

1 A bill to be entitled
2 An act relating to the practice of optometry; amending
3 s. 463.002, F.S.; providing a definition; authorizing
4 a certified optometrist to administer and prescribe
5 ocular pharmaceutical agents; amending s. 463.005,
6 F.S.; authorizing the Board of Optometry to adopt
7 rules relating to the administration and prescription
8 of ocular pharmaceutical agents; amending s. 463.0055,
9 F.S.; requiring a certified optometrist to complete a
10 course and examination on general and ocular
11 pharmaceutical agents before administering or
12 prescribing those agents; providing an exception;
13 specifying the number of required course hours based
14 on the date of licensure; requiring the Florida
15 Medical Association and the Florida Optometric
16 Association to jointly develop and administer the
17 course and examination; revising provisions relating
18 to the development of a formulary of ocular
19 pharmaceutical agents; amending s. 463.0057, F.S.;
20 prohibiting the holder of an optometric faculty
21 certificate from administering or prescribing ocular
22 pharmaceutical agents; amending s. 463.006, F.S.;
23 revising provisions relating to licensure and
24 certification of optometrists; amending s. 463.0135,
25 F.S.; authorizing a certified optometrist to perform
26 certain eye examinations; amending s. 463.014, F.S.;
27 prohibiting a licensed practitioner of optometry from
28 providing any drug for the purpose of treating a

29 | systemic disease; amending s. 483.035, F.S.; requiring
 30 | a clinical laboratory operated by a licensed
 31 | practitioner of optometry to be licensed under ch.
 32 | 463, F.S.; amending s. 483.041, F.S.; revising the
 33 | definition of the term "licensed practitioner" to
 34 | include certified optometrists; amending s. 483.181,
 35 | F.S.; providing for an optometrist to accept a human
 36 | specimen for examination, under certain conditions;
 37 | amending s. 893.02, F.S.; redefining the term
 38 | "practitioner" to include certified optometrists;
 39 | amending s. 893.05, F.S.; prohibiting a certified
 40 | optometrist from administering or prescribing
 41 | pharmaceutical agents listed in Schedule I or Schedule
 42 | II of the Florida Comprehensive Drug Abuse Prevention
 43 | and Control Act; amending ss. 463.009 and 641.31,
 44 | F.S.; conforming cross-references; providing an
 45 | effective date.

46 |

47 | Be It Enacted by the Legislature of the State of Florida:

48 |

49 | Section 1. Paragraph (b) of subsection (3) and subsection
 50 | (4) of section 463.002, Florida Statutes, are amended,
 51 | subsection (5) is renumbered as subsection (6) and amended,
 52 | present subsections (6) through (10) are renumbered as
 53 | subsections (7) through (11), respectively, a new subsection (5)
 54 | is added to that section, to read:

55 | 463.002 Definitions.—As used in this chapter, the term:

56 | (3)

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

62 (4) "Certified optometrist" means a licensed practitioner
63 authorized by the board to administer and prescribe ~~topical~~
64 ocular pharmaceutical agents.

65 (5) "Ocular pharmaceutical agent" means a pharmaceutical
66 agent that is administered topically or orally for the diagnosis
67 and treatment of ocular conditions of the human eye and its
68 appendages.

69 (6)~~(5)~~ "Optometry" means the diagnosis of conditions of the
70 human eye and its appendages; the employment of any objective or
71 subjective means or methods, including the administration of
72 ~~topical~~ ocular pharmaceutical agents, for the purpose of
73 determining the refractive powers of the human eyes, or any
74 visual, muscular, neurological, or anatomic anomalies of the
75 human eyes and their appendages; and the prescribing and
76 employment of lenses, prisms, frames, mountings, contact lenses,
77 orthoptic exercises, light frequencies, and any other means or
78 methods, including ~~topical~~ ocular pharmaceutical agents, for the
79 correction, remedy, or relief of any insufficiencies or abnormal
80 conditions of the human eyes and their appendages.

81 Section 2. Paragraph (g) of subsection (1) of section
82 463.005, Florida Statutes, is amended to read:

83 463.005 Authority of the board.—

84 (1) The Board of Optometry has authority to adopt rules
85 pursuant to ss. 120.536(1) and 120.54 to implement the
86 provisions of this chapter conferring duties upon it. Such rules
87 shall include, but not be limited to, rules relating to:

88 (g) Administration and prescription of ~~topical~~ ocular
89 pharmaceutical agents.

90 Section 3. Section 463.0055, Florida Statutes, is amended
91 to read:

92 463.0055 Administration and prescription of ~~topical~~ ocular
93 pharmaceutical agents; committee.—

94 (1) (a) Certified optometrists may administer and prescribe
95 ~~topical~~ ocular pharmaceutical agents as provided in this section
96 for the diagnosis and treatment of ocular conditions of the
97 human eye and its appendages without the use of surgery or other
98 invasive techniques. However, a licensed practitioner who is not
99 certified may use topically applied anesthetics solely for the
100 purpose of glaucoma examinations, but is otherwise prohibited
101 from administering or prescribing ~~topical~~ ocular pharmaceutical
102 agents.

