

1 A bill to be entitled
2 An act relating to the practice of optometry; amending
3 s. 463.002, F.S.; providing definitions; authorizing a
4 certified optometrist to administer and prescribe
5 ocular pharmaceutical agents; amending s. 463.005,
6 F.S.; authorizing the Board of Optometry to adopt
7 rules relating to the administration and prescription
8 of ocular pharmaceutical agents; amending s. 463.0055,
9 F.S.; requiring a certified optometrist to complete a
10 course and examination on general and ocular
11 pharmaceutical agents before administering or
12 prescribing those agents; requiring the certified
13 optometrist to send proof to the department of
14 successful completion of a course and subsequent
15 examination; providing exceptions to the
16 pharmaceutical agents a certified optometrist may
17 administer or prescribe; providing an exception to the
18 coursework and subsequent examination requirements;
19 specifying the number of required course hours based
20 on the date of licensure; requiring the Florida
21 Medical Association and the Florida Optometric
22 Association to jointly develop and administer the
23 course and examination; revising provisions relating
24 to the development of a formulary of ocular
25 pharmaceutical agents; providing that the committee's
26 advisory opinions and recommendations state specific
27 findings of fact and grounds for recommendations;
28 providing an exception to review; providing that the

29 board is bound by the committee's advisory opinions
30 and recommendations unless competent substantial
31 evidence is presented to the board to rebut; amending
32 s. 463.0057, F.S.; prohibiting the holder of an
33 optometric faculty certificate from administering or
34 prescribing ocular pharmaceutical agents; amending s.
35 463.006, F.S.; revising provisions relating to
36 licensure and certification of optometrists; amending
37 s. 463.0135, F.S.; authorizing a certified optometrist
38 to perform certain eye examinations; requiring a
39 comanagement letter to transfer a patient for
40 postoperative care; requiring patient consent;
41 requiring the patient to be informed of the fees and
42 provided an itemized statement of services; amending
43 s. 463.014, F.S.; prohibiting a licensed practitioner
44 of optometry from providing any drug for the purpose
45 of treating a systemic disease; specifying procedures
46 that a certified optometrist is authorized to perform;
47 amending s. 483.035, F.S.; requiring a clinical
48 laboratory operated by a licensed practitioner of
49 optometry to be licensed under ch. 463, F.S.; amending
50 s. 483.041, F.S.; revising the definition of the term
51 "licensed practitioner" to include certified
52 optometrists; amending s. 483.181, F.S.; providing for
53 an optometrist to accept a human specimen for
54 examination, under certain conditions; amending s.
55 893.02, F.S.; redefining the term "practitioner" to
56 include certified optometrists; amending ss. 463.009

57 and 641.31, F.S.; conforming cross-references;
 58 providing an effective date.

59

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

61

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

68 463.002 Definitions.—As used in this chapter, the term:

69 (3)

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

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

78 (5) "Ocular pharmaceutical agent" means a pharmaceutical
 79 agent that is administered topically or orally for the diagnosis
 80 and treatment of ocular conditions of the human eye and its
 81 appendages without the use of surgery or other invasive
 82 techniques.

83 (6) "Surgery" means a procedure using an instrument,
 84 including a laser, needle, or scalpel, to cut, burn, vaporize,

85 remove, or otherwise alter human tissue by incision, injection,
 86 ultrasound, radiation, infusion, cryotherapy, or scraping. The
 87 term also includes a procedure requiring closure by suture,
 88 clamp, adhesive, or any other such method.

89 (7)-(5) "Optometry" means the diagnosis of conditions of the
 90 human eye and its appendages; the employment of any objective or
 91 subjective means or methods, including the administration of
 92 ~~topical~~ ocular pharmaceutical agents, for the purpose of
 93 determining the refractive powers of the human eyes, or any
 94 visual, muscular, neurological, or anatomic anomalies of the
 95 human eyes and their appendages; and the prescribing and
 96 employment of lenses, prisms, frames, mountings, contact lenses,
 97 orthoptic exercises, light frequencies, and any other means or
 98 methods, including ~~topical~~ ocular pharmaceutical agents, for the
 99 correction, remedy, or relief of any insufficiencies or abnormal
 100 conditions of the human eyes and their appendages.

101 Section 2. Paragraph (g) of subsection (1) of section
 102 463.005, Florida Statutes, is amended to read:

103 463.005 Authority of the board.—

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

108 (g) Administration and prescription of ~~topical~~ ocular
 109 pharmaceutical agents.

