

1 A bill to be entitled
2 An act relating to optometry; amending s. 463.002,
3 F.S.; redefining and defining terms; amending s.
4 463.005, F.S.; specifying that the Board of Optometry
5 has the sole authority to determine what constitutes
6 the practice of optometry; authorizing the board to
7 issue specified advisory opinions and declaratory
8 rulings; providing construction for ch. 463, F.S.;
9 amending s. 463.0055, F.S.; restricting what a
10 licensed practitioner may administer or prescribe if
11 he or she does not complete a certain board-approved
12 course and examination; revising the date after which
13 a formulary rule becomes effective; deleting
14 provisions related to the creation of a statutory
15 formulary of oral ocular pharmaceutical agents;
16 revising the conditions under which an ocular
17 pharmaceutical agent is deleted from the formulary;
18 revising the controlled substances that a certified
19 optometrist in pharmaceutical agents is prohibited
20 from prescribing and administering; conforming
21 provisions to changes made by the act; creating s.
22 463.0056, F.S.; requiring a licensed practitioner to
23 complete a board-approved course and examination to
24 become a certified optometrist in ophthalmic surgery;
25 authorizing a certified optometrist in ophthalmic

26 surgery to perform laser and non-laser ophthalmic
27 surgery; requiring a certified optometrist in
28 ophthalmic surgery to provide proof of completion of a
29 certain course and examination before he or she may
30 perform such surgeries; providing requirements for the
31 development and offering of such course and
32 examination; requiring the board to review and approve
33 the content of the initial course and examination if
34 it determines the course and examination satisfy
35 certain requirements; requiring an annual review
36 thereafter; authorizing the successful completion of
37 the course and examination to be used by a licensed
38 practitioner to satisfy continuing education
39 requirements; prohibiting a certified optometrist in
40 ophthalmic surgery from performing specified surgery
41 procedures; amending s. 463.014, F.S.; providing that
42 specified prohibited acts may be authorized by the
43 State Health Officer during a public emergency;
44 deleting a provision prohibiting surgery of any kind
45 by a certified optometrist; amending ss. 463.007,
46 463.009, 463.013, 463.0135, and 641.31, F.S.;

47 conforming provisions to changes made by the act;
48 providing an effective date.

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

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Section 1. Section 463.002, Florida Statutes, is reordered and amended to read:

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

(2)~~(1)~~ "Board" means the Board of Optometry.

(3) "Certified optometrist in ophthalmic surgery" means a licensed practitioner authorized by the board to perform ophthalmic surgery.

(6)~~(2)~~ "Department" means the Department of Health.

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

(b) A licensed practitioner who is not a certified optometrist in pharmaceutical agents is ~~shall be~~ required to display at her or his place of practice a sign that ~~which~~ states, "I am a Licensed Practitioner, not a Certified Optometrist in Pharmaceutical Agents, and I am not able to prescribe ocular pharmaceutical agents."

(c) All practitioners initially licensed after July 1, 1993, must be certified optometrists in pharmaceutical agents.

(d) A licensed practitioner who is not a certified optometrist in ophthalmic surgery is required to display at her or his place of practice a sign that states, "I am a Licensed Practitioner, not a Certified Optometrist in Ophthalmic Surgery, and I am not able to perform laser or non-laser ophthalmic

76 surgery."

77 (4) "Certified optometrist in pharmaceutical agents" means
78 a licensed practitioner authorized by the board to administer
79 and prescribe ocular pharmaceutical agents.

80 ~~(10)(5)~~ "Ocular pharmaceutical agent" means any
81 prescription or nonprescription drug delivered by any route of
82 administration, used or prescribed for the diagnosis, treatment,
83 prevention, or mitigation of abnormal conditions and diseases of
84 the human eye and its adnexa and visual system, or products that
85 may be used for such purposes, and approved narcotics when used
86 in the treatment of disorders or diseases of the eye and its
87 adnexa and visual system. The term does not include any drug or
88 other substance that is prohibited from use by a licensed
89 practitioner and is listed in Schedule I of the federal
90 Controlled Substances Act, 21 U.S.C. s. 812(c) a pharmaceutical
91 agent that is administered topically or orally for the diagnosis
92 or treatment of ocular conditions of the human eye and its
93 appendages without the use of surgery or other invasive
94 techniques.

