

Florida Jurisprudence



Barry J Frauens, O.D., F.A.A.O
Joseph Sowka, O.D., F.A.A.O.

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Disclaimer

- Every attempt has been made to present actual and factual information
- Information presented here is based on opinion, knowledge and experience
- The presenters are not attorneys and one should seek professional legal advice and/or representation for final clarification

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- The objectives of this Association are to advance, improve, and enhance the vision care of the public
- To unite optometrists to encourage and assist in the improvement of the art and science of Optometry
- To elevate the standards and ethics of the profession of Optometry

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- To protect and defend the inalienable right of every person to freedom of choice of practitioner
- To restrict the practice of Optometry and any part of it to those who have been trained, qualified, and licensed to practice the profession
- To maintain an active affiliation with the AOA, and the Southern Council of Optometrists.

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FLORIDA | Board of Optometry


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FLORIDA Board of Optometry

- **Mission:** To protect, promote & improve the health of all people in Florida through integrated state, county, & community efforts.
- **Vision:** To be the **Healthiest State** in the Nation

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FLORIDA Board of Optometry

The Florida Board of Optometry was established 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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- 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.

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2013 Legislative Update - Prescription Authority

The 2013 legislative session brought very important changes for the practice of optometry. On April 19, 2013, Governor Rick Scott signed HB-239 into law

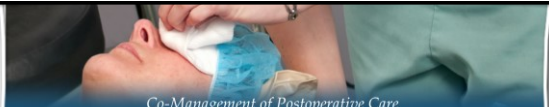


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Defining Ocular Pharmaceutical Agent

"Ocular pharmaceutical agent" means a pharmaceutical agent that is administered topically or orally for the diagnosis or treatment of ocular conditions of the human eye and its appendages ...

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Co-Management of Postoperative Care

The 2013 legislative session brought very important changes for the practice of optometry. On April 19, 2013, Governor Rick Scott signed HB-239 into law

Defining Co-Management

- 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

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Defining Co-Management

- 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. The patient must be fully informed of, and consent in writing to, the co-management relationship for his or her care

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Defining Co-Management

- 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

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Defining Co-Management

- **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.

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Co-Management Form

[illegible]

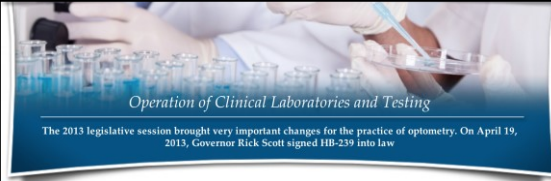
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Chapter 548 Pugilistic Exhibition

- Previous exclusion: “Physician” means an individual licensed to practice medicine and surgery in this state.
- A certified optometrist is authorized to perform any eye examination, including a dilated examination, required or authorized by chapter 548 or by rules adopted to implement that chapter.
 - Boxing
 - Kickboxing
 - Mixed Martial Arts

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[illegible]



483.181 Acceptance, collection, identification, and examination of specimens

- A clinical laboratory licensed under this part must accept a human specimen submitted for examination by a practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, s. 464.012, or chapter 466, if the specimen and test are the type performed by the clinical laboratory

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483.181 Acceptance, collection, identification, and examination of specimens

- A clinical laboratory may only refuse a specimen based upon a history of nonpayment for services by the practitioner
- A clinical laboratory shall not charge different prices for tests based upon the chapter under which a practitioner submitting a specimen for testing is licensed

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Topical Formulary

- The BOARD shall establish a formulary of topical ocular pharmaceutical agents that may be prescribed and administered by a certified optometrist.

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Defines Topical Formulary

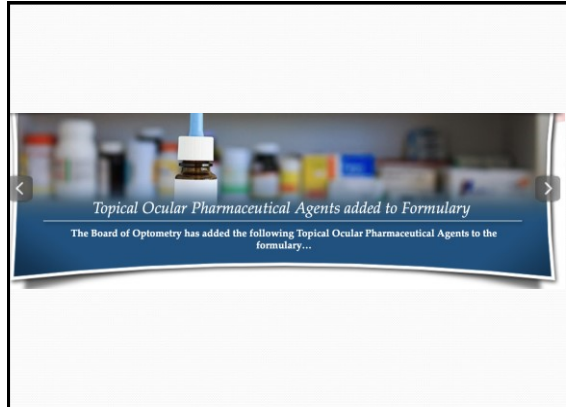
The formulary shall consist of those topical ocular pharmaceutical agents that are appropriate to treat or diagnose ocular diseases and disorders and that which the certified optometrist is qualified to use in the practice of optometry. **The board shall establish, add to, delete from, or modify the topical formulary by rule.** Notwithstanding any provision of chapter 120 to the contrary, the topical formulary rule becomes ~~shall become~~ effective 60 days from the date it is filed with the Secretary of State.

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Topical Formulary

Any person who requests an addition, deletion, or modification of an authorized topical ocular pharmaceutical agent shall have the burden of proof to show cause why such addition, deletion, or modification should be made.

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Topical Ocular Pharmaceutical Agents added to Formulary

The Board of Optometry has added the following Topical Ocular Pharmaceutical Agents to the formulary...

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Home Licensing Renewals Resources Meetings The Board

New Legislation Impacting Your Profession


Click here to view a full list of bill summaries from the 2018 Florida Legislative Session that may impact your profession.

