

By Senator Bennett

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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;

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30 providing an effective date.

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

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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
57 employment of lenses, prisms, frames, mountings, contact lenses,
58 orthoptic exercises, light frequencies, and any other means or

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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

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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
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, 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, 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,

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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 for
163 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

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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
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

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204 Statutes, is amended to read:

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

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233 under the veterinarian's direction and supervision only.

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