110 Section 3. Section 463.0055, Florida Statutes, is amended
 111 to read:

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112 463.0055 Administration and prescription of ~~topical~~ ocular
113 pharmaceutical agents; committee.—

114 (1) (a) Certified optometrists may administer and prescribe
115 ~~topical~~ ocular pharmaceutical agents as provided in this section
116 for the diagnosis and treatment of ocular conditions of the
117 human eye and its appendages without the use of surgery or other
118 invasive techniques. However, a licensed practitioner who is not
119 certified may use topically applied anesthetics solely for the
120 purpose of glaucoma examinations, but is otherwise prohibited
121 from administering or prescribing ~~topical~~ ocular pharmaceutical
122 agents.

123 (b) Before a certified optometrist may administer or
124 prescribe oral ocular pharmaceutical agents, the certified
125 optometrist must send proof to the department of successful
126 completion of a course and subsequent examination on general and
127 ocular pharmaceutical agents and the side effects of those
128 agents. For certified optometrists licensed before January 1,
129 1990, the course shall consist of 50 contact hours and 25 of
130 those hours shall be web-based. For certified optometrists
131 licensed on or after January 1, 1990, the course shall consist
132 of 20 contact hours and 10 of those hours shall be web-based.
133 The first course and examination shall be presented by July 1,
134 2013, and shall be administered at least annually thereafter.
135 The Florida Medical Association and the Florida Optometric
136 Association shall jointly develop and administer a course and
137 examination for such purpose and jointly determine the site or
138 sites for the course and examination. A certified optometrist
139 may not administer or prescribe pharmaceutical agents:

140 1. Listed in Schedule II of s. 893.03.

141 2. Listed in Schedule III, IV, or V, except for oral
142 analgesics for the relief of pain due to ocular conditions of
143 the eye and its appendages.

144 3. For the treatment of chronic nonmalignant pain as
145 defined in s. 456.44(1)(e).

146
147 If a certified optometrist does not complete a course and
148 subsequent examination under this paragraph, the certified
149 optometrist is only authorized to administer and prescribe
150 topical ocular pharmaceutical agents.

151 (2)(a) There is ~~hereby~~ created a committee composed of two
152 certified optometrists licensed pursuant to this chapter,
153 appointed by the Board of Optometry, two board-certified
154 ophthalmologists licensed pursuant to chapter 458 or chapter
155 459, appointed by the Board of Medicine, and one additional
156 person with a doctorate degree in pharmacology who is not
157 licensed pursuant to chapter 458, chapter 459, or this chapter,
158 appointed by the State Surgeon General. The committee shall
159 review requests for additions to, deletions from, or
160 modifications of a formulary of ~~topical~~ ocular pharmaceutical
161 agents for administration and prescription by certified
162 optometrists and shall provide to the board advisory opinions
163 and recommendations on such requests. The advisory opinions and
164 recommendations must state specific findings of fact and grounds
165 for its recommendation and are not subject to review pursuant to
166 ss. 120.569 and 120.57. The formulary shall consist of those
167 ~~topical~~ ocular pharmaceutical agents that ~~which~~ are appropriate

168 to treat and diagnose ocular diseases and disorders and which
169 the certified optometrist is qualified to use in the practice of
170 optometry. The board shall establish, add to, delete from, or
171 modify the formulary by rule. The board is bound by the
172 committee's advisory opinions and recommendations on oral ocular
173 pharmaceutical agents unless competent substantial evidence is
174 presented to the board sufficient to rebut the committee's
175 advisory opinion and recommendation. Notwithstanding any
176 provision of chapter 120 to the contrary, the formulary rule
177 becomes ~~shall become~~ effective 60 days from the date it is filed
178 with the Secretary of State.

179 (b) The formulary may be added to, deleted from, or
180 modified according to the procedure described in paragraph (a).
181 Any person who requests an addition, deletion, or modification
182 of an authorized ~~topical~~ ocular pharmaceutical agent shall have
183 the burden of proof to show cause why such addition, deletion,
184 or modification should be made.

