

1 SB120
2 215836-2
3 By Senators Marsh, Allen, Holley, Elliott, Albritton,
4 Sessions, McClendon, Stutts, Orr, Gudger, Singleton, Whatley,
5 Scofield, Williams, Weaver, Reed, Livingston, Coleman-Madison,
6 Jones, Beasley, Hatcher and Barfoot
7 RFD: Healthcare
8 First Read: 18-JAN-22

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Section 34-22-1, Code of Alabama 1975,
12 relating to the Alabama Board of Optometry, to provide further
13 for the scope of practice of an optometrist; to amend Section
14 34-22-42, Code of Alabama 1975, to authorize the board to
15 issue advisory opinions and declaratory rulings related to
16 this chapter and the administrative rules adopted under this
17 chapter; and to amend Section 20-2-2, Code of Alabama 1975,
18 relating to the Alabama Uniform Controlled Substances Act, to
19 clarify the existing status of the board as a certifying
20 board, with certain exceptions.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 34-22-1, 34-22-42, and 20-2-2,
23 Code of Alabama 1975, are amended to read as follows:

24 "§34-22-1.

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

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

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

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

10 "(4) PRACTICE OF OPTOMETRY.

11 "a. The practice of optometry is a learned
12 profession involving the examination, measurement by objective
13 and subjective means, diagnosis, treatment, and prevention of
14 any departure from the normal of the human eyes, their
15 adjacent structures, and visual system. The practice of
16 optometry includes, but is not limited to: The adapting and
17 fitting of all types of lenses or devices, including, contact
18 lenses; the determination of refractive error and shape of the
19 eye and visual, muscular, or anatomical anomalies of the eye
20 through the use of any means including the use of any self
21 testing devices and the use of any computerized or automatic
22 refracting device; the determination and prescribing of
23 spectacle or contact lens parameters; the administering and
24 prescription of pharmaceutical agents rational to the
25 diagnosis and treatment ~~of disease~~ of the human eye and its
26 adjacent structures; the removal of superficial foreign bodies
27 from the human eye and its adjacent structures; the providing

1 of developmental and perceptual therapy for the vision system;
2 the utilization of any method or means to diagnose and treat
3 diseases of the human eye and its adjacent structures as
4 determined and approved by the board, subject to the
5 limitations of this chapter; the performance of primary eye
6 care procedures or ordering of laboratory tests rational to
7 the diagnosis and treatment of conditions or disease of the
8 human eye and its adjacent structures as determined and
9 approved by the board, subject to the limitations of this
10 chapter. The practice of optometry shall include the
11 prescribing and administering of narcotic analgesics pursuant
12 to the Alabama Uniform Controlled Substances Act, except for
13 narcotic analgesics classified under Schedule I and II, and
14 any Schedule III pharmaceutical agents that contain
15 Dihydrocodeinone, ("Hydrocodone"). The prescribing or
16 administering of any other Schedule III pharmaceutical agent
17 shall be limited to a prescription, the duration of which does
18 not exceed 96 hours.

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

23 "c. The practice of optometry includes the following
24 procedures:

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

1 "2. Incision and removal of a chalazion.

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

4 "4. Laser capsulotomy.

5 "5. Laser trabeculoplasty.

6 "6. Laser peripheral iridotomy.

7 "7. Corneal crosslinking.

8 "d. Optometrists are prohibited from performing
9 ~~injections into the eyeball,~~ cataract surgery, muscle surgery,
10 retinal surgery, radial keratotomy, refractive laser surgery,
11 cryosurgery, or any other ~~invasive~~ ophthalmic surgery
12 requiring general anesthesia.

13 "e. The Alabama Board of Optometry shall be a
14 certifying board as defined in Section 20-2-2, except as
15 limited by this chapter.

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

22 "g. Optometrists shall be prohibited from using the
23 word "surgeon" in advertisements or signage for his or her
24 practice.

25 "§34-22-42.

26 "The board shall exercise and perform, subject to
27 this chapter, each of the following powers and duties:

1 "(1) Conduct examinations at least once each year to
2 ascertain the qualifications and fitness of applicants for
3 licenses to practice optometry.

4 "(2) Prescribe rules and regulations for conducting
5 and administering an examination of applicants for licensing
6 as optometrists and to effectuate this chapter.

7 "(3) Institute, upon a complaint or petition,
8 hearings of charges against licensed optometrists or other
9 persons as provided in this chapter.

10 "(4) Institute legal proceedings for violations of
11 this chapter.

