

By the Committees on Appropriations; and Health Policy; and
Senators Richter and Grimsley

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A bill to be entitled

An act relating to the practice of optometry; amending s. 463.002, F.S.; revising and providing definitions; authorizing a certified optometrist to administer and prescribe ocular pharmaceutical agents; 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 board-approved course and examination on general and ocular pharmaceutical agents before administering or prescribing those agents; requiring the certified optometrist to provide proof to the department of successful completion of the course and examination; authorizing that successful completion of the course and examination be used to satisfy certain continuing education requirements; requiring the board to establish a formulary of topical ocular pharmaceutical agents that may be prescribed and administered by certified optometrists; deleting provisions with respect to a committee; establishing a statutory formulary of oral ocular pharmaceutical agents; prohibiting a certified optometrist from administering or prescribing certain controlled substances; amending s. 463.0057, F.S.; providing conditions under which the holder of an optometric faculty certificate may administer and prescribe oral ocular pharmaceutical agents; amending s. 463.006, F.S.; revising provisions relating to licensure and

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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
57 include certified optometrists; amending s. 893.05,
58 F.S.; prohibiting a certified optometrist from

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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.

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

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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 the
98 human eye and its appendages; the employment of any objective or
99 subjective means or methods, including the administration of
100 ~~topical~~ ocular pharmaceutical agents, for the purpose of
101 determining the refractive powers of the human eyes, or any
102 visual, muscular, neurological, or anatomic anomalies of the
103 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
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

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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
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

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continuing education on an annual basis. The board shall review and approve the content of the initial course and examination if the board determines that the course and examination adequately and reliably satisfy the criteria set forth in this section. The board shall thereafter annually review and approve the course and examination if the board determines that the content continues to adequately and reliably satisfy the criteria set forth in this section. Successful completion of the board-approved course and examination may be used by a certified optometrist to satisfy 20 hours of the continuing education requirements in s. 463.007(3), only for the biennial period in which the board-approved course and examination are taken. If a certified optometrist does not complete a board-approved course and examination under this section, the certified optometrist is only authorized to administer and prescribe topical ocular pharmaceutical agents.

(2) (a) The board shall establish a formulary of topical ocular pharmaceutical agents that may be prescribed and administered by a certified optometrist. ~~There is hereby created a committee composed of two optometrists licensed pursuant to this chapter, appointed by the Board of Optometry, two board-certified ophthalmologists licensed pursuant to chapter 458 or chapter 459, appointed by the Board of Medicine, and one additional person with a doctorate degree in pharmacology who is not licensed pursuant to chapter 458, chapter 459, or this chapter, appointed by the State Surgeon General. The committee shall review requests for additions to, deletions from, or modifications of a formulary of topical ocular pharmaceutical agents for administration and prescription by certified~~

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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:

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.

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

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

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

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

1. Tramadol hydrochloride.

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

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

1. Amoxicillin with or without clavulanic acid.

2. Azithromycin.

3. Erythromycin.

4. Dicloxacillin.

5. Doxycycline/Tetracycline.

6. Keflex.

7. Minocycline.

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

235 1. Acyclovir.

236 2. Famciclovir.

237 3. Valacyclovir.

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

241 1. Acetazolamide.

242 2. Methazolamide.

243
244 Any oral ocular pharmaceutical agent that is listed in the
245 statutory formulary set forth in this subsection and that is
246 subsequently determined by the United States Food and Drug
247 Administration to be unsafe for administration or prescription
248 shall be considered to have been deleted from the formulary of
249 oral ocular pharmaceutical agents. The oral ocular
250 pharmaceutical agents on the statutory formulary set forth in
251 this subsection may not otherwise be deleted by the board, the
252 department, or the State Surgeon General.

253 (4) ~~(3)~~ A certified optometrist shall be issued a prescriber
254 number by the board. Any prescription written by a certified
255 optometrist for an ~~a topical~~ ocular pharmaceutical agent
256 pursuant to this section shall have the prescriber number
257 printed thereon. A certified optometrist may not administer or
258 prescribe:

259 (a) A controlled substance listed in Schedule III, Schedule
260 IV, or Schedule V of s. 893.03, except for an oral analgesic
261 placed on the formulary pursuant to this section for the relief

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of pain due to ocular conditions of the eye and its appendages.