Kala Pharmaceuticals Announces FDA Approval of INVELTYS™ for the Treatment of Post-Operative Inflammation and Pain Following Ocular Surgery

First Twice-Daily Ocular Corticosteroid Indicated for the Treatment of Post-Operative Inflammation and Pain Following Ocular Surgery –

The board approved Inveltys (loteprednol etabonate ophthalmic suspension) 1% for addition to Rule 64B13-18.002. Effective August 5, 2019, Licensees are now permitted to prescribe Inveltys.

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Important Information Regarding Vyzulta

Click here to find out more about Rule 64B13-18.002 Formulary of Topical Ocular Pharmaceutical Agents, Vyzulta (latanoprostene bunod ophthalmic solution) 0.024%.

(c) Prostaglandins

1. Latanoprost – 0.005%;
2. Bimatoprost – 0.03%;
3. Travoprost – 0.004%;
4. Tafluprost – 0.0015%;
5. Unoprostone Isopropyl – 0.15%; and,
6. **Latanoprostene Bunod Ophthalmic Solution – 0.024%.**

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Important Information Regarding RhoPressa

Click here to find out more about Rule 64B13-18.002 formulary of Topical Ocular Pharmaceutical Agents, RhoPressa (netarsudil ophthalmic solution) 0.02%.)

(d) Alpha, Adrenergic Agonist


1. Brimonidine tartrate – 0.15%, 0.2%; and,
2. Apraclonidine HCl – 0.5%.

(e) Carbonic Anhydrase Inhibitors (CAI's)

1. Brinzolamide – 1.0%; and,
2. Dorzolamide HCl – 2.0% (alone and in combination).

(f) **Rho Kinase Inhibitor – Netarsudil – 0.02%;**

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Important Information Regarding Cequa

During the September 28, 2018 Board of Optometry meeting, the board approved for addition to the Formulary of Topical Ocular Pharmaceutical Agents the ophthalmic solution Cequa.

(g) MISCELLANEOUS

- (a) Hydroxypropyl cellulose ophthalmic Insert;
- (b) Dapiprazole – 0.5%;
- (c) Cyclosporine emulsion – 0.05%;
- (d) Polyvinyl pyrrolidone – drops 2.0%;
- (e) Bimatoprost – .03%;
- (f) Natamycin Ophthalmic Suspension 5%;
- (g) Lifitegrast ophthalmic solution 5%; and,
- (h) **Cyclosporine 0.09% Ophthalmic Solution.**

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Home Licensing Renewals Resources Meetings The Board


Important Notice Regarding Oxervate

The Board of Optometry has approved Oxervate (Cenegermin-bkbj) 0.002% for addition to Rule 64B13-18.002.

(9) MISCELLANEOUS

- (a) Hydroxypropyl cellulose ophthalmic Insert;
- (b) Dapiprazole – 0.5%;
- (c) Cyclosporine emulsion or solution – 0.1%;
- (d) Polyvinyl pyrrolidone – drops 2.0%;
- (e) Bimatoprost – .03%;
- (f) Natamycin Ophthalmic Suspension 5%;
- (g) Lifitegrast ophthalmic solution 5%; and,
- (h) Cyclosporine 0.09% Ophthalmic Solution.
- (i) **Oxervate (Cenegermin-bkbj) 0.002%; and**
- (j) Oxymetazoline hydrochloride ophthalmic solution 0.1%.

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Home Licensing Renewals Resources Meetings The Board

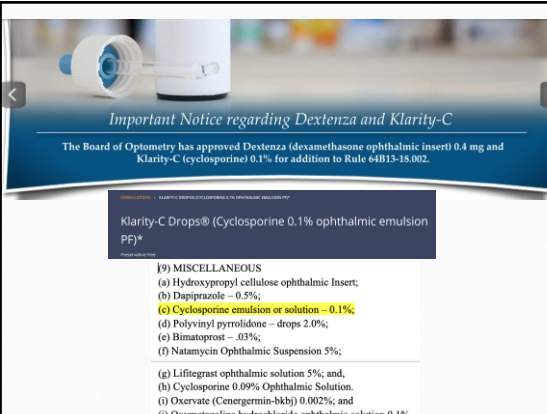
Important Notice regarding Dextenza and Klarity-C

The Board of Optometry has approved Dextenza (dexamethasone ophthalmic insert) 0.4 mg and Klarity-C (cyclosporine) 0.1% for addition to Rule 64B13-18.002.

(5) NON-STEROIDAL AND STEROIDAL ANTI-INFLAMMATORY AGENTS

- (a) Medrysone – 1.0%;
- (b) Prednisolone acetate – 0.12%, 0.125%, 0.2%, 0.5%, 0.6%, 1.0% (alone and in combination);
- (c) Prednisolone sodium phosphate – 0.125%, 0.25%, 1.0% (alone and in combination);
- (d) Fluometholone – 0.1%, 0.25% (suspension and ointment, alone and in combination);
- (e) **Dexamethasone – 0.1%, 1.0% (alone and in combination), 0.4 mg ophthalmic insert;**

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Important Notice regarding Dextenza and Klarity-C

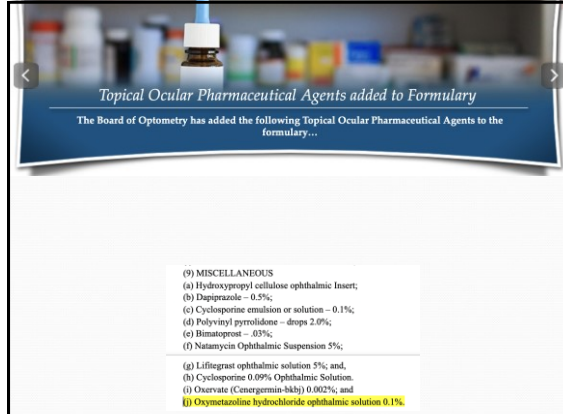
The Board of Optometry has approved Dextenza (dexamethasone ophthalmic insert) 0.4 mg and Klarity-C (cyclosporine) 0.1% for addition to Rule 64B13-18.002.

