

By Senator Sobel

31-01446-11

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

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

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

22 463.003 Board of Optometry.—

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

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

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

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

54 Section 3. Subsections (1), (2), and (5) of section
55 463.014, Florida Statutes, are amended to read:

56 463.014 Certain acts prohibited.—

57 (1)(a) A ~~No~~ corporation, lay body, organization, or
58 individual other than a licensed practitioner may not ~~shall~~

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

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

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

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

87 (e) The board may not adopt rules prohibiting a ~~No~~ licensed

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88 practitioner from using or publishing ~~shall adopt and publish or~~
89 ~~cause to be published~~ any practice identification name, trade
90 name, or service name or from advertising ~~which is, contains, or~~
91 ~~is intended to serve as an affirmation of~~ the quality or
92 competitive value of the practitioner's optometric services
93 ~~provided at the identified practice.~~

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

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

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

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

116 484.002 Definitions.—As used in this part:

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

138 (9) "Optical dispensing" means interpreting but not
139 altering a prescription of a licensed physician or optometrist
140 and designing, adapting, fitting, or replacing the prescribed
141 optical aids, pursuant to such prescription, to or for the
142 intended wearer, duplicating lenses, accurately as to power
143 without a prescription, and duplicating nonprescription eyewear
144 and parts of eyewear. The term "Optical dispensing" does not
145 include selecting frames, transferring an optical aid to the

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146 wearer after an optician completes the final ~~has completed~~
147 fitting thereof ~~it~~, or providing instruction in the general care
148 and use of an optical aid, including placement, removal,
149 hygiene, or cleaning.

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

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

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

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

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

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

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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 another
189 state, territory, or jurisdiction of the United States for more
190 than 5 years immediately preceding application, ~~and~~ who provides
191 tax or business records, affidavits, or other satisfactory
192 documentation of such practice, and who meets the examination
193 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

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

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