

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 631 Optometry
SPONSOR(S): Professions & Public Health Subcommittee, Rizo
TIED BILLS: **IDEN./SIM. BILLS:** SB 876

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Professions & Public Health Subcommittee	14 Y, 3 N, As CS	Morris	McElroy
2) Health & Human Services Committee			

SUMMARY ANALYSIS

Optometrists examine, diagnose, treat, and manage diseases and injuries of the visual system as well as identify systemic conditions which affect visual health. Optometrists are regulated under ch. 463, F.S., by the Board of Optometry (Board) within the Department of Health (DOH). Optometrists may prescribe certain ocular medications listed in law or established in a formulary by the Board, but may not perform certain surgical procedures using an instrument, including a laser, scalpel, or needle.

CS/HB 613 creates a new category for certification of licensed optometrists, "optometrist certified in ophthalmic procedures," which authorizes the performance of board-approved laser and non-laser ophthalmic procedures and therapy.

The bill repeals the statutory formulary that specifies the oral ocular pharmaceutical agents a certified optometrist may administer or prescribe, expanding the types of drugs certified optometrist may administer or prescribe. Instead, the Board is required to create a negative formulary consisting of ocular pharmaceutical agents that a certified optometrist may not administer or prescribe. The bill also repeals the requirement that certified optometrists complete a board-approved course and examination in order to administer and prescribe oral ocular pharmaceutical agents.

The bill prohibits a certified optometrist from administering or prescribing controlled substances for acute pain for more than 72 hours. The bill prohibits a certified optometrist from administering or prescribing Schedule II controlled substances except for oral analgesics for pain relief of the eye and its appendages. Current law allows this exception for Schedule III, IV, and V controlled substances.

The bill authorizes certified optometrists to perform board authorized laser and non-laser ophthalmic procedures and therapies.

The bill requires the Board to adopt rules relating to the performance of laser and non-laser ophthalmic procedures and therapies, the scope of the practice of optometry, and the required content, grading criteria, and passing scores for the optometry licensure examination.

The bill has an insignificant, negative fiscal impact to DOH which can be absorbed within current resources.

The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Optometrists and Ophthalmologists

Optometrists examine, diagnose, treat, and manage diseases and injuries of the visual system as well as identify systemic conditions which affect visual health. Optometrists are regulated under ch. 463, F.S., by the Board of Optometry (Board) within DOH. The Board is composed of seven members appointed by the Governor and confirmed by the Senate. Five members must be licensed practitioners actively participating in this state and the two remaining members must be citizens of the state that are not and have never been licensed practitioners.¹

Optometrist training involves an undergraduate degree and completion of a 4-year program at a college of optometry. Some optometrists complete residencies to gain more specialized knowledge, but residency training is not required for licensure or practice.²

Ophthalmologists are medical doctors who specialize in diseases of the eye. Ophthalmologists provide a full spectrum of eye care, from prescribing corrective lenses and medications to performing eye surgery. Ophthalmologists also care for patients with more advanced and complicated diseases than optometrists. Ophthalmologists are regulated under ch. 458 and 459, F.S., by the Board of Medicine and the Board of Osteopathic Medicine within DOH. Ophthalmologist training involves an undergraduate degree, 4 years of medical school, and completion of at least 4 years of residency training in ophthalmology.³

The American Council for Graduate Medical Education (ACGME)⁴ requires each ophthalmologist resident to perform a minimum number of certain surgeries before he or she may graduate from the program. Residents must perform the following minimum number of surgeries:⁵

Cataract	86
Laser Surgery- YAG Capsulotomy	5
Laser Surgery - Laser Trabeculoplasty	5
Laser Surgery – Laser Iridotomy	4
Laser Surgery – Panretinal Laser Photocoagulation	10
Keratoplasty	5
Pterygium/Conjunctival and other cornea	3
Keratorefractive Surgery	6
Strabismus	10
Glaucoma – Filtering/Shunting Procedures	5
Retinal Vitreous	10
Intravitreal Injection	10
Oculoplastic and orbit– Total	28
Oculoplastic and orbit – Eyelid Laceration	3
Oculoplastic and orbit – Chalazia Excision	3
Oculoplastic and orbit – Ptosis/Blepharoplasty	3

¹ Section 463.003, F.S.