95 ~~(11)(6)~~ "Ophthalmic surgery" means a procedure performed
96 on the human eye and its adnexa and visual system in which human
97 tissue is injected, cut, burned, frozen, sutured, vaporized,
98 coagulated, or photodisrupted by the use of surgical
99 instrumentation such as, but not limited to, a scalpel, a
100 cryoprobe, a laser, an electric cautery, or ionizing radiation

101 ~~using an instrument, including a laser, scalpel, or needle, in~~
102 ~~which human tissue is cut, burned, scraped except as provided in~~
103 ~~s. 463.014(4), or vaporized, by incision, injection, ultrasound,~~
104 ~~laser, infusion, cryotherapy, or radiation. The term includes a~~
105 ~~procedure using an instrument which requires the closure of~~
106 ~~human tissue by suture, clamp, or other such device.~~

107 (12) ~~(7)~~ "Optometry" means the practice in which a person:

108 (a) Employs primary eye care procedures, including the
109 prescription of ocular pharmaceutical agents, medical devices,
110 and ophthalmic surgery;

111 (b) Measures the power and range of vision of the human
112 eye using subjective and objective means, including the use of
113 lenses and prisms before the eye, autorefractors, and other
114 automated testing devices to determine the eye's accommodative
115 and refractive state and general scope of function;

116 (c) Engages in the adaption, sale, and dispensing of
117 frames and lenses in all their forms, including plano or zero
118 power contact lenses, to overcome errors of refraction and
119 restore, as nearly as possible, normal human vision, or for
120 orthotic, prosthetic, therapeutic, or cosmetic purposes with
121 respect to contact lenses; or

122 (d) Examines for, diagnoses, and treats abnormal
123 conditions and diseases of the human eye and its adnexa and
124 visual system, including the use or prescription of vision
125 therapy, ocular exercises, rehabilitation therapy, subnormal

126 vision therapy, appropriate diagnostic lab or imaging tests, and
127 samples to initiate treatment ~~diagnosis of conditions of the~~
128 ~~human eye and its appendages; the employment of any objective or~~
129 ~~subjective means or methods, including the administration of~~
130 ~~ocular pharmaceutical agents, for the purpose of determining the~~
131 ~~refractive powers of the human eyes, or any visual, muscular,~~
132 ~~neurological, or anatomic anomalies of the human eyes and their~~
133 ~~appendages; and the prescribing and employment of lenses,~~
134 ~~prisms, frames, mountings, contact lenses, orthoptic exercises,~~
135 ~~light frequencies, and any other means or methods, including~~
136 ~~ocular pharmaceutical agents, for the correction, remedy, or~~
137 ~~relief of any insufficiencies or abnormal conditions of the~~
138 ~~human eyes and their appendages.~~

139 (7)~~(8)~~ "Direct supervision" means supervision to an extent
140 that the licensee remains on the premises while all procedures
141 are being done and gives final approval to any procedures
142 performed by an employee.

143 (8)~~(9)~~ "General supervision" means the responsible
144 supervision of supportive personnel by a licensee who need not
145 be present when such procedures are performed, but who assumes
146 legal liability therefor. Except in cases of emergency, "general
147 supervision" shall require the easy availability or physical
148 presence of the licensee for consultation with and direction of
149 the supportive personnel.

150 (1)~~(10)~~ "Adnexa Appendages" means the eyelids, the

151 | eyebrows, the conjunctiva, and the lacrimal apparatus.

152 | ~~(13)-(11)~~ "Transcript-quality" means a course which is in
 153 | conjunction with or sponsored by a school or college of
 154 | optometry or equivalent educational entity, which course is
 155 | approved by the board and requires a test and passing grade.

156 | ~~(5)-(12)~~ "Clock hours" means the actual time engaged in
 157 | approved coursework and clinical training.

