

1 A bill to be entitled
 2 An act relating to eye care professionals; amending s.
 3 463.003, F.S.; revising membership requirements for the
 4 Board of Optometry; amending s. 463.009, F.S.; revising
 5 the duties of, and restrictions on the practice of
 6 optometry by, nonlicensed supportive personnel; amending
 7 s. 463.014, F.S.; prohibiting the board from adopting
 8 rules that prohibit certain acts in the practice of
 9 optometry; providing for application; amending s. 484.002,
 10 F.S.; revising definitions relating to the practice of
 11 opticianry; amending s. 484.007, F.S.; revising
 12 requirements for applicants seeking to take the optician
 13 licensure examination; amending s. 484.013, F.S.; revising
 14 grounds that constitute unlawful conduct by opticians;
 15 providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Subsection (2) of section 463.003, Florida
 20 Statutes, is amended to read:

21 463.003 Board of Optometry.—

22 (2) Four ~~Five~~ members of the board must be licensed
 23 practitioners actively practicing in this state. One member must
 24 be a board-certified ophthalmologist licensed under chapter 458
 25 or chapter 459. The remaining two members must be citizens of
 26 the state who are not, and have never been, licensed
 27 practitioners or ophthalmologists and who are in no way
 28 connected with the practice of optometry or ophthalmology or

29 with any vision-oriented profession or business. At least one
 30 member of the board must be 60 years of age or older.

31 Section 2. Section 463.009, Florida Statutes, is amended
 32 to read:

33 463.009 Supportive personnel.—A ~~No~~ person who is not ~~other~~
 34 ~~than~~ a licensed practitioner may not engage in the practice of
 35 optometry as defined in s. 463.002(5). Except as provided in
 36 this section, ~~under no circumstances shall~~ nonlicensed
 37 supportive personnel may not be delegated the duties of
 38 diagnosis, ~~or~~ treatment, or determining the refractive error of
 39 the eye unless specifically licensed to provide these services
 40 ~~duties~~; however, such personnel may perform data gathering,
 41 preliminary testing, prescribed visual therapy, dispensing of an
 42 optical device to and final fitting thereof on a patient, and
 43 related duties under the direct supervision of the licensed
 44 practitioner. Nonlicensed personnel, who need not be employees
 45 of the licensed practitioner, may perform ministerial duties,
 46 tasks, and functions assigned to them by and performed under the
 47 general supervision of a licensed practitioner, including
 48 obtaining information from consumers for the purpose of making
 49 appointments for the licensed practitioner. The licensed
 50 practitioner is ~~shall be~~ responsible for all delegated acts
 51 performed by persons under her or his direct and general
 52 supervision.

53 Section 3. Subsections (1), (2), and (5) of section
 54 463.014, Florida Statutes, are amended to read:

55 463.014 Certain acts prohibited.—

56 (1) (a) A ~~No~~ corporation, lay body, organization, or

57 individual other than a licensed practitioner may not ~~shall~~
 58 engage in the practice of optometry through the means of
 59 engaging the services, upon a salary, commission, or other means
 60 or inducement, of any person licensed to practice optometry in
 61 this state. ~~Nothing in~~ This section does not ~~shall be deemed to~~
 62 prohibit the association of a licensed practitioner with a
 63 multidisciplinary group of licensed health care professionals,
 64 the primary objective of which is the diagnosis and treatment of
 65 the human body.

66 (b) A ~~No~~ licensed practitioner may not ~~shall~~ engage in the
 67 practice of optometry with any corporation, organization, group,
 68 or lay individual. This paragraph does ~~provision shall~~ not
 69 prohibit licensed practitioners from employing, or from forming
 70 partnerships or professional associations with, licensed
 71 practitioners licensed in this state or with other licensed
 72 health care professionals, the primary objective of whom is the
 73 diagnosis and treatment of the human body.

74 (c) ~~No rule of~~ The board may not adopt rules prohibiting
 75 ~~shall forbid~~ the practice of optometry in or on the premises of
 76 a commercial or mercantile establishment.