² American Optometric Association, *What is a Doctor of Optometry?*, <http://www.aoa.org/about-the-aoa/what-is-a-doctor-of-optometry?sso=y> (last visited March 17, 2021).

³ American Academy of Ophthalmology, *What is an Ophthalmologist?*, <https://www.aao.org/eye-health/tips-prevention/what-is-ophthalmologist> (last visited March 17, 2021).

⁴ ACGME sets standards for and accredits US graduate medical education (residency and fellowship) programs. Available at: <http://www.acgme.org/What-We-Do/Overview> (last visited March 17, 2021).

⁵ ACGME Review Committee for Ophthalmology, *Frequently Asked Questions*, https://www.acgme.org/Portals/0/PDFs/FAQ/240_ophthalmology_FAQs.pdf (last visited March 17, 2021).

ACGME resident case logs between 2015 and 2016 showed that the average resident performed 183 cataract surgeries, 13.4 glaucoma surgeries, and 107.6 laser surgeries.

Florida law requires optometrists diagnosing a patient with certain diseases to refer such patients to “physician skilled in the diseases of the eye” (ophthalmologists) for further treatment.⁶ Additionally, an optometrist must promptly advise a patient to seek an evaluation by an ophthalmologist for diagnosis and possible treatment whenever the optometrist is informed by the patient of the sudden onset of spots or “floaters” with loss of all or part of the visual field.⁷ Optometrists must maintain the names of at least three physicians, clinics, or hospitals to which they may refer patients who experience adverse drug reactions.⁸

Five states, Alaska, Arkansas, Kentucky, Louisiana, and Oklahoma allow optometrists to perform surgical procedures.⁹ Oklahoma has allowed optometrists to perform surgical procedures since 1988.¹⁰ Oklahoma requires passage of the Laser Therapy for the Anterior Segment Course offered by Northeastern State University to become a licensed optometrist.¹¹ The course consists of 9 hours of lectures and 4 hours of laboratory sessions with hands-on training.¹²

Between 1988 and 1998, 5,000 laser surgeries were performed by optometrists in Oklahoma.¹³ A review by the Oklahoma Board of Examiners in Optometry of the outcomes of those surgeries found that negative outcome rates ranged between 0.5%-1.5% and were the same as those of surgeries performed by ophthalmologists in Oklahoma.¹⁴ Since 1998, 25,000 anterior laser surgeries have been performed by optometrists in Oklahoma and the Oklahoma Board of Examiners in Optometry has not received any complaints regarding those surgeries.¹⁵

A 2016 peer-reviewed study that analyzed the outcomes for laser glaucoma surgeries between 2008 and 2013 in Oklahoma found that patients were nearly twice as likely to need additional treatment when the procedure was performed by an optometrist as compared to an ophthalmologist.¹⁶ The study also found there was a 189% increased risk of needing additional treatment in the eye that had been treated when the procedure was performed by an optometrist as compared to an ophthalmologist.¹⁷

Laser Glaucoma Surgery Outcomes in Oklahoma¹⁸

⁶ Diagnoses which mandate a referral to an ophthalmologist include angle closure glaucoma, congenital or infantile glaucoma, and infectious corneal diseases that are unresponsive to standard treatment. Section 463.0135, F.S.

⁷ Section 463.0135(4), F.S.

⁸ Section 463.0135(8), F.S.

⁹ National Conference of State Legislatures, *Optometrist Scope of Practice*, <https://www.ncsl.org/research/health/optometrist-scope-of-practice.aspx> (last visited on March 17, 2021). In September 2020, the Arkansas Supreme Court ruled to disqualify Arkansas Issue 6, the Practice of Optometry Referendum, from the 2020 general election ballot, allowing optometrists to continue to perform a range of surgeries. See Arkansas Democrat Gazette, *Ruling Keeps Question on Eye Surgery off State Ballot*, <https://www.arkansasonline.com/news/2020/sep/18/ruling-keeps-question-on-eye-surgery-off-ballot/> (last visited March 17, 2021).

