

# FLORIDA JURISPRUDENCE: LAWS AND RULES OF PRACTICE

Carl H. Spear, OD, MBA, FAAO, NAP

*Best Education for Patient Care and Business Management*  
**OPTOMETRIC  
Management**  
SYMPOSIUM

1

OPTOMETRIC  
Management  
SYMPOSIUM

2

**CARL H SPEAR OD, MBA, FAAO**

**SVP EYE CARE LUXOTTICA NA**

**PRESIDENT EYE EXAM CALIFORNIA**

**MEMBER BOARD OF DIRECTORS AMERICAN  
ACADEMY of OPTOMETRY**

**FOA COMMITTEES  
LEGISLATIVE  
VENDOR RELATIONS/CE**

**Co-Chair AOA Health Care Alliance Patient  
Safety**



**FINANCIAL DISCLOSURES:**

- LUXOTTICA
- Allergan

3

## Former Practice Setting

- **Group Optometry/Ophthalmology Practice in Pensacola Florida**
- **7 Locations**
- **14 OD's, 1 MD's,**
- **70+ Staff**



4

OPTOMETRIC  
Management  
SYMPOSIUM

## DISCLOSURES:

**Carl**  
**Former Vice-Chair, Florida Board of Optometry**  
**Former Chair FBO Probable Cause Panel**

9/19/2022

5



OPTOMETRIC  
Management  
SYMPOSIUM

**Description:** This course will review the governing statutes and rules that regulate the practice of Optometry in the State of Florida. The course is designed and presented to meet the two hour Florida Jurisprudence CE requirement.

6

## OBJECTIVES



- Understand the History and Evolution of the Florida Board of Optometry
- Identify the pertinent Florida Statutes and Rules that regulate the profession of optometry
- Review the Rules of Optometric practice in Florida
- Understand the process for initial licensure and licensure renewal in Florida
- Understand the process for requesting waivers or variances
- Understand the Relationship between the Florida Department of Health, Board of Optometry, and The Florida Optometric Association.

7



OPTOMETRIC  
Management  
SYMPOSIUM

*Disclaimer: This lecture is solely the work of Dr. Carl Spear and does not represent the views and opinions of the Florida Board of Optometry or guarantee final disposition of any items that go before the Board for consideration.*

8

What Do You  
Want To Talk  
About?



© Copyright 2014 Distinctive Strategies and Leadership LLC All Rights Reserved

9

## Optometry Evolution

OPTOMETRIC  
Management  
SYMPOSIUM



9/18/2022

10

***“Optometry is a legislated profession. It is, therefore, absolutely the duty of every optometrist to become involved in the legislative process”***

***-Dr. Ed Walker-***



11

## Protecting our Profession

OPTOMETRIC  
Management  
SYMPOSIUM

- i. First Lobbyist
  1. Miss Louise Gibbons
- ii. First Legislative Chair
  1. Dr. Ed Walker
    - a. Served on Board of Optometry for 23 Years

12

## In The Beginning

OPTOMETRIC  
Management  
SYMPOSIUM

- **Initial Optometry Practice Act 1909**
- **Revised in 1931**
  - Specifically Prohibited Use of Pharmaceuticals
- **Revised Again in 1939**
  - Silent on Prescription Medications

13

## How \$600 Shaped Our Future

OPTOMETRIC  
Management  
SYMPOSIUM

- **1939**
- **Vote 5-1 then easily in House and Senate**
- **Some Things Never Change**
- **Now The Bastards Can Do Anything**
  - Diagnostics

14

## The Challenge of 1951

OPTOMETRIC  
Management  
SYMPOSIUM

- **26 OD's Challenged Board**
- **Supreme Court 1954**
- **The greatest step forward**
- **State of Optometry**
  - **1954**
    - **399 Optometrists and 121 FOA members**

15

## Why So Important

OPTOMETRIC  
Management  
SYMPOSIUM

- Self Regulation a Hallmark of any Profession
- Protect the Consumer/Public
- Complaints must be in Writing
- Once an investigation begins the Board can look into all aspects of practice

16

What Does COVID-19 have to do with Alma and 1966 Doral Hotel in Miami Beach?

And again in 1972?

OPTOMETRIC  
Management  
SYMPOSIUM

© Copyright 2014 Distinctive Strategies and Leadership LLC All Rights Reserved

17

1957 and Florida Society of Ophthalmology Resolution to change the Statute – 50K

1967 The first education requirement in the rule – 4 Hours

OPTOMETRIC  
Management  
SYMPOSIUM

18

## Early 1970's

The move to pharmaceuticals

Joint Study Commission

2 Senators, 2 Representatives, 2

Optometrists, 2 Ophthalmologists

Decided we should work it out

19

## Changes in 1979

i. Legislative Changes

ii. DPR Umbrella Agency

iii. Moved to DOH 455 to 456

iv. Decrease in Autonomy and Board Power

v. Slow Power shift since 1979

20

## Changes in 1997

i. Move from DPR to DOH

ii. Evolution of Chapter 456

21

## a. Therapeutic Legislation

i. Finally 1986

- OC 0000001

- Sunset all Medical Acts

ii. But what happened in 1984?

i. Jon Jacobs

22

## a. Co-Management Under Fire

1991 proposed to legislate away

b. Formulary moved from DPR to Board of Optometry 1991

c. Again in 2000 proposed to legislate away co-management

d. 1996-2016

23

## CO-MANAGEMENT TODAY:

(11) Co-management of postoperative care shall be conducted pursuant to the requirements of this section and a patient-specific transfer of care letter that governs the relationship between the physician who performed the surgery and the licensed practitioner. The patient must be fully informed of, and consent in writing to, the co-management relationship for his or her care. The transfer of care letter shall confirm that it is not medically necessary for the physician who performed the surgery to provide such postoperative care to the patient and that it is clinically appropriate for the licensed practitioner to provide such postoperative care. Before co-management of postoperative care commences, the patient shall be informed in writing that he or she has the right to be seen during the entire postoperative period by the physician who performed the surgery. In addition, the patient must be informed of the fees, if any, to be charged by the licensed practitioner and the physician performing the surgery, and must be provided with an accurate and comprehensive itemized statement of the specific postoperative care services that the physician performing the surgery and the licensed practitioner render, along with the charge for each service.