77 (d) A ~~No~~ licensed practitioner may not practice under
 78 practice identification names, trade names, or service names,
 79 unless any dissemination of information by the practitioner to
 80 consumers contains the name under which the practitioner is
 81 licensed or that of the professional association in which the
 82 practitioner participates. Any advertisement or other
 83 dissemination of information to consumers may contain factual
 84 information as to the geographic location of licensed

85 practitioners or of the availability of optometric services.

86 (e) The board may not adopt rules prohibiting a ~~No~~
 87 licensed practitioner from using or publishing ~~shall adopt and~~
 88 ~~publish or cause to be published~~ any practice identification
 89 name, trade name, or service name or from advertising ~~which is,~~
 90 ~~contains, or is intended to serve as an affirmation of the~~
 91 quality or competitive value of the practitioner's optometric
 92 services ~~provided at the identified practice.~~

93 (f) This section does not prohibit a licensed practitioner
 94 from forming a partnership, corporation, or professional
 95 association with one or more other licensed health care
 96 professionals in the creation, ownership, and management of a
 97 commercial or mercantile optical establishment that is an entity
 98 separate from the practitioner's optometry practice.

99 (2) A corporation or labor organization may employ
 100 licensed practitioners to provide optometric services to bona
 101 fide employees of such corporation and members of their
 102 immediate families or to bona fide members of such labor
 103 organization and members of their immediate families, provided
 104 the provision of such services is incidental to the legitimate
 105 business of such corporation or labor organization. ~~Nothing in~~
 106 This section does not ~~shall be deemed to~~ authorize the
 107 employment of licensed practitioners by corporations or
 108 organizations formed primarily for such purposes.

109 (5) ~~No rule of~~ The board may not adopt rules prohibiting
 110 ~~shall prohibit~~ a licensed practitioner from authorizing a board-
 111 certified optician to fill, fit, adapt, or dispense a contact
 112 lens prescription as authorized under chapter 484.

113 Section 4. Subsections (3) and (9) of section 484.002,
 114 Florida Statutes, are amended to read:

115 484.002 Definitions.—As used in this part:

116 (3) "Opticianry" means the preparation and dispensing of
 117 lenses, spectacles, eyeglasses, contact lenses, and other
 118 optical devices to the intended user or agent thereof, upon the
 119 written prescription of a licensed allopathic or osteopathic
 120 physician or optometrist who is duly licensed to practice or
 121 upon presentation of a duplicate prescription. The selection of
 122 frame designs, the actual sales transaction, and the transfer of
 123 physical possession of lenses, spectacles, eyeglasses, contact
 124 lenses, and other optical devices subsequent to performance of
 125 all services of the optician shall not be considered the
 126 practice of opticianry; however, such physical possession shall
 127 not be transferred until the optician has completed the final
 128 fitting of the optical device upon the customer. The practice of
 129 opticianry also includes the duplication of lenses accurately as
 130 to power, without prescription. A board-certified optician
 131 qualified and operating under rules established by the board may
 132 fill, fit, adapt, or dispense any soft contact lens
 133 prescription. Such optician may fill, fit, adapt, or dispense
 134 any extended wear or hard contact lens prescription to the
 135 extent authorized to do so by the prescribing allopathic or
 136 osteopathic physician or optometrist.

137 (9) "Optical dispensing" means interpreting but not
 138 altering a prescription of a licensed physician or optometrist
 139 and designing, adapting, fitting, or replacing the prescribed
 140 optical aids, pursuant to such prescription, to or for the

141 intended wearer, duplicating lenses, accurately as to power
 142 without a prescription, and duplicating nonprescription eyewear
 143 and parts of eyewear. The term "Optical dispensing" does not
 144 include selecting frames, transferring an optical aid to the
 145 wearer after an optician completes the final ~~has completed~~
 146 fitting thereof ~~it~~, or providing instruction in the general care
 147 and use of an optical aid, including placement, removal,
 148 hygiene, or cleaning.

