Florida Jurisprudence

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

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

FLORIDA
OPTOMETRIC ASSOCIATION

FLORIDA
OPTOMETRIC ASSOCIATION

- 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

FLORIDA
OPTOMETRIC ASSOCIATION

- 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.

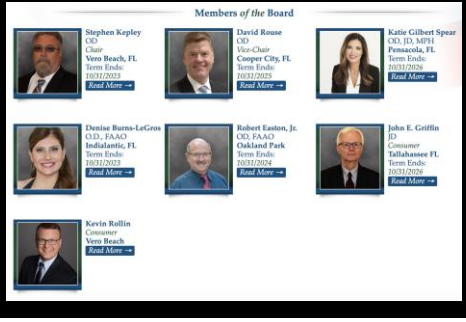
FLORIDA | Board of Optometry

- **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

FLORIDA | Board of Optometry

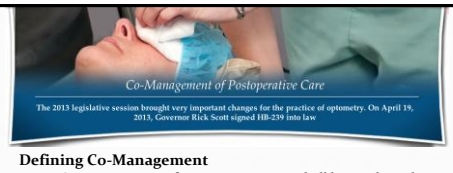
The Florida Board *of* Optometry was established to ensure that every person engaged in the practice of optometry in this state meets minimum requirements for safe practice. It is the legislative intent that such persons who fall below minimum standards or who otherwise present a danger to the public shall be prohibited from practicing in this state.

- 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.



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 …



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**

Defining Co-Management

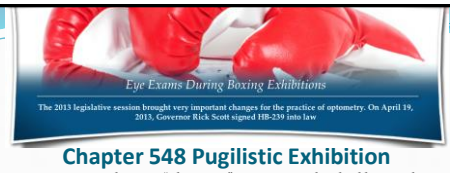
- The transfer of care letter shall confirm that it is not medically necessary for the physician who performed the surgery to provide such postoperative care to the patient and that it is clinically appropriate for the licensed practitioner to provide such postoperative care. The patient must be fully informed of, and consent in writing to, the co-management relationship for his or her care

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

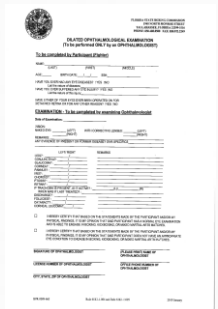
Defining Co-Management

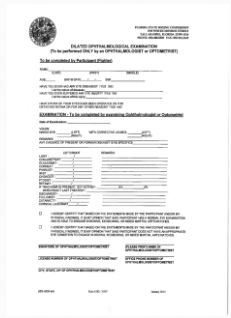
- **The patient must be informed of the fees**, if any, to be charged by the licensed practitioner and the physician performing the surgery, and must be provided with an accurate and comprehensive itemized statement of the specific postoperative care services that the physician performing the surgery and the licensed practitioner render, along with the charge for each service.

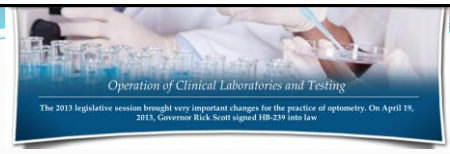


Chapter 548 Pugilistic Exhibition

- 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







483.181 Acceptance, collection, identification, and examination of specimens

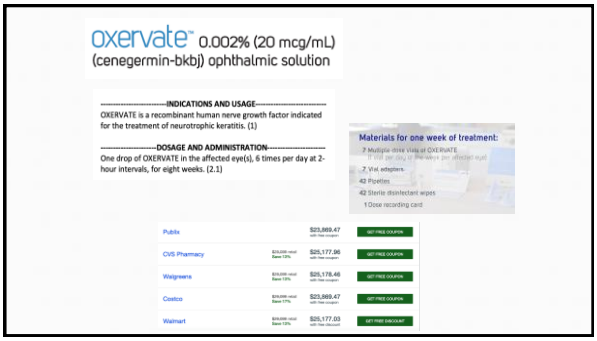
- A clinical laboratory licensed under this part must accept a human specimen submitted for examination by a practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, s. 464.012, or chapter 466, if the specimen and test are the type performed by the clinical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

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.