103 (b) Before a certified optometrist may administer or
104 prescribe ocular pharmaceutical agents, the certified
105 optometrist must complete a course and subsequent examination on
106 general and ocular pharmaceutical agents and the side effects of
107 those agents. For certified optometrists licensed before January
108 1, 1990, the course shall consist of 50 contact hours and 25 of
109 those hours shall be web-based. For certified optometrists
110 licensed on or after January 1, 1990, the course shall consist
111 of 20 contact hours and 10 of those hours shall be web-based.

112 The first course and examination shall be presented by July 1,
113 2013, and shall be administered at least annually thereafter.
114 The Florida Medical Association and the Florida Optometric
115 Association shall jointly develop and administer a course and
116 examination for such purpose and jointly determine the site or
117 sites for the course and examination. If a certified optometrist
118 does not complete a course and subsequent examination under this
119 paragraph, the certified optometrist is only authorized to
120 administer ocular pharmaceutical agents by topical application.

121 (2) (a) There is ~~hereby~~ created a committee composed of two
122 certified optometrists licensed pursuant to this chapter,
123 appointed by the Board of Optometry, two board-certified
124 ophthalmologists licensed pursuant to chapter 458 or chapter
125 459, appointed by the Board of Medicine, and one additional
126 person with a doctorate degree in pharmacology who is not
127 licensed pursuant to chapter 458, chapter 459, or this chapter,
128 appointed by the State Surgeon General. The committee shall
129 review requests for additions to, deletions from, or
130 modifications of a formulary of ~~topical~~ ocular pharmaceutical
131 agents for administration and prescription by certified
132 optometrists and shall provide to the board advisory opinions
133 and recommendations on such requests. The formulary shall
134 consist of those ~~topical~~ ocular pharmaceutical agents which are
135 appropriate to treat and diagnose ocular diseases and disorders
136 and which the certified optometrist is qualified to use in the
137 practice of optometry. The board shall establish, add to, delete
138 from, or modify the formulary by rule. Notwithstanding any
139 provision of chapter 120 to the contrary, the formulary rule

140 shall become effective 60 days from the date it is filed with
 141 the Secretary of State.

142 (b) The formulary may be added to, deleted from, or
 143 modified according to the procedure described in paragraph (a).
 144 Any person who requests an addition, deletion, or modification
 145 of an authorized ~~topical~~ ocular pharmaceutical agent shall have
 146 the burden of proof to show cause why such addition, deletion,
 147 or modification should be made.

148 (c) The State Surgeon General shall have standing to
 149 challenge any rule or proposed rule of the board pursuant to s.
 150 120.56. In addition to challenges for any invalid exercise of
 151 delegated legislative authority, the administrative law judge,
 152 upon such a challenge by the State Surgeon General, may declare
 153 all or part of a rule or proposed rule invalid if it:

- 154 1. Does not protect the public from any significant and
 155 discernible harm or damages;
- 156 2. Unreasonably restricts competition or the availability
 157 of professional services in the state or in a significant part
 158 of the state; or
- 159 3. Unnecessarily increases the cost of professional
 160 services without a corresponding or equivalent public benefit.

161
 162 However, there shall not be created a presumption of the
 163 existence of any of the conditions cited in this subsection in
 164 the event that the rule or proposed rule is challenged.

165 (d) Upon adoption of the formulary required by this
 166 section, and upon each addition, deletion, or modification to
 167 the formulary, the board shall mail a copy of the amended

168 formulary to each certified optometrist and to each pharmacy
 169 licensed by the state.

170 (3) A certified optometrist shall be issued a prescriber
 171 number by the board. Any prescription written by a certified
 172 optometrist for an ~~a topical~~ ocular pharmaceutical agent
 173 pursuant to this section shall have the prescriber number
 174 printed thereon.

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

177 463.0057 Optometric faculty certificate.—

178 (3) The holder of a faculty certificate may engage in the
 179 practice of optometry as permitted by this section, but may not
 180 administer or prescribe ~~topical~~ ocular pharmaceutical agents
 181 unless the certificateholder has satisfied the requirements of
 182 ss. 463.0055(1)(b) and ~~s.~~ 463.006(1)(b)4. and 5.

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

185 463.006 Licensure and certification by examination.—

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

193 (3) Each applicant who successfully passes the examination
 194 and otherwise meets the requirements of this chapter is entitled
 195 to be licensed as a practitioner and to be certified to

196 administer and prescribe ~~topical~~ ocular pharmaceutical agents in
 197 the diagnosis and treatment of ocular conditions.

