

By Senator Kirkpatrick

5-602A-99

See HB

1 A bill to be entitled
 2 An act relating to optometry; amending s.
 3 463.002, F.S.; revising definitions; amending
 4 s. 463.005, F.S.; revising requirements
 5 relating to rules of the Board of Optometry;
 6 amending s. 463.0055, F.S.; authorizing
 7 administration and prescription of
 8 pharmaceutical agents within the scope and
 9 standards of optometric practice as established
 10 by the board by rule and providing requirements
 11 with respect thereto; amending ss. 463.0057,
 12 463.006, and 463.009, F.S., relating to
 13 optometric faculty certificates, licensure and
 14 certification by examination, and supportive
 15 personnel, to conform; amending s. 463.0135,
 16 F.S.; clarifying scope of optometric practice;
 17 amending s. 463.014, F.S.; eliminating the
 18 prohibition against the prescribing, ordering,
 19 dispensing, administering, supplying, selling,
 20 or giving of systemic drugs, to conform;
 21 eliminating the prohibition against the use of
 22 laser technology and authorizing such use
 23 within the scope and standards of optometric
 24 practice as established by the board by rule;
 25 providing an effective date.

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

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 29 Section 1. Subsections (3), (4), and (5) of section
 30 463.002, Florida Statutes, 1998 Supplement, are amended to
 31 read:

1 463.002 Definitions.--As used in this chapter, the
2 term:

3 (3)(a) "Licensed practitioner" means a person who is a
4 primary health care provider licensed to engage in the
5 practice of optometry under the authority of this chapter.

6 ~~(b) A licensed practitioner who is not a certified
7 optometrist shall be required to display at her or his place
8 of practice a sign which states, "I am a Licensed
9 Practitioner, not a Certified Optometrist, and I am not able
10 to prescribe topical ocular pharmaceutical agents."~~

11 ~~(c) All practitioners initially licensed after July 1,
12 1993, must be certified optometrists.~~

13 (4) "Certified optometrist" means a licensed
14 practitioner authorized by the board to administer and
15 prescribe ~~topical ocular~~ pharmaceutical agents.

16 (5) "Optometry" means the diagnosis, treatment, and
17 management of conditions of the human eye and its appendages;
18 the employment of any objective or subjective means or
19 methods, including the administration of ~~topical ocular~~
20 pharmaceutical agents, for the purpose of determining the
21 refractive powers of the human eyes, or any visual, muscular,
22 neurological, or anatomic anomalies of the human eyes and
23 their appendages; and the prescribing and employment of
24 lenses, prisms, frames, mountings, contact lenses, orthoptic
25 exercises, light frequencies, and any other means or methods,
26 including ~~topical ocular~~ pharmaceutical agents, for the
27 correction, remedy, treatment, management, or relief of any
28 insufficiencies or abnormal conditions of the human eyes and
29 their appendages.

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1 Section 2. Paragraphs (a) and (g) of subsection (1) of
2 section 463.005, Florida Statutes, 1998 Supplement, are
3 amended to read:

4 463.005 Authority of the board.--

5 (1) The Board of Optometry has authority to adopt
6 rules pursuant to ss. 120.536(1) and 120.54 to implement the
7 provisions of this chapter conferring duties upon it. Such
8 rules shall include, but not be limited to, rules relating to:

9 (a) Scope and standards of practice, including, but
10 not limited to, those provided for in s. 463.0135.

11 (g) Administration and prescription of ~~topical-ocular~~
12 pharmaceutical agents.

13 Section 3. Section 463.0055, Florida Statutes, is
14 amended to read:

15 463.0055 Administration and prescription of ~~topical~~
16 ~~ocular~~ pharmaceutical agents; committee.--

17 (1) Certified optometrists may administer and
18 prescribe ~~topical-ocular~~ pharmaceutical agents as provided in
19 this section for the diagnosis and treatment of ocular
20 conditions of the human eye and its appendages ~~without the use~~
21 ~~of surgery or other invasive techniques~~. However, a licensed
22 practitioner who is not certified may use topically applied
23 anesthetics, mydriatics, and cycloplegics solely for
24 diagnostic purposes ~~the purpose of glaucoma examinations~~, but
25 is otherwise prohibited from administering or prescribing
26 ~~topical-ocular~~ pharmaceutical agents.

