

By Senator Richter

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1 A bill to be entitled
2 An act relating to optometry; amending s. 463.002,
3 F.S.; revising definitions; amending s. 463.005, F.S.;
4 revising a reference to ocular pharmaceutical agents;
5 amending and reordering s. 463.0055, F.S.; revising
6 references to ocular pharmaceutical agents; requiring
7 certified optometrists to complete a course and
8 examination on general and ocular pharmaceutical
9 agents; requiring the Florida Medical Association and
10 the Florida Optometric Association to jointly
11 administer, develop, and determine the course site for
12 the course and examination; requiring the associations
13 to present the first course and examination by a
14 specified date and to administer the course and
15 examination at least annually; requiring two
16 optometrists appointed to the formulary committee to
17 be licensed and certified; requiring that the
18 formulary consist of pharmaceutical agents that are
19 appropriate to treat and diagnose ocular diseases and
20 disorders; amending s. 463.0057, F.S.; revising
21 reference to ocular pharmaceutical agents; adding a
22 cross-reference to changes made by the act; amending
23 s. 463.006, F.S.; revising reference to ocular
24 pharmaceutical agents; incorporating mandating
25 language that was removed from the definitions;
26 amending s. 463.0135, F.S.; providing that a certified
27 optometrist is authorized to perform any eye
28 examination required or authorized by chapter 548;
29 amending s. 463.014, F.S.; making technical and

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30 grammatical changes; amending s. 483.035, F.S.,
31 relating to licensure and regulation of clinical
32 laboratories operated by practitioners for exclusive
33 use; providing applicability to clinical laboratories
34 operated by practitioners licensed to practice
35 optometry; amending s. 483.041, F.S.; revising the
36 definition of the term "licensed practitioner" to
37 include a practitioner licensed under ch. 463, F.S.;
38 amending s. 483.181, F.S.; requiring clinical
39 laboratories to accept human specimens submitted by
40 practitioners licensed to practice under ch. 463,
41 F.S.; amending s. 893.02, F.S.; revising the
42 definition of the term "practitioner" to include
43 certified optometrists for purposes of the Florida
44 Comprehensive Drug Abuse Prevention and Control Act;
45 amending s. 893.05, F.S.; prohibiting a certified
46 optometrist from administering and prescribing certain
47 controlled substances; providing an effective date.
48

49 Be It Enacted by the Legislature of the State of Florida:
50

51 Section 1. Subsections (3), (4), and (5) of section
52 463.002, Florida Statutes, are amended to read:

53 463.002 Definitions.—As used in this chapter, the term:

54 (3)~~(a)~~ "Licensed practitioner" means a person who is a
55 primary health care provider licensed to engage in the practice
56 of optometry under the authority of this chapter.

57 ~~(b) A licensed practitioner who is not a certified~~
58 ~~optometrist shall be required to display at her or his place of~~

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59 ~~practice a sign which states, "I am a Licensed Practitioner, not~~
60 ~~a Certified Optometrist, and I am not able to prescribe topical~~
61 ~~ocular pharmaceutical agents."~~

62 ~~(c) All practitioners initially licensed after July 1,~~
63 ~~1993, must be certified optometrists.~~

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

67 (5) "Optometry" means the diagnosis of conditions of the
68 human eye and its appendages; the employment of any objective or
69 subjective means or methods, including the administration of
70 ~~topical ocular~~ pharmaceutical agents, for the purpose of
71 determining the refractive powers of the human eyes, or any
72 visual, muscular, neurological, or anatomic anomalies of the
73 human eyes and their appendages; and the prescribing and
74 employment of lenses, prisms, frames, mountings, contact lenses,
75 orthoptic exercises, light frequencies, and any other means or
76 methods, including ~~topical ocular~~ pharmaceutical agents, for the
77 correction, remedy, or relief of any insufficiencies or abnormal
78 conditions of the human eyes and their appendages.

79 Section 2. Paragraph (g) of subsection (1) of section
80 463.005, Florida Statutes, is amended to read:

81 463.005 Authority of the board.—

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

86 (g) Administration and prescription of ~~topical~~ ocular
87 pharmaceutical agents.

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88 Section 3. Section 463.0055, Florida Statutes, is reordered
89 and amended to read:

90 463.0055 Administration and prescription of ~~topical~~ ocular
91 pharmaceutical agents; course and examination on pharmaceutical
92 agents; prescriber number; formulary committee.-

93 (1) A certified optometrist ~~optometrists~~ may administer and
94 prescribe ~~topical-ocular~~ pharmaceutical agents as provided in
95 this section for the diagnosis and treatment of ocular
96 conditions of the human eye and its appendages without the use
97 of surgery or other invasive techniques. ~~However,~~ A licensed
98 practitioner who is not certified may use topically applied
99 anesthetics solely for the purpose of glaucoma examinations, but
100 is otherwise prohibited from administering or prescribing
101 ~~topical-ocular~~ pharmaceutical agents.

