The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL:	SB 876
INTRODUCER:	Senator Diaz
SUBJECT:	Optometry
DATE:	March 9, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	**Favorable**
2.			AHS	
3.			AP	

I. Summary:

SB 876:

- Expands the scope of practice for certified optometrists;
- Amends the definition of "certified optometrist" to provide that the term "certified optometric physician" is synonymous with the former term;
- Adds the following elements to the definition of "optometry" which do not exist under the current-law definition:
  - The "evaluation, treatment, and management" of conditions of the human eye and its appendages, and, under the bill, such conditions include "any chronic systemic conditions relating to the eye;" and
  - The prescribing and application of "vision therapy, low-vision rehabilitation services, and ophthalmic procedures and therapy for the diagnosis, evaluation, treatment, or management" of any insufficiency, anomaly, abnormality, or disease condition relating to the human eye or its appendages.
- Deletes the current-law prohibition against an optometrist performing surgeries on the eye;
- Provides that optometrists may be certified to perform "ophthalmic procedures" such as laser and non-laser ophthalmic procedures and therapy approved by the Board of Optometry (Board);
- Creates a new section of statute for ophthalmic procedures that an optometrist may become certified to perform;
- Repeals the current-law formulary process for topical ocular agents that an optometrist may prescribe, as developed by the Board;
- Repeals the current-law statutory formulary of oral ocular agents that an optometrist may prescribe;
- Replaces the current-law formularies with a negative formulary system, to be established by the Board, that will include ocular agents that an optometrist is prohibited from prescribing;

- Removes the current-law limitation on the administration methods a certified optometrist may use for ocular pharmaceuticals (topical and oral), thereby allowing certified optometrists to use additional medication delivery systems;
- Removes from law the current requirement for a certified optometrist or a holder of a optometric faculty certificate to provide proof to the Department of Health (DOH) that he or she has successfully completed a course and passed an exam on general and ocular pharmaceuticals and their side effects, before he or she may administer or prescribe oral ocular pharmaceuticals;
- Revises current law relating to controlled substances that certified optometrists are prohibited from administering or prescribing, except for oral analgesics for the relief of pain due to ocular conditions, by adding Schedule II controlled substances to that provision;
- Limits the time frame for applicants to retake failed part(s) of the licensure examination;
- Authorizes the creation of a new certification for certified optometrists to perform Board-approved laser and non-laser ophthalmic procedures and therapy if certain conditions are met;
- Directs the Board to:
  - Review and approve the initial content of the ophthalmic procedures and therapy course and examination, and subsequent examinations, to satisfy the criteria set out in the bill;
  - Establish the new negative formulary of ocular medications;
  - Determine the required content, grading criteria, and passing score for the certified optometrist licensure examination;
  - Adopt rules relating to:
    - The practices and procedures for the administration and prescription of eye medications;
    - The Laser and non-laser ophthalmic procedures and therapies an optometrist certified in ophthalmic procedures may perform;
    - The standards of practice for each Board-approved ophthalmic procedure or therapy an optometrist certified in ophthalmic procedures may perform;
    - The scope of practice of optometry;
    - The required content, grading criteria, and passing score for the licensure examination for certified optometrists; and
- Specifies a list of ophthalmic procedures which are excluded from the scope of practice of optometry.

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

II. Present Situation:

The Department of Health

The Legislature created the DOH to protect and promote the health of all residents and visitors in the state.[1] The DOH is charged with the regulation of health practitioners for the preservation of

[1] Section 20.43, F.S.

the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards[2] and professions within the DOH.[3]

Board of Optometry (Board)

The Board was established to ensure that every person engaged in the practice of optometry in this state meets minimum requirements for safe practice. The Board is composed of seven members appointed by the Governor and confirmed by the Senate.[4] Individuals who practice under the Board's regulatory authority are certified optometrists or "licensed practitioners."

Optometry

Optometry is the diagnosis of conditions of the human eye and its appendages.[5] The appendages of the eye are the eyelids, the eyebrows, the conjunctiva, and the lacrimal apparatus.[6]

Optometry is one of the health care professions the Legislature has charged the DOH with regulating to protect and promote the health of all residents and visitors in Florida for the preservation of the health, safety, and welfare of the public.[7]

Training of Optometrists and Ophthalmologists

Optometrists and ophthalmologists are both part of a patient's visual health care team. Optometrists attend optometry school for four years and are not required to undertake postgraduate training.[8] Ophthalmologists are either allopathic (M.D.) or osteopathic (D.O.) physicians[9] who are trained in medical schools to treat the whole person and who undertake four additional years of specialized training in eye care, diseases of the eye, and surgery. Optometrists are not medical doctors and receive an "O.D." degree. They attend optometry school for four years and are not required to undertake postgraduate training.[10]

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[2] Under s. 456.001(1), F.S., "board" is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the DOH or, in some cases, within the DOH MQA.
[3] Section 20.43, F.S.
[4] Sections 463.003 and 463.005, F.S. Five members of the Board must be licensed practitioners actively practicing in Florida. The remaining two members must be citizens of Florida who are not, and have never been, licensed practitioners and may not be connected with the practice of optometry or with any other vision-related profession or business. At least one member of the board must be 60 years of age or older.
[5] Section 463.002(7), F.S.
[6] Section 463.002(10), F.S.
[7] Section 20.43, F.S.
[8] American Academy of Ophthalmology, *Differences in Education Between Optometrists and Ophthalmologists*, *available at* https://www.aao.org/about/policies/differences-education-optometrists-ophthalmologists (last visited Feb. 18, 2021).
[9] Ophthalmologists are licensed under ch. 458, F.S., relating to the allopathic practice of medicine or ch. 459, F.S., relating to the osteopathic practice of medicine.
[10] American Academy of Ophthalmology, *Differences in Education Between Optometrists and Ophthalmologists available at https://www.aao.org/about/policies/differences-education-optometrists-ophthalmologists* (last visited Feb. 25, 2021).

Optometrists	Ophthalmologists
2,300 clinical hours	17,000+ clinical hours
At least 3 years of college or university	4 years college or university
4 years optometry school	4 years medical school
No hands-on training for lasers or scalpel surgery	1 year hospital internship
N/A	3 years of surgical ophthalmology residency (eye surgery and laser)
N/A	1-2 years of post-residency fellowship sub-specialized in ocular surgery

Optometric Education

While every optometry school is slightly different, this analysis uses the Nova Southeastern College of Optometry as an example. A doctor of optometry (O.D.) degree at Nova Southeastern requires four years of study. Students must have a minimum of a 2.0 grade point average and have a passing score on the Optometry Admissions Test (OAT).[11]

During the first year, optometry students concentrate on the basic biological sciences including anatomy and physiology, microbiology, and neuroanatomy. In addition, they receive lecture, laboratory, and clinical instruction in theoretical optics and the conducting of an optometric examination.

