

**July 14, 2023**  
**Board Room 2**  
**9:00 a.m.**

**Agenda**  
**Virginia Board of Optometry**  
**Full Board Meeting**

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**Call to Order – Lisa Wallace-Davis, O.D., Board President**

**Page 1**

- Welcome
- Emergency Egress Procedures
- Introductions
- Mission Statement

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**Ordering of Agenda – Dr. Wallace-Davis**

**Public Comment – Dr. Wallace Davis**

The Board will receive all public comment related to agenda items at this time. The Board will not receive comment on any regulatory process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

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**Approval of Minutes – Dr. Wallace-Davis**

**Pages 2-14**

- August 5, 2022 – Regulatory Advisory Panel Scope Expansion (pages 2-8)
- August 26, 2022 – Full Board Meeting (pages 9-12)
- January 20, 2023 – Regulatory Committee (pages 13-14)

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**Director’s Report – Arne Owens, Director**

**Legislative/Regulatory Report – Erin Barrett**

**Pages 15-96**

- 2023 Legislative Update (pages 15-19)
- Regulatory Update (pages 20-81)
  - Current Regulatory Actions (page 20)
  - Report on optometrists performing laser surgery (page 21)
  - Adoption of proposed regulations for optometrist annual reporting (pages 22-33)
  - Adoption of proposed regulations regarding laser surgery certification (pages 34-57)
  - Issuance of Periodic Review (pages 58-77)
  - Adoption of fast-track regulatory action to allow agency subordinates to hear credentials cases (pages 78-81)
- Guidance Document Review (pages 82-90)
  - 105-26 Guidance on process of delegating informal fact-finding to an agency subordinate (pages 82-88)
  - 105-2 Guidance on Light Adjustable Lens (pages 89-90)
- Policy Review for electronic participation policy amendment (pages 91-96)

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**Discussion – Dr. Wallace-Davis/Leslie Knachel**

**Pages 97-134**

- 2023 Optometry Healthcare Workforce Data Center Report – Dr. Yetty Shobo (pages 97-125)
  - National examination information (pages 126-134)
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**Board Counsel’s Report – Laura Booberg**

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**President’s Report – Dr. Wallace-Davis**

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**Report on Association of Regulatory Boards of Optometry (ARBO) Annual Meeting – Dr. Wallace-Davis**

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**Board of Health Professions’ Report – Ms. Knachel**

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**Staff Reports – Dr. Wallace-Davis**

**Pages 135-136**

- Executive Director – **Ms. Knachel**
    - Statistics (page 135)
    - Budget
    - Outreach
    - 2024 ARBO Meeting (June 16-18, 2024; Nashville, TN)
    - [2023 Meeting Calendar](#)
    - Draft 2024 Meeting Calendar (page 136)
  - Discipline - **Kelli Moss**
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**New Business – Dr. Wallace Davis**

**Page 137**

Officer Elections (page 137)

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**Next Meeting – Dr. Wallace-Davis/Ms. Knachel**

November 3, 2023

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**Meeting Adjournment – Dr. Wallace-Davis**

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This information is in **DRAFT** form and is subject to change.

# MISSION STATEMENT

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Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.



**Meeting Minutes**  
Regulatory Advisory Panel –  
Scope Expansion  
August 5, 2022

**Call to Order**

The August 5, 2022, Board of Optometry RAP-Scope Expansion Meeting was called to order at 12:01 p.m. at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 3, Henrico, Virginia 23233.

**Chair for the RAP**

Devon Cabot, Citizen Member of the Board of Optometry

**Members Present**

Jeffrey Michaels, OD, Virginia Optometric Association Representative  
Lisa Wallace-Davis, OD, President, Board of Optometry  
Harold Bernstein, MD, Medical Society of Virginia Representative  
Jonathan Noble, OD  
Jen Weigel, OD

**Staff Present**

Leslie Knachel, Executive Director  
Erin Barrett, Senior Policy Analyst  
Laura Jackson, Board Administrator  
Laura Paasch, Licensing & Operations Specialist

**Public Present**

Bo Keeney, Keeney Group  
Lisa Gontarek, Virginia Optometric Association  
Amanda Umlandt  
Cal Whitehead  
Trevor Mancuse

**Establishment of Quorum**

With six RAP members present, a quorum was established.

**Mission Statement**

Ms. Cabot read the mission statement and thanked the RAP members for participating.

## Ordering of Agenda

Ms. Cabot opened the floor to any edits or corrections regarding the agenda. Hearing none, the agenda was accepted as presented.

## Public Comment

Bo Keeney, Amanda Umlandt and Lisa Gontarek provided public comment about the draft regulations included in the agenda package related to the laser surgery certification process. Written comments submitted by the VOA are attached to the minutes.

## Discussion Items

Devon Cabot stated that the RAP's task is to assist the Board of Optometry in meeting the legislative mandate to promulgate regulations establishing criteria for certification of an optometrist to perform certain laser surgery procedures.

Ms. Knachel and Ms. Barret provided a review of the legislation expanding the scope of practice for TPA-certified optometrists and the regulatory promulgation process.

Ms. Barrett reviewed the draft regulations. The following changes were adopted:

- Dr. Noble made a motion under *18VAC105-20-90 Requirements for proctoring, A. 1, 2, and 3* to not specify the number of required proctored sessions. Dr. Wallace-Davis seconded the motion. The motion carried with 5 aye and 1 abstention from Dr. Bernstein.
- Dr. Michaels made a motion under *18VAC105-20-80 Requirements for laser surgery certification, A. 3.* to add that proctored sessions may be obtained during educational training. Dr. Noble seconded the motion. Dr. Michaels requested the motion be withdrawn.

Dr. Noble moved to add a new section under *18VAC105-20-80. Requirements for laser surgery certification, A. 4. b.,* stating proctored sessions may be obtained during education training. Dr. Wallace-Davis seconded the motion. The motion carried with 5 aye and 1 abstention from Dr. Bernstein.

- Dr. Michaels made a motion to strike *B* under *18VAC105-20-80. Requirements for laser surgery certification.* Dr. Noble seconded the motion. The motion carried with 5 aye and 1 abstention from Dr. Bernstein.
- Dr. Michaels made a motion to strike out paragraph *B. 2.* under *18VAC105-20-90 Requirements for proctoring.* The motion was seconded by Dr. Wallace-Davis. The motion carried with 5 aye and 1 abstention from Dr. Bernstein.

- Dr. Michaels made a motion to add new paragraph *B. 2.* under *18VAC105-20-90 Requirements for proctoring*, that a laser surgery certified optometrist may proctor sessions within the Commonwealth when a model eye is used. Dr. Noble seconded the motion. The motion carried with 5 aye and 1 abstention from Dr. Bernstein.
- Dr. Michaels made a motion to strike *1 and 2* under *18VAC105-20-110 Quality assurance review process* and to include a random yearly audit after July 1, 2025. The motion was seconded by Dr. Noble.

Dr. Noble made an amended motion to strike only *2* under *18VAC105-20-110 Quality assurance review process*, and conduct random audits. The motion was seconded by Dr. Wallace-Davis. The motion carried with 5 aye and 1 nay from Dr. Michaels.

A vote on the main motion with the amendment was taken. The motion carried with 5 aye and 1 nay from Dr. Michaels.

A comment was made that the definition of "proctored session" would require a change to the regulatory reference, which was noted by staff.

- Dr. Noble made a motion to forward the recommended draft regulations to the full board. Dr. Wallace-Davis seconded the motion. The motion carried with 5 aye and 1 abstention from Dr. Bernstein.

Ms. Knachel stated that the recommended changes to the draft regulations would be forwarded to the RAP for review to ensure all changes were made.

### **Adjournment**

Hearing no objections, Ms. Cabot adjourned the meeting at 3:01 p.m.



August 5, 2022

Lisa Wallace-Davis, O.D.  
President, Board of Optometry  
9960 Mayland Drive, Suite 300  
Henrico, VA 23233

Re: Board of Optometry Regulatory Advisory Panel

Dear Dr. Wallace-Davis,

These comments are submitted on behalf of the Virginia Optometric Association (the “VOA”).

*Background*

Chapters 16 and 17 of the 2022 Regular Session passed the General Assembly with an overwhelming vote in the House and Senate. The legislation was well-lobbied by the VOA, and passionately opposed by Medical Society of Virginia (“MSV”) and the Virginia Society of Eye Physicians and Surgeons (VSEPS). Consequently, the legislature was well-aware of the respective positions of the interested parties when it adopted the legislation.

In addition to reorganizing the scope of practice section in § 54.1-3201, the legislation expands the scope of practice for doctors of optometry to perform a three specific laser surgery procedures upon certification by the Board of Optometry (the “Board”).

*The Requirements of the Statute*

Section 54.1-3225 obligates the Board to certify an optometrist to perform certain laser surgery procedures “upon submission by the optometrist of evidence satisfactory to the Board that he” has (i) the requisite certification pursuant to § 54.1-3222, and (ii) “satisfactorily completed such didactic and clinical training programs provided by an accredited school or college of optometry that includes training in the use of lasers for the medically appropriate and recognized treatment of the human eye as the Board may require.”

The statute clearly limits who may provide an acceptable training program and further requires the program to include training in the use of lasers for the appropriate treatment of the human eye. The Board’s role in this process is to verify that a) such a program contains the curriculum that meets the requirement of the statute (i.e. the appropriate use of lasers to treat the eye and a clinical component to the training program), and b) the course is provided (or proctored) by an accredited school or college of optometry.

It is this statutory underpinning that the Board is then granted the authority and direction to promulgate regulations, pursuant to the second enactment clause, to implement this statutory charge and to develop and oversee the application and certification process. The legislation contains three enactment clauses that should be read together to inform the Board as to the topics to address in its regulations. However, the grant of authority in the second, third and fourth enactment clauses is not a license for the Board to accomplish through the regulatory process that which was not accomplished by certain advocates through the legislative process.

All three enactment clauses work together to ensure that Board clearly states the procedural requirements that must be met to successfully process an application to perform these procedures and the reporting requirements that must be met by an optometrist upon obtaining certification to perform laser surgery.

*The Appropriateness of the Draft Regulations*

Section 18 VAC 105-20-80(1)-(3) of the proposed draft regulations is consistent with the direction given to the Board by the statute and enactment clause two. However, the proposals to require the passing of a national exam (18 VAC 105-20-80(A)(4)), or in the alternative, the requirement to perform a set number of procedures to be supervised by a Virginia a licensed ophthalmologist (18 VAC 105-20-90) exceeds the authority granted to the Board

The grant of authority to the Board to develop regulations is not broader than the confines of the statute. To the extent the proposals to require passage of a national exam or the supervision of a certain number of procedures by a Virginia licensed ophthalmologist rely upon on perceived authority from the charge given to the Board in the second enactment clause, such reliance is misplaced.