(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 (Cenergermin-bkbj) 0.002%; and
(j) Oxymetazoline hydrochloride ophthalmic solution 0.1%.



Zerviate
Cetirizine 0.24%

INDICATIONS AND USAGE
ZERVIATE™ (cetirizine ophthalmic solution) 0.24% is a histamine-1 (H1) receptor antagonist indicated for treatment of ocular itching associated with allergic conjunctivitis.
DOSAGE AND ADMINISTRATION
Instill one drop of ZERVIATE in each affected eye twice daily (approximately 8 hours apart).

5 mL fill in a 7.5 mL bottle
7.5 mL fill in a 10 mL bottle
Carton of 30 single-use containers

Zerviate
Cetirizine 0.24%

Publix		$233.85 with free coupon	GET FREE COUPON
CVS Pharmacy	~~$273~~ retail Save 26%	$201.92 with free discount	GET FREE DISCOUNT Restrictions apply
Walgreens	~~$277~~ retail Save 27%	$201.92 with free discount	GET FREE DISCOUNT Restrictions apply
Costco	~~$277~~ retail Save 27%	$201.92 with free discount	GET FREE DISCOUNT Restrictions apply

Upneeq

----------INDICATIONS AND USAGE----------
UPNEEQ is indicated for the treatment of acquired blepharoptosis in adults. (1)

----------DOSAGE AND ADMINISTRATION----------
Instill one drop into one or both ptotic eye(s) once daily. (2)

Upneeq

Modernizing prescription access

Upneeq is available for patients under your care for a consistent and uniform price. Treatment is a choice between you and your patient. RVL Pharmacy does not accept payments from insurance providers, therefore accessing Upneeq is free of traditional hassles such as Prior Authorizations, Step Edits, and Callbacks.

Upneeq is available exclusively through RVL Pharmacy. Our friendly and knowledgeable pharmacy staff will contact patients, process Upneeq prescriptions, and facilitate home delivery. Elevate your expectations for what prescription access can be with Upneeq.

Step 1: Send patient's prescription for Upneeq directly to RVL Pharmacy

Step 2: Pharmacy contacts patient to review the prescription, collect payment, and answer any questions

Step 3: Upneeq is shipped directly to the patient's home or preferred destination within 2-4 days following payment
- The cost of Upneeq only varies by quantity but is the same for all patients
- 30-day supply is $105

(8) ANTI-GLAUCOMA AGENTS
(a) Beta Blockers.
1. betaxolol hydrochloride – 0.5%;
2. levobunolol hydrochloride – 0.5%;
3. metipranolol hydrochloride – 0.3%;
4. timolol maleate or hemihydrate – 0.5% (solution and gel, alone and in combination);
5. carteolol hydrochloride – 1.0%.
(b) Miotics, Direct-acting
1. carbachol – 3.0%;
2. pilocarpine hydrochloride – 4.0%;

VUITY™ (pilocarpine hydrochloride ophthalmic solution) 1.25%, for topical ophthalmic use
Initial U.S. Approval: 1974

----------INDICATIONS AND USAGE----------
VUITY is a cholinergic muscarinic receptor agonist indicated for the treatment of presbyopia in adults. (1)

----------DOSAGE AND ADMINISTRATION----------
Instill one drop of VUITY in each eye once daily. (2)

----------DOSAGE FORMS AND STRENGTHS----------
Ophthalmic solution containing pilocarpine hydrochloride 1.25%. (3)

----------CONTRAINDICATIONS----------
Hypersensitivity (4)

