

By Senator Bennett

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A bill to be entitled
An act relating to the health care; amending s.
456.013, F.S.; requiring that a licensed health care
practitioner wear a name tag indicating licensure
credentials when rendering health care services;
amending s. 463.002, F.S.; conforming provisions to
changes made by the act; amending s. 463.005, F.S.;
authorizing the Board of Optometry to adopt rules for
the administration and prescription of ocular
pharmaceutical agents rather than topical ocular
pharmaceutical agents; amending s. 463.0055, F.S.;
authorizing certified optometrists to administer and
prescribe ocular pharmaceutical agents under certain
circumstances; revising qualifications of certain
members of the formulary committee; amending ss.
463.0057 and 463.006, F.S.; conforming provisions to
changes made by the act; amending s. 464.012, F.S.;
expanding the scope of practice to authorize an
advanced registered nurse practitioner to order,
administer, monitor, and alter any drug or drug
therapies that are necessary for the proper medical
care and treatment of a patient under specified
circumstances; requiring that the Board of Nursing
adopt rules; authorizing a certified registered nurse
anesthetist, while participating in the management of
a patient in the postanesthesia recovery area, to
order the administration of drugs that are commonly
used to alleviate pain; amending s. 483.035, F.S.,
relating to licensure and regulation of clinical

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laboratories operated by practitioners for exclusive use; providing applicability to clinical laboratories operated by practitioners licensed to practice optometry; amending s. 483.041, F.S.; revising the definition of the term "licensed practitioner" for purposes of the Florida Clinical Laboratory Law to include a practitioner licensed under ch. 463, F.S., relating to the practice of optometry; amending s. 483.181, F.S.; requiring clinical laboratories to accept human specimens submitted by practitioners licensed to practice under ch. 463, F.S.; amending s. 766.102, F.S.; revising the burden of proof that a claimant must demonstrate in order to prove medical negligence by a health care provider or an emergency health care provider; providing for applicability; amending s. 893.02, F.S.; revising the definition of the term "practitioner" for purposes of the Florida Comprehensive Drug Abuse Prevention and Control Act to include certified optometrists; amending s. 893.05, F.S.; prohibiting certified optometrists from administering and prescribing certain controlled substances; providing effective dates.

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

Section 1. Subsection (13) is added to section 456.013, Florida Statutes, to read:

456.013 Department; general licensing provisions.—

(13) When rendering professional health care services, a

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59 health care practitioner shall wear at all times a name badge
60 that indicates his or her appropriate licensure credentials.

61 Section 2. Subsections (3), (4), and (5) of section
62 463.002, Florida Statutes, are amended to read:

63 463.002 Definitions.—As used in this chapter, the term:

64 (3)(a) "Licensed practitioner" means a person who is a
65 primary health care provider licensed to engage in the practice
66 of optometry under the authority of this chapter.

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

72 (c) All practitioners initially licensed after July 1,
73 1993, must be certified optometrists.

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

77 (5) "Optometry" means the diagnosis of conditions of the
78 human eye and its appendages; the employment of any objective or
79 subjective means or methods, including the administration of
80 ~~topical-ocular~~ pharmaceutical agents, for the purpose of
81 determining the refractive powers of the human eyes, or any
82 visual, muscular, neurological, or anatomic anomalies of the
83 human eyes and their appendages; and the prescribing and
84 employment of lenses, prisms, frames, mountings, contact lenses,
85 orthoptic exercises, light frequencies, and any other means or
86 methods, including ~~topical-ocular~~ pharmaceutical agents, for the
87 correction, remedy, or relief of any insufficiencies or abnormal

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conditions of the human eyes and their appendages.

Section 3. Paragraph (g) of subsection (1) of section 463.005, Florida Statutes, is amended to read:

463.005 Authority of the board.—

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

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

Section 4. Section 463.0055, Florida Statutes, is amended to read:

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

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

(2) (a) There is ~~hereby~~ created a committee composed of two certified optometrists licensed pursuant to this chapter, appointed by the Board of Optometry, two board-certified ophthalmologists licensed pursuant to chapter 458 or chapter 459, appointed by the Board of Medicine, and one additional person with a doctorate degree in pharmacology who is not

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117 licensed pursuant to chapter 458, chapter 459, or this chapter,
118 appointed by the State Surgeon General. The committee shall
119 review requests for additions to, deletions from, or
120 modifications of a formulary of ~~topical~~ ocular pharmaceutical
121 agents for administration and prescription by certified
122 optometrists and shall provide to the board advisory opinions
123 and recommendations on such requests. The formulary shall
124 consist of those ~~topical-ocular~~ pharmaceutical agents which the
125 certified optometrist is qualified to use in the practice of
126 optometry. The board shall establish, add to, delete from, or
127 modify the formulary by rule. Notwithstanding any provision of
128 chapter 120 to the contrary, the formulary rule shall become
129 effective 60 days following ~~from~~ the date it is filed with the
130 Secretary of State.

