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FLORIDA JURISPRUDENCE:
LAWS AND RULES OF PRACTICE

APRIL L JASPER OD, FAAO

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APRIL JASPER, OD, FAAO

FOA - Past President

Chief Optometric Editor
Optometric Management
Magazine

Medical Monitor CHAPERONE
study Bausch Health

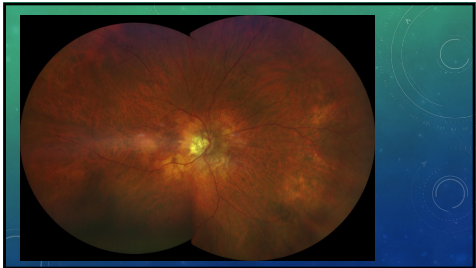
Chair Corporate Relations
Committee American Academy of
Optometry

Medical Monitor VISION 1 and
VISION 2 study Eyenovia

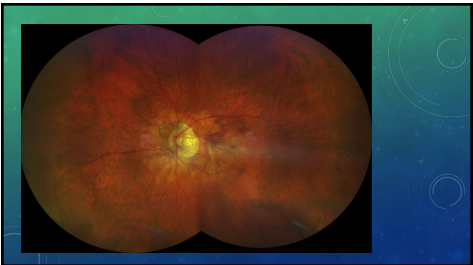
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THE TWO MOST IMPORTANT DAYS
IN YOUR LIFE ARE
THE DAY YOU WERE BORN AND
THE DAY YOU FIND OUT
WHY.
MARK TWAIN

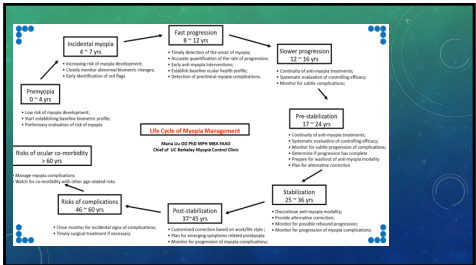
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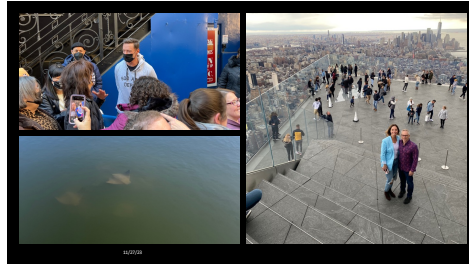
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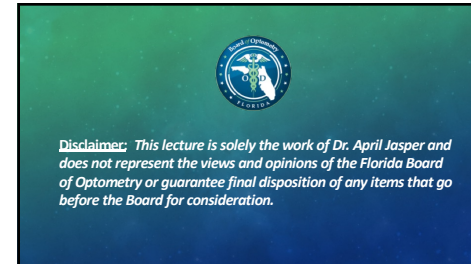
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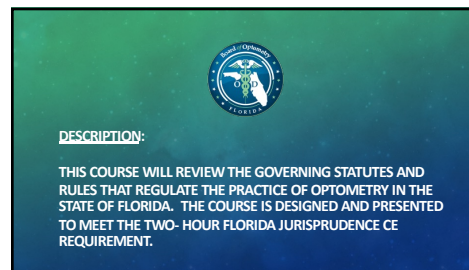
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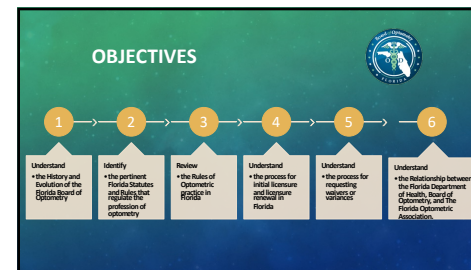
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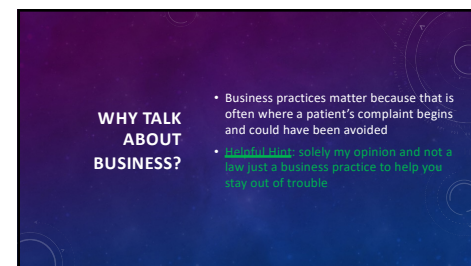
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CAN I BE SUED BY A PATIENT FOR GETTING COVID-19 FROM SOMEONE IN MY OFFICE?

- Contact tracing?
- Did you wear masks?
- Did you take temperatures?
- Did you sanitize?
- Did you social distance?

19

SOVEREIGN IMMUNITY FOR COVID-19

Florida Senate - 2021

By Senator Brandon

20-00148B-01

A bill to be entitled

An act relating to civil liability for damages relating to COVID-19; creating s. 760.38, F.S.; providing legislative findings and intent; defining terms; providing exemptions for a civil action based on a COVID-19-related claim; providing that the plaintiff has the burden of proof in such action; providing a statute of limitations; providing immunities; providing severable applications; providing an effective date.

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SOVEREIGN IMMUNITY FOR COVID-19

FLORIDA HOUSE OF REPRESENTATIVES

2021

A bill to be entitled

An act relating to civil liability for damages relating to COVID-19; creating s. 760.38, F.S.; providing legislative findings and intent; defining terms; providing exemptions for a civil action based on a COVID-19-related claim; providing that the plaintiff has the burden of proof in such action; providing a statute of limitations; providing immunities; providing severable applications; providing an effective date.

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HELPFUL HINT

- Create a written office protocol based on CDC guidelines that your staff sign after reading and then document your compliance with it

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APRIL 6, 2020

Sudden Vision Loss in one eye

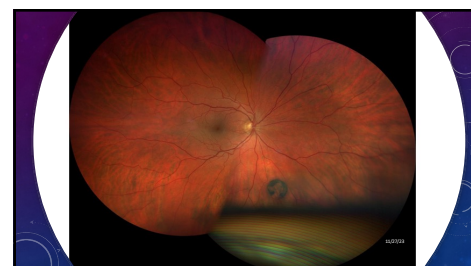
42-year-old healthy white male

Called to ask him questions

No idea based on the conversation

What do I do?

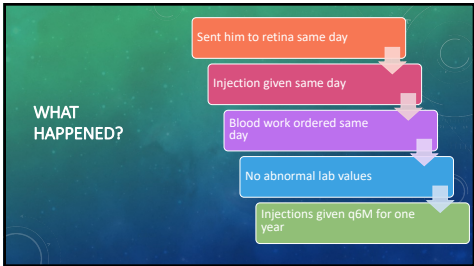
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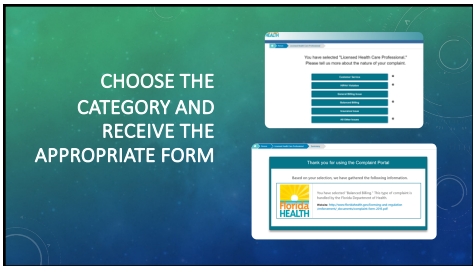
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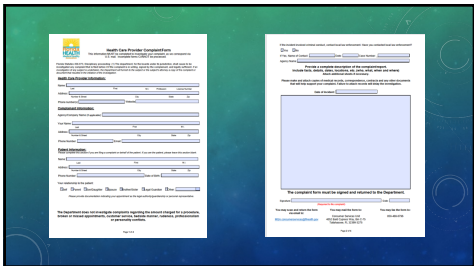
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- Communications with a Florida Board of Optometry member that are board related are public record
- Protection of the citizens
- Appointed by the governor
- Sunshine law

38

- What is the Sunshine Law?**
 Florida's Government in the Sunshine Law provides a right of access to governmental proceedings so that all citizens have the opportunity to participate in the government. The law requires that all meetings of all public bodies, regardless of whether the subject matter which will be discussed arise before or after the meeting, be open to the public. The law also provides that any matter which will be discussed at a meeting must be disclosed to the public in advance of the meeting. The law also provides that the public has the right to attend any meeting of any public body, except for the exception of the judiciary and the state Legislature which have its own constitutional provisions relating to the public's right to attend its meetings.
- What are the requirements of the Sunshine law?**
 The Government in the Sunshine Law requires that all meetings of all public bodies be open to the public. 21 reasons for notice of such meetings must be given, and 30 minutes of the meetings must be taken.
- What agencies are covered under the Sunshine Law?**
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- Be careful of your conversations and ask the right person
- HELPFUL HINT