158 | Section 2. Subsections (3) and (4) are added to section
 159 | 463.005, Florida Statutes, to read:

160 | 463.005 Authority of the board.—

161 | (3) The board has the sole authority to determine what
 162 | constitutes the practice of optometry and to exercise any powers
 163 | and duties conferred on it under this chapter. The board may
 164 | issue advisory opinions and declaratory rulings related to this
 165 | chapter and the administrative rules adopted under this chapter.

166 | (4) This chapter may not be construed to authorize an
 167 | agency or a medical board or entity of this state other than the
 168 | board to determine what constitutes the practice of optometry.

169 | Section 3. Section 463.0055, Florida Statutes, is amended
 170 | to read:

171 | 463.0055 Administration and prescription of ocular
 172 | pharmaceutical agents.—

173 | (1) (a) Certified optometrists in pharmaceutical agents may
 174 | administer and prescribe ocular pharmaceutical agents as
 175 | provided in this section for the diagnosis and treatment of

176 | ocular conditions of the human eye and its adnexa and visual
177 | system ~~appendages without the use of surgery or other invasive~~
178 | ~~techniques~~. However, a licensed practitioner who is not a
179 | certified optometrist in pharmaceutical agents may use topically
180 | applied anesthetics solely for the purpose of glaucoma
181 | examinations, but is otherwise prohibited from administering or
182 | prescribing ocular pharmaceutical agents.

183 | (b) Before a certified optometrist in pharmaceutical
184 | agents may administer or prescribe oral ocular pharmaceutical
185 | agents, the certified optometrist in pharmaceutical agents must
186 | provide proof to the department of successful completion of a
187 | course and subsequent examination, approved by the board, on
188 | general and ocular pharmaceutical agents and the side effects of
189 | those agents. The course must ~~shall~~ consist of 20 contact hours,
190 | all of which may be web-based. The first course and examination
191 | shall be presented by October 1, 2013, and shall be administered
192 | at least annually thereafter. The course and examination shall
193 | be developed and offered jointly by a statewide professional
194 | association of physicians in this state accredited to provide
195 | educational activities designated for the American Medical
196 | Association Physician's Recognition Award (AMA PRA) Category 1
197 | credit and a statewide professional association of licensed
198 | practitioners which provides board-approved continuing education
199 | on an annual basis. The board shall review and approve the
200 | content of the initial course and examination if the board

201 determines that the course and examination adequately and
202 reliably satisfy the criteria set forth in this section. The
203 board shall thereafter annually review and approve the course
204 and examination if the board determines that the content
205 continues to adequately and reliably satisfy the criteria set
206 forth in this section. Successful completion of the board-
207 approved course and examination may be used by a licensed
208 practitioner ~~certified optometrist~~ to satisfy 20 hours of the
209 continuing education requirements in s. 463.007(3), only for the
210 biennial period in which the board-approved course and
211 examination are taken. If a licensed practitioner ~~certified~~
212 ~~optometrist~~ does not complete a board-approved course and
213 examination under this section, the licensed practitioner may
214 ~~certified optometrist is only authorized to~~ administer and
215 prescribe only topically applied anesthetics solely for the
216 purpose of glaucoma examinations, but is otherwise prohibited
217 from administering or prescribing ~~topical~~ ocular pharmaceutical
218 agents.

219 (2) (a) The board shall establish a formulary of ~~topical~~
220 ocular pharmaceutical agents that may be prescribed and
221 administered by a certified optometrist in pharmaceutical
222 agents. The formulary must ~~shall~~ consist of those ~~topical~~ ocular
223 pharmaceutical agents that are appropriate to treat or diagnose
224 ocular diseases and disorders and that the certified optometrist
225 in pharmaceutical agents is qualified to use in the practice of

226 | optometry. The board shall establish, add to, delete from, or
 227 | modify the ~~topical~~ formulary by rule. Notwithstanding any
 228 | provision of chapter 120 to the contrary, the ~~topical~~ formulary
 229 | rule becomes effective 20 ~~60~~ days from the date it is filed with
 230 | the Secretary of State.

