

Committee: House Health and Human Services

Tuesday, February 28, 2023 7:45 AM

Roll Call

Present: Rep. Cammack, Rep. Deutsch, Rep. Donnell, Rep. Healy, Rep. Heermann,  
Rep. Kull, Rep. Moore, Rep. Mulder, Rep. Nelson, Rep. Schaeffbauer,  
Rep. Weisgram, Rep. Rehfeldt, and Rep. Kevin Jensen

OTHERS PRESENT: See Original Minutes

**The meeting was called to order by Representative Kevin Jensen**

**MOTION: TO APPROVE THE MINUTES OF THURSDAY, FEBRUARY 23<sup>RD</sup>**

Moved by: Healy  
Second by: Rehfeldt  
Action: Prevailed by voice vote

**SB 1 : modify debilitating medical conditions for medical cannabis use.**

Presented by: Senator Erin Tobin (Handout(s) #1,2)

Proponents: Representative Ernie Otten  
Jeremiah M. Murphy, Cannabis Industry Association of SD, Sioux Falls  
(Handout(s) #3)  
Rebecca Letsche, self, Madison  
Jamie Giedd, self, Rapid City  
Clint Wood, self, Vermillion

Opponents: James T. Kinyon, Protecting South Dakota Kids Inc., Rapid City  
Ryan Geraets, South Dakota Academy of Ophthalmology (SDAO), Sioux Falls  
Roger Belisle, PhD., self, Rapid City  
Dr. Matthew Blaseg, SD Optometric Society, Pierre  
Noel Chicoine, self, Pierre  
Dr. Bonnie B. Omdahl, MD, Protecting South Dakota Kids Inc., Rapid City  
David Omdahl, self, Sioux Falls

Others: Lynne Valenti, Department of Health  
Melissa Magstadt, Department of Health

**MOTION: AMEND SB 1**

1E

On page 3, line 4, of the Introduced bill, after "seizures;" insert " or"

On page 3, line 5, of the Introduced bill, after "seizures;

(h)" delete "Glaucoma; or"

On page 3, line 6, of the Introduced bill, after "or" delete "(i)"

Moved by: Rehfeldt  
Second by: Donnell  
Action: Prevailed by voice vote

**MOTION: DEFER SB 1 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Deutsch  
Second by: Schaeffbauer

Action: Was not acted on.

**MOTION:    SUBSTITUTE MOTION:    DO PASS SB 1 AS AMENDED**

Moved by: Rehfeldt

Second by: Kull

Action: Prevailed by Majority Members Elect (8-5-0-0)

Voting Yes: Cammack, Healy, Heermann, Kull, Mulder, Nelson, Weisgram, and Rehfeldt

Voting No: Deutsch, Donnell, Moore, Schaeftbauer, and Kevin Jensen

**SB 87 :    establish educational standards for the expanded practice of optometry.**

Presented by: Representative Rocky Blare (Handout(s) #5,6)

Proponents: Craig Alan Dockter, SD Optometric Society, Pierre

Elaine Petry, self, Spearfish/Deadwood

Daniel P. Cross, Community Support Providers of South Dakota, Spearfish

Erik Nelson, AARP South Dakota, Sioux Falls

Nate Lightizer, SDOS, self, Oklahoma

Ross B. Garelick Bell, Yankton Sioux Tribe, Wagner

Opponents: Monte S. Dirks, self

Ryan Geraets, South Dakota Academy of Ophthalmology (SDAO), Sioux Falls

Justin Bell, South Dakota State Medical Association, Sioux Falls

Others: Deb Mortenson, SD Optometric Society, Pierre

**MOTION:    AMEND SB 87**

87A

On the Introduced bill, delete everything after the enacting clause and insert:

"

**Section 1. That § 36-7-1 be AMENDED:**

**36-7-1.** The practice of optometry is declared to be a profession and is defined as:

(1) The examination of the human eye and its appendages, and the;

(2) The employment of any means for the measurement of the powers of visions, or any visual, muscular, neurological, interpretative, or anatomical anomalies of the visual processes, and the;

(3) The prescribing or employment of lenses, prisms, frames, mountings, and visual training procedure, the procedures;

(4) The prescribing or administration, except by injection of pharmaceutical agents rational to the diagnosis and treatment of the human eye and its appendages, and any other;

(5) Other means or method-methods for the correction, remedy, or relief of any insufficiencies or abnormal conditions of the visual processes of the human eye and its appendages, except surgery. However, an optometrist may remove, unless otherwise authorized by this chapter;

(6) The removal of superficial foreign bodies from the eye. The prescription;

(7) The prescribing of contact lenses, except by a practitioner-physician licensed under chapter 36-4, constitutes the practice of optometry. An optometrist is one who practices optometry under the provisions of this chapter;

(8) Subject to the optometrist meeting the requirements set forth in section 2 of this Act;

- (a) Debridement of diseased corneal epithelium;
- (b) Removal of diseased corneal epithelium;
- (c) Intradermal injection of a paralytic agent;
- (d) Treatment of a chalazion;
- (e) The use of a local anesthetic in conjunction with the primary treatment and removal of a pedunculated skin tag; and
- (f) Epithelium on corneal cross-linking; and
- (9) Subject to the optometrist meeting the requirements set forth in section 3 of this Act:
  - (a) Laser posterior capsulotomy; and
  - (b) Laser trabeculoplasty.

