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2013 Legislature

1
2 An act relating to the practice of optometry; amending
3 s. 463.002, F.S.; revising and providing definitions;
4 authorizing a certified optometrist to administer and
5 prescribe ocular pharmaceutical agents; amending s.
6 463.005, F.S.; authorizing the Board of Optometry to
7 adopt rules relating to the administration and
8 prescription of ocular pharmaceutical agents; amending
9 s. 463.0055, F.S.; requiring a certified optometrist
10 to complete a board-approved course and examination on
11 general and ocular pharmaceutical agents before
12 administering or prescribing those agents; requiring
13 the certified optometrist to provide proof to the
14 department of successful completion of the course and
15 examination; authorizing that successful completion of
16 the course and examination be used to satisfy certain
17 continuing education requirements; requiring the board
18 to establish a formulary of topical ocular
19 pharmaceutical agents that may be prescribed and
20 administered by certified optometrists; deleting
21 provisions with respect to a committee; establishing a
22 statutory formulary of oral ocular pharmaceutical
23 agents; prohibiting a certified optometrist from
24 administering or prescribing certain controlled
25 substances; amending s. 463.0057, F.S.; providing
26 conditions under which the holder of an optometric
27 faculty certificate may administer and prescribe oral
28 ocular pharmaceutical agents; amending s. 463.006,



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29 F.S.; revising provisions relating to licensure and
30 certification of optometrists, to conform; amending s.
31 463.0135, F.S.; authorizing a certified optometrist to
32 perform certain eye examinations; requiring a transfer
33 of care letter for the co-management of postoperative
34 care; requiring patient consent; requiring the patient
35 to be informed of the fees and provided an itemized
36 statement of services; amending s. 463.014, F.S.;
37 prohibiting a licensed practitioner of optometry from
38 providing any drug for the purpose of treating a
39 systemic disease; specifying procedures that a
40 certified optometrist is authorized to perform;
41 creating s. 463.0141, F.S.; requiring the reporting of
42 adverse incidents in the practice of optometry to the
43 department according to specified procedures;
44 providing a definition; requiring the department to
45 review the conduct of licensed practitioners with
46 respect to adverse incidents, to which disciplinary
47 action may apply; amending s. 483.035, F.S.; requiring
48 a clinical laboratory operated by a licensed
49 practitioner of optometry to be licensed under
50 Optometry Practice Act; amending s. 483.041, F.S.;
51 revising the definition of the term "licensed
52 practitioner" to include certified optometrists;
53 amending s. 483.181, F.S.; providing for an
54 optometrist to accept a human specimen for
55 examination, under certain conditions; amending s.
56 893.02, F.S.; redefining the term "practitioner" to



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57 | include certified optometrists; amending s. 893.05,
58 | F.S.; prohibiting a certified optometrist from
59 | administering or prescribing certain controlled
60 | substances; amending s. 893.055, F.S.; revising the
61 | term "health care practitioner" to include certified
62 | optometrists for purposes of the prescription drug
63 | monitoring program; amending ss. 463.009 and 641.31,
64 | F.S.; conforming cross-references; providing an
65 | effective date.

66 |

67 | Be It Enacted by the Legislature of the State of Florida:

68 |

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

75 | 463.002 Definitions.—As used in this chapter, the term:

76 | (3)

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

82 | (4) "Certified optometrist" means a licensed practitioner
83 | authorized by the board to administer and prescribe ~~topical~~
84 | ocular pharmaceutical agents.



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85 (5) "Ocular pharmaceutical agent" means a pharmaceutical
 86 agent that is administered topically or orally for the diagnosis
 87 or treatment of ocular conditions of the human eye and its
 88 appendages without the use of surgery or other invasive
 89 techniques.

90 (6) "Surgery" means a procedure using an instrument,
 91 including a laser, scalpel, or needle, in which human tissue is
 92 cut, burned, scraped except as provided in s. 463.014(4), or
 93 vaporized, by incision, injection, ultrasound, laser, infusion,
 94 cryotherapy, or radiation. The term includes a procedure using
 95 an instrument which requires the closure of human tissue by
 96 suture, clamp, or other such device.