231 | (b) The formulary may be added to, deleted from, or
 232 | modified according to the procedure described in paragraph (a).
 233 | Any person who requests an addition, deletion, or modification
 234 | of an authorized topical ocular pharmaceutical agent shall have
 235 | the burden of proof to show cause why such addition, deletion,
 236 | or modification should be made.

237 | (c) The State Surgeon General shall have standing to
 238 | challenge any rule or proposed rule of the board pursuant to s.
 239 | 120.56. In addition to challenges for any invalid exercise of
 240 | delegated legislative authority, the administrative law judge,
 241 | upon such a challenge by the State Surgeon General, may declare
 242 | all or part of a rule or proposed rule invalid if it:

- 243 | 1. Does not protect the public from any significant and
 244 | discernible harm or damages;
- 245 | 2. Unreasonably restricts competition or the availability
 246 | of professional services in the state or in a significant part
 247 | of the state; or
- 248 | 3. Unnecessarily increases the cost of professional
 249 | services without a corresponding or equivalent public benefit.

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

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

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

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

268 ~~1. Tramadol hydrochloride.
269 2. Acetaminophen 300 mg with No. 3 codeine phosphate 30
270 mg.~~

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

273 ~~1. Amoxicillin with or without clavulanic acid.
274 2. Azithromycin.
275 3. Erythromycin.~~

276 4. ~~Dicloxacillin.~~

277 5. ~~Doxycycline/Tetracycline.~~

278 6. ~~Keflex.~~

279 7. ~~Minocycline.~~

280 ~~(c) The following antivirals or their generic or~~
 281 ~~therapeutic equivalents:~~

282 1. ~~Acyclovir.~~

283 2. ~~Famciclovir.~~

284 3. ~~Valacyclovir.~~

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

288 1. ~~Acetazolamide.~~

289 2. ~~Methazolamide.~~

290 (e) Any ~~oral~~ ocular pharmaceutical agent that is in the
 291 formulary established by the board under paragraph (a) ~~listed in~~
 292 ~~the statutory formulary set forth in this subsection~~ and that is
 293 subsequently determined by the United States Food and Drug
 294 Administration to be unsafe for administration or prescription
 295 shall be considered to have been deleted from the formulary of
 296 ~~oral~~ ocular pharmaceutical agents. ~~The oral ocular~~
 297 ~~pharmaceutical agents on the statutory formulary set forth in~~
 298 ~~this subsection may not otherwise be deleted by the board, the~~
 299 ~~department, or the State Surgeon General.~~

300 (3)(4) A certified optometrist in pharmaceutical agents

301 shall be issued a prescriber number by the board. Any
 302 prescription written by a certified optometrist in
 303 pharmaceutical agents for an ocular pharmaceutical agent
 304 pursuant to this section must ~~shall~~ have the prescriber number
 305 printed thereon. A certified optometrist in pharmaceutical
 306 agents may not administer or prescribe:

307 ~~(a) a controlled substance listed in Schedule I of the~~
 308 ~~Controlled Substances Act, 21 U.S.C. s. 812(c) III, Schedule IV,~~
 309 ~~or Schedule V of s. 893.03, except for an oral analgesic placed~~
 310 ~~on the formulary pursuant to this section for the relief of pain~~
 311 ~~due to ocular conditions of the eye and its appendages.~~

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

314 Section 4. Section 463.0056, Florida Statutes, is created
 315 to read:

316 463.0056 Administration and performance of laser and non-
 317 laser surgical procedures.-

318 (1) (a) A licensed practitioner must complete a board-
 319 approved course and examination under this section to become a
 320 certified optometrist in ophthalmic surgery.

321 (b) A certified optometrist in ophthalmic surgery may
 322 perform laser and non-laser ophthalmic surgery. To perform laser
 323 and non-laser ophthalmic surgery, the certified optometrist in
 324 ophthalmic surgery must provide to the department proof of the
 325 successful completion of a course and subsequent examination,

326 approved by the board, on laser and non-laser ophthalmic
327 surgery.