History.—ss. 14, 21, ch. 86-289; s. 70, ch. 91-137; s. 4, ch. 91-429; s. 237, ch. 97-103; s. 6, ch. 2013-26.

24

- 1986 – Topical Therapeutics authorized by law
- 1987 – OD reimbursement using CPT allowed
- 1989 – OD eligibility for HMO/PPO gained
- 1992 – Legal challenge for treatment of glaucoma defeated
- 1993 – Defeated legislation to restrict OD's post-op services
- 1995 – Defeated legislation restricting c/I Rx requirements
- 1995 – Legislatively gained exemption form optical permit laws
- 1999 – Defeated bill allowing opticians to refract
- 2001 – Defeated bill eliminating co-management
- 2002 – Defeated amendments to restrict OD scope of practice
- 2005 – Defeated amendments to restrict OD scope of practice
- 2006 – Legislatively reauthorized adult Medicaid eyewear
- 2007 – Legislation to secure 1.5% bonus on all Medicare claims for PQRI to include OD's
- 2008 – Legislatively prevented a 10.6% cut in Medicare payments to OD's
- 2008 – Legislatively secured 2% bonus on all Medicare claims for PQRI and 2% for e- Rx!
- 2008 – Legislation granted exemption to OD's from Durable Medical Equipment certification
- 2013 – Optometric Practice Act
- 2015 – Vision Insurance Bill

## Florida Optometry Legislative History

25

## Why IS IT Important?

Self Regulation a Hallmark of any Profession

Protect the Consumer/Public

Complaints must be in Writing

Once an investigation begins the Board can investigate all aspects of practice

26

OPTOMETRIC  
Management  
SYMPOSIUM

***"We are two votes and a signature  
away from extinction"***  
**-Me-**

27



OPTOMETRIC  
Management  
SYMPOSIUM

## Your Choice

- Money
- Time
- Talents
- Relationships

28

OPTOMETRIC  
Management  
SYMPOSIUM

## Recent Successes



29

Published May 15, 2013

### Florida ODs Gain Oral Drugs

By RO Staff

It's rare when a war does not end in bloodshed, but such was the case with the so-called "eyeball wars" in Florida. The "war" ended with the passage of HB 239, which permits optometrists in Florida to use oral drugs for eye disease, among other provisions.

"After much soul searching and introspection, everybody looked at it in terms of what's the best for the patient," says Kenneth W. Lawson, OD, legislative chair of the Florida Optometric Association, who has been working on this bill for three years.

The legislation, which was signed by the governor on April 19, achieved unanimous votes in both the state house and senate in favor of its passage. "It shows you can have a peaceful and thoughtful negotiation process that keeps the patient at the front," Dr. Lawson says.

The new law, which takes effect July 1, has several provisions that allow Florida optometrists to better serve their patients:

- **Allows Rx of oral drugs.** The bill listed 14 oral drugs that ODs will be able prescribe for eye care; these include analgesics/Schedule III controlled substances, antibiotics, antivirals and glaucoma medications. The legislation also requires that ODs must first participate in a 20-hour online CE review course and exam on oral pharmaceuticals.
- **Codifies comanagement.** The legislation mandates state-wide statutes regarding comanagement to mirror those of federal guidelines, including informed written consent for comanaged care.

## Oral Drug Legislation House Bill 239

30



**SB 340: Vision Care Plans**  
 GENERAL BILL by Labalola : (CO-INTRODUCERS) Gualtz

Vision Care Plans: Providing that a health insurer, a prepaid limited health service organization, and a health maintenance organization, respectively, may not require a licensed ophthalmologist or optometrist to join a network solely for the purpose of credentialing the licensee for another vision network; providing that such insurers and organizations may not restrict a licensed ophthalmologist, optometrist, or optician to specific suppliers of materials or optical laboratories, etc.

Effective Date: 7/1/2016  
 Last Action: 3/23/2016 - Chapter No. 2016-89  
 Locations: Became Law  
 Bill Text: [Web Page](#) | [PDF](#)

Senate Committee References:  
 1. Banking and Insurance (BI)  
 2. Health Policy (HP)  
 3. Rules (RC)

- Prohibits Restriction of Labs
- Requires Doctor Removal From List
- Prohibits Forced Credentialing for Vision Plan
- 5 Votes and Zero Nays

31

All nine bills signed by Scott originated in the Florida Senate

**SB 228 Medical Assistant Certification** – This bill repeals a veto of medical assistants.

**SB 242 An Infectious Disease Elimination Pilot Program** – Pilot program at the University of Miami to prevent the spread of HIV, some diseases.

**SB 340 Vision Care Plans** – This bill relates to health insurers, ophthalmologists and optometrists.

**SB 450 Physical Therapy** – This bill relates to the licensure of physical therapists.


**SB 690 Adoption** – This bill allows judges to make adoption decisions without other changes to adoption procedures.

**SB 636 Rape Kits** – This bill requires rape kits to be tested within a specified time frame.

**SB 660 Foster Families** – This bill designates the second week of February as "Foster Family Appreciation Week."

**SB 1174 Residential Facilities** – This bill clarifies distance requirements for community residential homes.

**SB 7020 A Review Under the Open Government Sunset Review** – This bill reenacts an existing public records exemption relating to the Florida Health Choices Program.



32

**Legislative Challenges Today**

OPTOMETRIC Management SYMPOSIUM


- Licensing
- Telemedicine
- Online Refracting
- Opticians Refracting
- Other Insurance Issues

❖ There will be more challenges who will fight them?