27 (2)(a) There is hereby created a committee composed of
28 two optometrists licensed pursuant to this chapter, appointed
29 by the Board of Optometry, two board-certified
30 ophthalmologists licensed pursuant to chapter 458 or chapter
31 459, appointed by the Board of Medicine, and one additional

1 person with a doctorate degree in pharmacology who is not
2 licensed pursuant to chapter 458, chapter 459, or this
3 chapter, appointed by the secretary. The committee shall
4 review requests for additions to, deletions from, or
5 modifications of a formulary of ~~topical-ocular~~ pharmaceutical
6 agents for administration and prescription by certified
7 optometrists and shall provide to the board advisory opinions
8 and recommendations on such requests. The formulary shall
9 consist of those ~~topical-ocular~~ pharmaceutical agents which
10 the certified optometrist is qualified to use in the practice
11 of optometry. The board shall establish, add to, delete from,
12 or modify the formulary by rule. Notwithstanding any provision
13 of chapter 120 to the contrary, the formulary rule shall
14 become effective 60 days from the date it is filed with the
15 Secretary of State.

16 (b) The formulary may be added to, deleted from, or
17 modified according to the procedure described in paragraph
18 (a). Any person who requests an addition, deletion, or
19 modification of an authorized ~~topical-ocular~~ pharmaceutical
20 agent shall have the burden of proof to show cause why such
21 addition, deletion, or modification should be made.

22 (c) The secretary of the department shall have
23 standing to challenge any rule or proposed rule of the board
24 pursuant to s. 120.56. In addition to challenges for any
25 invalid exercise of delegated legislative authority, the
26 administrative law judge, upon such a challenge by the
27 secretary, may declare all or part of a rule or proposed rule
28 invalid if it:

29 1. Does not protect the public from any significant
30 and discernible harm or damages;

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1 2. Unreasonably restricts competition or the
2 availability of professional services in the state or in a
3 significant part of the state; or

4 3. Unnecessarily increases the cost of professional
5 services without a corresponding or equivalent public benefit.

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7 However, there shall not be created a presumption of the
8 existence of any of the conditions cited in this subsection in
9 the event that the rule or proposed rule is challenged.

10 (d) Upon adoption of the formulary required by this
11 section, and upon each addition, deletion, or modification to
12 the formulary, the board shall mail a copy of the amended
13 formulary to each certified optometrist and to each pharmacy
14 licensed by the state.

15 (3) A certified optometrist shall be issued a
16 prescriber number by the board. Any prescription written by a
17 certified optometrist for a ~~topical-ocular~~ pharmaceutical
18 agent pursuant to this section shall have the prescriber
19 number printed thereon.

20 Section 4. Subsection (3) of section 463.0057, Florida
21 Statutes, is amended to read:

22 463.0057 Optometric faculty certificate.--

23 (3) The holder of a faculty certificate may engage in
24 the practice of optometry as permitted by this section, but
25 may not administer or prescribe ~~topical-ocular~~ pharmaceutical
26 agents unless the certificateholder has satisfied the
27 requirements of s. 463.006(1)(b)4. and 5.

28 Section 5. Subsections (2) and (3) of section 463.006,
29 Florida Statutes, are amended to read:

30 463.006 Licensure and certification by examination.--

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1 (2) The examination shall consist of the appropriate
2 subjects, including applicable state laws and rules and
3 general and ocular pharmacology with emphasis on the topical
4 ~~application and~~ side effects of ~~ocular~~ pharmaceutical agents.
5 The board may by rule substitute a national examination as
6 part or all of the examination and may by rule offer a
7 practical examination in addition to the written examination.

8 (3) Each applicant who successfully passes the
9 examination and otherwise meets the requirements of this
10 chapter is entitled to be licensed as a practitioner and to be
11 certified to administer and prescribe ~~topical ocular~~
12 pharmaceutical agents in the diagnosis and treatment of ocular
13 conditions.