328 (2) The course and examination shall be developed and
329 offered jointly by a statewide professional association of
330 physicians in this state accredited to provide educational
331 activities designated for the American Medical Association
332 Physician's Recognition Award (AMA PRA) Category 1 Credit and a
333 statewide professional association of licensed practitioners
334 which provides board-approved continuing education on an annual
335 basis. The board shall review and approve the content of the
336 initial course and examination if the board determines that the
337 course and examination adequately and reliably satisfy the
338 requirements for AMA PRA Category 1 Credit eligibility. The
339 board shall thereafter annually review and approve the course
340 and examination if the board determines that the content
341 continues to adequately and reliably satisfy the requirements
342 for AMA PRA Category 1 Credit eligibility. Successful completion
343 of the board-approved course and examination may be used by a
344 licensed practitioner to satisfy the continuing education
345 requirements in s. 463.007(3), only for the biennial period in
346 which the board-approved course and examination are taken.

347 (3) The following surgical procedures, except for the
348 preoperative and postoperative care of these procedures, are
349 excluded from the scope of practice of optometry by a certified
350 optometrist in ophthalmic surgery:

- 351 (a) Penetrating keratoplasty, corneal transplant, or
352 lamellar keratoplasty.
- 353 (b) The administration of general anesthesia.
- 354 (c) Surgery done with general anesthesia.
- 355 (d) Laser or non-laser injection into the vitreous chamber
356 of the eye to treat a macular or retinal disease.
- 357 (e) Surgery related to the removal of the eye from a
358 living human being.
- 359 (f) Surgery requiring full-thickness incision or excision
360 of the cornea or sclera, other than paracentesis in an emergency
361 situation requiring immediate reduction of the pressure inside
362 the eye.
- 363 (g) Surgery requiring incision of the iris and ciliary
364 body, including iris diathermy or incision with cryotherapy.
- 365 (h) Surgery requiring incision of the vitreous.
- 366 (i) Surgery requiring incision of the retina.
- 367 (j) Surgical extraction of the crystalline lens.
- 368 (k) Surgical intraocular prosthetic implants.
- 369 (l) Incisional or excisional surgery of extraocular
370 muscles.
- 371 (m) Surgery of the eyelid for suspect eyelid malignancies
372 or for repair of, including plastic surgery for,
373 blepharochalasis or mechanical ptosis.
- 374 (n) Tarsorrhaphy.
- 375 (o) Surgery of the boney orbit, including orbital

376 | implants.

377 | (p) Incisional or excisional surgery of the lacrimal
378 | system other than lacrimal probing or related procedures.

379 | (q) Surgery requiring full-thickness conjunctivoplasty
380 | with graft or flap.

381 | (r) Pterygium surgery.

382 | Section 5. Subsections (3) and (4) of section 463.014,
383 | Florida Statutes, are amended to read:

384 | 463.014 Certain acts prohibited.—

385 | (3) Prescribing, ordering, dispensing, administering,
386 | supplying, selling, or giving any drug for the purpose of
387 | treating a systemic disease by a licensed practitioner is
388 | prohibited, unless authorized by the State Health Officer during
389 | a public health emergency. However, a certified optometrist in
390 | pharmaceutical agents is permitted to use commonly accepted
391 | means or methods to immediately address incidents of
392 | anaphylaxis.

393 | ~~(4) Surgery of any kind is expressly prohibited. Certified~~
394 | ~~optometrists may remove superficial foreign bodies. For the~~
395 | ~~purposes of this subsection, the term "superficial foreign~~
396 | ~~bodies" means any foreign matter that is embedded in the~~
397 | ~~conjunctiva or cornea but that has not penetrated the globe.~~
398 | ~~Notwithstanding the definition of surgery as provided in s.~~
399 | ~~463.002(6), a certified optometrist is not prohibited from~~
400 | ~~providing any optometric care within the practice of optometry~~