33

**With Thanks and Gratitude!**


Dr. Ed Walker



9/19/2022

34

**Brief Description of How We Got Here**



- The Law is What the Law Is
- The Rules are What the Rules Are
- Shift in Board Power
- Only Enforce the Laws and Rules

35

**What Laws and Rule Apply**

OPTOMETRIC Management SYMPOSIUM

- **Chapter 463: Optometry Practice Act**
- **Chapter 456:** Health Professions and Occupations: General Provisions
- **Chapter 408:** Health Care Administration
- **Chapter 120:** Administrative Procedure Act
- **Chapter 119:** Public Records
- **Chapter 112:** Public Officers and Employees: General Provisions
- **Chapter 465:** Pharmacy
- **Pharmacy law regarding Dispensing Practitioners**
- **Rules: Chapter 64B13 (Board of Optometry Rules)**

36

• Chapter 463 Optometry Practice Act

- 463.0001 Short title.
- 463.001 Purpose; intent.
- 463.002 Definitions.
- 463.003 Board of Optometry.
- 463.004 Board headquarters.
- 463.005 Authority of the board.
- 463.0055 Administration and prescription of ocular pharmaceutical agents.
- 463.0057 Optometric faculty certificate.
- 463.006 Licensure and certification by examination.
- 463.007 Renewal of license; continuing education.
- 463.008 Inactive status.
- 463.009 Supportive personnel.
- 463.011 Exhibition of license.
- 463.012 Prescriptions; filing; release; duplication.
- 463.013 Optometric services for certain public agencies.
- 463.0135 Standards of practice.
- 463.014 Certain acts prohibited.
- 463.0141 Reports of adverse incidents in the practice of optometry.
- 463.015 Violations and penalties.
- 463.016 Grounds for disciplinary action; action by the board.
- 463.018 Reciprocity.

OPTOMETRIC Management SYMPOSIUM

37

**463.0001 Short title.**—This chapter shall be known as the “Optometry Practice Act.”

• **463.001 Purpose; intent.**—*The sole legislative purpose in enacting this chapter is to ensure that every person engaged in the practice of optometry in this state meets minimum requirements for safe practice. It is the legislative intent that such persons who fall below minimum standards or who otherwise present a danger to the public shall be prohibited from practicing in this state.*

• Nothing in this chapter shall be construed to prevent a person licensed under chapter 458, chapter 459, or part I of chapter 484 from performing those services which she or he is licensed to perform. The provisions of this chapter shall have no application to any person furnishing assistance in case of an emergency.

OPTOMETRIC Management SYMPOSIUM

38








**463.003 Board Composition**

- The **Florida Board of Optometry** is composed of seven members appointed by the Governor and confirmed by the Senate.
- Five members of the board must be licensed practitioners actively practicing in this state.
- The remaining two members must be citizens of the state who are not, and have never been, licensed practitioners.
- Additionally, the consumer members may not be connected with the practice of optometry or with any other vision-related profession or business.
- At least one member of the board must be 60 years of age or older.

OPTOMETRIC Management SYMPOSIUM

39

**Members of the Board**

 Stephen Kopley OD Chair Vero Beach, FL Term Ends: 10/31/2023 <a href="#">Read More --&gt;</a>	 David Rouse OD Vice-Chair Cooper City, FL Term Ends: 10/31/2023 <a href="#">Read More --&gt;</a>	 Katie Gilbert Spear OD, JD, MPH Pensacola, FL Term Ends: 10/31/2022 <a href="#">Read More --&gt;</a>
 Denise Burns-LeGros O.D., F.AAO Indianapolis, FL Term Ends: 10/31/2023 <a href="#">Read More --&gt;</a>	 Robert Easton, Jr. OD, F.AAO Oakland Park Term Ends: 10/31/2024 <a href="#">Read More --&gt;</a>	 John E. Griffin JD Consumer Tallahassee, FL Term Ends: 10/31/2022 <a href="#">Read More --&gt;</a>
 Kevin Rollin Consumer Vero Beach <a href="#">Read More --&gt;</a>		

2022

40

**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:
  - (a) Standards of practice, including, but not limited to, those provided for in s. 463.0135.
  - (b) Minimum equipment which a licensed practitioner shall at all times possess to engage in the practice of optometry.
  - (c) Minimum procedures which shall constitute a visual examination.
  - (d) Procedures for the safekeeping and transfer of prescription files or case records upon the discontinuance of practice.
  - (e) Supervision of supportive personnel.
  - (f) Courses and procedures for continuing education.
  - (g) Administration and prescription of ocular pharmaceutical agents.
- (2) The board is authorized to disseminate information, the sole purpose of which is to inform licensed practitioners and the public of regulations regarding the practice of optometry.

OPTOMETRIC Management SYMPOSIUM

41

**BOARD REGULATION**

The Department of Health's Division of Medical Quality Assurance serves as the principle administrative support unit for the board.

The board is supported by a full-time professional staff based in Tallahassee, and its regulatory functions are funded in full by fees paid by its licensees.

Board members are appointed by the Governor and subject to confirmation by the Senate. Members of the board can serve two four-year terms.

Despite the expiration of a term, board members can continue to serve until they have been either replaced or reappointed

OPTOMETRIC Management SYMPOSIUM

42

## LINK AND LIST OF ALL STAFF ON THE WEBSITE



43



44

## If You Want to Be on the Board

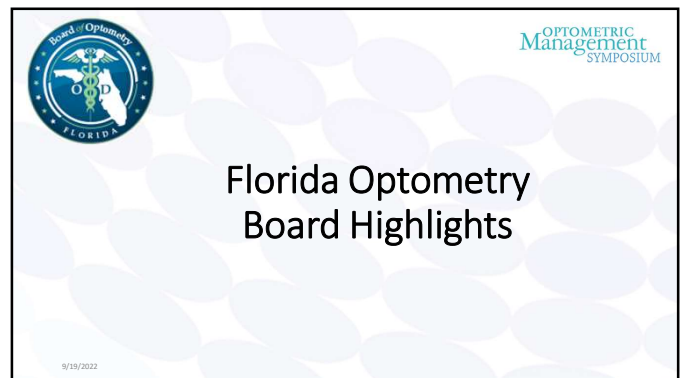
OPTOMETRIC  
Management  
SYMPOSIUM

### Welcome Board Members!

Are you a current or new board member? Helpful resources and information pertinent to your position are available on the new Division of Medical Quality Assurance (MQA) board member website.