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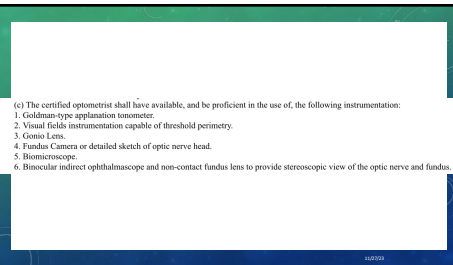
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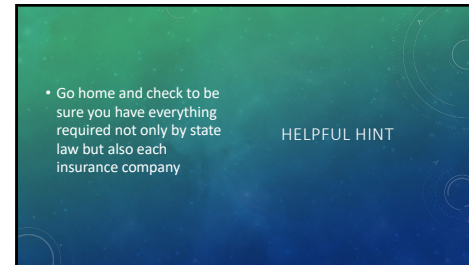
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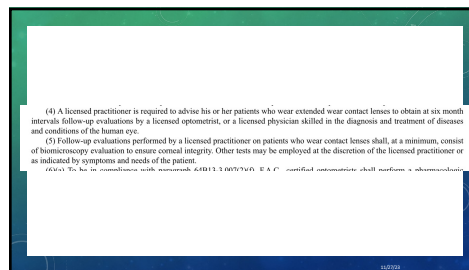
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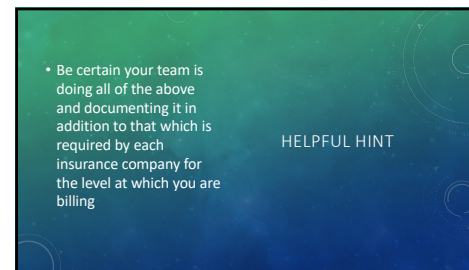
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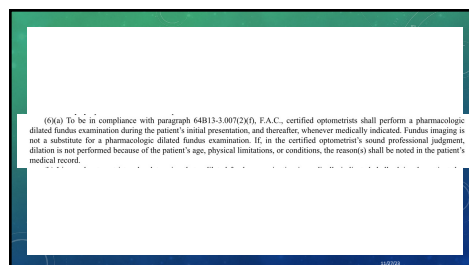
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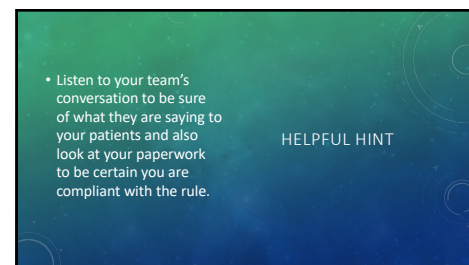
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Those who cannot remember the past are condemned to repeat it.


— George Santayana

WHY IS HISTORY IMPORTANT?

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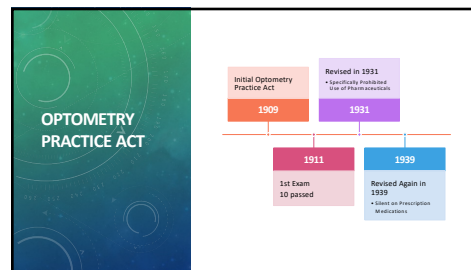
"Optometry is a legislated profession. It is, therefore, absolutely the duty of every optometrist to become involved in the legislative process"

— DR. ED WALKER



PHOTOGRAPHS 1928 - 2012

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HOW \$600 SHAPED OUR FUTURE 1939

Ophthalmology wanted more restrictions

\$600 went to Chair not shared with committee, they found out and the rest is history

Vote 5-1 then easily in House and Senate

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HOW \$600 PROMISED 6 WAYS BUT NOT GIVEN SHAPED OUR FUTURE 1939

The practice of optometry is declared to be a profession, and for the purposes of this chapter, is defined as follows, viz.: to be the diagnosis of the human eye and its appendages, and the employment of any objective or subjective means or methods for the purpose of determining the refractive powers of the human eyes, or any visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages, and the prescribing and employment of lenses, prisms, frames, mountings, orthoptic exercises, light frequencies, and any other means or methods for the correction, remedy, or relief of any insufficiencies or abnormal conditions of human eyes and their appendages

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THE CHALLENGE OF 1951

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

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DR. RR (BOB) BRADFORD 1954

- "For the first time in the history of optometry in Florida ALL optometrists will be professional both in law and actions. The recognition of optometry as a profession, and the individual Optometrist as a professional man (sic), will be granted by the public. Heretofore, the law has declared optometry as a profession, the individual optometrist have asked the general public to accept him as professional man, but unfortunately the public does not read the laws and are prone to believe what they see rather than what they hear. Thanks to the majority of the OD's in this state, the profession has made great strides forward in the past 20 years despite the minority."

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- **1957: Florida Society of Ophthalmology sent 50K for a Resolution to change the Statute – restricted pharmaceuticals again**
- **1967: The first education requirement in the rule – 4 Hours**

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Early 1970's

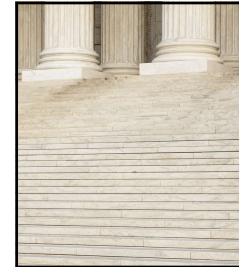
- The move to pharmaceuticals
 - Joint Study Commission
 - 2 Senators, 2 Representatives, 2 Optometrists, 2 Ophthalmologists
- Decided we should work it out, so nothing happened



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1979 CHANGES

- Legislative Changes
 - Board moved under Department Professional Regulations (umbrella agency)
- Resulted in decrease in autonomy and board power



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1984 THERAPEUTIC LEGISLATION?

- 1984 passed through house and senate and went to Governor Grahams desk, can be vetoed, signed or do nothing, if nothing then automatically passes after appropriate time.
- At 11:30 before it would become law it was vetoed.

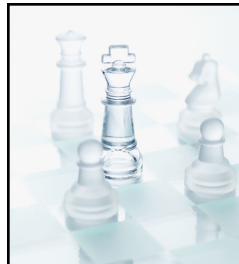


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- Finally, 1986
Therapeutic Legislation
- OC 0000001




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1997 CHANGES

- Move from Department of Professional Regulations to Department Of Health
- Evolution of Chapter 456

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CO-MANAGEMENT

- 1991: Formulary moved from DPR to Board of Optometry
- 1993: proposed to legislate away
- 2000: proposed to legislate away

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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. 91-127; s. 4, ch. 91-429; s. 237, ch. 97-103; s. 6, ch. 2013-26.

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HELPFUL HINT

- Make certain your co-managing surgeon is following this protocol of informed consent for co-management and transfer of care

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FLORIDA OPTOMETRY LEGISLATIVE HISTORY

- 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 of Rx requirements
- 1995 – Legislatively gained exemption from 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-Ref
- 2008 – Legislation granted exemption to OD's from Durable Medical Equipment certificate
- 2013 – Optometric Practice Act
- 2015 – Vision Insurance Bill

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Any profession must be self regulated, with fair grievance process to enforce what we do.

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

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YOUR INFLUENCE IS YOUR CHOICE

- Money
- Time
- Talents
- Relationships

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RECENT SUCCESSES



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Oral Drug Legislation House Bill 239

Published May 10, 2023

Florida ODs Gain Oral Drugs

By Bill Hoff

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

After much trial and error, and interposition, eventually looked at it in terms of what's the best for the patient," says Kenneth W. Lawson, CEO, legislative chair of the Florida Optometric Association, who has been working on the bill for three years.

The legislation, which was signed by the governor on April 19, achieved consensus 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 pharmacists to better serve their patients:

- **Allows the use 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, anticholinergics and glucose medications. The legislation also requires that ODs must first participate in a 20-hour online CE module course and exam on oral pharmacology.
- **Codifies consent language:** The legislation mandates state-wide statutes regarding consent to other than of informed patients, including informed written consent for consented care.