401 ~~as defined in s. 463.002(7), such as removing an eyelash by~~
402 ~~epilation, probing an uninflamed tear duct in a patient 18 years~~
403 ~~of age or older, blocking the puncta by plug, or superficial~~
404 ~~scrapping for the purpose of removing damaged epithelial tissue~~
405 ~~or superficial foreign bodies or taking a culture of the surface~~
406 ~~of the cornea or conjunctiva.~~

407 Section 6. Subsection (3) of section 463.007, Florida
408 Statutes, is amended to read:

409 463.007 Renewal of license; continuing education.—

410 (3) As a condition of license renewal, a licensee must
411 demonstrate his or her professional competence by completing up
412 to 30 hours of continuing education during the 2-year period
413 preceding license renewal. For certified optometrists in
414 pharmaceutical agents, the 30-hour continuing education
415 requirement includes 6 or more hours of approved transcript-
416 quality coursework in ocular and systemic pharmacology and the
417 diagnosis, treatment, and management of ocular and systemic
418 conditions and diseases during the 2-year period preceding
419 application for license renewal.

420 Section 7. Section 463.009, Florida Statutes, is amended
421 to read:

422 463.009 Supportive personnel.—No person other than a
423 licensed practitioner may engage in the practice of optometry as
424 defined in s. 463.002(12) ~~s. 463.002(7)~~. Except as provided in
425 this section, under no circumstances shall nonlicensed

426 supportive personnel be delegated diagnosis or treatment duties;
427 however, such personnel may perform data gathering, preliminary
428 testing, prescribed visual therapy, and related duties under the
429 direct supervision of the licensed practitioner. Nonlicensed
430 personnel, who need not be employees of the licensed
431 practitioner, may perform ministerial duties, tasks, and
432 functions assigned to them by and performed under the general
433 supervision of a licensed practitioner, including obtaining
434 information from consumers for the purpose of making
435 appointments for the licensed practitioner. The licensed
436 practitioner shall be responsible for all delegated acts
437 performed by persons under her or his direct and general
438 supervision.

439 Section 8. Section 463.013, Florida Statutes, is amended
440 to read:

441 463.013 Optometric services for certain public agencies.—
442 Any agency of the state or county or any commission, clinic, or
443 board administering relief, social security, health insurance,
444 or health service under the laws of the state shall accept the
445 services of licensed practitioners for the purposes of
446 diagnosing and correcting any and all visual, muscular,
447 neurological, and anatomic anomalies of the human eyes and their
448 adnexa and visual systems ~~appendages~~ of any persons under the
449 jurisdiction of said agency, clinic, commission, or board
450 administering such relief, social security, health insurance, or

451 health service on the same basis and on a parity with any other
 452 person authorized by law to render similar professional service,
 453 when such services are needed, and shall pay for such services
 454 in the same way as other professionals may be paid for similar
 455 services.

456 Section 9. Subsections (3) and (10) of section 463.0135,
 457 Florida Statutes, are amended to read:

458 463.0135 Standards of practice.-

459 (3) When an infectious corneal disease condition has not
 460 responded to standard methods of treatment within the scope of
 461 optometric practice, the licensed practitioner or certified
 462 optometrist in pharmaceutical agents shall consult with a
 463 physician skilled in diseases of the eye and licensed under
 464 chapter 458 or chapter 459.

465 (10) A certified optometrist in pharmaceutical agents is
 466 authorized to perform any eye examination, including a dilated
 467 examination, required or authorized by chapter 548 or by rules
 468 adopted to implement that chapter.

469 Section 10. Subsection (19) of section 641.31, Florida
 470 Statutes, is amended to read:

471 641.31 Health maintenance contracts.-

472 (19) Notwithstanding any other ~~provision of~~ law, health
 473 maintenance policies or contracts that ~~which~~ provide coverage,
 474 benefits, or services as described in s. 463.002(12) ~~s.~~
 475 ~~463.002(7)~~, shall offer to the subscriber the services of an

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476 | optometrist licensed pursuant to chapter 463.

477 | Section 11. This act shall take effect July 1, 2017.