the supervision is there.
- Ms. Stratton emphasized that she was just speaking in terms of licensure.
- Senator Rochefort referenced the AMA website on scope creep and asked why this is a concern for the AMA, noting it seems like they are threatened by this.

- Ms. Stratton explained that they are not threatened, but it is important for their organization as physicians to represent good medical practice. Their concern is with patient safety.
- She emphasized that the ophthalmologists have worked hard to address access issues in rural health care.
- Senator Prentiss confirmed that there will be someone to speak about the efforts to expand access in rural areas and said this is a concern for her. Ms. Stratton confirmed.

Dr. Larry Baitch

- Optometry students receive an extensive and thorough education in cataract refractive surgery and glaucoma laser surgery.
- At Massachusetts College of Pharmacy and Health Sciences (MCPHS), students receive 176 hours of optometry methods, lab didactic and refractive surgery, and observation of ophthalmologists. They complete extensive training in lasers on simulated eyes, as do ophthalmology residents before seeing patients.
- After graduation, optometry students take certification courses and complete the National Board Examiners in Optometry certification in laser surgery and minor surgical procedures. Once passed, they must complete a residency in a facility where they can do proctored laser surgery or go to a state where they can be proctored.
- Dr. Baitch noted that ophthalmology residencies do not require residents to have the minimum numbers outlined in the bill for certification. In order to get certified as a residency, the residency must show that it is available to residents for training in lasers.
- Dr. Baitch stated that he is a trainer for physicians who perform these procedures. For physicians who have not done laser in their residencies, he provides didactic training followed by simulated eyes before they see their first patient.
- Senator Rochefort clarified that Dr. Baitch trains physicians as a Doctor of Optometry (OD).
- Dr. Baitch confirmed and noted that in many cases, medical science liaisons or technicians are trained to train physicians.
- Senator Rochefort asked if Dr. Baitch is training physicians on these three specific procedures, and Dr. Baitch confirmed.
- Senator Rochefort confirmed that MCPHS students are trained didactically on these procedures, and Dr. Baitch confirmed. He explained that they have two semesters of didactic glaucoma training, and they get training for cataract and refractive surgery, including what the laser capsulotomy is geared for.

Dr. Peter Remillard

- Dr. Remillard stated that no optometrist may perform these procedures without specific board certification, in addition to New Hampshire licensure requirements.
- The New Hampshire Board of Optometry sets strict standards through rulemaking.
- Laser certification builds upon 4 years of post-graduation doctoral education, which requires a dedicated laser program and live proctored patient cases with minimum numbers defined in statute. Dr. Remillard emphasized that meeting minimum requirements does not guarantee certification.
- This bill requires informed consent and mandatory reporting of complications and adverse events. There has been no shown increase in complication rates or malpractice insurance rates in the states where this has been adopted.
- Dr. Remillard acknowledged that there has been recent discussions about licensure practices in other states, particularly Kentucky. He emphasized that what happened there cannot happen here, as New Hampshire's regulatory framework is fundamentally different.
- Complications can occur with any medical procedure, regardless of the type of provider. Similar complications have occurred when procedures are performed by ophthalmologists.
- The framework of this bill includes strict certification, advanced education, supervised clinical experience, informed consent, and mandatory reporting. These are strong safeguards that protect patients and grant better access to high quality eye care in New Hampshire.

Dr. Angelique Sawyer

- Dr. Sawyer stated that she is speaking in support of the bill as an optometrist and practice owner in a rural area of the state.
- This bill primarily address the serious and growing issue of accessing timely eye care and patient choice in health care.
- Research shows that ophthalmology ranks 2nd to worst among 38 specialties in workforce inadequacy projected for the next 10-15 years. Meanwhile, optometry is a growing profession.
- When SB 440 was originally introduced, there were a total of 2 ophthalmologists serving 4 counties of New Hampshire.
- In her professional experience, Dr. Sawyer has seen Dartmouth Hitchcock Ophthalmology close its doors to internal and external referrals for a period of time. She has also seen providers retire and close their doors, leave the area, and hospitals fail to recruit ophthalmologists.
- Dr. Sawyer said she is grateful for the introduction of SB 440, as it led to the development of an ophthalmology clinic in Berlin. However, this program does not negate the necessity of this bill. These procedures require additional

consultations and repeat testing, meaning that clinic patients may have to wait to see the same provider or get treated by different providers due to the clinic's rotating schedule.

- Dr. Sawyer said there are many examples of patients who have undergone these procedures and say they are comfortable with having their optometrist perform them.

Dr. Deidre Cullen

- Dr. Cullen explained that she is an example of an optometrist who graduated as being trained in these procedures, yet was unable to perform these skills once she came to New Hampshire.
- As a business owner, it is especially difficult to recruit talent when she must tell candidates that they cannot perform these skills in New Hampshire. As long as this continues, we will continue to lose top-tier providers to other states.
- Dr. Cullen referenced a 2022 trial which concluded that one of the lasers in discussion today is a safe and effective first-line treatment for glaucoma. This means that optometrists in New Hampshire have the ability to treat and manage glaucoma, but not to provide a first-line treatment.
- Senator Rochefort confirmed that Dr. Cullen had training in school and took the board exams and asked if she ever got to the point of working with live patients for these procedures.
- Dr. Cullen said she did not because that is something she would have had to do in New Hampshire.
- Senator Rochefort asked if anyone on the Board of Optometry has been trained to perform these procedures, and Dr. Cullen said she is not sure.