----------WARNINGS AND PRECAUTIONS----------
- Poor Illumination: Exercise caution in night driving and other hazardous occupations in poor illumination. (5.1)
- Risk of Retinal Detachment: Rare cases of retinal detachment have been reported with other miotics; patients should be advised to seek immediate medical care with sudden onset of vision loss. (5.2)
- Iritis: Caution is advised in patients with iritis. (5.3)

----------ADVERSE REACTIONS----------
Most common adverse reactions (>5%) are headache and conjunctival hyperemia. (6.1)

Walmart Neighborhood Market	$88 retail Save 6%	$82.79 with free discount	GET FREE DISCOUNT
Navarro Discount Pharmacy	$96 retail Save 9%	$86.57 with free coupon	GET FREE COUPON
Winn-Dixie	$112 retail Save 27%	$80.72 with free coupon	GET FREE COUPON
Target (CVS)	$102 retail Save 14%	$86.57 with free coupon	GET FREE COUPON
Harris Teeter	$88 retail Save 3%	$85.34 with free coupon	GET FREE COUPON
Costco	$103 retail Save 21%	$80.42 with free coupon	GET FREE COUPON
Walmart	$88 retail Save 6%	$82.79 with free discount	GET FREE DISCOUNT

The topical ocular pharmaceutical agents in the formulary include the following legend drugs alone or in combination in concentrations up to those specified, or any lesser concentration:
(1) through (8) No change.
(9) MISCELLANEOUS
(a) through (j) No change.
(k) varenicline solution – 0.03mg

Varenicline nasal spray approved as a treatment for dry eye disease

The FDA's approval of varenicline nasal spray 0.03 mg (Tyrvaya, Oyster Point Pharma) for the treatment of the signs and symptoms of dry eye disease (DED) brings to the management of this common condition a new therapeutic modality that is novel for both its mechanism of action and mode of administration. The new medication is recommended to be used twice daily, sprayed once into each nostril.

TYRVAYA (varenicline solution) nasal spray Initial U.S. Approval: 2006

----------INDICATIONS AND USAGE----------

TYRVAYA (varenicline solution) nasal spray is a cholinergic agonist indicated for the treatment of the signs and symptoms of dry eye disease.

----------DOSAGE AND ADMINISTRATION----------

• One spray in each nostril twice daily (approximately 12 hours apart).
• Prime with seven (7) actuations before initial use. Re-prime with 1 actuation if not used for more than five (5) days.

•----------DOSAGE FORMS AND STRENGTHS----------

•Nasal spray delivering 0.03 mg of varenicline in each spray (0.05 mL)

Do not spray too deep and avoid spraying into your sinuses

Insert the tip of the nasal spray just past the nasal opening. Aim the tip out towards your ear on the same side of the nostril you're spraying into.

Ensure proper tongue placement

Press your tongue to the roof of your mouth.

Avoid inhaling deeply

Breathe gently as you press and release the applicator, just misting the inside of your nostril. The medication will absorb into the wall of the nose where the nerve is located.

Publix		$589.79 with free coupon	GET FREE COUPON
Walgreens	~~$710~~ retail Save 12%	$618.99 with free coupon	GET FREE COUPON
Costco	~~$696~~ retail Save 13%	$598.70 with free coupon	GET FREE COUPON
Walmart	~~$714~~ retail Save 12%	$621.31 with free discount	GET FREE DISCOUNT
Winn-Dixie	~~$722~~ retail Save 18%	$591.21 with free coupon	GET FREE COUPON

MIEBO™ (perfluorohexyloctane ophthalmic solution), for topical ophthalmic use
Initial U.S. Approval: 2023

----------INDICATIONS AND USAGE----------
MIEBO (perfluorohexyloctane ophthalmic solution) is a semifluorinated alkane indicated for treatment of the signs and symptoms of dry eye disease. (1)

----------DOSAGE AND ADMINISTRATION----------
Instill one drop of MIEBO four times daily into each eye. (2.1)