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

109 Section 2. Paragraph (g) of subsection (1) of section
 110 463.005, Florida Statutes, is amended to read:

111 463.005 Authority of the board.—

112 (1) The Board of Optometry has authority to adopt rules



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113 pursuant to ss. 120.536 (1) and 120.54 to implement the
 114 provisions of this chapter conferring duties upon it. Such rules
 115 shall include, but not be limited to, rules relating to:

116 (g) Administration and prescription of ~~topical~~ ocular
 117 pharmaceutical agents.

118 Section 3. Section 463.0055, Florida Statutes, is amended
 119 to read:

120 463.0055 Administration and prescription of ~~topical~~ ocular
 121 pharmaceutical agents; ~~committee.~~

122 (1) (a) Certified optometrists may administer and prescribe
 123 ~~topical~~ ocular pharmaceutical agents as provided in this section
 124 for the diagnosis and treatment of ocular conditions of the
 125 human eye and its appendages without the use of surgery or other
 126 invasive techniques. However, a licensed practitioner who is not
 127 certified may use topically applied anesthetics solely for the
 128 purpose of glaucoma examinations, but is otherwise prohibited
 129 from administering or prescribing ~~topical~~ ocular pharmaceutical
 130 agents.

131 (b) Before a certified optometrist may administer or
 132 prescribe oral ocular pharmaceutical agents, the certified
 133 optometrist must provide proof to the department of successful
 134 completion of a course and subsequent examination, approved by
 135 the board, on general and ocular pharmaceutical agents and the
 136 side effects of those agents. The course shall consist of 20
 137 contact hours, all of which may be web-based. The first course
 138 and examination shall be presented by October 1, 2013, and shall
 139 be administered at least annually thereafter. The course and
 140 examination shall be developed and offered jointly by a



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141 statewide professional association of physicians in this state
142 accredited to provide educational activities designated for the
143 American Medical Association Physician's Recognition Award (AMA
144 PRA) Category 1 credit and a statewide professional association
145 of licensed practitioners which provides board-approved
146 continuing education on an annual basis. The board shall review
147 and approve the content of the initial course and examination if
148 the board determines that the course and examination adequately
149 and reliably satisfy the criteria set forth in this section. The
150 board shall thereafter annually review and approve the course
151 and examination if the board determines that the content
152 continues to adequately and reliably satisfy the criteria set
153 forth in this section. Successful completion of the board-
154 approved course and examination may be used by a certified
155 optometrist to satisfy 20 hours of the continuing education
156 requirements in s. 463.007(3), only for the biennial period in
157 which the board-approved course and examination are taken. If a
158 certified optometrist does not complete a board-approved course
159 and examination under this section, the certified optometrist is
160 only authorized to administer and prescribe topical ocular
161 pharmaceutical agents.

162 (2) (a) The board shall establish a formulary of topical
163 ocular pharmaceutical agents that may be prescribed and
164 administered by a certified optometrist. ~~There is hereby created~~
165 ~~a committee composed of two optometrists licensed pursuant to~~
166 ~~this chapter, appointed by the Board of Optometry, two board-~~
167 ~~certified ophthalmologists licensed pursuant to chapter 458 or~~
168 ~~chapter 459, appointed by the Board of Medicine, and one~~



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169 ~~additional person with a doctorate degree in pharmacology who is~~
 170 ~~not licensed pursuant to chapter 458, chapter 459, or this~~
 171 ~~chapter, appointed by the State Surgeon General. The committee~~
 172 ~~shall review requests for additions to, deletions from, or~~
 173 ~~modifications of a formulary of topical ocular pharmaceutical~~
 174 ~~agents for administration and prescription by certified~~
 175 ~~optometrists and shall provide to the board advisory opinions~~
 176 ~~and recommendations on such requests. The formulary shall~~
 177 consist of those topical ocular pharmaceutical agents that are
 178 appropriate to treat or diagnose ocular diseases and disorders
 179 and that ~~which~~ the certified optometrist is qualified to use in
 180 the practice of optometry. The board shall establish, add to,
 181 delete from, or modify the topical formulary by rule.

182 Notwithstanding any provision of chapter 120 to the contrary,
 183 the topical formulary rule becomes ~~shall become~~ effective 60
 184 days from the date it is filed with the Secretary of State.

