

By Senator Diaz-Balart

37-572-98

See HB

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.; conforming  
 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 that must be used to perform  
22 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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LEGISLATIVE SUMMARY

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

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