Klarity-C Drops® (Cyclosporine 0.1% ophthalmic emulsion PFJ)*

(9) MISCELLANEOUS

- (a) Hydroxypropyl cellulose ophthalmic Insert;
- (b) Dapiprazole – 0.5%;
- (c) **Cyclosporine emulsion or solution – 0.1%;**
- (d) Polyvinyl pyrrolidone – drops 2.0%;
- (e) Bimatoprost – .03%;
- (f) Natamycin Ophthalmic Suspension 5%;
- (g) Lifitegrast ophthalmic solution 5%; and,
- (h) Cyclosporine 0.09% Ophthalmic Solution.
- (i) Oxervate (Cenegermin-bkbj) 0.002%; and
- (j) Oxymetazoline hydrochloride ophthalmic solution 0.1%.

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Topical Ocular Pharmaceutical Agents added to Formulary

The Board of Optometry has added the following Topical Ocular Pharmaceutical Agents to the formulary...

(9) MISCELLANEOUS

- (a) Hydroxypropyl cellulose ophthalmic Insert;
- (b) Dapiprazole – 0.5%;
- (c) Cyclosporine emulsion or solution – 0.1%;
- (d) Polyvinyl pyrrolidone – drops 2.0%;
- (e) Bimatoprost – .03%;
- (f) Natamycin Ophthalmic Suspension 5%;
- (g) Lifitegrast ophthalmic solution 5%; and,
- (h) Cyclosporine 0.09% Ophthalmic Solution.
- (i) Oxervate (Cenegermin-bkbj) 0.002%; and
- (j) **Oxymetazoline hydrochloride ophthalmic solution 0.1%.**

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Florida Department of State
FLORIDA ADMINISTRATIVE CODE & FLORIDA ADMINISTRATIVE REGISTER

Home | Advanced Search | MyFLRules | Rules Open for Comments

Rule: **64B13-18.002** [Prev.](#) [Up.](#) [Next.](#)

Rule Title: Formulary of Topical Ocular Pharmaceutical Agents

Department: DEPARTMENT OF HEALTH

Division: Board of Optometry

Chapter: **TOPICAL OCULAR PHARMACEUTICAL AGENTS**

Latest version of the final adopted rule presented in Florida Administrative Code (FAC):

Effective Date: 1/5/2021

History Notes: Rulemaking Authority 463.005, 463.0055(2)(a) FS, Law Implemented 463.0055(2), History- New 3-20-87, Amended 4-9-88, 5-7-88, Formerly 21-18.002, Amended 5-10-92, 1-20-93, Formerly 21Q-18.002, Amended 8-31-93, 7-30-94, Formerly 61F9-18.002, Amended 2-11-96, 4-21-96, 1-12-97, 6-8-97, Formerly 39W-18.002, Amended 6-15-00, 6-7-05, 6-18-06, 6-26-08, 10-16-08, 3-23-09, 6-28-09, 10-18-09, 4-21-10, 12-28-10, 7-21-11, 11-11-12, 11-29-13, 12-9-13, 4-10-14, 8-14-15, 1-20-17, 8-31-18, 1-25-19, 8-5-19, 3-13-20, 1-5-21.

References in this version: (to referenced(s)).

History of this Rule since Jan. 6, 2006

Notice / Amended	Section	Description	ID	Publish Date
Final	64B13-18.002	Formulary of Topical Ocular Pharmaceutical Agents	24627462	01/05/2021
Change	64B13-18.002	Formulary of Topical Ocular Pharmaceutical Agents	23739373	10/14/2020 Vol. 46(20)

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Board of Optometry Approves Emergency Rule

See attached rule language for attaining Continuing Education (CE) hours. Click here for more information.

Board of Optometry Approves Emergency Rule

Posted in [Latest News](#) on November 28, 2020.

64B13CE20-40 Satisfaction of Continuing Education Requirements Through On-line or Virtual Live Technology

(1) From December 1, 2020 through and including February 28, 2021, all Florida Board of Optometry licensees may obtain all required continuing education hours by live in-person or virtual-live interactive synchronous online format.

(2) All applications for virtual-live interactive synchronous online courses shall be submitted for board approval for each individual course offering. As part of the application, the course provider must outline the manner in which attendees will be monitored for attendance, including that participants shall be visible to the provider for the duration of the course. The provider shall supply a report of attendee participation to CE Broker after the course is completed documenting that each participant attended the entire 50 minutes per credit hour.

(3) Transcript quality courses must have the capability of being submitted and graded electronically.

(4) All other requirements for continuing education courses listed in Rule 64B13-5.002, Florida Administrative Code, shall remain in force.