185 (b) The formulary may be added to, deleted from, or
 186 modified according to the procedure described in paragraph (a).
 187 Any person who requests an addition, deletion, or modification
 188 of an authorized topical ocular pharmaceutical agent shall have
 189 the burden of proof to show cause why such addition, deletion,
 190 or modification should be made.

191 (c) The State Surgeon General shall have standing to
 192 challenge any rule or proposed rule of the board pursuant to s.
 193 120.56. In addition to challenges for any invalid exercise of
 194 delegated legislative authority, the administrative law judge,
 195 upon such a challenge by the State Surgeon General, may declare
 196 all or part of a rule or proposed rule invalid if it:



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

199 2. Unreasonably restricts competition or the availability
200 of professional services in the state or in a significant part
201 of the state; or

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

204
205 However, there shall not be created a presumption of the
206 existence of any of the conditions cited in this subsection in
207 the event that the rule or proposed rule is challenged.

208 (d) Upon adoption of the formulary required by this
209 section, and upon each addition, deletion, or modification to
210 the formulary, the board shall mail a copy of the amended
211 formulary to each certified optometrist and to each pharmacy
212 licensed by the state.

213 (3) In addition to the formulary of topical ocular
214 pharmaceutical agents established by rule of the board, there is
215 created a statutory formulary of oral ocular pharmaceutical
216 agents, which includes the following agents:

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

- 222 1. Tramadol hydrochloride.
223 2. Acetaminophen 300 mg with No. 3 codeine phosphate 30
224 mg.



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225 (b) The following antibiotics or their generic or
 226 therapeutic equivalents:

- 227 1. Amoxicillin with or without clavulanic acid.
- 228 2. Azithromycin.
- 229 3. Erythromycin.
- 230 4. Dicloxacillin.
- 231 5. Doxycycline/Tetracycline.
- 232 6. Keflex.
- 233 7. Minocycline.

234 (c) The following antivirals or their generic or
 235 therapeutic equivalents:

- 236 1. Acyclovir.
- 237 2. Famciclovir.
- 238 3. Valacyclovir.

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

- 242 1. Acetazolamide.
- 243 2. Methazolamide.

244

245 Any oral ocular pharmaceutical agent that is listed in the
 246 statutory formulary set forth in this subsection and that is
 247 subsequently determined by the United States Food and Drug
 248 Administration to be unsafe for administration or prescription
 249 shall be considered to have been deleted from the formulary of
 250 oral ocular pharmaceutical agents. The oral ocular
 251 pharmaceutical agents on the statutory formulary set forth in
 252 this subsection may not otherwise be deleted by the board, the



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253 department, or the State Surgeon General.

254 (4)~~(3)~~ A certified optometrist shall be issued a
255 prescriber number by the board. Any prescription written by a
256 certified optometrist for an ~~a topical~~ ocular pharmaceutical
257 agent pursuant to this section shall have the prescriber number
258 printed thereon. A certified optometrist may not administer or
259 prescribe:

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

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

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

269 463.0057 Optometric faculty certificate.—

270 (3) The holder of a faculty certificate may engage in the
271 practice of optometry as permitted by this section, but may not
272 administer or prescribe topical ocular pharmaceutical agents
273 unless the certificateholder has satisfied the requirements of
274 s. 463.006(1)(b)4. and 5. If a certificateholder wishes to
275 administer or prescribe oral ocular pharmaceutical agents, the
276 certificateholder must also satisfy the requirements of s.
277 463.0055(1)(b).

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

280 463.006 Licensure and certification by examination.—



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281 (2) The examination shall consist of the appropriate
282 subjects, including applicable state laws and rules and general
283 and ocular pharmacology with emphasis on the use ~~topical~~
284 ~~application~~ and side effects of ocular pharmaceutical agents.
285 The board may by rule substitute a national examination as part
286 or all of the examination and may by rule offer a practical
287 examination in addition to the written examination.

288 (3) Each applicant who successfully passes the examination
289 and otherwise meets the requirements of this chapter is entitled
290 to be licensed as a practitioner and to be certified to
291 administer and prescribe ~~topical~~ ocular pharmaceutical agents in
292 the diagnosis and treatment of ocular conditions.