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§ 340 Vision Care Plans

AMENDS FLA. STAT. § 340-1001 (2)(b) (2023)

Section 340.1001, Florida Statutes, provides that a health insurer, a prepaid health service organization, and a health maintenance organization, respectively, may not require a licensed optometrist or ophthalmologist to join a network solely for the purpose of contracting the services for another vision network, provided that such health insurer and organization may not restrict a licensed optometrist, ophthalmologist, or optician to specific suppliers of materials or optical laboratories, etc.

Effective Date: 7/1/2024

Amended Section: 340.1001, Chapter No. 2023-03

Author: Kenney Law

Bill Text: 2023, Chapter 1, 1001

Senate Committee Reference(s):

- 1. Health and Insurance (H)
- 2. Health (H)
- 3. Health (H)

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

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All new bills signed by Scott originated in the Florida Senate

SB 239 Medical Assistant Certification – This bill requires a voluntary certification for medical assistants.

SB 340 Sex Infection Disease Elimination Pilot Program – This bill establishes a pilot program at the University of Miami to prevent the spread of HIV/AIDS and other blood borne diseases.

SB 340 Vision Care Plans – This bill relates to health insurance requirements for optometrists and ophthalmologists.

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


SB 860 Adoption – This bill allows judges to make adoption decisions based on the best interest of the child and makes other changes to adoption procedures.

SB 910 Page Nine – This bill requires page nine to be treated within a specified time frame.

SB 960 Foster Parents – This bill designates the second week of February as "Foster Family Appreciation Week."

SB 1070 Residential Facilities – This bill clarifies licensure requirements for community residential homes.

SB 1100 Affirmative Order for Open Government Sunset Review – This bill revisits an existing public records exemption relating to the Florida Health Choice Program.



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What challenges do you see that need legislative attention?

Start the presentation to see live content. For content about authors, view the author screen. Get help at polls.com/app

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Legislative Challenges Today

- Licensing
- Doctor?
- Telemedicine
- Antiquated Contact Lens rules
- Antiquated Dispensing rules
- Scope



- ◆ There will be more challenges who will fight them?

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APPLICABLE STATUTES AND RULE

- **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)**

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463.0001 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.

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WHO ARE THE MEMBERS OF THE BOARD?

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The Board

The **Florida Board of Optometry** plays a leading role in the State's ever-changing health care environment. This is accomplished through communication with the public, legislature, optometry schools, the optometric community, and Florida Optometric Association (FOA).

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.

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 flboardopt.org/board-members.

THE BOARD

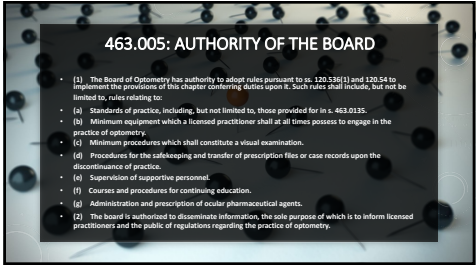
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LINK AND LIST OF ALL STAFF ON THE WEBSITE

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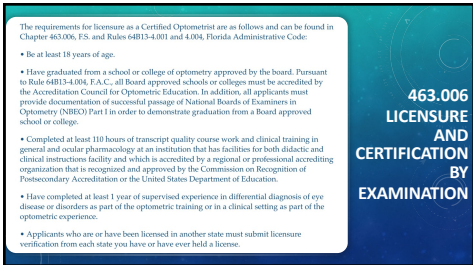
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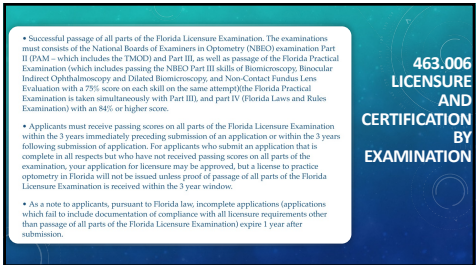
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64B13-4.001 EXAMINATION REQUIREMENTS.

- (1) Licensure Examination. The licensure examination authorized in section 463.006(2), F.S., shall consist of the following parts:
 - (a) The Patient Assessment and Management (PAM) portion of the examination developed by the National Board of Examiners in Optometry (NBEO) as Part II of its examination which includes an embedded Treatment and Management of Ocular Disease (TMOD) examination. An applicant for licensure in Florida must obtain a passing score on the TMOD section of the examination as well as an overall passing score on the examination.

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64B13-4.001 EXAMINATION REQUIREMENTS.

- (b) The Clinical Skills (CSE) portion of the examination developed by the NBEO as Part III of its examination.

- (c) A written examination on applicable Florida laws and rules governing the practice of optometry developed yearly by Florida Board of Optometry approved consultants in conjunction with NBEO and administered by NBEO as Part IV of its examination. The Board shall review and approve the content of the laws and rules examination annually. A score of eighty-four percent (84%) or better must be obtained in order to achieve a passing score on Part IV of the NBEO examination.

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64B13-4.001 EXAMINATION REQUIREMENTS.

- (d) The Florida Practical Examination. The Florida Practical Examination shall be developed by consultants approved by the Florida Board of Optometry in conjunction with the NBEO, and shall be administered by the NBEO as part of the NBEO National Clinical Skills examination.
- 1. Examiners for the Florida Practical Examination, and the grading criteria to be used by the examiners, shall be those selected by the NBEO to examine and grade the NBEO CSE.
- 2. The Florida Practical Examination shall consist of the following tested skills. Because the Board requires passage of all three (3) skills on the same test attempt, the three (3) skills are weighted equally.
 - a. Biomicroscopy
 - b. Binocular indirect Ophthalmoscopy
 - c. Dilated Biomicroscopy and Non-Contact Fundus Lens Evaluation
- 3. The passing score for each skill shall be seventy-five percent (75%) or better, and a passing score on each of the three (3) skills must be obtained on the same test attempt.

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64B13-4.001 EXAMINATION REQUIREMENTS.

- (2) Passing Scores.
 - (a) An applicant for licensure must achieve a passing score on all four (4) parts of the licensure examination in order to be licensed in Florida. Passing scores for the Florida Practical Examination and Laws and Rules portion of the NBEO licensure examination are as set by the Board in this rule. Passing scores for the Patient Assessment and Management portion and the Clinical Skills portion of the NBEO licensure examination are established by the NBEO.


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64B13-4.001 EXAMINATION REQUIREMENTS.

- (b)1. Pursuant to section 463.006(3), F.S., the Board will accept passing scores obtained on any part of the licensure examination obtained within the three (3) year period immediately preceding application for licensure or within the three (3) year period following submission of an application for licensure in Florida. Scores obtained on any part of the licensure examination obtained more than three (3) years immediately preceding application or more than three (3) years following the date of submission of an application for Florida licensure will not be accepted.

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NEW/OLD


FLORIDA Board of Optometry

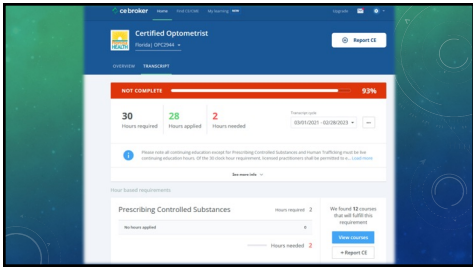
Why Contact Us About a Waiver?

When you are unable to pass a section of the National Board of Examiners in Optometry (NBEO) examination, you may be eligible to request a waiver. The Board will consider your request on an individual basis.

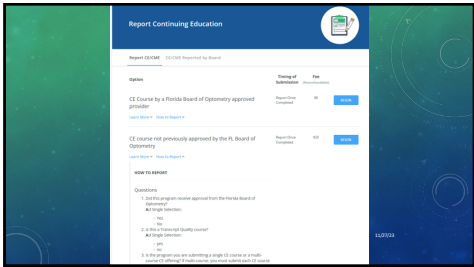
- Board learned from NBEO that practical exam is not statistically valid when looking at individual section scores.
- Until this matter can be resolved the board will consider waivers for ODs who have taken the examination and not passed.
- The waivers will be determined on an individual basis.

