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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to the practice of optometry; amending s. 456.44, F.S.; requiring a certified optometrist who prescribes a controlled substance for a specified purpose to meet certain requirements; amending s. 463.002, F.S.; requiring a licensed practitioner who is not a certified optometrist to display a specifically worded sign; revising definitions; defining the term "ocular pharmaceutical agent"; amending s. 463.005, F.S.; authorizing the Board of Optometry to adopt rules relating to the administration and prescription of ocular pharmaceutical agents; amending s. 463.0055, F.S.; requiring a certified optometrist to complete a course and examination on general and ocular pharmaceutical agents before administering or prescribing oral ocular pharmaceutical agents; specifying the number of required course hours based on the date of licensure; requiring the Florida Medical Association and the Florida Optometric Association to jointly develop and administer the course and examination; revising provisions relating to the development of a formulary of pharmaceutical agents; amending s. 463.0057, F.S.; prohibiting the holder of an optometric faculty certificate from administering or prescribing oral ocular pharmaceutical agents unless the certificate holder meets certain requirements; amending s.



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28 463.006, F.S.; revising provisions relating to
29 licensure and certification of optometrists; amending
30 s. 463.0135, F.S.; authorizing a certified optometrist
31 to perform certain eye examinations; amending s.
32 463.014, F.S.; prohibiting a licensed practitioner of
33 optometry from providing any drug for the purpose of
34 treating a systemic disease; amending s. 483.035,
35 F.S.; requiring a clinical laboratory operated by a
36 licensed practitioner of optometry to be licensed
37 under ch. 463, F.S.; amending s. 483.041, F.S.;
38 revising the definition of the term "licensed
39 practitioner" to include certified optometrists;
40 amending s. 483.181, F.S.; providing for an
41 optometrist to accept a human specimen for
42 examination, under certain conditions; amending s.
43 893.02, F.S.; redefining the term "practitioner" to
44 include certified optometrists; amending s. 893.05,
45 F.S.; prohibiting a certified optometrist from
46 administering or prescribing pharmaceutical agents
47 listed in Schedule I or Schedule II of the Florida
48 Comprehensive Drug Abuse Prevention and Control Act;
49 authorizing certain certified optometrists to
50 administer certain oral analgesics; providing an
51 effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

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55 Section 1. Subsection (2) of section 456.44, Florida
56 Statutes, is amended to read:



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57 456.44 Controlled substance prescribing.—

58 (2) REGISTRATION.—

59 (a) Effective January 1, 2012, A physician licensed under
60 chapter 458, chapter 459, chapter 461, or chapter 466 who
61 prescribes any controlled substance, listed in Schedule II,
62 Schedule III, or Schedule IV as defined in s. 893.03, for the
63 treatment of chronic nonmalignant pain, must:

64 1.(a) Designate himself or herself as a controlled
65 substance prescribing practitioner on the physician's
66 practitioner profile.

67 2.(b) Comply with the requirements of this section and
68 applicable board rules.

69 (b) A certified optometrist licensed under chapter 463 who
70 prescribes any controlled substance listed in Schedule III or
71 Schedule IV as defined in s. 893.03, for the treatment of
72 chronic nonmalignant pain, must comply with the requirements of
73 this section and applicable board rules.

74 Section 2. Paragraph (b) of subsection (3) and subsections
75 (4) and (5) of section 463.002, Florida Statutes, are amended,
76 and subsection (11) is added to that section, to read:

77 463.002 Definitions.—As used in this chapter, the term:

78 (3)

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

84 (4) "Certified optometrist" means a licensed practitioner
85 authorized by the board to administer and prescribe ~~topical~~



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86 ocular pharmaceutical agents.

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

99 (11) "Ocular pharmaceutical agent" means a pharmaceutical
100 agent that is administered topically or orally for the diagnosis
101 or treatment of ocular conditions of the human eye and its
102 appendages without the use of surgery or other invasive
103 techniques.

104 Section 3. Paragraph (g) of subsection (1) of section
105 463.005, Florida Statutes, is amended to read:

106 463.005 Authority of the board.—

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

111 (g) Administration and prescription of ~~topical~~ ocular
112 pharmaceutical agents.