In the second year, students study ocular physiology and psychophysics; and begin their first courses in ocular disease and anomalies of binocular vision. In the summer between the second and third years, students begin to examine patients in the university's Eye Care Institute. They care for adults, children, and geriatric patients with all types of ocular and visual needs in the primary eye care clinic.

Third-year students continue to study ocular disease, contact lenses, and clinical medicine. A two-semester practice management course begins in the third year with introduction of basic business and management concepts. In the fourth year, students receive training in secondary-tertiary eye care, specialized optometric care, and continued clinical education. Training emphasizes practical experience through externships, specialty clinical rotations, and clinical practice. In the fourth year a practice management course presents business decisions and concepts that may be necessary for a successful practice.[12] Nova Southeastern also offers a small number of optional primary care residencies in ocular disease, cornea and contact lenses, pediatrics and binocular vision and low vision. It does not offer any surgical residencies.[13]

[11] Nova Southeastern University, College of Optometry, Doctor of Optometry, *Admission Requirements, available at* https://optometry.nova.edu/od/admissions/index.html (last visited Feb. 17, 2021).
[12]Nova Southeastern University, College of Optometry, *Overview, available at* https://optometry.nova.edu/od/index.html (last visited Feb. 17, 2021).
[13] Nova Southeastern University, College of Optometry, Residency, *Residency in Primary Care, available at* https://optometry.nova.edu/residency/index.html (last visited Feb. 17, 2021).

Ophthalmological Education

Ophthalmologists differ from optometrists in their levels of training and in what they can diagnose and treat.[14] In addition to four years of medical school and one year of internship, every ophthalmologist spends a minimum of three years of residency (hospital-based training) in ophthalmology.

During residency, an ophthalmologist receives special training in all aspects of eye care, including prevention, diagnosis and medical and surgical treatment of eye conditions and diseases.[15] Many, but not all, ophthalmologist are board certified. A board-certified ophthalmologist has passed a rigorous two-part examination given by the American Board of Ophthalmology designed to assess his/her knowledge, experience and skills.[16]

To be licensed by and practice in Florida, ophthalmologists must also demonstrate financial responsibility to pay claims and costs arising out of the provision of ophthalmological care and treatment.[17] Optometrists are not required to care professional liability insurance. Often, an ophthalmologist spends an additional one to two years training in a subspecialty that involves a specific area of eye care.[18]

The Practice of Optometry

The practice of optometry includes:

- The use of any objective or subjective means or methods, including ocular pharmaceutical agents, to determine:
  - The refractive powers of the human eyes; or
  - Any visual, muscular, neurological, or anatomic anomalies of the eyes or their appendages; and
- The prescribing and use of any of the following for the correction, remedy, or relief of any insufficiencies or abnormal conditions of the eyes and their appendages:
  - Lenses;
  - Prisms;
  - Frames;
  - Mountings;
  - Contact lenses;
  - Orthoptic exercises;
  - Light frequencies; and

[14] American Academy of Ophthalmology, *What is an Ophthalmologist? available at* https://www.aao.org/eye-health/tips-prevention/what-is-ophthalmologist (last visited Feb. 18, 2021).
[15] American Academy of Ophthalmology, *Training and Certification for Ophthalmologists, available at* https://www.aao.org/eye-health/tips-prevention/ophthalmology-training-certification (last visited Feb. 18, 2021).
[16] *Id*.
[17] *See* ss. 458.320, 459.0085, and 456.048, F.S.
[18] American Academy of Ophthalmology, *Subspecialties in Ophthalmology, available at* https://www.aao.org/eye-health/tips-prevention/ophthalmology-training-certification (last visited Feb. 17, 2021).

- Ocular pharmaceutical agents.[19,20]

Current law in Florida prohibits all surgery for optometrists[21] and defines the term "surgery" to include a procedure using an instrument, such as a laser, scalpel, or needle, in which human tissue is cut, burned, scraped, or vaporized, by incision, injection, ultrasound, laser, infusion, cryotherapy, or radiation. The term also includes a procedure using an instrument which requires the closure of human tissue by suture, clamp, or other device.[22] The following procedures performed by a certified optometrist are considered within the definition of optometry:[23]

- The removal of a superficial foreign body embedded in the conjunctiva or cornea but not penetrating the globe;
- The removal of an eyelash by epilation;
- The probing of an uninflamed tear duct of an adult;
- The blocking of the puncta by plug or superficial scraping to remove damaged epithelial tissue or superficial foreign bodies; or
- The taking of a culture from the surface of the cornea or conjunctiva.[24]

Licensed Practitioners of Optometry

"Licensed practitioners" engaged in the practice of optometry, who are not certified optometrists, may use topically applied anesthetics solely for the purpose of glaucoma examinations, but are otherwise prohibited from administering or prescribing ocular pharmaceutical agents.[25] A licensed practitioner is required to post at his or her practice location a sign, which states: "*I am a Licensed Practitioner, not a Certified Optometrist, and I am not able to prescribe ocular pharmaceutical agents*."[26] Current law allows licensed practitioners wishing to become certified optometrists to do so by:

- Submitting an application for certification to the DOH;
- Completing 110 hours of Board-approved coursework and clinical training in general and ocular pharmacology conducted by an accredited institution which has facilities for both didactic and clinical instruction in pharmacology;
- Completing one year of a supervised experience in differential diagnosis of eye diseases or disorders during either optometric training or in a clinical setting as part of optometric experience in an academic or non-academic environment; and
- Successfully passing Part II (Patient Assessment and Management, including an embedded Treatment and Management of Ocular Disease examination) of the National Boards of Examiners in Optometry (NBEO) examination.[27]

[19] *Supra*, note 5.
[20] Section 463.002(5), F.S. An "Ocular pharmaceutical agent" is a pharmaceutical agent that is administered topically or orally for the diagnosis or treatment of ocular conditions of the human eye and its appendages, without the use of surgery or other invasive techniques.
[21] Section 463.014(4), F.S.
[22] Section 463.002(6), F.S.
[23] Section 463.002(7), F.S.
[24] Section 463.014(4), F.S.
[25] Section 463.0055(1)(a), F.S.
[26] Section 463.002(3), F.S.
[27] Fla. Admin. Code R. 64B13-10.001 (2020).

