

By Senator Dean

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1 A bill to be entitled
2 An act relating to optometry; amending s. 463.002,
3 F.S.; revising definitions to conform to provisions
4 authorizing the oral administration of ocular
5 pharmaceutical agents by certain practitioners;
6 amending s. 463.005, F.S.; requiring the Board of
7 Optometry to adopt rules governing the administration
8 and prescription of oral ocular pharmaceutical agents;
9 amending s. 463.0055, F.S.; requiring an advisory
10 committee to review requests for modifications of a
11 formulary of topical and oral ocular pharmaceutical
12 agents; requiring that the formulary consist of
13 topical and oral pharmaceutical agents and those
14 pharmaceutical agents appropriate to treat and
15 diagnose ocular disease or disorders; requiring the
16 prescriber number to be printed on a prescription for
17 an oral ocular pharmaceutical agent; amending ss.
18 463.0057 and 463.006, F.S., relating to faculty
19 certificates and licensure and certification by
20 examination; conforming provisions to changes made by
21 the act; amending s. 893.02, F.S.; redefining the term
22 "practitioner" for purposes of the Florida
23 Comprehensive Drug Abuse Prevention and Control Act to
24 include certified optometrists; amending s. 893.05,
25 F.S.; prohibiting an optometrist from administering or
26 prescribing certain controlled substances; providing
27 an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. Subsections (3), (4), and (5) of section
32 463.002, Florida Statutes, are amended to read:

33 463.002 Definitions.—As used in this chapter, the term:

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

37 (b) A licensed practitioner who is not a certified
38 optometrist shall ~~be required to~~ display at her or his place of
39 practice a sign that ~~which~~ states, "I am a Licensed
40 Practitioner, not a Certified Optometrist, and I am not able to
41 prescribe topical or oral ocular pharmaceutical agents."

42 (c) All practitioners initially licensed after July 1,
43 1993, must be certified optometrists.

44 (4) "Certified optometrist" means a licensed practitioner
45 authorized by the board to administer and prescribe topical and
46 oral ocular pharmaceutical agents.

47 (5) "Optometry" means the diagnosis of conditions of the
48 human eye and its appendages; the employment of any objective or
49 subjective means or methods, including the administration of
50 topical and oral ocular pharmaceutical agents, for the purpose
51 of determining the refractive powers of the human eyes, or any
52 visual, muscular, neurological, or anatomic anomalies of the
53 human eyes and their appendages; and the prescribing and
54 employment of lenses, prisms, frames, mountings, contact lenses,
55 orthoptic exercises, light frequencies, and any other means or
56 methods, including topical and oral ocular pharmaceutical
57 agents, for the correction, remedy, or relief of any
58 insufficiencies or abnormal conditions of the human eyes and

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59 their appendages.

60 Section 2. Paragraph (g) of subsection (1) of section
61 463.005, Florida Statutes, is amended to read:

62 463.005 Authority of the board.—

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

67 (g) Administration and prescription of topical and oral
68 ocular pharmaceutical agents.

69 Section 3. Section 463.0055, Florida Statutes, is amended
70 to read:

71 463.0055 Administration and prescription of topical and
72 oral ocular pharmaceutical agents; committee.—

73 (1) Certified optometrists may administer and prescribe
74 topical and oral ocular pharmaceutical agents as provided in
75 this section for the diagnosis and treatment of ocular
76 conditions of the human eye and its appendages without the use
77 of surgery or other invasive techniques. However, a licensed
78 practitioner who is not certified may use topically applied
79 anesthetics solely for the purpose of glaucoma examinations, but
80 is otherwise prohibited from administering or prescribing
81 topical or oral ocular pharmaceutical agents.

82 (2) (a) There is ~~hereby~~ created a committee composed of two
83 optometrists licensed pursuant to this chapter, appointed by the
84 Board of Optometry, two board-certified ophthalmologists
85 licensed pursuant to chapter 458 or chapter 459, appointed by
86 the Board of Medicine, and one additional person who holds ~~with~~
87 a doctorate degree in pharmacology and who is not licensed

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88 pursuant to chapter 458, chapter 459, or this chapter, appointed
89 by the State Surgeon General. The committee shall review
90 requests for additions to, deletions from, or modifications of a
91 formulary of topical and oral ocular pharmaceutical agents for
92 administration and prescription by certified optometrists and
93 shall provide to the board advisory opinions and recommendations
94 on such requests. The formulary shall consist of those topical
95 and oral ocular pharmaceutical agents that ~~which~~ the certified
96 optometrist is qualified to use in the practice of optometry and
97 shall include those pharmaceutical agents appropriate to treat
98 and diagnose ocular disease or disorders within the scope of
99 optometric practice. The board shall establish, add to, delete
100 from, or modify the formulary by rule. Notwithstanding any
101 provision of chapter 120 to the contrary, the formulary rule
102 shall become effective 60 days following ~~from~~ the date it is
103 filed with the Secretary of State.

