

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Caldwell offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Paragraph (b) of subsection (3) and subsection
6 (4) of section 463.002, Florida Statutes, are amended,
7 subsection (5) is renumbered as subsection (7) and amended,
8 present subsections (6) through (10) are renumbered as
9 subsections (8) through (12), respectively, and new subsections
10 (5) and (6) are added to that section, to read:

11 463.002 Definitions.—As used in this chapter, the term:

12 (3)

13 (b) A licensed practitioner who is not a certified
14 optometrist shall be required to display at her or his place of
15 practice a sign which states, "I am a Licensed Practitioner, not

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16 a Certified Optometrist, and I am not able to prescribe ~~topical~~
17 ocular pharmaceutical agents."

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

21 (5) "Ocular pharmaceutical agent" means a pharmaceutical
22 agent that is administered topically or orally for the diagnosis
23 or treatment of ocular conditions of the human eye and its
24 appendages without the use of surgery or other invasive
25 techniques.

26 (6) "Surgery" means a procedure using an instrument,
27 including a laser, scalpel, or needle, in which human tissue is
28 cut, burned, or scraped, except as provided in s. 463.014(4), or
29 vaporized, by incision, injection, ultrasound, laser, infusion,
30 cryotherapy, or radiation. The term includes a procedure using
31 an instrument which requires the closure of human tissue by
32 suture, clamp, or other such device.

33 (7) ~~(5)~~ "Optometry" means the diagnosis of conditions of
34 the human eye and its appendages; the employment of any
35 objective or subjective means or methods, including the
36 administration of ~~topical~~ ocular pharmaceutical agents, for the
37 purpose of determining the refractive powers of the human eyes,
38 or any visual, muscular, neurological, or anatomic anomalies of
39 the human eyes and their appendages; and the prescribing and
40 employment of lenses, prisms, frames, mountings, contact lenses,
41 orthoptic exercises, light frequencies, and any other means or
42 methods, including ~~topical~~ ocular pharmaceutical agents, for the

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43 correction, remedy, or relief of any insufficiencies or abnormal
44 conditions of the human eyes and their appendages.

45 Section 2. Paragraph (g) of subsection (1) of section
46 463.005, Florida Statutes, is amended to read:

47 463.005 Authority of the board.—

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

52 (g) Administration and prescription of ~~topical~~ ocular
53 pharmaceutical agents.

54 Section 3. Section 463.0055, Florida Statutes, is amended
55 to read:

56 463.0055 Administration and prescription of ~~topical~~ ocular
57 pharmaceutical agents; ~~committee~~.—

58 (1) (a) Certified optometrists may administer and prescribe
59 ~~topical~~ ocular pharmaceutical agents as provided in this section
60 for the diagnosis and treatment of ocular conditions of the
61 human eye and its appendages without the use of surgery or other
62 invasive techniques. However, a licensed practitioner who is not
63 certified may use topically applied anesthetics solely for the
64 purpose of glaucoma examinations, but is otherwise prohibited
65 from administering or prescribing ~~topical~~ ocular pharmaceutical
66 agents.

67 (b) Before a certified optometrist may administer or
68 prescribe oral ocular pharmaceutical agents, the certified
69 optometrist must provide proof to the department of successful
70 completion of a course and subsequent examination, approved by

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71 the board, on general and ocular pharmaceutical agents and the
72 side effects of those agents. The course shall consist of 20
73 contact hours, all of which may be web-based. The first course
74 and examination shall be presented by October 1, 2013, and shall
75 be administered at least annually thereafter. The course and
76 examination shall be developed and offered jointly by a
77 statewide professional association of physicians in this state
78 accredited to provide educational activities designated for the
79 American Medical Association Physician's Recognition Award (AMA
80 PRA) Category 1 credit and a statewide professional association
81 of licensed practitioners which provides board-approved
82 continuing education on an annual basis. The board shall review
83 and approve the content of the initial course and examination if
84 the board determines that the course and examination adequately
85 and reliably satisfy the criteria set forth in this section. The
86 board shall thereafter annually review and approve the course
87 and examination if the board determines that the content
88 continues to adequately and reliably satisfy the criteria set
89 forth in this section. Successful completion of the board-
90 approved course and examination may be used by a certified
91 optometrist to satisfy 20 hours of the continuing education
92 requirements in s. 463.007(3), only for the biennial period in
93 which the board-approved course and examination are taken. If a
94 certified optometrist does not complete a board-approved course
95 and examination under this section, the certified optometrist is
96 only authorized to administer and prescribe topical ocular
97 pharmaceutical agents.