¹⁰ Testimony of Dr. April Jasper, former President of the Florida Optometric Association, on file with Professions and Public Health Subcommittee staff.

¹¹ Oklahoma Board of Examiners, *Licensing*, <https://optometry.ok.gov/licensing.htm> (last visited March 17, 2021).

¹² Stein, J.D., et. al. *Comparison of Outcomes of Laser Trabeculoplasty Performed by Optometrists vs. Ophthalmologists in Oklahoma*. JAMA Ophthalmol. 2016;134(10):1095-1101.

¹³ *Supra*, note 10.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Supra*, note 12.

¹⁷ *Id.*

¹⁸ *Id.*

Provider	Number of eyes that received laser surgery	Number of eyes that received 1 or more additional surgeries	Probability of 1 or more additional surgeries performed during 10 days after initial surgery	Probability of 1 or more additional surgeries performed 11-30 days after initial surgery
Ophthalmologist	1150	174 (15%)	0	1.1%
Optometrist	234	84 (35.9%)	0.4%	10.3%

Optometrist Prescribing Authority in Florida

Currently, Florida law allows licensed optometrists to administer and prescribe drugs under limited circumstances. Licensed optometrists may only use topical anesthetics for glaucoma examinations, unless the licensed optometrist is also a certified optometrist.¹⁹ Certified optometrists may administer and prescribe topical or oral ocular pharmaceutical agents for the diagnosis and treatment of ocular conditions of the human eye and its appendages without the use of surgery or other invasive techniques.²⁰

To be certified by the board to administer and prescribe topical ocular pharmaceuticals, a licensed optometrist must be complete at least 110 hours of board approved coursework and training and one year of supervised experience in differential diagnosis of eye diseases or disorders.²¹ Certified optometrists that also wish to administer and prescribe oral ocular pharmaceutical agents must also complete a board-approved 20-hour course and examination on general and ocular pharmaceutical agents and their side effects.²² If a certified optometrist does not complete the course and examination, he or she may only administer or prescribe topical ocular pharmaceutical agents as established by board rule.²³

The oral ocular pharmaceutical agents a certified optometrist may administer or prescribe are specified in a statutory formulary.²⁴ The agents include seven antibiotics and three antivirals:²⁵

- Amoxicillin with or without clavulanic acid;
- Azithromycin;
- Erythromycin;
- Dicloxacillin;
- Doxycycline/Tetracycline;
- Keflex; and
- Minocycline.
- Acyclovir;
- Famciclovir; and
- Valacyclovir.

Current law prohibits a certified optometrist from administering or prescribing certain drugs for more than 72 hours, including two analgesics and two anti-glaucoma agents:²⁶

- Tramadol hydrochloride; and

¹⁹ Section 453.0055(1)(a), F.S.; Chapter No. 2013-26,L.O.F.

²⁰ Ss. 463.0055(1)(a) and 463.002(4), F.S.

²¹ Rule 64B13-10.001, F.A.C.

²² Section 463.0055, F.S.

²³ Rule 64B13-18.002, F.A.C.

²⁴ Section 463.0055(3), F.S.

²⁵ Section 463.0055(3)(b), F.S.

²⁶ Section 463.0055(3)(a), (c), (d) F.S.

- Acetaminophen 300 mg with No. 3 codeine phosphate 30 mg.
- Acetazolamide; and
- Methazolamide.