First, neither the plain language of the statute nor the second enactment clause clearly state such requirements. When the General Assembly intends to require an examination or a specific examination in the context of a health profession, it knows how to clearly state such a requirement. *See* § 54.1-3211 (“The Board shall set the necessary standards to be attained in the *examinations* to entitle the candidate to receive a license to practice optometry.... The Board may determine a score that it considers satisfactory on any written *examination of the National Board of Examiners in Optometry.* ”); § 54.1-2709(B)(“*(iii) has passed all parts of the examination given by the Joint Commission on National Dental Examinations; (iv) has successfully completed a clinical examination acceptable to the Board*”); § 54.1-2931(A)(“ *The examinations of candidates for licensure to practice medicine and osteopathy shall be those of the National Board of Medical Examiners, the Federation of State Medical Boards, the National Board of Osteopathic Medical Examiners, or such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.*”); § 54.1-2931(B)(“*The examination of candidates for licensure to practice chiropractic shall include the National Board of Chiropractic Examiners Examinations and such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.*”); and § 54.12931(C)(“*The examination of candidates for licensure to practice podiatry shall be the National Board of Podiatric Medical Examiners examinations and such other examinations as determined by the Board. The minimum passing score shall be determined by the Board prior to administration of the examination.*”) Emphasis added.

Second, such authority cannot be inferred or implied by the direction given to the Board in the second enactment clause. The second enactment clause of the legislation directs the Board to adopt regulations “establishing criteria for certification of an optometrist to perform certain” laser eye surgery procedures. The second enactment clause then outlines what the content of those regulations should address. The regulations that the Board is authorized to promulgate cannot override the provisions of § 54.1-3225.



Had the General Assembly desired to require the passing of an exam as proposed in the draft regulations, it could have explicitly made that requirement part of the legislation as it has done in other contexts. Instead, the General Assembly vested the Board with the obligation to verify that an applicant satisfactorily completed a training program from an accredited school or college of optometry “as the Board may require.” The Board is authorized to require sufficient evidence that an applicant has “satisfactorily completed” a training program offered by an appropriate institution.

The authority to promulgate regulations as provided in the second enactment clause does not expand the Board’s authority to issue regulations beyond what is necessary to determine that an appropriate course (from an accredited institution) was completed by the applicant.

Sections (iv) and (v) of the second enactment clause relate specifically to the requirement imposed by § 54.1-3225(A)(2). The curriculum and application criteria proposed in 18 VAC 105-20-80(A)(1)-(3) is consistent with section (iv) of the second enactment clause. However, the reference to “proctoring” in section (v) of the enactment clause is not referring to the proctoring of procedures by a Virginia licensed ophthalmologist. This section concerns the proctoring of the examination associated with completion of the training program required by 3225(A)(2).

Moreover, the language does not require the proctoring of any exam or procedure by an ophthalmologist. As such, such a requirement in the draft regulations (18 VAC 105-20-90(B)) goes beyond what the Board is authorized to promulgate.

Optometrists are independently licensed professionals. Had the General Assembly intended to require supervision of an ophthalmologist as a path to obtain certification, it would have clearly stated that requirement in the legislation. This is particularly true given the historical conflict concerning scope of practice between the two health professions.

The general charge of the quality assurance provision in section (vi) cannot be used as an end run around the requirements of the statute and the intent of the legislation. The quality assurance provision in section (vi) of the second enactment clause is fulfilled by the reporting requirements of the third and fourth enactment clauses, which require an optometrist certified to perform laser surgery to report various aspects of his performance of the allowed procedures.

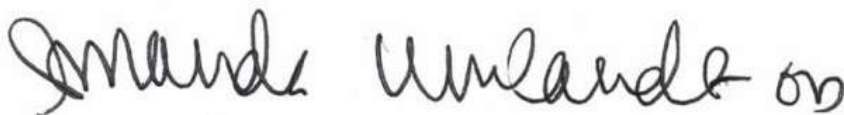
When the General Assembly intends to require supervision of optometrists by an ophthalmologist, it knows how to do clearly state that condition. *See* § 54.1-3223(A)(“In establishing standards of instruction and training, the Board shall consult with a school or college of optometry and a school or college of medicine and shall set a minimum number of hours of clinical training *to be supervised by an ophthalmologist.*”) Emphasis added. There is no similar requirement for supervision by an ophthalmologist of an optometrist for the didactic and clinical training programs for laser surgery.

In adopting this legislation, the General Assembly is presumed to have knowledge of its prior enactments, particularly when they appear within the same structure of regulation of a specific

health profession. See *Gillespie v. Commonwealth*, 272 Va. 753, 785-759, 636 S.E.2d 430, 432 (2006) (“In ascertaining legislative intent, we presume that the General Assembly, when enacting new laws, is fully aware of the state of existing law relating to the same general subject matter.” *United Masonry, Inc. v. Riggs National Bank*, 233 Va. 476, 480, 357 S.E.2d 509, 512, 3 Va. Law Rep. 2739 (1987); *Cape Henry v. Natl. Gypsum*, 229 Va. 596, 600, 331 S.E.2d 476, 479 (1985).).

In the absence of statutory language similar to that in the TPA certification process, it is clear there is no authority for the Board to require consultation, collaboration, supervision or similar oversight of a physician over an optometrist in the context of laser surgery. The Board is not specifically authorized to require a minimum number of procedures or hours of training supervised by an ophthalmologist for laser surgery. ([Va. Code 54.1-3225\(2\)](#)). Therefore, the Board has no authority to require a minimum number of proctored sessions by an ophthalmologist.

Finally, to the extent the Board chooses to adopt regulations concerning the reporting provision in the fourth enactment clause,<sup>1</sup> the regulations should, like the legislation, contain an automatic expiration date. Had the General Assembly intended this reporting requirement to be of a permanent nature, it would have not set a date certain for its expiration or it would have placed the requirement in the statute. Given that the General Assembly has spoken specifically on this reporting requirement in fourth enactment clause and provided a date certain by which the requirement will expire, the Board does not have the authority to permanently impose a reporting requirement through regulation on a topic that an Act of Assembly specifically sunsets on a date certain.



Amanda Umlandt, OD, President  
Virginia Optometric Association

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<sup>1</sup> 4. That an optometrist certified to perform laser surgery pursuant to § [54.1-3225](#) of the Code of Virginia, as created by this act, shall report quarterly to the Board of Optometry (the Board) the following information: (i) the number and type of laser surgeries performed by the optometrist, (ii) the conditions treated for each laser surgery performed, and (iii) any adverse treatment outcomes associated with such procedures that required a referral to an ophthalmologist for treatment. The Board shall report annually to the Governor and the Secretary of Health and Human Resources regarding the performance of laser surgery by optometrists during the previous 12-month period and shall make such report available on the Board's website. The provisions of this enactment shall expire on July 1, 2025.

### **Call to Order**

The August 26, 2022, Virginia Board of Optometry meeting was called to order at 9:00 a.m. at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 4, Henrico, Virginia 23233.

### **Presiding Officer**

Lisa G. Wallace-Davis, O.D., President

### **Members Present**

Devon B. Cabot, Citizen Member, Vice-President

Gerald R. Neidigh, Jr., O.D.

Fred E. Goldberg, O.D.

Clifford A. Roffis, O.D.

### **Members Absent**

Evan J. Kaufman, O.D.

### **Staff Present**

Leslie L. Knachel, Executive Director

David E. Brown, D.C., Agency Director

Kelli Moss, Deputy Executive Director

Erin Barrett, Senior Policy Analyst DHP

Charis Mitchell, Assistant Attorney General, Board Counsel

Laura Jackson, Board Administrator

Laura Paasch, Licensing & Operations Specialist

### **Public Present**

Laura McHale, Virginia Optometric Association

Clark Barrineau

Christopher Fleury

Cal Whitehead

### **Establishment of Quorum**

With five board members out of six present, a quorum was established.

## **Introductions**

Dr. Wallace-Davis introduced Dr. Gerald Neidigh, the new Optometry board member.

## **Ordering of Agenda**

Dr. Wallace-Davis opened the floor to any changes to the agenda. Hearing no changes, the agenda was accepted as presented.

## **Public Comment**

There were no requests to provide public comment.

## **Approval of Minutes**

Dr. Wallace-Davis opened the floor to any additions or corrections regarding the draft minutes from the following meetings: March 8, 2022, Full Board meeting and Public Hearing; and August 5, 2022, Regulatory Advisory Panel – Scope Expansion meeting. Ms. Knachel noted that the missing page from the Regulatory Advisory Panel meeting could be found on page 36 of the agenda package. Hearing no additions or corrections, the minutes were approved as presented.

## **Agency Director's Report**

Dr. Brown provided an update on the agency's activities since the last meeting.

## **Legislative/Regulatory Report**

Ms. Barrett provided information on the following:

- Submission of amendments to Optometry's Chapter 32 of the Code;
- Current regulatory action awaiting the Governor's review;
- Notice of Intended Regulatory Action (NOIRA) – Reporting Requirement for All Licenses

Dr. Goldberg made a motion to issue a notice of intended regulatory action to amend Chapter 20 to require optometrists to annually register with the Board and report:

- (i) Any disciplinary action taken against a person licensed by the Board in another state or in a federal health institution or voluntary surrender of a license in another state while under investigation;
  - (ii) Any malpractice judgment against a person licensed by the Board;
  - (iii) Any settlement of a malpractice claim against a person licensed by the Board;
  - (iv) Any evidence that indicates a reasonable belief that a person licensed by the Board is or may be professionally incompetent, has or may have engaged in intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, has or may have engaged in unprofessional conduct, or may be mentally or physically unable to engage safely in the practice of his profession.
- The motion was properly seconded by Dr. Neidigh. The motion carried unanimously.

- NOIRA – Laser Surgery Regulations

- Presentation on the regulatory process
- Recommendations from the Regulatory Advisory Panel

Ms. Cabot made a motion to issue a NOIRA to amend Chapter 20 to adopt requirements for fee structure, issuance of a certification, requirements for certification, renewal of certification, reporting requirements, and quality assurance review process consistent with Chapter 17 of the 2022 Acts of Assembly. The motion was properly seconded by Dr. Roffis. The motion carried unanimously.

- 105-10 Guidance on End of a Contact Lens Fitting

Dr. Neidigh made a motion to revise Guidance Document 105-10 Guidance on the End of the Contact Lens Fitting as presented. The motion was properly seconded by Dr. Roffis. The motion carried unanimously.