185 (c) The State Surgeon General shall have standing to
186 challenge any rule or proposed rule of the board pursuant to s.
187 120.56. In addition to challenges for any invalid exercise of
188 delegated legislative authority, the administrative law judge,
189 upon such a challenge by the State Surgeon General, may declare
190 all or part of a rule or proposed rule invalid if it:

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

193 2. Unreasonably restricts competition or the availability
194 of professional services in the state or in a significant part
195 of the state; or

196 3. Unnecessarily increases the cost of professional
 197 services without a corresponding or equivalent public benefit.
 198

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

202 (d) Upon adoption of the formulary required by this
 203 section, and upon each addition, deletion, or modification to
 204 the formulary, the board shall mail a copy of the amended
 205 formulary to each certified optometrist and to each pharmacy
 206 licensed by the state.

207 (3) A certified optometrist shall be issued a prescriber
 208 number by the board. Any prescription written by a certified
 209 optometrist for an ~~a topical~~ ocular pharmaceutical agent
 210 pursuant to this section shall have the prescriber number
 211 printed thereon.

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

214 463.0057 Optometric faculty certificate.—

215 (3) The holder of a faculty certificate may engage in the
 216 practice of optometry as permitted by this section, but may not
 217 administer or prescribe ~~topical~~ ocular pharmaceutical agents
 218 unless the certificateholder has satisfied the requirements of
 219 s. 463.006(1)(b)4. and 5. If a certificateholder wishes to
 220 administer or prescribe oral ocular pharmaceutical agents, the
 221 certificateholder must also satisfy the requirements under s.
 222 463.0055(1)(b).

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

225 463.006 Licensure and certification by examination.—

226 (2) The examination shall consist of the appropriate
 227 subjects, including applicable state laws and rules and general
 228 and ocular pharmacology with emphasis on the use ~~topical~~
 229 ~~application~~ and side effects of ocular pharmaceutical agents.
 230 The board may by rule substitute a national examination as part
 231 or all of the examination and may by rule offer a practical
 232 examination in addition to the written examination.

233 (3) Each applicant who successfully passes the examination
 234 and otherwise meets the requirements of this chapter is entitled
 235 to be licensed as a practitioner and to be certified to
 236 administer and prescribe ~~topical~~ ocular pharmaceutical agents in
 237 the diagnosis and treatment of ocular conditions.

238 Section 6. Subsections (10) and (11) are added to section
 239 463.0135, Florida Statutes, to read:

240 463.0135 Standards of practice.—

241 (10) A certified optometrist is authorized to perform any
 242 eye examination, including a dilated examination, required or
 243 authorized by chapter 548 or by rules adopted to implement that
 244 chapter.

245 (11) Comanagement of postoperative care shall be conducted
 246 pursuant to the requirements of this section and a patient-
 247 specific transfer of care letter that governs the relationship
 248 between the physician who performed surgery and the licensed
 249 practitioner. The patient must be fully informed of, and consent
 250 in writing to, the comanagement relationship for his or her

251 care. The transfer of care letter shall confirm that it is not
252 medically necessary for the physician who performed the surgery
253 to provide such postoperative care to the patient, and that it
254 is clinically appropriate for the licensed practitioner to
255 provide such postoperative care. Before comanagement of post-
256 operative care commences, the patient shall be informed in
257 writing that he or she has the right to be seen by the physician
258 who performed the surgery during the entire postoperative
259 period. In addition, the patient must be informed of the fees,
260 if any, to be charged by the licensed practitioner and the
261 physician performing the surgery, and must be provided with an
262 accurate and comprehensive itemized statement of the specific
263 postoperative-care services that the physician performing the
264 surgery and the licensed practitioner render, along with the
265 charge for each service.

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

268 463.014 Certain acts prohibited.—

269 (3) Prescribing, ordering, dispensing, administering,
270 supplying, selling, or giving any drug for the purpose of
271 treating a systemic disease ~~systemic drugs~~ by a licensed
272 practitioner is prohibited.

273 (4) Surgery of any kind, including the use of lasers, is
274 expressly prohibited. Certified optometrists may remove
275 superficial foreign bodies. For the purposes of this subsection,
276 the term "superficial foreign bodies" means any foreign matter
277 that is embedded in the conjunctiva or cornea but which has not
278 penetrated the globe. Nothing in this chapter shall prohibit a

279 certified optometrist from removing an eyelash by epilation,
280 probing an uninflamed tear duct of a patient, or scraping for
281 the purpose of taking a culture of the surface of the cornea.

