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

Page 1 of 20

surgery to perform laser and non-laser ophthalmic surgery; requiring a certified optometrist in ophthalmic surgery to provide proof of completion of a certain course and examination before he or she may perform such surgeries; providing requirements for the development and offering of such course and examination; requiring the board to review and approve the content of the initial course and examination if it determines the course and examination satisfy certain requirements; requiring an annual review thereafter; authorizing the successful completion of the course and examination to be used by a licensed practitioner to satisfy continuing education requirements; prohibiting a certified optometrist in ophthalmic surgery from performing specified surgery procedures; amending s. 463.014, F.S.; providing that specified prohibited acts may be authorized by the State Health Officer during a public emergency; deleting a provision prohibiting surgery of any kind by a certified optometrist; amending ss. 463.007, 463.009, 463.013, 463.0135, and 641.31, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Page 2 of 20

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

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

- (2) "Board" means the Board of Optometry.
- (3) "Certified optometrist in ophthalmic surgery" means a licensed practitioner authorized by the board to perform ophthalmic surgery.
 - (6) $\frac{(2)}{(2)}$ "Department" means the Department of Health.
- (9) (a) (3) (a) "Licensed practitioner" means a person who is a primary health care provider licensed to engage in the practice of optometry under the authority of this chapter.
- (b) A licensed practitioner who is not a certified optometrist in pharmaceutical agents is shall be required to display at her or his place of practice a sign that which states, "I am a Licensed Practitioner, not a Certified Optometrist in Pharmaceutical Agents, and I am not able to prescribe ocular pharmaceutical agents."
- (c) All practitioners initially licensed after July 1, 1993, must be certified optometrists <u>in pharmaceutical agents</u>.
- (d) A licensed practitioner who is not a certified optometrist in ophthalmic surgery is required to display at her or his place of practice a sign that states, "I am a Licensed Practitioner, not a Certified Optometrist in Ophthalmic Surgery, and I am not able to perform laser or non-laser ophthalmic

Page 3 of 20

surgery."

- (4) "Certified optometrist <u>in pharmaceutical agents</u>" means a licensed practitioner authorized by the board to administer and prescribe ocular pharmaceutical agents.
- controlled Substances Act, 21 U.S.C. s. 812(c) a pharmaceutical agent that is administration of surgery or other invasive techniques.
- (11) (6) "Ophthalmic surgery" means a procedure performed on the human eye and its adnexa and visual system in which human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such as, but not limited to, a scalpel, a cryoprobe, a laser, an electric cautery, or ionizing radiation

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

- (12) (7) "Optometry" means the practice in which a person:
- (a) Employs primary eye care procedures, including the prescription of ocular pharmaceutical agents, medical devices, and ophthalmic surgery;
- (b) Measures the power and range of vision of the human eye using subjective and objective means, including the use of lenses and prisms before the eye, autorefractors, and other automated testing devices to determine the eye's accommodative and refractive state and general scope of function;
- (c) Engages in the adaption, sale, and dispensing of frames and lenses in all their forms, including plano or zero power contact lenses, to overcome errors of refraction and restore, as nearly as possible, normal human vision, or for orthotic, prosthetic, therapeutic, or cosmetic purposes with respect to contact lenses; or
- (d) Examines for, diagnoses, and treats abnormal conditions and diseases of the human eye and its adnexa and visual system, including the use or prescription of vision therapy, ocular exercises, rehabilitation therapy, subnormal

Page 5 of 20

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

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

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

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

Page 6 of 20

151	eyebrows, the conjunctiva, and the lacrimal apparatus.
152	(13) (11) "Transcript-quality" means a course which is in
153	conjunction with or sponsored by a school or college of
154	optometry or equivalent educational entity, which course is
155	approved by the board and requires a test and passing grade.
156	(5) (12) "Clock hours" means the actual time engaged in
157	approved coursework and clinical training.
158	Section 2. Subsections (3) and (4) are added to section
159	463.005, Florida Statutes, to read:
160	463.005 Authority of the board.—
161	(3) The board has the sole authority to determine what
162	constitutes the practice of optometry and to exercise any powers
163	and duties conferred on it under this chapter. The board may
164	issue advisory opinions and declaratory rulings related to this
165	chapter and the administrative rules adopted under this chapter.
166	(4) This chapter may not be construed to authorize an
167	agency or a medical board or entity of this state other than the
168	board to determine what constitutes the practice of optometry.
169	Section 3. Section 463.0055, Florida Statutes, is amended
170	to read:
171	463.0055 Administration and prescription of ocular
172	pharmaceutical agents.—
173	(1)(a) Certified optometrists in pharmaceutical agents may