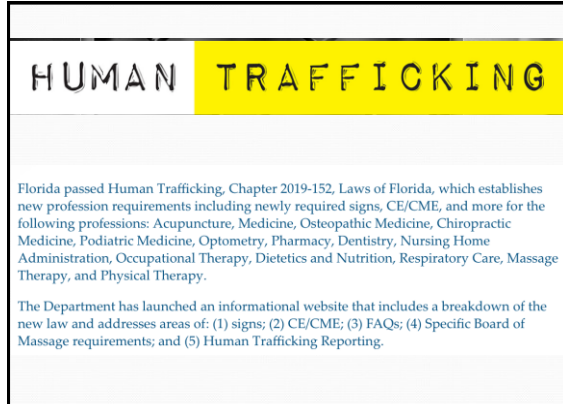
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HUMAN TRAFFICKING

Florida HEALTH

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HUMAN TRAFFICKING

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.

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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.cebroker.com/search>
CE Broker website. Opens in a new window

<https://courses.cebroker.com/search>

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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)

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HUMAN TRAFFICKING

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 **233-7333** 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)** al **233-7333** 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 website at www.floridahealth.gov or call the toll-free number 1-888-373-7888. The Department of Health is committed to providing information in Spanish and other languages. Call 1-888-373-7888 for more information.

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FIND HELP

Children and adults can be victims of human trafficking. "If you see something, say something." If you have information regarding suspected Human Trafficking of a child in Florida contact: **Florida Abuse Hotline 1-800-96-ABUSE (1-800-962-2873)**. If you have information regarding suspected Human Trafficking of an adult anywhere in the United States or of a child outside of Florida please contact: **National Human Trafficking Resource Center 1-888-373-7888**. Text **HELP** to 233733 (BEFREE). To get help for victims and survivors of human trafficking or to connect with local services. Visit the National Human Trafficking Hotline online at: <https://humantraffickinghotline.org>.

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Electronic Prescribing Requirements

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

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:

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- 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 SCRIPT 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 practitioners;
- 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;

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- 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 patient's medical record.

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Reporting Adverse Incidents in the Practice of Optometry

The 2013 legislative session brought very important changes for the practice of optometry. On April 19, 2013, Governor Rick Scott signed HB-239 into law

463.0141 Reports of adverse incidents in the practice of optometry

- Effective January 1, 2014, an adverse incident occurring in the practice of optometry must be reported to the Department of Health
- "Adverse incident" is specifically defined in subsection 463.0141 (3) to mean any of the following events when it is reasonable to believe that the event is attributable to the prescription of an ORAL ocular pharmaceutical agent by the optometrist:

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463.0141 Reports of adverse incidents in the practice of optometry

- Any condition that requires transfer of the patient to a licensed hospital;
- Any condition that requires the patient to obtain care from a medical doctor or osteopathic doctor, other than a referral or a consultation required by Chapter 463;
- Permanent physical injury to the patient;
- Partial or complete permanent loss of sight by the patient; or
- Death of the patient.

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463.0141 Reports of adverse incidents in the practice of optometry

- If an "adverse incident" defined in subsection 463.0141 (3) occurs, the optometrist is required to provide written notice to the Florida Department of Health by certified mail.
- If the incident takes place while the patient is in the optometrist's office, the notice must be postmarked within 15 days after occurrence.
- If the incident occurs when the patient is not at the optometrist's office, the notification must be postmarked within 15 days after the optometrist discovers, or reasonably should have discovered, the occurrence of the adverse incident

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Antibiotics

- The following antibiotics or their generic or therapeutic equivalents:
 - Amoxicillin with or without clavulanic acid.
 - Azithromycin.
 - Erythromycin.
 - Dicloxacillin.
 - Doxycycline/Tetracycline.
 - Keflex
 - Minocycline

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Antiviral

- The following antivirals or their generic or therapeutic equivalents:
 - Acyclovir
 - Famciclovir
 - Valacyclovir

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Anti-Glaucoma

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

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463.014 Certain acts prohibited

- (3) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug for the purpose of treating a systemic disease by a licensed practitioner is prohibited. **However, a certified optometrist is permitted to use commonly accepted means or methods to immediately address incidents of anaphylaxis.**

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EpiPEN® for Anaphylaxis

- EpiPen® 0.3 mg
 - Yellow label - 66 lbs or more
- EpiPen® Jr. 0.15 mg
 - Green label - 33-66 lbs.

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<http://optometrisonlinece.com/>

Florida Optometry Oral Drug Review Course & Examination
 Certified Optometrists: Complete This Course and Issue Oral Ocular Prescriptions
 20-Hour Florida Optometry Board-Approved 100% Online Course

- Complete Your Optometrist Continuing Ed Requirement
- Learn Dispensing Rules & Essential Medication Information
- Provided through the Florida Medical Association
- Florida Certified Optometrist Specific for Prescription of Oral Ocular Pharmaceutical Agents
- Meets Florida Optometry Oral Drug Law Requirements (Chapter 2013-26, Laws of Florida)

Course Fee: **\$995** **REGISTER NOW**

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Controlled Substances

- Florida Statutes, provides that a written prescription for a controlled substance listed in chapter 893 must be either written on a standardized counterfeit-proof prescription pad produced by a vendor approved by the Florida Department of Health (DOH) or electronically prescribed

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Controlled Substances

- Section 893.04 provides that a pharmacy may dispense a prescribed controlled substance only if the **full name and address of the prescribing practitioner and the practitioner's DEA registration number is printed thereon.**

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Controlled Substances

- DEA Numbers
 - Applications submitted at <http://www.deadiversion.usdoj.gov/drugreg/>
 - \$731 every 3 years
- 2 Controlled Substances - Schedule 3
 - A certified optometrist licensed under chapter 463 may not administer or prescribe a controlled substance listed in Schedule I or Schedule II of s. 893.03.
- Tylenol w/Codeine - Acetaminophen 300 mg with No. 3 codeine phosphate 30 mg.
- Tramadol hydrochloride

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Controlled Substances Bill CS/CS/HB-21

Signed By Governor Scott March 19, 2018
Effective 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.