FDA Approves XDEMVY™ (lotilaner ophthalmic solution) 0.25% for the treatment of Demodex blepharitis

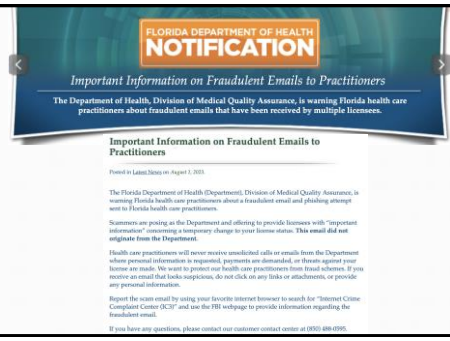
XDEMVY (lotilaner ophthalmic solution) 0.25%, for topical ophthalmic use
Initial U.S. Approval: 2023

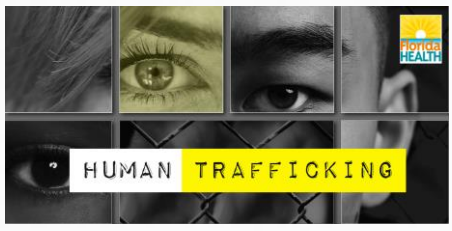
----------INDICATIONS AND USAGE----------
XDEMVY is an ectoparasiticide (anti-parasitic) indicated for the treatment of Demodex blepharitis. (1)

----------DOSAGE AND ADMINISTRATION----------
Instill one drop of XDEMVY in each eye twice daily (approximately 12 hours apart) for 6 weeks. (2)

XDEMVY (lotilaner ophthalmic solution) 0.25%, for topical ophthalmic use
Initial U.S. Approval: 2023

- **AllianceRx Walgreens Pharmacy** 1-800-424-9002
- **BlinkRx** 1-833-919-4942
- **Carepoint Pharmacy** 1-855-237-9112
- **CVS Specialty Pharmacy** 1-800-237-2767





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)

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 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;

- 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.

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:

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.

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

Antibiotics

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

Antiviral

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

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

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.***

EpiPEN® for Anaphylaxis

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

http://optometristonlinece.com/

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

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.

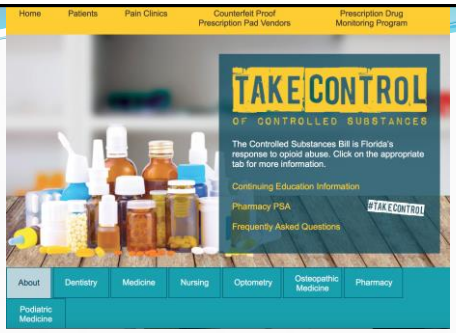
Controlled Substances

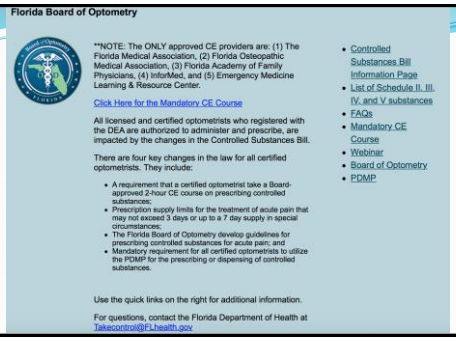
- DEA Numbers
  - Applications submitted at http://www.deadiversion.usdoj.gov/drugreg/
  - $781 every 3 years
  - 2 Controlled Substances - Schedule 3
    - A certified optometrist licensed under chapter 463 may not administer or prescribe a controlled substance listed in Schedule I or Schedule II of s. 893.03.
  - **Tylenol w/Codeine** - Acetaminophen 325 mg with No. 3 codeine phosphate 30 mg.
  - **Tramadol hydrochloride**

