1 KZY35A-1
2 By Representative Garrett
3 RFD: Health
4 First Read: 20-Apr-23
SYNOPSIS:

Under existing law, the Alabama Board of Optometry regulates the practice of optometry in the state.

This bill would provide further for the definition of the scope of practice of an optometrist.

This bill would establish the board as a certifying board so as to be included in the definition of certifying boards under the Alabama Controlled Substances Act.

This bill would make nonsubstantive, technical revisions to update existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Board of Optometry; to amend Section 34-22-1, Code of Alabama 1975, to provide further for the scope of practice of an optometrist; to add 34-22-20.1 to the Code of Alabama 1975, to authorize optometrists to administer certain vaccinations in certain circumstances; to add Section 34-22-20.2 to the Code of Alabama 1975, to
HB349 INTRODUCED

prohibit an optometrist from using "surgeon" in advertising; to add 34-22-40.1 to the Code of Alabama 1975, to establish the board as a certifying board under the Alabama Controlled Substances Act; to amend Section 20-2-2, Code of Alabama 1975, to include the Alabama Board of Optometry in the definition of certifying boards, with certain exceptions; and to make nonsubstantive, technical revisions to update existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-22-1 and 20-2-2, Code of Alabama 1975, 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, all of the following:

1. The adapting and fitting of all types of lenses or
devices, including contact lenses.

2. 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.

3. The determination and prescribing of spectacle or
contact lens parameters.

4. The administering and prescription of pharmaceutical
agents rational to the diagnosis and treatment of disease of
the human eye and its adjacent structures.

5. The removal of superficial foreign bodies from the
human eye and its adjacent structures.

6. The providing of developmental and perceptual
therapy for the vision system.

7. 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.

8. 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.
optometry shall include the

9. 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. Notwithstanding any provision of this chapter to the contrary, the practice of optometry shall include the

10. The prescribing and administering of pharmaceutical agents which are commonly known as steroids; provided, however, the prescribing and administering of pharmaceutical agents for the treatment of the human eye and its adjacent structures shall be limited to those optometrists approved by the board. Optometrists are prohibited from performing injections into the eyeball, cataract surgery, muscle surgery, retinal surgery, radial keratotomy, laser surgery, cryosurgery, or any other invasive surgery. The Alabama Board of Optometry shall be a certifying board as defined in Section 20-2-2, except as limited by this chapter. The practice of optometry shall include the authority to administer benadryl

11. The administering of 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.
12. Intense pulsed light treatment (IPL), which consists of using non-invasive devices delivering intense pulsed light therapy or low-level light therapy that do not rely on laser technology, limited to treatment of conditions and diseases of the adnexa of the eye.

13. Fluorescein angiography, which consists of performing an intravenous injection for the purpose of performing ocular angiography, at the direction of a licensed physician as part of an active treatment plan in a setting where a licensed physician is immediately available.

14. The administering of vaccinations pursuant to Section 34-22-20.1.

15. The removal of skin lesions, limited to those on the face and within the immediate vicinity of the eye, but excluding the eyelid margin and using only topical or subcutaneous anesthetics.

16. The performing of Yttrium Aluminum Garnet laser capsulotomy and trabeculoplasty, provided a licensed optometrist may perform a laser capsulotomy and trabeculoplasty independently only if he or she has completed 36 hours of board-approved specialized training in those procedures and has personally performed at least 10 procedures on live human patients under the direct supervision of a physician licensed to practice medicine in the state and specializing in ophthalmology.

b. The term does not include, and optometrists are prohibited from performing, injections into the eyeball, cataract surgery, muscle surgery, retinal surgery, radial
keratotomy, refractive laser surgery, cryosurgery, Yttrium

Aluminum Garnet peripheral iridotomy, or any other invasive surgery.

§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 either of the following:

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 only to the extent authorized 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 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 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. Sections 34-22-20.1, 34-22-20.2, and 34-22-40.1 are added to the Code of Alabama 1975, to read as follows:

§34-22-20.1

(a) A licensed optometrist may obtain certification to independently initiate and administer vaccinations for influenza, herpes zoster virus, pneumococcus, and SARS-CoV-2 in compliance with individual Advisory Committee on Immunization Practices (ACIP) vaccine recommendations published by the federal Centers for Disease Control and Prevention (CDC) in individuals 18 years of age or older.

(b) To administer vaccinations, a licensed optometrist must complete a vaccination training program endorsed by the Centers for Disease Control, be certified in basic life support, and comply with all state and federal record keeping and reporting requirements.

§34-22-20.2
An optometrist may not use the word "surgeon" in advertisements or signage for his or her practice.

The Alabama Board of Optometry is a certifying board as defined in Section 20-2-2, except as limited by this chapter.

Section 3. 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.