14 Section 6. Section 463.009, Florida Statutes, is
15 amended to read:

16 463.009 Supportive personnel.--No person other than a
17 licensed practitioner may engage in the practice of optometry
18 ~~as defined in s. 463.002(5)~~. Except as provided in this
19 section, under no circumstances shall nonlicensed supportive
20 personnel be delegated diagnosis or treatment duties; however,
21 such personnel may perform data gathering, preliminary
22 testing, prescribed visual therapy, and related duties under
23 the direct supervision of the licensed practitioner.

24 Nonlicensed personnel, who need not be employees of the
25 licensed practitioner, may perform ministerial duties, tasks,
26 and functions assigned to them by and performed under the
27 general supervision of a licensed practitioner, including
28 obtaining information from consumers for the purpose of making
29 appointments for the licensed practitioner. The licensed
30 practitioner shall be responsible for all delegated acts

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1 performed by persons under her or his direct and general
2 supervision.

3 Section 7. Section 463.0135, Florida Statutes, is
4 amended to read:

5 463.0135 Scope and standards of practice.--

6 (1) A licensed practitioner shall provide that degree
7 of care which conforms to that level of care provided by
8 medical practitioners in the same or similar communities. A
9 licensed practitioner shall advise or assist her or his
10 patient in obtaining further care when the service of another
11 health care practitioner is required.

12 (2) A licensed practitioner diagnosing angle closure,
13 infantile, or congenital forms of glaucoma shall refer the
14 patient to a physician skilled in diseases of the eye and
15 licensed under chapter 458 or chapter 459.

16 (3) When an infectious corneal disease condition has
17 not responded to standard methods of treatment within the
18 scope of optometric practice, the certified optometrist shall
19 consult with a physician skilled in diseases of the eye and
20 licensed under chapter 458 or chapter 459.

21 (4) A licensed practitioner shall promptly advise a
22 patient to seek evaluation by a physician skilled in diseases
23 of the eye and licensed under chapter 458 or chapter 459 for
24 diagnosis and possible treatment whenever the licensed
25 practitioner is informed by the patient of the sudden onset of
26 spots or "floaters" with loss of all or part of the visual
27 field.

28 (5) The licensed practitioner shall routinely advise a
29 patient to immediately contact the licensed practitioner if
30 the patient experiences an adverse drug reaction.

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1 (6) The licensed practitioner shall, when appropriate,
2 refer to medical specialists or facilities patients who notify
3 a licensed practitioner of an adverse drug reaction.

4 (7) The licensed practitioner shall place in a
5 patient's permanent record information describing any adverse
6 drug reaction experienced by the patient, the date of such
7 reaction, and whether any referral was made.

8 (8) The licensed practitioner shall maintain the names
9 of at least three physicians, physician clinics, or hospitals
10 to whom the licensed practitioner will refer patients who
11 experience an adverse drug reaction. At least one of these
12 physicians shall be a physician skilled in the diagnosis and
13 treatment of diseases of the eye and licensed under chapter
14 458 or chapter 459.

15 (9) A licensed practitioner who believes a patient may
16 have glaucoma shall promptly advise the patient of the serious
17 nature of glaucoma. The licensed practitioner shall place in
18 the patient's permanent record that the practitioner provided
19 such advice to the patient.

20 (10) A licensed practitioner who is not a certified
21 optometrist shall be required to display at her or his place
22 of practice a sign which states, "I am a Licensed
23 Practitioner, not a Certified Optometrist, and I am not able
24 to prescribe pharmaceutical agents."

25 (11) All practitioners initially licensed after July
26 1, 1993, must be certified optometrists.

27 (12) Any certified optometrist who has complied with
28 the provisions for licensure under this chapter is authorized
29 to utilize any means or methods to diagnose, treat, and manage
30 diseases and conditions of the human eye and its appendages
31 for which she or he is qualified by training and education to

1 utilize, within the scope and standards of optometric practice
2 as established by the board by rule.