As of January 6, 2021, in Florida there were 56 clear and active, and seven clear and inactive, "licensed practitioners" engaging in the practice of optometry.[28]

Licensed and Certified Optometrists

All optometrists initially licensed after July 1, 1993,[29] are now required to be both licensed and certified and may administer and prescribe 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.[30]

Before a certified optometrist can administer or prescribe oral ocular pharmaceutical agents, the certified optometrist must provide proof to the DOH of the successful completion of a course and subsequent Board-approved examination on general and ocular pharmaceutical agents and their side effects. The course must consist of 20 contact hours; and all may be web-based. Successful completion of the course and examination may be used by a certified optometrist to satisfy 20 hours of the continuing education but only for the biennial period in which the Board-approved course and examination were taken. If a certified optometrist does not complete such a Board-approved course and examination, the certified optometrist is only authorized to administer and prescribe topical ocular pharmaceutical agents.[31]

Under ch. 456, F.S., the general provisions applicable to all professions regulated by MQA within the DOH must provide for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations in consultation with the appropriate regulatory board. For each examination developed by the DOH or a contracted vendor, the respective board must specify by rule:

- The general areas to be covered by each examination;
- The relative weight to be assigned in grading each area tested; and
- The score necessary to achieve a passing grade.[32]

A board and the DOH may not administer a state-developed written examination if a national examination has been certified by the DOH.[33] A board may administer a state-developed practical or clinical examination, if required by the applicable practice act if all costs are paid by

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[28] E-mail from Anthony B. Spivey Dr.BA, Executive Director, Board of Optometry, Division of Medical Quality Assurance, Bureau of Health Care Practitioner Regulation, Department of Health (Jan. .7, 2021) (on file with the Senate Health Policy Committee).

[29] Section 463.002(3), F.S. In 1986 the Legislature amended ch. 463, F.S., to require that anyone applying for an optometrist license after July 1, 1993, become a Certified Optometrist. The legislation required all applicants after that date to meet additional education and examination requirements. *See also* the Department of Health, Board of Optometry, *Licensing and Registration*, *available at* http://floridasoptometry.gov/licensing/, (last visited Feb. 9, 2021).

[30] Sections 463.002(4) and 463.0055, F.S.

[31] *See* s. 463.005(1)(b), F.S. The course and examination are developed and offered jointly by a statewide professional association of physicians accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award (AMA PRA) Category 1 credit and a statewide professional association of licensed practitioners which provides Board-approved continuing education on an annual basis. The Board must review and approve of the content of the initial course and examination; and will annually review and approve of the course and examination to ensure that the content continues to satisfy the statutory criteria.

[32] Section 456.017(1)(a) and (b), F.S.

[33] Section 456.017(1)(c)2., F.S.

the candidate. If a national practical or clinical examination is available and certified by the DOH, a board may administer the national examination.[34]

Currently, any person desiring to be a licensed certified optometrist in Florida must apply to the DOH to take the licensure and certification examinations.[35] To be a licensed certified optometrist, an applicant must submit proof that he or she:

- Has completed the application forms and remitted the fees for the application, the certification exam, and the licensure exam;
- Is at least 18 years of age;
- Has graduated from an accredited school or college of optometry approved by the Board;[36]
- Is of good moral character;
- Has completed at least 110 hours of transcript quality course work and clinical training in general and ocular pharmacology at an institution that:
  - Has both didactic and clinical instruction in pharmacology; and
  - Is accredited by an organization recognized by the Commission on Recognition of Postsecondary Accreditation or the U. S. Department of Education.
- Has completed at least one year of supervised experience in differential diagnosis of eye diseases or disorders as part of the optometric training or in a clinical setting as part of the optometric experience;
- Has successfully pass all parts of the Florida Licensure Examination, consisting of:
  - The NBEO examination Part II and Part III;
  - The Florida Practical Examination, which is taken simultaneously with Part III and includes the NBEO Part III skills of Biomicroscopy, Binocular Indirect Ophthalmoscopy and Dilated Biomicroscopy, and Non-Contact Fundus Lens Evaluation with a minimum score of 75 percent on each skill on the same attempt; and
  - Part IV (Florida Laws and Rules) with a score of 84 percent or higher.

If the applicant is, or has ever been, licensed in another state, he or she must also submit a licensure verification form from each state in which he or she has held a license.[37]

Applicants must receive passing scores on all four parts of the Florida Licensure Examination within the three years immediately preceding submission of an application or after submission of an application. Applicants who submit an application that is complete in all respects, but who have not passed all parts of the examinations, may be approved by the DOH, but a license to practice will not be issued until the DOH has received proof of passage of all parts of the Florida Licensure Examination.[38]

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[34] Section 456.017, F.S.
[35] Section 463.006(1), F.S.
[36] Pursuant to Fla. Admin. Code R. 64B13-4.004 (2020), all Board-approved schools or colleges must be accredited by the Accreditation Council for Optometric Education. In addition, applicants must provide documentation of passage of National Boards of Examiners in Optometry (NBEO) Part I in order to demonstrate graduation from a Board-approved school or college. See Department of Health, Board of Optometry, Certified Optometrist, *Requirements, available at* *https://floridasoptometry.gov/licensing/certified-optometrist/* (last visited Feb. 9, 2021).
[37] *Id*.
[38] Department of Health, Board of Optometry, Certified Optometrist, *Requirements, available at* https://floridasoptometry.gov/licensing/certified-optometrist/ (last visited Feb. 9, 2021).

An applicant who fails to achieve a passing score on Part I, Part II, Part III, or Part IV of the licensure examination may retake any part by registering directly with the NBEO. There is no limitation on the number of times an applicant may retake any examination part.[39] There are no surgery sections on any part of the Florida Licensure or the Florida Practical Examinations.

According to the DOH 2019-2020 Annual Long Range Plan there are 2,922 in-state, active certified optometrists.[40]

The Topical and Oral Ocular Formularies – Limits on Controlled Substances

Florida law contains separate provisions for the authority of a certified optometrist to administer or prescribe topical ocular agents versus oral ocular agents. And, current law provides no authorization for optometrists to administer ocular agents by any means other than topical or oral.