- 105-13 Guidance on Performing Free Eye Screenings

Dr. Neidigh made a motion to accept Guidance Document 105-13 Guidance on Performing Free Eye Screenings as presented. The motion was properly seconded by Ms. Cabot. The motion carried unanimously.

### **Discussion Items**

Documentation requirement for 18VAC105-20-16, Requirements for TPA Certification.

Ms. Knachel provided background information for discussion on 18VAC105-20-16, Requirements for TPA certification. She requested that the Board consider amending the necessary documentation to provide competency to prescribe therapeutic pharmaceutical agents. The consensus of the Board is to move forward with an endorsement process. Dr. Wallace-Davis requested that amended regulations be provided at the next board meeting for consideration.

2022 Optometry Healthcare Workforce Data Center Report

Dr. Yetty Shobo reported on the 2022 Optometry Healthcare Workforce Data Center report results.

### **Board Counsel Report**

Ms. Mitchell reported that an assistant attorney general was hired for a vacant position within her section.

### **President's Report**

Dr. Wallace-Davis reported on information discussed during the June 2022 ARBO annual meeting held in Chicago, Illinois

### **Board of Health Professions' Report**

Ms. Knachel also serves as the Executive Director for the Board of Health Professions. She stated that the Optometry board seat was currently vacant and asked if a board member would

be interested in serving. Dr. Goldberg expressed interest in serving as the Board of Optometry's representative.

### **Staff Reports**

Ms. Knachel provided information on board statistics, outreach efforts and the 2023 calendar.

Ms. Moss provided an update on open and closed discipline cases.

### **New Business**

#### Elections

Dr. Goldberg made a motion for the nomination of Dr. Wallace-Davis to continue serving as the Board's President. The motion was properly seconded by Dr. Roffis. No other nominations were received. Voting by roll-call ballot was unanimous and the motion carried for Dr. Wallace-Davis to serve another one-year term as President beginning January 1, 2023.

Dr. Roffis made a motion for the nomination of Ms. Cabot to continue serving as the Board's Vice-President. The motion was properly seconded by Dr. Goldberg. No other nominations were received. Voting by roll-call ballot was unanimous and the motion carried for Ms. Cabot to serve another one-year term as Vice-President beginning January 1, 2023.

### **Next Meeting**

The meeting scheduled for October 28, 2022, is cancelled. The next full board meeting is scheduled for February 17, 2023.

### **Adjournment**

Hearing no objections, Dr. Wallace-Davis adjourned the meeting at 11:14 a.m.

### **Call to Order**

The January 20, 2023, meeting of the Regulatory/Legislative Committee of the Virginia Board of Optometry was called to order at 1:00 p.m. at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 1, Henrico, Virginia 23233.

**Presiding Officer** - Lisa Wallace-Davis, OD

### **Members Present**

Fred E. Goldberg, OD

Gerald R. Neidigh, Jr., OD

### **Staff Present**

Leslie L. Knachel, Executive Director

Kelli Moss, Deputy Executive Director

Erin Barrett, Senior Policy Analyst DHP

Laura Jackson, Board Administrator

Laura Paasch, Senior Licensing Specialist

### **Public Present**

Laura McHale, Virginia Optometric Association

### **Establishment of Quorum**

With three out of three committee members present, a quorum was established.

### **Ordering of Agenda**

Dr. Wallace-Davis opened the floor to any edits or corrections regarding the agenda. Hearing none, the agenda was accepted as presented.

### **Public Comment**

There were no requests to provide public comment.

### **Discussion**

Ms. Barrett and Ms. Knachel reviewed and discussed with the Committee the changes recommended by staff. The review was completed.

Dr. Goldberg made a motion to present the recommended regulatory changes to the full Board at its next meeting which was properly seconded by Dr. Neidigh. The motion carried unanimously.

**Next Meeting**

The next full board meeting is scheduled for July 14, 2023.

**Adjournment**

With no objection, Dr. Wallace-Davis adjourned the meeting at 2:33 p.m.



**Agenda Item: Update on the 2023 General Assembly Session**

**Included in your agenda package is:**

- HB1737, an agency bill which updated Chapter 32 of Title 54.1.

**Staff Note:** Delegate Robinson was the bill patron. Changes effective July 1, 2023.

**Action needed:**

- None.

# VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

## CHAPTER 268

*An Act to amend and reenact §§ 54.1-3202, 54.1-3211, 54.1-3213, 54.1-3215, 54.1-3219, 54.1-3221, 54.1-3222, and 54.1-3223 of the Code of Virginia and to repeal § 54.1-3220 of the Code of Virginia, relating to the practice of optometry; licensing; regulations.*

[H 1737]

Approved March 22, 2023

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-3202, 54.1-3211, 54.1-3213, 54.1-3215, 54.1-3219, 54.1-3221, 54.1-3222, and 54.1-3223 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-3202. Exemptions.**

This chapter shall not apply to:

1. Physicians licensed to practice medicine by the Board of Medicine or to prohibit the sale of nonprescription eyeglasses and sunglasses; or

2. Any optometrist rendering free health care to an underserved population in ~~Virginia~~ *the Commonwealth* who (i) does not regularly practice optometry in ~~Virginia, the Commonwealth~~; (ii) holds a current valid license or certificate to practice optometry in another state, territory, district, or possession of the United States; (iii) volunteers to provide free health care in an underserved area of ~~this~~ *the Commonwealth* under the auspices of a publicly supported, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people; (iv) files a copy of his license or certification in such other jurisdiction with the Board; (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service; and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in ~~Virginia~~ *the Commonwealth* to any optometrist whose license or certificate has been previously suspended or revoked, who has been convicted of a felony, or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow an optometrist who meets the ~~above~~ *criteria of this subdivision* to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state; or

3. *Any student, intern, or trainee in optometry who is performing optometric services under the direct supervision of a licensed optometrist or ophthalmologist as part of a course of study at an accredited institution of higher education.*

**§ 54.1-3211. Examination.**

The Board shall set the necessary standards to be attained in the examinations to entitle the candidate to receive a license to practice optometry.

~~The examination shall be given at least semiannually if there are any candidates who have applied to the Board for examination at least 30 days before the date for the examination.~~

~~The examination shall include anatomy; physiology; pathology; general and ocular pharmacology designed to test knowledge of the proper use, characteristics, pharmacological effects, indications, contraindications and emergency care associated with the use of diagnostic pharmaceutical agents; and the use of the appropriate instruments.~~

The Board may determine a score that it considers satisfactory on any written examination of the National Board of Examiners in Optometry. ~~The Board may waive its examination for a person who achieves a satisfactory score on the examination of the National Board of Examiners in Optometry.~~

Those persons licensed on or before June 30, 1997, to practice optometry in ~~this state~~ *the Commonwealth* but not certified to administer diagnostic pharmaceutical agents may continue to practice optometry but may not administer diagnostic pharmaceutical agents without satisfying the requirements of this section. Those persons licensed after June 30, 1997, shall be considered as certified to administer diagnostic pharmaceutical agents. After June 30, 2004, every person who is initially licensed to practice optometry in ~~Virginia~~ *the Commonwealth* shall meet the qualifications for a TPA-certified optometrist.

**§ 54.1-3213. License to practice optometry; requirements; renewal; fees.**

A. Every candidate successfully passing the examination shall be licensed by the Board as ~~possessing~~ *if such candidate possesses* the qualifications required by law ~~and regulation~~ to practice optometry.

~~The fee for examination and licensure shall be prescribed by the Board and shall be paid to the executive director of the Board by the applicant upon filing his application.~~

B. *In order to be qualified for licensure as an optometrist, every applicant shall demonstrate competency for certification to prescribe for and treat diseases or abnormal conditions of the human eye*

and its adnexa with therapeutic pharmaceutical agents (TPAs). Requirements for TPA certification shall include:

1. Satisfactory completion of such didactic and clinical training programs for the treatment of diseases and abnormal conditions of the eye and its adnexa as are determined to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients; and

2. Passage of such examinations as are determined to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients.

C. Every license to practice optometry granted under the provisions of this chapter shall be renewed at such time, in such manner, and upon payment of such fees as the Board may prescribe.

**§ 54.1-3215. Board actions; reprimand, suspension, revocation, etc.**

The Board may ~~revoke or suspend a license or reprimand the licensee~~ refuse to admit an applicant to any examination; refuse to grant or renew a license or certificate; reprimand, place on probation, or impose a monetary penalty on a licensee; or impose such terms as it may designate, suspend for a stated period of time, or revoke any license or certificate for any of the following causes:

1. Fraud or deceit in his practice;

2. Conviction of any felony under the laws of the Commonwealth, another state, the District of Columbia, or any United States possession or territory or of any misdemeanor under such laws involving moral turpitude;

3. Conducting his practice in such a manner as to endanger the health and welfare of his patients or the public;

4. Use of alcohol or drugs to the extent such use renders him unsafe to practice optometry or mental or physical illness rendering him unsafe to practice optometry;

5. Knowingly and willfully employing an unlicensed person to do anything for which a license to practice optometry is required;

~~6. Practicing optometry while suffering from any infectious or contagious disease;~~

~~7. Neglecting or refusing to display his license and the renewal receipt for the current year;~~

~~8.~~ 7. Obtaining of any fee by fraud or misrepresentation or the practice of deception or fraud upon any patient;

~~9.~~ 8. Advertising which that directly or indirectly deceives, misleads, or defrauds the public, claims professional superiority, or offers free optometrical services or examinations;

~~10.~~ 9. Employing, procuring, or inducing a person not licensed to practice optometry to so practice;

~~11.~~ 10. Aiding or abetting in the practice of optometry any person not duly licensed to practice in this the Commonwealth;

~~12.~~ 11. Advertising, practicing, or attempting to practice optometry under a name other than one's own name as set forth on the license;

~~13.~~ 12. Lending, leasing, renting, or in any other manner placing his license at the disposal or in the service of any person not licensed to practice optometry in this the Commonwealth;

~~14.~~ 13. Splitting or dividing a fee with any person or persons other than with a licensed optometrist who is a legal partner or comember of a professional limited liability company formed to engage in the practice of optometry;

~~15.~~ 14. Practicing optometry where any officer, employee, or agent of a commercial or mercantile establishment, as defined in subsection C of § 54.1-3205, who is not licensed in Virginia the Commonwealth to practice optometry or medicine directly or indirectly controls, dictates, or influences the professional judgment, including but not limited to the level or type of care or services rendered, of the licensed optometrist;

~~16.~~ 15. Violating other standards of conduct as adopted by the Board;

~~17.~~ 16. Violating, assisting, inducing, or cooperating with others in violating any provisions of law relating to the practice of optometry, including the provisions of this chapter, or of any regulation of the Board.