131 (b) The formulary may be added to, deleted from, or
132 modified according to the procedure described in paragraph (a).
133 Any person who requests an addition, deletion, or modification
134 of an authorized ~~topical~~ ocular pharmaceutical agent shall have
135 the burden of proof to show cause why such addition, deletion,
136 or modification should be made.

137 (c) The State Surgeon General shall have standing to
138 challenge any rule or proposed rule of the board pursuant to s.
139 120.56. In addition to challenges for any invalid exercise of
140 delegated legislative authority, the administrative law judge,
141 upon such a challenge by the State Surgeon General, may declare
142 all or part of a rule or proposed rule invalid if it:

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

145 2. Unreasonably restricts competition or the availability

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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.

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection if ~~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 the formulary, the board shall mail a copy of the amended formulary to each certified optometrist and to each pharmacy licensed by the state.

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

Section 5. Subsection (3) of section 463.0057, Florida Statutes, is amended to read:

463.0057 Optometric faculty certificate.—

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

Section 6. Subsections (2) and (3) of section 463.006, Florida Statutes, are amended to read:

463.006 Licensure and certification by examination.—

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175 (2) The examination shall consist of the appropriate
176 subjects, including applicable state laws and rules and general
177 and ocular pharmacology with emphasis on the use ~~topical~~
178 ~~application~~ and side effects of ocular pharmaceutical agents.
179 The board may by rule substitute a national examination as part
180 or all of the examination and may by rule offer a practical
181 examination in addition to the written examination.

182 (3) Each applicant who successfully passes the examination
183 and otherwise meets the requirements of this chapter is entitled
184 to be licensed as a practitioner and to be certified to
185 administer and prescribe ~~topical-ocular~~ pharmaceutical agents in
186 the diagnosis and treatment of ocular conditions.

187 Section 7. Subsection (3) and paragraph (a) of subsection
188 (4) of section 464.012, Florida Statutes, are amended to read:

189 464.012 Certification of advanced registered nurse
190 practitioners; fees.—

191 (3) An advanced registered nurse practitioner shall perform
192 those functions authorized in this section within the framework
193 of an established protocol that is filed with the board upon
194 biennial license renewal and within 30 days after entering into
195 a supervisory relationship with a physician or changes to the
196 protocol. The board shall review the protocol to ensure
197 compliance with applicable regulatory standards for protocols.
198 The board shall refer to the department licensees submitting
199 protocols that are not compliant with the regulatory standards
200 for protocols. A practitioner currently licensed under chapter
201 458, chapter 459, or chapter 466 shall maintain supervision for
202 directing the specific course of medical treatment. Within the
203 established framework, an advanced registered nurse practitioner

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may:

(a) Order, administer, monitor, and alter any drug or drug therapies that are necessary for the proper medical care and treatment of a patient, including Schedule II through Schedule V controlled substances under chapter 893 and those drugs agreed upon by the advanced registered nurse practitioner and the supervising practitioner and specified in the protocol. An advanced registered nurse practitioner may order or administer such drugs under the following conditions:

1. The drugs are ordered or administered by an advanced registered nurse practitioner in accordance with a protocol developed by the advanced registered nurse practitioner and the supervising practitioner, and the drugs ordered are consistent with the advanced registered nurse practitioner's educational preparation or for which clinical competency has been established and maintained.

2. The protocol covering the order or administration of drugs specifies the name of the advanced registered nurse practitioner who may administer or order drugs, the drugs that may be ordered and the circumstances under which they may be ordered, the extent of the practitioner's supervision of the advanced registered nurse practitioner, and the method of periodic review of the advanced registered nurse practitioner's competence, including peer review. The protocol for administering Schedule II controlled substances must address the illness, injury, or condition for which a Schedule II controlled substance is administered.

3. The administering or ordering of drugs by an advanced registered nurse practitioner occurs under practitioner

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supervision. As used in this paragraph, the term "practitioner supervision" means a collaboration between the advanced registered nurse practitioner and the supervising practitioner on the development of the protocol and the availability of the supervising practitioner via telephonic contact at the time the patient is examined by the advanced registered nurse practitioner. The term does not mean that the physical presence of the supervising practitioner is required. A practitioner may not supervise more than four advanced registered nurse practitioners at any one time.

