

By Senator Kirkpatrick

5-235-00

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.; requiring the Board of  
5           Optometry in implementing ch. 463, F.S., the  
6           Optometry Practice Act, to adopt rules relating  
7           to scope and standards of practice; amending s.  
8           463.0055, F.S.; authorizing administration and  
9           prescription of pharmaceutical agents within  
10          the scope and standards of optometric practice  
11          as established by the board by rule and  
12          providing requirements with respect thereto;  
13          authorizing licensed practitioners to use  
14          mydriatics and cycloplegics for diagnostic  
15          purposes; revising duties of the pharmaceutical  
16          agent formulary committee; eliminating  
17          provisions relating to the effective date of  
18          the formulary rule and to challenges by the  
19          Secretary of Health to rules or proposed rules  
20          of the board; amending ss. 463.0057, 463.006,  
21          and 463.009, F.S., relating to optometric  
22          faculty certificates, licensure and  
23          certification by examination, and supportive  
24          personnel, to conform; amending s. 463.014,  
25          F.S.; eliminating a provision that prohibits a  
26          licensed practitioner from prescribing,  
27          ordering, dispensing, administering, supplying,  
28          selling, or giving systemic drugs; providing an  
29          effective date.

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

1           Section 1. Subsections (3), (4), and (5) of section  
2 463.002, Florida Statutes, are amended to read:

3           463.002 Definitions.--As used in this chapter, the  
4 term:

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

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

13           (c) All practitioners initially licensed after July 1,  
14 1993, must be certified optometrists.

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

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

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

3 463.005 Authority of the board.--

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

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

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

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

14 463.0055 Administration and prescription of ~~topical~~  
15 ~~ocular~~ pharmaceutical agents; committee.--

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

26 (2)(a) There is hereby created a committee composed of  
27 two optometrists licensed pursuant to this chapter, appointed  
28 by the Board of Optometry, two board-certified  
29 ophthalmologists licensed pursuant to chapter 458 or chapter  
30 459, appointed by the Board of Medicine, and one additional  
31 person with a doctorate degree in pharmacology who is not

1 licensed pursuant to chapter 458, chapter 459, or this  
2 chapter, appointed by the secretary. The committee members  
3 shall review requests for additions to, deletions from, or  
4 modifications of a formulary of ~~topical-ocular~~ pharmaceutical  
5 agents for administration and prescription by certified  
6 optometrists and may, as the committee deems appropriate,  
7 ~~shall~~ provide to the board advisory opinions and  
8 recommendations on such requests. The formulary shall consist  
9 of those ~~topical-ocular~~ pharmaceutical agents which the  
10 certified optometrist is qualified to use in the practice of  
11 optometry. The board shall establish, add to, delete from, or  
12 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           (c)~~(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 463.014, 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. Certified optometrists may  
26 remove superficial foreign bodies. For the purposes of this  
27 subsection, the term "superficial foreign bodies" means any  
28 foreign matter that is embedded in the conjunctiva or cornea  
29 but which has not penetrated the globe.

30 (4)~~(5)~~ No rule of the board shall prohibit a licensed  
31 practitioner from authorizing a board-certified optician to



1 fill, fit, adapt, or dispense a contact lens prescription as  
2 authorized under chapter 484.

3 Section 8. This act shall take effect October 1, 2000.  
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HOUSE SUMMARY

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8 Requires the Board of Optometry in implementing ch. 463,  
9 F.S., the Optometry Practice Act, to adopt rules relating  
10 to scope and standards of practice. Authorizes  
11 administration and prescription of pharmaceutical agents  
12 within the scope and standards of optometric practice as  
13 established by the board by rule and provides  
14 requirements with respect thereto. Authorizes licensed  
15 practitioners to use mydriatics and cycloplegics for  
16 diagnostic purposes. Revises duties of the pharmaceutical  
17 agent formulary committee. Eliminates provisions relating  
18 to the effective date of the formulary rule and to  
19 challenges by the Secretary of Health to rules or  
20 proposed rules of the board. Amends various provisions of  
21 law to conform. See bill for details.  
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