102 (2) Before a certified optometrist may administer or
103 prescribe oral ocular pharmaceutical agents, the certified
104 optometrist must complete a course and subsequent examination on
105 general and ocular pharmaceutical agents and the side effects of
106 those agents. For certified optometrists licensed before January
107 1, 1990, the course must consist of 50 contact hours, and 25 of
108 those hours must be Internet-based. For certified optometrists
109 licensed on or after January 1, 1990, the course must consist of
110 20 contact hours, and 10 of those hours must be Internet-based.
111 The Florida Medical Association and the Florida Optometric
112 Association shall jointly develop and administer such course and
113 examination and jointly determine the site or sites for the
114 course and examination. The associations shall present the first
115 course and examination by January 1, 2014, and shall thereafter
116 administer the course and examination at least annually.

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117 ~~(4)(2)~~(a) There is ~~hereby~~ created a committee composed of
118 two optometrists licensed and certified pursuant to this
119 chapter, appointed by the Board of Optometry;~~;~~ two board-
120 certified ophthalmologists licensed pursuant to chapter 458 or
121 chapter 459, appointed by the Board of Medicine;~~;~~ and one
122 additional person with a doctorate degree in pharmacology who is
123 not licensed pursuant to chapter 458, chapter 459, or this
124 chapter, appointed by the State Surgeon General. The committee
125 shall review requests for additions to, deletions from, or
126 modifications of a formulary of ~~topical~~ ocular pharmaceutical
127 agents for administration and prescription by certified
128 optometrists and shall provide to the board advisory opinions
129 and recommendations on such requests. The formulary must ~~shall~~
130 consist of those ~~topical-ocular~~ pharmaceutical agents which are
131 appropriate to treat and diagnose ocular diseases and disorders
132 and which the certified optometrist is qualified to use in the
133 practice of optometry. The board shall establish, add to, delete
134 from, or modify the formulary by rule. Notwithstanding any
135 provision of chapter 120 to the contrary, the formulary rule
136 shall become effective 60 days from the date it is filed with
137 the Secretary of State.

138 (b) The formulary may be added to, deleted from, or
139 modified according to the procedure described in paragraph (a).
140 Any person who requests an addition, deletion, or modification
141 of an authorized ~~topical~~ ocular pharmaceutical agent has ~~shall~~
142 ~~have~~ the burden of proof to show cause why such addition,
143 deletion, or modification should be made.

144 (c) The State Surgeon General has ~~shall have~~ standing to
145 challenge any rule or proposed rule of the board pursuant to s.

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146 120.56. In addition to challenges for any invalid exercise of
147 delegated legislative authority, the administrative law judge,
148 upon such a challenge by the State Surgeon General, may declare
149 all or part of a rule or proposed rule invalid if it:

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

152 2. Unreasonably restricts competition or the availability
153 of professional services in the state or in a significant part
154 of the state; or

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

157
158 However, ~~there shall not be created~~ a presumption of the
159 existence of any of the conditions cited in this subsection is
160 not created if ~~in the event that~~ the rule or proposed rule is
161 challenged.

162 (d) Upon adoption of the formulary required by this
163 section, and upon each addition, deletion, or modification to
164 the formulary, the board shall mail a copy of the amended
165 formulary to each certified optometrist and to each pharmacy
166 licensed by the state.

167 (3) A certified optometrist shall be issued a prescriber
168 number by the board. Any prescription written by a certified
169 optometrist for a ~~topical-ocular~~ pharmaceutical agent pursuant
170 to this section must ~~shall~~ have the prescriber number printed
171 thereon.

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

174 463.0057 Optometric faculty certificate.—

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175 (3) The holder of a faculty certificate may engage in the
176 practice of optometry as permitted by this section, but may not
177 administer or prescribe ~~topical~~ ocular pharmaceutical agents
178 unless the certificateholder has satisfied the requirements of
179 ss. 463.0055(2) and ~~s.~~ 463.006(1)(b)4. and 5.

180 Section 5. Subsections (2) and (3) of section 463.006,
181 Florida Statutes, are amended, and subsections (4) and (5) are
182 added to that section, to read:

183 463.006 Licensure and certification by examination.—

184 (2) The examination must ~~shall~~ consist of the appropriate
185 subjects, including applicable state laws and rules and general
186 and ocular pharmacology with emphasis on the use ~~topical~~
187 ~~application~~ and side effects of ocular pharmaceutical agents.
188 The board may by rule substitute a national examination as part
189 or all of the examination and may by rule offer a practical
190 examination in addition to the written examination.

191 (3) An ~~Each~~ applicant who successfully passes the
192 examination and otherwise meets the requirements of this chapter
193 is entitled to be licensed as a practitioner and to be certified
194 to administer and prescribe ~~topical-ocular~~ pharmaceutical agents
195 in the diagnosis and treatment of ocular conditions.

