SB66

204220-1

By Senators Whatley and McClendon

RFD: Healthcare

First Read: 04-FEB-20

PFD: 01/30/2020
SYNOPSIS: Under existing law, the Alabama Board of Optometry licenses and regulates optometrists in the state.

This bill would provide further for the scope of practice of optometry and for the exclusive authority of the board to regulate the practice.

This bill would also clarify the existing status of the board as a certifying board for purposes of the Alabama Uniform Controlled Substances Act, with certain exceptions.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 34-22-1, Code of Alabama 1975, relating to the Alabama Board of Optometry to provide further for the scope of practice of an optometrist and the exclusive authority of the board to regulate the practice; and to amend
Section 20-2-2, Code of Alabama 1975, as amended by Act 2019-502, 2019 Regular Session, relating to the Alabama Uniform Controlled Substances Act, to clarify the existing status of the board as a certifying board, with certain exceptions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 34-22-1, Code of Alabama 1975, and Section 20-2-2, Code of Alabama 1975, as amended by Act 2019-502, 2019 Regular Session, are amended to read as follows:

"§34-22-1.

"For the purposes of this chapter, the following terms shall have the respective meanings ascribed by this section:

"(1) BOARD. The Alabama Board of Optometry.

"(2) HUMAN EYE AND ITS ADJACENT STRUCTURES. The eye and all structures situated within the orbit, including the conjunctiva, lids, lashes, and lacrimal system.

"(3) PHARMACEUTICAL AGENTS. Any diagnostic and therapeutic drug or combination of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions or symptoms of the human eye and its adjacent structures.

"(4) PRACTICE OF OPTOMETRY.

"a. The practice of optometry is a learned profession involving the examination, measurement by objective and subjective means, diagnosis, treatment, and prevention of
any departure from the normal of the human eyes, their adjacent structures, and visual system. The practice of optometry includes, but is not limited to: The adapting and fitting of all types of lenses or devices, including, contact lenses; the determination of refractive error and shape of the eye and visual, muscular, or anatomical anomalies of the eye through the use of any means including the use of any self testing devices and the use of any computerized or automatic refracting device; the determination and prescribing of spectacle or contact lens parameters; the administering and prescription of pharmaceutical agents rational to the diagnosis and treatment of disease of the human eye and its adjacent structures; the removal of superficial foreign bodies from the human eye and its adjacent structures; the providing of developmental and perceptual therapy for the vision system; the utilization of any method or means to diagnose and treat diseases of the human eye and its adjacent structures as determined and approved by the board, subject to the limitations of this chapter; the performance of primary eye care procedures or ordering of laboratory tests rational to the diagnosis and treatment of conditions or disease of the human eye and its adjacent structures as determined and approved by the board, subject to the limitations of this chapter. The practice of optometry shall include the prescribing and administering of narcotic analgesics pursuant to the Alabama Uniform Controlled Substances Act, except for narcotic analgesics classified under Schedule I and II, and
any Schedule III pharmaceutical agents that contain Dihydrocodeinone, ("Hydrocodone"). The prescribing or administering of any other Schedule III pharmaceutical agent shall be limited to a prescription, the duration of which does not exceed 96 hours.

"b. Notwithstanding any provision of this chapter to the contrary, the practice of optometry shall include the prescribing and administering of pharmaceutical agents which are commonly known as steroids.

c. The practice of optometry includes the following procedures:

1. Injections, excluding injections into the posterior chamber of the eye to treat any macular or retinal disease.

2. Incision and removal of a chalazion.

3. Removal and biopsy of skin lesions involving the lid and adnexa.

4. Laser capsulotomy.

5. Laser trabeculoplasty.

6. Laser peripheral iridotomy.

7. Corneal crosslinking.

d. Optometrists are prohibited from performing injections into the eyeball, cataract surgery, muscle surgery, retinal surgery, radial keratotomy, refractive laser surgery, cryosurgery, or any other invasive ophthalmic surgery requiring general anesthesia.
e. The Alabama Board of Optometry shall be a certifying board as defined in Section 20-2-2, except as limited by this chapter. Nothing in this chapter shall be construed as allowing any agency, board, or other entity of this state, other than the board, to determine what constitutes the practice of optometry. The board shall have the sole authority to determine what constitutes the practice of optometry and sole jurisdiction to exercise any other powers and duties under this chapter. The board may issue advisory opinions and declaratory rulings related to this chapter and the administrative rules adopted under this chapter.

f. The practice of optometry shall include the authority to administer *benadryl*, epinephrine, or other medication to counteract anaphylaxis or anaphylactic reaction. The use and prescribing of pharmaceutical agents for the treatment of the human eye and its adjacent structures shall be limited to those optometrists approved by the board.

§20-2-2.

"When used in this chapter, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

"(1) ADMINISTER. The direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
"a. A practitioner or, in his or her presence, his
or her authorized agent.