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463.011: EXHIBITION OF LICENSE

64B13-3.006 Licenses and Signs in Office.

(1) Every licensed practitioner shall keep the Board office advised of each office from which he or she practices optometry. If a licensed practitioner or certified optometrist engages in the practice of optometry at more than one location, he or she shall keep his or her current license conspicuously displayed at any locations where he or she practices at all times and shall, whenever required, exhibit the license to any authorized representative of the Department.

(2) A licensed practitioner who is not a certified optometrist shall display at every location at which he or she practices optometry a sign in at least Times New Roman 40 point font size or Courier New 44 point font size which states:

"I am a Licensed Practitioner, not a Certified Optometrist, and I am not able to prescribe topical ocular pharmaceutical agents."

Rulemaking Authority 463.005(1) FS. Law Implemented 463.005(2). 463.011 FS, History-New 11-13-79, Amended 3-13-81, 6-29-82, Formerly 21Q-3.06, Amended 12-16-86, 3-13-90, Formerly 21Q-3.006, 61F8-3.006, 199-3.006, Amended 11-13-08, 4-17-13.

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463.011: EXHIBITION OF LICENSE

Conspicuously displayed in the appropriate office

Whenever required, exhibit said license to any authorized representative of the department.

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64B13-3.002 Responsibility to Patient.

“(1) A licensed practitioner shall have an established procedure appropriate for the provision of eye care to his/her patients in the event of an emergency outside of normal professional hours, and when the licensed practitioner is not personally available. Since the licensed practitioner’s continuing responsibility to the patient is of a personal professional nature, no licensed practitioner shall primarily rely upon a hospital emergency room as a means of discharging this responsibility.

“(2) Patient records shall clearly identify the optometrist who examined or treated the patient on each separate occasion.

Rulemaking Authority 463.005(1) FS. Law Implemented 463.005(1), 463.0135 FS, History-New 11-13-79, Formerly 21Q-3.02, Amended 12-16-86, Formerly 21Q-3.002, Amended 3-16-94, Formerly 61F8-3.002, Amended 12-31-95, Formerly 59V-3.002, Amended 8-25-16.

101

- Establish a protocol for emergencies outside normal professional hours
- CANNOT be the emergency room

HELPFUL HINT

102

CREATE AN EMERGENCY PROTOCOL

★★★★★ "Customer Service: A Priority" — **Alexander B.**

Any doctor who puts their personal call on a business card so they can be contacted if the patient is not satisfied is a great sign that customer service is a priority. After being hassled about insurance "issues" with my optometrist, Dr. Jaeger took my urgent appointment and saw me with no hesitations. After the consultation, some eye drops, 24 hours later I am "A-okay".

Jan 27, 2017

OUR GOAL IS TO BE SURE YOU ARE
100% COMPLETELY HAPPY

APRIL 14TH, 2016
10:00 AM - 11:00 AM
10:00 AM - 11:00 AM
10:00 AM - 11:00 AM

We believe life is all about your vision.

103

CHANGE OF ADDRESS 456.035

456.035 Address of record.—

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as defined by rule of the board or the department if there is no board. Electronic notification shall be allowed by the department; however, it shall be the responsibility of the licensee to ensure that the electronic notification was received by the department. A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department if there is no board.

(2) Notwithstanding any other law, service by regular mail to a licensee's last known address of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department except when other service is required under s. 456.076.

History—s. 97, ch. 97-281; s. 39, ch. 89-186; s. 82, ch. 2000-160; s. 13, ch. 2001-277.
Note—Former s. 456.717.

104

HOW LONG DO YOU HAVE TO KEEP RECORDS? 64B133.003(6)

- Minimum of "5 years after the last entry"
- If you retire must transfer to licensed OD or keep for a minimum of 5 years
- Note: Insurance rules may be longer!

5 Years

105

HELPFUL HINT

- Look up records retention rules for each insurance plan you are a provider for and keep your records for the time that is the longest

106

RECORDS AFTER DEATH? 64B133.003(6)

(8)(a) The executor, administrator, personal representative, or survivor of a deceased licensed practitioner shall retain patient records concerning any patient of the deceased licensed practitioner for at least five years from the date of death of the licensed practitioner.

(b) Within one (1) month from the date of death of the licensed practitioner, the executor, administrator, personal representative, or survivor of the deceased licensed practitioner shall cause to be published in the newspaper of greatest general circulation in each county where the licensed practitioner practiced, a notice indicating to the patients of the deceased licensed practitioner the location at which whose patients may obtain their patient records. The notice shall be published once during each week for four (4) consecutive weeks. A copy of the published notice shall be delivered to the Board office for filing.

5 Years

107

WHAT TO DO WITH RECORDS WHEN YOU RETIRE? 64B133.003(6)

(7) A licensed practitioner who retires or otherwise discontinues his or her practice shall cause to be published in the newspaper of greatest general circulation in each county where the licensed practitioner practiced, a notice indicating to his or her patients that the licensed practitioner's patient records are available from a specified eye care practitioner licensed pursuant to chapter 458, 459, or 463, F.S., at a certain location. The notice shall be published once during each week for four (4) consecutive weeks. A copy of the published notice shall be delivered to the Board office for filing.

5 Years

108

BE GLAD YOU WEAR GLASSES...
WEAR HARLEQUINS




No longer is the girl who wears glasses doomed to look owlish, bookish, or just plain dull! Flashing HARLEQUINS are so gay and debonair, they give your very spirit a lift! Remember, it's HARLEQUIN'S exclusive design that makes the difference... Look for the tag on the frame!

On sale or leading opticians... in gay colors.
Send for our new booklet G.

ADVERTISING
64B13-3.009


109

64B13-3.009 FALSE, FRAUDULENT, DECEPTIVE AND MISLEADING ADVERTISING PROHIBITED; POLICY; DEFINITIONS; AFFIRMATIVE DISCLOSURE.



ADVERTISING
64B13-3.009

110



64B13-3.009

(1) As used in the rules of this Board, the terms "advertisement" and "advertising" shall mean any statements, oral or written, disseminated to or before the public or any portion thereof, with the intent of furthering the purpose, either directly or indirectly, of selling professional services or ophthalmic goods, or offering to perform professional services, or inducing members of the public to enter into any obligation relating to such professional services. The licensed practitioner has the duty to review and proof all advertisements prior to publication and is fully responsible for the content therein.

111



ADVERTISING
64B13-3.009

- Duty to review and proof ALL advertisements prior to publication
- Free and discounted services must have disclaimer

112

▪ Be certain you review all social media posts and be certain your social media team know the laws and rules

HELPFUL HINT

113

GLASSES & CONTACT LENS PRESCRIPTIONS:

463.012 Prescriptions; filing; release; duplication.--


(1) A licensed practitioner shall keep on file for a period of at least 2 years any prescription she or he writes.

(2)(a) A licensed practitioner shall make available to the patient or her or his agent any spectacle prescription or duplicate copy determined for that patient. Such prescription shall be considered a valid prescription to be filled for a period of 5 years.

(b) A licensed practitioner shall make available to the patient or her or his agent any daily wear soft contact lens prescription or duplicate copy determined for that patient. Such prescription shall be considered a valid prescription to be filled for a period of 2 years.

History-- ss. 1, 6, ch. 79-194; ss. 2, 3, ch. 81-318; ss. 12, 20, 21, ch. 86-189; s. 4, ch. 91-429; s. 236, ch. 97-103.