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

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

463.0057 Optometric faculty certificate.—

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

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

463.006 Licensure and certification by examination.—

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

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

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291 Section 6. Subsections (10) and (11) are added to section
292 463.0135, Florida Statutes, to read:

293 463.0135 Standards of practice.—

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

298 (11) Co-management of postoperative care shall be conducted
299 pursuant to the requirements of this section and a patient-
300 specific transfer of care letter that governs the relationship
301 between the physician who performed the surgery and the licensed
302 practitioner. The patient must be fully informed of, and consent
303 in writing to, the co-management relationship for his or her
304 care. The transfer of care letter shall confirm that it is not
305 medically necessary for the physician who performed the surgery
306 to provide such postoperative care to the patient and that it is
307 clinically appropriate for the licensed practitioner to provide
308 such postoperative care. Before co-management of postoperative
309 care commences, the patient shall be informed in writing that he
310 or she has the right to be seen during the entire postoperative
311 period by the physician who performed the surgery. In addition,
312 the patient must be informed of the fees, if any, to be charged
313 by the licensed practitioner and the physician performing the
314 surgery, and must be provided with an accurate and comprehensive
315 itemized statement of the specific postoperative care services
316 that the physician performing the surgery and the licensed
317 practitioner render, along with the charge for each service.

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

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463.014 Certain acts prohibited.-

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

(4) Surgery of any kind, ~~including the use of lasers,~~ is expressly prohibited. Certified optometrists may remove superficial foreign bodies. For the purposes of this subsection, the term "superficial foreign bodies" means any foreign matter that is embedded in the conjunctiva or cornea but that which ~~which~~ has not penetrated the globe. Notwithstanding the definition of surgery as provided in s. 463.002(6), a certified optometrist is not prohibited from providing any optometric care within the practice of optometry as defined in s. 463.002(7), such as removing an eyelash by epilation, probing an uninflamed tear duct in a patient 18 years of age or older, blocking the puncta by plug, or superficial scraping for the purpose of removing damaged epithelial tissue or superficial foreign bodies or taking a culture of the surface of the cornea or conjunctiva.

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

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

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

(2) The required notification must be in writing and

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submitted to the department by certified mail. The required notification must be postmarked within 15 days after the adverse incident if the adverse incident occurs when the patient is at the office of the licensed practitioner. If the adverse incident occurs when the patient is not at the office of the licensed practitioner, the required notification must be postmarked within 15 days after the licensed practitioner discovers, or reasonably should have discovered, the occurrence of the adverse incident.

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

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

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

(c) Permanent physical injury to the patient.

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

(e) Death of the patient.

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

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

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

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

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

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

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

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practitioner.

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

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

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

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

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

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

Section 13. Subsection (1) of section 893.05, Florida

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Statutes, is amended to read:

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

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

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

893.055 Prescription drug monitoring program.—

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

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

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

463.009 Supportive personnel.—No person other than a licensed practitioner may engage in the practice of optometry as defined in s. 463.002(7) ~~463.002(5)~~. Except as provided in this section, under no circumstances shall nonlicensed supportive

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465 personnel be delegated diagnosis or treatment duties; however,
466 such personnel may perform data gathering, preliminary testing,
467 prescribed visual therapy, and related duties under the direct
468 supervision of the licensed practitioner. Nonlicensed personnel,
469 who need not be employees of the licensed practitioner, may
470 perform ministerial duties, tasks, and functions assigned to
471 them by and performed under the general supervision of a
472 licensed practitioner, including obtaining information from
473 consumers for the purpose of making appointments for the
474 licensed practitioner. The licensed practitioner shall be
475 responsible for all delegated acts performed by persons under
476 her or his direct and general supervision.

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

479 641.31 Health maintenance contracts.—

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

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