

1                   A bill to be entitled  
2     An act relating to eye health care; amending s.  
3     463.002, F.S.; conforming provisions to changes made  
4     by the act; amending s. 463.005, F.S.; authorizing the  
5     Board of Optometry to adopt rules for the  
6     administration and prescription of ocular  
7     pharmaceutical agents; amending s. 463.0055, F.S.;  
8     authorizing certified optometrists to administer and  
9     prescribe ocular pharmaceutical agents under certain  
10    circumstances; revising qualifications of certain  
11    members of the formulary committee; amending ss.  
12    463.0057 and 463.006, F.S.; conforming provisions to  
13    changes made by the act; amending s. 483.035, F.S.,  
14    relating to licensure and regulation of clinical  
15    laboratories operated by practitioners for exclusive  
16    use; providing applicability to clinical laboratories  
17    operated by practitioners licensed to practice  
18    optometry; amending s. 483.041, F.S.; revising the  
19    definition of "licensed practitioner" to include a  
20    practitioner licensed under ch. 463, F.S.; amending s.  
21    483.181, F.S.; requiring clinical laboratories to  
22    accept human specimens submitted by practitioners  
23    licensed to practice under ch. 463, F.S.; amending s.  
24    893.02, F.S.; revising the definition of  
25    "practitioner" to include certified optometrists for  
26    purposes of the Florida Comprehensive Drug Abuse  
27    Prevention and Control Act; amending s. 893.05, F.S.;  
28    prohibiting certified optometrists from administering

29 and prescribing certain controlled substances;  
 30 providing an effective date.

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

33

34 Section 1. Subsections (3), (4), and (5) of section  
 35 463.002, Florida Statutes, are amended to read:

36 463.002 Definitions.—As used in this chapter, the term:

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

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

45 (c) All practitioners initially licensed after July 1,  
 46 1993, must be certified optometrists.

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

50 (5) "Optometry" means the diagnosis of conditions of the  
 51 human eye and its appendages; the employment of any objective or  
 52 subjective means or methods, including the administration of  
 53 ~~topical~~~~ocular~~ pharmaceutical agents, for the purpose of  
 54 determining the refractive powers of the human eyes, or any  
 55 visual, muscular, neurological, or anatomic anomalies of the  
 56 human eyes and their appendages; and the prescribing and

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57 | employment of lenses, prisms, frames, mountings, contact lenses,  
58 | orthoptic exercises, light frequencies, and any other means or  
59 | methods, including ~~topical-ocular~~ pharmaceutical agents, for the  
60 | correction, remedy, or relief of any insufficiencies or abnormal  
61 | conditions of the human eyes and their appendages.

62 |       Section 2. Paragraph (g) of subsection (1) of section  
63 | 463.005, Florida Statutes, is amended to read:

64 |       463.005 Authority of the board.—

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

69 |       (g) Administration and prescription of ~~topical~~ ocular  
70 | pharmaceutical agents.

71 |       Section 3. Section 463.0055, Florida Statutes, is amended  
72 | to read:

73 |       463.0055 Administration and prescription of ~~topical~~ ocular  
74 | pharmaceutical agents; committee.—

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

84 |       (2) (a) There is ~~hereby~~ created a committee composed of two

85 certified optometrists licensed pursuant to this chapter,  
86 appointed by the Board of Optometry, two board-certified  
87 ophthalmologists licensed pursuant to chapter 458 or chapter  
88 459, appointed by the Board of Medicine, and one additional  
89 person with a doctorate degree in pharmacology who is not  
90 licensed pursuant to chapter 458, chapter 459, or this chapter,  
91 appointed by the State Surgeon General. The committee shall  
92 review requests for additions to, deletions from, or  
93 modifications of a formulary of ~~topical~~ ocular pharmaceutical  
94 agents for administration and prescription by certified  
95 optometrists and shall provide to the board advisory opinions  
96 and recommendations on such requests. The formulary shall  
97 consist of those ~~topical-ocular~~ pharmaceutical agents which the  
98 certified optometrist is qualified to use in the practice of  
99 optometry. The board shall establish, add to, delete from, or  
100 modify the formulary by rule. Notwithstanding any provision of  
101 chapter 120 to the contrary, the formulary rule shall become  
102 effective 60 days from the date it is filed with the Secretary  
103 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~~ ocular pharmaceutical agent shall have  
108 the burden of proof to show cause why such addition, deletion,  
109 or modification should be made.

110 (c) The State Surgeon General 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

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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  
 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.