If you are interested in becoming a board member, the site contains material that provides insight into the duties and responsibilities of the role. To view the site, please visit <http://flhealthsource.gov/board-members>.

45



46

## Important Statutes, Rules and Changes

OPTOMETRIC  
Management  
SYMPOSIUM

### Licensing and Registration



To learn more about the licensure and registration process, select the type of license you wish to apply for from a list of professions or select the type of office you need to register.

The Board has made every effort to include the information you need to apply for licensure on this website. You can visit our [Help Center](#), [FAQs](#) and [Resources](#) page for frequently asked questions, links, forms, applications and other helpful information.

[Grade Report](#)

During the 1986 Legislation, Chapter 463, Florida Statutes, was amended requiring anyone applying for an Optometrist license to become a Certified Optometrist. The new law required the applicant to meet additional education and examination requirements.

#### Choose a License Type or Facility

- ◆ Certified Optometrist
- ◆ Optometry Faculty Certificate

OPTOMETRIC  
Management  
SYMPOSIUM

47

48



The requirements for licensure as a Certified Optometrist are as follows and can be found in Chapter 463.006, F.S. and Rules 64B13-4.001 and 4.004, Florida Administrative Code:

- Be at least 18 years of age.
- Have graduated from a school or college of optometry approved by the board. Pursuant to Rule 64B13-4.004, F.A.C., all Board approved schools or colleges must be accredited by the Accreditation Council for Optometric Education. In addition, all applicants must provide documentation of successful passage of National Boards of Examiners in Optometry (NBEO) Part I in order to demonstrate graduation from a Board approved school or college.
- Completed at least 110 hours of transcript quality course work and clinical training in general and ocular pharmacology at an institution that has facilities for both didactic and clinical instructions facility and which is accredited by a regional or professional accrediting organization that is recognized and approved by the Commission on Recognition of Postsecondary Accreditation or the United States Department of Education.
- Have completed at least 1 year of supervised experience in differential diagnosis of eye disease or disorders as part of the optometric training or in a clinical setting as part of the optometric experience.
- Applicants who are or have been licensed in another state must submit licensure verification from each state you have or have ever held a license.

**463.006**  
**Licensure and certification by examination**

49

**463.006**  
**Licensure and certification by examination**

- Successful passage of all parts of the Florida Licensure Examination. The examinations must consist of the National Boards of Examiners in Optometry (NBEO) examination Part II (PAM – which includes the TMOD) and Part III, as well as passage of the Florida Practical Examination (which includes passing the NBEO Part III skills of Biomicroscopy, Binocular Indirect Ophthalmoscopy and Dilated Biomicroscopy, and Non-Contact Fundus Lens Evaluation with a 75% score on each skill on the same attempt)(the Florida Practical Examination is taken simultaneously with Part III), and part IV (Florida Laws and Rules Examination) with an 84% or higher score.
- Applicants must receive passing scores on all parts of the Florida Licensure Examination within the 3 years immediately preceding submission of an application or within the 3 years following submission of application. For applicants who submit an application that is complete in all respects but who have not received passing scores on all parts of the examination, your application for licensure may be approved, but a license to practice optometry in Florida will not be issued unless proof of passage of all parts of the Florida Licensure Examination is received within the 3 year window.
- As a note to applicants, pursuant to Florida law, incomplete applications (applications which fail to include documentation of compliance with all licensure requirements other than passage of all parts of the Florida Licensure Examination) expire 1 year after submission.

50

## HB 7059 Application For Licensure

(3) Each applicant who submits proof satisfactory to the board that he or she has met the requirements of subsection (1), who successfully passes the licensure examination within 3 years before the date of application or after the submission of an application, and who otherwise meets the requirements of this chapter is entitled to be licensed as a practitioner and to be certified to administer and prescribe ocular pharmaceutical agents in the diagnosis and treatment of ocular conditions.

51

## HUMAN TRAFFICKING

HOME SIGNS CE/CME MESSAGE FAQ FIND HELP

This website provides basic information about the Human Trafficking Bill, Chapter 2019-152, Laws of Florida, which addresses healthcare professionals licensed by the following Boards: Acupuncture, Medicine, Osteopathic Medicine, Chiropractic Medicine, Podiatric Medicine, Optometry, Pharmacy, Dentistry, Nursing Home Administration, Occupational Therapy, Dietetics and Nutrition, Respiratory Care, Massage Therapy, and Physical Therapy. Healthcare professionals licensed by these Boards must complete one hour of continuing education (CE) on human trafficking and post a sign about human trafficking in their office by January 1, 2021.

9/19/2022

52

## Human Trafficking

Posted in [Latest News](#) on July 10, 2019.

Florida passed Human Trafficking, Chapter 2019-152, Laws of Florida, which establishes new profession requirements including newly required signs, CE/CME, and more for the following professions: Acupuncture, Medicine, Osteopathic Medicine, Chiropractic Medicine, Podiatric Medicine, Optometry, Pharmacy, Dentistry, Nursing Home Administration, Occupational Therapy, Dietetics and Nutrition, Respiratory Care, Massage Therapy, and Physical Therapy.

The Department has launched an informational website that includes a breakdown of the new law and addresses areas of: (1) signs; (2) CE/CME; (3) FAQs; (4) Specific Board of Massage requirements; and (5) Human Trafficking Reporting.