282 Section 8. Subsection (1) of section 483.035, Florida
283 Statutes, is amended to read:

284 483.035 Clinical laboratories operated by practitioners
285 for exclusive use; licensure and regulation.—

286 (1) A clinical laboratory operated by one or more
287 practitioners licensed under chapter 458, chapter 459, chapter
288 460, chapter 461, chapter 462, chapter 463, or chapter 466,
289 exclusively in connection with the diagnosis and treatment of
290 their own patients, must be licensed under this part and must
291 comply with the provisions of this part, except that the agency
292 shall adopt rules for staffing, for personnel, including
293 education and training of personnel, for proficiency testing,
294 and for construction standards relating to the licensure and
295 operation of the laboratory based upon and not exceeding the
296 same standards contained in the federal Clinical Laboratory
297 Improvement Amendments of 1988 and the federal regulations
298 adopted thereunder.

299 Section 9. Subsection (7) of section 483.041, Florida
300 Statutes, is amended to read:

301 483.041 Definitions.—As used in this part, the term:

302 (7) "Licensed practitioner" means a physician licensed
303 under chapter 458, chapter 459, chapter 460, or chapter 461; a
304 certified optometrist licensed under chapter 463; a dentist
305 licensed under chapter 466; a person licensed under chapter 462;
306 or an advanced registered nurse practitioner licensed under part

307 I of chapter 464; or a duly licensed practitioner from another
308 state licensed under similar statutes who orders examinations on
309 materials or specimens for nonresidents of the State of Florida,
310 but who reside in the same state as the requesting licensed
311 practitioner.

312 Section 10. Subsection (5) of section 483.181, Florida
313 Statutes, is amended to read:

314 483.181 Acceptance, collection, identification, and
315 examination of specimens.—

316 (5) A clinical laboratory licensed under this part must
317 accept a human specimen submitted for examination by a
318 practitioner licensed under chapter 458, chapter 459, chapter
319 460, chapter 461, chapter 462, chapter 463, s. 464.012, or
320 chapter 466, if the specimen and test are the type performed by
321 the clinical laboratory. A clinical laboratory may only refuse a
322 specimen based upon a history of nonpayment for services by the
323 practitioner. A clinical laboratory shall not charge different
324 prices for tests based upon the chapter under which a
325 practitioner submitting a specimen for testing is licensed.

326 Section 11. Subsection (21) of section 893.02, Florida
327 Statutes, is amended to read:

328 893.02 Definitions.—The following words and phrases as
329 used in this chapter shall have the following meanings, unless
330 the context otherwise requires:

331 (21) "Practitioner" means a physician licensed pursuant to
332 chapter 458, a dentist licensed pursuant to chapter 466, a
333 veterinarian licensed pursuant to chapter 474, an osteopathic
334 physician licensed pursuant to chapter 459, a naturopath

335 licensed pursuant to chapter 462, a certified optometrist
336 licensed pursuant to chapter 463, or a podiatric physician
337 licensed pursuant to chapter 461, provided such practitioner
338 holds a valid federal controlled substance registry number.

339 Section 12. Section 463.009, Florida Statutes, is amended
340 to read:

341 463.009 Supportive personnel.—No person other than a
342 licensed practitioner may engage in the practice of optometry as
343 defined in s. 463.002(7) ~~463.002(5)~~. Except as provided in this
344 section, under no circumstances shall nonlicensed supportive
345 personnel be delegated diagnosis or treatment duties; however,
346 such personnel may perform data gathering, preliminary testing,
347 prescribed visual therapy, and related duties under the direct
348 supervision of the licensed practitioner. Nonlicensed personnel,
349 who need not be employees of the licensed practitioner, may
350 perform ministerial duties, tasks, and functions assigned to
351 them by and performed under the general supervision of a
352 licensed practitioner, including obtaining information from
353 consumers for the purpose of making appointments for the
354 licensed practitioner. The licensed practitioner shall be
355 responsible for all delegated acts performed by persons under
356 her or his direct and general supervision.

357 Section 13. Subsection (19) of section 641.31, Florida
358 Statutes, is amended to read:

359 641.31 Health maintenance contracts.—

360 (19) Notwithstanding any other provision of law, health
361 maintenance policies or contracts which provide coverage,
362 benefits, or services as described in s. 463.002(7) ~~463.002(5)~~,

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363 | shall offer to the subscriber the services of an optometrist
364 | licensed pursuant to chapter 463.

365 | Section 14. This act shall take effect July 1, 2013.