149 Section 5. Subsection (1) of section 484.007, Florida
 150 Statutes, is amended to read:

151 484.007 Licensure of opticians; permitting of optical
 152 establishments.—

153 (1) Any person desiring to practice opticianry must ~~shall~~
 154 apply to the department, upon forms prescribed by the department
 155 ~~it~~, to take a licensure examination. The department shall
 156 examine each applicant who the board certifies:

157 (a) Has completed the application form and remitted a
 158 nonrefundable application fee set by the board, in the amount of
 159 \$100 or less, and an examination fee set by the board, in the
 160 amount of \$325 plus the actual per-applicant ~~per applicant~~ cost
 161 to the department for purchase of portions of the examination
 162 from the American Board of Opticianry or a similar national
 163 organization, or less, and refundable if the board finds the
 164 applicant ineligible to take the examination;

165 (b) Is not less than 18 years of age;

166 (c) Is a graduate of an accredited high school or
 167 possesses a certificate of equivalency of a high school
 168 education; and

169 (d)1. Has received before July 1, 2013, an associate
 170 degree, or its equivalent, in opticianry from an educational
 171 institution the curriculum of which is accredited by an
 172 accrediting agency recognized and approved by the United States
 173 Department of Education or the Council on Postsecondary
 174 Education or approved by the board;

175 2. Has received on or after July 1, 2013, an associate
 176 degree, or its equivalent, in opticianry from an educational
 177 institution the opticianry curriculum of which is accredited by
 178 the Council for Higher Education Accreditation or by a
 179 nationally recognized accrediting agency approved by the board
 180 or recognized by the United States Department of Education;

181 ~~3.2.~~ Is an individual licensed to practice the profession
 182 of opticianry pursuant to a regulatory licensing law of another
 183 state, territory, or jurisdiction of the United States, who has
 184 actively practiced in such other state, territory, or
 185 jurisdiction for more than 3 years immediately preceding
 186 application, and who meets the examination qualifications as
 187 provided in this subsection;

188 ~~4.3.~~ Is an individual who has actively practiced in
 189 another state, territory, or jurisdiction of the United States
 190 for more than 5 years immediately preceding application, ~~and~~ who
 191 provides tax or business records, affidavits, or other
 192 satisfactory documentation of such practice, ~~and~~ who meets the
 193 examination qualifications as provided in this subsection; ~~or~~

194 5.4. Has registered before July 1, 2011, as an apprentice
 195 with the department and paid a registration fee not to exceed
 196 \$60, as set by rule of the board. The apprentice must ~~shall~~

197 complete 6,240 hours of training under the supervision of an
 198 optician licensed in this state for at least 1 year or of a
 199 physician or optometrist licensed under the laws of this state.
 200 These requirements must be met within 5 years after the date of
 201 registration. However, any time spent in a recognized school may
 202 be considered as part of the apprenticeship program provided in
 203 this subparagraph herein. The board may establish administrative
 204 processing fees sufficient to cover the cost of administering
 205 apprentice rules adopted as promulgated by the board; or

206 6. Has registered on or after July 1, 2011, as an
 207 apprentice with the department and paid a registration fee not
 208 to exceed \$60, as set by rule of the board. The apprentice must
 209 complete 6,240 hours of training under the supervision of an
 210 optician licensed in this state for at least 1 year and complete
 211 12 semester hours of college credit from an educational
 212 institution described in subparagraph 1. or subparagraph 2.
 213 These requirements must be met within 5 years after the date of
 214 registration. However, any time spent in a recognized school may
 215 be considered as part of the apprenticeship program provided in
 216 this subparagraph. The board may establish administrative
 217 processing fees sufficient to cover the cost of administering
 218 apprentice rules adopted by the board.

219 Section 6. Subsection (3) of section 484.013, Florida
 220 Statutes, is amended to read:

221 484.013 Violations and penalties.—

222 (3) It is unlawful for any optician to engage in the
 223 diagnosis of the human eyes, ~~attempt to determine the refractive~~
 224 ~~powers of the human eyes,~~ or, in any manner, attempt to

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225 | prescribe for or treat diseases or ailments of human beings.

226 | Section 7. This act shall take effect July 1, 2011.