Any oral ocular pharmaceutical agent listed in the statutory formulary which is subsequently determined by the U.S. Food and Drug Administration to be unsafe for the administration or prescription is considered to have been deleted from the statutory formulary.²⁷

The statutory formulary prohibits the administration or prescription of a controlled substance listed in Schedule III²⁸, Schedule IV²⁹, or Schedule V³⁰ of s. 893.03, F.S., except for the oral analgesics specified in the statutory formulary for the relief of pain due to ocular conditions of the eye and its appendages, or a controlled substance for the treatment of chronic nonmalignant pain.³¹

As of February 2021, there are 3,855 licensed certified optometrists and 91 non-certified optometrists in this state.³² Since July 1, 1993, graduates of accredited schools of optometry have been considered certified optometrists as the curriculum changed to include specific training on administering and prescribing ocular pharmaceutical agents.³³ There are currently 51 optometrists in this state licensed before July 1, 1993 that are not certified.³⁴

Optometrist Scope of Practice in Florida

Optometrists may prescribe certain medications, vision therapy, and corrective lenses, but may not perform surgical procedures in Florida.³⁵ Florida law defines surgery as a procedure using an instrument, including a laser, scalpel, or needle, in which human tissue is cut, burned, scraped, or vaporized by incision, injection, ultrasound, laser, infusion, cryotherapy, or radiation and also includes a procedure using an instrument which requires the closure of human tissue by suture, clamp, or a similar device.³⁶ However, certified optometrists that are authorized to administer or prescribe certain medication, may perform the following optometric practices³⁷:

- Performing an eye examination, including a dilated examination, if required or authorized under laws related to pugilistic exhibitions;³⁸
- Removing an eyelash by epilation;
- Probing an uninflamed tear duct in a patient 18 years of age or older;
- Blocking the puncta by plug;
- Performing a superficial scraping to remove damaged epithelial tissue or superficial foreign bodies or take a culture of the surface of the cornea or conjunctiva; and
- Using commonly accepted means or methods to immediately address incidents of anaphylaxis.

Effect of Proposed Changes

²⁷ Id.

²⁸ Section 893.03(3), F.S. defines a Schedule II substance as a substance that has a potential for abuse less than the substances contained in Schedules I and II and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage.

²⁹ Section 893.03(4) defines a Schedule IV substance as a substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III.

³⁰ Section 893.03(5), F.S. defines a Schedule V substance, compound, mixture or preparation that has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

³¹ Chronic nonmalignant pain is defined in section 456.44, F.S., as pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 day after surgery.

³² Department of Health, Agency Analysis of 2021 House Bill 631, p. 2 (March 5, 2021).

³³ Id at p. 2.

³⁴ Id.

³⁵ Section 463.014(4), F.S.

³⁶ Section 463.002(6), F.S.

³⁷ Section 463.014(4), F.S.

³⁸ Ch. 548, F.S.

CS/HB 613 repeals the prohibition on performing surgery, authorizes certified optometrists to perform laser and non-laser ophthalmic procedures, and expands the prescriptive authority of certified optometrists. The bill creates a new category for certification of licensed optometrists, “optometrist certified in ophthalmic procedures,” which authorizes the performance of board-approved laser and non-laser ophthalmic procedures and therapy.

Optometrist Prescribing Authority

The bill repeals the requirement that certified optometrists complete a board-approved 20-hour course and examination on general and ocular pharmaceutical agents and their side effects in order to administer and prescribe oral ocular pharmaceutical agents, allowing certified optometrists to administer and prescribe such agents without completing board-approved courses.

The bill prohibits a certified optometrist from administering or prescribing controlled substances for acute pain for more than 72 hours. Additionally, the bill prohibits a certified optometrist from administering or prescribing Schedule II controlled substances except for oral analgesics for pain relief of the eye and its appendages. The bill also repeals the statutory formulary that specifies the oral ocular pharmaceutical agents a certified optometrist may administer or prescribe. Instead, the bill requires the Board to create a negative formulary consisting of ocular pharmaceutical agents that a certified optometrist may not administer or prescribe. This expands the types of drugs certified optometrist may administer or prescribe.

Optometrist Scope of Practice

The bill authorizes certified optometrists to perform board-authorized laser and non-laser ophthalmic procedures and therapies.