Topical Ocular Agents

For topical ocular agents, the Board has authority to create a formulary containing topical agents a certified optometrist may administer or prescribe. The topical ocular formulary must consist of topical ocular agents that are appropriate to treat or diagnose ocular diseases and disorders and that a certified optometrist is qualified to use in the practice of optometry. The Board may add to, delete from, or modify the topical formulary by rule. The topical formulary rules becomes effective 60 days from the date they are filed with the Secretary of State. Upon the adoption, and each addition, deletion, or modification of the topical formulary, the Board must mail a copy of the amended formulary to each certified optometrist and to each pharmacy in the state.[41]

Oral Ocular Agents

Only certified optometrists who provide proof to the DOH of having successfully completed the Board-approved pharmaceutical course and examination are authorized to administer and prescribe oral ocular pharmaceutical agents or their therapeutic equivalents.[42] Certified optometrists may write prescriptions, using a prescriber number issued by the Board, for the medications listed on the formulary of topical ocular pharmaceutical agents established by Board rule[43] and the statutory formulary of oral ocular pharmaceutical agents.[44]

A certified optometrist may not administer or prescribe controlled substances:

- Listed in Schedule III, IV, or V of s. 893.03, F.S., except for an oral analgesic on the statutory oral ocular formulary for relief of pain due to conditions of the eye and its appendages.[45]

[39] Fla. Admin. Code R. 64B13-4.002 (2020).
[40] Florida Department of Health, Medical Quality Assurance, *Annual Report and Long-Range Plan Fiscal Year 2019-2020, available at* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/2019-2020-annual-report.pdf (last visited Feb. 17, 2021).
[41] Section 463.0055(2)(d), F.S.
[42] Section 463.0055(1)(b), F.S.
[43] Section 463.0055(2), F.S. and Fla. Admin. Code R. 64B13-18.002 (2020).
[44] Section 463.0055(3), F.S. and Fla. Admin. Code R. 64B13-10-002 (2020).
[45] Section 463.0055(4)(a), F.S.

- For the treatment of chronic nonmalignant pain.[46]

Instead of directing the Board to develop a formulary of oral ocular agents by rule, the Legislature has written such a formulary into the Florida Statutes. The statutory oral ocular formulary includes:

- Two analgesics, which may not be prescribed for more than 72 hours without a consultation with an ophthalmologist, including;
  - Tramadol hydrochloride (which is a Schedule IV controlled substance);[47]
  - Acetaminophen 300 mg with No. 3 codeine phosphate 30 mg. (a Schedule III controlled substance);[48]
- Antibiotics;
- Antivirals; and
- Anti-glaucoma agents which may not be prescribed for more than 72 hours.

There is no specific statutory authority under current law for an optometrist to administer or prescribe a Schedule II controlled substance.

Optometrists – Required Medical Referrals

Florida law requires optometrists to refer patients to an ophthalmologist for further treatment when he or she diagnoses the patient with:

- Angle closure, infantile, or congenital forms of glaucoma;[49]
- Infectious corneal disease condition that has not responded to standard treatment;[50] or
- A sudden onset of spots or "floaters" in a patient's eyes with loss of all or part of the visual field.[51]

Optometrists are also required to maintain the names of at least three allopathic or osteopathic physicians, clinics, or hospitals to which they may refer patients who experience adverse drug reactions.[52]

Authority Granted by States for Optometrists to Prescribe Controlled Substances

Currently, four states – Maryland, Massachusetts, New York, and Hawaii – and the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and the Marianna Islands, do not permit optometrists to prescribe any controlled substances. The other 46 states permit varying levels of Schedule II through V[53] prescribing of controlled substances by optometrists, as the chart below indicates.

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[46] Sections 463.0055(4)(b), F.S., and 456.44(1)(f).
[47] *See* note 53.
[48] *Id.*
[49] Section 463.0135(2), F.S.
[50] Section 463.0135(3), F.S.
[51] Section 463.0135(4), F.S.
[52] Section 463.0135(8), F.S.
[53] U.S. Department of Justice, Drug Enforcement Administration, Diversion Control Division, *Mid-Level Practitioners Authorization by State*, *available at* https://www.deadiversion.usdoj.gov/drugreg/practioners/mlp_by_state.pdf (last visited Feb. 22, 2021).

Optometrist Authorization to Use Controlled Substances by State[54]

	Schedule II										Schedule III						Schedule IV	Schedule V
	All	Hydrocodone products only			Codeine			Tramadol			Narcotic			Non-narcotic				
A=Administer, P=Prescribe, D=Dispense		A	P	D	A	P	D	A	P	D	A	P	D	A	P	D		
Connecticut, Idaho, Kansas, Iowa, Missouri, Montana, Nebraska, North Carolina, Tennessee	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	A, P, D	A, P, D
Louisiana, Nevada, Texas	x	x	x		x	x		x	x		x	x		x	x		A, P	A, P
South Dakota	x		x			x			x			x			x		P	P
New Mexico, South Carolina, Wisconsin		x	x	x							x	x	x	x	x	x	A, P, D	A, P, D
Ohio		x	x								x	x		x	x		A, P	A, P
Virginia***		x	x								x	x		x	x		A, P	no
California			x			x			x			x			x		P	no
Alaska, Arkansas, Colorado, Illinois, Michigan, Delaware, Kentucky, New Jersey, Oklahoma, Rhode Island			x									x			x		P	P
Georgia			x									x			x		P	no
Oregon			x								Analgesics per formulary - no prescribing							
Pennsylvania			x								Use of drug in practice - not to exceed 6 weeks							
Utah			x								x	x		x	x		A, P	A, P
Vermont												x		x			P	P
Washington*** West Virginia			x								x	x	x	x	x	x	A, P, D	A, P, D
Arizona			x								x	x	x	x	x	x	no	no
Maine, North Dakota, Wyoming											x	x	x	x	x	x	A, P, D	A, P, D
Alabama											x	x		x	x		A, P	A, P
Florida*,**												x	x				A, P	no
New Hampshire												x	x		x	x	P, D	no
Minnesota																	A, P, D	A, P, D
Indiana**																	A, P, D	no
Mississippi																	P	P

* Acetaminophen 300 mg with No. 3 codeine phosphate 30 mg.
** Tramadol Hydrochloride
*** Hydrocodone in combination with acetaminophen

Authority Granted by States for Optometrists to Perform Laser and Non-laser Surgery

Currently, five states – Oklahoma, Kentucky, Alaska, Louisiana and Arkansas – permit optometrists to perform advanced procedures (i.e., laser treatments, injections, and removal of lesions and growths). These five states also authorize optometrists to perform some level of laser

[54] *Id.*

and non-leaser ophthalmic surgery.[55] The remaining forty-five states do not currently permit optometrists to perform advanced laser and non-laser surgical procedures.