**§ 54.1-3219. Continuing education.**

A. As a prerequisite to renewal of a license or reinstatement of a license, each optometrist shall be required to complete 20 hours of continuing education relating to optometry, as approved by the Board, each year. A licensee who completes more than 20 hours of continuing education in a year shall be allowed to carry forward up to 10 hours of continuing education for the next annual renewal cycle. The courses shall include, but need not be limited to, the utilization and application of new techniques, scientific and clinical advances, and new achievements of research. The Board shall prescribe criteria for approval of courses of study. ~~The Board may approve alternative courses upon timely application of any licensee.~~ Fulfillment of education requirements shall be certified to the Board upon a form provided by the Board and shall be submitted by each licensed optometrist at the time he applies to the Board for the renewal of his license. The Board may waive individual requirements in cases of certified illness or undue hardship.

B. Of the 20 hours of continuing education relating to optometry required pursuant to subsection A:

1. At least 10 hours shall be obtained through real-time, interactive activities, including in-person or electronic presentations, provided that during the course of the presentation, the licensee and the lecturer

may communicate with one another;

2. No more than two hours may consist of courses related to recordkeeping, including coding for diagnostic and treatment devices and procedures or the management of an optometry practice, provided that such courses are not primarily for the purpose of augmenting the licensee's income or promoting the sale of specific instruments or products; and

3. For TPA-certified optometrists, at least 10 hours shall be in the areas of ocular and general pharmacology, diagnosis and treatment of the human eye and its adnexa, including treatment with new pharmaceutical agents, or new or advanced clinical devices, techniques, modalities, or procedures.

C. Nothing in this ~~subsection~~ section shall prevent or limit the authority of the Board to require additional hours or types of continuing education as part or in lieu of disciplinary action.

#### Article 4.

#### Certification for Administration of Diagnostic Pharmaceutical Agents.

##### **§ 54.1-3221. "Diagnostic pharmaceutical agents" defined; utilization; acquisition.**

A. ~~Certified optometrists~~ *Optometrists certified to administer diagnostic pharmaceutical agents or optometrists licensed after June 30, 1997*, may administer diagnostic pharmaceutical agents only by topical application to the human eye. ~~"Diagnostic~~ For purposes of this section, "diagnostic pharmaceutical agents" shall be defined as means Schedule VI controlled substances as set forth in the Drug Control Act (§ 54.1-3400 et seq.) that are used for the purpose of examining and determining abnormal or diseased conditions of the human eye or related structures.

B. Any optometrist who utilizes diagnostic pharmaceutical agents without being certified as ~~required by this article~~ to administer diagnostic pharmaceutical agents or licensed after June 30, 1997, shall be subject to the disciplinary sanctions provided in this chapter.

C. Licensed drug suppliers or pharmacists are authorized to supply optometrists with diagnostic pharmaceutical agents upon presentation of evidence of Board certification for administration of such drugs or an optometrist license issued after June 30, 1997.

##### **§ 54.1-3222. TPA certification; certification for treatment of diseases or abnormal conditions with therapeutic pharmaceutical agents (TPAs).**

A. The Board shall certify an optometrist to prescribe for and treat diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents (TPAs), if the optometrist files a written application, accompanied by the fee required by the Board and satisfactory proof that the applicant:

1. Is licensed by the Board as an optometrist and certified to administer diagnostic pharmaceutical agents pursuant to Article 4 (§ 54.1-3220 et seq.);

2. Has satisfactorily completed such didactic and clinical training programs for the treatment of diseases and abnormal conditions of the eye and its adnexa as are determined, after consultation with a school or college of optometry and a school of medicine, to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients; and

3. Passes such examinations as are determined to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients.

B. TPA certification shall enable an optometrist to prescribe and administer, within his scope of practice, Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedules III through VI controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) to treat diseases and abnormal conditions of the human eye and its adnexa as determined by the Board, within the following conditions:

1. Treatment with oral therapeutic pharmaceutical agents shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen, and analgesics included on Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act, which are appropriate to alleviate ocular pain and (ii) other Schedule VI controlled substances as defined in § 54.1-3455 of the Drug Control Act appropriate to treat diseases and abnormal conditions of the human eye and its adnexa.

2. Therapeutic pharmaceutical agents shall include topically applied Schedule VI drugs as defined in § 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.).

3. Administration of therapeutic pharmaceutical agents by injection shall be limited to the treatment of chalazia by means of injection of a steroid included in Schedule VI controlled substances as set forth in § 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.). A TPA-certified optometrist shall provide written evidence to the Board that he has completed a didactic and clinical training course provided by an accredited school or college of optometry that includes training in administration of TPAs by injection prior to administering TPAs by injection pursuant to this subdivision.

4. Treatment of angle closure glaucoma shall be limited to initiation of immediate emergency care.

5. Treatment of infantile or congenital glaucoma shall be prohibited.

6. Treatment through surgery or other invasive modalities shall not be permitted, except as provided in subdivision 3 or for treatment of emergency cases of anaphylactic shock with intramuscular epinephrine.

7. Entities permitted or licensed by the Board of Pharmacy to distribute or dispense drugs, including, but not limited to, wholesale distributors and pharmacists, shall be authorized to supply TPA-certified optometrists with those therapeutic pharmaceutical agents specified by the Board on the TPA-Formulary.

**§ 54.1-3223. Regulations relating to therapeutic pharmaceutical agents; TPA-Formulary Committee.**

A. The Board shall promulgate such regulations governing the treatment of diseases and abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents by TPA-certified optometrists as are reasonable and necessary to ensure an appropriate standard of medical care for patients, including, but not limited to, determinations of the diseases and abnormal conditions of the human eye and its adnexa that may be treated by TPA-certified optometrists, treatment guidelines, and the drugs specified on the TPA-Formulary.

~~In establishing standards of instruction and training, the Board shall consult with a school or college of optometry and a school or college of medicine and shall set a minimum number of hours of clinical training to be supervised by an ophthalmologist. The didactic and clinical training programs may include, but need not be limited to, programs offered or designed either by schools of medicine or schools or colleges of optometry or both or some combination thereof.~~

~~The Board may prepare, administer, and grade appropriate examinations for the certification of optometrists to administer therapeutic pharmaceutical agents or may contract with a school of medicine, school or college of optometry, or other institution or entity to develop, administer, and grade the examinations.~~

In order to maintain a current and appropriate list of therapeutic pharmaceuticals on the TPA-Formulary, current and appropriate treatment guidelines, and current and appropriate determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists, the Board may, from time to time, amend such regulations. Such regulations shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.), except to any extent that they may be specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031; the Board's regulations shall, however, comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.). The Board shall, however, conduct a public hearing prior to making amendments to the TPA-Formulary, the treatment guidelines or the determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists. Thirty days prior to conducting such hearing, the Board shall give written notice by mail or *electronic means* of the date, time, and place of the hearing to all currently TPA-certified optometrists and any other persons requesting to be notified of the hearings and publish notice of its intention to amend the list in the Virginia Register of Regulations. During the public hearing, interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any TPA-Formulary amendments. Proposed and final amendments of the list shall also be published, pursuant to § 2.2-4031, in the Virginia Register of Regulations. Final amendments to the TPA-Formulary shall become effective upon filing with the Registrar of Regulations. The TPA-Formulary shall be the inclusive list of the therapeutic pharmaceutical agents that a TPA-certified optometrist may prescribe.

B. To assist in the specification of the TPA-Formulary, there shall be a seven-member TPA-Formulary Committee, as follows: three Virginia TPA-certified optometrists to be appointed by the Board of Optometry, one pharmacist appointed by the Board of Pharmacy from among its licensees, two ophthalmologists appointed by the Board of Medicine from among its licensees, and the chairman who shall be appointed by the Board of Optometry from among its members. The ophthalmologists appointed by the Board of Medicine shall have demonstrated, through professional experience, knowledge of the optometric profession. In the event the Board of Pharmacy or the Board of Medicine fails to make appointments to the TPA-Formulary Committee within 30 days following the Board of Optometry's requesting such appointments, or within 30 days following any subsequent vacancy, the Board of Optometry shall appoint such members.

The TPA-Formulary Committee shall recommend to the Board those therapeutic pharmaceutical agents to be included on the TPA-Formulary for the treatment of diseases and abnormal conditions of the eye and its adnexa by TPA-certified optometrists.

**2. That § 54.1-3220 of the Code of Virginia is repealed.**

**Board of Optometry**  
**Current Regulatory Actions**  
**As of June 14, 2023**

**In the Governor's Office**

None.

**In the Secretary's Office**

None.

**At DPB/OAG**

None.

**Recently effective or awaiting publication**

<b>VAC</b>	<b>Stage</b>	<b>Subject Matter</b>	<b>Publication date</b>	<b>Effective date; notes</b>
18VAC105-20	NOIRA	Regulations for optometrist profiles and reporting	5/8/2023	Public comment period closed 6/7/23.
18VAC105-20	NOIRA	Regulations for laser surgery certifications	5/22/2023	Public comment period closed 6/21/23.



# COMMONWEALTH of VIRGINIA

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Director

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June 21, 2023

The Honorable Glenn Youngkin  
Governor of Virginia

The Honorable John Littel  
Secretary of Health and Human Resources

1111 East Broad Street  
Richmond, Virginia 23219

**Re: Report on optometrists performing laser surgery**

Dear Governor Youngkin and Secretary Littel,

Pursuant to Chapters 16<sup>1</sup> and 17<sup>2</sup> of the 2022 Acts of Assembly, on July 1, 2023, the Board of Optometry is required to “report annually to the Governor and the Secretary of Health and Human Resources regarding the performance of laser surgery by optometrists during the previous 12-month period.”

The Board of Optometry has no information to report regarding the performance of laser surgery by optometrists during the previous 12-month period. Chapters 16 and 17 of the 2022 Acts of Assembly required the Board to “promulgate regulations establishing the criteria for certification of an optometrist to perform” laser surgery. The Board is in the process of promulgating those regulations as required. Because the regulations are not currently effective, no optometrist has been certified to perform laser surgery in Virginia as of this date.

Please do not hesitate to contact the Board or the Department of Health Professions with questions related to this report.