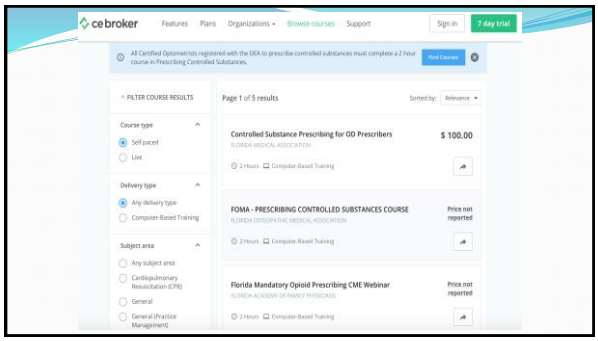
Controlled Substances Bill CS/CS/HB-21

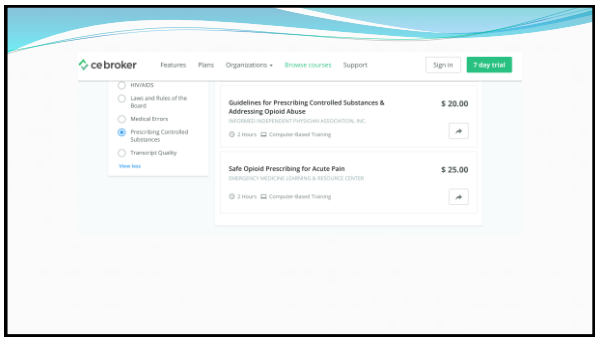
Signed By Governor Scott March 19, 2018
Effective July 1, 2018

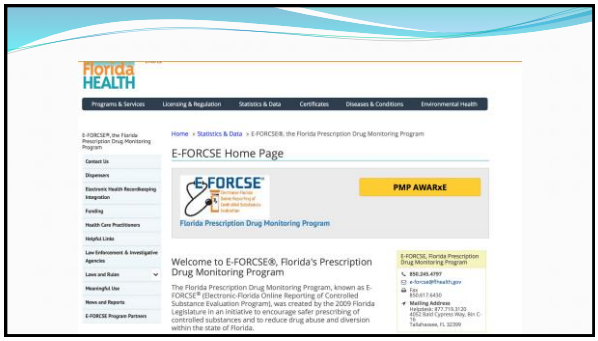
The law addresses opioid abuse by establishing prescribing limits, requiring continuing education on controlled substance prescribing, expanding required use of Florida's Prescription Drug Monitoring Program, EFORCSE, and more.

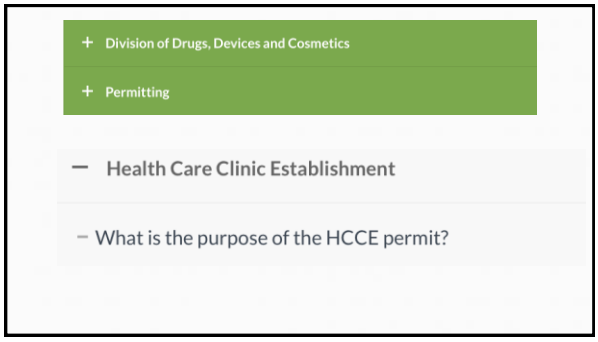












The purpose of the Health Care Clinic Establishment permit is to allow an entity at one location that provides health care services at that location to purchase prescriptions drugs in the business name of the entity for use by the practitioner(s) of that location for the patients of that location. Historically physicians have purchased drugs under their own licenses, but they were not allowed to purchase prescription drugs for group practice settings because the drugs would belong to the physician and transferring the drugs to another physician for use on that physician's patients would be an unlawful wholesale distribution. The HCCE permit was created to facilitate the transfer of prescription drug; the practice, as opposed to one of the physicians, would purchase the drugs for use by the practice. **If you only have one physician in the office, but still purchasing prescription drugs in the business entity's name, the HCCE permit is still required.** This permit requires a designated qualifying practitioner who will be responsible for complying with all legal and regulatory requirements related to the purchase, record keeping, storage, and handling of the prescription drugs. The HCCE must employ a qualifying practitioner at each establishment. The qualifying practitioner and HCCE must notify the department within ten (10) days of any subsequent change in the qualifying practitioner. This permit does not replace any permits required by the Florida Agency for Healthcare Administration.