Oklahoma was the first state to permit optometrists to perform surgery in 1988. Oklahoma defines the practice of optometry to include the diagnosis of conditions of the eye, and the correcting and relief of ocular abnormalities, by means of laser and non-laser surgical procedures; and requires optometrists to be certified by the board to perform those procedures authorized by the board.[56] The Oklahoma statutes and board rules are silent on how a practitioner becomes certified by the board prior to performing laser or non-laser surgery procedures; though the statutes do prohibit optometrists from performing laser retinal, laser in-situ keratomileusis (LASIK), and cosmetic lid surgery. The board has by rule, however, published a list of 14 prohibited non-laser surgical procedures.[57]

In 2011, Kentucky defined the practice of optometry to include using vision therapy or orthoptics, low vision rehabilitation, and laser surgery procedures, excluding retina, LASIK, and PRK, and 16 other prohibited procedures.[58] Any licensed optometrist in Kentucky desiring to also perform "expanded therapeutic procedures" is required to takes a course and meet additional educational and competence criteria set by the board to obtaining a laser credential. However, Kentucky statutes and rules are silent on what constitutes an, "expanded therapeutic procedures." Kentucky's credentialing process for a candidate indicates that he or she must, among other things, demonstrate to his or her board-approved preceptor[59] that he or she has performed an anterior segment laser procedure on a living human eye, thus indicating that an anterior segment laser procedure is probably an "expanded therapeutic procedure."[60]

In 2014 Louisiana authorized optometrists to perform both laser and non-laser surgery. A Louisiana optometrist is required to complete a 32-hour course[61] focused on laser surgery topics,

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[55] *See* Alaska Stat. ss. 8.72.010 - 310 (2019); Ark. Stat. ss. 17-90-101 - 17-90-510 (2020); KY Rev. Stat. s. 320.210(2020); Louis. Rev. Stat., ch. 12, s. 37:1041(2020); and 59 OK Stat s. 581 (2021).

[56] 59 OK s. 581, D. (2021).

[57] Oklahoma Admin. Code R., Tit. 505:10-5-17(2020).

[58] Kentucky. Rev. Stat. 320.210 (2019). 1) Non-laser surgery to remove an eye; 2) Non-laser surgery using full thickness incision or excision of the cornea or sclera other than emergency situation to reduction the pressure in the eye; 3) Penetrating keratoplasty (corneal transplant), or lamellar keratoplasty; 4) Non-laser surgery with incision into iris and ciliary body, including iris diathermy or cryotherapy; 5) Non-laser surgery with incision into vitreous; 6) Non-laser surgery with incision into retina; 7) Non-laser surgical extraction of the crystalline lens; 8) Non-laser intraocular implants; 9) non-laser incision or excision of extraocular muscles; 10) Non-laser surgery of the eyelid malignancies or for cosmetic or blepharochalasis, ptosis, and tarsorrhaphy; 11) Non-laser surgery of the bony orbit, including orbital implants; 12) non-leaser incision or excision into the lacrimal system or related procedures; 13) Non-laser surgery using full thickness conjunctivoplasty with graft or flap; 14) Non-laser surgical procedure that does not provide for the correction and relief of ocular abnormalities; 15) Laser or non-laser injection into the posterior chamber of the eye to treat any macular or retinal disease; and 16) The administration of general anesthesia.

[59] Kentucky Admin. Code R. 5:110 s. 4 (2019) The Board-approved preceptor must be: 1) A licensed optometrist or ophthalmologist whose license is in good standing; 2) A full-time or adjunct faculty member of an accredited optometry or medical school; and 3) Credentialed in the expanded therapeutic procedure or expanded therapeutic laser procedure that the preceptor is teaching.

[60] *Id*.

[61] *See* an example of a board approved expanded therapeutic procedures course offered by Northeastern State University, Oklahoma College of Optometry, offering Association of Regulatory Boards, Inc. (ARBO), Council on Optometric Practitioner Education (COPE), approved *NSUOCO Advanced Procedures*, courses July 8th & 9th -16 hrs CE Surgical Procedures and July 10th & 11th, 2021 -16 hrs. CE Laser Therapy the Anterior Segment, schedule *available at*

to perform surgery, or, beginning with the graduating class of 2015, any optometrist who graduated from an optometry school whose program included all of the training and testing requirements established by the Louisiana Board of Optometry was be deemed to have met the requirements for certification to perform authorized ophthalmic surgery procedures, including certain laser procedures.[62] Louisiana defines "ophthalmic surgery" to include any procedure upon the human eye in which in vivo human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photo-disrupted by the use of surgical instruments such as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation,[63]and includes primary eye care surgical procedures such as YAG laser capsulotomy, laser peripheral iridotomy, and laser trabeculoplasty. [64]

In 2017, Alaskan optometrists were authorized to perform ophthalmic surgery if it was within the scope of their education and training from an accredited school of optometry and they were authorized by certain regulations.[65] Alaska defines "ophthalmic surgery" as an invasive procedure in which human tissue is cut, ablated, or otherwise penetrated by incision, laser, or other means to treat diseases of the eye, alter or correct refractive error, or alter or enhance cosmetic appearance.[66] "Ophthalmic surgery" does not include the remove of superficial foreign bodies from the eye and its appendages.[67] An Alaskan optometrist may not perform ophthalmic surgery unless the procedure is an "expanded therapeutic procedure," and he or she is authorized by the Alaskan regulatory board to perform the procedure. An "expanded therapeutic procedure" is an ophthalmic surgery approved by the regulatory board and may include:[68]

- Anterior segment laser procedures;
- Anterior segment surgical procedures;
- YAG laser capsulotomy;
- Laser peripheral iridotomy (LPI); and
- Laser trabeculoplasty.