Page 7 of 20

administer and prescribe ocular pharmaceutical agents as

provided in this section for the diagnosis and treatment of

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ocular conditions of the human eye and its <u>adnexa and visual</u>

<u>system appendages without the use of surgery or other invasive</u>

<u>techniques</u>. However, a licensed practitioner who is not <u>a</u>

certified <u>optometrist in pharmaceutical agents</u> may use topically applied anesthetics solely for the purpose of glaucoma examinations, but is otherwise prohibited from administering or prescribing ocular pharmaceutical agents.

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Before a certified optometrist in pharmaceutical agents may administer or prescribe oral ocular pharmaceutical agents, the certified optometrist in pharmaceutical agents must provide proof to the department of successful completion of a course and subsequent examination, approved by the board, on general and ocular pharmaceutical agents and the side effects of those agents. The course must shall consist of 20 contact hours, all of which may be web-based. The first course and examination shall be presented by October 1, 2013, and shall be administered at least annually thereafter. The course and examination shall be developed and offered jointly by a statewide professional association of physicians in this state 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 shall review and approve the content of the initial course and examination if the board

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

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

Page 9 of 20

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

- (b) The formulary may be added to, deleted from, or modified according to the procedure described in paragraph (a). Any person who requests an addition, deletion, or modification of an authorized topical ocular pharmaceutical agent shall have the burden of proof to show cause why such addition, deletion, or modification should be made.
- (c) The State Surgeon General shall have standing to challenge any rule or proposed rule of the board pursuant to s. 120.56. In addition to challenges for any invalid exercise of delegated legislative authority, the administrative law judge, upon such a challenge by the State Surgeon General, may declare all or part of a rule or proposed rule invalid if it:
- 1. Does not protect the public from any significant and discernible harm or damages;
- 2. Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or
- 3. Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

Page 10 of 20

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

(d) Upon adoption of the formulary required by this section, and upon each addition, deletion, or modification to

- section, and upon each addition, deletion, or modification to the formulary, the board shall mail a copy of the amended formulary to each certified optometrist <u>in pharmaceutical agents</u> and to each pharmacy licensed by the state.
- (3) In addition to the formulary of topical ocular pharmaceutical agents established by rule of the board, there is created a statutory formulary of oral ocular pharmaceutical agents, which includes the following agents:
- (a) The following analgesics or their generic or therapeutic equivalents, which may not be administered or prescribed for more than 72 hours without consultation with a physician licensed under chapter 458 or chapter 459 who is skilled in diseases of the eye:
 - 1. Tramadol hydrochloride.
- 2. Acetaminophen 300 mg with No. 3 codeine phosphate 30 mg.
- (b) The following antibiotics or their generic or therapeutic equivalents:
 - 1. Amoxicillin with or without clavulanic acid.
 - 2. Azithromycin.
- 275 3. Erythromycin.

Page 11 of 20

276	4. Dicloxacillin.
277	5. Doxycycline/Tetracycline.
278	6. Keflex.
279	7. Minocycline.
280	(c) The following antivirals or their generic or
281	therapeutic equivalents:
282	1. Acyclovir.
283	2. Famciclovir.
284	3. Valacyclovir.
285	(d) The following oral anti-glaucoma agents or their
286	generic or therapeutic equivalents, which may not be
287	administered or prescribed for more than 72 hours:
288	1. Acetazolamide.
289	2. Methazolamide.
290	(e) Any oral ocular pharmaceutical agent that is <u>in the</u>
291	formulary established by the board under paragraph (a) listed in
292	the statutory formulary set forth in this subsection and that is
293	subsequently determined by the United States Food and Drug
294	Administration to be unsafe for administration or prescription
295	shall be considered to have been deleted from the formulary of
296	oral ocular pharmaceutical agents. The oral ocular
297	pharmaceutical agents on the statutory formulary set forth in
298	this subsection may not otherwise be deleted by the board, the
299	department, or the State Surgeon General.
300	(3) (4) A certified optometrist in pharmaceutical agents

Page 12 of 20

shall be issued a prescriber number by the board. Any prescription written by a certified optometrist <u>in</u>

<u>pharmaceutical agents</u> for an ocular pharmaceutical agent pursuant to this section <u>must shall</u> have the prescriber number printed thereon. A certified optometrist <u>in pharmaceutical</u>

<u>agents</u> may not administer or prescribe:

(a) a controlled substance listed in Schedule <u>I of the</u>

Controlled Substances Act, 21 U.S.C. s. 812(c) III, Schedule IV,

or Schedule V of s. 893.03, except for an oral analgesic placed

on the formulary pursuant to this section for the relief of pain

due to ocular conditions of the eye and its appendages.