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98 (2) (a) The board shall establish a formulary of topical
99 ocular pharmaceutical agents that may be prescribed and
100 administered by a certified optometrist. ~~There is hereby created~~
101 ~~a committee composed of two optometrists licensed pursuant to~~
102 ~~this chapter, appointed by the Board of Optometry, two board-~~
103 ~~certified ophthalmologists licensed pursuant to chapter 458 or~~
104 ~~chapter 459, appointed by the Board of Medicine, and one~~
105 ~~additional person with a doctorate degree in pharmacology who is~~
106 ~~not licensed pursuant to chapter 458, chapter 459, or this~~
107 ~~chapter, appointed by the State Surgeon General. The committee~~
108 ~~shall review requests for additions to, deletions from, or~~
109 ~~modifications of a formulary of topical ocular pharmaceutical~~
110 ~~agents for administration and prescription by certified~~
111 ~~optometrists and shall provide to the board advisory opinions~~
112 ~~and recommendations on such requests. The formulary shall~~
113 ~~consist of those topical ocular pharmaceutical agents that are~~
114 appropriate to treat or diagnose ocular diseases and disorders
115 and that ~~which~~ the certified optometrist is qualified to use in
116 the practice of optometry. The board shall establish, add to,
117 delete from, or modify the topical formulary by rule.
118 Notwithstanding any provision of chapter 120 to the contrary,
119 the topical formulary rule becomes ~~shall become~~ effective 60
120 days from the date it is filed with the Secretary of State.
121 (b) The formulary may be added to, deleted from, or
122 modified according to the procedure described in paragraph (a).
123 Any person who requests an addition, deletion, or modification
124 of an authorized topical ocular pharmaceutical agent shall have

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125 the burden of proof to show cause why such addition, deletion,
126 or modification should be made.

127 (c) The State Surgeon General shall have standing to
128 challenge any rule or proposed rule of the board pursuant to s.
129 120.56. In addition to challenges for any invalid exercise of
130 delegated legislative authority, the administrative law judge,
131 upon such a challenge by the State Surgeon General, may declare
132 all or part of a rule or proposed rule invalid if it:

133 1. Does not protect the public from any significant and
134 discernible harm or damages;

135 2. Unreasonably restricts competition or the availability
136 of professional services in the state or in a significant part
137 of the state; or

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

140

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

144 (d) Upon adoption of the formulary required by this
145 section, and upon each addition, deletion, or modification to
146 the formulary, the board shall mail a copy of the amended
147 formulary to each certified optometrist and to each pharmacy
148 licensed by the state.

149 (3) In addition to the formulary of topical ocular
150 pharmaceutical agents established by rule of the board, there is
151 created a statutory formulary of oral ocular pharmaceutical
152 agents, which includes the following agents:

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153 (a) The following analgesics or their generic or
154 therapeutic equivalents, which may not be administered or
155 prescribed for more than 72 hours without consultation with a
156 physician licensed under chapter 458 or chapter 459 who is
157 skilled in diseases of the eye:

158 1. Tramadol hydrochloride.

159 2. Acetaminophen 300 mg with No. 3 codeine phosphate 30
160 mg.

161 (b) The following antibiotics or their generic or
162 therapeutic equivalents:

163 1. Amoxicillin with or without clavulanic acid.

164 2. Azithromycin.

165 3. Erythromycin.

166 4. Dicloxacillin.

167 5. Doxycycline/Tetracycline.

168 6. Keflex.

169 7. Minocycline.