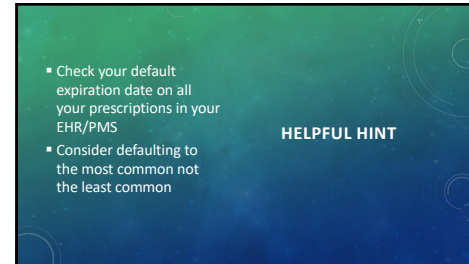
114



**EXTENDED WEAR
CTL PATIENTS
64B13-3.010(4)**

- "required to advise his or her patients who wear extended wear contact lenses to obtain at six-month intervals follow-up evaluations by a licensed optometrist, or a licensed physician skilled in the diagnosis and treatment of diseases and conditions of the human eye."

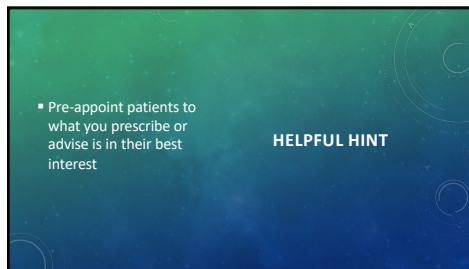
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HELPFUL HINT

- Check your default expiration date on all your prescriptions in your EHR/PMS
- Consider defaulting to the most common not the least common

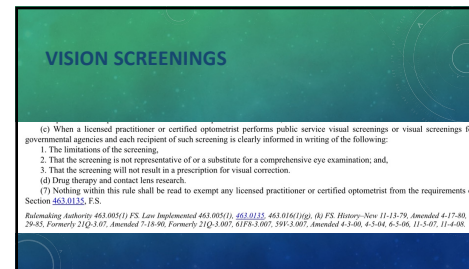
116



HELPFUL HINT

- Pre-appoint patients to what you prescribe or advise is in their best interest

117



VISION SCREENINGS

(c) When a licensed practitioner or certified optometrist performs public service visual screenings or visual screenings for governmental agencies and each recipient of such screening is clearly informed in writing of the following:

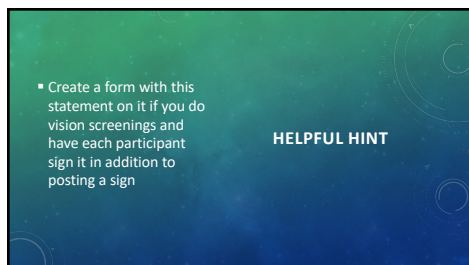
1. The limitations of the screening;
2. That the screening is not representative of or a substitute for a comprehensive eye examination; and,
3. That the screening will not result in a prescription for visual correction.

(d) Drug therapy and contact lens research.

(f) Nothing within this rule shall be read to exempt any licensed practitioner or certified optometrist from the requirements of Section 463.0135, F.S.

Rulemaking Authority 463.005(1) FS. Last Implemented 463.005(1), 463.0135, 463.016(f)(g). (h) FS. History-New 11-13-79; Amended 4-17-88, 7-29-83, Formerly 21Q-3.07; Amended 7-18-90, Formerly 21Q-3.007, 61F9-3.007, 399-3.007; Amended 4-3-06, 4-3-06, 6-5-06, 11-5-07, 11-4-08.

118



HELPFUL HINT

- Create a form with this statement on it if you do vision screenings and have each participant sign it in addition to posting a sign

119



Changes in legislation
NEWER LEGISLATION

120



**463.0055:
ADMINISTRATION
AND PRESCRIPTION
OF OCULAR
PHARMACEUTICAL
AGENTS**

(b) The following antibiotics or their generic or therapeutic equivalents:

1. Amoxicillin with or without clavulanic acid.
2. Azithromycin.
3. Erythromycin.
4. Didloxacin.
5. Doxycycline/tetracycline.
6. Keflex.
7. Minocycline.

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**463.0055:
ADMINISTRATION
AND PRESCRIPTION
OF OCULAR
PHARMACEUTICAL
AGENTS**

(c) The following antivirals or their generic or therapeutic equivalents:

1. Acyclovir.
2. Famciclovir.
3. Valacyclovir.

128

**463.0055:
ADMINISTRATION
AND PRESCRIPTION
OF OCULAR
PHARMACEUTICAL
AGENTS**

(d) The following oral anti-glaucoma agents or their generic or therapeutic equivalents, which may not be administered or prescribed for more than 72 hours:

1. Acetazolamide.
2. Methazolamide.

129

**463.0055:
ADMINISTRATION
AND PRESCRIPTION
OF OCULAR
PHARMACEUTICAL
AGENTS**

(4) A certified optometrist shall be issued a prescriber number by the board. Any prescription written by a certified optometrist for an ocular pharmaceutical agent pursuant to this section shall have the prescriber number printed thereon. A certified optometrist may not administer or prescribe:

130

**463.0055:
ADMINISTRATION
AND PRESCRIPTION
OF OCULAR
PHARMACEUTICAL
AGENTS**

(a) A controlled substance listed in Schedule III, Schedule IV, or Schedule V of s. 893.03, except for an oral analgesic placed on the formulary pursuant to this section for the relief of pain due to ocular conditions of the eye and its appendages.

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

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New Legislation Impacting Your Profession

Posted in Legal News on April 17, 2018.

⇒ **HB 21 - Controlled Substances**

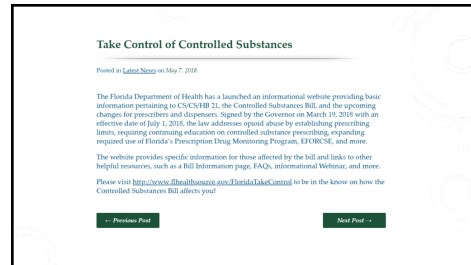
Effective Date: July 1, 2018
[HB 21 \(Full Text\)](#)

Summary:
Creates section 456.001, Florida Statutes, requiring practitioners to complete a specified board-approved continuing education course to prescribe controlled substances. The bill defines "acute pain" and establishes prescribing guidelines and grounds for disciplinary action if not followed. It limits opioid prescriptions for the treatment of acute pain to a specified period under certain circumstances and requires health care practitioners to check the prescription drug monitoring program (PDMP) database prior to prescribing or dispensing a controlled substance.

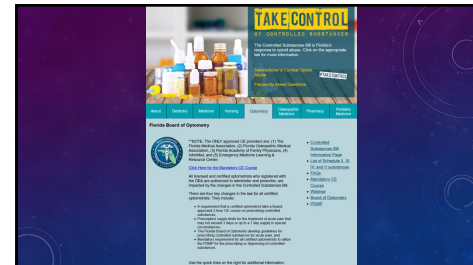
Additionally, the bill requires pain management clinics with an exemption from registration under section 456.324 or 459.017, Florida Statutes, to register their exemption with the Department of Health with no fee, and specifies a new certificate is required if a change of address occurs.

If you'd like to view all 2018 bills impacting health care professions, please go to www.flhealthsource.com/2018-bills

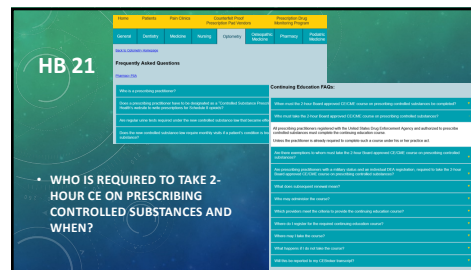
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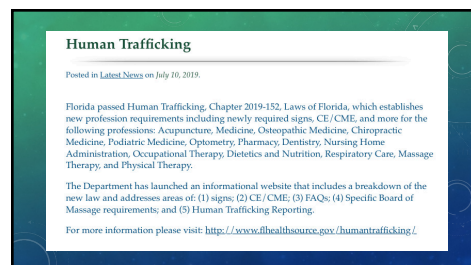
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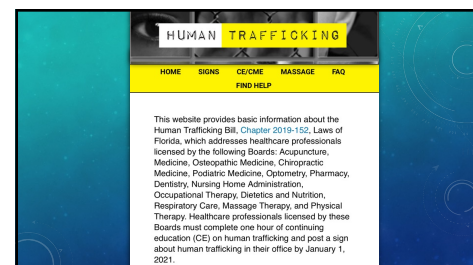
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137



138

139

140

141

142

143

144

499.028
REQUEST AND
RECEIPT REQUIRED
FOR DRUG
SAMPLES TO DR.

(3) Except as provided in this section, a representative of a drug manufacturer or distributor may not distribute any drug sample.

