

1 SB120  
2 215836-1  
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

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 authorize the board to issue advisory opinions and declaratory rulings related to this chapter and the administrative rules adopted under this chapter.

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

1           To amend Section 34-22-1, Code of Alabama 1975,  
2 relating to the Alabama Board of Optometry, to provide further  
3 for the scope of practice of an optometrist and the exclusive  
4 authority of the board to regulate the practice; to amend  
5 Section 34-22-42, Code of Alabama 1975, to authorize the board  
6 to issue advisory opinions and declaratory rulings related to  
7 this chapter and the administrative rules adopted under this  
8 chapter; and to amend Section 20-2-2, Code of Alabama 1975,  
9 relating to the Alabama Uniform Controlled Substances Act, to  
10 clarify the existing status of the board as a certifying  
11 board, with certain exceptions.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15           "§34-22-1.

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

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

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

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

1                   "(4) PRACTICE OF OPTOMETRY.

2                   "a. The practice of optometry is a learned  
3 profession involving the examination, measurement by objective  
4 and subjective means, diagnosis, treatment, and prevention of  
5 any departure from the normal of the human eyes, their  
6 adjacent structures, and visual system. The practice of  
7 optometry includes, but is not limited to: The adapting and  
8 fitting of all types of lenses or devices, including, contact  
9 lenses; the determination of refractive error and shape of the  
10 eye and visual, muscular, or anatomical anomalies of the eye  
11 through the use of any means including the use of any self  
12 testing devices and the use of any computerized or automatic  
13 refracting device; the determination and prescribing of  
14 spectacle or contact lens parameters; the administering and  
15 prescription of pharmaceutical agents rational to the  
16 diagnosis and treatment ~~of disease~~ of the human eye and its  
17 adjacent structures; the removal of superficial foreign bodies  
18 from the human eye and its adjacent structures; the providing  
19 of developmental and perceptual therapy for the vision system;  
20 the utilization of any method or means to diagnose and treat  
21 diseases of the human eye and its adjacent structures as  
22 determined and approved by the board, subject to the  
23 limitations of this chapter; the performance of primary eye  
24 care procedures or ordering of laboratory tests rational to  
25 the diagnosis and treatment of conditions or disease of the  
26 human eye and its adjacent structures as determined and  
27 approved by the board, subject to the limitations of this

1 chapter. The practice of optometry shall include the  
2 prescribing and administering of narcotic analgesics pursuant  
3 to the Alabama Uniform Controlled Substances Act, except for  
4 narcotic analgesics classified under Schedule I and II, and  
5 any Schedule III pharmaceutical agents that contain  
6 Dihydrocodeinone, ("Hydrocodone"). The prescribing or  
7 administering of any other Schedule III pharmaceutical agent  
8 shall be limited to a prescription, the duration of which does  
9 not exceed 96 hours.

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

14 "c. The practice of optometry includes the following  
15 procedures:

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

19 "2. Incision and removal of a chalazion.

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

22 "4. Laser capsulotomy.

23 "5. Laser trabeculoplasty.

24 "6. Laser peripheral iridotomy.

25 "7. Corneal crosslinking.

26 "d. Optometrists are prohibited from performing  
27 injections into the eyeball, cataract surgery, muscle surgery,

1 retinal surgery, radial keratotomy, refractive laser surgery,  
2 cryosurgery, or any other ~~invasive~~ ophthalmic surgery  
3 requiring general anesthesia.

4 "e. The Alabama Board of Optometry shall be a  
5 certifying board as defined in Section 20-2-2, except as  
6 limited by this chapter. Nothing in this chapter shall be  
7 construed as allowing any agency, board, or other entity of  
8 this state, other than the board, to determine what  
9 constitutes the practice of optometry. The board shall have  
10 the sole authority to determine what constitutes the practice  
11 of optometry and sole jurisdiction to exercise any other  
12 powers and duties under this chapter.

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

19 "§34-22-42.

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

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

25 "(2) Prescribe rules and regulations for conducting  
26 and administering an examination of applicants for licensing  
27 as optometrists and to effectuate this chapter.

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

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

6           "(5) Grant and deny licenses in conformity with this  
7           chapter, including applications for approval to use  
8           pharmaceutical agents.

9           "(6) Formulate rules and regulations by which the  
10          board shall determine which optometry schools and colleges in  
11          or out of the State of Alabama have been duly accredited by a  
12          recognized and properly authorized accrediting agency and  
13          which accredited schools or colleges shall be approved by the  
14          board.

15          "(7) Establish standards of continuing education  
16          which shall be deemed a requisite to the renewal of licenses  
17          of applicants who are otherwise qualified to practice  
18          optometry in the State of Alabama.

19          "(8) Keep a register of optometrists containing the  
20          names and addresses of all persons to whom license  
21          certificates, temporary licenses, approvals for use of  
22          pharmaceutical agents, and limited licenses have been issued  
23          in the State of Alabama, the date of the issuance, the place  
24          or places of business in which each optometrist is engaged,  
25          and all renewals, revocations, and suspensions of licenses and  
26          certification.

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

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

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

18          (12) Prescribe rules and regulations establishing  
19          circumstances and conditions upon which temporary licenses may  
20          be issued by the board and the terms and conditions of the  
21          temporary licenses.

22          "(13) Prescribe rules and regulations subject to  
23          the limitations of this chapter for the utilization of methods  
24          or means of treatment recognized as being within the scope of  
25          the practice of optometry.

26          "(14) Prescribe rules and regulations subject to the  
27          limitations of this chapter necessary for the performance of



1 eye care procedures reasonably necessary to the treatment of  
2 conditions or diseases of the human eye and its adjacent  
3 structures.

4 "(15) Issue advisory opinions and declaratory  
5 rulings related to this chapter and the administrative rules  
6 adopted under this chapter.

7 "§20-2-2.

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

11 "(1) ADMINISTER. The direct application of a  
12 controlled substance, whether by injection, inhalation,  
13 ingestion, or any other means, to the body of a patient or  
14 research subject by:

15 "a. A practitioner or, in his or her presence, his  
16 or her authorized agent.

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

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

24 "(3) CERTIFYING BOARDS. The State Board of Medical  
25 Examiners, the State Board of Health, the State Board of  
26 Pharmacy, the State Board of Dental Examiners, the State Board  
27 of Podiatry, ~~and~~ the State Board of Veterinary Medical

1     Examiners, and the Alabama Board of Optometry, except as  
2     limited by Chapter 22 of Title 34.

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

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

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

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

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

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

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

25            "(11) DRUG.

26            "a. Substances recognized as drugs in the official  
27    United States pharmacopoeia, official homeopathic

1 pharmacopoeia of the United States, or official national  
2 formulary or any supplement to any of them.

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

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

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

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

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

1 preparation, compounding, packaging, or labeling of a  
2 controlled substance by either of the following:

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

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

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

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

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

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

7           "c. Opium poppy and poppy straw.

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

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

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

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

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

3           "(20) PRACTITIONER.

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

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

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

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

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

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