170 (c) The following antivirals or their generic or
171 therapeutic equivalents:

172 1. Acyclovir.

173 2. Famciclovir.

174 3. Valacyclovir.

175 (d) The following oral anti-glaucoma agents or their
176 generic or therapeutic equivalents, which may not be
177 administered or prescribed for more than 72 hours:

178 1. Acetazolamide.

179 2. Methazolamide.

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181 Any oral ocular pharmaceutical agent that is listed in the
182 statutory formulary set forth in this subsection and that is
183 subsequently determined by the United States Food and Drug
184 Administration to be unsafe for administration or prescription
185 shall be considered to have been deleted from the formulary of
186 oral ocular pharmaceutical agents. The oral ocular
187 pharmaceutical agents on the statutory formulary set forth in
188 this subsection may not otherwise be deleted by the board, the
189 department, or the State Surgeon General.

190 (4)(3) A certified optometrist shall be issued a
191 prescriber number by the board. Any prescription written by a
192 certified optometrist for an a-topical ocular pharmaceutical
193 agent pursuant to this section shall have the prescriber number
194 printed thereon. A certified optometrist may not administer or
195 prescribe:

196 (a) A controlled substance listed in Schedule III,
197 Schedule IV, or Schedule V of s. 893.03, except for an oral
198 analgesic placed on the formulary pursuant to this section for
199 the relief of pain due to ocular conditions of the eye and its
200 appendages.

201 (b) A controlled substance for the treatment of chronic
202 nonmalignant pain as defined in s. 456.44(1)(e).

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

205 463.0057 Optometric faculty certificate.—

206 (3) The holder of a faculty certificate may engage in the
207 practice of optometry as permitted by this section, but may not
208 administer or prescribe topical ocular pharmaceutical agents

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209 unless the certificateholder has satisfied the requirements of
210 s. 463.006(1)(b)4. and 5. If a certificateholder wishes to
211 administer or prescribe oral ocular pharmaceutical agents, the
212 certificateholder must also satisfy the requirements of s.
213 463.0055(1)(b).

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

216 463.006 Licensure and certification by examination.-

217 (2) The examination shall consist of the appropriate
218 subjects, including applicable state laws and rules and general
219 and ocular pharmacology with emphasis on the use ~~topical~~
220 ~~application~~ and side effects of ocular pharmaceutical agents.

221 The board may by rule substitute a national examination as part
222 or all of the examination and may by rule offer a practical
223 examination in addition to the written examination.

224 (3) Each applicant who successfully passes the examination
225 and otherwise meets the requirements of this chapter is entitled
226 to be licensed as a practitioner and to be certified to
227 administer and prescribe ~~topical~~ ocular pharmaceutical agents in
228 the diagnosis and treatment of ocular conditions.

229 Section 6. Subsections (10) and (11) are added to section
230 463.0135, Florida Statutes, to read:

231 463.0135 Standards of practice.-

232 (10) A certified optometrist is authorized to perform any
233 eye examination, including a dilated examination, required or
234 authorized by chapter 548 or by rules adopted to implement that
235 chapter.

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236 (11) Co-management of postoperative care shall be
237 conducted pursuant to the requirements of this section and a
238 patient-specific transfer of care letter that governs the
239 relationship between the physician who performed the surgery and
240 the licensed practitioner. The patient must be fully informed
241 of, and consent in writing to, the co-management relationship
242 for his or her care. The transfer of care letter shall confirm
243 that it is not medically necessary for the physician who
244 performed the surgery to provide such postoperative care to the
245 patient and that it is clinically appropriate for the licensed
246 practitioner to provide such postoperative care. Before co-
247 management of postoperative care commences, the patient shall be
248 informed in writing that he or she has the right to be seen
249 during the entire postoperative period by the physician who
250 performed the surgery. In addition, the patient must be informed
251 of the fees, if any, to be charged by the licensed practitioner
252 and the physician performing the surgery, and must be provided
253 with an accurate and comprehensive itemized statement of the
254 specific postoperative care services that the physician
255 performing the surgery and the licensed practitioner render,
256 along with the charge for each service.