- How do I know if I need a HCCE permit?

If you are purchasing prescription drugs under the business name, the HCCE permit is required.

- Do I need the HCCE permit if I am the only practitioner who works at the business?

If the practitioner is purchasing the prescription drugs with his own medical license, then an HCCE permit is not required. If the business is the one purchasing the prescription drugs, then the HCCE permit is required.

- If I am the only practitioner that works in my business, but at times I have backup practitioners, do I need the HCCE permit?

Yes, if the business is purchasing the prescription drugs where all practitioners can use the prescription drugs, the HCCE permit is required.

- Does the law prohibit the use of prescription drugs by practitioners in a group practice where purchased by another member of the group at that establishment?

Yes, the law prohibits practitioner use of prescription drugs that were purchased by another practitioner. The HCCE permit authorizes the business to purchase the prescription drugs to allow all practitioners in the practice to use the drugs.

- Who can be considered as a Designated Qualifying Practitioner?

Medical Doctor (M.D.), Osteopathic Physician (D.O.), Physician Assistant (P.A.), Advanced Registered Nurse Practitioner (ARNP), Optometrist (O.D.), Podiatric Physician (D.P.M.), Dentist (D.D.S., D.M.D.), Veterinarian (D.V.M.), Area of Critical Need Doctor (ACN), Limited License Medical Doctor (LLMD), Health Access Dental(HAD); see definition of health care practitioner in section 456.001(4), Florida Statutes as well as section 499.01(2)(r), Florida Statues for the requirements to be a Designated Qualifying Practitioner.

- What are the responsibilities of the Designated Qualifying Practitioner (DQP)?

The DQP is responsible for complying with all legal and regulatory requirements related to the purchase, record keeping, storage, and handling of the prescription drugs. The Health Care Clinic Establishment (HCCE) must employ a designated qualifying practitioner at each establishment. The designated qualifying practitioner and HCCE must notify the department within ten (10) days of any subsequent change in the designated qualifying practitioner. See section 499.01(2)(r)1, Florida Statues.


Ron DeSantis, Governor

Melanie S. Griffin, Secretary

dbpr

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

FLORIDA DRUGS, DEVICES AND COSMETICS

THE Health Care Clinic Establishment HEREIN HAS REGISTERED UNDER THE PROVISIONS OF CHAPTER 499, FLORIDA STATUTES

EXPIRATION DATE: NOVEMBER 30, 2025

Always verify licenses online at MyFloridaLicense.com

ISSUED: 11/28/2023

Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.

- If I purchase prescription drugs in my name using my individual practitioner license, can the payment be submitted with my company's check?

If you are purchasing the prescription drugs with the business check, the HCCE permit is required because the business entity is buying the prescription drugs and must be authorized to purchase prescription drugs.

- What are the exemptions to the HCCE Permit?

There are no exemptions to the HCCE permit.

- How long is the processing time for an HCCE application?

Processing takes anywhere between 21-30 days.

Continuing Education Requirements
Rule 64B13-5.001
(in effect for current biennium)

Current licenses expire at midnight, Eastern Time, on February 28, 2025

Continuing Education (CE) *Requirements*

To locate board approved CE Courses for this profession, please click here

REQUIRED SUBJECT AREA	REQUIRED NUMBER OF HOURS	IMPORTANT INFORMATION
General Hours	26	6 of the 26 hours must be in Transcript Quality if you are a Certified Optometrist
Medical Error	2	2 hours maximum per biennium
Laws and Rules	2	2 hours maximum per biennium
Prescribing Controlled Substances	2	Important Information: All licensees registered with the DEA must complete the course no later than January 31, 2019, and during each subsequent licensure renewal biennium. (May be completed through live, in-person, or online/distance learning format.)