113 Section 4. Section 463.0055, Florida Statutes, is amended
114 to read:



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115 463.0055 Administration and prescription of ~~topical~~ ocular
116 pharmaceutical agents; committee.—

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

126 (b) Before a certified optometrist may administer or
127 prescribe oral ocular pharmaceutical agents, the certified
128 optometrist must complete a course and subsequent examination on
129 general and ocular pharmaceutical agents and the side effects of
130 those agents. For certified optometrists licensed before January
131 1, 1990, the course consists of 50 contact hours, with 25 of
132 those hours web-based. For certified optometrists licensed on or
133 after January 1, 1990, the course consists of 20 contact hours,
134 with 10 of those hours web-based. The first course and
135 examination shall be presented by July 1, 2013, and shall be
136 administered at least annually thereafter. The Florida Medical
137 Association and the Florida Optometric Association shall jointly
138 develop and administer a course and examination for such purpose
139 and jointly determine the site or sites for the course and
140 examination. If a certified optometrist does not complete a
141 course and subsequent examination under this paragraph, the
142 certified optometrist is only authorized to administer and
143 prescribe ocular pharmaceutical agents by topical application.



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144 (2) (a) There is ~~hereby~~ created a committee composed of two
145 certified optometrists licensed pursuant to this chapter,
146 appointed by the Board of Optometry, two board-certified
147 ophthalmologists licensed pursuant to chapter 458 or chapter
148 459, appointed by the Board of Medicine, and one additional
149 person with a doctorate degree in pharmacology who is not
150 licensed pursuant to chapter 458, chapter 459, or this chapter,
151 appointed by the State Surgeon General. The committee shall
152 review requests for additions to, deletions from, or
153 modifications of a formulary of ~~topical~~ ocular pharmaceutical
154 agents for administration and prescription by certified
155 optometrists and shall provide to the board advisory opinions
156 and recommendations on such requests. The committee's opinions
157 and recommendations must state specific findings of fact and
158 grounds for its recommendation. The committee's findings,
159 opinions, and recommendations are not subject to review pursuant
160 to ss. 120.569 and 120.57. The formulary shall consist of those
161 ~~topical~~ ocular pharmaceutical agents that which are appropriate
162 to treat and diagnose ocular diseases and disorders and which
163 the certified optometrist is qualified to use in the practice of
164 optometry. The board shall establish, add to, delete from, or
165 modify the formulary by rule. The board is bound by the
166 committee's recommendations on oral ocular pharmaceutical agents
167 unless competent substantial evidence is presented to the board
168 sufficient to rebut the committee's recommendation.
169 Notwithstanding any provision of chapter 120 to the contrary,
170 the formulary rule becomes ~~shall become~~ effective 60 days from
171 the date it is filed with the Secretary of State.

172 (b) The formulary may be added to, deleted from, or



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173 modified according to the procedure described in paragraph (a).
174 A ~~Any~~ person who requests an addition, deletion, or modification
175 of an authorized ~~topical~~ ocular pharmaceutical agent has ~~shall~~
176 ~~have~~ the burden of proof to show cause why such addition,
177 deletion, or modification should be made.

178 (c) The State Surgeon General has ~~shall have~~ standing to
179 challenge a ~~any~~ rule or proposed rule of the board pursuant to
180 s. 120.56. In addition to challenges to an ~~for any~~ invalid
181 exercise of delegated legislative authority, the administrative
182 law judge, upon such a challenge by the State Surgeon General,
183 may declare all or part of a rule or proposed rule invalid if
184 it:

- 185 1. Does not protect the public from ~~any~~ significant and
186 discernible harm or damages;
- 187 2. Unreasonably restricts competition or the availability
188 of professional services in the state or in a significant part
189 of the state; or
- 190 3. Unnecessarily increases the cost of professional
191 services without a corresponding or equivalent public benefit.

192
193 However, ~~there shall not be created~~ a presumption of the
194 existence of ~~any of~~ the conditions cited in this subsection is
195 not created in the event that the rule or proposed rule is
196 challenged.

197 (d) Upon adoption of the formulary required by this
198 section, and upon each addition, deletion, or modification to
199 the formulary, the board shall mail a copy of the amended
200 formulary to each certified optometrist and to each pharmacy
201 licensed by the state.



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202 (3) A certified optometrist shall be issued a prescriber
203 number by the board. Any prescription written by a certified
204 optometrist for an ~~a topical~~ ocular pharmaceutical agent
205 pursuant to this section must include ~~shall have~~ the prescriber
206 number ~~printed thereon~~.

207 Section 5. Subsection (3) of section 463.0057, Florida
208 Statutes, is amended to read:

209 463.0057 Optometric faculty certificate.—

210 (3) The holder of a faculty certificate may engage in the
211 practice of optometry as permitted by this section, but may not
212 administer or prescribe topical ocular pharmaceutical agents
213 unless the certificateholder has satisfied the requirements of
214 s. 463.006(1)(b)4. and 5. A certificateholder may not administer
215 or prescribe oral ocular pharmaceutical agents unless the
216 certificateholder has satisfied the requirements of ss.
217 463.0055(1)(b) and 463.006(1)(b)4. and 5.