An Alaskan optometrist requesting authorization to perform an expanded therapeutic procedure must have satisfactorily completed a 32 hour course[69] in the expanded therapeutic procedure

https://optometry.nsuok.edu/continuingeducation/ScheduleofEvents/AdvancedProcedures/default.aspx (last visited Feb. 25, 2021). 20 Courses plus a review & Final Exam: Intro to Optometric Surgery and Ophthalmic Surgical Instruments; Review of Surgical Anatomy of the Face; Oculofacial Surgical Asepsis; Review of Eyelid Anatomy & Eyelid Lesions; Office-based Local Anesthesia; Radio Frequency Surgery in Optometric Practice; Introduction to Oculofacial Biopsy; Chalazion Management; Video Grand Rounds & Surgical Concepts; Intro to Suturing; Suture Techniques Lab; Lab Rotations| Injection Techniques, Radiosurgical Techniques, Oculofacial Biopsy; Laser Physics, Hazards & Safety; Laser Tissue Interactions; Clinical Workshops: Intro to Therapeutic Lasers; Gonioscopy: How to Interpret What You Are Seeing; Laser Therapy for the Open Angle Glaucomas: LT & SLT; Laser Therapy in Narrow Angles/Angle Closure: LPI and ALPI; YAG Laser Posterior Capsu¬lotomy; Managing Potential Laser Complications; Medicolegal Aspects of Ante¬rior Segment Laser Procedures: Panel Discussion; Lab Rotations: YAG Capsulotomy, Laser Peripheral Iridotomy, Gonioscopy & Laser Lenses, Laser Trabeculoplasty: ALT & SLT; Review & Final Exam. Cost is $1000 per course or $1,750.00 for both courses.

[61] Alaska Admin. Code R. 48.040(d) (2019).
[62] Louis. Admin Code R., Tit. 46, Pt, L1. ch. 5, s. 503 H (2020).
[63] Louis. Rev. Stat. ch. 12, s. 37-1041(4)(a), (2020).
[64] Louis. Admin Code R., Tit. 46, Pt, L1. ch. 5, s. 107 B (2020).
[65] Alaska Stat. s. 08.72.278(b)(2019).
[66] Alaska Stat. s. 08.072.278(c) (2019).
[67] Alaska Stat. s. 08.72.273 (2019).
[68] Alaska Admin. Code R. 48.040(l) (2019).
[69] *Supra*, note 64.

provided by an optometry school accredited by the Council for Higher Education Accreditation and approved by the Alaskan regulatory board.[70] The regulatory board also specifically prohibits 17 ophthalmic surgeries an optometrist may not perform under any circumstances.[71]

In 2019 Arkansas redefined the "practice of optometry" to include the following surgical and laser procedures:[72]

- Injections, excluding intravenous or intraocular injections;
- Incision and curettage of a chalazion;[73]
- Removal and biopsy of skin lesions with low risk of malignancy, excluding lesion involving the lid margin or nasal to the puncta;
- Laser capsulotomy; and
- Laser trabeculoplasty.

The Arkansas regulatory board establishes the credentialing requirements for optometrists to obtain certification[74] for surgical and laser procedures[75] and requires every optometrist who is certified to perform authorized laser procedures to report to the regulatory board regarding the outcome of the each procedure.[76]All licensed optometrists are prohibited from performing cataract surgery and performing radial keratotomy.[77]

Optometrist and Ophthalmologist - Access, Safety, and Costs

Access

The University of Washington conducted a peer-reviewed study of respondents aged 65 and older from a 2010 U.S. Census survey to quantify the proximity of eye care in the contiguous United States by calculating driving routes and driving time. Their analysis estimated that 90 percent of the United States Medicare population lives within 15 minutes' driving time of an optometrist and half an hour of an ophthalmologist. In the case of a patient seen by an optometrist, needing an elevated level of care, 90 percent of optometrists practices were within 20 minutes of an ophthalmologist. For each U.S. state, the addresses of all practicing ophthalmologists and optometrists were obtained from the 2012 Medicare Provider Utilization and Payment Data from the Centers for Medicare & Medicaid Services (CMS). While there were regional variations, the study concluded that overall, more than 90 percent of Medicare beneficiaries lived within a 30-minute drive of an ophthalmologist and within 15 minutes of an

[70] Alaska Admin. Code R. 48.040(d) (2019).
[71] Alaska Admin. Code R. 48.040(h) (2019).
[72] Ark. Stat. s. 17-90-101(2020).
[73] American Academy of Ophthalmology, What Are Chalazia and Styes?, *What is a chalazion?*, *available at* https://www.aao.org/eye-health/diseases/what-are-chalazia-styes (last visited (Feb. 26, 2021). A chalazion is a swollen bump on the eyelid.
[74] Ark. Stat. s. 17-90-301 (2020).
[75] Ark. Stat. s. 17-90-204(9) (2020).
[76] Ark. Stat. s. 17-90-206 (2020).
[77] *Supra,* note 65.

optometrist.[78] Current CMS data from the U.S. Census show that 96.3 percent of the Florida population lives within one-half hour drive to an ophthalmology point of service.[79]

Safety and Cost

One peer-reviewed research study published in the *Journal of the American Medical Association* suggested that there was an increased risk of medically necessary follow-up surgeries when the same procedures were performed by an optometrist as compared to when the procedures were performed by an ophthalmologist. Medicare beneficiaries who underwent laser trabeculoplasty (LTP) by optometrists had a 189 percent increased risk of requiring additional LTPs in the same eye compared with those who underwent LTP by ophthalmologists. The study concluded that twice as many laser surgeries were done on patients (on the same eye) if performed by optometrists as compared to ophthalmologists, resulting in twice the risk of additional surgeries, twice as many visits, and twice the cost.[80] The American Optometric Association alleged that this study was inaccurate based on the claim that repeated LTP sessions were, "an acceptable model" of care.[81]

The Florida Optometric Association indicates that optometrist performance of laser and non-laser ophthalmic procedures in states where such procedures are permitted is safe. The Association points to the fact that liability insurance rates for optometrists in those states have not increased and that, even in the states with the most advanced scope of practice for optometrists, the professional liability insurance rates are significantly lower than for comparable insurance in Florida.[82]

In response to similar assertions, Ophthalmology Mutual Insurance Company (OMIC), a large insurance company that insures thousands of ophthalmologist and optometrists nationwide, issued a written statement on February 10, 2021, in which the company addressed the relative stability of optometric malpractice rates and the known complications that can arise from the performance certain ocular surgical procedures. In the statement, OMIC indicated it had implemented new underwriting guidelines to ensure that coverage would be available to health care providers for those procedures for which they had the necessary education, training, and expertise; and that because OMIC did not have the experience to properly underwrite, rate, and administer claims arising from surgical procedures performed by optometrists, and lacked available data on this liability risk, OMIC had made the decision to not offer coverage to

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[78] National Institute of Health, National Library of Medicine, National Center for Biotechnology information, Lee CS, Morris A, Van Gelder RN, Lee AY. *Evaluating Access to Eye Care in the Contiguous United States by Calculated Driving Time in the United States Medicare Population.* Ophthalmology. 2016 Dec; 123(12):2456-2461. doi: 10.1016/j.ophtha.2016.08.015. Epub 2016 Sep 12. PMID: 27633646; PMCID: PMC5608548. *available at* https://pubmed.ncbi.nlm.nih.gov/27633646/ (last visited Feb. 26, 2021).