During the April 3, 2020 Board of Optometry meeting, the board voted to allow online or distance learning for Human Trafficking only.

For more information please visit: <http://www.flhealthsource.gov/humantrafficking/>

53

## SIGNS

Each healthcare provider licensed by one of the named Boards must post a sign regarding human trafficking in a conspicuous place accessible to employees by January 1, 2021. The sign must be at least 11 x 15 inches and in at least 32-point type. The sign must contain statutorily required language and be posted in English and Spanish. The Department has also provided Mandarin translations of these signs for use in offices where those languages are spoken. The links below contain signs that meet the statutory requirements when printed at the listed size.

- [Human Trafficking \(English/Spanish\)](#)
- [Human Trafficking \(English/Spanish/Mandarin\)](#)
- [Human Trafficking \(English/Spanish/Creole\)](#)

## CE

Each healthcare provider licensed by one of the named Boards must complete a one hour continuing education (CE) course on human trafficking that has been specifically approved by their Board for this purpose. The course must be completed by January 1, 2021 and will count towards the required CE for renewal. The bill does not require that this course be taken again for future renewal cycles. The links below will direct you to courses that meet this requirement as soon as they are approved by the applicable Board.

- To find an appropriate course, please visit: <https://courses.cebroke.com/search>

54

**HUMAN TRAFFICKING**

**OPTOMETRIC Management SYMPOSIUM**

If you or someone you know is being forced to engage in an activity and cannot leave, whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity, call the National Human Trafficking Resource Center at **888-373-7888** or text **INFO or HELP** to **233-7233** to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law.

**Si usted o alguien que conoce está siendo obligado a participar en una actividad y no puede dejarla, ya sea prostitución, tareas domésticas, labores agrícolas, labores en una fábrica, labores en un comercio minorista, labores en un restaurante o cualquier otra actividad, comuníquese con el Centro Nacional de Recursos contra la Trata de Personas (National Human Trafficking Resource Center) llamando al 888-373-7888 o envíe un mensaje de texto con la palabra INFO o HELP (AYUDA) a 233-7233 para acceder a asistencia y servicios. Las víctimas de la esclavitud y de la trata de personas están protegidas por la ley de Florida y de los Estados Unidos.**

For more information, visit the Florida Department of Health's website at [www.flhealthsource.gov](http://www.flhealthsource.gov) or call the Florida Department of Health at 888-373-7888.

55

**FLORIDA Board of Optometry**

Search Posts, Pages & FAQs:

FAQs Contact Sitemap  
Thursday, July 12th, 2018

Home Licensing Renewals Resources Meetings The Board

**#TAKE CONTROL**

Take Control of Controlled Substances

Click Here to be in the know on how Florida's new legislation on controlled substances affects you

Welcome to the State of Florida's Online Resource for Optometrists and Faculty Certificate Holders  
Licensing, Renewals and Information

56

### Take Control of Controlled Substances

Posted in [Latest News](#) on May 7, 2018.

The Florida Department of Health has launched an informational website providing basic information pertaining to CS/CS/HB 21, the Controlled Substances Bill, and the upcoming changes for prescribers and dispensers. Signed by the Governor on March 19, 2018 with an effective date of July 1, 2018, the law addresses opioid abuse by establishing prescribing limits, requiring continuing education on controlled substance prescribing, expanding required use of Florida's Prescription Drug Monitoring Program, EFORCSE, and more.

The website provides specific information for those affected by the bill and links to other helpful resources, such as a Bill Information page, FAQs, informational Webinar, and more.

Please visit <http://www.flhealthsource.gov/FloridaTakeControl> to be in the know on how the Controlled Substances Bill affects you!

[← Previous Post](#) [Next Post →](#)

57

Home Patients Pain Clinics Counterfeit Proof Prescription Pad Vendors Prescription Drug Monitoring Program

**TAKE CONTROL**  
OF CONTROLLED SUBSTANCES

The Controlled Substances Bill is Florida's response to opioid abuse. Click on the appropriate tab for more information.

Pharmacy PSA  
Frequently Asked Questions **#TAKECONTROL**  
IMPORTANT! Updated frequently asked questions for Prescribers and Dispensers

About Dentistry Medicine Nursing Optometry Osteopathic Medicine Pharmacy Podiatric Medicine

Florida Board of Optometry

58

**Florida Board of Optometry**

**\*\*NOTE: THE ONLY approved CE providers are: (1) The Florida Medical Association, (2) Florida Osteopathic Medical Association, (3) Florida Academy of Family Physicians, and (4) Florida College of Emergency Physicians.**

[Click Here for the Mandatory CE Course](#)

All licensed and certified optometrists who registered with the DEA are authorized to administer and prescribe, are impacted by the changes in the Controlled Substances Bill.

There are four key changes in the law for all certified optometrists. They include:

- A requirement that a certified optometrist take a Board-approved 2-hour CE course on prescribing controlled substances;
- Prescription supply limits for the treatment of acute pain that may not exceed 3 days or up to a 7 day supply in special circumstances;
- The Florida Board of Optometry develop guidelines for prescribing controlled substances for acute pain; and
- Mandatory requirement for all certified optometrists to utilize the PDMP for the prescribing or dispensing of controlled substances.

Use the quick links on the right for additional information.

For questions, contact the Florida Department of Health at [TakeControl@flhealth.gov](http://TakeControl@flhealth.gov)


- Controlled Substances Bill Information Page
- List of Schedule II, III, IV, and V substances
- FAQs
- Mandatory CE Course
- Webinar
- Board of Optometry
- PDMP

59

**MORE HB 21**

- Online CE approved as part of statute
  - Must complete prior to 31 Jan 2019
  - Available on CE Broker
- Rulemaking
  - Disciplinary
  - CE Requirements
  - Heads Up on non DEA

60



**Nonopioid Alternatives Pamphlet**

2020 legislation amended the requirements for non-opioid alternatives. Click here to access the pamphlet for "Information on Nonopioid Alternatives for the Treatment of Pain"

© Copyright 2014. Distinctive Strategies and Leadership LLC All Rights Reserved

61

### Nonopioid Alternatives Pamphlet

Posted in [Latest News](#) on July 2, 2019.

