

House Industry Business and Labor

HB 1267

February 3, 2025

Chairman Warrey and committee members.

Thank you for the opportunity to speak with you today. My name is Dr. Michelle Atchison, MD. I grew up in Litchville, North Dakota and have been practicing ophthalmology in Fargo, North Dakota for 14 years, ever since I completed medical school and surgical residency training. I am here today to represent the North Dakota Society of Eye Physicians and Surgeons (NDSEPS). The NDSEPS supports the North Dakota Optometric Association regarding their concern with unlicensed out-of-state optometrists performing virtual eye exams. We support the amendment to the North Dakota Century Code to ensure that any optometrist providing eye care services to citizens within the state of North Dakota, whether in person or as a distant site provider, be actively licensed to practice optometry in this state.

We are in favor of HB 1267 with the proposed amendment listed below. It should be clarified to ensure optometrists in North Dakota continue to practice within the limits of their training to ensure the safety of North Dakotans. This bill redacts the language that previously prevented optometrists from injecting pharmaceutical agents. In addition, the current North Dakota Century Code prevents optometrists from performing “invasive surgery”, but this term is not defined.

NDSEPS supports the addition of a definition of “invasive surgery” to section 43-13-01. A suggested definition is included below. Please note that this definition has carefully considered previous definitions adopted by the American Medical Association, American College of Surgeons, and many state legislatures.

Surgery defined: For purposes of this section, “invasive surgery” means any surgery performed for the purpose of altering human or biological tissue using any technique or instrument to ablate, aspirate, burn, cauterize, coagulate, cross-link, cut, diathermize, excise, freeze, incise, infuse, inject, ionize, irradiate, lance, penetrate, photoablate, photo-disrupt, puncture, scrape, sonicate, suture or vaporize tissues of or near the eye, eyelid or orbit. Invasive surgery does not include the following: (1) orthokeratology; (2) epilation of eyelashes; (3) warming and massaging of eyelids to optimize meibomian gland function, meibomian gland expression and probing of meibomian gland orifices; (4) refractive adjustments of nonbiological light adjustable

intraocular lenses (LALs) using a dedicated light source; (5) insertion, repositioning or removal of punctal plugs, also known as punctum plugs, lacrimal plugs, or punctal occluders, into the puncta or canaliculi of the upper or lower eyelids or into both; (6) application of superficial dermal light therapies; (7) swabbing or superficial debridement of the eyelid or ocular surface for therapy, culture or other diagnostic testing; (8) removal of superficial conjunctival or corneal foreign bodies or associated “rust rings” that do not perforate the eye wall, including the cornea and sclera; and (9) application of human amniotic membrane or equivalent without sutures for the purpose of treating ocular surface disease.

The NDSEPS board wishes to emphasize that we respect and appreciate the excellent care provided by our optometry colleagues. We in no way wish to restrict any of the procedures that are currently safely provided by optometrists acting within the definition of the existing North Dakota Century Code.

As such, we have taken care not to include any currently performed optometric procedures within the above definition of invasive surgery. We feel a clear and concise definition of invasive ocular surgery would ensure future patient safety and maintain the high quality of surgical care performed by trained surgeons in our state.

This concludes my testimony, and I am happy to answer any questions.