12 "(5) Grant and deny licenses in conformity with this
13 chapter, including applications for approval to use
14 pharmaceutical agents.

15 "(6) Formulate rules and regulations by which the
16 board shall determine which optometry schools and colleges in
17 or out of the State of Alabama have been duly accredited by a
18 recognized and properly authorized accrediting agency and
19 which accredited schools or colleges shall be approved by the
20 board.

21 "(7) Establish standards of continuing education
22 which shall be deemed a requisite to the renewal of licenses
23 of applicants who are otherwise qualified to practice
24 optometry in the State of Alabama.

25 "(8) Keep a register of optometrists containing the
26 names and addresses of all persons to whom license
27 certificates, temporary licenses, approvals for use of

1 pharmaceutical agents, and limited licenses have been issued
2 in the State of Alabama, the date of the issuance, the place
3 or places of business in which each optometrist is engaged,
4 and all renewals, revocations, and suspensions of licenses and
5 certification.

6 "(9) Administer oaths and affirmations of witnesses,
7 issue subpoenas to compel the attendance of witnesses and the
8 production of all necessary papers, books, records,
9 documentary evidence, and materials in any hearing,
10 investigation, or other proceeding before the board.

11 "(10) Employ or appoint an executive director,
12 clerical personnel, and legal advisors or counsel to assist
13 in implementing this chapter when there is a need for those
14 services and when funds are available for those purposes. The
15 executive director may be a licensed optometrist in this
16 state, but may not, while serving as the executive director,
17 also serve as a member of the Board of Optometry. The
18 executive director shall not be subject to the state Merit
19 System.

20 "(11) Prescribe rules and regulations establishing a
21 program of internship as a requisite to application for
22 license, if the board deems such a program advisable.

23 (12) Prescribe rules and regulations establishing
24 circumstances and conditions upon which temporary licenses may
25 be issued by the board and the terms and conditions of the
26 temporary licenses.

1 "(13) Prescribe rules and regulations subject to
2 the limitations of this chapter for the utilization of methods
3 or means of treatment recognized as being within the scope of
4 the practice of optometry.

5 "(14) Prescribe rules and regulations subject to the
6 limitations of this chapter necessary for the performance of
7 eye care procedures reasonably necessary to the treatment of
8 conditions or diseases of the human eye and its adjacent
9 structures.

10 "(15) Issue advisory opinions and declaratory
11 rulings related to this chapter and the administrative rules
12 adopted under this chapter.

13 "§20-2-2.

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

17 "(1) ADMINISTER. The direct application of a
18 controlled substance, whether by injection, inhalation,
19 ingestion, or any other means, to the body of a patient or
20 research subject by:

21 "a. A practitioner or, in his or her presence, his
22 or her authorized agent.

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

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

1 carrier, public warehouseman, or employee of the carrier or
2 warehouseman.

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

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

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

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

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

27 "(8) DISPENSER. A practitioner who dispenses.

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

3 "(10) DISTRIBUTOR. A person who distributes.

4 "(11) DRUG.

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

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

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

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

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

25 "(13) MANUFACTURE. The production, preparation,
26 propagation, compounding, conversion, or processing of a
27 controlled substance, either directly or indirectly, by

1 extraction from substances of natural origin or independently
2 by means of chemical synthesis or by a combination of
3 extraction and chemical synthesis, and includes any packaging
4 or repackaging of the substance or labeling or relabeling of
5 its container; except, that this term does not include the
6 preparation, compounding, packaging, or labeling of a
7 controlled substance by either of the following:

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

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

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

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

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

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

12 "c. Opium poppy and poppy straw.

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

19 "(16) OPIATE. Any substance having an
20 addiction-forming or addiction-sustaining liability similar to
21 morphine or being capable of conversion into a drug having
22 addiction-forming or addiction-sustaining liability. The term
23 does not include, unless specifically designated as controlled
24 under this section, the dextrorotatory isomer of
25 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
26 Such term does include its racemic and levorotatory forms.

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

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

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

8 "(20) PRACTITIONER.

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

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

19 "(21) PRODUCTION. The manufacture, planting,
20 cultivation, growing, or harvesting of a controlled substance.

21 "(22) STATE. When applied to a part of the United
22 States, the term includes any state, district, commonwealth,
23 territory, insular possession thereof, and any area subject to
24 the legal authority of the United States of America.

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

1 animal owned by him or her or by a member of his or her
2 household."

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

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Senate

Read for the first time and referred to the Senate
committee on Healthcare..... 18-JAN-22

Read for the third time and passed as amended 10-MAR-22

Patrick Harris,
Secretary.