

MINUTES  
**HOUSE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, January 23, 2020  
**TIME:** 9:00 A.M.  
**PLACE:** Room EW20  
**MEMBERS:** Chairman Wood, Vice Chairman Wagoner, Representatives Vander Woude, Gibbs, Blanksma, Kingsley, Zollinger, Christensen, Lickley, Chew, Rubel, Davis (Burns)  
**ABSENT/  
EXCUSED:** None  
**GUESTS:** The sign-in sheet will be retained with the minutes in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.

**Chairman Wood** called the meeting to order at 9:00 a.m.

**H 317:** **Kelley Packer**, Bureau Chief, Idaho Bureau of Occupational Licenses (IBOL), presented **H 317**, which is a rewrite of the outdated Optometric Physician Licensing Act, consistent with other regulated professions and occupations.

The scope of practice expansion stipulate the specified laser surgical procedures can be done once examination and experience requirements are met. Attestations from universities show the current scope of training includes the procedures. Licensure provides guardrails to assure the optometrists are working within their scope of practice. An exclusionary procedure list is included in the legislation. The optometric profession is asking for personal responsibility and accountability through their board. Answering a question, **Ms. Packer** clarified one of the six states with similar legislation has allowed these procedures for twenty years.

**Dr. Nathan Welch**, Board Certified Ophthalmologist, President, Idaho Society of Ophthalmology, testified **in opposition** to **H 317**. The proposed surgical procedures allow eye surgery by non-surgeons and non-medical physicians. There is currently no backlog of laser procedures and no need for this expansion.

**Dr. Welch** cited an Oklahoma study which indicated once optometrists were permitted, the procedure availability did not increase. In fact, patients were often encouraged to travel past an ophthalmologist's office to an optometrist's office to maintain the care network. Of the similar bills proposed in twenty-one states, nineteen states have rejected the legislation. A year-long Vermont study could not conclude optometrists are properly trained to perform the advanced procedures. The U.S. Department of Veteran Affairs announced only ophthalmologists will be permitted to perform therapeutic laser procedures in all states.

The legislation allows successful performance of only five supervised procedures, not five surgeries for each type of procedure. This is inadequate to assure competency. **Dr. Welch** agreed regarding the need to update and modernize the statute, but without scope of practice expansion. The exclusion list would allow many unlisted surgeries to be done by non-surgeons.

Responding to committee questions, **Dr. Welch** stated the exclusion list was given to the IBOL with the intent of further discussions and final approval, which did not happen. An ophthalmologist has four years of medical school, followed by hospital internship, and three years in a clinic with physician oversight. Since the billing code is the same, the procedure costs would also be the same. There are currently three types of therapeutic lasers. The open ended nature of this legislation does not protect against use of any laser developed in the future. It is important to recognize the disease stage and appropriate type of treatment or procedure. In some instances urgent surgical intervention is required to prevent the person's sight.

Testifying **in opposition** to **H 317** were **Dr. Jason Halverson**, Ophthalmologist, **Dr. Kathrine Lee**, Pediatric Ophthalmologist, St. Luke's Children's Specialty Unit, **Dr. Adam Reynolds**, Ophthalmologist Glaucoma Specialist, **Dr. Brent Betts**, Cornea and Refracted Surgeon, **Dr. Mark Miller**, Ophthalmologist, Corneal Disease Specialist, **Dr. Peter Jensen**, Physician, Ophthalmologist, **Dr. Jim Tweeten**, Ophthalmologist, **Dr. James Swartley**, Retired Ophthalmologist, **Dr. Molly Mannschreck**, Ophthalmologist, **Dr. Kevin Gertsch**, Pediatric Ophthalmologist, St. Luke's Health Partner, **Sara Olson**, Executive Director, Idaho Society of Ophthalmologists,

Their statements included apprehension regarding resultant lower Idaho standards of care. With no exclusion for children, surgeries by untrained individuals could be done on this vulnerable population, including delicate interocular injections on newborns. While there were over 300 Medicare eye surgery procedures, there are only 32 listed exceptions in this legislation. The ability to handle complications during or after procedures is also a concern.

**Dr. Aaron Warner**, Chairman, Idaho State Board of Optometry, testified **in support** of **H 317**. The Red Tape Reduction Act provided the opportunity for the rewrite and stipulated inclusion of all interested parties. Efforts to resolve concerns from opponents have led to the exclusionary list, which was given to **Director Packer** by representatives of the Society of Ophthalmologists. The proctored live procedures, which would have typically been worked out in rules, are also included to resolve opponent concerns. The Board takes seriously the mandate to protect the public and not advocate for the profession. Idaho's optometric practice is safe and many of the procedures have been performed for years.

In answer to questions, **Dr. Warner** explained the legislation defines the Board's disciplinary powers when the community standard of care is not met. Any procedure performed without the proper training or experience would result in action by the Board and possible lawsuits.

Testifying **in support** of **H 317** were **Dr. Jack Zarybnisky**, Idaho Optometric Association, Optometrist, **Dr. Jared Birch**, Idaho Optometric Physician, **Dr. Francis J. Barnhart**, Retired Optometrist, **Kris Ellis**, Idaho Optometric Physicians, **Dr. Josh McAdams**, Optometrist, Maple Grove Eye Care, **Dr. Robert Ford**, Ophthalmologist.

Their testimony included the past expansions of their scope of practice, which are now commonplace, and the presence of opposition to each expansion request. The lack of ophthalmologists in many counties leads to multiple visits, as well as lengthy waiting and travel times. The exclusion list should not be included because it will never be complete. The expansion will allow some patients to have their procedures on the same day, saving time and money. The same fears regarding dilation and pharmaceutical prescriptions have proven to be unsubstantiated.

**MOTION:**

**Rep. Blanksma** made a motion to send **H 317** to the floor with a **DO PASS** recommendation

In closing remarks, **Kelley Packer**, said most of Idaho's statutes have no listing of what can or cannot be done by the professional because the boards oversee this aspect. This legislation's exclusion list, which can be updated in the future, was a compromise with the ophthalmologists. The Board's disciplinary language aligns with other license governing boards. The optometrists need to be allowed to accept the responsibility and govern themselves.

**SUBSTITUTE MOTION:**

**Vice Chairman Wagoner** made a substitute motion to **HOLD H 317** to time certain, Thursday, January 30, 2020.

**AMENDED SUBSTITUTE MOTION:**

**Rep. Lickley** made an amended substitute motion to **HOLD H 317** in committee.

**VOTE ON MOTION:**

Roll call vote was requested. **Amended substitute motion failed by a vote of 1 AYE, 11 NAY. Voting in favor** of the amended substitute motion: **Rep. Lickley. Voting in opposition** to the amended substitute motion: **Reps. Wood, Wagoner, Vander Woude, Gibbs, Blanksma, Kingsley, Zollinger, Christensen, Chew, Rubel, Burns.**

**VOTE ON MOTION:**

Roll call vote was requested. **Substitute motion carried by a vote of 7 AYE, 5 NAY. Voting in favor** of the substitute motion: **Reps. Wood, Wagoner, Gibbs, Lickley, Chew, Rubel, Burns. Voting in opposition** to the substitute motion: **Reps. Vander Woude, Blanksma, Kingsley, Zollinger, Christensen.**

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 11:22 a.m.

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Representative Wood  
Chair

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Irene Moore  
Secretary