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

20 General hours – For completion of the Florida Optometry Oral Drug Review Course & Examination.

As part of the 30 clock hours, licensed practitioners shall be required to obtain two hours in the area of Florida jurisprudence. A licensed practitioner may earn two hours in Florida jurisprudence by attending an in-person meeting of the Board at which another licensee is disciplined for no less than four (4) continuous hours or the duration of the meeting. Licensed practitioners will be required to sign-in and sign-out with board staff. Those licensed practitioners present for disciplinary purposes are not eligible to earn the two (2) clock hours for the Board meeting

Certified Optometrists NOT registered with the DEA or Optometrists may complete the 2-hour course on prescribing controlled substances to obtain 2 hours of General credit hours. (May be completed through live, in-person, or online/distance learning format.)

Other Methods of Obtaining Continuing Education per Biennium

CPR courses given by the American Heart Association or the American Red Cross can count for 2 hours

As part of the 30 clock hours, licensed practitioners shall be permitted to obtain two hours in the area of practice management. No more than two hours of continuing education in the area of practice management may be applied to the 30-clock hour requirement. (May be completed through live, in-person, or online/distance learning format.)

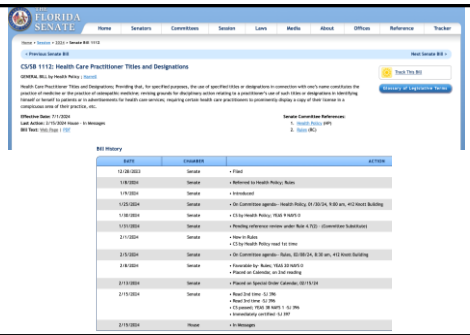
The phrase "transcript quality" refers to coursework in ocular and systemic pharmacology and the diagnosis, treatment and management of ocular and systemic conditions and diseases.

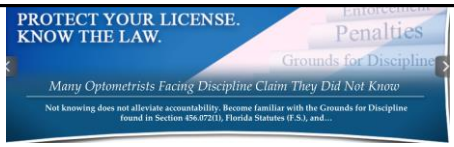
It's a good thing you're here!

Course must be live, no more affidavit

(6) As part of the thirty (30) clock hours, licensed practitioners shall be required to obtain **two (2) hours in the area of Florida jurisprudence**.
(a) No more than two (2) hours of continuing education in the area of Florida jurisprudence may be applied to the thirty (30) clock hour requirement in subsection (1).
(b) A licensed practitioner may earn two (2) hours in Florida jurisprudence by **attending a meeting of the Board at which another licensee is disciplined for no less than four (4) continuous hours**. Licensed practitioners will be required to sign-in and sign-out with board staff. Those licensed practitioners present for disciplinary purposes are not eligible to earn the two (2) clock hours for the Board meeting.

DO NOT send in a signed affidavit stating that you read the laws and rules



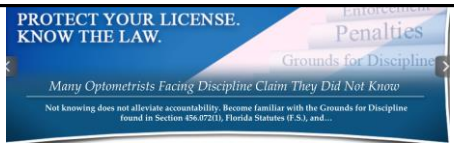


Subscribe & Receive Updates *via* Email!

Don't have time to check the Board's website for new information? Subscribe to receive an email when new posts are added to the website. Examples of the types of updates provided by the subscription system includes changes in the law and board rules, reminders about legal requirements and updates that impact professionals and consumers in Florida.

Enter Email | Subscribe

**Subscribers' email addresses are not publicly displayed and are not posted onto the Board's website or onto public practitioner profiles.*



Next Meeting:
April 24, 2024
Board of Optometry

Current licenses expire at midnight, Eastern Time, on February 28, 2025

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

- **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.

