



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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	.	

The Committee on Appropriations (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

463.002 Definitions.—As used in this chapter, the term:
(3)



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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
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, 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 the
34 human eye and its appendages; the employment of any objective or
35 subjective means or methods, including the administration of
36 ~~topical~~ ocular pharmaceutical agents, for the purpose of
37 determining the refractive powers of the human eyes, or any
38 visual, muscular, neurological, or anatomic anomalies of the
39 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



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42 methods, including ~~topical~~ ocular pharmaceutical agents, for the
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.

98 (2) (a) The board shall establish a formulary of topical
99 ocular pharmaceutical agents that may be prescribed and



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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
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.



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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:

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:



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158 1. Tramadol hydrochloride.

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

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

162 1. Amoxicillin with or without clavulanic acid.

163 2. Azithromycin.

164 3. Erythromycin.

165 4. Dicloxacillin.

166 5. Doxycycline/Tetracycline.

167 6. Keflex.

168 7. Minocycline.

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

171 1. Acyclovir.

172 2. Famciclovir.

173 3. Valacyclovir.

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

177 1. Acetazolamide.

178 2. Methazolamide.

179
180 Any oral ocular pharmaceutical agent that is listed in the
181 statutory formulary set forth in this subsection and that is
182 subsequently determined by the United States Food and Drug
183 Administration to be unsafe for administration or prescription
184 shall be considered to have been deleted from the formulary of
185 oral ocular pharmaceutical agents. The oral ocular
186 pharmaceutical agents on the statutory formulary set forth in



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187 this subsection may not otherwise be deleted by the board, the
188 department, or the State Surgeon General.

189 (4) ~~(3)~~ A certified optometrist shall be issued a prescriber
190 number by the board. Any prescription written by a certified
191 optometrist for ~~an a-topical~~ ocular pharmaceutical agent
192 pursuant to this section shall have the prescriber number
193 printed thereon. A certified optometrist may not administer or
194 prescribe:

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

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

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

203 463.0057 Optometric faculty certificate.—

204 (3) The holder of a faculty certificate may engage in the
205 practice of optometry as permitted by this section, but may not
206 administer or prescribe topical ocular pharmaceutical agents
207 unless the certificateholder has satisfied the requirements of
208 s. 463.006(1)(b)4. and 5. If a certificateholder wishes to
209 administer or prescribe oral ocular pharmaceutical agents, the
210 certificateholder must also satisfy the requirements of s.
211 463.0055(1)(b).

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

214 463.006 Licensure and certification by examination.—

215 (2) The examination shall consist of the appropriate



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216 subjects, including applicable state laws and rules and general
217 and ocular pharmacology with emphasis on the use ~~topical~~
218 ~~application~~ and side effects of ocular pharmaceutical agents.
219 The board may by rule substitute a national examination as part
220 or all of the examination and may by rule offer a practical
221 examination in addition to the written examination.

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

227 Section 6. Subsections (10) and (11) are added to section
228 463.0135, Florida Statutes, to read:

229 463.0135 Standards of practice.—

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

234 (11) Co-management of postoperative care shall be conducted
235 pursuant to the requirements of this section and a patient-
236 specific transfer of care letter that governs the relationship
237 between the physician who performed the surgery and the licensed
238 practitioner. The patient must be fully informed of, and consent
239 in writing to, the co-management relationship for his or her
240 care. The transfer of care letter shall confirm that it is not
241 medically necessary for the physician who performed the surgery
242 to provide such postoperative care to the patient and that it is
243 clinically appropriate for the licensed practitioner to provide
244 such postoperative care. Before co-management of postoperative



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245 care commences, the patient shall be informed in writing that he
246 or she has the right to be seen during the entire postoperative
247 period by the physician who performed the surgery. In addition,
248 the patient must be informed of the fees, if any, to be charged
249 by the licensed practitioner and the physician performing the
250 surgery, and must be provided with an accurate and comprehensive
251 itemized statement of the specific postoperative care services
252 that the physician performing the surgery and the licensed
253 practitioner render, along with the charge for each service.

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

256 463.014 Certain acts prohibited.-

257 (3) Prescribing, ordering, dispensing, administering,
258 supplying, selling, or giving any drug for the purpose of
259 treating a systemic disease ~~systemic drugs~~ by a licensed
260 practitioner is prohibited. However, a certified optometrist is
261 permitted to use commonly accepted means or methods to
262 immediately address incidents of anaphylaxis.

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



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274 by plug, or superficial scraping for the purpose of removing
275 damaged epithelial tissue or superficial foreign bodies or
276 taking a culture of the surface of the cornea or conjunctiva.

277 Section 8. Section 463.0141, Florida Statutes, is created
278 to read:

279 463.0141 Reports of adverse incidents in the practice of
280 optometry.-

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

284 (2) The required notification must be in writing and
285 submitted to the department by certified mail. The required
286 notification must be postmarked within 15 days after the adverse
287 incident if the adverse incident occurs when the patient is at
288 the office of the licensed practitioner. If the adverse incident
289 occurs when the patient is not at the office of the licensed
290 practitioner, the required notification must be postmarked
291 within 15 days after the licensed practitioner discovers, or
292 reasonably should have discovered, the occurrence of the adverse
293 incident.

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

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

301 (b) Any condition that requires the patient to obtain care
302 from a physician licensed under chapter 458 or chapter 459,



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303 other than a referral or a consultation required under this
304 chapter.

305 (c) Permanent physical injury to the patient.

306 (d) Partial or complete permanent loss of sight by the
307 patient.

308 (e) Death of the patient.