Very truly yours,

Leslie L. Knachel  
Executive Director  
Virginia Board of Optometry

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<sup>1</sup> SB375 (Petersen)

<sup>2</sup> HB213 (Robinson)

**Agenda Item: Adoption of proposed regulations for optometrist annual reporting**

**Included in your agenda package is:**

- Draft proposed regulations regarding annual reporting required by Chapter 16 and 17 of the 2022 Acts of Assembly;
- The agency background document for the NOIRA filed by the Board;
- Town Hall summary page showing no comments; and
- Chapter 17 of the 2022 Acts of Assembly, with enactment clause 3 highlighted.

**Action needed:**

- Motion to adopt proposed regulations regarding optometrist reporting requirements.



**Project 7539 - Proposed**

**Board of Optometry**

**Regulations for optometrist profiles and reporting**

Chapter 20

Regulations of the Virginia Board of Optometry

**18VAC105-20-120. Practitioner profile system.**

A. Optometrists licensed by the board must annually, upon renewal of licensure, provide the following information to the board through the reporting system provided by the board:

1. Any disciplinary action taken against a Virginia licensed optometrist by another state;

2. Any voluntary surrender of a license in another state while under investigation;

3. Any disciplinary action taken against a Virginia licensed optometrist by a federal health institution;

4. Any malpractice judgment or settlement against a Virginia licensed optometrist, including the year the judgment or settlement was paid, the amount of the judgment or settlement, and the city, state, and country in which the judgment or settlement occurred;  
and

5. Any evidence that indicates a reasonable belief that a Virginia licensed optometrist is or may be professionally incompetent, has or may have engaged in intentional or negligent conduct that causes or is likely to cause injury to patients, has or may have engaged in unprofessional conduct, or may be mentally or physically unable to engage safely in the practice of his profession.

B. Failure to provide information required by subsection A annually may constitute a violation of provisions of law relating to the practice of optometry and may subject the licensee to disciplinary action by the board.

C. Intentionally providing false information to the board through the reporting system shall constitute a violation of provisions of law relating to the practice of optometry and shall subject the licensee to disciplinary action by the board.



[townhall.virginia.gov](http://townhall.virginia.gov)

## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Optometry, Department of Health Professions
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC105-20
<b>VAC Chapter title(s)</b>	Regulations Governing the Practice of Optometry
<b>Action title</b>	Regulations for optometrist profiles and reporting
<b>Date this document prepared</b>	August 26, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

These amendments to an existing chapter require optometrists to annually register with the Board and report certain information pursuant to enactment clause 3 of [Ch. 16](#) and [Ch. 17](#) of the 2022 Acts of Assembly. That enactment clause required the Board to promulgate regulations to establish required reporting of certain data.

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

N/A

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

The mandate for this action comes from enactment clause 3 of [Ch. 16](#) and [Ch. 17](#) of the 2022 Acts of Assembly, which required the Board to promulgate regulations regarding annual reporting by optometrists to the Board of certain, specified information.

### Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

Regulations of the Board of Optometry are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system.”

Enactment clause 3 of [Ch. 16](#) and [Ch. 17](#) of the 2022 Acts of Assembly requires the Board to promulgate regulations related to annual reporting by optometrists to the Board of certain, specified information.

### Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

The agency was required by legislation to promulgate regulations. Enactment clause 3 stated that the Board “shall” promulgate reporting requirement regulations, which must include

- reporting for: (i) any disciplinary action taken against a person licensed by the Board in another state or in a federal health institution or voluntary surrender of a license in another state while under investigation; (ii) any malpractice judgment against a person licensed by the Board; (iii) any settlement of a malpractice claim against a person licensed by the Board; and (iv) any evidence that indicates a reasonable belief that a person licensed by the Board is or may be professionally incompetent, has or may have engaged in intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, has or may have

engaged in unprofessional conduct, or may be mentally or physically unable to engage safely in the practice of his profession.

See [Ch. 16](#) and [Ch. 17](#) of the 2022 Acts of Assembly, enactment clause 3.

**Substance**

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

The changes being considered include establishment of a reporting system on the Board’s website to include the information required by the enacting legislation. Such reporting requirements will include:

- any disciplinary action taken against a person licensed by the Board in another state or in a federal health institution or voluntary surrender of a license in another state while under investigation;
- any malpractice judgment against a person licensed by the Board;
- any settlement of a malpractice claim against a person licensed by the Board; and
- any evidence that indicates a reasonable belief that a person licensed by the Board is or may be professionally incompetent, has or may have engaged in intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, has or may have engaged in unprofessional conduct, or may be mentally or physically unable to engage safely in the practice of his profession.

**Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

There are no alternatives to regulation. Regulation is required by the enacting legislation and the Board must enact regulations for reporting the topics specified in the enacting legislation.

**Periodic Review and Small Business Impact Review Announcement**

This NOIRA is not being used to announce a periodic review or a small business impact review.

**Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

---

The Board of Optometry is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Erin Barrett, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov) or by fax to (804) 915-0382. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.



**Agency** Department of Health Professions

**Board** Board of Optometry

**Chapter** Regulations of the Virginia Board of Optometry [[18 VAC 105 - 20](#)]

**Action:** Regulations for optometrist profiles and reporting

## Notice of Intended Regulatory Action (NOIRA)

Action 6071 / Stage 9779

[● Edit Stage](#) [● Withdraw Stage](#) [● Go to RIS Project](#)

Documents		
Preliminary Draft Text	None submitted	<a href="#">Sync Text with RIS</a>
<a href="#">Agency Background Document</a>	8/25/2022 (modified 8/26/2022)	<a href="#">Upload / Replace</a>
<a href="#">● Governor's Review Memo</a>	4/6/2023	
<a href="#">● Registrar Transmittal</a>	4/10/2023	

Status	
<b>Public Hearing</b>	Will be held at the <b>proposed</b> stage
<b>DPB Review</b>	Submitted on 8/29/2022 Policy Analyst: <a href="#">Cari Corr</a> Review Completed: 9/6/2022
<b>Secretary Review</b>	Secretary of Health and Human Resources Review Completed: 3/27/2023
<b>Governor's Review</b>	ORM Review: ORM Approved 4/6/2023 Governor Review Completed: 4/6/2023 Result: Approved
<b>Virginia Registrar</b>	Submitted on 4/10/2023 <a href="#">The Virginia Register of Regulations</a> Publication Date: 5/8/2023 <a href="#">Volume: 39 Issue: 19</a>
<b>Comment Period</b>	Ended 6/7/2023 0 comments

Contact Information	
<b>Name / Title:</b>	Leslie L. Knachel / <i>Executive Director</i>
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<b>Address:</b>	
<b>Telephone:</b>	(804)597-4130 FAX: (804)527-4471 TDD: (-)

*This person is the primary contact for this board.*

*This stage was created by [Erin Barrett](#) on 08/25/2022 at 1:41pm*

*This stage was last edited by [Erin Barrett](#) on 08/25/2022 at 1:41pm*



# VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

## CHAPTER 17

*An Act to amend and reenact §§ 54.1-2400.01:1, 54.1-3200, and 54.1-3201 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 32 of Title 54.1 an article numbered 6, consisting of a section numbered 54.1-3225, relating to optometrists; laser surgery.*

[H 213]

Approved March 9, 2022

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2400.01:1, 54.1-3200, and 54.1-3201 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 32 of Title 54.1 an article numbered 6, consisting of a section numbered 54.1-3225, as follows:**

**§ 54.1-2400.01:1. Surgery defined; who may perform surgery.**

A. For the purposes of this subtitle, except as used in Chapter 38 (§ 54.1-3800 et seq.) related to veterinary medicine, "surgery" means the structural alteration of the human body by the incision or cutting into of tissue for the purpose of diagnostic or therapeutic treatment of conditions or disease processes by any instrument causing localized alteration or transposition of live human tissue, but does not include the following: procedures for the removal of superficial foreign bodies from the human body, punctures, injections, dry needling, acupuncture, or removal of dead tissue. For the purposes of this section, incision shall not mean the scraping or brushing of live tissue.

B. No person shall perform surgery unless he is (i) licensed by the Board of Medicine as a doctor of medicine, osteopathy, or podiatry; (ii) licensed by the Board of Dentistry as a doctor of dentistry; (iii) jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner; (iv) a physician assistant acting under the supervision of a doctor of medicine, osteopathy, or podiatry; (v) a licensed midwife in the performance of episiotomies during childbirth; ~~or~~ (vi) licensed by the Board of Optometry as an optometrist and certified to perform laser surgery pursuant to § 54.1-3225; or (vii) acting pursuant to the orders and under the appropriate supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry.

C. Nothing in this section shall be construed to restrict, limit, change, or expand the scope of practice in effect on January 1, 2012, of any profession licensed by any of the health regulatory boards within the Department of Health Professions.

**§ 54.1-3200. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Optometry.

"Optometrist" means any person practicing the profession of optometry as defined in this chapter and the regulations of the Board.

"Practice of optometry" means the examination of the human eye to ascertain the presence of defects or abnormal conditions which may be corrected or relieved by the use of lenses, prisms or ocular exercises, visual training or orthoptics; the employment of any subjective or objective mechanism to determine the accommodative or refractive states of the human eye or range or power of vision of the human eye; the use of testing appliances for the purpose of the measurement of the powers of vision; the examination, diagnosis, and optometric treatment in accordance with this chapter, of conditions and visual or muscular anomalies of the human eye; the use of diagnostic pharmaceutical agents set forth in § 54.1-3221; and the prescribing or adapting of lenses, prisms or ocular exercises, visual training or orthoptics for the correction, relief, remediation or prevention of such conditions. An optometrist may treat certain diseases or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents only as permitted under this chapter. The practice of optometry also includes the evaluation, examination, diagnosis, and treatment of abnormal or diseased conditions of the human eye and its adnexa by the use of medically recognized and appropriate devices, procedures, or technologies. However, the practice of optometry does not include treatment through surgery, including laser surgery, other invasive modalities, or the use of injections, including venipuncture and intravenous injections, except as provided in § 54.1-3222 or for the treatment of emergency cases of anaphylactic shock with intramuscular epinephrine practice in accordance with the provisions of § 54.1-3201.

"TPA-certified optometrist" means an optometrist who is licensed under this chapter and who has successfully completed the requirements for TPA certification established by the Board pursuant to Article 5 (§ 54.1-3222 et seq.). Such certification shall enable an optometrist to prescribe and administer Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedules III through VI controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) to treat diseases, including abnormal conditions, of the human eye and its adnexa, as determined by the Board. Such certification shall not, however, permit treatment through surgery,

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including, but not limited to, laser surgery, other invasive modalities, or the use of injections, including venipuncture and intravenous injections, except as provided in ~~§ 54.1-3222~~ or for treatment of emergency cases of anaphylactic shock with intramuscular epinephrine.