3 Section 8. Section 463.014, Florida Statutes, is
4 amended to read:

5 463.014 Certain acts prohibited.--

6 (1)(a) No corporation, lay body, organization, or
7 individual other than a licensed practitioner shall engage in
8 the practice of optometry through the means of engaging the
9 services, upon a salary, commission, or other means or
10 inducement, of any person licensed to practice optometry in
11 this state. Nothing in this section shall be deemed to
12 prohibit the association of a licensed practitioner with a
13 multidisciplinary group of licensed health care professionals,
14 the primary objective of which is the diagnosis and treatment
15 of the human body.

16 (b) No licensed practitioner shall engage in the
17 practice of optometry with any corporation, organization,
18 group, or lay individual. This provision shall not prohibit
19 licensed practitioners from employing, or from forming
20 partnerships or professional associations with, licensed
21 practitioners licensed in this state or with other licensed
22 health care professionals, the primary objective of whom is
23 the diagnosis and treatment of the human body.

24 (c) No rule of the board shall forbid the practice of
25 optometry in or on the premises of a commercial or mercantile
26 establishment.

27 (d) No licensed practitioner may practice under
28 practice identification names, trade names, or service names,
29 unless any dissemination of information by the practitioner to
30 consumers contains the name under which the practitioner is
31 licensed or that of the professional association in which the

1 practitioner participates. Any advertisement or other
2 dissemination of information to consumers may contain factual
3 information as to the geographic location of licensed
4 practitioners or of the availability of optometric services.

5 (e) No licensed practitioner shall adopt and publish
6 or cause to be published any practice identification name,
7 trade name, or service name which is, contains, or is intended
8 to serve as an affirmation of the quality or competitive value
9 of the optometric services provided at the identified
10 practice.

11 (2) A corporation or labor organization may employ
12 licensed practitioners to provide optometric services to bona
13 fide employees of such corporation and members of their
14 immediate families or to bona fide members of such labor
15 organization and members of their immediate families, provided
16 the provision of such services is incidental to the legitimate
17 business of such corporation or labor organization. Nothing in
18 this section shall be deemed to authorize the employment of
19 licensed practitioners by corporations or organizations formed
20 primarily for such purposes.

21 ~~(3) Prescribing, ordering, dispensing, administering,~~
22 ~~supplying, selling, or giving any systemic drugs by a licensed~~
23 ~~practitioner is prohibited.~~

24 (3)(4) Surgery of any kind, including the use of
25 lasers, is expressly prohibited; however, this shall not be
26 construed to prohibit the use of laser technology within the
27 scope and standards of optometric practice as established by
28 the board by rule. Certified optometrists may remove
29 superficial foreign bodies. For the purposes of this
30 subsection, the term "superficial foreign bodies" means any
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1 foreign matter that is embedded in the conjunctiva or cornea
2 but which has not penetrated the globe.

3 (4)~~(5)~~ No rule of the board shall prohibit a licensed
4 practitioner from authorizing a board-certified optician to
5 fill, fit, adapt, or dispense a contact lens prescription as
6 authorized under chapter 484.

7 Section 9. This act shall take effect October 1, 1999.

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LEGISLATIVE SUMMARY

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12 Revises various provisions of ch. 463, F.S., relating to
13 optometry practice. Authorizes administration and
14 prescription of pharmaceutical agents and provides
15 requirements with respect thereto. Authorizes certified
16 optometrists to use any means or methods to diagnose,
17 treat, and manage diseases and conditions of the human
18 eye and its appendages for which they are qualified by
19 training and education to use, within the scope and
20 standards of optometric practice as established by the
21 Board of Optometry by rule. Revises definitions,
22 requirements relating to rules of the board, and
23 provisions relating to optometric faculty certificates,
24 licensure and certification by examination, and
25 supportive personnel, to conform. Eliminates the
26 prohibition against the prescribing, ordering,
27 dispensing, administering, supplying, selling, or giving
28 of systemic drugs, to conform. Eliminates the prohibition
29 against the use of laser technology and authorizes such
30 use within the scope and standards of optometric practice
31 as established by the board by rule. (See bill for
details.)

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