

**STORAGE NAME:** h0353.hcl

**DATE:** March 9, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
HEALTH CARE LICENSING & REGULATION  
ANALYSIS**

**BILL #:** HB 353

**RELATING TO:** Opticianry

**SPONSOR(S):** Representative Brummer

**COMPANION BILL(S):** SB 720(i)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) HEALTH CARE LICENSING & REGULATION
  - (2) HEALTH CARE SERVICES
  - (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
  - (4)
  - (5)
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**I. SUMMARY:**

HB 353 authorizes an optician to determine the refractive powers of the human eyes under the direct supervision of a licensed ophthalmologist. Under present law, it is a violation of the practice of opticianry, to determine the refractive powers of the human eye. Any person who violates this provision commits a second degree misdemeanor.

The bill does not have a fiscal impact on the Department of Health, local government, or the private sector.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 484, Part I, F.S., regulates the practice of opticianry. The scope of practice, as contained in the definition of the practice of opticianry, does not include the determination of the refractive powers of the human eye by a licensed optician.

Section 484.002(3), F.S., defines "opticianry" as the preparation and dispensing of lenses, spectacles, eyeglasses, contact lens, and other optical devices to the intended user or agent thereof, upon the written prescription of a medical doctor or optometrist who is duly licensed to practice or upon presentation of a duplicate prescription. The only certification specified in the chapter relates to a "board-certified optician" so certified to fit, adapt, or dispense any soft contact lens prescription.

In order for an optician to be board-certified, he must have:

Passed the National Contact Lens Registry Examination;  
Successfully completed a board-approved course of at least 20 contact hours covering the competencies required in fitting, adapting, and dispensing of contact lens;  
Met any other requirements established by the board to assure competence in the fitting, adapting, and dispensing of contact lens;  
Completed the application form and remitted a nonrefundable application fee set by the board not to exceed \$100; and  
Been issued a certificate by the department.

Section 484.018(2), F.S., states, "Nothing in this part shall be construed to mean that an employee of a licensed physician or a licensed optometrist shall be required to secure a license under this part, so long as the employee is working exclusively for, and under the direct supervision of, the licensed physician or optometrist and does not hold herself or himself out to the public generally as an optician."

It has been reported that "any unlicensed person can be trained to determine the refractive powers of the human eye, but since this procedure is specifically prohibited in the practice act of an optician, this professional is not allowed to do so."

B. EFFECT OF PROPOSED CHANGES:

Under this bill, an optician is permitted to determine refractive powers of the human eyes if the optician is under the direct supervision of an ophthalmologist. The change in the law may insure that better trained technicians are determining refractions, since there is an exemption in s. 484.018(2), F.S., which currently allows unlicensed individuals to perform opticianry duties under the direct supervision of the ophthalmologist or optometrist without being licensed.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill does not specifically authorize the promulgation of rules; however, it is implied that the Board of Opticianry would have to adopt rules to allow opticians to perform this procedure.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 484.013, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 484.013, F.S., to authorize an optician to determine the refractive powers of the human eyes under the direct supervision of a licensed ophthalmologist. Provides a penalty of a second degree misdemeanor.

Section 2. Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

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A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

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Lucretia Shaw Collins

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