"b. The patient or research subject at the direction
and in the presence of the practitioner.

"(2) AGENT. An authorized person who acts on behalf
of or at the direction of a manufacturer, distributor, or
dispenser. The term does not include a common or contract
carrier, public warehouseman, or employee of the carrier or
warehouseman.

"(3) CERTIFYING BOARDS. The State Board of Medical
Examiners, the State Board of Health, the State Board of
Pharmacy, the State Board of Dental Examiners, the State Board
of Podiatry, and the State Board of Veterinary Medical
Examiners, and the Alabama Board of Optometry, except as
limited by Chapter 22 of Title 34.

"(4) CONTROLLED SUBSTANCE. A drug, substance, or
immediate precursor in Schedules I through V of Article 2 of
this chapter.

"(5) COUNTERFEIT SUBSTANCE. Substances which, or the
container or labeling of which, without authorization, bears
the trademark, trade name, or other identifying mark, imprint,
number, or device or any likeness thereof of a manufacturer,
distributor, or dispenser other than the person who in fact
manufactured, distributed, or dispensed the substance.

"(6) DELIVER or DELIVERY. The actual, constructive,
or attempted transfer from one person to another of a
controlled substance, whether or not there is an agency relationship.

"(7) DISPENSE. To deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

"(8) DISPENSER. A practitioner who dispenses.

"(9) DISTRIBUTE. To deliver other than by administering or dispensing a controlled substance.

"(10) DISTRIBUTOR. A person who distributes.

"(11) DRUG.

"a. Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary or any supplement to any of them.

"b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals.

"c. Substances (other than food) intended to affect the structure or any function of the body of man or animals.

"d. Substances intended for use as a component of any article specified in paragraphs a., b., or c. Such term does not include devices or their components, parts, or accessories.

"(12) IMMEDIATE PRECURSOR. A substance that the State Board of Pharmacy has found to be and by rule designates
as being the principal compound commonly used or produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"(13) MANUFACTURE. The production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; except, that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance by either of the following:

"a. A practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice.

"b. A practitioner or by his or her authorized agent under his or her supervision for the purpose of or as an incident to research, teaching, or chemical analysis and not for sale.

"(14) MARIJUANA. All parts of the plant Cannabis sativa L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does
not include the mature stalks of the plant, fiber produced
from the stalks, oil or cake made from the seeds of the plant,
any other compound, manufacture, salt, derivative, mixture, or
preparation of the mature stalks, (except the resin extracted
therefrom), fiber, oil or cake, or the sterilized seed of the
plant which is incapable of germination. Marijuana does not
include hemp as defined in Section 2-8-381.

"(15) NARCOTIC DRUG. Any of the following, whether
produced directly or indirectly by extraction from substances
of vegetable origin or independently by means of chemical
synthesis or by a combination of extraction and chemical
synthesis:

"a. Opium and opiate and any salt, compound,
derivative, or preparation of opium or opiate.

"b. Any salt, compound, isomer, derivative, or
preparation thereof which is chemically equivalent or
identical with any of the substances referred to in paragraph
a., but not including the isoquinoline alkaloids of opium.

"c. Opium poppy and poppy straw.

"d. Coca leaves and any salt, compound, derivative,
or preparation of coca leaves and any salt, compound, isomer,
derivative, or preparation thereof which is chemically
equivalent or identical with any of these substances, but not
including decocainized coca leaves or extractions of coca
leaves that do not contain cocaine or ecgonine.

"(16) OPIATE. Any substance having an
addiction-forming or addiction-sustaining liability similar to
morphine or being capable of conversion into a drug having
addiction-forming or addiction-sustaining liability. The term
does not include, unless specifically designated as controlled
under this section, the dextrorotatory isomer of
3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
Such term does include its racemic and levorotatory forms.

"(17) OPIUM POPPY. The plant of the species Papaver
somniferum L., except its seeds.

"(18) PERSON. Individual, corporation, government or
governmental subdivision or agency, business trust, estate,
trust, partnership, or association or any other legal entity.

"(19) POPPY STRAW. All parts, except the seeds, of
the opium poppy, after mowing.

"(20) PRACTITIONER.

"a. A physician, dentist, veterinarian, scientific
investigator, or other person licensed, registered, or
otherwise permitted to distribute, dispense, conduct research
with respect to, or to administer a controlled substance in
the course of professional practice or research in this state.

"b. A pharmacy, hospital, or other institution
licensed, registered, or otherwise permitted to distribute,
dispense, conduct research with respect to, or to administer a
controlled substance in the course of professional practice or
research in this state.

"(21) PRODUCTION. The manufacture, planting,
cultivation, growing, or harvesting of a controlled substance.
"(22) STATE. When applied to a part of the United States, the term includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

"(23) ULTIMATE USER. A person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household."

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.