The foregoing shall not restrict the authority of any optometrist licensed or certified under this chapter for the removal of superficial foreign bodies from the human eye and its adnexa or from delegating to personnel in his personal employ and supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by optometrists, if such activities or functions are authorized by and performed for such optometrists and responsibility for such activities or functions is assumed by such optometrists.

**§ 54.1-3201. What constitutes practice of optometry.**

A. *The practice of optometry includes:*

1. *Examination of the human eye to ascertain the presence of defects or abnormal conditions that may be corrected or relieved by the use of lenses, prisms or ocular exercises, or visual training or orthoptics and the prescribing or adapting of lenses, prisms or ocular exercises, or visual training or orthoptics for the correction, relief, remediation, or prevention of such conditions;*

2. *Employment of any subjective or objective mechanism to determine the accommodative or refractive states of the human eye or range or power of vision of the human eye;*

3. *Use of testing appliances for the purpose of the measurement of the powers of vision;*

4. *Examination, diagnosis, and optometric treatment in accordance with this chapter of conditions and visual or muscular anomalies of the human eye;*

5. *Evaluation, examination, diagnosis, and treatment of abnormal or diseased conditions of the human eye and its adnexa by the use of medically recognized and appropriate devices, procedures, or technologies;*

6. *Preoperative and postoperative care related to the human eye and adnexa; and*

7. *Use of diagnostic pharmaceutical agents set forth in § 54.1-3221.*

B. *Except as provided in §§ 54.1-3222 and 54.1-3225, the practice of optometry does not include treatment through:*

1. *Surgery, including:*

a. *Retina laser procedures; laser procedures into the vitreous chamber of the eye to treat vitreous, retinal, or macular disease; laser in situ keratomileusis and photorefractive keratectomy eye surgery; or other laser surgery;*

b. *Penetrating keratoplasty and corneal transplants;*

c. *Surgery (i) related to removal of the eye; (ii) requiring a full-thickness incision or excision of the cornea or sclera; (iii) requiring physical incision of the iris and ciliary body, including the diathermy, and cryotherapy; (iv) requiring incision of the vitreous humor or retina; (v) requiring full-thickness conjunctivoplasty with a graft or flap; (vi) of the eyelid for incisional cosmetic or functional repair, or blepharochalasis, ptosis, or tarsorrhaphy treatment; (vii) of the bony orbit, including orbital implants; (viii) requiring surgical extraction of the crystalline lens; or (ix) requiring surgical anterior or posterior chamber intraocular implants; or*

d. *Incisional or excisional surgery of the (i) extraocular muscles; (ii) lacrimal system, other than probing or related procedures; or (iii) pterygium surgery;*

2. *Cryotherapy of the ciliary body;*

3. *Iodizing radiation;*

4. *The use of injections, including venipuncture and intravenous injections;*

5. *Administration of or surgery using general anesthesia; or*

6. *Other invasive modalities.*

C. *An optometrist may (i) treat certain diseases or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents as permitted under this chapter and (ii) administer intramuscular epinephrine for the treatment of emergency cases of anaphylactic shock.*

D. *Any person who in any way advertises himself as an optometrist or uses the title of doctor of optometry (O.D.) or any other letters or title in connection with his name which in any way conveys the impression that he is engaged in the practice of optometry shall be deemed to be practicing optometry within the meaning of this chapter.*

*Article 6.*

*Certification to Perform of Laser Surgery.*

**§ 54.1-3225. Certification to perform laser surgery.**

A. *The Board shall certify an optometrist to perform laser surgery consisting of peripheral iridotomy, selective laser trabeculoplasty, and YAG capsulotomy for the medically appropriate and recognized treatment of the human eye through revision, destruction, or other structural alteration of the tissue of the eye using laser technology upon submission by the optometrist of evidence satisfactory to the Board that he:*

1. *Is certified by the Board to prescribe for and treat diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents pursuant to § 54.1-3222; and*

2. *Has satisfactorily completed such didactic and clinical training programs provided by an accredited school or college of optometry that includes training in the use of lasers for the medically appropriate and recognized treatment of the human eye as the Board may require.*

*B. The Board shall indicate on any license issued pursuant to this chapter to an optometrist certified to perform laser surgery pursuant to this section that the optometrist is so certified.*

**2. That the Board of Optometry shall promulgate regulations establishing criteria for certification of an optometrist to perform certain procedures limited to peripheral iridotomy, selective laser trabeculoplasty, and YAG capsulotomy for the medically appropriate and recognized treatment of the human eye through revision, destruction, or other structural alteration of the tissue of the eye using approved laser technology. The regulations shall include provisions for: (i) promotion of patient safety; (ii) identification and categorization of procedures for the purpose of issuing certificates; (iii) establishment of an application process for certification to perform such procedures; (iv) establishment of minimum education, training, and experience requirements for certification to perform such procedures; (v) development of protocols for proctoring and criteria for requiring such proctoring; and (vi) implementation of a quality assurance review process for such procedures performed by certificate holders.**

**3. That the Board of Optometry (the Board) shall promulgate regulations requiring optometrists to annually register with the Board and to report certain information as deemed appropriate by the Board. The regulations shall include required reporting for: (i) any disciplinary action taken against a person licensed by the Board in another state or in a federal health institution or voluntary surrender of a license in another state while under investigation; (ii) any malpractice judgment against a person licensed by the Board; (iii) any settlement of a malpractice claim against a person licensed by the Board; and (iv) any evidence that indicates a reasonable belief that a person licensed by the Board is or may be professionally incompetent, has or may have engaged in intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, has or may have engaged in unprofessional conduct, or may be mentally or physically unable to engage safely in the practice of his profession.**

**4. That an optometrist certified to perform laser surgery pursuant to § 54.1-3225 of the Code of Virginia, as created by this act, shall report quarterly to the Board of Optometry (the Board) the following information: (i) the number and type of laser surgeries performed by the optometrist, (ii) the conditions treated for each laser surgery performed, and (iii) any adverse treatment outcomes associated with such procedures that required a referral to an ophthalmologist for treatment. The Board shall report annually to the Governor and the Secretary of Health and Human Resources regarding the performance of laser surgery by optometrists during the previous 12-month period and shall make such report available on the Board's website. The provisions of this enactment shall expire on July 1, 2025.**

**Agenda Item: Adoption of proposed regulations regarding laser surgery certification**

**Included in your agenda package are:**

- Draft proposed regulations regarding certification for laser surgery;
- The agency background document for the NOIRA filed by the Board;
- Comment received via Town Hall;
- Comment received via email (identical to comment provided on Town Hall);
- Draft of proposed regulations approved by the Regulatory Advisory Panel convened August 5, 2022; and
- Chapter 17 of the 2022 Acts of Assembly.

**Action needed:**

- Motion to adopt proposed regulations regarding laser surgery certification.

**Project 7555 - Proposed**

**Board of Optometry**

**Regulations for laser surgery certifications**

Chapter 20

Regulations of the Virginia Board of Optometry

**18VAC105-20-5. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Acute pain" means pain that occurs within the normal course of a disease or condition for which controlled substances may be prescribed for no more than three months.

"Active clinical practice" means an average of 20 hours per week or 640 hours per year of providing patient care.

"Adnexa" is defined as the conjoined, subordinate, or immediately associated anatomic parts of the human eye, including eyelids and eyebrows.

"Board" means the Virginia Board of Optometry.

"Chronic pain" means nonmalignant pain that goes beyond the normal course of a disease or condition for which controlled substances may be prescribed for a period greater than three months.

"Controlled substance" means drugs listed in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) in Schedules II through V.

"Laser surgery certification" means a certification issued by the board to a Virginia licensed TPA-Certified Optometrist who has demonstrated compliance with the board's criteria for performance of peripheral iridotomy, selective laser trabeculoplasty, and YAG capsulotomy.

"LPSE" means the Laser and Surgical Procedures Examination administered by the NBEO.

"MME" means morphine milligram equivalent.

"NBEO" means the National Board of Examiners in Optometry.

"Prescription Monitoring Program" means the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

"Proctored session" means any surgery on a live patient or procedure performed on a model eye which is observed and evaluated by a proctor for the purpose of obtaining laser surgery certification pursuant to 18VAC105-20-80 4 b.

"Proctoring" means an objective evaluation of an optometrist's clinical competence to perform laser surgery pursuant to § 54.1-3225 of the Code of Virginia.

"TMOD" means the treatment and management of ocular disease portion of the NBEO examination.

"TPA" means therapeutic pharmaceutical agents.

"TPA certification" means authorization by the Virginia Board of Optometry for an optometrist to treat diseases and abnormal conditions of the human eye and its adnexa and to prescribe and administer certain therapeutic pharmaceutical agents.

#### **18VAC105-20-10. Requirements for licensure.**

A. The applicant, in order to be eligible for licensure to practice optometry in the Commonwealth, shall meet the requirements for TPA certification in 18VAC105-20-16 and shall:

1. Be a graduate of a school of optometry accredited by the Accreditation Council on Optometric Education or other accrediting body deemed by the board to be substantially equivalent; have an official transcript verifying graduation sent to the board;
2. Request submission of an official report from the NBEO of a score received on each required part of the NBEO examination or other board-approved examination;
3. Submit a completed application and the prescribed fee; and
4. Sign a statement attesting that the applicant has read, understands, and will comply with the statutes and regulations governing the practice of optometry in Virginia.

B. On or after January 1, 2030, all applicants to practice optometry in the Commonwealth shall meet the requirements for laser surgery in 18VAC105-20-80.

C. The board may waive the requirement of graduation from an accredited school of optometry for an applicant who holds a current, unrestricted license in another United States jurisdiction and has been engaged in active clinical practice for 36 out of the 60 months immediately preceding application for licensure in Virginia.

~~C.~~ D. Required examinations. For the purpose of § 54.1-3211 of the Code of Virginia, the board adopts all parts of the NBEO examination as its written examination for licensure. After July 1, 1997, the board shall require passage as determined by the board of Parts I, II, and III of the NBEO examination, including passage of TMOD.

~~D.~~ E. If an applicant has been licensed in another jurisdiction, the following requirements shall also apply:

1. The applicant shall attest that the applicant is not a respondent in a pending or unresolved malpractice claim.
2. Each jurisdiction in which the applicant is or has been licensed shall verify that:

- a. The license is current and unrestricted, or if the license has lapsed, it is eligible for reinstatement;
  - b. All continuing education requirements have been completed, if applicable;
  - c. The applicant is not a respondent in any pending or unresolved board action; and
  - d. The applicant has not committed any act that would constitute a violation of § 54.1-3204 or 54.1-3215 of the Code of Virginia.
3. An applicant licensed in another jurisdiction who has not been engaged in active practice within the 12 months immediately preceding application for licensure in Virginia shall be required to complete 20 hours of continuing education as specified in 18VAC105-20-70.
4. In the case of a federal service optometrist, the commanding officer shall also verify that the applicant is in good standing.

