

By Representatives Minton and Morse

1 A bill to be entitled
2 An act relating to opticianry; amending s.
3 484.002, F.S.; updating the definition of
4 "department"; defining the term "refracting
5 optician" and revising the definition of
6 "opticianry," to conform; authorizing
7 refracting opticians to prescribe corrective
8 lenses under certain circumstances; reenacting
9 s. 484.011, F.S., relating to supportive
10 personnel, to incorporate the amendment to s.
11 484.002, F.S., in a reference thereto; amending
12 s. 484.005, F.S.; granting the Board of
13 Opticianry authority to adopt rules relating to
14 a standard of practice for refracting opticians
15 and the minimum equipment required to perform
16 their work; amending s. 484.012, F.S.;
17 requiring prescriptions by refracting opticians
18 to be kept on file for a specified period;
19 reenacting s. 484.013(1)(c), F.S., relating to
20 prohibitions, to incorporate the amendment to
21 s. 484.012, F.S., in a reference thereto;
22 amending s. 484.013, F.S.; prohibiting
23 opticians from engaging in the diagnosis of the
24 medical condition of the human eyes or
25 attempting to prescribe for or treat diseases
26 or ailments of human beings, except for the
27 prescribing of corrective lenses; providing a
28 penalty; amending s. 484.014, F.S.; correcting
29 a cross reference; providing an effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsections (1) and (3) of section 484.002,
2 Florida Statutes, are amended, and subsection (8) is added to
3 said section, to read:

4 484.002 Definitions.--As used in this part:

5 (1) "Department" means the Department of Health
6 ~~Business and Professional Regulation.~~

7 (3) "Opticianry" means the preparation and dispensing
8 of lenses, spectacles, eyeglasses, contact lenses, and other
9 optical devices to the intended user or agent thereof, upon
10 the written prescription of a medical doctor or optometrist
11 who is duly licensed to practice or upon presentation of a
12 duplicate prescription. The selection of frame designs, the
13 actual sales transaction, and the transfer of physical
14 possession of lenses, spectacles, eyeglasses, contact lenses,
15 and other optical devices subsequent to performance of all
16 services of the optician shall not be considered the practice
17 of opticianry; however, such physical possession shall not be
18 transferred until the optician has completed the fitting of
19 the optical device upon the customer. The practice of
20 opticianry also includes the duplication of lenses accurately
21 as to power, without prescription. A board-certified optician
22 qualified and operating under rules established by the board
23 may fill, fit, adapt, or dispense any soft contact lens
24 prescription. Such optician may fill, fit, adapt, or dispense
25 any extended wear or hard contact lens prescription to the
26 extent authorized to do so by the prescribing medical doctor
27 or optometrist. A refracting optician, certified to perform
28 visual assessment/refraction and operating under rules
29 established by the board, may test a person's vision by the
30 use and under the general supervision of a duly licensed
31 medical doctor or optometrist, including rotation, of a series

1 of lenses and prisms, to determine the degree of correction
2 needed to compensate for hyperopia, myopia, presbyopia,
3 astigmatism, phoria, tropia, or any combination of these. If a
4 refracting optician is unable to select lenses that will
5 provide visual acuity of at least 20/40 in each eye, the
6 refracting optician must refer the person for further
7 evaluation to a duly licensed medical doctor or optometrist.
8 If a refracting optician is able to select lenses that will
9 provide such visual acuity in each eye, the refracting
10 optician may prescribe such lenses.

11 (8) "Refracting optician" means an optician licensed
12 in this state who:

13 (a) Has completed a 90-hour course in refraction
14 approved by the board or conducted by an institution
15 accredited by an accrediting agency recognized by the United
16 States Department of Education or the Council on Postsecondary
17 Education, or has received an associate degree in opticianry
18 with appropriate courses in refraction from an educational
19 institution accredited by an accrediting agency recognized by
20 the United States Department of Education or the Council on
21 Postsecondary Education.

22 (b) Has met any other requirements established by the
23 board by rule to ensure competence in refraction.

24 (c) Has completed an application form and remitted a
25 nonrefundable fee set by the board not to exceed \$100.

26 (d) Has been issued a certificate by the department.

27 Section 2. For the purpose of incorporating the
28 amendment to section 484.002, Florida Statutes, in a reference
29 thereto, section 484.011, Florida Statutes, is reenacted to
30 read:

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1 484.011 Supportive personnel.--No person other than a
2 licensed optician may engage in the practice of opticianry,
3 except that a licensed optician may delegate to nonlicensed
4 supportive personnel those duties, tasks, and functions which
5 fall within the purview of s. 484.002(3). All such delegated
6 acts shall be performed under the direct supervision of a
7 licensed optician, who shall be responsible for all such acts
8 performed by persons under her or his supervision.

9 Section 3. Subsections (5) and (6) are added to
10 section 484.005, Florida Statutes, to read:

11 484.005 Authority to make rules.--The board is
12 authorized to make such rules not inconsistent with law as may
13 be necessary to carry out the duties and authority conferred
14 upon it by this part and as may be necessary to protect the
15 health, safety, and welfare of the public. Such rules shall
16 include, but not be limited to, rules relating to:

17 (5) A standard of practice for refracting opticians
18 certified to perform visual assessment/refraction and
19 prescribe corrective lenses under the rules established by the
20 board.

21 (6) Minimum equipment which shall be utilized to
22 perform visual assessment/refraction.

23 Section 4. Subsection (1) of section 484.012, Florida
24 Statutes, is amended to read:

25 484.012 Prescriptions; filing; duplication of
26 prescriptions; duplication of lenses.--

27 (1) Any prescription written by a duly licensed
28 medical doctor, ~~or~~ optometrist, or refracting optician for any
29 lenses, spectacles, eyeglasses, contact lenses, or other
30 optical devices shall be kept on file for a period of 2 years
31 with the optical establishment that fills such prescription.