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

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

316 483.035 Clinical laboratories operated by practitioners for
317 exclusive use; licensure and regulation.—

318 (1) A clinical laboratory operated by one or more
319 practitioners licensed under chapter 458, chapter 459, chapter
320 460, chapter 461, chapter 462, chapter 463, or chapter 466,
321 exclusively in connection with the diagnosis and treatment of
322 their own patients, must be licensed under this part and must
323 comply with the provisions of this part, except that the agency
324 shall adopt rules for staffing, for personnel, including
325 education and training of personnel, for proficiency testing,
326 and for construction standards relating to the licensure and
327 operation of the laboratory based upon and not exceeding the
328 same standards contained in the federal Clinical Laboratory
329 Improvement Amendments of 1988 and the federal regulations
330 adopted thereunder.

331 Section 10. Subsection (7) of section 483.041, Florida



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332 Statutes, is amended to read:

333 483.041 Definitions.—As used in this part, the term:

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

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

346 483.181 Acceptance, collection, identification, and
347 examination of specimens.—

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

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

360 893.02 Definitions.—The following words and phrases as used



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361 in this chapter shall have the following meanings, unless the
362 context otherwise requires:

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

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

373 893.05 Practitioners and persons administering controlled
374 substances in their absence.—

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

387 Section 14. Paragraph (d) of subsection (1) of section
388 893.055, Florida Statutes, is amended to read:

389 893.055 Prescription drug monitoring program.—



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

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

395 Section 15. Section 463.009, Florida Statutes, is amended
396 to read:

397 463.009 Supportive personnel.—No person other than a
398 licensed practitioner may engage in the practice of optometry as
399 defined in s. 463.002(7) ~~463.002(5)~~. Except as provided in this
400 section, under no circumstances shall nonlicensed supportive
401 personnel be delegated diagnosis or treatment duties; however,
402 such personnel may perform data gathering, preliminary testing,
403 prescribed visual therapy, and related duties under the direct
404 supervision of the licensed practitioner. Nonlicensed personnel,
405 who need not be employees of the licensed practitioner, may
406 perform ministerial duties, tasks, and functions assigned to
407 them by and performed under the general supervision of a
408 licensed practitioner, including obtaining information from
409 consumers for the purpose of making appointments for the
410 licensed practitioner. The licensed practitioner shall be
411 responsible for all delegated acts performed by persons under
412 her or his direct and general supervision.

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

415 641.31 Health maintenance contracts.—

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



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419 shall offer to the subscriber the services of an optometrist
420 licensed pursuant to chapter 463.

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

422
423 ===== T I T L E A M E N D M E N T =====

424 And the title is amended as follows:

425 Delete everything before the enacting clause
426 and insert:

427 A bill to be entitled
428 An act relating to the practice of optometry; amending
429 s. 463.002, F.S.; revising and providing definitions;
430 authorizing a certified optometrist to administer and
431 prescribe ocular pharmaceutical agents; amending s.
432 463.005, F.S.; authorizing the Board of Optometry to
433 adopt rules relating to the administration and
434 prescription of ocular pharmaceutical agents; amending
435 s. 463.0055, F.S.; requiring a certified optometrist
436 to complete a board-approved course and examination on
437 general and ocular pharmaceutical agents before
438 administering or prescribing those agents; requiring
439 the certified optometrist to provide proof to the
440 department of successful completion of the course and
441 examination; authorizing that successful completion of
442 the course and examination be used to satisfy certain
443 continuing education requirements; requiring the board
444 to establish a formulary of topical ocular
445 pharmaceutical agents that may be prescribed and
446 administered by certified optometrists; deleting
447 provisions with respect to a committee; establishing a



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448 statutory formulary of oral ocular pharmaceutical
449 agents; prohibiting a certified optometrist from
450 administering or prescribing certain controlled
451 substances; amending s. 463.0057, F.S.; providing
452 conditions under which the holder of an optometric
453 faculty certificate may administer and prescribe oral
454 ocular pharmaceutical agents; amending s. 463.006,
455 F.S.; revising provisions relating to licensure and
456 certification of optometrists, to conform; amending s.
457 463.0135, F.S.; authorizing a certified optometrist to
458 perform certain eye examinations; requiring a transfer
459 of care letter for the co-management of postoperative
460 care; requiring patient consent; requiring the patient
461 to be informed of the fees and provided an itemized
462 statement of services; amending s. 463.014, F.S.;
463 prohibiting a licensed practitioner of optometry from
464 providing any drug for the purpose of treating a
465 systemic disease; specifying procedures that a
466 certified optometrist is authorized to perform;
467 creating s. 463.0141, F.S.; requiring the reporting of
468 adverse incidents in the practice of optometry to the
469 department according to specified procedures;
470 providing a definition; requiring the department to
471 review the conduct of licensed practitioners with
472 respect to adverse incidents, to which disciplinary
473 action may apply; amending s. 483.035, F.S.; requiring
474 a clinical laboratory operated by a licensed
475 practitioner of optometry to be licensed under
476 Optometry Practice Act; amending s. 483.041, F.S.;



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477 revising the definition of the term "licensed
478 practitioner" to include certified optometrists;
479 amending s. 483.181, F.S.; providing for an
480 optometrist to accept a human specimen for
481 examination, under certain conditions; amending s.
482 893.02, F.S.; redefining the term "practitioner" to
483 include certified optometrists; amending s. 893.05,
484 F.S.; prohibiting a certified optometrist from
485 administering or prescribing certain controlled
486 substances; amending s. 893.055, F.S.; revising the
487 term "health care practitioner" to include certified
488 optometrists for purposes of the prescription drug
489 monitoring program; amending ss. 463.009 and 641.31,
490 F.S.; conforming cross-references; providing an
491 effective date.