

**LFC Requester:**

**Noah Montano**

**AGENCY BILL ANALYSIS  
2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**Analysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**  **Amendment**   
**Correction**  **Substitute**

**Date** 1-17-2025

**Bill No:** HB 36

**Sponsor:** Dayan Hochman-Vigil  
**Short Title:** Board of Optometry Powers and Duties

**Agency Name and Code** Regulation and Licensing 420  
**Number:** \_\_\_\_\_

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	N/A	40	N/A	40	Nonrecurring	Optometry Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: House Bill 36 (HB36)

House Bill 36 (HB36) amends the Optometry Act, §§ 61-2-1 to 18 NMSA 1978, at section 2, “Definitions,” to expand the definition of the “practice of optometry” to include several types of in-office surgery, not previously allowed under the Optometry Act, namely, laser application to the lens capsule in the treatment of capsular clouding or other defects; laser application to structures within the ocular anterior segment for the prevention or treatment of glaucoma; anterior chamber paracentesis in the emergent treatment of highly elevated intraocular pressure; and intracameral placement of sustained release drug-eluting implants.

HB36 also amends §61-2-6 (E)(10)(b) of the Optometry Act, “Optometry Board Organization, Meetings, Compensation, Powers and Duties,” to require the board to develop and administer “credentialing requirements for the performance of procedures involving the use of a laser.”

The effective date of the legislation is June 20, 2025.

**FISCAL IMPLICATIONS**

The only direct fiscal impact anticipated for the Regulation and Licensing Department (RLD) if HB36 is enacted would be for the necessary additions and updates that would have to be made to the NM Plus online licensing system that is utilized by the RLD for all licensing under the Optometry Act. Contracting fees for information technology development and implementation of the necessary changes to the NM Plus licensing system are estimated to be forty thousand dollars (\$40,000) in FY26.

**SIGNIFICANT ISSUES**

This expansion of the allowable scope of practice for optometrists might serve to assist with the shortage of health care in general in New Mexico and particularly for rural and elderly populations, who both find access to ophthalmic surgeons to be difficult. However, there is also a potential that this change to law could impact licensing reciprocity for optometrists with other states, as most states do not allow optometrist to perform surgeries.

This concern about an unintentional impact to licensing reciprocity for optometrists, the RLD suggests an amendment to allow for an endorsement to be placed on optometrist license in New Mexico to permit individual, qualified optometrists to perform these procedures rather than making a scope of practice change for all optometrist licenses.

## **PERFORMANCE IMPLICATIONS**

At Section 2 HB36 (page 6, lines 12 and 13), amending §61-2-6 (E)(10), the Optometry Board will be required to develop a credentialing procedure for use of a laser for current licensees and applicants by administrative rule.

The intent of this provision appears to be to require the Optometry Board to design an endorsement for the optometrist license for individual optometrists who will be permitted to perform the specific laser surgeries. If that is the intent of the bill, §61-2-9 of the Optometry Act, “Licensure by Examination; Expedited Licensure by Endorsement” should also be amended to include a laser surgery license endorsement for optometrists to make clear the authorization of an optometrist to perform the specified procedures is limited to only those optometrists who have received this endorsement on their license, as opposed to any optometrist (who may not have the necessary training and expertise.) As an example, see the Speech-Language Pathologist Requirements for Bilingual-Multicultural Endorsement §61-14B-13.1 NMSA 1978. Further, it should be made clear in HB36 if the credentialing will give the licensee the endorsement for the life of the license, or if the licensee will be required to obtain ongoing education to renew the endorsement.

The optometry board has indicated its support for this expansion of the scope of practice.

## **ADMINISTRATIVE IMPLICATIONS**

Applicants and licensees who want to practice laser procedures and injections will need to provide the board-approved credentialing. This will require an enhancement in the current NM Plus online licensing system which is utilized by the RLD for the licensing of all optometrists in New Mexico. RLD staff will need training to recognize what is acceptable documentation for this credential. As noted previously, contracting fees for information technology development and implementation of the necessary changes to the NM Plus licensing system are estimated to be forty thousand dollars (\$40,000) in FY26.

An administrative rulemaking process, including a public hearing and all required publication of notices and proposed rules, must be conducted in order to develop and issue new credentialing rules necessitated by HB36. The RLD believes it can absorb the costs associated with the rulemaking processes for this bill within existing resources.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

According to the American Optometric Association (AOA): As of 2024, 12 states allow optometrists to perform office-based laser procedures: Oklahoma, Kentucky, Louisiana, Alaska, Indiana, Arkansas, Mississippi, Wyoming, Wisconsin, Virginia, Colorado, and South Dakota. *See <https://www.aoa.org/news/clinical-eye-care/public-health/doctors-of-optometry-have-safely-performed-thousands-of-optometric-laser-procedures?sso=y>*

This appears to be a growing scope of practice for optometrists; however, it is not common. The AOA also refers to a recent study that shows the education of optometrists in laser surgery and injections is key to optometrists practicing safely.

### **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

The Optometry Board has indicated its support for this expansion of the scope of practice and duties of the board.

## **AMENDMENTS**

Please see the information provided in the “Significant Issues” and “Performance Implications” sections (above).