257 Section 7. Subsections (3) and (4) of section 463.014,
258 Florida Statutes, are amended to read:

259 463.014 Certain acts prohibited.—

260 (3) Prescribing, ordering, dispensing, administering,
261 supplying, selling, or giving any drug for the purpose of
262 treating a systemic disease ~~systemic drugs~~ by a licensed
263 practitioner is prohibited. However, a certified optometrist is

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264 permitted to use commonly accepted means or methods to
265 immediately address incidents of anaphylaxis.

266 (4) Surgery of any kind, ~~including the use of lasers,~~ is
267 expressly prohibited. Certified optometrists may remove
268 superficial foreign bodies. For the purposes of this subsection,
269 the term "superficial foreign bodies" means any foreign matter
270 that is embedded in the conjunctiva or cornea but that ~~which~~ has
271 not penetrated the globe. Notwithstanding the definition of
272 surgery as provided in s. 463.002(6), a certified optometrist is
273 not prohibited from providing any optometric care within the
274 practice of optometry as defined in s. 463.002(7), such as
275 removing an eyelash by epilation, probing an uninflamed tear
276 duct in a patient 18 years of age or older, blocking the puncta
277 by plug, or superficial scraping for the purpose of removing
278 damaged epithelial tissue or superficial foreign bodies or
279 taking a culture of the surface of the cornea or conjunctiva.

280 Section 8. Section 463.0141, Florida Statutes, is created
281 to read:

282 463.0141 Reports of adverse incidents in the practice of
283 optometry.-

284 (1) Effective January 1, 2014, an adverse incident
285 occurring in the practice of optometry must be reported to the
286 department in accordance with this section.

287 (2) The required notification must be in writing and
288 submitted to the department by certified mail. The required
289 notification must be postmarked within 15 days after the adverse
290 incident if the adverse incident occurs when the patient is at
291 the office of the licensed practitioner. If the adverse incident

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292 occurs when the patient is not at the office of the licensed
293 practitioner, the required notification must be postmarked
294 within 15 days after the licensed practitioner discovers, or
295 reasonably should have discovered, the occurrence of the adverse
296 incident.

297 (3) For purposes of notification to the department, the
298 term "adverse incident," as used in this section, means any of
299 the following events when it is reasonable to believe that the
300 event is attributable to the prescription of an oral ocular
301 pharmaceutical agent by the licensed practitioner:

302 (a) Any condition that requires the transfer of a patient
303 to a hospital licensed under chapter 395.

304 (b) Any condition that requires the patient to obtain care
305 from a physician licensed under chapter 458 or chapter 459,
306 other than a referral or a consultation required under this
307 chapter.

308 (c) Permanent physical injury to the patient.

309 (d) Partial or complete permanent loss of sight by the
310 patient.

311 (e) Death of the patient.

312 (4) The department shall review each incident and
313 determine whether it potentially involved conduct by the
314 licensed practitioner who may be subject to disciplinary action,
315 in which event s. 456.073 applies. Disciplinary action, if any,
316 shall be taken by the board.

317 Section 9. Subsection (1) of section 483.035, Florida
318 Statutes, is amended to read:

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319 483.035 Clinical laboratories operated by practitioners
320 for exclusive use; licensure and regulation.—

321 (1) A clinical laboratory operated by one or more
322 practitioners licensed under chapter 458, chapter 459, chapter
323 460, chapter 461, chapter 462, chapter 463, or chapter 466,
324 exclusively in connection with the diagnosis and treatment of
325 their own patients, must be licensed under this part and must
326 comply with the provisions of this part, except that the agency
327 shall adopt rules for staffing, for personnel, including
328 education and training of personnel, for proficiency testing,
329 and for construction standards relating to the licensure and
330 operation of the laboratory based upon and not exceeding the
331 same standards contained in the federal Clinical Laboratory
332 Improvement Amendments of 1988 and the federal regulations
333 adopted thereunder.