[79] Florida Society of Ophthalmology, Centers for Medicare & Medicaid Services, 2010 U.S. Census, Ophthalmology Point of Service, *Drive Time to an Ophthalmology Point of Service, Map* (on file with the Senate Health Policy Committee).

[80] National Institute of Health, National Library of Medicine, *Comparison of Outcomes of Laser Trabeculoplasty Performed by Optometrists vs Ophthalmologists in Oklahoma*. Stein JD, Zhao PY, Andrews C, Skuta GL. reprint from JAMA Ophthalmol. 2016 Oct 1;134(10):1095-1101, *available at* https://pubmed.ncbi.nlm.nih.gov/27467233/ (last visited Feb. 25, 2021).

[81] American Optometric Association, *Criticized Laser Study Resurfaces in Scope Battles*, April 28, 2017, *available at* https://www.aoa.org/news/clinical-eye-care/trabeculoplasty-commentary (last visited Feb. 26, 2021).

[82] Florida Optometric Association, *Recommended Updates to Florida Optometry Practice Act 2021* (on file with the Senate Health Policy Committee).

optometrists who administered injections or perform procedures using scalpels or lasers, other than diagnostic lasers, such as OCT.[83]

The U.S. Veteran's Health Administration (VHA), as part of its facilities medical staff, utilizes optometrists, optometrist fellows and residents, and ophthalmologists and ophthalmology residents. The VHA only permits therapeutic laser eye procedures in VHA facilities to be performed by ophthalmologists or ophthalmology residents.

Physicians who perform laser surgery at VHA medical facilities must also be current in laser safety training provided within the VHA Talent Management System for initial granting of and maintenance of laser privileges.[84]

On January 15, 2020, the State of Vermont, Secretary of State, Office of Professional Regulation (OPR) released a *Study of Optometric Advanced Procedures* that the 2019 Vermont legislature directed the OPR to perform to evaluate the safety and public health needs of enlarging the scope of practice of optometrists to include advanced surgical procedures.[85] The study addresses the impact of enlarging the scope of practice of optometrists on public safety, the need and impact on access to healthcare, and the costs. Specifically, the study looked at the following four anterior segment laser procedures, in addition to other:[86]

- Laser Capsulorhexis;
- YAG Capsulotomy;
- Laser Trabeculoplasty (LTP); and
- Laser Iridotomy.

The Vermont OPR study reviewed the laser capsulorhexis and YAG capsulotomy procedures for cataracts, noting that laser capsulorhexis is a procedure using a laser to make an incision around the capsule of the eye to permit the removal of the lens for cataract surgery. Whether performed by an optometrist or an ophthalmologist, this procedure must be done in an operating room because surgery to remove the cataract and replacement of the lens follows. The Vermont ORP noted there were reported challenges controlling the size and contour of the incision with the laser; and complications noted in the study included:[87]

- Imprecise and/or incomplete incision;
- Repeated surgery;
- Poor visual acuity following surgery;
- Repeat tear of the incision;
- Blindness;

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[83] Ophthalmology Mutual Insurance Company (OMIC), *Statement on Optometric Malpractice Rates*, Feb. 10, 2021(on file with the Senate Health Policy Committee).
[84] United States Department of Veterans Affairs, Veterans Health Administration, Washington, DC 20420, Oct. 2, 2019, amended. Aug. 18, 2020, VHA DIRECTIVE 1121(2), V*HA EYE AND VISION CARE*, Appendix G, *available at* https://www.va.gov/OPTOMETRY/docs/VHA_Directive_1121-2_VHA_Eye_and_vision_Care_10-02-2019_Amended_08-19-2020.pdf (Last Visited Feb. 26, 2021).
[85] Vermont Act 30, s. 13 (2019).
[86] State of Vermont, Secretary of State, Office of Professional Regulation, *Study of Optometric Advanced Procedures*, Jan. 15, 2020, *available at* https://sos.vermont.gov/media/dhlgd0ve/optometry-advanceed-proceedures-report-january-2020.pdf (last visited Feb. 26, 2021).
[87] *Id.*

- Loss of the eye.

Based on its findings in the study, Vermont's OPR concluded that there was little evidence to demonstrate lack of access, cost savings, or that an optometrist received the education and training necessary to provide the proposed advanced procedures safely.[88]

III. Effect of Proposed Changes:

SB 876:

- Expands the scope of practice for certified optometrists;
- Amends the definition of "certified optometrist" to provide that the term "certified optometric physician" is synonymous with the former term;
- Adds the following elements to the definition of "optometry" which do not exist under the current-law definition:
  - The "evaluation, treatment, and management" of conditions of the human eye and its appendages, and, under the bill, such conditions include "any chronic systemic conditions relating to the eye;" and
  - The prescribing and application of "vision therapy, low-vision rehabilitation services, and ophthalmic procedures and therapy for the diagnosis, evaluation, treatment, or management" of any insufficiency, anomaly, abnormality, or disease condition relating to the human eye or its appendages.
- Removes from law the current requirement for a certified optometrist or a holder of a optometric faculty certificate to provide proof to the Department of Health (DOH) that he or she has successfully completed a course and passed an exam on general and ocular pharmaceuticals and their side effects, before he or she may administer or prescribe oral ocular pharmaceuticals;
- Limits the time frame for applicants to retake any failed part(s) of the licensure examination to within three years after the submission of the application;
- Authorizes the creation of a new certification for certified optometrists, the optometrist certified in ophthalmic procedures and therapy, to perform Board-approved laser and non-laser ophthalmic procedures and therapy if certain conditions are met;
- Revises the composition of the Board to require that all optometrist members must be certified optometrists or optometrists certified in ophthalmic procedures;
- Revises current law relating to controlled substances that certified optometrists are prohibited from administering or prescribing, except for oral analgesics for the relief of pain due to ocular conditions, by adding Schedule II controlled substances to that provision, which will authorize certified optometrists to prescribe or administer Schedule II controlled substances under the exception;[89]

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[88] *Id*.