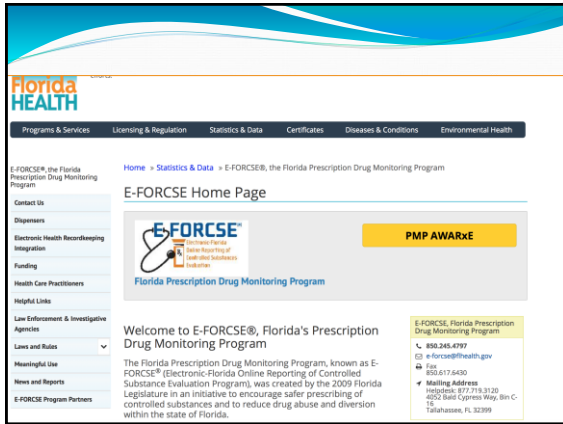
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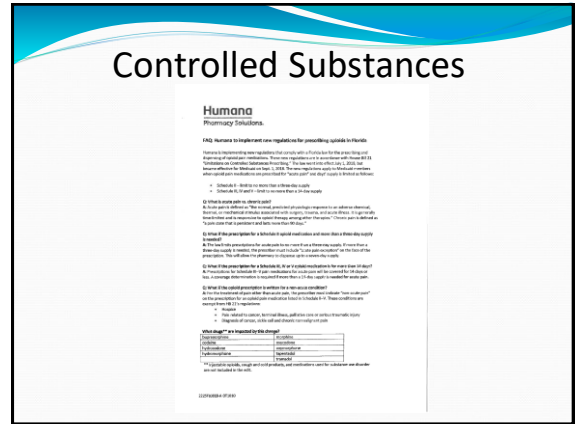
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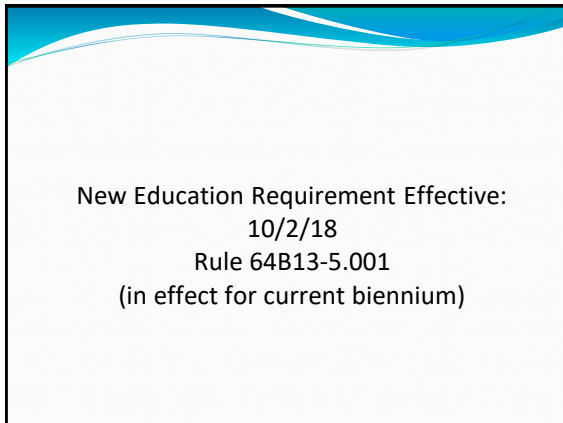
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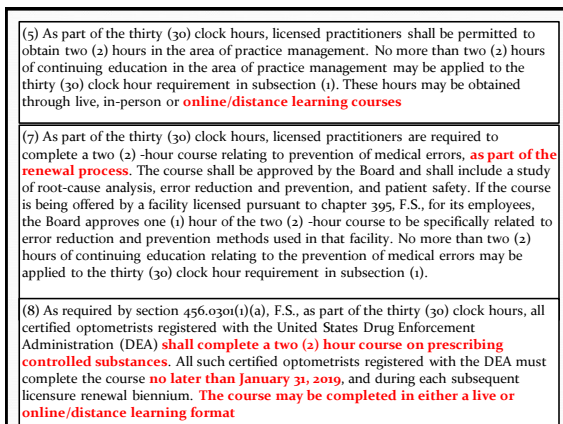
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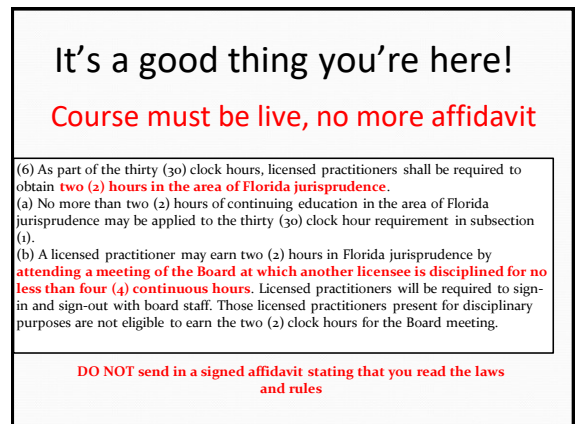
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463.0135 Standards of practice

- 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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• 64B13-2.008 Probable Cause Panel.

- (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.

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In determining what action is appropriate, the board, or department when there is no board, must first consider what sanctions are necessary to protect the public or to **compensate the patient**. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection **are the obligation of the practitioner.**

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What does this mean to you?

- When in doubt, give the money back to the patient (within reason).
 - Leading complaint to Board: failure to refund money for glasses
 - Could then lead to investigation into file
 - Take care Board doesn't overstep authority
- If a grievance is filed, you must defend yourself, preferably with the assistance of an attorney.
- Malpractice insurance typically does not cover this. You must bear the costs personally. Check with carrier now

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Minimum Equipment

The following shall constitute the minimum equipment which a licensed practitioner must possess in each office in which he or she engages in the practice of optometry:

- (1) Ophthalmoscope;
- (2) Tonometer;
- (3) Retinoscope;
- (4) Ophthalmometer, keratometer or corneal topographer;

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Minimum Equipment

- (5) Biomicroscope;
- (6) Phoropter or trial frame, trial lenses and prisms;
- (7) Standard charts or other standard visual acuity test;
- (8) Field testing equipment (other than that used for a confrontation test).