334 Section 10. Subsection (7) of section 483.041, Florida
335 Statutes, is amended to read:

336 483.041 Definitions.—As used in this part, the term:

337 (7) "Licensed practitioner" means a physician licensed
338 under chapter 458, chapter 459, chapter 460, or chapter 461; a
339 certified optometrist licensed under chapter 463; a dentist
340 licensed under chapter 466; a person licensed under chapter 462;
341 or an advanced registered nurse practitioner licensed under part
342 I of chapter 464; or a duly licensed practitioner from another
343 state licensed under similar statutes who orders examinations on
344 materials or specimens for nonresidents of the State of Florida,
345 but who reside in the same state as the requesting licensed
346 practitioner.

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347 Section 11. Subsection (5) of section 483.181, Florida
348 Statutes, is amended to read:

349 483.181 Acceptance, collection, identification, and
350 examination of specimens.—

351 (5) A clinical laboratory licensed under this part must
352 accept a human specimen submitted for examination by a
353 practitioner licensed under chapter 458, chapter 459, chapter
354 460, chapter 461, chapter 462, chapter 463, s. 464.012, or
355 chapter 466, if the specimen and test are the type performed by
356 the clinical laboratory. A clinical laboratory may only refuse a
357 specimen based upon a history of nonpayment for services by the
358 practitioner. A clinical laboratory shall not charge different
359 prices for tests based upon the chapter under which a
360 practitioner submitting a specimen for testing is licensed.

361 Section 12. Subsection (21) of section 893.02, Florida
362 Statutes, is amended to read:

363 893.02 Definitions.—The following words and phrases as
364 used in this chapter shall have the following meanings, unless
365 the context otherwise requires:

366 (21) "Practitioner" means a physician licensed pursuant to
367 chapter 458, a dentist licensed pursuant to chapter 466, a
368 veterinarian licensed pursuant to chapter 474, an osteopathic
369 physician licensed pursuant to chapter 459, a naturopath
370 licensed pursuant to chapter 462, a certified optometrist
371 licensed pursuant to chapter 463, or a podiatric physician
372 licensed pursuant to chapter 461, provided such practitioner
373 holds a valid federal controlled substance registry number.

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374 Section 13. Subsection (1) of section 893.05, Florida
375 Statutes, is amended to read:

376 893.05 Practitioners and persons administering controlled
377 substances in their absence.—

378 (1) A practitioner, in good faith and in the course of his
379 or her professional practice only, may prescribe, administer,
380 dispense, mix, or otherwise prepare a controlled substance, or
381 the practitioner may cause the same to be administered by a
382 licensed nurse or an intern practitioner under his or her
383 direction and supervision only. A veterinarian may so prescribe,
384 administer, dispense, mix, or prepare a controlled substance for
385 use on animals only, and may cause it to be administered by an
386 assistant or orderly under the veterinarian's direction and
387 supervision only. A certified optometrist licensed under chapter
388 463 may not administer or prescribe a controlled substance
389 listed in Schedule I or Schedule II of s. 893.03.

390 Section 14. Paragraph (d) of subsection (1) of section
391 893.055, Florida Statutes, is amended to read:

392 893.055 Prescription drug monitoring program.—

393 (1) As used in this section, the term:

394 (d) "Health care practitioner" or "practitioner" means any
395 practitioner who is subject to licensure or regulation by the
396 department under chapter 458, chapter 459, chapter 461, chapter
397 462, chapter 463, chapter 464, chapter 465, or chapter 466.

398 Section 15. Section 463.009, Florida Statutes, is amended
399 to read:

400 463.009 Supportive personnel.—No person other than a
401 licensed practitioner may engage in the practice of optometry as

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402 defined in s. 463.002(7) ~~463.002(5)~~. Except as provided in this
403 section, under no circumstances shall nonlicensed supportive
404 personnel be delegated diagnosis or treatment duties; however,
405 such personnel may perform data gathering, preliminary testing,
406 prescribed visual therapy, and related duties under the direct
407 supervision of the licensed practitioner. Nonlicensed personnel,
408 who need not be employees of the licensed practitioner, may
409 perform ministerial duties, tasks, and functions assigned to
410 them by and performed under the general supervision of a
411 licensed practitioner, including obtaining information from
412 consumers for the purpose of making appointments for the
413 licensed practitioner. The licensed practitioner shall be
414 responsible for all delegated acts performed by persons under
415 her or his direct and general supervision.