The bill creates a new certification category for licensed optometrists, “optometrist in ophthalmic procedures.” The bill requires a licensed optometrist successfully complete a board-approved course and examination to become an optometrist certified in ophthalmic procedures. The bill allows optometrists certified in ophthalmic procedures to perform board-authorized laser and non-laser ophthalmic procedures. The bill prohibits such optometrists from performing ophthalmic procedures or therapy that requires preoperative medication or drug-induced alteration of consciousness or that burns, cuts, or incises the globe of the eye. However, an optometrist certified in ophthalmic procedures may use medication for minimal tranquilization of the patient and local or topical anesthesia if the chances of complications requiring hospitalization of the patient are remote.

The bill also specifies certain ophthalmic procedures that optometrists certified in ophthalmic procedures are prohibited from performing, including:

- Any procedure that burns, cuts, or incises the globe of the eye;
- Laser vision correction, penetrating keratoplasty, and corneal or lamellar keratoplasty;
- Laser of the vitreous chamber or retina of the eye to treat any vitreomacular or retinal disease;
- Surgery of the eyelid for suspected eyelid malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis, or tarsorrhaphy;
- Surgery of the boney orbit, including, but not limited to, orbital implants or removal of the human eye;
- Incisional or excisional surgery of the lacrimal system other than lacrimal probing or related procedures;
- Surgery requiring full thickness incision or excision of the cornea or sclera other than paracentesis in an emergency situation requiring immediate reduction of elevated pressure inside the eye;
- Surgery requiring incision or excision by scalpel of the iris and ciliary body, including, but not limited to, iris diathermy or cryotherapy;
- Surgery requiring incision or excision of the vitreous or retina;
- Surgery requiring incision or excision of the crystalline lens or an intraocular prosthetic implant;

- Surgery involving incision or excision of the extraocular muscles;
- Surgery requiring full thickness conjunctivoplasty with graft or flap;
- Pterygium surgery; and
- Any other procedure or therapy the board deems appropriate.

Board Authority

The bill requires the Board of Optometry to adopt rules relating to:

- Laser and non-laser ophthalmic procedures and therapies an optometrist certified in ophthalmic procedures may perform;
- The scope of the practice of optometry consistent with its practice act; and
- The required content, grading criteria, and passing scores for the optometry licensure examination.

The bill requires five members of the Board to be certified optometrists or optometrists certified in ophthalmic procedures. This may require new appointments to the Board if the current members do not meet such requirements.

The bill makes conforming changes.

The bill provides an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1: Amends s. 463.002, F.S., relating to definitions.

Section 2: Amends s. 463.003, F.S., relating to board of optometry.

Section 3: Amends s. 463.005, F.S., relating to authority of the board.

Section 4: Amends s. 463.0055, F.S., relating to administration and prescription of ocular pharmaceutical agents.

Section 5: Creates s. 463.0056, F.S., relating to ophthalmic procedures.

Section 6: Amends s. 463.0057, F.S., relating to optometric faculty certificate.

Section 7: Amends s. 463.006, F.S., relating to licensure and certification by examination.

Section 8: Amends s. 463.0135, F.S., relating to standards of practice.

Section 9: Amends s. 463.014, F.S., relating to certain acts prohibited.

Section 10: Amends s. 463.009, F.S., relating to supporting personnel.

Section 11: Amends s. 641.31, F.S., relating to health maintenance contracts.

Section 12: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOH will experience an increase in workload relating to rulemaking and technology updates to implement the bill, which current resources are adequate to absorb.³⁹

³⁹ *Supra*, note 32 at p. 6.
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

An optometrist may experience an increase in expenditures if he or she enrolls in the required board-approved course and sits for the examination in order to become certified in ophthalmic procedures.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

The bill requires the Board of Optometry to adopt rules relating to the scope of practice of optometry consistent with ch. 463, F.S., which is potentially an unlawful delegation of legislative authority.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rulemaking to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 23, 2021, the Professions and Public Health Subcommittee adopted an amendment and reported the bill favorable as a committee substitute. The amendment prohibited optometrists from:

- Administering or prescribing controlled substances for more than 72 hours without consultation with a physician;
- Performing surgery except as provided in the optometry practice act; and
- Performing any procedure that burns, cuts, or incises the globe of the eye.

This analysis is drafted to the committee substitute as passed by the Professions and Public Health Subcommittee.