**18VAC105-20-20. Fees.**

A. Required fees.

Initial application and licensure ( <del>including with</del> <u>with</u> TPA certification)	\$250
<u>Initial application for licensure with TPA certification and laser surgery certification</u>	<u>\$350</u>
<u>Application for laser surgery certification</u>	<u>\$200</u>
Annual licensure renewal without TPA certification	\$150
Annual licensure renewal with TPA certification	\$200
<u>Annual licensure renewal with TPA certification and laser surgery certification</u>	<u>\$250</u>
Annual renewal of inactive license	\$100
Late renewal without TPA certification	\$50



Late renewal with TPA certification	\$65 <u>\$50</u>
<u>Late renewal with TPA certification and laser surgery certification</u>	<u>\$50</u>
Late renewal of inactive license	\$35 <u>\$50</u>
Handling fee for returned check or dishonored credit card or debit card	\$50
Reinstatement application fee (including renewal and late fees)	\$400
Reinstatement application after disciplinary action	\$500
Duplicate wall certificate	\$25
Duplicate license	\$10
Licensure verification	\$10

B. Unless otherwise specified, all fees are nonrefundable.

C. From October 31, 2018, to December 31, 2018, the following fees shall be in effect:

<del>Annual licensure renewal without TPA certification</del>	<del>\$75</del>
<del>Annual licensure renewal with TPA certification</del>	<del>\$100</del>
<del>Annual professional designation renewal (per location)</del>	<del>\$25</del>

**18VAC105-20-60. Renewal of licensure; reinstatement; renewal fees.**

A. Every person authorized by the board to practice optometry shall, on or before ~~December 31 of 2018~~ March 31 of each year, submit a completed renewal form and pay the prescribed annual licensure fee. ~~Beginning with calendar year 2020, the renewal of licensure deadline shall be March 31 of each year. For calendar year 2019, no renewal is required.~~

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current address of record and the public address, if different from the address of record.

All changes of address or name shall be furnished to the board within 30 days after the change occurs. All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address of record given and shall not relieve the licensee of the obligation to comply.

C. The license of ~~every~~ any person who does not complete the renewal form and submit the renewal fee ~~each year~~ for a licensure period may be renewed for up to one year by paying the prescribed renewal fee and late fee, provided the requirements of 18VAC105-20-70 have been met. After the renewal deadline, a license that has not been renewed is lapsed. Practicing optometry in Virginia with a lapsed license may subject the licensee to disciplinary action.

D. An optometrist whose license has been lapsed for more than one year and who wishes to resume practice in Virginia shall apply for reinstatement. The executive director may grant reinstatement provided that:

1. The applicant has a current, unrestricted license in another United States jurisdiction and has been engaged in active clinical practice within the 12 months immediately preceding application for reinstatement; or
2. The applicant has satisfied current requirements for continuing education as specified in 18VAC105-20-70 for the period in which the license has been lapsed, not to exceed two years; and
3. The applicant has paid the prescribed reinstatement application fee.

**18VAC105-20-80. Requirements for laser surgery certification.**

An applicant for laser surgery certification shall submit to the board:

1. A completed application for laser surgery certification;
2. The prescribed fee;

3. An educational attestation from a dean or designee of a school of optometry or an instructor of a laser surgery certification course approved by the board which verifies that the applicant received didactic and clinical laser surgery training in the following subjects:

a. Laser physics, hazards, and safety;

b. Biophysics of laser;

c. Laser application in clinical optometry;

d. Laser tissue interactions;

e. Laser indications, contraindications, and potential complications;

f. Gonioscopy;

g. Laser therapy for open angle glaucoma;

h. Posterior capsulotomy;

i. Common complications, lids, lashes, and lacrimal;

j. Medicolegal aspects of anterior segment procedures;

k. Peripheral iridotomy; and

l. Laser trabeculoplasty.

The required attestation from the dean or designee of a school of optometry or an instructor of a laser surgery certification course approved by the board shall be submitted on a form prescribed by the board; and

4. Evidence of one of the following:

a. Passage of the Laser Section of the LSPE, for which the applicant must request submission of an official report from the NBEO of the score received on the Laser Section of the LSPE; or

b. Proctored sessions in compliance with 18VAC105-20-90, which may be obtained during education training described in subdivision 3 of this section.

**18VAC105-20-90. Requirements for proctoring.**

A. Applicants for laser surgery certification who have not provided the board with a passing score on the Laser Section of the LSPE must submit evidence on a form provided by the board of proctored sessions for each of the following laser procedures:

1. Peripheral iridotomy;
2. Selective laser trabeculoplasty; and
3. YAG capsulotomy.

B. Proctors.

1. Pursuant to § 54.1-2400.01:1 of the Code of Virginia, a proctored session performed within the Commonwealth to qualify a TPA-certified optometrist for a new or reinstated laser surgery certification which consists of surgery on a live patient must be proctored by a licensed doctor of medicine or osteopathy who specializes in ophthalmology.

2. A proctored session performed within the Commonwealth to qualify a TPA-certified optometrist for a new or reinstated laser surgery certification which is performed on a model eye may be proctored by an individual holding a license in the Commonwealth or another jurisdiction who is authorized or certified to perform laser surgery on the eye and who does so as part of a regular course of practice.

3. The proctor must be in attendance in the room while the proctored session is performed, regardless of the jurisdiction in which the proctoring occurs.

4. Evidence of proctored sessions shall include a report by the proctor on a form provided by the board which:

- a. Evaluates the clinical competency of the individual being proctored;
- b. Describes the number and type of cases proctored; and
- c. Includes the proctor's name, license type, license number, and state of licensure.

**18VAC105-20-100. Reporting requirements.**

A. An optometrist certified to perform laser surgery by the board shall report the following information to the board on a quarterly basis:

- 1. The number and type of laser surgeries performed by the optometrist;
- 2. The conditions treated for each laser surgery performed; and
- 3. Any adverse treatment outcomes associated with such procedures that required a referral to an ophthalmologist for treatment.

B. The requirements of subsection A shall expire on July 1, 2025.

**18VAC105-20-110. Quality assurance review process.**

A. Effective July 1, 2025, an optometrist certified to perform laser surgery by the board shall maintain documentation of the following for not less than three years:

- 1. The number and type of laser surgeries performed by the optometrist; and
- 2. Any adverse treatment outcomes associated with such procedures that required referral to an ophthalmologist for treatment.

B. A random audit of licensees may be conducted by the board which will require a subject licensee to provide documentation required in subsection A to the board within 30 days of notification of the audit.



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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Optometry, Department of Health Professions
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC105-20
<b>VAC Chapter title(s)</b>	Regulations Governing the Practice of Optometry
<b>Action title</b>	Regulations for laser surgery certification
<b>Date this document prepared</b>	August 26, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

These amendments to an existing chapter provide certification for optometrists to perform laser surgery pursuant to [Ch. 16](#) and [Ch. 17](#) of the 2022 Acts of Assembly. That legislation required the Board to promulgate regulations to establish criteria for certification of optometrists to provide certain laser surgery.

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

N/A

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

The mandate for this action comes from [Ch. 16](#) and [Ch. 17](#) of the 2022 Acts of Assembly, which required the Board to promulgate regulations regarding certification of optometrists to perform certain laser surgery.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

Regulations of the Board of Optometry are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be "[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system."

Enactment clauses 2 and 4 of [Ch. 16](#) and [Ch. 17](#) of the 2022 Acts of Assembly require the Board to promulgate regulations related to certification of optometrists to perform laser surgery.

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

The agency was required by legislation to promulgate regulations. The legislation specifically stated that the Board "shall promulgate regulations establishing criteria for certification of an optometrist to perform certain procedures . . ." The legislation further stated that the regulations shall include provisions for (i) promotion of patient safety; (ii) identification and categorization of procedures for the purpose of issuing certificates; (iii) establishment of an application process for certification to perform such procedures; (iv) establishment of minimum education, training, and experience requirements for certification to perform such procedures; (v) development of protocols for proctoring and criteria for requiring such proctoring; and (vi) implementation of a quality assurance review process for such procedures performed by certificate holders. See [Ch. 16](#) and [Ch. 17](#) of the 2022 Acts of Assembly, enactment clause 2.

## Substance

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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The changes being considered include:

- Definitions specific to laser surgery, including “laser surgery certification,” definitions related to laser surgery examination, “proctored session,” and “proctoring.
- Requirements to obtain a laser surgery certification, including fees, education, and clinical training, whether in a school setting or via proctored sessions.
- Specific requirements for proctoring and proctors.
- Reporting requirements as required by [Ch. 16](#) and [Ch. 17](#) of the 2022 Acts of Assembly, enactment clause 4.
- Reporting requirements to maintain a quality assurance review process.
- Fees related to certification.
- Any needed renewal requirements.

### **Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

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There are no alternatives to regulation. Regulation is required by the enacting legislation and the Board must enact regulations to institute a new certification process.

### **Periodic Review and Small Business Impact Review Announcement**

This NOIRA is not being used to announce a periodic review or a small business impact review.

### **Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

---

The Board of Optometry is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>.



Comments may also be submitted by mail, email or fax to Erin Barrett, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov) or by fax to (804) 915-0382. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.


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Agency

Department of Health Professions

Board

Board of Optometry

Chapter

Regulations of the Virginia Board of Optometry [[18 VAC 105 - 20](#)]

Action	<a href="#">Regulations for laser surgery certifications</a>
Stage	<a href="#">NOIRA</a>
Comment Period	Ends 6/21/2023

1 comments

**All good comments for this forum**    [Show Only Flagged](#)
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**Commenter:** Virginia Society of Eye Physicians and Surgeons

6/20/23 6:43 pm

### Optometric Surgery NOIRA

June 20, 2023

Leslie L Knachel, Executive Director  
 Virginia Board of Optometry  
 Virginia Department of Health Professions  
 9960 Mayland Drive, Suite 300  
 Henrico, VA 23233  
[leslie.knachel@dhp.virginia.gov](mailto:leslie.knachel@dhp.virginia.gov)

Dear Ms. Knachel:

As the Board of Optometry drafts the preliminary regulations for laser surgery certifications, the Virginia Society of Eye Physicians and Surgeons (VSEPS) strongly recommends that the following items are included in the draft to ensure critical patient safety. The directing legislation, passed in the 2022 legislative session, tasks the Board of Optometry with creating regulations for optometrists to perform laser surgery in which they must address six high level provisions. The following recommendations were chosen based on those guidelines.