Note: Pachymeter, fundus camera, OCT, etc., not part of the minimum

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Minimum Exam

64B13-3.007 Minimum Procedures for Vision Analysis (comprehensive eye exam).

- (1) Vision analysis is defined as a comprehensive assessment of the patient's visual status and shall include those procedures specified in subsection (2) below.
- (2) An examination for vision analysis 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);

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Minimum Exam

- (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 (direct or indirect ophthalmoscopy recording cup disc ratio, blood vessel status and any abnormalities);

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Minimum Exam

- (g) Biomicroscopy (binocular or monocular);
- (h) Tonometry;
- (i) Refraction (with recorded visual acuity);
- (j) Extra ocular muscle balance assessment;

Not necessarily in this order

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Minimum Exam

- (k) Other tests and procedures that may be indicated by case history or objective signs and symptoms discovered during the eye examination;
- (l) Diagnosis and treatment plan.
- (3) If because of the patient's age or physical limitations, one or more of the procedures specified herein or any part thereof, cannot be performed, or if the procedures or any part thereof are to be performed by reason of exemption from this rule, the reason or exemption shall be noted on the patient's case record.

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Minimum Exam

- Except as otherwise provided in this rule, the minimum procedures set forth in subsection (2) above shall be performed prior to providing optometric care during a patient's initial presentation, and thereafter at such appropriate intervals as shall be determined by the **optometrist's sound professional judgment**. Provided, however, that each optometric patient shall receive a complete vision analysis prior to the provision of further optometric care if the last complete vision analysis was performed more than two years before.

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So what does this mean to you?

- Subjective:
 - personal and family medical history, personal and family ocular history, and chief complaint
- Objective:
 - VA (with and without at initial; with afterwards); pupils, EOMs, screening fields (*10 Fingers of Death*), ocular balance (Cover test), refraction, SLE, tonometry (some method), fundus (dilation at first- disc, vessels, abnormalities), any and all others as dictated by exam
- Assessment- detailed
- Plan-detailed

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Standards of Practice

- (7)(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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What about non-Comprehensive exams?

- Whenever a patient presents to a licensed practitioner or certified optometrist with any of the following as the primary complaint, the performance of the minimum procedures set forth in subsection (2) above shall not be required.
 - (a) Emergencies;
 - (b) Trauma;
 - (c) Infectious disease;
 - (d) Allergies;
 - (e) Toxicities; or
 - (f) Inflammations.

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- The minimum procedures set forth in subsection (2) above shall not be required in the following circumstances:
- (a) When a licensed practitioner or certified optometrist is providing specific optometric services on a secondary or tertiary basis in patient co-management with one or more health care practitioners skilled in the diagnosis and treatment of diseases of the human eye and licensed pursuant to Chapter 458, 459, or 463, Florida Statutes

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So what does this mean to you?

- If you can't do a required test, state the reason and the attempt.
- Reason for this statute is to protect and provide to public quality care
 - Discourages 'refraction mills'
 - "There is no reason that you cannot do an eye exam in less than 5 minutes"

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Branch License

- 2014- you no longer need to apply for branch licenses for each office
- You must however have a copy of your Florida license displayed in each office

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Drug Dispensing- For Profit

- A certified optometrist who dispenses medicinal drugs for a fee must register as a dispensing practitioner with the Florida Board of Optometry and pay a fee of \$100.00 at the time of registration and upon each biennial renewal of licensure.
- Subject to and must comply with all laws and rules applicable to pharmacists and pharmacies
- Department of Health is authorized to inspect in the same manner and same frequency as it inspects pharmacies

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Drug Dispensing- Samples

- Not required to register as a dispensing practitioner
- Must dispense the medicinal drugs in the manufacturer's labeled package with the practitioner's name, patient's name, and date dispensed.
- If not dispensed in the manufacturer's labeled package, they must bear the following information:
 - Practitioner's name;
 - Patient's name;
 - Date dispensed;
 - Name and strength of drug; and
 - Directions for use.

153

What can get you sued for malpractice and what can get you sanctioned by the Board of Optometry are often two different things

154

The Board of Optometry does not involve itself in malpractice suits. Getting sued for malpractice does not get reported to the Board. The patient or other entity must file a separate grievance with the Board.

155

Bad Outcome vs Malpractice

- Florida OD
- 60 YOBF
- Routine exam
- IOP: Upper 40's OU
- Glaucoma suspect
- Begins topical treatment
- Manages for 2 years
- IOP low to mid 20's

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Bad Outcome vs Malpractice

- Seeks care from ophthalmologist
- On multiple meds
- IOP mid 20's
- Meds changed
- IOP low 20's
- Undergoes ALTP, then trabeculectomy OU
- Sues optometrist
- Retained by patient's attorney

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Bad Outcome vs Malpractice

- Allegations:
 - Detected elevated IOP and only used topical medications
 - Diagnosed glaucoma, but failed to warn of serious nature
 - Failed to diagnose optic nerve injury
 - Failed to properly treat optic nerve injury
 - Failed to refer to ophthalmologist

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Bad Outcome vs Malpractice

- Files:
- Medications obviously added, notations unclear
- No C/D ratio recorded for 1 ½ yrs
- Dilated exam performed, nothing recorded
- No gonio recorded
- No fields
- Frame style, bifocal style, seg height, PD, temple length, A/R coating, tint, all charges recorded
- Is this malpractice? Are allegations accurate?

