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# Health Quality Subcommittee

## Action Packet

Thursday, February 7, 2013

2:00 PM - 4:00 PM

306 HOB

Will Weatherford  
Speaker

Kenneth L. "Ken" Roberson  
Chair

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

2/7/2013 2:00:00PM

Location: 306 HOB

### Summary:

#### Health Quality Subcommittee

Thursday February 07, 2013 02:00 pm

|        |  |          |         |
|--------|--|----------|---------|
| HB 9   | Favorable                                  | Yeas: 13 | Nays: 0 |
| HB 83  | Favorable With Committee Substitute        | Yeas: 13 | Nays: 0 |
|        | Amendment 439355 Adopted Without Objection |          |         |
| HB 115 | Favorable With Committee Substitute        | Yeas: 13 | Nays: 0 |
|        | Amendment 482095 Adopted Without Objection |          |         |
| HB 171 | Favorable With Committee Substitute        | Yeas: 13 | Nays: 0 |
|        | Amendment 058859 Adopted Without Objection |          |         |
|        | Amendment 111409 Adopted Without Objection |          |         |
|        | Amendment 292547 Adopted Without Objection |          |         |
|        | Amendment 435737 Adopted Without Objection |          |         |
|        | Amendment 973829 Adopted Without Objection |          |         |
| HB 239 | Favorable With Committee Substitute        | Yeas: 10 | Nays: 3 |
|        | Amendment 512831 Adopted Without Objection |          |         |
|        | Amendment 847177 Adopted Without Objection |          |         |

Committee meeting was reported out: Thursday, February 07, 2013 6:17:27PM

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

2/7/2013 2:00:00PM

Location: 306 HOB

### Attendance:

|                          | <i>Present</i> | <i>Absent</i> | <i>Excused</i> |
|--------------------------|----------------|---------------|----------------|
| Kenneth Roberson (Chair) | X              |               |                |
| Daphne Campbell          | X              |               |                |
| Manny Diaz, Jr.          | X              |               |                |
| Eduardo Gonzalez         | X              |               |                |
| Bryan Nelson             | X              |               |                |
| Jose Oliva               | X              |               |                |
| Kevin Rader              | X              |               |                |
| Daniel Raulerson         | X              |               |                |
| José Rodríguez           | X              |               |                |
| Patrick Rooney, Jr.      | X              |               |                |
| Joe Saunders             | X              |               |                |
| Ross Spano               | X              |               |                |
| Clovis Watson, Jr.       | X              |               |                |
| <b>Totals:</b>           | <b>13</b>      | <b>0</b>      | <b>0</b>       |

Committee meeting was reported out: Thursday, February 07, 2013 6:17:27PM

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

2/7/2013 2:00:00PM

Location: 306 HOB

### HB 9 : Involuntary Examinations under the Baker Act

Favorable

|                          | <i>Yea</i> | <i>Nay</i>           | <i>No Vote</i> | <i>Absentee<br/>Yea</i> | <i>Absentee<br/>Nay</i> |
|--------------------------|------------|----------------------|----------------|-------------------------|-------------------------|
| Daphne Campbell          | X          |                      |                |                         |                         |
| Manny Diaz, Jr.          | X          |                      |                |                         |                         |
| Eduardo Gonzalez         | X          |                      |                |                         |                         |
| Bryan Nelson             | X          |                      |                |                         |                         |
| Jose Oliva               | X          |                      |                |                         |                         |
| Kevin Rader              | X          |                      |                |                         |                         |
| Daniel Raulerson         | X          |                      |                |                         |                         |
| José Rodríguez           | X          |                      |                |                         |                         |
| Patrick Rooney, Jr.      | X          |                      |                |                         |                         |
| Joe Saunders             | X          |                      |                |                         |                         |
| Ross Spano               | X          |                      |                |                         |                         |
| Clovis Watson, Jr.       | X          |                      |                |                         |                         |
| Kenneth Roberson (Chair) | X          |                      |                |                         |                         |
| <b>Total Yeas: 13</b>    |            | <b>Total Nays: 0</b> |                |                         |                         |

#### Appearances:

Baker Act

Mixon, Juann (Lobbyist) - Waive In Support

Florida Academy of Physician Assistants

119 E. Park Ave.

Tallahassee FL 32301

Phone: (850) 222-2591

Authorize Nurse Practitioners to sign certificate of involuntary examination

King, RNP, MPH, ARNP, Mai (State Employee) - Proponent

Nurse Practitioners

3712 Longchamp Cir.

Tallahassee FL 32309

Phone: (850) 510-7500

Baker Act

Whitaker, Stan - Proponent

FL Assoc. of NPS

6294 NW Torreya Pk Rd

Bristol FL 32321

Phone: (850) 545-8301

Baker Act

Daughton, Jim (Lobbyist) - Proponent

Florida Psychiatric Assn

215 S Monroe St

Tallahassee FL 32301

Phone: (850) 205-9000

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# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

2/7/2013 2:00:00PM

Location: 306 HOB

### HB 83 : Infant Death

Favorable With Committee Substitute

|                          | Yea | Nay                  | No Vote | Absentee<br>Yea | Absentee<br>Nay |
|--------------------------|-----|----------------------|---------|-----------------|-----------------|
| Daphne Campbell          | X   |                      |         |                 |                 |
| Manny Diaz, Jr.          | X   |                      |         |                 |                 |
| Eduardo Gonzalez         | X   |                      |         |                 |                 |
| Bryan Nelson             | X   |                      |         |                 |                 |
| Jose Oliva               | X   |                      |         |                 |                 |
| Kevin Rader              | X   |                      |         |                 |                 |
| Daniel Raulerson         | X   |                      |         |                 |                 |
| José Rodríguez           | X   |                      |         |                 |                 |
| Patrick Rooney, Jr.      | X   |                      |         |                 |                 |
| Joe Saunders             | X   |                      |         |                 |                 |
| Ross Spano               | X   |                      |         |                 |                 |
| Clovis Watson, Jr.       | X   |                      |         |                 |                 |
| Kenneth Roberson (Chair) | X   |                      |         |                 |                 |
| <b>Total Yeas: 13</b>    |     | <b>Total Nays: 0</b> |         |                 |                 |

### HB 83 Amendments

#### Amendment 439355

Adopted Without Objection

### Appearances:

HB 83

O'Hara, Rebecca (Lobbyist) - Waive In Support  
FL Medical Association  
113 College Ave.  
Tallahassee FL 32302  
Phone: (850) 339-6211

HB 83

Bell, Sam (Lobbyist) - Waive In Support  
Florida Pediatric Society  
1298 Millstream  
Tallahassee FL 32312  
Phone: (850) 222-3533

HB 83

Melcher, Charlene - Proponent  
SIDS Parent  
3593 Siderwheel Drive  
Rockledge FL 32955  
Phone: (407) 242-4701

Committee meeting was reported out: Thursday, February 07, 2013 6:17:27PM



Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

|                       |          |       |
|-----------------------|----------|-------|
| ADOPTED               | _____    | (Y/N) |
| ADOPTED AS AMENDED    | _____    | (Y/N) |
| ADOPTED W/O OBJECTION | <u>Y</u> | (Y/N) |
| FAILED TO ADOPT       | _____    | (Y/N) |
| WITHDRAWN             | _____    | (Y/N) |
| OTHER                 |          |       |

1 Committee/Subcommittee hearing bill: Health Quality  
 2 Subcommittee

3 Representative Santiago offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 383.3362, Florida Statutes, is amended  
 8 to read:

9 383.3362 Sudden Unexpected Infant Death ~~Syndrome~~.—

10 (1) FINDINGS AND INTENT.—The Legislature recognizes that  
 11 more than 4,500 infants in the United States die suddenly and  
 12 unexpectedly of no immediate or obvious cause. According to  
 13 statistics from the Department of Health, more than 200 infants  
 14 in this state experienced Sudden Unexpected Infant Death in 2010  
 15 ~~sudden Infant death Syndrome, or SIDS, is a leading cause of~~  
 16 ~~death among children under the age of 1 year, both nationally~~  
 17 ~~and in this state.~~ The Legislature further recognizes that first  
 18 responders to emergency calls relating to such a death need  
 19 access to special training to better enable them to recognize



Amendment No.1

20 that such deaths may result from natural and accidental causes  
21 or may be caused ~~distinguish SIDS from death caused~~ by criminal  
22 acts and to appropriately interact with the deceased infant's  
23 parents or caretakers. At the same time, the Legislature,  
24 recognizing that the primary focus of first responders is to  
25 carry out their assigned duties, intends to increase the  
26 awareness of the possible causes of Sudden Unexpected Infant  
27 Death ~~SIDS by first responders~~, but in no way expand or take  
28 away from their duties. Further, the Legislature recognizes the  
29 importance of a multidisciplinary investigation and standardized  
30 investigative protocols in cases of Sudden Unexpected Infant  
31 Death ~~standard protocol for review of SIDS deaths by medical~~  
32 ~~examiners and the importance of appropriate followup in cases of~~  
33 ~~certified or suspected SIDS deaths~~. Finally, the Legislature  
34 finds that it is desirable to analyze existing data, and to  
35 conduct further research on, the possible causes of Sudden  
36 Unexpected Infant Death ~~SIDS~~ and on how to reduce its incidence  
37 ~~lower the number of sudden infant deaths~~.