293 Section 6. Subsections (10) and (11) are added to section
294 463.0135, Florida Statutes, to read:

295 463.0135 Standards of practice.—

296 (10) A certified optometrist is authorized to perform any
297 eye examination, including a dilated examination, required or
298 authorized by chapter 548 or by rules adopted to implement that
299 chapter.

300 (11) Co-management of postoperative care shall be
301 conducted pursuant to the requirements of this section and a
302 patient-specific transfer of care letter that governs the
303 relationship between the physician who performed the surgery and
304 the licensed practitioner. The patient must be fully informed
305 of, and consent in writing to, the co-management relationship
306 for his or her care. The transfer of care letter shall confirm
307 that it is not medically necessary for the physician who
308 performed the surgery to provide such postoperative care to the



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309 patient and that it is clinically appropriate for the licensed
310 practitioner to provide such postoperative care. Before co-
311 management of postoperative care commences, the patient shall be
312 informed in writing that he or she has the right to be seen
313 during the entire postoperative period by the physician who
314 performed the surgery. In addition, the patient must be informed
315 of the fees, if any, to be charged by the licensed practitioner
316 and the physician performing the surgery, and must be provided
317 with an accurate and comprehensive itemized statement of the
318 specific postoperative care services that the physician
319 performing the surgery and the licensed practitioner render,
320 along with the charge for each service.

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

323 463.014 Certain acts prohibited.—

324 (3) Prescribing, ordering, dispensing, administering,
325 supplying, selling, or giving any drug for the purpose of
326 treating a systemic disease ~~systemic drugs~~ by a licensed
327 practitioner is prohibited. However, a certified optometrist is
328 permitted to use commonly accepted means or methods to
329 immediately address incidents of anaphylaxis.

330 (4) Surgery of any kind, ~~including the use of lasers,~~ is
331 expressly prohibited. Certified optometrists may remove
332 superficial foreign bodies. For the purposes of this subsection,
333 the term "superficial foreign bodies" means any foreign matter
334 that is embedded in the conjunctiva or cornea but that ~~which~~ has
335 not penetrated the globe. Notwithstanding the definition of
336 surgery as provided in s. 463.002(6), a certified optometrist is



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337 not prohibited from providing any optometric care within the
338 practice of optometry as defined in s. 463.002(7), such as
339 removing an eyelash by epilation, probing an uninflamed tear
340 duct in a patient 18 years of age or older, blocking the puncta
341 by plug, or superficial scraping for the purpose of removing
342 damaged epithelial tissue or superficial foreign bodies or
343 taking a culture of the surface of the cornea or conjunctiva.

344 Section 8. Section 463.0141, Florida Statutes, is created
345 to read:

346 463.0141 Reports of adverse incidents in the practice of
347 optometry.—

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

351 (2) The required notification must be in writing and
352 submitted to the department by certified mail. The required
353 notification must be postmarked within 15 days after the adverse
354 incident if the adverse incident occurs when the patient is at
355 the office of the licensed practitioner. If the adverse incident
356 occurs when the patient is not at the office of the licensed
357 practitioner, the required notification must be postmarked
358 within 15 days after the licensed practitioner discovers, or
359 reasonably should have discovered, the occurrence of the adverse
360 incident.

361 (3) For purposes of notification to the department, the
362 term "adverse incident," as used in this section, means any of
363 the following events when it is reasonable to believe that the
364 event is attributable to the prescription of an oral ocular



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365 pharmaceutical agent by the licensed practitioner:

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

368 (b) Any condition that requires the patient to obtain care
 369 from a physician licensed under chapter 458 or chapter 459,
 370 other than a referral or a consultation required under this
 371 chapter.

372 (c) Permanent physical injury to the patient.

373 (d) Partial or complete permanent loss of sight by the
 374 patient.

375 (e) Death of the patient.

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

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

383 483.035 Clinical laboratories operated by practitioners
 384 for exclusive use; licensure and regulation.—

385 (1) A clinical laboratory operated by one or more
 386 practitioners licensed under chapter 458, chapter 459, chapter
 387 460, chapter 461, chapter 462, chapter 463, or chapter 466,
 388 exclusively in connection with the diagnosis and treatment of
 389 their own patients, must be licensed under this part and must
 390 comply with the provisions of this part, except that the agency
 391 shall adopt rules for staffing, for personnel, including
 392 education and training of personnel, for proficiency testing,



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393 and for construction standards relating to the licensure and
 394 operation of the laboratory based upon and not exceeding the
 395 same standards contained in the federal Clinical Laboratory
 396 Improvement Amendments of 1988 and the federal regulations
 397 adopted thereunder.