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Failure to Warn

- Consequences of contact lens use
 - Infectious Keratitis, overwear
- Consequences of spectacle wear
 - Breakage, polycarbonate, safety lenses
- Consequences of steroid use
 - Glaucoma, cataracts, superinfection

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HB 1175; Chapter 2016-234

- Starting July 1, 2016, health care practitioners are required to provide a good faith estimate of anticipated charges to treat a condition if asked by the patient. The estimate must be provided to the patient or their proxy within 7 business days after receiving the request, however the practitioner is not required to adjust the estimate for any potential insurance coverage. Patients must contact their health insurer or health maintenance organization for any information relating to cost-sharing responsibilities.

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HB 1175; Chapter 2016-234

- While the estimate does not preclude actual charges from exceeding the estimate, failure to provide it within the required time without good cause will result in discipline against the practitioner. This includes a daily fine of \$500 until the estimate is provided to the patient. Total fines may not exceed \$5,000.

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463.009 Supportive Personnel

- No person other than a licensed practitioner may engage in the practice of optometry as defined in s. 463.002(7). Except as provided in this section, under no circumstances shall nonlicensed supportive personnel be delegated diagnosis or treatment duties; however, such personnel may perform data gathering, preliminary testing, prescribed visual therapy, and related duties under the direct supervision of the licensed practitioner. Nonlicensed personnel, who need not be employees of the licensed practitioner, may perform ministerial duties, tasks, and functions assigned to them by and performed under the general supervision of a licensed practitioner, including obtaining information from consumers for the purpose of making appointments for the licensed practitioner. The licensed practitioner shall be responsible for all delegated acts performed by persons under her or his direct and general supervision.

163

What happens when you get in trouble with the Board?

164

Case: Running afoul of a crazy person

- Visit 1: Older female presents for CEE
 - checks off on a questionnaire that she has cataracts, floaters, and dry eyes
 - does not check off or otherwise indicate eye pain, vision blur, vision loss or other symptoms
- Pt 'friends' with OD's parents- feels entitled to 'special treatment'
 - No waiting room or copays for her!
- OD flustered by pt 'barking' at her
- Performs IOP- normal, but not recorded



165

Case: Running afoul of a crazy person

- Successful dilation and stereoscopic evaluation of the optic nerves was performed and recorded as normal without suspicion of glaucoma. The patient was correctable to 20/20 in each eye following a thorough examination.

166

Case: Running afoul of a crazy person

- Pt returns 1 year for annual exam
- The patient does not complain of ocular pain or vision loss.
- Intraocular pressure by applanation is normal at this visit.
- A dilated fundus examination is successfully performed without precipitating an angle closure attack. There is no evidence of abnormality other than advancing age-appropriate cataracts

167

Case: Running afoul of a crazy person

- PT RTC 1 mos later complaining of blurred vision that had occurred 2 days previously, but had since resolved.
- The patient appears to have mentioned elevated blood pressure at this time.
- The anterior chamber was judged to be deep and quiet and the patient was successfully dilated again without precipitating an angle closure attack. No signs consistent with glaucoma were found upon examination.

168

Case: Running afoul of a crazy person

- Dr. diagnosed ocular surface abnormalities as a possible cause of the patient's transiently blurred vision and recommended lubrication as well as a referral to a primary care evaluation for a hypertension evaluation.
 - Pt diagnosed and now treated for HTN ☑
- PCP orders MRI to determine the cause of the patient's transiently obscured vision
 - MRI normal

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Case: Running afoul of a crazy person

- 10 mos later, pt visits ophthalmologist who diagnoses 'narrow angle glaucoma'.
- MD examination details normal optic discs, normal retinal nerve fiber layer, and a normal GDx evaluation. Threshold perimetry done on this date also normal
 - Likely MD was using the antiquated term, "narrow angle glaucoma" to connote a potentially occludable angle.
 - Intraocular pressure at that visit was not in keeping with true angle closure.

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Case: Running afoul of a crazy person

- Gonioscopy indicated potentially occludable angles and MD appropriately recommended laser iridotomy
 - Successful
- Interval of 10 months between the examinations
 - cataractogenesis process during this interval could easily increase pupil block and initiate narrowing of the anterior chamber angle, which may have not been present and observable to optometrist at the time of her last examination.

171

Case: Running afoul of a crazy person

- Pt quite agitated with optometrist for not 'diagnosing her glaucoma'
 - After all, pt needed surgery!
 - Prophylactic LPI
- Claims negligence against OD
 - Pain and suffering and mental anguish
 - Her life is 'ruined'
 - Negligent care
 - Misdiagnosis leads to vision loss
 - Nothing documentable

172

Case: Running afoul of a crazy person

- Pt claims she has sought counsel of several lawyers but doesn't 'want to go that way'
 - Translation:
- Pt send threatening letter to OD demanding refund of all fees, copays, and remuneration for 'pain and 'suffering' or she will 'avail herself of all legal means'
- Gives actual dollar amount for compensation
- Translation:
- OD seeks counsel
- Pt vindictively* reports OD to Board