38 (2) DEFINITION.—As used in this section, the term "Sudden  
39 Unexpected Infant Death Syndrome," or "SUID," ~~"SIDS,"~~ means the  
40 sudden unexpected death of an infant under 1 year of age while  
41 in apparent good health whose death may have been a result of  
42 natural or unnatural causes ~~which remains unexplained after a~~  
43 ~~complete autopsy, death scene investigation, and review of the~~  
44 ~~case history. The term includes only those deaths for which,~~  
45 ~~currently, there is no known cause or cure.~~

46 (3) TRAINING.—

47 (a) The Legislature finds that an emergency medical



## Amendment No.1

48 technician, a paramedic, a firefighter, or a law enforcement  
49 officer is likely to be the first responder to a request for  
50 assistance which is made immediately after the sudden unexpected  
51 death of an infant. The Legislature further finds that these  
52 first responders should be trained in appropriate responses to  
53 sudden infant death.

54 (b) ~~After January 1, 1995,~~ The basic training programs  
55 required for certification as an emergency medical technician, a  
56 paramedic, a firefighter, or a law enforcement officer as  
57 defined in s. 943.10, other than a correctional officer or a  
58 correctional probation officer, must include curriculum that  
59 contains instruction on SUID ~~Sudden Infant Death Syndrome~~.

60 (c) The Department of Health, in consultation with the  
61 Emergency Medical Services Advisory Council, the Firefighters  
62 Employment, Standards, and Training Council, the child  
63 protection teams established in Children's Medical Services  
64 program, and the Criminal Justice Standards and Training  
65 Commission, shall develop and adopt, by rule, curriculum that,  
66 at a minimum, includes training in the nature of SUID ~~SIDS~~,  
67 standard procedures to be followed by law enforcement agencies  
68 in investigating cases involving sudden deaths of infants, and  
69 training in responding appropriately to the parents or  
70 caretakers who have requested assistance.

71 (4) AUTOPSIES.—

72 (a) The death of any infant younger than 1 year of age who  
73 dies suddenly and unexpectedly while in apparent good health  
74 falls under the jurisdiction of the medical examiner as provided  
75 in s. 406.11. ~~The medical examiner must perform an autopsy upon~~





## Amendment No.1

76 ~~any infant under the age of 1 year who is suspected to have died~~  
77 ~~of Sudden Infant Death Syndrome. The autopsy must be performed~~  
78 ~~within 24 hours after the death, or as soon thereafter as is~~  
79 ~~feasible. When the medical examiner's findings are consistent~~  
80 ~~with the definition of sudden infant death syndrome in~~  
81 ~~subsection (2), the medical examiner must state on the death~~  
82 ~~certificate that sudden infant death syndrome was the cause of~~  
83 ~~death.~~

84 (b) The Medical Examiners Commission shall provide for the  
85 development and implementation of develop and implement a  
86 protocol for the medicolegal investigation of SUID dealing with  
87 suspected sudden infant death syndrome. The protocol must be  
88 followed by all medical examiners when conducting the autopsies  
89 required under this subsection. The protocol may include  
90 requirements and standards for scene investigations,  
91 requirements for specific data, criteria for any specific tissue  
92 sampling, and any other requirements that are deemed  
93 ascertaining cause of death based on the autopsy, criteria for  
94 any specific tissue sampling, and any other requirements that  
95 the commission considers necessary.

96 (c) A medical examiner is not liable for damages in a  
97 civil action for any act or omission done in compliance with  
98 this subsection.

99 ~~(d) An autopsy must be performed under the authority of a~~  
100 ~~medical examiner under s. 406.11.~~

101 (5) DEPARTMENT DUTIES RELATING TO SUDDEN UNEXPECTED INFANT  
102 DEATH (SUID) SYNDROME (SIDS).—The Department of Health, in  
103 consultation with the child protection teams established in the



Amendment No.1

104 Children's Medical Services program, shall:

105 (a) Collaborate with other agencies in the development and  
106 presentation of the SUID ~~Sudden Infant Death Syndrome (SIDS)~~  
107 training programs for first responders, including those for  
108 emergency medical technicians and paramedics, firefighters, and  
109 law enforcement officers.

110 (b) Maintain a database of statistics on reported SUID  
111 ~~SIDS~~ deaths, and analyze the data as funds allow.

112 (c) Serve as liaison and closely coordinate activities  
113 with the Florida SIDS Alliance, ~~including the services related~~  
114 ~~to the SIDS hotline.~~

115 (d) Maintain a library reference list and materials about  
116 SUID ~~SIDS~~ for public dissemination.

117 (e) Provide professional support to field staff.

118 (f) Coordinate the activities of and promote a link  
119 between the fetal and infant mortality review committees of the  
120 local healthy start coalitions, the Florida ~~local~~ SIDS Alliance,  
121 and other related support groups.

122 Section 2. This act shall take effect July 1, 2013.

123

124

-----  
**T I T L E A M E N D M E N T**

126 Remove everything before the enacting clause and insert:

127 A bill to be entitled

128 An act relating to infant death; amending s. 383.3362,

129 F.S.; revising legislative findings and intent with

130 respect to the sudden unexpected death of an infant

131 under a specified age; defining the term "Sudden



Amendment No.1

132 Unexpected Infant Death" (SUID); revising provisions  
133 relating to training requirements for first  
134 responders; revising requirements relating to  
135 autopsies performed by medical examiners; requiring  
136 the Medical Examiners Commission to provide for the  
137 development and implementation of a protocol for the  
138 medicolegal investigation of SUID; providing an  
139 effective date.

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

2/7/2013 2:00:00PM

Location: 306 HOB

### HB 115 : Professional Licensure of Military Veterans by Department of Health

Favorable With Committee Substitute

|                          | Yea | Nay                  | No Vote | Absentee<br>Yea | Absentee<br>Nay |
|--------------------------|-----|----------------------|---------|-----------------|-----------------|
| Daphne Campbell          | X   |                      |         |                 |                 |
| Manny Diaz, Jr.          | X   |                      |         |                 |                 |
| Eduardo Gonzalez         | X   |                      |         |                 |                 |
| Bryan Nelson             | X   |                      |         |                 |                 |
| Jose Oliva               | X   |                      |         |                 |                 |
| Kevin Rader              | X   |                      |         |                 |                 |
| Daniel Raulerson         | X   |                      |         |                 |                 |
| José Rodríguez           | X   |                      |         |                 |                 |
| Patrick Rooney, Jr.      | X   |                      |         |                 |                 |
| Joe Saunders             | X   |                      |         |                 |                 |
| Ross Spano               | X   |                      |         |                 |                 |
| Clovis Watson, Jr.       | X   |                      |         |                 |                 |
| Kenneth Roberson (Chair) | X   |                      |         |                 |                 |
| <b>Total Yeas: 13</b>    |     | <b>Total Nays: 0</b> |         |                 |                 |

### HB 115 Amendments

#### Amendment 482095

Adopted Without Objection

### Appearances:

Military Veterans fee exemption  
Cantens, Michael (Lobbyist) (State Employee) - Waive In Support  
Florida Department of Health  
2585 Merchants Row Blvd Bin A01  
Tallahassee FL 32399  
Phone: (850) 245-4006

Committee meeting was reported out: Thursday, February 07, 2013 6:17:27PM



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

|                       |          |       |
|-----------------------|----------|-------|
| ADOPTED               | —        | (Y/N) |
| ADOPTED AS AMENDED    | —        | (Y/N) |
| ADOPTED W/O OBJECTION | <u>Y</u> | (Y/N) |
| FAILED TO ADOPT       | —        | (Y/N) |
| WITHDRAWN             | —        | (Y/N) |
| OTHER                 | —        |       |

1 Committee/Subcommittee hearing bill: Health Quality

2 Subcommittee

3 Representative Santiago offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove lines 18-22 and insert:

7 a military veteran who applies to the department for an initial  
8 license within 24 months after being honorably discharged from  
9 any branch of the United States Armed Forces. The applicant must  
10 apply for the fee waiver using a form prescribed by the  
11 department and must submit supporting documentation as required  
12 by the department.