[89] United States Department of Justice, Drug Enforcement Administration, Diversion Control Division, *Controlled Substance Schedules, available at* https://www.deadiversion.usdoj.gov/schedules/#:~:text=Examples%20of%20Schedule%20II%20narcotics,Sublimaze%C2%AE%2C%20Duragesic%C2%AE) (last visited Feb. 27, 2021). Examples of Schedule II analgesics include the following narcotics: hydromorphone (Dilaudid®), methadone (Dolophine®), meperidine (Demerol®), oxycodone (OxyContin®), (Percocet®), and fentanyl (Sublimaze®, Duragesic®). Other Schedule II narcotics include: morphine, opium, codeine, and hydrocodone.

- Repeals the current-law formulary process for topical ocular agents that an optometrist may prescribe, as developed by the Board;
- Repeals the current-law statutory formulary of oral ocular agents that an optometrist may prescribe;
- Replaces the current-law formularies with a negative formulary system, to be established by the Board, that will include ocular agents that an optometrist is prohibited from prescribing;
- Removes the current-law limitation on the administration methods a certified optometrist may use for ocular pharmaceuticals, thereby allowing certified optometrists to use additional medication delivery systems – including subcutaneous (Sub-Q), intramuscular (IM), and intravenous (IV) – for ocular pharmaceutical agents not listed in the negative formulary;
- Directs the Board to:
    - Establish the negative formulary of ocular medications that certified optometrists are prohibited from administering or prescribing;
    - Adopt rules relating to:
        - The practices and procedures for the administration and prescription of eye medications;
        - The laser and non-laser ophthalmic procedures and therapies an optometrist certified in ophthalmic procedures may perform;
        - The standards of practice for each Board-approved ophthalmic procedure or therapy an optometrist certified in ophthalmic procedures may perform;
        - The scope of practice of optometry;
        - The required content, grading criteria, and passing score for the licensure examination for certified optometrists; and
- Specifies that the following ophthalmic procedures are excluded from the scope of practice of optometry:
    - Any procedure that requires preoperative medication;
    - Any procedure that requires drug induced alteration of consciousness;
    - Laser vision correction;
    - Penetrating keratoplasty;
    - Corneal or lamellar keratoplasty;
    - Laser of the vitreous chamber or retina to treat vitreomacular or retinal disease;
    - Eyelid surgery for:
    - Suspected eyelid malignancies;
    - Incisional cosmetic or mechanical repair of blepharochalasis, ptosis, or tarsorrhaphy.
    - Boney orbit surgery, including, but not limited to:
    - Orbital implants; or
    - Removal of the human eye.
    - Surgery of the lacrimal system other than lacrimal probing;
    - Full thickness surgeries of the cornea or sclera other than paracentesis in an emergency;
    - Iris and ciliary body surgery requiring a scalpel including, iris diathermy or cryotherapy;
    - Surgery of the vitreous or retina;
    - Surgery of the crystalline lens or an intraocular prosthetic implant;
    - Surgery on extraocular muscles;
    - A full thickness conjunctivoplasty with graft or flap; and
    - Pterygium surgery.

Any other ophthalmology laser and non-laser surgical procedure could be authorized by the Board to be performed by optometrists certified in ophthalmic procedures.[90]

- Provides that all applicable provisions of ch. 456, F.S., relating to the activities of the DOH's regulatory boards will apply to the Board, except for the provisions of that chapter which conflict with the provisions of ch. 463, F.S., relating to the practice of optometry; and
- Makes conforming and cross-referencing changes.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Due to the bill's expansion of services that optometrists may perform, the bill might result in increased costs borne by private health insurers and HMOs that cover optometric services. The fiscal impact is indeterminate at this time.

C. Government Sector Impact:

Due to the bill's expansion of services that optometrists may perform, the bill might result in increased costs for optometric services under state group health insurance and

[90] Florida Society of Ophthalmology, *Examples of Surgeries SB 876/HB 631 Would Authorize Optometrists to Perform* (on file with the Senate Health Policy Committee).

Medicaid, to the extent such services are covered and provided under those respective benefit packages. The fiscal impact is indeterminate at this time.

V. Technical Deficiencies:

None.

VI. Related Issues:

- The bill directs the Board to review and approve the content of the initial course and examination for certification as an optometrist certified in ophthalmic procedures, and the course and examination must adequately and reliably satisfy the criteria set forth in s. 463.0056, F.S., as created by the bill, relating to ophthalmic procedures certified optometrists may perform. The bill also directs the Board to annually review and approve the examination if the Board determines that the content continues to adequately and reliably satisfy such criteria. However, the bill provides no such criteria in that new section of statute, aside from criteria specifying organizations that may develop and offer the course and exam. For example, the bill does not give guidance as to the number of hours required, the procedures to be included, whether the course and exam can be completed online, or whether the course is lecture-only or requires clinical experience.

- The bill requires an optometrist desiring to be certified to perform ophthalmic procedures, to first provide proof to the DOH of his or her successful completion of a course and subsequent examination, approved by the Board, on laser and non-laser ophthalmic procedures and therapy. The bill defines an "optometrist certified in ophthalmic procedures" as a certified optometrist who is authorized under s. 463.0056, F.S., as created by the bill, to perform Board-approved laser and non-laser ophthalmic procedures and therapy in accordance with that section.

  The bill does not provide any guidance as to what happens after a certified optometrist submits his or her proof to the DOH. To wit:
  - The bill contains no provision as to who issues the certification, i.e. the DOH or the Board.
  - The bill contains no provision for the certification to expire or be renewed.
  - The bill contains no continuing education requirements to maintain the certification.

- The bill expands the scope of the practice of optometry to include the ability of optometrist certified in ophthalmic procedures to perform laser and non-laser procedures that are currently only performed by ophthalmology physicians, who are required to carry medical malpractice insurance or provide proof of financial responsibility. Physicians must also report adverse incidents to the DOH. The bill contains no such requirements for optometrists who become certified to perform ophthalmic procedures.

- The bill does not define "minimal tranquilization" that the optometrist certified to perform ophthalmic procedures is permitted to utilize. That term is not a standard term of induced levels of consciousness.

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 463.002, 463.003, 463.005, 463.0055, 463.0057, 463.006, 463.0135, 463.014, 463.009, and 641.31.

This bill creates section 463.0056 of the Florida Statutes.

VIII. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.