

**HB349 INTRODUCED**



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



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

37 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

38 Section 1. Sections 34-22-1 and 20-2-2, Code of Alabama  
39 1975, are amended to read as follows:

40 "§34-22-1

41 For the purposes of this chapter, the following terms  
42 ~~shall~~ have the ~~respective~~following meanings ~~ascribed by this~~  
43 ~~section~~:

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

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

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

53 (4) PRACTICE OF OPTOMETRY.

54 a. The practice of optometry is a learned profession  
55 involving the examination, measurement by objective and  
56 subjective means, diagnosis, treatment, and prevention of any



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57 departure from the normal of the human eyes, their adjacent  
58 structures, and visual system. The practice of optometry  
59 includes, but is not limited to, all of the following:

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

62 2. The determination of refractive error and shape of  
63 the eye and visual, muscular, or anatomical anomalies of the  
64 eye through the use of any means including the use of any self  
65 testing devices and the use of any computerized or automatic  
66 refracting device.

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

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

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

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

76 7. The utilization of any method or means to diagnose  
77 and treat diseases of the human eye and its adjacent  
78 structures as determined and approved by the board, subject to  
79 the limitations of this chapter.

80 8. The performance of primary eye care procedures or  
81 ordering of laboratory tests rational to the diagnosis and  
82 treatment of conditions or disease of the human eye and its  
83 adjacent structures as determined and approved by the board,  
84 subject to the limitations of this chapter. ~~The practice of~~



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85 ~~optometry shall include the~~

86 9. The prescribing and administering of narcotic  
87 analgesics pursuant to the Alabama Uniform Controlled  
88 Substances Act, except for narcotic analgesics classified  
89 under Schedule I and II, and any Schedule III pharmaceutical  
90 agents that contain Dihydrocodeinone, ("Hydrocodone"). The  
91 prescribing or administering of any other Schedule III  
92 pharmaceutical agent shall be limited to a prescription, the  
93 duration of which does not exceed 96 hours. ~~Notwithstanding~~  
94 ~~any provision of this chapter to the contrary, the practice of~~  
95 ~~optometry shall include the~~

96 10. The prescribing and administering of pharmaceutical  
97 agents which are commonly known as steroids; provided,  
98 however, the prescribing and administering of pharmaceutical  
99 agents for the treatment of the human eye and its adjacent  
100 structures shall be limited to those optometrists approved by  
101 the board. ~~Optometrists are prohibited from performing~~  
102 ~~injections into the eyeball, cataract surgery, muscle surgery,~~  
103 ~~retinal surgery, radial keratotomy, laser surgery,~~  
104 ~~cryosurgery, or any other invasive surgery. The Alabama Board~~  
105 ~~of Optometry shall be a certifying board as defined in Section~~  
106 ~~20-2-2, except as limited by this chapter. The practice of~~  
107 ~~optometry shall include the authority to administer benedryl~~

108 11. The administering of benadryl, epinephrine, or  
109 other medication to counteract anaphylaxis or anaphylactic  
110 reaction. ~~The use and prescribing of pharmaceutical agents for~~  
111 ~~the treatment of the human eye and its adjacent structures~~  
112 ~~shall be limited to those optometrists approved by the board.~~



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

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

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

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

129           16. The performing of Yttrium Aluminum Garnet laser  
130 capsulotomy and trabeculectomy, provided a licensed  
131 optometrist may perform a laser capsulotomy and  
132 trabeculectomy independently only if he or she has completed  
133 36 hours of board-approved specialized training in those  
134 procedures and has personally performed at least 10 procedures  
135 on live human patients under the direct supervision of a  
136 physician licensed to practice medicine in the state and  
137 specializing in ophthalmology.

138           b. The term does not include, and optometrists are  
139 prohibited from performing, injections into the eyeball,  
140 cataract surgery, muscle surgery, retinal surgery, radial



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141 keratotomy, refractive laser surgery, cryosurgery, Yttrium  
142 Aluminum Garnet peripheral iridotomy, or any other invasive  
143 surgery.

144 "§20-2-2

145 When used in this chapter, the following words **and**  
146 ~~phrases shall~~ have the following meanings, ~~respectively,~~  
147 ~~unless the context clearly indicates otherwise:~~

148 (1) ADMINISTER. The direct application of a controlled  
149 substance, whether by injection, inhalation, ingestion, or any  
150 other means, to the body of a patient or research subject by  
151 either of the following:

152 a. A practitioner or, in his or her presence, his or  
153 her authorized agent.

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

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

161 (3) CERTIFYING BOARDS. The State Board of Medical  
162 Examiners, the State Board of Health, the State Board of  
163 Pharmacy, the State Board of Dental Examiners, the State Board  
164 of Podiatry, ~~and~~ the State Board of Veterinary Medical  
165 Examiners, and the Alabama Board of Optometry only to the  
166 extent authorized by Chapter 22 of Title 34.

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



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169 this chapter.

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

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

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

184 (8) DISPENSER. A practitioner who dispenses.

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

187 (10) DISTRIBUTOR. A person who distributes.

188 (11) DRUG.

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

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

196 c. Substances , ~~other than food~~ , intended to affect





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197 the structure or any function of the body of man or animals.

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

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

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

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

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



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

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

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

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

248 c. Opium poppy and poppy straw.

249 d. Coca leaves and any salt, compound, derivative, or  
250 preparation of coca leaves and any salt, compound, isomer,  
251 derivative, or preparation thereof which is chemically  
252 equivalent or identical with any of these substances, but not



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253 including decocainized coca leaves or extractions of coca  
254 leaves that do not contain cocaine or ecgonine.

255 (16) OPIATE. Any substance having an addiction-forming  
256 or addiction-sustaining liability similar to morphine or being  
257 capable of conversion into a drug having addiction-forming or  
258 addiction-sustaining liability. The term does not include,  
259 unless specifically designated as controlled under this  
260 section, the dextrorotatory isomer of  
261 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).  
262 ~~Such~~ The term does include its racemic and levorotatory forms.

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

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

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

270 (20) PRACTITIONER.

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

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



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281 (21) PRODUCTION. The manufacture, planting,  
282 cultivation, growing, or harvesting of a controlled substance.

283 (22) STATE. When applied to a part of the United  
284 States, the term includes any state, district, commonwealth,  
285 territory, insular possession thereof, and any area subject to  
286 the legal authority of the United States of America.

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

292 Section 2. Sections 34-22-20.1, 34-22-20.2, and  
293 34-22-40.1 are added to the Code of Alabama 1975, to read as  
294 follows:

295 §34-22-20.1

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

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

308 §34-22-20.2



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309           An optometrist may not use the word "surgeon" in  
310 advertisements or signage for his or her practice.

311           §34-22-40.1

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

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