13 Section 2. Subsection (1) of section 468.304, Florida  
14 Statutes, is amended to read:

15 468.304 Certification.—The department shall certify any  
16 applicant who meets the following criteria:

17 (1) Pays to the department a nonrefundable fee that may  
18 not exceed \$100, plus the actual per-applicant cost to the  
19 department for purchasing the examination from a national  
20 organization. The department shall waive the initial application



Amendment No.

21 fee for a military veteran who applies to the department for an  
22 initial certification within 24 months after being honorably  
23 discharged from any branch of the United States Armed Forces.  
24 The applicant must apply for the fee waiver using a form  
25 prescribed by the department and must submit supporting  
26 documentation as required by the department. This waiver does  
27 not include the fee for purchasing the examination from a  
28 national organization.

29  
30 The department may not certify any applicant who has committed  
31 an offense that would constitute a violation of any of the  
32 provisions of s. 468.3101 or applicable rules if the applicant  
33 had been certified by the department at the time of the offense.  
34 An application for a limited computed tomography certificate may  
35 not be accepted. A person holding a valid computed tomography  
36 certificate as of October 1, 1984, is subject to s. 468.309.

37  
38 -----  
39 **T I T L E   A M E N D M E N T**

40 Remove lines 3-8 and insert:

41 veterans by the Department of Health; amending ss.  
42 456.013 and 468.304, F.S.; requiring the Department of  
43 Health to waive specified fees relating to licensure  
44 and certification of professions within the  
45 jurisdiction of the department for honorably  
46 discharged military veterans; providing for  
47 application and waiver requirements; providing an

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

2/7/2013 2:00:00PM

Location: 306 HOB

### HB 171 : Disposition of Human Remains

Favorable With Committee Substitute

|                          | Yea | Nay                  | No Vote | Absentee<br>Yea | Absentee<br>Nay |
|--------------------------|-----|----------------------|---------|-----------------|-----------------|
| Daphne Campbell          | X   |                      |         |                 |                 |
| Manny Diaz, Jr.          | X   |                      |         |                 |                 |
| Eduardo Gonzalez         | X   |                      |         |                 |                 |
| Bryan Nelson             | X   |                      |         |                 |                 |
| Jose Oliva               | X   |                      |         |                 |                 |
| Kevin Rader              | X   |                      |         |                 |                 |
| Daniel Raulerson         | X   |                      |         |                 |                 |
| José Rodríguez           | X   |                      |         |                 |                 |
| Patrick Rooney, Jr.      | X   |                      |         |                 |                 |
| Joe Saunders             | X   |                      |         |                 |                 |
| Ross Spano               | X   |                      |         |                 |                 |
| Clovis Watson, Jr.       | X   |                      |         |                 |                 |
| Kenneth Roberson (Chair) | X   |                      |         |                 |                 |
| <b>Total Yeas: 13</b>    |     | <b>Total Nays: 0</b> |         |                 |                 |

### HB 171 Amendments

#### Amendment 058859

Adopted Without Objection

#### Amendment 111409

Adopted Without Objection

#### Amendment 292547

Adopted Without Objection

#### Amendment 435737

Adopted Without Objection

#### Amendment 973829

Adopted Without Objection

Committee meeting was reported out: Thursday, February 07, 2013 6:17:27PM

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

2/7/2013 2:00:00PM

**Location:** 306 HOB

**HB 171 : Disposition of Human Remains (continued)**

### Appearances:

HB 171

McFaddin, Logan (Lobbyist) (State Employee) - Waive In Support

Department of Financial Services

LL-26 Capitol

Tallahassee FL 32399

Phone: 850-413-2890

Support Amendments 3 & 5 and Bill as amended

Sellers, Larry (Lobbyist) - Waive In Support

Science Care

315 S Calhoun St

Tallahassee FL 32302

Phone: 850-425-5670

Body Parts

Mixon, Juann (Lobbyist) - Information Only

Independent Funeral Director

119 E Park Ave

Tallahassee FL 32301

Phone: (850) 222-2591

HB 171

Smith, Jim (Lobbyist) - Waive In Support

SCI

10300 McCracken Rd.

Tallahassee FL 32309

Phone: (850) 591-2277

Body Disposition

Swain, Charles (Lobbyist) - Waive In Support

Florida Funeral and Cemetery Consumer Advocacy, Inc

1006 Buena Vista Dr

Tallahassee FL 32304-1810

Phone: (850)567-2541

HB 171

Knopke, Keenan (Lobbyist) - Waive In Support

Florida Cemetery Cremation & Funeral Association

1750 Curlew Road

Palm Harbor FL 34683

Phone: (727) 789-2000

HB 171

McVoy, Ross (Lobbyist) - Waive In Support

FL Cemetery Cremation Funeral Association

660 East Jefferson Street

Tallahassee FL 32301

Phone: (850) 412-2112

Committee meeting was reported out: Thursday, February 07, 2013 6:17:27PM





Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

|                       |          |       |
|-----------------------|----------|-------|
| ADOPTED               | _____    | (Y/N) |
| ADOPTED AS AMENDED    | _____    | (Y/N) |
| ADOPTED W/O OBJECTION | <u>Y</u> | (Y/N) |
| FAILED TO ADOPT       | _____    | (Y/N) |
| WITHDRAWN             | _____    | (Y/N) |
| OTHER                 |          |       |

1 Committee/Subcommittee hearing bill: Health Quality  
 2 Subcommittee  
 3 Representative Rooney offered the following:

**Amendment**

Remove line 171 and insert:

7 (4) If the department or local registrar grants ~~has~~  
 8 ~~granted~~ an extension



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

|                       |               |       |
|-----------------------|---------------|-------|
| ADOPTED               | <u>      </u> | (Y/N) |
| ADOPTED AS AMENDED    | <u>      </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u>  Y  </u>  | (Y/N) |
| FAILED TO ADOPT       | <u>      </u> | (Y/N) |
| WITHDRAWN             | <u>      </u> | (Y/N) |
| OTHER                 |               |       |

1 Committee/Subcommittee hearing bill: Health Quality  
 2 Subcommittee  
 3 Representative Rooney offered the following:

**Amendment (with directory amendment)**

Remove line 222 and insert:

7 (7) "Nontransplant anatomical donation organization" means  
 8 a tissue bank or other organization that facilitates  
 9 nontransplant anatomical donation, including referral, obtaining  
 10 informed consent or authorization, acquisition, traceability,  
 11 transport, assessing donor acceptability, preparation,  
 12 packaging, labeling, storage, release, evaluating intended use,  
 13 distribution, and final disposition of nontransplant anatomical  
 14 donations.

15 (8) "Unclaimed remains" means human remains that are not

-----

**D I R E C T O R Y   A M E N D M E N T**

Remove line 204 and insert:



Amendment No. 2

20 Section 5. Section 406.49, Florida Statutes, is created in  
21 part II of chapter 406, Florida Statutes, to



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

|                       |               |       |
|-----------------------|---------------|-------|
| ADOPTED               | <u>      </u> | (Y/N) |
| ADOPTED AS AMENDED    | <u>      </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u>  Y  </u>  | (Y/N) |
| FAILED TO ADOPT       | <u>      </u> | (Y/N) |
| WITHDRAWN             | <u>      </u> | (Y/N) |
| OTHER                 |               |       |

1 Committee/Subcommittee hearing bill: Health Quality  
 2 Subcommittee  
 3 Representative Rooney offered the following:

**Amendment**

6 Remove lines 520-521 and insert:  
 7 consent. Such consent must expressly state that the remains may  
 8 undergo long-term preservation or extensive preparation,  
 9 including, but not limited to, removal of the head, arms, legs,  
 10 hands, feet, spine, organs, tissues, or fluids.



Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

|                       |               |       |
|-----------------------|---------------|-------|
| ADOPTED               | <u>      </u> | (Y/N) |
| ADOPTED AS AMENDED    | <u>      </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u>  Y  </u>  | (Y/N) |
| FAILED TO ADOPT       | <u>      </u> | (Y/N) |
| WITHDRAWN             | <u>      </u> | (Y/N) |
| OTHER                 |               |       |

1 Committee/Subcommittee hearing bill: Health Quality  
2 Subcommittee  
3 Representative Rooney offered the following:

4  
5 **Amendment**  
6 Remove line 522 and insert:  
7 (3) A person, institution, or organization may not offer  
8 in exchange for human remains



Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

|                       |          |       |
|-----------------------|----------|-------|
| ADOPTED               | —        | (Y/N) |
| ADOPTED AS AMENDED    | —        | (Y/N) |
| ADOPTED W/O OBJECTION | <u>Y</u> | (Y/N) |
| FAILED TO ADOPT       | —        | (Y/N) |
| WITHDRAWN             | —        | (Y/N) |
| OTHER                 | _____    |       |

1 Committee/Subcommittee hearing bill: Health Quality  
2 Subcommittee  
3 Representative Rooney offered the following:

4  
5 **Amendment**

6 Remove line 668 and insert:

7 (c) The anatomical board or a nontransplant anatomical  
8 donation organization, as defined in s. 406.49, for

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

2/7/2013 2:00:00PM

Location: 306 HOB

### HB 239 : Practice of Optometry

Favorable With Committee Substitute

|                          | Yea | Nay                  | No Vote | Absentee<br>Yea | Absentee<br>Nay |
|--------------------------|-----|----------------------|---------|-----------------|-----------------|
| Daphne Campbell          |     | X                    |         |                 |                 |
| Manny Diaz, Jr.          | X   |                      |         |                 |                 |
| Eduardo Gonzalez         | X   |                      |         |                 |                 |
| Bryan Nelson             | X   |                      |         |                 |                 |
| Jose Oliva               | X   |                      |         |                 |                 |
| Kevin Rader              |     | X                    |         |                 |                 |
| Daniel Raulerson         | X   |                      |         |                 |                 |
| José Rodríguez           | X   |                      |         |                 |                 |
| Patrick Rooney, Jr.      | X   |                      |         |                 |                 |
| Joe Saunders             | X   |                      |         |                 |                 |
| Ross Spano               | X   |                      |         |                 |                 |
| Clovis Watson, Jr.       |     | X                    |         |                 |                 |
| Kenneth Roberson (Chair) | X*  |                      |         |                 |                 |
| <b>Total Yeas: 10</b>    |     | <b>Total Nays: 3</b> |         |                 |                 |

### HB 239 Amendments

#### Amendment 512831

Adopted Without Objection

#### Amendment 847177

Adopted Without Objection

### Appearances:

#### Optometry

Griffin, John (General Public) - Proponent

Florida Optometric Association

2930 Wellington Circle

Tallahassee FL 32312

Phone: (850) 894-1009

#### Practice of Optometry

Winn, Stephen (Lobbyist) - Waive In Opposition

Florida Osteopathic Medical Association

2007 Apalachee Pky

Tallahassee FL 32301

Phone: (850)878-7364

Committee meeting was reported out: Thursday, February 07, 2013 6:17:27PM



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

|                       |                                     |       |
|-----------------------|-------------------------------------|-------|
| ADOPTED               | —                                   | (Y/N) |
| ADOPTED AS AMENDED    | —                                   | (Y/N) |
| ADOPTED W/O OBJECTION | <input checked="" type="checkbox"/> | (Y/N) |
| FAILED TO ADOPT       | —                                   | (Y/N) |
| WITHDRAWN             | —                                   | (Y/N) |
| OTHER                 | _____                               |       |

1 Committee/Subcommittee hearing bill: Health Quality  
 2 Subcommittee

3 Representative Nelson offered the following:

4  
5 **Amendment to Amendment (512831) by Representative**

6 Remove lines 25-27 of the amendment and insert:

7 (5) "Ocular pharmaceutical agent" means a pharmaceutical  
 8 agent that is administered topically or orally for the diagnosis  
 9 and treatment of ocular conditions of the human eye and its  
 10 appendages.

11



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Bill No. HB 239 (2013)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

|                       |          |       |
|-----------------------|----------|-------|
| ADOPTED               | —        | (Y/N) |
| ADOPTED AS AMENDED    | —        | (Y/N) |
| ADOPTED W/O OBJECTION | <u>Y</u> | (Y/N) |
| FAILED TO ADOPT       | —        | (Y/N) |
| WITHDRAWN             | —        | (Y/N) |
| OTHER                 | _____    |       |

1 Committee/Subcommittee hearing bill: Health Quality  
2 Subcommittee  
3 Representative Caldwell offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
7  
8

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

10  
11 Section 1. Paragraph (b) of subsection (3) and subsection  
12 (4) of section 463.002, Florida Statutes, are amended,  
13 subsection (5) is renumbered as subsection (6) and amended, and  
14 a new subsection (5) is added to that section, to read:

15 463.002 Definitions.—As used in this chapter, the term:

16 (3)

17 (b) A licensed practitioner who is not a certified  
18 optometrist shall be required to display at her or his place of  
19 practice a sign which states, "I am a Licensed Practitioner, not

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20 a Certified Optometrist, and I am not able to prescribe ~~topical~~  
21 ocular pharmaceutical agents."

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

25 (5) "Ocular pharmaceutical agents" means a pharmaceutical  
26 agent that is administered through a topical or oral  
27 application; any other route of administration is prohibited.

28 ~~(5)~~(6) "Optometry" means the diagnosis of conditions of the  
29 human eye and its appendages; the employment of any objective or  
30 subjective means or methods, including the administration of  
31 ~~topical~~ ocular pharmaceutical agents, for the purpose of  
32 determining the refractive powers of the human eyes, or any  
33 visual, muscular, neurological, or anatomic anomalies of the  
34 human eyes and their appendages; and the prescribing and  
35 employment of lenses, prisms, frames, mountings, contact lenses,  
36 orthoptic exercises, light frequencies, and any other means or  
37 methods, including ~~topical~~ ocular pharmaceutical agents, for the  
38 correction, remedy, or relief of any insufficiencies or abnormal  
39 conditions of the human eyes and their appendages.

40 Section 2. Paragraph (g) of subsection (1) of section  
41 463.005, Florida Statutes, is amended to read:

42 463.005 Authority of the board.—

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

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47 (g) Administration and prescription of ~~topical~~ ocular  
48 pharmaceutical agents.

49 Section 3. Section 463.0055, Florida Statutes, is amended  
50 to read:

51 463.0055 Administration and prescription of ~~topical~~ ocular  
52 pharmaceutical agents; committee.-

53 (1) (a) Certified optometrists may administer and prescribe  
54 ~~topical~~ ocular pharmaceutical agents as provided in this section  
55 for the diagnosis and treatment of ocular conditions of the  
56 human eye and its appendages without the use of surgery or other  
57 invasive techniques. However, a licensed practitioner who is not  
58 certified may use topically applied anesthetics solely for the  
59 purpose of glaucoma examinations, but is otherwise prohibited  
60 from administering or prescribing ~~topical~~ ocular pharmaceutical  
61 agents.

62 (b) Before a certified optometrist may administer or  
63 prescribe ocular pharmaceutical agents, the certified  
64 optometrist must complete a course and subsequent examination on  
65 general and ocular pharmaceutical agents and the side effects of  
66 those agents. For certified optometrists licensed before January  
67 1, 1990, the course shall consist of 50 contact hours and 25 of  
68 those hours shall be web-based. For certified optometrists  
69 licensed on or after January 1, 1990, the course shall consist  
70 of 20 contact hours and 10 of those hours shall be web-based.  
71 The first course and examination shall be presented by July 1,  
72 2013, and shall be administered at least annually thereafter.  
73 The Florida Medical Association and the Florida Optometric  
74 Association shall jointly develop and administer a course and

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75 examination for such purpose and jointly determine the site or  
76 sites for the course and examination. If a certified  
77 optometrist does not complete a course and subsequent  
78 examination under this paragraph, the certified optometrist is  
79 only authorized to administer ocular pharmaceutical agents by  
80 topical application.