House Bill 451, Nonopioid Alternatives, was approved by Governor DeSantis and is effective July 1, 2019. The bill requires that before providing anesthesia or prescribing, ordering, dispensing, or administering an opioid listed as a Schedule II controlled substance to treat pain, the patient must be informed about available nonopioid alternatives. A healthcare practitioner will discuss the advantages and disadvantages of using nonopioid alternatives. Under the new law, the department is required to develop an educational pamphlet about using nonopioid alternatives and post the pamphlet on the department's website. Healthcare practitioners must provide the patient with this educational pamphlet. Those healthcare practitioners providing emergency services and care are exempt from these requirements.

[Click here](#) for pamphlets and additional information.

9/19/2022

62

### 43: Nonopioid Alternatives

Effective Date: July 1, 2020

<http://www.flsenate.gov/Session/Bill/2020/743/BillText/er/PDF>

The bill revises the requirements for certain health care practitioners providing an opioid drug listed as a Schedule II controlled substance to inform the patient about possible nonopioid alternatives, discuss the advantages and disadvantages of nonopioid alternatives, and provide the pamphlet as required in section 456.44, Florida Statutes by:

- the pamphlet.

© Copyright 2014. Distinctive Strategies and Leadership LLC All Rights Reserved

63

- Requiring that the pamphlet provided to the patient be printed;
- Authorizing a health care practitioner to discuss non-opioid alternatives with, and provide the pamphlet to, the patient's representative rather than the patient;
- Specifying that only those health care practitioners ordering or prescribing or providing care that requires the administration of anesthesia using an opioid must meet the requirements and removing the requirement to address non-opioid alternatives when a drug is dispensed or administered; and
- Exempting health care practitioners providing hospice services and providing care in a hospital critical care unit or emergency department from the requirement to discuss non-opioid alternatives with a patient or the patient's representative and provide a printed copy of

© Copyright 2014. Distinctive Strategies and Leadership LLC All Rights Reserved

64

### Scam Calls

Posted in [Latest News](#) on September 25, 2019.

The Florida Department of Health is issuing an alert to all Florida licensed medical practitioners about a scam where individuals who claim to be with the Florida Board say the practitioner's license has been suspended due to drug charges. However, the practitioner is told to call a number not associated with the Department- 804-293-0309.

9/19/2022

© Copyright 2014. Distinctive Strategies and Leadership LLC All Rights Reserved

65



**Electronic Prescribing Requirements**

Click here for the new requirements requiring prescribers to generate and transmit all prescriptions electronically

© Copyright 2014. Distinctive Strategies and Leadership LLC All Rights Reserved

66

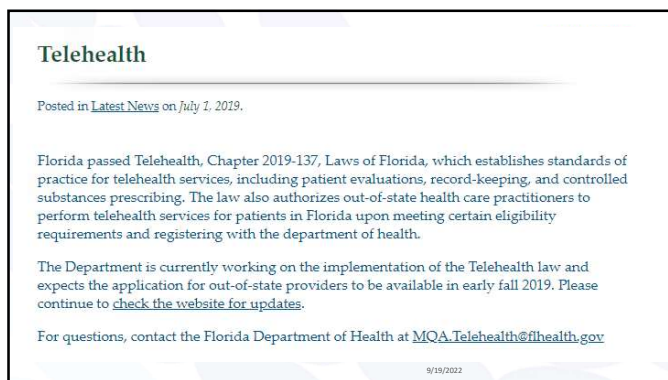




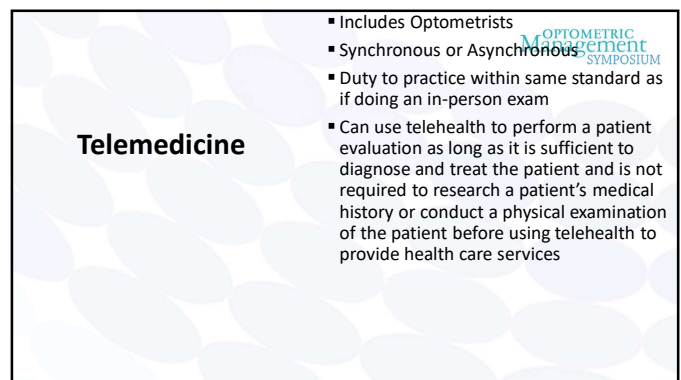
67



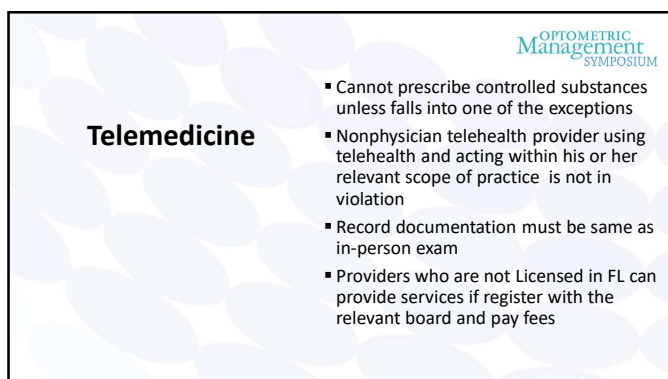
68



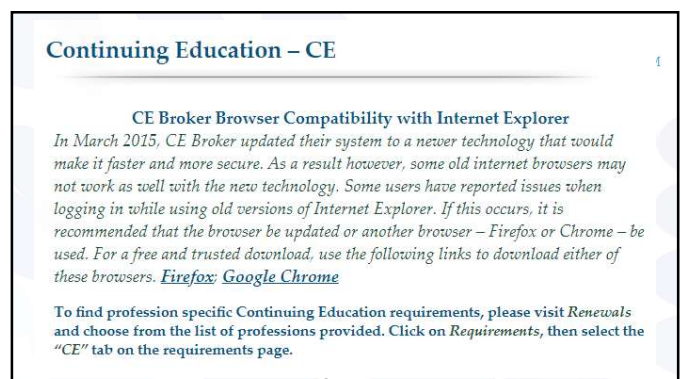
69



70



71



72

**Continuing Education (CE) Requirements**  
To locate board approved CE Courses for this profession, please click [here](#)