104 (b) The formulary may be added to, deleted from, or
105 modified according to the procedure described in paragraph (a).
106 Any person who requests an addition, deletion, or modification
107 of an authorized topical or oral ocular pharmaceutical agent has
108 ~~shall have~~ the burden of proof to show cause why such addition,
109 deletion, or modification should be made.

110 (c) The State Surgeon General has ~~shall have~~ standing to
111 challenge any rule or proposed rule of the board pursuant to s.
112 120.56. In addition to challenges for any invalid exercise of
113 delegated legislative authority, the administrative law judge,
114 upon such a challenge by the State Surgeon General, may declare
115 all or part of a rule or proposed rule invalid if it:

116 1. Does not protect the public from any significant and

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117 discernible harm or damages;

118 2. Unreasonably restricts competition or the availability
119 of professional services in the state or in a significant part
120 of the state; or

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

123

124 However, the challenge of a rule or proposed rule does there
125 ~~shall not create be created~~ a presumption of the existence of
126 any of the conditions cited in this subsection ~~in the event that~~
127 ~~the rule or proposed rule is challenged.~~

128 (d) Upon adoption of the formulary required by this
129 section, and upon each addition, deletion, or modification to
130 the formulary, the board shall mail a copy of the amended
131 formulary to each certified optometrist and to each pharmacy
132 licensed by the state.

133 (3) A certified optometrist shall be issued a prescriber
134 number by the board. Any prescription written by a certified
135 optometrist for a topical or oral ocular pharmaceutical agent
136 pursuant to this section shall have the prescriber number
137 printed thereon.

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

140 463.0057 Optometric faculty certificate.—

141 (3) The holder of a faculty certificate may engage in the
142 practice of optometry as permitted by this section, but may not
143 administer or prescribe topical or oral ocular pharmaceutical
144 agents unless the certificateholder has satisfied the
145 requirements of s. 463.006(1)(b)4. and 5.

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

148 463.006 Licensure and certification by examination.—

149 (2) The examination shall consist of the appropriate
150 subjects, including applicable state laws and rules and general
151 and ocular pharmacology with emphasis on the topical and oral
152 application and side effects of ocular pharmaceutical agents.
153 The board may by rule substitute a national examination as part
154 or all of the examination and may by rule offer a practical
155 examination in addition to the written examination.

156 (3) Each applicant who successfully passes the examination
157 and otherwise meets the requirements of this chapter is entitled
158 to be licensed as a practitioner and to be certified to
159 administer and prescribe topical and oral ocular pharmaceutical
160 agents in the diagnosis and treatment of ocular conditions.

161 Section 6. Subsection (20) of section 893.02, Florida
162 Statutes, is amended to read:

163 893.02 Definitions.—The following words and phrases as used
164 in this chapter shall have the following meanings, unless the
165 context otherwise requires:

166 (20) "Practitioner" means a physician licensed pursuant to
167 chapter 458, a dentist licensed pursuant to chapter 466, a
168 veterinarian licensed pursuant to chapter 474, an osteopathic
169 physician licensed pursuant to chapter 459, a naturopath
170 licensed pursuant to chapter 462, ~~or~~ a podiatric physician
171 licensed pursuant to chapter 461, or an optometrist certified
172 pursuant to chapter 463 to administer and prescribe topical and
173 oral ocular pharmaceutical agents, if ~~provided~~ such practitioner
174 holds a valid federal controlled substance registry number.

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175 Section 7. Subsection (1) of section 893.05, Florida
176 Statutes, is amended to read:

177 893.05 Practitioners and persons administering controlled
178 substances in their absence.—

179 (1) A practitioner, in good faith and in the course of his
180 or her professional practice only, may prescribe, administer,
181 dispense, mix, or otherwise prepare a controlled substance, or
182 the practitioner may cause the same to be administered by a
183 licensed nurse or an intern practitioner under his or her
184 direction and supervision only. A veterinarian may so prescribe,
185 administer, dispense, mix, or prepare a controlled substance for
186 use on animals only, and may cause it to be administered by an
187 assistant or orderly under the veterinarian's direction and
188 supervision only. An optometrist certified pursuant to chapter
189 463 to administer and prescribe topical and oral ocular
190 pharmaceutical agents may not administer or prescribe any
191 controlled substances listed in Schedule I or Schedule II of s.
192 893.03.

193 Section 8. This act shall take effect July 1, 2009.