

1 HB402
2 208884-1
3 By Representative Garrett
4 RFD: Health
5 First Read: 11-FEB-21

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

1 Section 20-2-2, Code of Alabama 1975, as amended by Act
2 2019-502, 2019 Regular Session, relating to the Alabama
3 Uniform Controlled Substances Act, to clarify the existing
4 status of the board as a certifying board, with certain
5 exceptions.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 34-22-1, Code of Alabama 1975,
8 and Section 20-2-2, Code of Alabama 1975, as amended by Act
9 2019-502, 2019 Regular Session, are amended to read as
10 follows:

11 "§34-22-1.

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

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

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

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

24 "(4) PRACTICE OF OPTOMETRY.

25 "a. The practice of optometry is a learned
26 profession involving the examination, measurement by objective
27 and subjective means, diagnosis, treatment, and prevention of

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

1 any Schedule III pharmaceutical agents that contain
2 Dihydrocodeinone, ("~~Hydrocodone~~"). The prescribing or
3 administering of any other Schedule III pharmaceutical agent
4 shall be limited to a prescription, the duration of which does
5 not exceed 96 hours.

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

10 "c. The practice of optometry includes the following
11 procedures:

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

15 2. Incision and removal of a chalazion.

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

18 4. Laser capsulotomy.

19 5. Laser trabeculoplasty.

20 6. Laser peripheral iridotomy.

21 7. Corneal crosslinking.

22 "d. Optometrists are prohibited from performing
23 ~~injections into the eyeball,~~ cataract surgery, muscle surgery,
24 retinal surgery, radial keratotomy, refractive laser surgery,
25 cryosurgery, or any other ~~invasive~~ ophthalmic surgery
26 requiring general anesthesia.

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

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

23 "(1) ADMINISTER. The direct application of a
24 controlled substance, whether by injection, inhalation,
25 ingestion, or any other means, to the body of a patient or
26 research subject by:

1 "a. A practitioner or, in his or her presence, his
2 or her authorized agent.

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

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

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

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

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

25 "(6) DELIVER or DELIVERY. The actual, constructive,
26 or attempted transfer from one person to another of a

1 controlled substance, whether or not there is an agency
2 relationship.

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

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

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

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

12 "(11) DRUG.

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

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

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

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

26 "(12) IMMEDIATE PRECURSOR. A substance that the
27 State Board of Pharmacy has found to be and by rule designates

1 as being the principal compound commonly used or produced
2 primarily for use and that is an immediate chemical
3 intermediary used or likely to be used in the manufacture of a
4 controlled substance, the control of which is necessary to
5 prevent, curtail, or limit manufacture.

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

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

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

23 "(14) MARIJUANA. All parts of the plant Cannabis
24 sativa L., whether growing or not, the seeds thereof, the
25 resin extracted from any part of the plant, and every
26 compound, manufacture, salt, derivative, mixture, or
27 preparation of the plant, its seeds or resin. The term does

1 not include the mature stalks of the plant, fiber produced
2 from the stalks, oil or cake made from the seeds of the plant,
3 any other compound, manufacture, salt, derivative, mixture, or
4 preparation of the mature stalks, (except the resin extracted
5 therefrom), fiber, oil or cake, or the sterilized seed of the
6 plant which is incapable of germination. Marijuana does not
7 include hemp as defined in Section 2-8-381.

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

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

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

19 "c. Opium poppy and poppy straw.

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

26 "(16) OPIATE. Any substance having an
27 addiction-forming or addiction-sustaining liability similar to

1 morphine or being capable of conversion into a drug having
2 addiction-forming or addiction-sustaining liability. The term
3 does not include, unless specifically designated as controlled
4 under this section, the dextrorotatory isomer of
5 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
6 Such term does include its racemic and levorotatory forms.

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

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

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

14 "(20) PRACTITIONER.

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

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

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

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

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

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