81 (2) (a) There is ~~hereby~~ created a committee composed of two  
82 certified optometrists licensed pursuant to this chapter,  
83 appointed by the Board of Optometry, two board-certified  
84 ophthalmologists licensed pursuant to chapter 458 or chapter  
85 459, appointed by the Board of Medicine, and one additional  
86 person with a doctorate degree in pharmacology who is not  
87 licensed pursuant to chapter 458, chapter 459, or this chapter,  
88 appointed by the State Surgeon General. The committee shall  
89 review requests for additions to, deletions from, or  
90 modifications of a formulary of ~~topical~~ ocular pharmaceutical  
91 agents for administration and prescription by certified  
92 optometrists and shall provide to the board advisory opinions  
93 and recommendations on such requests. The formulary shall  
94 consist of those ~~topical~~-ocular pharmaceutical agents which are  
95 appropriate to treat and diagnose ocular diseases and disorders  
96 and which the certified optometrist is qualified to use in the  
97 practice of optometry. The board shall establish, add to, delete  
98 from, or modify the formulary by rule. Notwithstanding any  
99 provision of chapter 120 to the contrary, the formulary rule  
100 shall become effective 60 days from the date it is filed with  
101 the Secretary of State.

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102 (b) The formulary may be added to, deleted from, or  
103 modified according to the procedure described in paragraph (a).  
104 Any person who requests an addition, deletion, or modification  
105 of an authorized ~~topical~~ ocular pharmaceutical agent shall have  
106 the burden of proof to show cause why such addition, deletion,  
107 or modification should be made.

108 (c) The State Surgeon General shall have standing to  
109 challenge any rule or proposed rule of the board pursuant to s.  
110 120.56. In addition to challenges for any invalid exercise of  
111 delegated legislative authority, the administrative law judge,  
112 upon such a challenge by the State Surgeon General, may declare  
113 all or part of a rule or proposed rule invalid if it:

114 1. Does not protect the public from any significant and  
115 discernible harm or damages;

116 2. Unreasonably restricts competition or the availability  
117 of professional services in the state or in a significant part  
118 of the state; or

119 3. Unnecessarily increases the cost of professional  
120 services without a corresponding or equivalent public benefit.

121

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

125 (d) Upon adoption of the formulary required by this  
126 section, and upon each addition, deletion, or modification to  
127 the formulary, the board shall mail a copy of the amended  
128 formulary to each certified optometrist and to each pharmacy  
129 licensed by the state.

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130 (3) A certified optometrist shall be issued a prescriber  
131 number by the board. Any prescription written by a certified  
132 optometrist for a ~~topical-ocular~~ pharmaceutical agent pursuant  
133 to this section shall have the prescriber number printed  
134 thereon.

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

137 463.0057 Optometric faculty certificate.—

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

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

145 463.006 Licensure and certification by examination.—

146 (2) The examination shall consist of the appropriate  
147 subjects, including applicable state laws and rules and general  
148 and ocular pharmacology with emphasis on the use ~~topical~~  
149 ~~application~~ and side effects of ocular pharmaceutical agents.  
150 The board may by rule substitute a national examination as part  
151 or all of the examination and may by rule offer a practical  
152 examination in addition to the written examination.

153 (3) Each applicant who successfully passes the examination  
154 and otherwise meets the requirements of this chapter is entitled  
155 to be licensed as a practitioner and to be certified to  
156 administer and prescribe ~~topical~~ ocular pharmaceutical agents in  
157 the diagnosis and treatment of ocular conditions.

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

160 463.0135 Standards of practice.—

161 (10) A certified optometrist is authorized to perform any  
162 eye examination, including a dilated examination, required or  
163 authorized by chapter 548 or by rules adopted to implement that  
164 chapter.

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

167 463.014 Certain acts prohibited.—

168 (3) Prescribing, ordering, dispensing, administering,  
169 supplying, selling, or giving any drug for the purpose of  
170 treating a systemic disease ~~systemic drugs~~ by a licensed  
171 practitioner is prohibited.

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

174 483.035 Clinical laboratories operated by practitioners  
175 for exclusive use; licensure and regulation.—

176 (1) A clinical laboratory operated by one or more  
177 practitioners licensed under chapter 458, chapter 459, chapter  
178 460, chapter 461, chapter 462, chapter 463, or chapter 466,  
179 exclusively in connection with the diagnosis and treatment of  
180 their own patients, must be licensed under this part and must  
181 comply with the provisions of this part, except that the agency  
182 shall adopt rules for staffing, for personnel, including  
183 education and training of personnel, for proficiency testing,  
184 and for construction standards relating to the licensure and  
185 operation of the laboratory based upon and not exceeding the

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186 same standards contained in the federal Clinical Laboratory  
187 Improvement Amendments of 1988 and the federal regulations  
188 adopted thereunder.

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

191 483.041 Definitions.—As used in this part, the term:

192 (7) "Licensed practitioner" means a physician licensed  
193 under chapter 458, chapter 459, chapter 460, ~~or~~ chapter 461, or  
194 a certified optometrist licensed under chapter 463; a dentist  
195 licensed under chapter 466; a person licensed under chapter 462;  
196 or an advanced registered nurse practitioner licensed under part  
197 I of chapter 464; or a duly licensed practitioner from another  
198 state licensed under similar statutes who orders examinations on  
199 materials or specimens for nonresidents of the State of Florida,  
200 but who reside in the same state as the requesting licensed  
201 practitioner.

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

204 483.181 Acceptance, collection, identification, and  
205 examination of specimens.—

206 (5) A clinical laboratory licensed under this part must  
207 accept a human specimen submitted for examination by a  
208 practitioner licensed under chapter 458, chapter 459, chapter  
209 460, chapter 461, chapter 462, chapter 463, s. 464.012, or  
210 chapter 466, if the specimen and test are the type performed by  
211 the clinical laboratory. A clinical laboratory may only refuse a  
212 specimen based upon a history of nonpayment for services by the  
213 practitioner. A clinical laboratory shall not charge different



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214 prices for tests based upon the chapter under which a  
215 practitioner submitting a specimen for testing is licensed.

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

218 893.02 Definitions.—The following words and phrases as  
219 used in this chapter shall have the following meanings, unless  
220 the context otherwise requires:

221 (21) "Practitioner" means a physician licensed pursuant to  
222 chapter 458, a dentist licensed pursuant to chapter 466, a  
223 veterinarian licensed pursuant to chapter 474, an osteopathic  
224 physician licensed pursuant to chapter 459, a naturopath  
225 licensed pursuant to chapter 462, a certified optometrist  
226 licensed pursuant to chapter 463, or a podiatric physician  
227 licensed pursuant to chapter 461, provided such practitioner  
228 holds a valid federal controlled substance registry number.

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

231 893.05 Practitioners and persons administering controlled  
232 substances in their absence.—

233 (1) A practitioner, in good faith and in the course of his  
234 or her professional practice only, may prescribe, administer,  
235 dispense, mix, or otherwise prepare a controlled substance, or  
236 the practitioner may cause the same to be administered by a  
237 licensed nurse or an intern practitioner under his or her  
238 direction and supervision only. A veterinarian may so prescribe,  
239 administer, dispense, mix, or prepare a controlled substance for  
240 use on animals only, and may cause it to be administered by an  
241 assistant or orderly under the veterinarian's direction and

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242 supervision only. A certified optometrist licensed under chapter  
243 463 may not administer or prescribe pharmaceutical agents listed  
244 in Schedule I or Schedule II of s. 893.03.