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

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

463.0056 Administration and performance of laser and nonlaser surgical procedures.—

- (1) (a) A licensed practitioner must complete a boardapproved course and examination under this section to become a certified optometrist in ophthalmic surgery.
- (b) A certified optometrist in ophthalmic surgery may perform laser and non-laser ophthalmic surgery. To perform laser and non-laser ophthalmic surgery, the certified optometrist in ophthalmic surgery must provide to the department proof of the successful completion of a course and subsequent examination,

Page 13 of 20

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

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- The course and examination shall be developed and (2) offered jointly by a statewide professional association of physicians in this state 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 shall review and approve the content of the initial course and examination if the board determines that the course and examination adequately and reliably satisfy the requirements for AMA PRA Category 1 Credit eligibility. The board shall thereafter annually review and approve the course and examination if the board determines that the content continues to adequately and reliably satisfy the requirements for AMA PRA Category 1 Credit eligibility. Successful completion of the board-approved course and examination may be used by a licensed practitioner to satisfy the continuing education requirements in s. 463.007(3), only for the biennial period in which the board-approved course and examination are taken.
- (3) The following surgical procedures, except for the preoperative and postoperative care of these procedures, are excluded from the scope of practice of optometry by a certified optometrist in ophthalmic surgery:

Page 14 of 20

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

Page 15 of 20

376 <u>implants.</u>

- (p) Incisional or excisional surgery of the lacrimal system other than lacrimal probing or related procedures.
- (q) Surgery requiring full-thickness conjunctivoplasty with graft or flap.
 - (r) Pterygium surgery.
- Section 5. Subsections (3) and (4) of section 463.014, Florida Statutes, are amended to read:
 - 463.014 Certain acts prohibited.-
- (3) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug for the purpose of treating a systemic disease by a licensed practitioner is prohibited, unless authorized by the State Health Officer during a public health emergency pursuant to s. 381.00315. However, a certified optometrist in pharmaceutical agents is permitted to use commonly accepted means or methods to immediately address incidents of anaphylaxis.
- optometrists may remove superficial foreign bodies. For the purposes of this subsection, the term "superficial foreign bodies" means any foreign matter that is embedded in the conjunctiva or cornea but that has not penetrated the globe. Notwithstanding the definition of surgery as provided in s. 463.002(6), a certified optometrist is not prohibited from providing any optometric care within the practice of optometry

Page 16 of 20

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

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

463.007 Renewal of license; continuing education.-

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

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

463.009 Supportive personnel.—No person other than a licensed practitioner may engage in the practice of optometry as defined in $\underline{s.\ 463.002(12)}$ $\underline{s.\ 463.002(7)}$. Except as provided in this section, under no circumstances shall nonlicensed

Page 17 of 20

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

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

Any agency of the state or county or any commission, clinic, or board administering relief, social security, health insurance, or health service under the laws of the state shall accept the services of licensed practitioners for the purposes of diagnosing and correcting any and all visual, muscular, neurological, and anatomic anomalies of the human eyes and their adnexa and visual systems appendages of any persons under the jurisdiction of said agency, clinic, commission, or board administering such relief, social security, health insurance, or

Page 18 of 20

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

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

463.0135 Standards of practice.-

- (3) When an infectious corneal disease condition has not responded to standard methods of treatment within the scope of optometric practice, the <u>licensed practitioner or</u> certified optometrist <u>in pharmaceutical agents</u> shall consult with a physician skilled in diseases of the eye and licensed under chapter 458 or chapter 459.
- (10) A certified optometrist <u>in pharmaceutical agents</u> is authorized to perform any eye examination, including a dilated examination, required or authorized by chapter 548 or by rules adopted to implement that chapter.

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

- 641.31 Health maintenance contracts.-
- (19) Notwithstanding any other provision of law, health maintenance policies or contracts that which provide coverage, benefits, or services as described in $\underline{s. 463.002(12)}$ $\underline{s.}$ 463.002(7), shall offer to the subscriber the services of an

Page 19 of 20

optometrist licensed pursuant to chapter 463.

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

Page 20 of 20