(a) The manufacturer or distributor of a human prescriptive drug may, in accordance with this paragraph, distribute drug samples by mail or common carrier to practitioners licensed to prescribe both drugs in, or the request of a licensed practitioner, to pharmacists of hospitals or to pharmacists of other health care entities. Such a distribution of drug samples may only be made:

1. In response to a written request for drug samples made on a form that meets the requirements of paragraph (b); and

2. Under a system that requires the recipient of the drug sample to execute a written receipt for the drug sample upon its delivery and to return the receipt to the manufacturer or distributor.

(b) A written request for a drug sample that is required by this section must contain:

1. The name, address, professional designation, and signature of the practitioner who makes the request;

2. The name, strength, and dosage form of the drug sample requested and the quantity requested;

3. The name of the manufacturer of the drug sample requested; and

4. The date of the request.

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CAN I SELL
PRESCRIPTION
DRUGS?

465.0276
DISPENSING
PRACTITIONER

(2) A practitioner who dispenses medicinal drugs for human consumption for fee or remuneration of any kind, whether direct or indirect, must:

(a) Register with her or his professional licensing board as a dispensing practitioner and pay a fee not to exceed \$100 at the time of such registration and upon each renewal of her or his license. Each appropriate board shall establish such fee by rule.

(b) Comply with and be subject to all laws and rules applicable to pharmacists and pharmacies, including, but not limited to, this chapter and chapters 499 and 893 and all federal laws and federal regulations.

(c) Before dispensing any drug, give the patient a written prescription and only or in writing advise the patient that the prescription may be filled in the practitioner's office or at any pharmacy.


(d) Before dispensing a controlled substance to a person not known to the dispenser, require the person purchasing, receiving, or otherwise acquiring the controlled substance to present valid photographic identification or other verification of his or her identity. If the person does not have proper identification, the dispenser may verify the validity of the prescription and the identity of the patient with the prescriber or his or her authorized agent. Verification of health plan eligibility through a real-time inquiry or adjudication system is considered to be proper identification.

2. This paragraph does not apply in an institutional setting or to a long-term care facility, including, but not limited to, an assisted living facility or a hospital to which patients are admitted.

3. As used in this paragraph, the term "proper identification" means an identification that is issued by a state or the Federal Government containing the person's photograph, printed name, and signature or a document considered acceptable under 8 C.F.R. § 274a.2(b)(1)(iv)(A) and (B).

(3) The registration of any practitioner who has been found by her or his respective board to have dispensed medicinal drugs in violation of this chapter shall be subject to suspension or revocation.

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DO I HAVE TO DILATE?
64B13-3.010 STANDARDS
OF PRACTICE

- Not in statute but included in rules
- (b)(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.

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NEW-RULE: CHANGE UNDERLINED

• THE FULL TEXT OF THE PROPOSED RULE IS:

• 64B13-3.010 Standards of Practice.

• (1) Section 463.016(1)(e), 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)(e), 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."

148

NEW-RULE: CHANGE UNDERLINED

• THE FULL TEXT OF THE PROPOSED RULE IS:

• (3) through (2) renumbered (2) through (3) No change.

• (1)(a) 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. Goose Lens Gonioscopy.

• 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.

149

NEW-RULE: CHANGE UNDERLINED

• THE FULL TEXT OF THE PROPOSED RULE IS:

• (1)(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.

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▪ Dilate everyone as the rule requires. Listen to your team to be certain they aren't selling retinal imaging in lieu of dilation

HELPFUL HINT

151

Electronic Prescribing Requirements

Printed on [Latest News](#) on January 2, 2020.

House Bill 831 (2019), Electronic Prescribing, was signed into law by Governor DeSantis. The effective date is January 1, 2020. The bill provides important new requirements for prescribers to generate and transmit all prescriptions electronically upon licensure renewal or by July 1, 2021, whichever is earlier.

The law requires prescribers to generate and transmit all prescription electronically, unless:

- The practitioner and the dispenser are the same entity;
- The prescription cannot be transmitted electronically under the most recently implemented version of the National Council for Prescription Drug Programs (NCPDP) Standard;
- The practitioner has been issued a waiver by the department, not to exceed 1 year, due to demonstrated economic hardship, technology limitations that are not reasonably within the control of the practitioner, or another exceptional circumstance demonstrated by the practitioner;
- The practitioner reasonably determines that it would be impractical for the patient in question to obtain a medicinal drug prescribed by electronic prescription in a timely manner and such delay would adversely impact the patient's medical condition.

152

Electronic Prescribing Requirements

Printed on [Latest News](#) on January 2, 2020.

House Bill 831 (2019), Electronic Prescribing, was signed into law by Governor DeSantis. The effective date is January 1, 2020. The bill provides important new requirements for prescribers to generate and transmit all prescriptions electronically upon licensure renewal or by July 1, 2021, whichever is earlier.

The law requires prescribers to generate and transmit all prescription electronically, unless:

- The practitioner is prescribing a drug under a research protocol;
- The prescription is for a drug for which the federal Food and Drug Administration requires the prescription to contain elements that may not be included in electronic prescribing;
- The prescription is issued to an individual receiving hospice care or who is a resident of a nursing home facility; or
- The practitioner determines that it is in the best interest of the patient, or the patient determines that it is in his or her own best interest to compare prescription drug prices among area pharmacies. The practitioner must document such determination in the electronic medical record.

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Frequently Asked Questions

- ◆ Is there a waiver process?
- ◆ How do I apply for a waiver?
- ◆ Is there a list of companies that offer electronic prescribing?
- ◆ Is electronic prescribing mandatory for Florida health care practitioners?
- ◆ When do I have to start electronically prescribing?
- ◆ What about weekends and holidays—can I not phone in a call-in prescription anymore?
- ◆ Does federal law require electronic prescribing?
- ◆ Can a written prescription be used when there is a temporary electronic or technological failure?
- ◆ What exceptions are there to the electronic prescribing requirement?
- ◆ What is the definition of an electronic health record? How do I know if I'm using an electronic health records system? Surely every practice management 'chart' is not an electronic health record.

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- ◆ electronic health records system? Surely every practice management 'chart' is not an electronic health record.
- ◆ Can a prescription be issued electronically using any electronic healthcare recordkeeping system?
- ◆ What if I don't maintain electronic health records?
- ◆ Can a controlled substance be electronically prescribed?
- ◆ Do we have to electronically prescribe controlled substances, or do we continue to use our counterfeit proof pads?
- ◆ Should I get rid of the tamper-proof controlled substance prescription pads?
- ◆ What does interoperable and accessible digital format mean?
- ◆ Is an electronic facsimile of a prescription considered to be an electronic prescription?
- ◆ Does a practitioner still have to consult the PDMP prior to e-prescribing a controlled substance?
- ◆ Are oral, phone in verbal prescriptions still permissible after the mandate becomes effective?
- ◆ What is an eRx?