REQUIRED SUBJECT AREA	REQUIRED NUMBER OF HOURS	IMPORTANT INFORMATION
General Hours	26	6 of the 26 hours must be in Transcript Quality if you are a Certified Optometrist
Medical Error	2	2 hours maximum per biennium
Laws and Rules	2	2 hours maximum per biennium
Prescribing Controlled Substances	2	Important Information: All licensees registered with the DEA must complete the course no later than January 31, 2019, and during each subsequent biennium renewal biennium. (May be completed through live, in-person, or online / distance learning format.)
Human Trafficking	1	Each licensee or certificate holder shall complete a board-approved, 1 hour continuing education course on human trafficking. The course may be included in the total general hours required and must be completed by January 1, 2021. Required in accordance with Section 456.051, Florida Statutes.  *Note: The 1 hour of Human Trafficking is included in the required general hours and must be completed by live classroom.

**First Biennium Renewal:** Optometrist initially licensed within the biennium are exempt from the continuing education (CE) requirements for renewal with the exception of any (1) hour of HIV/AIDS. Any live classroom course approved by any MQA Board is acceptable.

**CE: 64B13-5**

- 30 hours per biennium
- 2 hours for CPR training optional
- 2 hours PM max and can be online
- 2 hours JP required
- 2 hours ME required
- If DEA licensed 2 hours Controlled Substance required but all licensees can take for credit and can be online

**ONLINE CE**

## Is Online CE Allowed in Florida???

© Copyright 2014 Distinctive Strategies and Leadership LLC All Rights Reserved

73

74

**Online CE Courses**

- 5 Hours
  - 2 Hours Controlled Substance
  - 2 Hours PM
  - 1 Hour Human Trafficking
- 20 Hours Oral Medication Course

75

Subject Area	Hours Required	Hours Posted	Hours Needed
<b>Medical Errors</b>	2	2	0
MEDICAL ERRORS	07/17/2015	2	
<b>General</b>	20	10	10
DIABETES MELLITUS - PRACTICE PROTOCOL, PROGRAM PART I	04/29/2015	1	
DIABETES MELLITUS - PRACTICE PROTOCOL, PROGRAM PART II	04/29/2015	1	
MULTISPECTRAL IMAGING OF THE RETINA AND CHOROID: A MILE WIDE AND DEEP	04/29/2015	1	
SO YOU WANT TO START MANAGING GLAUCOMA	04/29/2015	1	
UNRAVELLING THE ENIGMA OF OCULAR SURFACE DISEASE	04/29/2015	2	
METHICILLIN RESISTANT STAPHYLOCOCCUS AUREUS: OCULAR MANIFESTATIONS AND GUIDELINES FOR MANAGEMENT	10/07/2015	1	
ORAL PHARMACEUTICALS IN OCULAR SURFACE DISEASE	10/09/2015	2	
Carried over from Transcript Quality			
MEDICAL RECORD AUDIT RESULTS - WHERE DO WE GO FROM HERE PART I	08/07/2015	1	
<b>Laws and Rules of the Board</b>	2	2	0
FLORIDA JURISPRUDENCE	07/16/2015	2	
<b>Transcript Quality</b>	6	2	4
AGE-RELATED MACULAR DEGENERATION	07/16/2015	2	
ORAL PHARMACEUTICALS IN OCULAR SURFACE DISEASE	10/09/2015	0	
Carried over to General for 2.00 hours			
General hours reported			
<b>Total Hours:</b>	<b>30</b>	<b>16</b>	<b>14</b>

76

**Do I Have To Dilate? 64B13-3.010 Standards of Practice**

- Not in statute but included in rules
- (6)(a) To be in compliance with paragraph 64B13-3.007(2)(f), F.A.C., certified optometrists shall perform a dilated fundus examination during the patient's initial presentation, and thereafter, whenever medically indicated. If, in the certified optometrist's sound professional judgment, dilation is not performed because of the patient's age, physical limitations, or conditions, the reason(s) shall be noted in the patient's medical record.
- (b) Licensed optometrists who determine that a dilated fundus examination is medically indicated shall advise the patient that such examination is medically necessary and shall refer the patient to a qualified health care professional for such examination to be performed. The licensed optometrist shall document the advice and referral in the patient's medical record.

77

**New-Rule: Change Underlined**

- THE FULL TEXT OF THE PROPOSED RULE IS:
- 64B13-3.010 Standards of Practice.
- (1) Section 463.016(1)(g), F.S., authorizes the Board to take disciplinary action against an optometrist who is found guilty of "fraud, deceit, negligence, incompetence, or misconduct in the practice of optometry." Conduct which deceives, or defrauds the public and which is thereby prohibited by Section 463.016(1)(g), F.S., shall include, but not be limited to, accepting and performing an optometric practice or procedure which the optometrist knows or has reason to know that he or she is not competent to undertake.

