

By Senator Latvala

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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

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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.

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

51
52 Section 1. Section 463.002, Florida Statutes, is reordered
53 and amended, to read:

54 463.002 Definitions.—As used in this chapter, the term:

55 (2)~~(1)~~ "Board" means the Board of Optometry.

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

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59 ~~(6)~~~~(2)~~ "Department" means the Department of Health.

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

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

69 (c) All practitioners initially licensed after July 1,
70 1993, must be certified optometrists in pharmaceutical agents.

71 (d) A licensed practitioner who is not a certified
72 optometrist in ophthalmic surgery is required to display at her
73 or his place of practice a sign that states, "I am a Licensed
74 Practitioner, not a Certified Optometrist in Ophthalmic Surgery,
75 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

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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 on
96 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 eye
112 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 frames

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117 and lenses in all their forms, including plano or zero power
118 contact lenses, to overcome errors of refraction and restore, as
119 nearly as possible, normal human vision, or for orthotic,
120 prosthetic, therapeutic, or cosmetic purposes with respect to
121 contact lenses; or

122 (d) Examines for, diagnoses, and treats abnormal conditions
123 and diseases of the human eye and its adnexa and visual system,
124 including the use or prescription of vision therapy, ocular
125 exercises, rehabilitation therapy, subnormal vision therapy,
126 appropriate diagnostic lab or imaging tests, and samples to
127 initiate treatment ~~diagnosis of conditions of the human eye and~~
128 ~~its appendages; the employment of any objective or subjective~~
129 ~~means or methods, including the administration of ocular~~
130 ~~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

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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

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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 agents
184 may administer or prescribe oral ocular pharmaceutical agents,
185 the certified optometrist in pharmaceutical agents must provide
186 proof to the department of successful completion of a course and
187 subsequent examination, approved by the board, on general and
188 ocular pharmaceutical agents and the side effects of those
189 agents. The course must ~~shall~~ consist of 20 contact hours, all
190 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

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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).

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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.

250

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~~

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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 mg.~~

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

272 ~~1. Amoxicillin with or without clavulanic acid.~~

273 ~~2. Azithromycin.~~

274 ~~3. Erythromycin.~~

275 ~~4. Dicloxacillin.~~

276 ~~5. Doxycycline/Tetracycline.~~

277 ~~6. Keflex.~~

278 ~~7. Minocycline.~~

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

281 ~~1. Acyclovir.~~

282 ~~2. Famciclovir.~~

283 ~~3. Valacyclovir.~~

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

287 ~~1. Acetazolamide.~~

288 ~~2. Methazolamide.~~

289 (e) Any oral ocular pharmaceutical agent that is in the
290 formulary established by the board under paragraph (a) listed in

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

299 (3)(4) A certified optometrist in pharmaceutical agents
300 shall be issued a prescriber number by the board. Any
301 prescription written by a certified optometrist in
302 pharmaceutical agents for an ocular pharmaceutical agent
303 pursuant to this section must ~~shall~~ have the prescriber number
304 printed thereon. A certified optometrist in pharmaceutical
305 agents may not administer or prescribe:

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

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

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

315 463.0056 Administration and performance of laser and non-
316 laser surgical procedures.-

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

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

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

346 (3) The following surgical procedures, except for the
347 preoperative and postoperative care of these procedures, are
348 excluded from the scope of practice of optometry by a certified

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

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378 graft or flap.

379 (r) Pterygium surgery.

380 Section 5. Subsections (3) and (4) of section 463.014,
381 Florida Statutes, are amended to read:
382 463.014 Certain acts prohibited.—

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

391 ~~(4) Surgery of any kind is expressly prohibited. Certified~~
392 ~~optometrists may remove superficial foreign bodies. For the~~
393 ~~purposes of this subsection, the term "superficial foreign~~
394 ~~bodies" means any foreign matter that is embedded in the~~
395 ~~conjunctiva or cornea but that has not penetrated the globe.~~
396 ~~Notwithstanding the definition of surgery as provided in s.~~
397 ~~463.002(6), a certified optometrist is not prohibited from~~
398 ~~providing any optometric care within the practice of optometry~~
399 ~~as defined in s. 463.002(7), such as removing an eyelash by~~
400 ~~epilation, probing an uninfamed tear duct in a patient 18 years~~
401 ~~of age or older, blocking the puncta by plug, or superficial~~
402 ~~scraping for the purpose of removing damaged epithelial tissue~~
403 ~~or superficial foreign bodies or taking a culture of the surface~~
404 ~~of the cornea or conjunctiva.~~

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

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407 463.007 Renewal of license; continuing education.—

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

418 Section 7. Section 463.009, Florida Statutes, is amended to
419 read:

420 463.009 Supportive personnel.—No person other than a
421 licensed practitioner may engage in the practice of optometry as
422 defined in s. 463.002(12) ~~s. 463.002(7)~~. Except as provided in
423 this section, under no circumstances shall nonlicensed
424 supportive personnel be delegated diagnosis or treatment duties;
425 however, such personnel may perform data gathering, preliminary
426 testing, prescribed visual therapy, and related duties under the
427 direct supervision of the licensed practitioner. Nonlicensed
428 personnel, who need not be employees of the licensed
429 practitioner, may perform ministerial duties, tasks, and
430 functions assigned to them by and performed under the general
431 supervision of a licensed practitioner, including obtaining
432 information from consumers for the purpose of making
433 appointments for the licensed practitioner. The licensed
434 practitioner shall be responsible for all delegated acts
435 performed by persons under her or his direct and general

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436 supervision.

437 Section 8. Section 463.013, Florida Statutes, is amended to
438 read:

439 463.013 Optometric services for certain public agencies.—
440 Any agency of the state or county or any commission, clinic, or
441 board administering relief, social security, health insurance,
442 or health service under the laws of the state shall accept the
443 services of licensed practitioners for the purposes of
444 diagnosing and correcting any and all visual, muscular,
445 neurological, and anatomic anomalies of the human eyes and their
446 adnexa and visual systems ~~appendages~~ of any persons under the
447 jurisdiction of said agency, clinic, commission, or board
448 administering such relief, social security, health insurance, or
449 health service on the same basis and on a parity with any other
450 person authorized by law to render similar professional service,
451 when such services are needed, and shall pay for such services
452 in the same way as other professionals may be paid for similar
453 services.

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

456 463.0135 Standards of practice.—

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

463 (10) A certified optometrist in pharmaceutical agents is
464 authorized to perform any eye examination, including a dilated

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465 examination, required or authorized by chapter 548 or by rules
466 adopted to implement that chapter.

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

469 641.31 Health maintenance contracts.—

470 (19) Notwithstanding any other ~~provision of~~ law, health
471 maintenance policies or contracts that ~~which~~ provide coverage,
472 benefits, or services as described in s. 463.002(12) ~~s.~~

473 ~~463.002(7)~~, shall offer to the subscriber the services of an
474 optometrist licensed pursuant to chapter 463.

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