* Personal editorial



173

Case: Running afoul of a crazy person

- Pt dilated twice- Stereoscopic disc analysis, BIO
- Pt treated appropriately for OSD, refractive error
- Pt referred for evaluation and diagnosed with HTN and treated
- *Sole issue: during 1 exam, under duress, OD did not record IOP*
 - OD admission- knew IOP could have been added and none of this would have happened, but knew it wasn't right thing to do
 - Did perform dilation and BIO and disc analysis at visit

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Case: Running afoul of a crazy person

- Charge: Violation of Chapter 463.005 Rule 64B13-3.007 Minimum Procedures for Vision Analysis
 - Did not perform tonometry and 'specific glaucoma test'
- Board retains expert
- OD and attorney retain me as expert
- Nothing adversarial- just trying to protect and ensure right prevails

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The Facts as I See Them

- Tonometry is not, in fact, a "glaucoma test" or "specific glaucoma test", but merely the measurement of IOP
- Elevated intraocular pressure is a risk factor for glaucoma, but not in itself a diagnosis of glaucoma.
- Tonometry is not even an accepted screening test for glaucoma
 - Tonometry is not specific enough a test to screen for glaucoma as many patients with the disease can be mis-labeled as normal
- Detailed stereoscopic evaluation of the optic disc is a more sensitive measurement for the determination of glaucoma
 - Ergo, the OD did do a 'specific glaucoma test'

176

The Facts as I See Them

- No permanent damage sustained by the patient.
- No evidence that any of the patient's complaints were attributable to intermittent angle closure.
- The patient was determined to merely have potentially occludable angles.
- The patient successfully underwent laser iridotomy, which has presumably reduced the risk of future occlusion.

177

The Facts as I See Them

- The same procedure would have been necessary had the potentially occludable state been diagnosed by any other qualified doctor at any time.
- Thus, the patient has received the proper treatment.
- There is nothing in any records reviewed that indicate the actions or alleged inactions of optometrist negatively impacted the apparently positive outcome for this patient.

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The Facts as I See Them

- OD delivered excellent care in face of adversity
- OD was professional in not altering record
- OD sought legal counsel

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Final Outcome

- Case dismissed for no probable cause

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Case: Alleged Negligence

- Lawn/ tree service worker presents with corneal abrasion
 - No hx of vegetative matter given
 - 3 days of FB sensation; no complaints of vision loss
- Geographic abrasion and edema without infiltration
 - Treated with Maxitrol and bandage CL- f/u 2 days
 - RTC immediately if any changes
- Pt returns 2 days later with severe central corneal infiltration
- OD recognizes possibility of fungal infection- tries to refer immediately

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Case: Alleged Negligence

- Pt wants to 'wait to see if it gets better'
- Workers comp- referral authorization will take 'at least a week'
- OD adamant- explains fungal infection and permanent vision loss
- Pt ultimately referred and seen next day and treated for bacterial keratitis despite OD note about fungus
- After 7-10 days of not improving, pt referred elsewhere and dx'ed with fungal keratitis

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Case: Alleged Negligence

- Pt initiates litigation against OD
- Referral center recognized issue and offered compensation in advance of litigation, so was not sued
- Pt leaves country, not participating in legal process- case dies
- Pt's attorney vindictively* reports OD to DOH for license sanctions

*personal editorial

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Case: Alleged Negligence

- DOH Expert:
 - OD violated Chapter 463.0135(1) by failing to provide the degree of medical care provided by similarly trained medical practitioners in the same or similar communities
 - Treated corneal abrasion with antibiotic-steroid combination
 - Use of antibiotics alone is standard of care
 - Using steroid for vegetative corneal injury
 - Failed to timely refer fungal keratitis

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The Facts as I See Them

- No hx of vegetative injury ever given by pt to anyone
 - DOH broad speculation based upon employment and final diagnosis
- Steroid-antibiotic combo reasonable for corneal abrasion
- No indication of fungal keratitis at first visit
 - Prophylactic natamycin? Refer abrasion to corneal specialist? What more could OD do?
- OD was first to consider fungus, but nobody listened
- What would have happened if OD used standard of care treatment with topical antibiotics alone?

185

Final Outcome

- Case dismissed for no probable cause

186

"there is no bad referral?"

- OD sees patient with progressive vision loss after solar eclipse
- 20/50 vision OS
- Pt told had to see ophthalmologist STAT due to potential for blindness for "large cups in nerve"
 - 0.7/0.7 C/D OU
- On call ophthalmologist for ER reports OD for 'patient dumping'.

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Another RD Case

- Pt c/o floaters
- Examined by OD who dilates, performs BIO, finds retina intact, warns Si/Sx RD; RTC ASAP any changes
- Pt experiences vision reduction on a Thursday, somewhat worse on Friday- wants to see if it will 'clear up'
- Comes in Monday with macula off RD
- Sues OD
- Expert witness: "He didn't look well enough"
- Attorney invokes following statute:

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- (4) A licensed practitioner shall promptly advise a patient to seek evaluation by a physician skilled in diseases of the eye and licensed under chapter 458 or chapter 459 for diagnosis and possible treatment whenever the licensed practitioner is informed by the patient of the sudden onset of spots or “floaters” with loss of all or part of the visual field.
- Defense attorney flustered by rule
 - Retained to defend OD

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Why is this so?

- Do I have to refer every case of flashes and floaters?
- Difference between licensed practitioner (who cannot dilate) and certified practitioner (who can dilate).
- These patients need dilation- licensed practitioner can't and certified can.
 - If RD found- pt logically referred
 - If nothing seen but pt has vision loss- pt logically referred
- Why no statute regarding older patient with headache and jaw claudication, etc?

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