196 (4) A licensed practitioner who is not a certified
197 optometrist shall display at her or his place of practice a sign
198 that states, "I am a Licensed Practitioner, not a Certified
199 Optometrist, and I am not able to prescribe ocular
200 pharmaceutical agents."

201 (5) A practitioner initially licensed after July 1, 1993,
202 must be a certified optometrist.

203 Section 6. Subsection (10) is added to section 463.0135,

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204 Florida Statutes, to read:

205 463.0135 Standards of practice.—

206 (10) A certified optometrist is authorized to perform any
207 eye examination, including a dilated examination, required or
208 authorized by chapter 548 or by rules adopted to implement the
209 provisions of that chapter.

210 Section 7. Subsection (3) of section 463.014, Florida
211 Statutes, is amended to read:

212 463.014 Certain acts prohibited.—

213 (3) A licensed practitioner may not prescribe, order,
214 dispense, administer, supply, sell, or give any drug for the
215 purpose of treating a systemic disease ~~Prescribing, ordering,~~
216 ~~dispensing, administering, supplying, selling, or giving any~~
217 ~~systemic drugs by a licensed practitioner is prohibited.~~

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

220 483.035 Clinical laboratories operated by practitioners for
221 exclusive use; licensure and regulation.—

222 (1) A clinical laboratory operated by one or more
223 practitioners licensed under chapter 458, chapter 459, chapter
224 460, chapter 461, chapter 462, chapter 463, or chapter 466,
225 exclusively in connection with the diagnosis and treatment of
226 their own patients, must be licensed under this part and must
227 comply with the provisions of this part, except that the agency
228 shall adopt rules for staffing, for personnel, including
229 education and training of personnel, for proficiency testing,
230 and for construction standards relating to the licensure and
231 operation of the laboratory based upon and not exceeding the
232 same standards contained in the federal Clinical Laboratory

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233 Improvement Amendments of 1988 and the federal regulations
234 adopted thereunder.

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

237 483.041 Definitions.—As used in this part, the term:

238 (7) "Licensed practitioner" means a physician licensed
239 under chapter 458, chapter 459, chapter 460, ~~or~~ chapter 461, or
240 chapter 463; a dentist licensed under chapter 466; a person
241 licensed under chapter 462; or an advanced registered nurse
242 practitioner licensed under part I of chapter 464; or a duly
243 licensed practitioner from another state licensed under similar
244 statutes who orders examinations on materials or specimens for
245 nonresidents of the State of Florida, but who reside in the same
246 state as the requesting licensed practitioner.

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

249 483.181 Acceptance, collection, identification, and
250 examination of specimens.—

251 (5) A clinical laboratory licensed under this part must
252 accept a human specimen submitted for examination by a
253 practitioner licensed under chapter 458, chapter 459, chapter
254 460, chapter 461, chapter 462, chapter 463, s. 464.012, or
255 chapter 466, if the specimen and test are the type performed by
256 the clinical laboratory. A clinical laboratory may only refuse a
257 specimen based upon a history of nonpayment for services by the
258 practitioner. A clinical laboratory may ~~shall~~ not charge
259 different prices for tests based upon the chapter under which a
260 practitioner submitting a specimen for testing is licensed.

261 Section 11. Subsection (21) of section 893.02, Florida

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262 Statutes, is amended to read:

263 893.02 Definitions.—The following words and phrases as used
264 in this chapter shall have the following meanings, unless the
265 context otherwise requires:

266 (21) "Practitioner" means a physician licensed pursuant to
267 chapter 458, a dentist licensed pursuant to chapter 466, a
268 veterinarian licensed pursuant to chapter 474, an osteopathic
269 physician licensed pursuant to chapter 459, a naturopath
270 licensed pursuant to chapter 462, a certified optometrist
271 licensed pursuant to chapter 463, or a podiatric physician
272 licensed pursuant to chapter 461, ~~if provided~~ such practitioner
273 holds a valid federal controlled substance registry number.

274 Section 12. Subsection (1) of section 893.05, Florida
275 Statutes, is amended to read:

276 893.05 Practitioners and persons administering controlled
277 substances in their absence.—

278 (1) A practitioner, in good faith and in the course of his
279 or her professional practice only, may prescribe, administer,
280 dispense, mix, or otherwise prepare a controlled substance, or
281 the practitioner may cause the same to be administered by a
282 licensed nurse or an intern practitioner under his or her
283 direction and supervision only. A veterinarian may so prescribe,
284 administer, dispense, mix, or prepare a controlled substance for
285 use on animals only, and may cause it to be administered by an
286 assistant or orderly under the veterinarian's direction and
287 supervision only. An optometrist licensed and certified under
288 chapter 463 may not administer or prescribe a controlled
289 substance in Schedule I or Schedule II of the Florida
290 Comprehensive Drug Abuse Prevention and Control Act.

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Section 13. This act shall take effect July 1, 2013.