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

400 483.041 Definitions.—As used in this part, the term:

401 (7) "Licensed practitioner" means a physician licensed
 402 under chapter 458, chapter 459, chapter 460, or chapter 461; a
 403 certified optometrist licensed under chapter 463; a dentist
 404 licensed under chapter 466; a person licensed under chapter 462;
 405 or an advanced registered nurse practitioner licensed under part
 406 I of chapter 464; or a duly licensed practitioner from another
 407 state licensed under similar statutes who orders examinations on
 408 materials or specimens for nonresidents of the State of Florida,
 409 but who reside in the same state as the requesting licensed
 410 practitioner.

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

413 483.181 Acceptance, collection, identification, and
 414 examination of specimens.—

415 (5) A clinical laboratory licensed under this part must
 416 accept a human specimen submitted for examination by a
 417 practitioner licensed under chapter 458, chapter 459, chapter
 418 460, chapter 461, chapter 462, chapter 463, s. 464.012, or
 419 chapter 466, if the specimen and test are the type performed by
 420 the clinical laboratory. A clinical laboratory may only refuse a



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421 specimen based upon a history of nonpayment for services by the
422 practitioner. A clinical laboratory shall not charge different
423 prices for tests based upon the chapter under which a
424 practitioner submitting a specimen for testing is licensed.

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

427 893.02 Definitions.—The following words and phrases as
428 used in this chapter shall have the following meanings, unless
429 the context otherwise requires:

430 (21) "Practitioner" means a physician licensed pursuant to
431 chapter 458, a dentist licensed pursuant to chapter 466, a
432 veterinarian licensed pursuant to chapter 474, an osteopathic
433 physician licensed pursuant to chapter 459, a naturopath
434 licensed pursuant to chapter 462, a certified optometrist
435 licensed pursuant to chapter 463, or a podiatric physician
436 licensed pursuant to chapter 461, provided such practitioner
437 holds a valid federal controlled substance registry number.

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

440 893.05 Practitioners and persons administering controlled
441 substances in their absence.—

442 (1) A practitioner, in good faith and in the course of his
443 or her professional practice only, may prescribe, administer,
444 dispense, mix, or otherwise prepare a controlled substance, or
445 the practitioner may cause the same to be administered by a
446 licensed nurse or an intern practitioner under his or her
447 direction and supervision only. A veterinarian may so prescribe,
448 administer, dispense, mix, or prepare a controlled substance for



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449 use on animals only, and may cause it to be administered by an
450 assistant or orderly under the veterinarian's direction and
451 supervision only. A certified optometrist licensed under chapter
452 463 may not administer or prescribe a controlled substance
453 listed in Schedule I or Schedule II of s. 893.03.

454 Section 14. Paragraph (d) of subsection (1) of section
455 893.055, Florida Statutes, is amended to read:

456 893.055 Prescription drug monitoring program.—

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

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

462 Section 15. Section 463.009, Florida Statutes, is amended
463 to read:

464 463.009 Supportive personnel.—No person other than a
465 licensed practitioner may engage in the practice of optometry as
466 defined in s. 463.002(7) ~~463.002(5)~~. Except as provided in this
467 section, under no circumstances shall nonlicensed supportive
468 personnel be delegated diagnosis or treatment duties; however,
469 such personnel may perform data gathering, preliminary testing,
470 prescribed visual therapy, and related duties under the direct
471 supervision of the licensed practitioner. Nonlicensed personnel,
472 who need not be employees of the licensed practitioner, may
473 perform ministerial duties, tasks, and functions assigned to
474 them by and performed under the general supervision of a
475 licensed practitioner, including obtaining information from
476 consumers for the purpose of making appointments for the



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477 licensed practitioner. The licensed practitioner shall be
478 responsible for all delegated acts performed by persons under
479 her or his direct and general supervision.

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

482 641.31 Health maintenance contracts.-

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

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