245 Section 13. This act shall take effect July 1, 2013.  
246  
247  
248

249 -----  
250 **T I T L E A M E N D M E N T**

251 Remove everything before the enacting clause and insert:  
252

253 A bill to be entitled  
254 An act relating to the practice of optometry; amending  
255 s. 463.002, F.S.; specifying that a certified  
256 optometrist is authorized to administer and prescribe  
257 ocular pharmaceutical agents; providing a definition;  
258 amending s. 463.005, F.S.; authorizing the Board of  
259 Optometry to adopt rules relating to the  
260 administration and prescription of ocular  
261 pharmaceutical agents; amending s. 463.0055, F.S.;  
262 requiring a certified optometrist to complete a course  
263 and examination on general and ocular pharmaceutical  
264 agents before administering or prescribing ocular  
265 pharmaceutical agents; providing an exception;  
266 specifying the number of required course hours based  
267 on the date of licensure; requiring the Florida  
268 Medical Association and the Florida Optometric  
269 Association to jointly develop and administer the

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270 course and examination; revising provisions relating  
271 to the development of a formulary of ocular  
272 pharmaceutical agents; amending s. 463.0057, F.S.;  
273 prohibiting the holder of an optometric faculty  
274 certificate from administering or prescribing ocular  
275 pharmaceutical agents; amending s. 463.006, F.S.;  
276 revising provisions relating to licensure and  
277 certification of optometrists; amending s. 463.0135,  
278 F.S.; authorizing a certified optometrist to perform  
279 certain eye examinations; amending s. 463.014, F.S.;  
280 prohibiting a licensed practitioner of optometry from  
281 providing any drug for the purpose of treating a  
282 systemic disease; amending s. 483.035, F.S.; requiring  
283 a clinical laboratory operated by a licensed  
284 practitioner of optometry to be licensed under pt. I  
285 of ch. 463, F.S.; amending s. 483.041, F.S.; revising  
286 the definition of the term "licensed practitioner" to  
287 include certified optometrists; amending s. 483.181,  
288 F.S.; providing for an optometrist to accept a human  
289 specimen for examination, under certain conditions;  
290 amending s. 893.02, F.S.; redefining the term  
291 "practitioner" to include certified optometrists;  
292 amending s. 893.05, F.S.; prohibiting a certified  
293 optometrist from administering or prescribing  
294 pharmaceutical agents listed in Schedule I or Schedule  
295 II of the Florida Comprehensive Drug Abuse Prevention  
296 and Control Act; providing an effective date.  
297

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

2/7/2013 2:00:00PM

**Location:** 306 HOB

**HB 239 : Practice of Optometry (continued)**

**Appearances: (continued)**

Cost Savings & Access to Care

Frauens, O.D., Barry (General Public) - Proponent

Florida Optometry

857 NW 126 Avenue

Coral Springs FL 33071

Phone: (954) 294-5446

Optometric Bill

Slonin, M.D., Charles (General Public) - Opponent

President, FL Society of Ophthalmology

24095 DUnde St

Tampa FL 33629

Phone: (813) 974-2064

Optometric education and training

Reed, O.D., Kimberly (General Public) - Proponent

NSU Educator, Florida Optometry

2780 SW 116th Ave

Davie FL 33330

Phone: (954) 423-3167

HB 239

Schwartz, M.D., Stephen (General Public) - Opponent

Florida Society of Ophthalmology

311 9th St N #100

Naples FL 34102

Phone: (239) 659-3937

Optometry Strike-All

O'Hara, Rebecca (Lobbyist) - Opponent

FL Medical Association

113 College Ave.

Tallahassee FL 32302

Phone: (850) 339-6211

Optometry

Eichenbaum, M.D., David (General Public) - Opponent

Florida Society of Ophthalmology

4344 Central Ave

St. Petersburg FL 33703

Phone: (727) 323-0077

HB 239

May, Bruce - Opponent

FSO

P.O. Drawer 810

Tallahassee FL 32312

Committee meeting was reported out: Thursday, February 07, 2013 6:17:27PM

**Emanuel Newmark, M.D., FACS**  
**180 Palm Circle**  
**Atlantis, Florida 33462**

February 6, 2013

The Honorable Matt Caldwell  
Florida House of Representatives  
218 House Office Building  
402 South Monroe Street  
Tallahassee, FL 32399

RE: HB 239

Dear Representative Caldwell:

I am a board-certified ophthalmologist who has practiced in Florida since 1972. I have served on the Formulary Committee since 1991. At the outset, I want to thank you for taking time out of your busy schedule to listen to my concerns about HB 239.

As you know, optometrists cannot lawfully prescribe oral drugs in Florida, nor can they perform surgery. Instead, they are only allowed to prescribe topical agents like ointments and drops. HB 239 would radically change that system and allow optometrists to prescribe whatever oral drugs that the Board of Optometry deems appropriate. Recent press releases have indicated that this bill would provide for the Formulary Committee (that I serve on) to determine the oral drugs that an optometrists may prescribe. That simply is not correct. This bill does not give the Formulary Committee the authority to determine the oral drugs that an

optometrist may prescribe. I've served as a member of the Formulary Committee for the past 22 years and can personally tell you that the Formulary Committee is only advisory, nothing more. If this bill were to pass, the Board of Optometry would be free to allow optometrists to prescribe whatever oral medication that the Board, in its judgment, deemed appropriate.

There appears to be tremendous confusion regarding the Formulary Committee and I would like to set the record straight. The Formulary Committee was originally established as an autonomous body under the Department of Health, and was charged with reviewing and determining which ointments and drops that an optometrist could prescribe. Initially, the Committee was comprised of 2 optometrists, 2 physicians and 1 pharmacologist appointed by the secretary of what is now the Department of Health. However, in 1991, lobbyists for optometrists argued to the Legislature that since optometrists could only prescribe ointments and drops it was unnecessary for the Formulary Committee to continue to determine the list of topical agents. They argued instead that the Board of Optometry alone should dictate the list of permitted topicals. Based on the assumption that optometrists can only prescribe innocuous topical agents, the Legislature agreed and reduced the Formulary Committee to simply an advisory role.

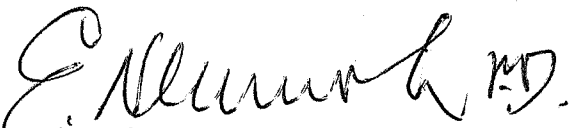
There is no question that since 1991 the Formulary Committee has no decision making authority. For all intents and purposes the Committee has been relegated to the margin. Most of our meetings seem to be nothing more than a rubber-stamp for the Board of Optometry. When members do raise questions, our meetings often devolve into a legal debate where lawyers representing special interest groups come and instruct us what is in the best interest of our patients. The dysfunctionality of the Formulary Committee came to an all time low about a

year ago when lawyers commandeered the Formulary Committee proceedings and actually argued that Florida optometrists could lawfully "scrape the cornea" using scalpels. While I am not a lawyer, I do know that Florida law expressly prohibits optometrists from performing "surgery of any kind, including the use of lasers."

Please know that I have expressed my concerns with respect to the disintegration of the Formulary Committee long before HB 239 was filed. I have attached for your information a letter I wrote to Attorney General Bondi back in March 2012 in which I describe how Formulary Committee deliberations have become a place where medical opinions take a second seat to legalistic arguments.

In summary, it would be misguided to assume that the Formulary Committee is somehow empowered to serve as a check or balance to protect patient safety. For the sake of all patients, it is my sincere hope that you not pass this bill. Thank you for your consideration.

Respectfully yours,



Emanuel Newmark, M.D., FACS

Encls: Letter dated March 30, 2012 to Attorney General Bondi

cc: Rep. Kenneth L. Roberson (w/Encls.)  
Rep. Patrick Rooney (w/Encls.)

***Emanuel Newmark, M.D., FACS***  
***180 Palm Circle***  
***Atlantis, Florida 33462***

March 30, 2012

Office of Attorney General Pam Bondi  
State of Florida  
The Capital PL-01  
Tallahassee, Florida 32399-1050

Re: Topical Ocular Pharmaceutical Agent (TOPA) Committee Meeting of February 14, 2012

Dear Attorney General Bondi:

With sadness I ask that you investigate the proceedings before the TOPA Committee on February 14, 2012. The misrepresentations made at the meeting and the manner in which the meeting was conducted, thwart the fundamental purpose of the TOPA Committee and put patients in danger. An audio of the February 14, 2012 TOPA Committee meeting is available on the web site for the Board of Optometry (Board).

As a matter of background, I am one of two ophthalmologists appointed to the TOPA Committee, and have served in that capacity for the past 20 years. My statutory obligation as a TOPA Committee member is to review and make recommendations to the Board whether specific topical medications (i.e., ointments and drops) should be included in the TOPA Formulary and thus prescribed and administered by optometrists. In order to fulfill my obligation under Section 463.0055(1), Florida Statutes, my job is to evaluate whether the topical medication is commercially available and whether it can be prescribed and



administered by an optometrist “without the use of surgery or other invasive technique.”

The stated purpose of the February 14, 2012 TOPA Committee meeting was to consider a request by the Florida Optometric Association (FOA) as to whether the drug Natamycin should be added to the formulary. I am very familiar with Natamycin and actually pioneered the development of the drug. Natamycin is used to treat fungal keratitis, a serious infection that frequently leads to an opaque cornea and loss of vision even in the hands of the most experienced clinicians. Improperly treated fungal keratitis can lead to permanent blindness. Because of the rapid progression of this disease, even when diagnosed and treated in a timely fashion, patients frequently require a therapeutic corneal transplant. Hence, most ophthalmologists refer suspected cases to corneal specialists for diagnosis and treatment in order to maximize the best therapeutic outcome.