416 Section 16. Subsection (19) of section 641.31, Florida
417 Statutes, is amended to read:

418 641.31 Health maintenance contracts.—

419 (19) Notwithstanding any other provision of law, health
420 maintenance policies or contracts which provide coverage,
421 benefits, or services as described in s. 463.002(7) ~~463.002(5)~~,
422 shall offer to the subscriber the services of an optometrist
423 licensed pursuant to chapter 463.

424 Section 17. This act shall take effect July 1, 2013.

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426 -----

427 **T I T L E A M E N D M E N T**

428 Remove everything before the enacting clause and insert:

429 A bill to be entitled

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430 An act relating to the practice of optometry; amending
431 s. 463.002, F.S.; revising and providing definitions;
432 authorizing a certified optometrist to administer and
433 prescribe ocular pharmaceutical agents; amending s.
434 463.005, F.S.; authorizing the Board of Optometry to
435 adopt rules relating to the administration and
436 prescription of ocular pharmaceutical agents; amending
437 s. 463.0055, F.S.; requiring a certified optometrist
438 to complete a board-approved course and examination on
439 general and ocular pharmaceutical agents before
440 administering or prescribing those agents; requiring
441 the certified optometrist to provide proof to the
442 department of successful completion of the course and
443 examination; authorizing that successful completion of
444 the course and examination be used to satisfy certain
445 continuing education requirements; requiring the board
446 to establish a formulary of topical ocular
447 pharmaceutical agents that may be prescribed and
448 administered by certified optometrists; deleting
449 provisions with respect to a committee; establishing a
450 statutory formulary of oral ocular pharmaceutical
451 agents; prohibiting a certified optometrist from
452 administering or prescribing certain controlled
453 substances; amending s. 463.0057, F.S.; providing
454 conditions under which the holder of an optometric
455 faculty certificate may administer and prescribe oral
456 ocular pharmaceutical agents; amending s. 463.006,
457 F.S.; revising provisions relating to licensure and

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458 certification of optometrists, to conform; amending s.
459 463.0135, F.S.; authorizing a certified optometrist to
460 perform certain eye examinations; requiring a transfer
461 of care letter for the co-management of postoperative
462 care; requiring patient consent; requiring the patient
463 to be informed of the fees and provided an itemized
464 statement of services; amending s. 463.014, F.S.;
465 prohibiting a licensed practitioner of optometry from
466 providing any drug for the purpose of treating a
467 systemic disease; specifying procedures that a
468 certified optometrist is authorized to perform;
469 creating s. 463.0141, F.S.; requiring the reporting of
470 adverse incidents in the practice of optometry to the
471 department according to specified procedures;
472 providing a definition; requiring the department to
473 review the conduct of licensed practitioners with
474 respect to adverse incidents, to which disciplinary
475 action may apply; amending s. 483.035, F.S.; requiring
476 a clinical laboratory operated by a licensed
477 practitioner of optometry to be licensed under
478 Optometry Practice Act; amending s. 483.041, F.S.;
479 revising the definition of the term "licensed
480 practitioner" to include certified optometrists;
481 amending s. 483.181, F.S.; providing for an
482 optometrist to accept a human specimen for
483 examination, under certain conditions; amending s.
484 893.02, F.S.; redefining the term "practitioner" to
485 include certified optometrists; amending s. 893.05,

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486 F.S.; prohibiting a certified optometrist from
487 administering or prescribing certain controlled
488 substances; amending s. 893.055, F.S.; revising the
489 term "health care practitioner" to include certified
490 optometrists for purposes of the prescription drug
491 monitoring program; amending ss. 463.009 and 641.31,
492 F.S.; conforming cross-references; providing an
493 effective date.