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FLORIDA | Board of Optometry

Update and Renewal

How to Renew Your License

1. Renewal Fee: \$100.00

2. Continuing Education: 20 hours

3. PDMP: 1 hour

4. Total: \$110.00

Renewal Period: 12 months

Expiration Date: 12/31/2023

Renewal Status: Pending

Renewal Date: 12/31/2023

Renewal Fee: \$100.00

Continuing Education: 20 hours

PDMP: 1 hour

Total: \$110.00

Renewal Period: 12 months

Expiration Date: 12/31/2023

Renewal Status: Pending

Renewal Date: 12/31/2023

Renewal Fee: \$100.00

Continuing Education: 20 hours

PDMP: 1 hour

Total: \$110.00

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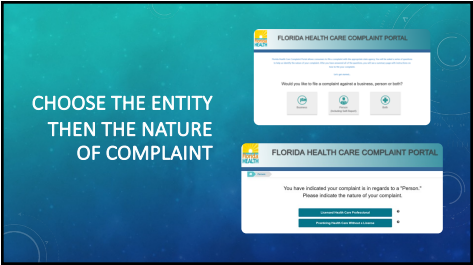
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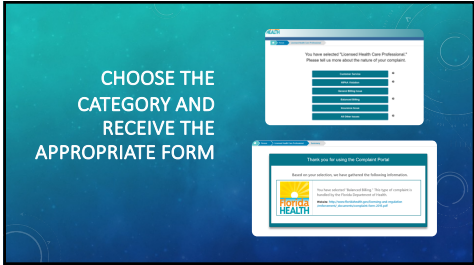
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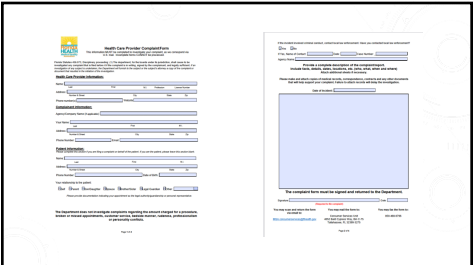
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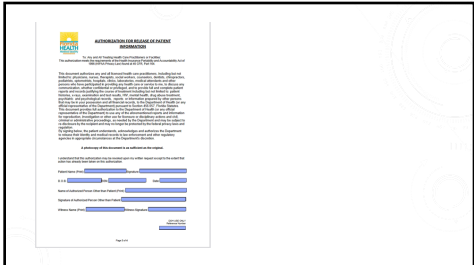
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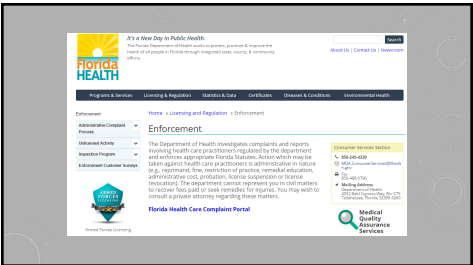
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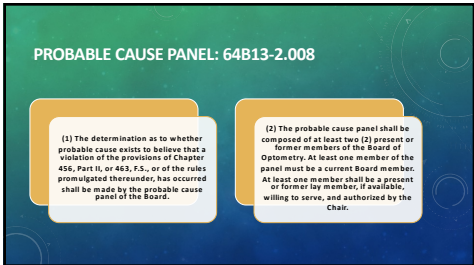
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167



168



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RELEASING CONTACT LENS PRESCRIPTION

- Numerous Complaints
- All Unfounded
- Watch Outs: EHR Automatics
- Just Do It
- "A licensed practitioner shall make available to the patient or her or his agent any daily wear soft contact lens prescription or duplicate copy determined for that patient. Such prescription shall be considered a valid prescription to be filled for a period of 2 years." 463.012(b)

171

CORPORATE PRACTICE OF OPTOMETRY

- DOJ Involvement
- State Attorney
- Penalty on You
- Maybe on the Entity

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STANDARD OF CARE

- Failure to Diagnose
- Failure to Refer
- Failure To Educate
- FAILURE TO DOCUMENT

173

FAILURE TO REPORT

- Change of Address
- Issues out of State
- Issues in State

174

CASE 1: FAILURE TO DILATE

- Pt. reported to office with complaints of shadow in one eye
- Diagnosed with PVD without dilation
- Pt. called 4 days later with worsening vision
- OD stated she had PVD and did not refer patient to another practitioner or tell pt. to RTC
- Pt. returned 6 days after initial visit with macula-off RD

175

64B13-3.010 STANDARDS OF PRACTICE.

- (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.

176

463.0135 STANDARDS OF PRACTICE

- (1) A licensed practitioner shall provide that degree of care which conforms to that level of care provided by medical practitioners in the same or similar communities. A licensed practitioner shall advise or assist her or his patient in obtaining further care when the service of another health care practitioner is required.

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CASE 2: FAILURE TO DILATE AND MANAGE PATIENT

- Pt. on Plaquenil but being followed by Ophthalmologist
- Pt. alleges violation of standard of care
- OD alleges knew pt. was being followed by Ophthalmologist
- Documentation of pt.'s report of VF exam at Ophthalmologist's office
- No education of Plaquenil risks, need for DFE or follow-ups
- Assessment and Plan did not contain documentation of "Plaquenil treatment being followed by Ophthalmologist for treatment"

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CASE 3: THE DISGRUNTLED CONTACT LENS PATIENT

- Patient was unhappy with contacts
- No refund
- Filed complaint
- Opened records and then UH Oh.....
 - Corporate Optometry Issue
 - Documentation issue--Standard of care, minimum procedures
 - Topography, VAs

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463.014: CERTAIN ACTS PROHIBITED

- (1)(a) No corporation, lay body, organization, or individual other than a licensed practitioner shall engage in the practice of optometry through the means of engaging the services, upon a salary, commission, or other means or inducement, of any person licensed to practice optometry in this state. Nothing in this section shall be deemed to prohibit the association of a licensed practitioner with a multidisciplinary group of licensed health care professionals, the primary objective of which is the diagnosis and treatment of the human body.

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463.014: CERTAIN ACTS PROHIBITED

- (1)(b) No licensed practitioner shall engage in the practice of optometry with any corporation, organization, group, or lay individual. This provision shall not prohibit licensed practitioners from employing, or from forming partnerships or professional associations with, licensed practitioners licensed in this state or with other licensed health care professionals, the primary objective of whom is the diagnosis and treatment of the human body.
- (1)(c) No rule of the board shall forbid the practice of optometry in or on the premises of a commercial or mercantile establishment

181

64B13-3.007 MINIMUM PROCEDURES FOR COMPREHENSIVE EYE EXAMINATION

- (2) A comprehensive eye examination shall include the following minimum procedures, which shall be recorded on the patient's case record:
- (a) Patient's history (personal and family medical history, personal and family ocular history, and chief complaint);
 - (b) Visual acuity (unaided and with present correction at initial presentation; thereafter, unaided or with present correction);
 - (c) External examination;
 - (d) Pupillary examination;
 - (e) Visual field testing (confrontation or other);
 - (f) Internal examination (recording, optic nerve health, blood vessel status, macula health, and any abnormalities).

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**64B13-3.007
MINIMUM
PROCEDURES FOR
EYE
EXAMINATION**

- (a) Biomicroscopy (binocular or monocular);
- (b) Tonometry (with time of measurement);
- (c) Refraction (with recorded visual acuity);
- (d) Binocular muscle balance assessment;
- (e) Other tests and procedures that may be indicated by case history or objective signs and symptoms discovered during the comprehensive eye examination;
- (f) Diagnosis and treatment plan.

183

**CASE 4: SECOND
OPINION**

- Not happy with glasses
- No Refund
- Second Opinion
- Glaucoma Dx from Ophthalmologist
- Complaint filed
- Standard of Care

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**463.0135
STANDARDS OF
PRACTICE**

- Provide care like other ODs in community
 - Refer when required
 - Educate patient on glaucoma diagnosis and seriousness of it.
 - Document
- (1) A licensed practitioner shall provide that degree of care which conforms to that level of care provided by medical practitioners in the same or similar communities. A licensed practitioner shall advise or assist her or his patient in obtaining further care when the service of another health care practitioner is required.
- (2) A licensed practitioner who believes a patient may have glaucoma shall promptly advise the patient of the serious nature of glaucoma. The licensed practitioner shall place in the patient's permanent record that the practitioner provided such advice to the patient.