In advance of the February 2012 meeting, I provided the TOPA Committee members and staff with my findings with respect to Natamycin. (Attachment “A”) In my professional medical opinion, Natamycin should only be prescribed and administered after the patient's cornea is invasively scraped with a scalpel to obtain a culture and a smear to be viewed under the microscope to determine whether hyphenated fungal organisms are present. Because delay in accurate diagnosis and appropriate antifungal treatment is a serious public health issue, and because proper prescription and administration of Natamycin requires the “use of surgery or other invasive technique”, I advised the members of the TOPA Committee that the drug should not be included on the TOPA Formulary.

At the February 14 TOPA Committee meeting, lawyers of the FOA commandeered the proceedings by making legal presentations and interrogating their witnesses, all in an orchestrated attempt to refute my professional medical opinion that the prescription and administration of Natamycin by optometrists was inappropriate.

Specifically, the attorneys for the FOA and the optometrist witness for the FOA - Dr. Ken Lawson - argued that, the Florida Optometric Practice Act (the "Act") allowed optometrists to remove a "superficial foreign body... which has not penetrated the globe", Florida optometrists could lawfully "scrape the cornea and engage in other invasive techniques of the eyeball so long as those procedures did not penetrate the globe". While I am not a lawyer, I am a doctor of medicine and know that the scraping of the cornea is in fact surgery and has been specifically assigned a "surgical" CPT code. (Attachment "B") I also know that the Act provides that "surgery of any kind, including the use of lasers, is expressly prohibited."

Moreover, I strongly disagree with the FOA lawyer's claim that the authority of optometrists to remove "superficial foreign bodies" that have not penetrated the globe necessarily means that optometrists can scrape the cornea to take fungal cultures and smears. That claim is not only preposterous, it is dangerous. Notably, when I attempted to inquire as to whether any of the witnesses or optometrists at the meeting performed corneal scrapings in Florida I was immediately cut off and not allowed to pursue that line of questioning.

Taken to their logical conclusion, arguments made by the FOA's attorney and witnesses would allow optometrists to practice medicine without a license by performing surgery on the surface of the eye so long as the procedure did not penetrate the globe. I implore you to look into this.

I sincerely believe that, in order to ensure patient safety and protect Florida citizens, statutory committees like the TOPA Committee should have the freedom to conduct their business without undue influence of non-committee stakeholders. This was the first time in 20 years that the Florida Board of Optometry deviated from a reasonable methodology, and turned a meeting of healthcare experts into a sideshow of lawyering and parsing of statutes.

To my surprise, the chairman (Dr. James Watts) of the TOPA Committee did not open the floor for discussion after a motion was made and seconded to add Natamycin to the formulary and quickly went into a roll call vote. He began the meeting by stating Roberts Rules will be followed and at the end of the meeting he ignored a major principle. I was caught off-guard when it appeared that the four other members of the TOPA Committee were or already voted in the affirmative. I felt intimidated, outnumbered, under duress and thus voted reticently with the group.

I want the record to reflect that I am strongly opposed to including Natamycin on the TOPA Formulary and I am respectfully asking that you investigate and stop this travesty before an innocent patient gets harmed.

If you need to contact me for more information, my cell phone is 561-389-6853 and e-mail is [mannynewmark@msn.com](mailto:mannynewmark@msn.com).

Respectfully yours,

Emanuel Newmark, M.D., FACS  
Member of the TOPA Committee

Encls: Attachment A - Document submitted by Dr. Newmark for distribution to the committee members  
Attachment B - CPT Codes as it relates to corneal scrapings

cc: Florida Board of Optometry  
Florida Board of Medicine

## Attachment A

This addresses recent efforts by the Florida Optometric Association ("FOA") to include Natamycin to the topical ocular pharmaceutical agent ("TOPA") Formulary. Under Florida law, optometrists are authorized to prescribe those TOPAs on the approved Formulary "for the treatment of ocular conditions of the human eye and its appendages without the use of surgery or other invasive techniques." § 463.0055 (1), Fla. Stat. The Formulary may be added to, deleted from, or modified by the Board of Optometry after review by the Formulary Committee. Any person who requests an addition, deletion, or modification to the Formulary has "the burden of proof to show cause why such addition, deletion, or modification should be made". § 463.0055(2) (b), Fla. Stat.

Natamycin is used to treat fungal keratitis, a serious, fast-acting infectious condition which, if left untreated, can lead to permanent vision loss. To effectively treat fungal keratitis, Natamycin must be initially administered on an hourly basis and in many cases the patient requires admission to a hospital. Furthermore, the treating physician often is required to order a clinical laboratory test, and typically must scrape the cornea to facilitate the corneal penetration of the Natamycin. Aside from public safety concerns, availability of the drug by prescription, economic burden, there appears to be legal impediments that would preclude an optometrist in Florida from prescribing Natamycin.

1. Only those TOPAs that can be administered "without the use of surgery or some other invasive techniques" are eligible for inclusion on the TOPA Formulary. As indicated, Natamycin requires the cornea to be periodically scraped in order for the agent to properly and effectively penetrate into the corneal tissue. This is an "invasive technique" which should preclude Natamycin from being included in the TOPA Formulary. See § 463.0055(1), Fla. Stat. The scraping of the cornea could also be considered "surgery" which optometrists are barred from performing. § 463.014 (4), Fla. Stat.
2. Initially, Natamycin requires the hourly administration of drops which often requires the patient to be admitted to a hospital. Currently, optometrists in Florida do not have statutory authorization to obtain hospital privileges. See § 395.0191(1), Fla. Stat.
3. To properly and effectively treat a patient with fungal keratitis, the treating physician is required to perform a pre-treatment biopsy for microbiologic culture and smear for pathologic examination. The published package insert from Alcon Laboratories and included in the material sent with the request for inclusion of Natamycin into the TOPA Formulary specifically states under the heading "Indications and Usage: As in other forms of suppurative keratitis, initial and sustained therapy of fungal keratitis should be determined by clinical diagnosis, laboratory diagnosis by smear and culture of corneal scrapings and drug response. Whenever possible the *in vitro* activity of Natamycin against the responsible fungus should be determined." Optometrists do not have the legal authority to perform a biopsy or order clinical laboratory tests. See § 483.041(7), Fla. Stat.
4. Natamycin is effective for treating fungal keratitis caused by susceptible filamentous fungi, such as *Fusarium solani*, but less effective against yeasts and other hyphenated species. Therefore, other off-label topical and oral antifungal treatments are utilized, such as amphotericin B, miconazole, flucytosine, voriconazole and oral ketoconazole. Currently, optometrists in Florida do not have statutory

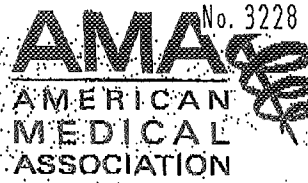
authorization to use non-commercially produced topical agents (fortified antibiotics or extemporaneously prepared antifungal drugs) or oral medications.

5. Both fungal conjunctivitis and blepharitis are essentially non-existent diseases in the United States. There are no pathognomonic or tell-tale clinical signs to establish a diagnosis of fungal conjunctivitis or blepharitis without culturing the offending organism. A few reported cases world-wide were caused by organisms that were not or weakly susceptible to Natamycin and were treated with systemic antifungal agents. In my forty five years of clinical practice, I have never had to treat a fungal conjunctivitis or blepharitis.

6. Natamycin 5% suspension is available directly from Alcon Laboratories at a wholesale cost to a federal agency of \$216.90 for a 15 ml bottle. It is not a stocked item in an ordinary pharmacy and only will be shipped to a party that has a commercial account with the manufacturer. The cost will be higher when ordered and dispensed by a public pharmacy. The financial burden on the health care system with the empirical prescribing of Natamycin for suspected fungal keratitis without documented microbial evidence of a susceptible organism would not be appropriate and is outside the published preferred practice pattern for microbial keratitis. Furthermore, optometrists are held to the same practice standards as ophthalmologists. The same objections hold true for suspected fungal conjunctivitis and blepharitis.

7. Fungal keratitis is a serious infection that frequently leads to an opaque cornea and loss of vision even in the hands of the most experienced clinicians. Improperly treated fungal keratitis can lead to permanent blindness. Because of the rapid progression of this disease even when diagnosed and treated in a timely fashion the patients frequently need a therapeutic corneal transplant. Hence, most ophthalmologists refer suspected cases to corneal specialists for diagnosis and treatment in order to maximize the best therapeutic outcome. Delay in accurate diagnosis and appropriate antifungal treatment is a public health issue and is the major reason to reject the addition of Natamycin to the TOPA formulary.