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

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

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

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

139 463.0057 Optometric faculty certificate.—

140 (3) The holder of a faculty certificate may engage in the

141 practice of optometry as permitted by this section<sup>7</sup> but may not  
 142 administer or prescribe ~~topical~~ ocular pharmaceutical agents  
 143 unless the certificateholder has satisfied the requirements of  
 144 s. 463.006(1)(b)4. and 5.

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

147 463.006 Licensure and certification by examination.—

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

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

160 Section 6. Subsection (1) of section 483.035, Florida  
 161 Statutes, is amended to read:

162 483.035 Clinical laboratories operated by practitioners  
 163 for exclusive use; licensure and regulation.—

164 (1) A clinical laboratory operated by one or more  
 165 practitioners licensed under chapter 458, chapter 459, chapter  
 166 460, chapter 461, chapter 462, chapter 463, or chapter 466,  
 167 exclusively in connection with the diagnosis and treatment of  
 168 their own patients, must be licensed under this part and must

169 | comply with the provisions of this part, except that the agency  
 170 | shall adopt rules for staffing, for personnel, including  
 171 | education and training of personnel, for proficiency testing,  
 172 | and for construction standards relating to the licensure and  
 173 | operation of the laboratory based upon and not exceeding the  
 174 | same standards contained in the federal Clinical Laboratory  
 175 | Improvement Amendments of 1988 and the federal regulations  
 176 | adopted thereunder.

177 |         Section 7. Subsection (7) of section 483.041, Florida  
 178 | Statutes, is amended to read:

179 |             483.041 Definitions.—As used in this part, the term:

180 |             (7) "Licensed practitioner" means a physician licensed  
 181 | under chapter 458, chapter 459, chapter 460, ~~or~~ chapter 461, or  
 182 | chapter 463; a dentist licensed under chapter 466; a person  
 183 | licensed under chapter 462; or an advanced registered nurse  
 184 | practitioner licensed under part I of chapter 464; or a duly  
 185 | licensed practitioner from another state licensed under similar  
 186 | statutes who orders examinations on materials or specimens for  
 187 | nonresidents of the State of Florida, but who reside in the same  
 188 | state as the requesting licensed practitioner.

189 |         Section 8. Subsection (5) of section 483.181, Florida  
 190 | Statutes, is amended to read:

191 |             483.181 Acceptance, collection, identification, and  
 192 | examination of specimens.—

193 |             (5) A clinical laboratory licensed under this part must  
 194 | accept a human specimen submitted for examination by a  
 195 | practitioner licensed under chapter 458, chapter 459, chapter  
 196 | 460, chapter 461, chapter 462, chapter 463, s. 464.012, or

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197 chapter 466, if the specimen and test are the type performed by  
 198 the clinical laboratory. A clinical laboratory may only refuse a  
 199 specimen based upon a history of nonpayment for services by the  
 200 practitioner. A clinical laboratory shall not charge different  
 201 prices for tests based upon the chapter under which a  
 202 practitioner submitting a specimen for testing is licensed.

203 Section 9. Subsection (21) of section 893.02, Florida  
 204 Statutes, is amended to read:

205 893.02 Definitions.—The following words and phrases as  
 206 used in this chapter shall have the following meanings, unless  
 207 the context otherwise requires:

208 (21) "Practitioner" means a physician licensed pursuant to  
 209 chapter 458, a dentist licensed pursuant to chapter 466, a  
 210 veterinarian licensed pursuant to chapter 474, an osteopathic  
 211 physician licensed pursuant to chapter 459, a naturopath  
 212 licensed pursuant to chapter 462, an optometrist certified  
 213 pursuant to chapter 463 to administer and prescribe ocular  
 214 pharmaceutical agents, or a podiatric physician licensed  
 215 pursuant to chapter 461, provided such practitioner holds a  
 216 valid federal controlled substance registry number.

217 Section 10. Subsection (1) of section 893.05, Florida  
 218 Statutes, is amended to read:

219 893.05 Practitioners and persons administering controlled  
 220 substances in their absence.—

221 (1) A practitioner, in good faith and in the course of his  
 222 or her professional practice only, may prescribe, administer,  
 223 dispense, mix, or otherwise prepare a controlled substance, or  
 224 the practitioner may cause the same to be administered by a



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225 licensed nurse or an intern practitioner under his or her  
226 direction and supervision only, except that an optometrist  
227 certified pursuant to chapter 463 to administer and prescribe  
228 ocular pharmaceutical agents may not administer or prescribe any  
229 controlled substance listed on Schedule I or Schedule II of s.  
230 893.03. A veterinarian may so prescribe, administer, dispense,  
231 mix, or prepare a controlled substance for use on animals only,  
232 and may cause it to be administered by an assistant or orderly  
233 under the veterinarian's direction and supervision only.

234 Section 11. This act shall take effect July 1, 2012.