Any procedure referenced in this section, when undertaken by a licensed optometrist, in accordance with this chapter, does not constitute the practice of medicine for purposes of chapter 36-4.

**Section 2. That chapter 37-7 be amended with a NEW SECTION:**

Before an optometrist may perform any procedure set forth in subdivision 36-7-1(8), the optometrist shall demonstrate to the board that the optometrist:

- (1) Received a passing score on the laser and surgical procedures examination offered by the National Board of Examiners in Optometry; or
- (2) Satisfactorily completed a thirty-two hour course that:
  - (a) Includes all the procedures set forth in subdivisions 36-7-1(8) and (9);
  - (b) Is approved by the board; and
  - (c) Is proctored by an optometrist or an ophthalmologist, authorized to perform the procedure in this or any other state.

**Section 3. That chapter 37-7 be amended with a NEW SECTION:**

Before an optometrist may perform any procedure set forth in subdivision 36-7-1(9), the optometrist shall demonstrate to the board that the optometrist:

- (1) Met the requirements set forth in section 2 of this Act; and
- (2) Successfully performed the procedure on at least five eyes, while under the supervision of an ophthalmologist, or an optometrist authorized to perform the procedures in this or any other state.

An optometrist fulfilling the requirements of subdivision (2) of this section, while under the requisite supervision, is not acting outside the scope of the optometrist's licensure.

**Section 4. That § 36-7-24 be AMENDED:**

**36-7-24.** The board may, in compliance with chapter 1-26, ~~may~~ impose disciplinary sanctions ~~against anyone an~~ optometrist for the following causes:

- (1) Conviction of a felony, ~~as shown by a certified copy of the record of the court of conviction;~~
- (2) Obtaining, or attempting to obtain, a license by fraudulent misrepresentation;
- (3) Malpractice;
- (4) Continued practice when knowingly having an infectious or contagious disease, or after sustaining a physical or mental disability that renders further practice potentially harmful or dangerous;
- (5) Use of alcohol or other substances that renders the optometrist unfit to practice with reasonable skill and safety;
- (6) Engaging in any procedure listed in subdivisions 36-7-1(8) or 36-7-1(9), prior to meeting the requirements set forth in this chapter;
- (7) Unprofessional conduct, as defined in § 36-7-25; or
- ~~(7)~~(8) Failure to submit to or cooperate with ~~the a~~ criminal background investigation check requested by the board under § 36-7-12.2.

**Section 5. That chapter 36-7 be amended with a NEW SECTION:**

Nothing in this chapter may be construed to allow an optometrist to perform intraocular or refractive surgery.

**Section 6. That § 36-7-1.1 be REPEALED:**

~~Notwithstanding anything in this chapter to the contrary, an optometrist, except an optometrist certified for diagnostic and therapeutic agents as provided by §§ 36-7-15.1 to 36-7-15.3, inclusive, and as provided in § 36-7-31, may not treat glaucoma or ocular hypertension.~~

**Section 7. That § 36-7-1.2 be REPEALED:**

~~No optometrist may prescribe, administer, or dispense any oral therapeutic agent to any child under twelve years of age, or any oral steroid to any person, without prior consultation with a physician licensed pursuant to chapter 36-4.~~

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Moved by: Mulder  
Second by: Healy  
Action: Prevailed by voice vote

**MOTION: DO PASS SB 87 AS AMENDED**

Moved by: Cammack  
Second by: Mulder  
Action: Was not acted on.

**MOTION: SUBSTITUTE MOTION: DEFER SB 87 TO THE 41<sup>ST</sup> LEGISLATIVE DAY**

Moved by: Schaeftbauer  
Second by: Donnell  
Action: Prevailed by Majority Members Elect (7-6-0-0)

Voting Yes: Deutsch, Donnell, Heermann, Kull, Schaeftbauer, Rehfeldt, and Kevin Jensen

Voting No: Cammack, Healy, Moore, Mulder, Nelson, and Weisgram

**SB 181 : authorize the provision of medical records and the imposition of related fees.**

Presented by: Tim Dougherty, Avera Health, Sioux Falls  
Proponents: Paul H. Knecht, South Dakota Dental Association, Pierre  
Jeremiah M. Murphy, Monument Health, Rapid City  
Steve Siegel, South Dakota Trial Lawyers Association, Pierre

**MOTION: DO PASS SB 181**

Moved by: Mulder  
Second by: Healy  
Action: Prevailed by Majority Members Elect (12-0-1-0)

Voting Yes: Cammack, Deutsch, Donnell, Healy, Heermann, Kull, Moore, Mulder, Nelson, Schaeftbauer, Weisgram, and Kevin Jensen

Excused: Rehfeldt

**HAVING PASSED UNANIMOUSLY, THE CHAIR CERTIFIED SB 181 AS UNCONTESTED AND AS SUCH BE PLACED ON THE CONSENT CALENDAR.**

**MOTION:    ADJOURN**

Moved by:    Healy  
Second by:    Kull  
Action:        Prevailed by voice vote

Pam Kean, Committee Secretary

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/s/ KEVIN D. JENSEN  
Kevin D. Jensen, Chair