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- 65275 cornea, nonpenetrating, with or without removal foreign body
- 65280 cornea and/or sclera, penetrating, not involving uveal tissue
- 65285 cornea and/or sclera, penetrating, with reposition or resection of uveal tissue  
 ▶ (65280 and 65285 are not used for repair of a surgical wound) ◀
- 65286 application of tissue glue, wounds of cornea and/or sclera  
 Ⓢ CPT Assistant May 99:11, Apr 09:5  
 (Repair of laceration includes use of conjunctival flap and restoration of anterior chamber, by air or saline injection when indicated)  
 (For repair of iris or ciliary body, use 66680)
- 65290 Repair of wound, extraocular muscle, tendon and/or Tenon's capsule

## Anterior Segment

### Cornea

#### Excision

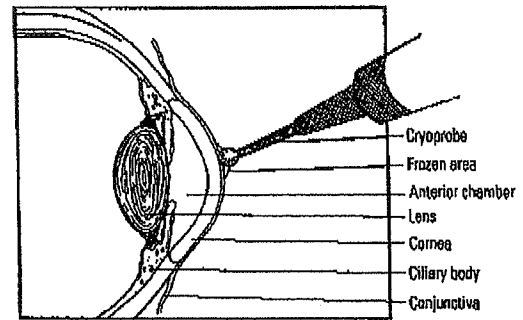
- 65400 Excision of lesion, cornea (keratectomy, lamellar, partial), except pterygium
- 65410 Biopsy of cornea
- 65420 Excision or transposition of pterygium; without graft  
 Ⓢ CPT Assistant Dec 07:13
- 65426 with graft

#### Removal or Destruction

- 65430 Scraping of cornea, diagnostic, for smear and/or culture
- 65435 Removal of corneal epithelium; with or without chemocauterization (abrasion, curettage)
- 65436 with application of chelating agent (eg, EDTA)
- 65450 Destruction of lesion of cornea by cryotherapy, photocoagulation or thermocauterization

### Cryotherapy of Lesion on Cornea 65450

A freezing probe is applied directly to the corneal defect to destroy it.



- 65600 Multiple punctures of anterior cornea (eg, for corneal erosion, tattoo)

### Keratoplasty

Corneal transplant includes use of fresh or preserved grafts. The preparation of donor material is included for penetrating or anterior lamellar keratoplasty, but reported separately for endothelial keratoplasty. Do not report 65710-65757 in conjunction with 92025.

(Keratoplasty excludes refractive keratoplasty procedures, 65760, 65785, and 65767)

- 65710 Keratoplasty (corneal transplant); anterior lamellar  
 Ⓢ CPT Assistant Oct 02:8, Apr 09:5, Dec 09:13; CPT Changes: An Insider's View 2009
- 65730 penetrating (except in aphakia or pseudophakia)  
 Ⓢ CPT Assistant Oct 02:8, Feb 06:1, Apr 09:5, Dec 09:13; CPT Changes: An Insider's View 2009
- 65750 penetrating (in aphakia)  
 Ⓢ CPT Assistant Oct 02:8, Apr 09:5, Dec 09:13
- 65755 penetrating (in pseudophakia)  
 Ⓢ CPT Assistant Winter 90:8, Oct 02:8, Apr 09:5, Dec 09:13
- 65756 endothelial  
 Ⓢ CPT Changes: An Insider's View 2009
- + 65757 Backbench preparation of corneal endothelial allograft prior to transplantation (List separately in addition to code for primary procedure)  
 Ⓢ CPT Changes: An Insider's View 2009  
 (Use 65757 in conjunction with 65756)



COLLEGE OF OPTOMETRY  
OFFICE OF THE DEAN

### Optometry Pharmacology Education

This fact sheet compares the number of contact hours in pharmacology for the optometry and dental medicine programs at Nova Southeastern University. This comparison is based on the printed information in the 2013-13 Health Professions Division catalog. It should also be noted that dental and optometry students take General Pharmacology I & II together in the same class. Specific courses are listed below:

| Optometry O.D. Pharmacology  |               |
|--|---------------|
| Course   | Contact Hours |
| General Pharmacology I   | 72            |
| General Pharmacology II  | 27            |
| Ocular Disease of Anterior Segment:<br>Diagnosis and Pharmacological Management*     | 13.5          |
| Glaucoma and Vitreo-Retinal Disease:<br>Diagnosis and Pharmacological Management*    | 18            |
| Ocular Pharmacology  | 27            |
| Physical Diagnosis Lab:<br>Testing, Pharmacologic Aspects, and Injection Techniques* | 4.5           |
| Physical Diagnosis Lecture*  | 4.5           |
| Ocular and Systemic Eye Disease: Diagnosis, Medical and<br>Pharmacologic Management* | 13.5          |
| Clinical Medicine: Diagnosis and Pharmacological Management of<br>Systemic Disease*  | 9             |
| Neuro-Eye Disease: Diagnosis, Medical, and Pharmacological<br>Management*            | 13.5          |
| Total  | 202.5         |

\* 25% of total course dedicated to Pharmacology

4 y.s.  
degree

| Dental D.M.D. Pharmacology   |               |
|--|---------------|
| Course Title   | Contact Hours |
| General Pharmacology I   | 72            |
| General Pharmacology II  | 54            |
| Courses in Oral Medicine and Dental Management of the Medically<br>Complex Patient | 40            |
| Courses in Oral and Maxillofacial Surgery; Anesthesia and Pain<br>Control I and II | 20            |
| Total  | 186           |

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degree

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## “One Eye Too Many”

Op Ed Authored by:

Mrs. Karen Thompson  
1108 Apache Avenue  
LaBelle, FL 33935  
(863) 675-3024

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Last week, SB 330 sponsored by State Senator Mike Bennett cleared a very important hurdle. It passed its first committee. Some people may not think that is a big deal. It is to me.

I am losing my vision. And one minor change in Florida's law would have saved it.

Last year, my eye was red and itching, so I visited my eye doctor, an optometrist. He examined me and then explained that I had shingles in my eyes and that the situation was serious. However, because he is a FLORIDA optometrist, he is not allowed to prescribe oral medication. And because it was the weekend an ophthalmologist was unattainable, so he told me to go to the emergency room to request oral anti-virus medication appropriate to correct my condition.

When I arrived at the emergency room, the staff who saw me diagnosed me as having conjunctivitis, or pink eye. When I told them that my doctor had diagnosed me with shingles in my eye, they disagreed and instead gave me antibiotic eye drops for treating pink eye. As soon as I left the ER, I called my doctor to get his advice. He told me to return to the ER and insist on being treated for shingles in the eye with oral anti-viral pills not eye drops.

I went back and tried to explain my situation. But the ER refused to budge; and because I was disagreeing with their diagnosis and treatment; they called me unruly and dismissed me from the premises.

My symptoms became much worse and although I was finally able to obtain the correct oral prescription a few days later, the permanent damage had already been done. I have lost some vision, and my eye is now painfully sensitive to light. My eyelid on the injured eye has been partially sewn shut twice to block the light; if the symptoms do not improve, it may be necessary to have the eyelid sewn completely shut permanently. The truth is that a few oral anti-viral pills given early by my optometrist would have saved my eye.

The emergency room misdiagnosis damaged my vision, but what I learned later broke my heart. Florida is one of only three states that do not allow optometrists to prescribe oral medication. Had I lived elsewhere, I would have immediately received the correct medication and would be living with unimpaired vision today. You cannot imagine the time and money and suffering this has cost and caused me.

Florida must update these laws. Currently, only ophthalmologists (MD's) are allowed to prescribe oral medications that can treat eye diseases and disorders. But optometrists are primary eye care doctors (OD's) who are on the front lines and they should be able to treat the patients they see in a manner keeping with their medical expertise and training.

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

2/7/2013 2:00:00PM

**Location:** 306 HOB

### **Presentation/Workshop/Other Business Appearances:**

County Health Departments

Rivera, Lillian (State Employee) (At Request Of Chair) - Information Only

Administrator, Miami-Dade County Health Department

8175 NW 12th Street Suite 300

Doral FL 33126

Phone: (786) 336-1259

Committee meeting was reported out: Thursday, February 07, 2013 6:17:27PM