185

**TREATING
GLAUCOMA:
64B13-3.010
STANDARDS OF
PRACTICE**

- Develop of treatment plan and manage appropriately
 - Plan developed using the severity of ON damage, IOP and stability
 - Co-manage or refer if cannot comply with requirements to treat
- (3) Certified optometrists employing the topical ocular pharmacologicals listed in subsection 64B13-18.002(5), F.A.C., Anti-Glaucoma Agents, shall comply with the following:
- (a) Upon initial diagnosis of glaucoma of a type other than those specifically listed in Section 463.023(2), F.S., the certified optometrist shall develop a plan of treatment and management.
1. The plan will be predicated upon the severity of the existing optic nerve damage, the intraocular pressure, and stability of the ocular tissue.
2. In the event the certified optometrist cannot otherwise comply with the requirements of Sections 463.023(1)(a), and 463.023(2), F.S., a co-management plan shall be established with a physician skilled in the diseases of the human eye and licensed under Chapter 468 or 409, F.S.

186

TREATING GLAUCOMA: 64B13-3.010 STANDARDS OF PRACTICE

- Beta-Blockers have systemic side effects
 - Must consider this and communicate with PCP or Ophthalmologist when needed
 - Must document!
- (b) Because topical beta blockers have potential systemic side effects a certified optometrist employing beta blockers shall, in a manner consistent with Section 463.0135(1), F.S., ascertain the risk of systemic side effects through review a case history that complies with paragraph 64B13-3.0072(a), F.A.C., or by communicating with the patient's primary care physician. The certified optometrist shall also communicate with the patient's primary care physician, or with a physician involved in disease of the eye and licensed under Chapter 458 or 459, F.S., when, in the professional judgment of the certified optometrist, it is medically appropriate to do so. This communication shall be noted in the patient's permanent record. The methodology of communication is left to the professional discretion of the certified optometrist.

187

TREATING GLAUCOMA: 64B13-3.010 STANDARDS OF PRACTICE

- (c) The certified optometrist shall have available, and be proficient in the use of, the following instrumentation:
1. Goldmann-type applanation tonometer.
 2. Visual field instrumentation capable of threshold perimetry.
 3. Gonioscope.
 4. Fundus Camera or detailed sketch of optic nerve head.
 5. Biomicroscope.
 6. A device to provide stereoscopic view of optic nerve

188

CASE 5: STANDARD OF CARE

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

189

64B13-3.010 STANDARDS OF PRACTICE

- (6)(a) To be in compliance with paragraph 64B13-3.0072(h), 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.

190

463.0135 STANDARDS OF PRACTICE

- (1) A licensed practitioner shall provide that degree of care which conforms to that level of care provided by medical practitioners in the same or similar communities. A licensed practitioner shall advise or assist her or his patient in obtaining further care when the service of another health care practitioner is required.

191

CASE 6: IT HAPPENED IN ANOTHER STATE

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

192

463.016 GROUNDS FOR DISCIPLINARY ACTION; ACTION BY THE BOARD

- (c) Having a license to practice optometry revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction.
- (d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of optometry or to the ability to practice optometry. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter.

193

463.016 GROUNDS FOR DISCIPLINARY ACTION; ACTION BY THE BOARD

- (f) Willfully failing to report any person who the licensee knows is in violation of this chapter or of rules of the department or the board. However, a person who the licensee knows is unable to practice optometry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a mental or physical condition, may be reported to a consultant operating an impaired practitioner program as described in s. 456.076 rather than to the department.

194

CASE 7: THE FREE EYE EXAM

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

195

463.016 GROUNDS FOR DISCIPLINARY ACTION; ACTION BY THE BOARD

- (f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

196

64B13-3.009 FALSE, FRAUDULENT, DECEPTIVE AND MISLEADING ADVERTISING PROHIBITED; POLICY; DEFINITIONS; AFFIRMATIVE DISCLOSURE

- (1) As used in the rules of this Board, the terms "advertisement" and "advertising" shall mean any statements, oral or written, disseminated to or before the public or any portion thereof, with the intent of furthering the purpose, either directly or indirectly, or of selling professional services or ophthalmic goods, or offering to perform professional services, or inducing members of the public to enter into any obligation relating to such professional services. The licensed practitioner has the duty to review and proof all advertisements prior to publication, and is fully responsible for the content therein.

197

64B13-3.009 FALSE, FRAUDULENT, DECEPTIVE AND MISLEADING ADVERTISING PROHIBITED; POLICY; DEFINITIONS; AFFIRMATIVE DISCLOSURE

- (2) All advertisements must clearly denote with words or proper abbreviation that the practitioner is engaged in the practice of optometry.
- (3) Any advertisement for free or discounted services must contain the disclaimer required by Section 456.062, F.S., no less than Times New Roman 6 point font size.
- (4) When determining what constitutes fraudulent, false, deceptive, or misleading advertisement, the Board shall be guided by applicable federal and state statutes, rules and court decisions.

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**456.062
ADVERTISEMENT
BY A HEALTH CARE
PRACTITIONER OF
FREE OR
DISCOUNTED
SERVICES;
REQUIRED
STATEMENT**

- THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT.

199

**CASE 8:
FAILURE TO
DILATE
COMPLAINT**

Complaint was unrelated to any disease

Complaint of poor vision with contacts

Contact lens prescription was not given to patient when requested

Record did not show patient was ever dilated

200

**OTHER
IMPORTANT
STATUTES**

201

**463.016 GROUNDS FOR DISCIPLINARY ACTION;
ACTION BY THE BOARD**

- | | | |
|---|--|--|
| <p>1</p> <p>(a) Procuring or attempting to procure a license to practice optometry by bribery, by fraudulent misrepresentations, or through an error of the department or board.</p> | <p>2</p> <p>(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.</p> | <p>3</p> <p>(c) Having a license to practice optometry revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction.</p> |
|---|--|--|

202

**463.016
GROUNDS FOR
DISCIPLINARY
ACTION; ACTION
BY THE BOARD**

- (d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of optometry or to the ability to practice optometry. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter.

203

**F.S. 463.016
GROUNDS FOR
DISCIPLINARY
ACTION; ACTION
BY THE BOARD**

- (e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed by the licensee in their or his capacity as a licensed practitioner.
- (f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

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**F.S. 463.016
GROUNDS FOR
DISCIPLINARY
ACTION; ACTION
BY THE BOARD**

(g) Fraud or deceit, negligence or incompetency, or misconduct in the practice of optometry.


(h) A violation or repeated violations of provisions of this chapter, or of chapter 456, and any rules promulgated pursuant thereto.

(i) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

205

**F.S. 463.016
GROUNDS FOR
DISCIPLINARY
ACTION;
ACTION BY THE
BOARD**

 (j) Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

 (k) Failing to keep written optometric records about the examinations, treatments, and prescriptions for patients.

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**F.S. 463.016
GROUNDS FOR
DISCIPLINARY
ACTION; ACTION
BY THE BOARD**

(l) Willfully failing to report any person who the licensee knows is in violation of this chapter or of rules of the department or the board. However, a person who the licensee knows is unable to practice optometry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a mental or physical condition, may be reported to a consultant operating an impaired practitioner program as described in s. 456.076 rather than to the department.

207

**F.S. 463.016
GROUNDS FOR
DISCIPLINARY
ACTION; ACTION
BY THE BOARD**

(m) Gross or repeated malpractice.

(n) Practicing with a revoked, suspended, inactive, or delinquent license.

208

**F.S. 463.016
GROUNDS FOR
DISCIPLINARY
ACTION; ACTION
BY THE BOARD**

(o) Being unable to practice optometry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A licensed practitioner affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of optometry with reasonable skill and safety to patients.

209

**F.S. 463.016 GROUNDS FOR DISCIPLINARY ACTION;
ACTION BY THE BOARD**

01
(c) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida laws or rules regulating optometry.

02
(c) Violating any provision of s. 463.014 or s. 463.015.

03
(f) Violating any lawful order of the board or department, previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

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**F.S. 463.016 GROUNDS FOR DISCIPLINARY ACTION;
ACTION BY THE BOARD**

1

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensed practitioner knows or has reason to know she or he is not competent to perform.

2

(t) Violating any provision of this chapter or Chapter 466, or any rules adopted pursuant thereto.

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FLORIDA Board of Optometry

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THANK YOU!

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THANK YOU!

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