4. The controlled substances are administered or ordered in accordance with a patient-specific protocol approved by the treating or supervising practitioner if Schedule II or Schedule III controlled substances are administered or ordered by the advanced registered nurse practitioner. A copy of the section of the advanced registered nurse practitioner's protocol relating to controlled substances must be provided upon request to the licensed pharmacist who dispenses the drugs.

5. The board has certified that the advanced registered nurse practitioner has satisfactorily completed:

a. At least 6 months of direct supervision in the administering and ordering of drugs; and

b. A course in pharmacology covering the order, use, administration, and dispensing of controlled substances.

The board shall adopt rules to administer this paragraph.

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

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(d) Order diagnostic tests and physical and occupational therapy.

(4) In addition to the general functions specified in subsection (3), an advanced registered nurse practitioner may perform the following acts within his or her specialty:

(a) The certified registered nurse anesthetist may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.

2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.

3. Order under the protocol preanesthetic medication.

4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of

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appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs, which include those drugs that are commonly used to alleviate pain.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

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

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

(1) A clinical laboratory operated by one or more practitioners licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, or chapter 466, exclusively in connection with the diagnosis and treatment of their own patients, must be licensed under this part and must comply with the provisions of this part, except that the agency shall adopt rules for staffing, for personnel, including education and training of personnel, for proficiency testing, and for construction standards relating to the licensure and operation of the laboratory based upon and not exceeding the same standards contained in the federal Clinical Laboratory Improvement Amendments of 1988 and the federal regulations

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adopted thereunder.

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

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

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

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

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

(5) A clinical laboratory licensed under this part must accept a human specimen submitted for examination by a practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, s. 464.012, or chapter 466, if the specimen and test are the type performed by the clinical laboratory. A clinical laboratory may only refuse a specimen based upon a history of nonpayment for services by the practitioner. A clinical laboratory shall not charge different prices for tests based upon the chapter under which a practitioner submitting a specimen for testing is licensed.

Section 11. Effective October 1, 2012, and applicable to causes of action accruing on or after that date, subsection (1)

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of section 766.102, Florida Statutes, is amended to read:

766.102 Medical negligence; standards of recovery; expert witness.—

(1) In any action for recovery of damages based on the death or personal injury of any person in which it is alleged that such death or injury resulted from the negligence of the following persons:

(a) A health care provider as defined in s. 766.202(4); or

(b) An emergency health care provider, which includes a person or an entity that provides services according to obligations imposed by s. 395.1041 or s. 401.45, but does not include a person or entity that is otherwise covered under this section,

the claimant has ~~shall have~~ the burden of proving by clear and convincing ~~the greater weight of~~ evidence that the alleged actions of the health care provider or emergency health care provider represented a breach of the prevailing professional standard of care for that health care provider or emergency health care provider. The prevailing professional standard of care for a given health care provider or emergency health care provider is the ~~shall be that~~ level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers or emergency health care providers.

Section 12. Subsection (21) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used

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in this chapter shall have the following meanings, unless the context otherwise requires:

(21) "Practitioner" means a physician licensed pursuant to chapter 458, a dentist licensed pursuant to chapter 466, a veterinarian licensed pursuant to chapter 474, an osteopathic physician licensed pursuant to chapter 459, a naturopath licensed pursuant to chapter 462, a certified optometrist licensed pursuant to chapter 463 to administer and prescribe ocular pharmaceutical agents, or a podiatric physician licensed pursuant to chapter 461, provided such practitioner holds a valid federal controlled substance registry number.

Section 13. Subsection (1) of section 893.05, Florida Statutes, is amended to read:

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

(1) A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, dispense, mix, or otherwise prepare a controlled substance, or the practitioner may cause the same to be administered by a licensed nurse or an intern practitioner under his or her direction and supervision only, except that an optometrist certified pursuant to chapter 463 to administer and prescribe ocular pharmaceutical agents may not administer or prescribe any controlled substance listed in Schedule I or Schedule II of s. 893.03. A veterinarian may so prescribe, administer, dispense, mix, or prepare a controlled substance for use on animals only, and may cause it to be administered by an assistant or orderly under the veterinarian's direction and supervision only.

Section 14. Except as otherwise expressly provided in this

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407 act, this act shall take effect July 1, 2012.