

NM governor signs bill expanding OD scope of practice

New Mexico Governor Bill Richardson (D) signed Senate Bill 367 into law April 3, putting into statute many procedures that ODs had sought to perform. "At the onset of this legislative effort, our No. 1 priority was to clarify optometrists' authority to continue providing the minor treatment procedures that have been legally and safely performed by optometrists in New Mexico for over 22 years by codifying procedures previously authorized by the New Mexico Board of Optometry," said Richard Montoya, executive director of the New Mexico Optometric Association (NMOA). The procedures include: Non-laser removal, destruction or drainage of superficial eyelid lesions and conjunctival cysts; Removal of nonperforating foreign bodies from the cornea, conjunctiva and eyelid; Non-laser corneal debridement, culture, scrape or anterior puncture, not including removal of pterygium, corneal biopsy or removal of corneal neoplasias; Removal of eyelashes; and Probing, dilation, irrigation or closure of the tear drainage structures of the eyelid; scalpel use is to be applied only for the purpose of the use on the skin surrounding the eye. Prior to this legislation, the NM Optometry Act read: "The practice of optometry... does not include the use of surgery or injections in the treatment of eye disease." The legislation was amended to include an "emergency clause," which means it goes into effect immediately. This legislation will authorize optometrists to perform any optometric surgical procedure except those that involve treatment lasers. "The most critical aspect of this legislation is that these procedures are referred to as 'SURGERY' in statute, with mention of scalpel use," Montoya said. The second most critical aspect of this legislation, he said, is that the statute will not limit any of the above procedures to a certain technique (such as removal of foreign bodies by forceps). "We feel this is a huge step for our profession, and our hope is that other states can apply some of the lessons learned in their own battles," Montoya said "Our No. 1 one priority with this legislation was to maintain patients' access to procedures that have been performed by optometrists in New Mexico for over 20 years," said Bobby Jarrell, O.D., NMOA legislative chair. The New Mexico Optometry Board authorized these procedures several years ago as a response to HIPAA regulations that mandate the use of CPT codes for all managed care transactions. CPT coding guidelines categorize the above procedures as "surgical." "We recently received notice that, despite the Board's authorization of these procedures, our regional Medicare carrier would no longer reimburse optometrists for these procedures because our Optometry Act prohibited optometrists from performing ANY surgical procedures," Dr. Jarrell said. "The only solution was to authorize these procedures by statute and to clarify them as 'surgical' procedures." "Our two greatest strengths in passing this legislation were our close relationship with Gov. Richardson and our membership's involvement with their lawmakers at a grassroots level," Dr. Jarrell said. "With the help of an outstanding lobbyist, Mr. Luke Otero, we were able to leverage these strengths to achieve our goals." According to Dr. Jarrell, "Gov. Richardson has always been a friend of optometry, and we have supported him from his early days as governor. He continues to be a strong advocate for our profession and the services we provide for our patients. As Mr. Richardson campaigns for U.S. president, we believe he will continue to support optometry on a national level." According to Montoya, members throughout the state have always maintained close relationships with their senators and representatives.

"They understand that these relationships take years to develop and cannot be cultivated overnight or only when we are asking lawmakers to pass legislation. It has been a 10-year effort to pass this bill," he said.

"The offensive belligerent media campaign waged by the American Academy of Ophthalmology also worked to our advantage," Dr. Jarrell said. He noted that "most of the lawmakers were put

off by the negative ads and some were outright offended. One lawmaker from Albuquerque, Rep. Kathy McCoy (R), was quoted by the Associated Press: “If I was ever wavering on this at any point, I think the... basic marketing and hatchet job that the ophthalmologists did on the optometrists pushed me over.” NMOA officials credit “tremendous support from the AOA’s State Government Relations Center, especially from the Committee Chair, Dr. Steve Loomis, and Sherry Cooper. They provided us with insight into the language of the legislation and advice on political strategy as we moved the bill forward.” According to Dr. Jarrell, “the optometrists from Oklahoma, namely AOA Trustee David Cockrell, O.D., from the Oklahoma Board of Optometry, and George Foster, O.D., with Northeastern State University College of Optometry, were also instrumental in guiding our efforts. They have been through these battles more than anyone, and they helped us anticipate the many obstacles we would face during this process.” Dr. Jarrell noted, “This is a great day for the profession of optometry, but the real winners here are our patients. There is no reason that people in need of the best quality eye care should not be able to receive that care from doctors who have been trained to treat their conditions,” he said. Optometrists are experts in treating diseases of the eye, he explained, and in many rural communities throughout New Mexico and the country optometrists are the only eye care providers. “Those who support laws that do not allow optometrists to practice to the level of their education and training are doing the citizens of such states a tremendous disservice,” Dr. Jarrell noted. “In New Mexico, a public health care crisis was created when a major medical insurance provider refused to reimburse optometrists for simple eye care services based on the restrictiveness of our law.”