Dr. Shakthi Maeder

- Dr. Maeder stated that she has deep concerns with this bill.
- She explained that optometry is not a surgical profession, noting the differences in education and training between optometrists and ophthalmologists.
- The crux of the issue is the question of what surgical training is.
- Dr. Maeder emphasized that these procedures are surgery, as the tissue of the eye is being cut and irreversibly changed.
- The minimums provided in this bill are from the Accreditation Council for Graduate Medical Education (ACGME). Dr. Maeder explained that these standards are used to keep accreditation, not imply competence. She emphasized that the journey of learning surgical skills begins in medical school and internships.
- Competency is measured by years of training, volume, and depth of live patient training on real tissue.

- The ability to react in real time to recognize and treat complications takes years to cultivate.
- While optometry school curriculum includes didactic instruction, live in-person training is not possible.

Dr. Amy Hennessy

- Dr. Hennessy stated that she is speaking in opposition to this bill as an eye surgeon who performs laser surgery on a daily basis.
- She would not describe these procedures as simple, non-invasive, or low risk to her patients.
- These procedures involve directing high energy lasers to the inside of the eyeball to instantly and permanently alter tissue. These are non-urgent, elective intraocular surgeries that carry real risk.
- Laser capsulotomy is issued to restore vision by obliterating tissue that has grown over where an artificial lens has been placed in cataract surgery.
- Selective laser trabeculoplasty treats glaucoma by going into the drain of the eye for 360 degrees using a special lens.
- Peripheral iridotomy is used to prevent pressure spikes in patients with narrow angles and involves creating a laser opening in the periphery of the iris.
- Several of the 14 states that have allowed optometrists to do eye surgery have now issued warnings about blinding complications that occur when inadequate training is employed and patients are not fully informed of risk.
- As a glaucoma specialist, Dr. Hennessy frequently has patients referred to her to see if laser is appropriate. Sometimes, these patients do not actually have glaucoma or are in the advanced stages.
- She emphasized that giving optometrists these privileges may delay care as patients will be held on to longer.
- If a laser is used unnecessarily or incorrectly, patients are exposed to an avoidable risk. If a laser is placed one millimeter away from the target in the cornea, lens, or retina, it will cause immediate and permanent damage to the eye.
- Learning how to diagnose these conditions, decide when laser is appropriate, and manage complications requires years of residency and surgical training.
- As written, this bill removes long standing safeguards put in place to protect patients. Any legislation involving laser eye surgery should include rigorous hands-on training requirements, oversight, and systems for reporting complications.

Dr. Tim Peters

- Dr. Peters explained that he has a unique perspective as an ophthalmologist who runs a practice including 6 optometrists. Each year, they have an optometry resident and a rotation of students.
- When this issue was originally raised two years ago, access to care in the north country was a big deal.
- A partnership has been launched between North Country Ophthalmology and Androscoggin Valley Hospital (AVH) to open the aforementioned clinic at AVH. 8 physicians from 3 different practices are currently working, with 16 additional physicians committed to the project. A succession and recruitment plan has also been developed to ensure this effort endures.
- The concern with this bill is that it lowers the educational standards and surgical standards from what is currently required to be a surgeon in New Hampshire.
- Dr. Peters emphasized that patients have asked for high quality ophthalmologic care, and they deserve no less.
- None of the laser surgeries in this bill have been performed at AVH because no referrals have come in for them. Dr. Peters said this is not surprising, as they are rare procedures that constitute 2% of Medicare billing in the United States.
- Passing this bill would make New Hampshire the only state in New England allowing non-medical doctors to perform surgeries.
- Dr. Peters emphasized that the fundamental question is if the standard of care proposed in this bill is what the people of New Hampshire want if quality of care has already been addressed.

Bruce Berke, New Hampshire Society of Eye Physicians & Surgeons

- Mr. Berke stated that he is speaking in opposition to the bill.
- He referenced RSA 329:1, which defines surgery as “any procedure, including but not limited to laser, in which human tissue is cut, shaped, burned, vaporized, or otherwise structurally altered,”
- Mr. Berke noted that the word “surgery” is not found within the bill.
- He emphasized that while he opposes the bill, if it should pass, establishing guardrails will be necessary.
- Mr. Berke referenced RSA 329:1-aa, which says the primary responsibility of the Board of Medicine is to work with the medical community in New Hampshire to protect the public. He noted that there is no similar statement in RSA 327, the Board of Optometry statute.
- The Board of Medicine is more accountable to the public than the Board of Optometry, especially for purposes of regulating surgery. The Board of Medicine has 11 members, only a minority of whom are surgeons. The Board of Optometry has 5 members, 4 of whom are optometrists. He addressed Senator Rochefort’s

earlier question and said we do not know if any of these 4 members have experience with these laser procedures.

- Mr. Berke explained that RSA 327 talks about the practice of optometry meaning the employment of any method or means other than surgery. Yet further, another section of the RSA talks about surgery, describing it as any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical means.
- Mr. Berke said this bill is confusing with respect to types of surgery, who can perform surgery, and authority over surgery. Given the lack of clarity in existing laws, Mr. Berke does not know how the Board of Optometry can give clear guidance for qualifying optometrists to perform these surgeries.