218 Section 6. Subsections (2) and (3) of section 463.006,
219 Florida Statutes, are amended to read:

220 463.006 Licensure and certification by examination.—

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

228 (3) Each applicant who successfully passes the examination
229 and otherwise meets the requirements of this chapter is entitled
230 to be licensed as a practitioner and to be certified to



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231 administer and prescribe ~~topical-ocular~~ pharmaceutical agents in
232 the diagnosis and treatment of ocular conditions.

233 Section 7. Subsection (10) is added to section 463.0135,
234 Florida Statutes, to read:

235 463.0135 Standards of practice.—

236 (10) A certified optometrist may perform any eye
237 examination, including a dilated examination, required or
238 authorized by chapter 548 or by rules adopted to implement that
239 chapter.

240 Section 8. Subsection (3) of section 463.014, Florida
241 Statutes, is amended to read:

242 463.014 Certain acts prohibited.—

243 (3) Prescribing, ordering, dispensing, administering,
244 supplying, selling, or giving any drug for the purpose of
245 treating a systemic disease ~~systemic drugs~~ by a licensed
246 practitioner is prohibited.

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

249 483.035 Clinical laboratories operated by practitioners for
250 exclusive use; licensure and regulation.—

251 (1) A clinical laboratory operated by one or more
252 practitioners licensed under chapter 458, chapter 459, chapter
253 460, chapter 461, chapter 462, chapter 463, or chapter 466,
254 exclusively in connection with the diagnosis and treatment of
255 their own patients, must be licensed under this part and must
256 comply with the provisions of this part, except that the agency
257 shall adopt rules for staffing, for personnel, including
258 education and training of personnel, for proficiency testing,
259 and for construction standards relating to the licensure and



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260 operation of the laboratory based upon and not exceeding the
261 same standards contained in the federal Clinical Laboratory
262 Improvement Amendments of 1988 and the federal regulations
263 adopted thereunder.

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

266 483.041 Definitions.—As used in this part, the term:

267 (7) "Licensed practitioner" means a physician licensed
268 under chapter 458, chapter 459, chapter 460, or chapter 461; a
269 certified optometrist licensed under chapter 463; a dentist
270 licensed under chapter 466; a person licensed under chapter 462;
271 or an advanced registered nurse practitioner licensed under part
272 I of chapter 464; or a duly licensed practitioner from another
273 state licensed under similar statutes who orders examinations on
274 materials or specimens for nonresidents of the State of Florida,
275 but who reside in the same state as the requesting licensed
276 practitioner.

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

279 483.181 Acceptance, collection, identification, and
280 examination of specimens.—

281 (5) A clinical laboratory licensed under this part must
282 accept a human specimen submitted for examination by a
283 practitioner licensed under chapter 458, chapter 459, chapter
284 460, chapter 461, chapter 462, chapter 463, s. 464.012, or
285 chapter 466, if the specimen and test are the type performed by
286 the clinical laboratory. A clinical laboratory may only refuse a
287 specimen based upon a history of nonpayment for services by the
288 practitioner. A clinical laboratory may ~~shall~~ not charge



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289 different prices for tests based upon the chapter under which a
290 practitioner submitting a specimen for testing is licensed.

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

293 893.02 Definitions.—The following words and phrases as used
294 in this chapter shall have the following meanings, unless the
295 context otherwise requires:

296 (21) "Practitioner" means a physician licensed pursuant to
297 chapter 458, a dentist licensed pursuant to chapter 466, a
298 veterinarian licensed pursuant to chapter 474, an osteopathic
299 physician licensed pursuant to chapter 459, a naturopath
300 licensed pursuant to chapter 462, a certified optometrist
301 licensed pursuant to chapter 463, or a podiatric physician
302 licensed pursuant to chapter 461, provided such practitioner
303 holds a valid federal controlled substance registry number.

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

306 893.05 Practitioners and persons administering controlled
307 substances in their absence.—

308 (1) A practitioner, in good faith and in the course of his
309 or her professional practice only, may prescribe, administer,
310 dispense, mix, or otherwise prepare a controlled substance, or
311 the practitioner may cause the same to be administered by a
312 licensed nurse or an intern practitioner under his or her
313 direction and supervision only. A veterinarian may so prescribe,
314 administer, dispense, mix, or prepare a controlled substance for
315 use on animals only, and may cause it to be administered by an
316 assistant or orderly under the veterinarian's direction and
317 supervision only. A certified optometrist licensed under chapter



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318 463 may not administer or prescribe pharmaceutical agents listed
319 in Schedule I or Schedule II of s. 893.03. A certified
320 optometrist who has complied with the provisions of section
321 463.0055(1)(b) may administer oral analgesics listed in Schedule
322 III, Schedule IV, or Schedule V for the relief of pain due to
323 ocular conditions of the eye and its appendages.

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