78



## New-Rule: Change Underlined



### • THE FULL TEXT OF THE PROPOSED RULE IS:

- (1) through (2) renumbered (2) through (3) No change.
- ~~(4)~~(3) Certified optometrists employing the topical ocular pharmaceuticals listed in subsection 64B13-18.002(8), F.A.C., Anti-Glaucoma Agents, shall comply with the following:
- (a) through (b) No change.
- (c) The certified optometrist shall have available, and be proficient in the use of, the following instrumentation:
  - 1. through 2. No change.
  - 3. Gonio Lens Gonioscope.
  - 4. through 5. No change.
  - 6. A device to provide stereoscopic view of optic nerve, including but not limited to, binocular indirect ophthalmoscope and non-contact fundus lens.
- (4) through (5) renumbered (5) through (6) No change.

79

## New-Rule: Change Underlined



### • THE FULL TEXT OF THE PROPOSED RULE IS:

- ~~(7)~~(6)(a) To be in compliance with paragraph 64B13-3.007(2)(f), F.A.C., certified optometrists shall perform a pharmacologic dilated fundus examination during the patient's initial presentation, and thereafter, whenever medically indicated. Fundus imaging is not a substitute for a pharmacologic dilated fundus examination. If, in the certified optometrist's sound professional judgment, dilation is not performed because of the patient's age, physical limitations, or conditions, the reason(s) shall be noted in the patient's medical record.

80

**Florida Health**  
It's a New Day in Public Health.  
The Florida Department of Health works to protect, promote & improve the health of all people in Florida through integrated state, county, & community efforts.

Programs & Services | Licensing & Regulation | Statistics & Data | Certificates | Diseases & Conditions | Environmental Health

Enforcement  
Home » Licensing & Regulation » Enforcement

**Enforcement**

The Department of Health investigates complaints and reports involving health care practitioners regulated by the department and enforces appropriate Florida Statutes. Action which may be taken against health care practitioners is administrative in nature (e.g., reprimand, fine, restriction of practice, remedial education, administrative cost, probation, license suspension or license revocation). The department cannot represent you in civil matters to recover fees paid or seek remedies for injuries. You may wish to consult a private attorney regarding these matters.

**Florida Health Care Complaint Portal**

**Consumer Services Section**  
850-245-4339  
MQA.ConsumerServices@flhhs.gov  
850-488-0796  
Mailing Address  
Department of Health  
6251 Bald Cypress Way, Bin C75  
Tallahassee, Florida 32399-3200

**Medical Quality Assurance Services**

81

## Probable Cause Panel: 64B13-2.008

(1) The determination as to whether probable cause exists to believe that a violation of the provisions of Chapter 456, Part II, or 463, F.S., or of the rules promulgated thereunder, has occurred shall be made by the probable cause panel of the Board.

(2) The probable cause panel shall be composed of at least two (2) present or former members of the Board of Optometry. At least one member of the panel must be a current Board member. At least one member shall be a present or former lay member, if available, willing to serve, and authorized by the Chair.

82

## What Gets Optometrist in Trouble?



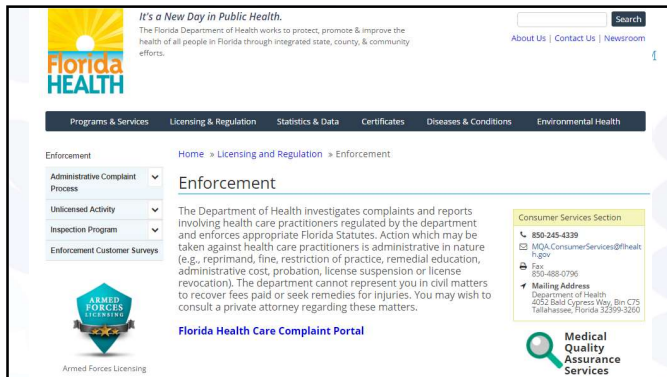
9/19/2022

83

## What Gets Board of Optometry in Trouble?

- Sunshine Law
- Public Records

84



85

OPTOMETRIC  
Management  
SYMPOSIUM

## Case 1 The Disgruntled Contact Lens Patient

- Problems
  - No Refund
  - Unhappy with Contacts
  - Open Records
    - Uh Oh
      - Corporate Optometry
      - Documentation – Standard of Care
        - Tonometry, VA Near

86

OPTOMETRIC  
Management  
SYMPOSIUM

## Case 2 Second Opinion

- Not happy with glasses
- No Refund
- Second Opinion
  - Glaucoma?
  - Complaint
  - Standard of Care

87

OPTOMETRIC  
Management  
SYMPOSIUM

## Case 3 Standard of Care

- Seeing Spots
- Exam
- Paperwork is clear
- No Dilation
- Corporate Practice?

88

OPTOMETRIC  
Management  
SYMPOSIUM

## Case 4 But That Was in Another State

- License revoked in another state
- **Failure to report**
- Full Investigation

89

OPTOMETRIC  
Management  
SYMPOSIUM

## Case 5 The Free Eye Exam

- Free Eye Exam Advertised
- Billed Exam to Insurance
- Was Paid by Optical Owner

90

## CASE 6

OPTOMETRIC  
Management  
SYMPOSIUM

- Failure to Dilate Complaint
  - Unrelated to Disease
  - Not good vision with contacts
- Contact Lens Records Release and Dates

91

## Hot off the Presses

OPTOMETRIC  
Management  
SYMPOSIUM

- Contact Lens Rx Release
  - Numerous Complaints
  - All Unfounded
- Watch Outs
  - EHR Automatics
  - Just Do It

92

## Hot off the presses

OPTOMETRIC  
Management  
SYMPOSIUM

- Corporate Practice of Optometry
  - Hot Topic
  - DOJ Involvement
  - State Attorney
  - Penalty on You
    - Maybe on the Entity

93

## Hot off the presses

OPTOMETRIC  
Management  
SYMPOSIUM

- Standard of Care
  - Failure to Diagnose
  - Failure to Refer
  - Failure To Educate

FAILURE TO DOCUMENT

94

## Hot off the presses

OPTOMETRIC  
Management  
SYMPOSIUM

- Failure to Report
  - Change of Address
  - Issues out of State
  - Issues in State

95

Thank You

96