1 However, the licensed optician may maintain a copy of the
2 prescription.

3 Section 5. For the purpose of incorporating the
4 amendment to section 484.012, Florida Statutes, in a reference
5 thereto, paragraph (c) of subsection (1) of section 484.013,
6 Florida Statutes, is reenacted to read:

7 484.013 Violations and penalties.--

8 (1) It is unlawful for any person:

9 (c) To prepare or dispense lenses, spectacles,
10 eyeglasses, contact lenses, or other optical devices without
11 first being furnished with a prescription as provided for in
12 s. 484.012.

13 Section 6. Subsection (3) of section 484.013, Florida
14 Statutes, is amended to read:

15 484.013 Violations and penalties.--

16 (3) It is unlawful for any optician to engage in the
17 diagnosis of the medical condition of the human eyes, ~~attempt~~
18 ~~to determine the refractive powers of the human eyes,~~ or, in
19 any manner, attempt to prescribe for or treat diseases or
20 ailments of human beings, with the exception of prescribing
21 for corrective lenses.

22 (5) Any person who violates a provision of this
23 section commits a misdemeanor of the second degree, punishable
24 as provided in s. 775.082 or s. 775.083.

25 Section 7. Subsection (1) of section 484.014, Florida
26 Statutes, is amended to read:

27 484.014 Disciplinary actions.--

28 (1) The following acts relating to the practice of
29 opticianry shall be grounds for both disciplinary action
30 against an optician as set forth in this section and cease and
31 desist or other related action by the department as set forth

1 in s. 455.637 ~~455.228~~ against any person operating an optical
2 establishment who engages in, aids, or abets any such
3 violation:

4 (a) Procuring or attempting to procure a license by
5 misrepresentation, bribery, or fraud or through an error of
6 the department or the board.

7 (b) Procuring or attempting to procure a license for
8 any other person by making or causing to be made any false
9 representation.

10 (c) Making or filing a report or record which the
11 licensee knows to be false, intentionally or negligently
12 failing to file a report or record required by federal or
13 state law, willfully impeding or obstructing such filing, or
14 inducing another person to do so. Such reports or records
15 shall include only those which the person is required to make
16 or file as an optician.

17 (d) Failing to make fee or price information readily
18 available by providing such information upon request or upon
19 the presentation of a prescription.

20 (e) Advertising goods or services in a manner which is
21 fraudulent, false, deceptive, or misleading in form or
22 content.

23 (f) Fraud or deceit, or negligence, incompetency, or
24 misconduct, in the authorized practice of opticianry.

25 (g) Violation or repeated violation of this part or of
26 chapter 455 or any rules promulgated pursuant thereto.

27 (h) Practicing with a revoked, suspended, inactive, or
28 delinquent license.

29 (i) Violation of a lawful order of the board or
30 department previously entered in a disciplinary hearing or
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1 failing to comply with a lawfully issued subpoena of the
2 department.

3 (j) Violation of any provision of s. 484.012.

4 (k) Conspiring with another licensee or with any
5 person to commit an act, or committing an act, which would
6 coerce, intimidate, or preclude another licensee from lawfully
7 advertising her or his services.

8 (l) Willfully submitting to any third-party payor a
9 claim for services which were not provided to a patient.

10 (m) Failing to keep written prescription files.

11 (n) Willfully failing to report any person who the
12 licensee knows is in violation of this part or of rules of the
13 department or the board.

14 (o) Exercising influence on a client in such a manner
15 as to exploit the client for financial gain of the licensee or
16 of a third party.

17 (p) Gross or repeated malpractice.

18 (q) Permitting any person not licensed as an optician
19 in this state to fit or dispense any lenses, spectacles,
20 eyeglasses, or other optical devices which are part of the
21 practice of opticianry.

22 (r) Being convicted or found guilty of, or entering a
23 plea of nolo contendere to, regardless of adjudication, in a
24 court of this state or other jurisdiction, a crime which
25 relates to the ability to practice opticianry or to the
26 practice of opticianry.

27 (s) Having been disciplined by a regulatory agency in
28 another state for any offense that would constitute a
29 violation of Florida law or rules regulating opticianry.

30 (t) Being unable to practice opticianry with
31 reasonable skill and safety by reason of illness or use of

1 | drugs, narcotics, chemicals, or any other type of material or
2 | as a result of any mental or physical condition. An optician
3 | affected under this paragraph shall at reasonable intervals be
4 | afforded an opportunity to demonstrate that she or he can
5 | resume the competent practice of opticianry with reasonable
6 | skill and safety to her or his customers.

7 | Section 8. This act shall take effect October 1 of the
8 | year in which enacted.

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11 | HOUSE SUMMARY

12 | Revises provisions relating to regulation of opticianry.
13 | Updates the definition of "department" to mean the
14 | Department of Health. Defines the term "refracting
15 | optician" and revises the definition of "opticianry," to
16 | conform. Authorizes refracting opticians to prescribe
17 | corrective lenses under certain circumstances. Grants the
18 | Board of Opticianry authority to adopt rules relating to
19 | a standard of practice for refracting opticians and the
20 | minimum equipment required to perform their work.
21 | Requires prescriptions by refracting opticians to be kept
22 | on file for a specified period. Prohibits opticians from
23 | engaging in the diagnosis of the medical condition of the
24 | human eyes or attempting to prescribe for or treat
25 | diseases or ailments of human beings, except for the
26 | prescribing of corrective lenses.

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