198 Section 6. Subsection (10) is added to section 463.0135,
 199 Florida Statutes, to read:

200 463.0135 Standards of practice.—

201 (10) A certified optometrist is authorized to perform any
 202 eye examination, including a dilated examination, required or
 203 authorized by chapter 548 or by rules adopted to implement that
 204 chapter.

205 Section 7. Subsection (3) of section 463.014, Florida
 206 Statutes, is amended to read:

207 463.014 Certain acts prohibited.—

208 (3) Prescribing, ordering, dispensing, administering,
 209 supplying, selling, or giving any drug for the purpose of
 210 treating a systemic disease ~~systemic drugs~~ by a licensed
 211 practitioner is prohibited.

212 Section 8. Subsection (1) of section 483.035, Florida
 213 Statutes, is amended to read:

214 483.035 Clinical laboratories operated by practitioners
 215 for exclusive use; licensure and regulation.—

216 (1) A clinical laboratory operated by one or more
 217 practitioners licensed under chapter 458, chapter 459, chapter
 218 460, chapter 461, chapter 462, chapter 463, or chapter 466,
 219 exclusively in connection with the diagnosis and treatment of
 220 their own patients, must be licensed under this part and must
 221 comply with the provisions of this part, except that the agency
 222 shall adopt rules for staffing, for personnel, including
 223 education and training of personnel, for proficiency testing,

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224 and for construction standards relating to the licensure and
225 operation of the laboratory based upon and not exceeding the
226 same standards contained in the federal Clinical Laboratory
227 Improvement Amendments of 1988 and the federal regulations
228 adopted thereunder.

229 Section 9. Subsection (7) of section 483.041, Florida
230 Statutes, is amended to read:

231 483.041 Definitions.—As used in this part, the term:

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

242 Section 10. Subsection (5) of section 483.181, Florida
243 Statutes, is amended to read:

244 483.181 Acceptance, collection, identification, and
245 examination of specimens.—

246 (5) A clinical laboratory licensed under this part must
247 accept a human specimen submitted for examination by a
248 practitioner licensed under chapter 458, chapter 459, chapter
249 460, chapter 461, chapter 462, chapter 463, s. 464.012, or
250 chapter 466, if the specimen and test are the type performed by
251 the clinical laboratory. A clinical laboratory may only refuse a

252 specimen based upon a history of nonpayment for services by the
 253 practitioner. A clinical laboratory shall not charge different
 254 prices for tests based upon the chapter under which a
 255 practitioner submitting a specimen for testing is licensed.

256 Section 11. Subsection (21) of section 893.02, Florida
 257 Statutes, is amended to read:

258 893.02 Definitions.—The following words and phrases as
 259 used in this chapter shall have the following meanings, unless
 260 the context otherwise requires:

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

269 Section 12. Subsection (1) of section 893.05, Florida
 270 Statutes, is amended to read:

271 893.05 Practitioners and persons administering controlled
 272 substances in their absence.—

273 (1) A practitioner, in good faith and in the course of his
 274 or her professional practice only, may prescribe, administer,
 275 dispense, mix, or otherwise prepare a controlled substance, or
 276 the practitioner may cause the same to be administered by a
 277 licensed nurse or an intern practitioner under his or her
 278 direction and supervision only. A veterinarian may so prescribe,
 279 administer, dispense, mix, or prepare a controlled substance for

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280 use on animals only, and may cause it to be administered by an
281 assistant or orderly under the veterinarian's direction and
282 supervision only. A certified optometrist licensed under chapter
283 463 may not administer or prescribe pharmaceutical agents listed
284 in Schedule I or Schedule II of s. 893.03.

285 Section 13. Section 463.009, Florida Statutes, is amended
286 to read:

287 463.009 Supportive personnel.—No person other than a
288 licensed practitioner may engage in the practice of optometry as
289 defined in s. 463.002(6) ~~463.002(5)~~. Except as provided in this
290 section, under no circumstances shall nonlicensed supportive
291 personnel be delegated diagnosis or treatment duties; however,
292 such personnel may perform data gathering, preliminary testing,
293 prescribed visual therapy, and related duties under the direct
294 supervision of the licensed practitioner. Nonlicensed personnel,
295 who need not be employees of the licensed practitioner, may
296 perform ministerial duties, tasks, and functions assigned to
297 them by and performed under the general supervision of a
298 licensed practitioner, including obtaining information from
299 consumers for the purpose of making appointments for the
300 licensed practitioner. The licensed practitioner shall be
301 responsible for all delegated acts performed by persons under
302 her or his direct and general supervision.

303 Section 14. Subsection (19) of section 641.31, Florida
304 Statutes, is amended to read:

305 641.31 Health maintenance contracts.—

306 (19) Notwithstanding any other provision of law, health
307 maintenance policies or contracts which provide coverage,

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308 | benefits, or services as described in s. 463.002(6) ~~463.002(5)~~,
309 | shall offer to the subscriber the services of an optometrist
310 | licensed pursuant to chapter 463.

311 | Section 15. This act shall take effect July 1, 2013.