456

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.**

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

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;

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

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);

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);

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

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.

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.

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

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.

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.

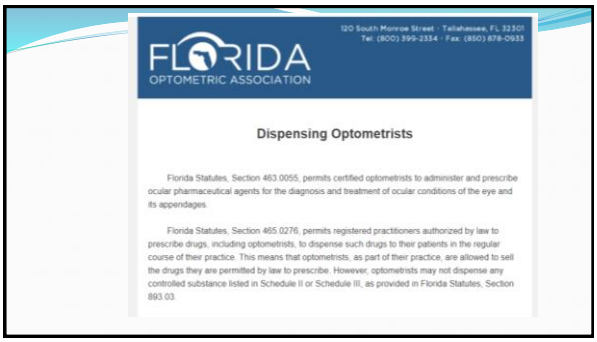
- The minimum procedures set forth in subsection (2) above shall not be required in the following circumstances:
- (a) When a licensed practitioner or certified optometrist is providing specific optometric services on a secondary or tertiary basis in patient co-management with one or more health care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

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"*

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



120 South Monroe Street · Tallahassee, FL 32301
Tel: (800) 599-2334 · Fax: (850) 878-0653

FLORIDA
OPTOMETRIC ASSOCIATION

Dispensing Optometrists

Florida Statutes, Section 463.0055, permits certified optometrists to administer and prescribe ocular pharmaceutical agents for the diagnosis and treatment of ocular conditions of the eye and its appendages.

Florida Statutes, Section 465.0276, permits registered practitioners authorized by law to prescribe drugs, including optometrists, to dispense such drugs to their patients in the regular course of their practice. This means that optometrists, as part of their practice, are allowed to sell the drugs they are permitted by law to prescribe. However, optometrists may not dispense any controlled substance listed in Schedule II or Schedule III, as provided in Florida Statutes, Section 893.03.

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

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.

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

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.

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

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

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

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?

What happens when you get in trouble with the Board?

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 <u>not recorded</u>

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.

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

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.

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

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.

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.

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

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

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

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

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'

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.

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.

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

Final Outcome

- Case dismissed for no probable cause

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

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

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

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

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?

Final Outcome

- Case dismissed for no probable cause

Do as I say…or else

- **Female presents to OD**
- **Demands 1 year refills on timolol**
- **Refuses any additional testing or follow up**
- **Doctor declines…gets reported to DOH**

"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'.

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:

- (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

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?

- (3) When an infectious corneal disease condition has not responded to standard methods of treatment within the scope of optometric practice, the certified optometrist shall consult with a physician skilled in diseases of the eye and licensed under chapter 458 or chapter 459.

64B13-3.010 Standards of Practice.

(4) Certified optometrists employing the topical ocular pharmaceuticals listed in subsection 64B13-18.002(9), 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 463.0135(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 clinical course.

In the event the certified optometrist cannot otherwise comply with the requirements of subsections 64B13-3.010(1)-(3), F.A.C., a co-management plan shall be established with a physician skilled in the diseases of the human eye and licensed under Chapter 458 or 459, F.S.

So what does this mean to you?

- Not much different than what you are already doing.
- If you diagnose glaucoma, make a treatment plan
- If glaucoma is bad, make it an aggressive plan.
- If you can't, send it to someone who can

Standards of Practice

(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 either a case history that complies with paragraph 64B13-3.007(2)(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 skilled in diseases 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.

So what does this mean to you?

- When in doubt…ask
- You are not obligated to tell the PCP that you have prescribed a beta blocker… but it is good care and a courtesy
- Easy way- write the Rx and tell the patient to show to PCP before filling.

Standards of (Glaucoma) Practice

(c) The certified optometrist shall have available, and be proficient in the use of, the following instrumentation:

1. Goldman-type **applanation** tonometer.
2. Visual fields 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**.

Hmmm… still no pachymeter, camera, or OCT

Joe & Barry