VSEPS' number one priority in drafting the regulations for laser surgery is patient safety. We urge the Board to suggest separate certifications for each of the named procedures given their dramatically different indications, safety profiles, and complications.

In creating these new regulations, VSEPS also believes that the regulations require individuals performing these procedures to have medical education, with medical testing and surgical proctoring. We support an independent third party overseeing the medical testing process, rather than a self-regulated approach. This testing should be completed in the beginning of the process, prior to surgical proctoring.

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In addition to these education and training requirements, VSEPS recommends that the current baseline requirements of the Accreditation Council for Graduate Medical Education (ACGME) be expanded to ensure patient safety as recommended below. The ACGME requirements for these procedures are in the setting of comprehensive surgical training. Comprehensive surgical training requires a minimum of 200 surgical cases, and while we recognize that number is likely not realistic in this situation, VSEPS strongly believes that the minimal number of surgical cases as follows should be the core baseline to ensure proper experience and patient safety.

- Yag capsulotomy (10)
- SLT (10)
- Iridotomy (8)

As these procedures are performed, VSEPS suggests that the requirements include live proctoring with real-time monitoring with a training scope by an ophthalmologist certified by the American Board of Ophthalmology. Additionally, to create a quality assurance system, VSEPS believes that the regulations should include the creation of a data repository that includes pre-op, intra-op, and post-op data collection, along with an annual renewal policy demonstrating safety and currency (minimum number of cases safely performed per year).

VSEPS created the recommendations above with patient safety at the forefront of each objective, and it is our strong hope that the Board of Optometry will include these suggestions in their draft regulations. We appreciate the opportunity to provide comments and look forward to future opportunities to participate in this regulatory drafting process.

Sincerely,  
Kapil G. Kapoor, MD, FACS, FICS, FASRS  
President  
CommentID: **217385**



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*EYE MDs of VIRGINIA*

June 20, 2023

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Virginia Board of Optometry  
Virginia Department of Health Professions  
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<https://townhall.virginia.gov/L/entercomment.cfm?stageid=9780>

Dear Ms. Knachel:

As the Board of Optometry drafts the preliminary regulations for laser surgery certifications, the Virginia Society of Eye Physicians and Surgeons (VSEPS) strongly recommends that the following items are included in the draft to ensure critical patient safety. The directing legislation, passed in the 2022 legislative session, tasks the Board of Optometry with creating regulations for optometrists to perform laser surgery in which they must address six high level provisions. The following recommendations were chosen based on those guidelines.

VSEPS' number one priority in drafting the regulations for laser surgery is patient safety. We urge the Board to suggest separate certifications for each of the named procedures given their dramatically different indications, safety profiles, and complications.

In creating these new regulations, VSEPS also believes that the regulations require individuals performing these procedures to have medical education, with medical testing and surgical proctoring. We support an independent third party overseeing the medical testing process, rather than a self-regulated approach. This testing should be completed in the beginning of the process, prior to surgical proctoring.

In addition to these education and training requirements, VSEPS recommends that the current baseline requirements of the Accreditation Council for Graduate Medical Education (ACGME) be expanded to ensure patient safety as recommended below. The ACGME requirements for these procedures are in the setting of comprehensive surgical training. Comprehensive surgical training requires a minimum of 200 surgical cases, and while we recognize that number is likely not realistic in this situation, VSEPS strongly believes that the minimal number of surgical cases as follows should be the core baseline to ensure proper experience and patient safety.

- Yag capsulotomy (10)
- SLT (10)
- Iridotomy (8)

As these procedures are performed, VSEPS suggests that the requirements include live proctoring with real-time monitoring with a training scope by an ophthalmologist certified by the American Board of Ophthalmology. Additionally, to create a quality assurance system, VSEPS believes that the regulations should include the creation of a data repository that includes pre-op, intra-op, and post-op data collection, along with an annual renewal policy demonstrating safety and currency (minimum number of cases safely performed per year).

VSEPS created the recommendations above with patient safety at the forefront of each objective, and it is our strong hope that the Board of Optometry will include these suggestions in their draft regulations. We appreciate the opportunity to provide comments and look forward to future opportunities to participate in this regulatory drafting process.

Sincerely,

Handwritten signature of Kapil G. Kapoor, MD, with initials 'GK' below the name.

Kapil G. Kapoor, MD, FACS, FICS, FASRS  
President

18VAC105-20-5. Definitions.

“Laser surgery certification” means a certification issued by the board to a Virginia licensed TPA-Certified Optometrist who has demonstrated compliance with the board’s criteria for performance of peripheral iridotomy, selective laser trabeculoplasty, and YAG capsulotomy.

“LSPE” means the Laser and Surgical Procedures Examination administered by the NBEO.

“Proctored session” means any surgery on a live patient or procedure performed on a model eye which is observed and evaluated by a proctor for the purpose of obtaining laser surgery certification pursuant to 18VAC105-20-80(4)(b).

“Proctoring” means an objective evaluation of an optometrist’s clinical competence to perform laser surgery pursuant to § 54.1-3225 of the Code of Virginia.

18VAC105-20-80. Requirements for laser surgery certification.

An applicant for laser surgery certification shall submit to the board:

1. A completed application for laser surgery certification;
2. The prescribed fee;
3. An educational attestation from a dean or designee of a school of optometry or an instructor of a laser surgery certification course approved by the board which verifies that the applicant received didactic and clinical laser surgery training in the following subjects:
  - (a) Laser physics, hazards, and safety;
  - (b) Biophysics of laser;
  - (c) Laser application in clinical optometry;
  - (d) Laser tissue interactions;
  - (e) Laser indications, contraindications, and potential complications;
  - (f) Gonioscopy;
  - (g) Laser therapy for open angle glaucoma;
  - (h) Posterior capsulotomy;
  - (i) Common complications, lids, lashes, and lacrimal;
  - (j) Medicolegal aspects of anterior segment procedures;
  - (k) Peripheral iridotomy; and
  - (l) Laser trabeculoplasty.

The required attestation from the dean or designee of a school of optometry or an instructor of a laser surgery certification course approved by the board shall be submitted on a form prescribed by the board; and

4. Evidence of one of the following:

- (a) Passage of the Laser Section of the LSPE by requesting submission of an official report from the NBEO of a score received on the required part of the NBEO examination; or
- (b) Proctored sessions in compliance with 18VAC105-20-90, which may be obtained during educational training described in subdivision 3 of this section.

18VAC105-20-90. Requirements for proctoring.

A. Applicants for laser surgery certification who have not provided the board with a passing score on the Laser Section of the LSPE administered by NBEO must submit evidence on a form provided by the board of proctored sessions for each of the following laser procedures: peripheral iridotomy; selective laser trabeculoplasty; and YAG capsulotomy.

B. Proctors.

1. Pursuant to § 54.1-2400.01:1(B) of the Code of Virginia, a proctored session performed within the Commonwealth to qualify a TPA-Certified Optometrist for a new or reinstated laser surgery certification which consists of surgery on a live patient must be proctored by a licensed doctor of medicine or osteopathy who specializes in ophthalmology.

2. A proctored session performed within the Commonwealth to qualify a TPA-Certified Optometrist for a new or reinstated laser surgery certification which is performed on a model eye may be proctored by any licensee in the Commonwealth or another jurisdiction authorized or certified to perform laser surgery on the eye and who does so as part of a regular course of practice.

3. The proctor must be in attendance in the room while the proctored session is performed, regardless of the jurisdiction in which the proctoring occurs.

4. Evidence of proctored sessions shall include a report by the proctor on a form provided by the board which:

- (a) Evaluates the clinical competency of the individual being proctored;
- (b) Describes the number and type of case(s) proctored; and
- (c) Includes the proctor's name, license type, license number, and state of licensure.

18VAC105-20-100. Reporting requirements.

A. An optometrist certified to perform laser surgery by the board shall report the following to the board quarterly:

- 1. The number and type of laser surgeries performed by the optometrist;
- 2. The conditions treated for each laser surgery performed; and
- 3. Any adverse treatment outcomes associated with such procedures that required a referral to an ophthalmologist for treatment.

B. The requirements of subdivision A shall expire on July 1, 2025.

18VAC105-20-110. Quality assurance review process.

Effective July 1, 2025, an optometrist certified to perform laser surgery by the board shall maintain documentation of the following for not less than three years:

1. The number and type of laser surgeries performed by the optometrist; and
2. Any adverse treatment outcomes associated with such procedures that required a referral to an ophthalmologist for treatment.

A random audit of licensees may be conducted by the board which will require that the licensee provide such documentation to the board within 30 days of the audit notification.

DRAFT



# VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

## CHAPTER 17

*An Act to amend and reenact §§ 54.1-2400.01:1, 54.1-3200, and 54.1-3201 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 32 of Title 54.1 an article numbered 6, consisting of a section numbered 54.1-3225, relating to optometrists; laser surgery.*

[H 213]

Approved March 9, 2022

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2400.01:1, 54.1-3200, and 54.1-3201 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 32 of Title 54.1 an article numbered 6, consisting of a section numbered 54.1-3225, as follows:**

**§ 54.1-2400.01:1. Surgery defined; who may perform surgery.**

A. For the purposes of this subtitle, except as used in Chapter 38 (§ 54.1-3800 et seq.) related to veterinary medicine, "surgery" means the structural alteration of the human body by the incision or cutting into of tissue for the purpose of diagnostic or therapeutic treatment of conditions or disease processes by any instrument causing localized alteration or transposition of live human tissue, but does not include the following: procedures for the removal of superficial foreign bodies from the human body, punctures, injections, dry needling, acupuncture, or removal of dead tissue. For the purposes of this section, incision shall not mean the scraping or brushing of live tissue.

B. No person shall perform surgery unless he is (i) licensed by the Board of Medicine as a doctor of medicine, osteopathy, or podiatry; (ii) licensed by the Board of Dentistry as a doctor of dentistry; (iii) jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner; (iv) a physician assistant acting under the supervision of a doctor of medicine, osteopathy, or podiatry; (v) a licensed midwife in the performance of episiotomies during childbirth; ~~or~~ (vi) licensed by the Board of Optometry as an optometrist and certified to perform laser surgery pursuant to § 54.1-3225; or (vii) acting pursuant to the orders and under the appropriate supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry.

C. Nothing in this section shall be construed to restrict, limit, change, or expand the scope of practice in effect on January 1, 2012, of any profession licensed by any of the health regulatory boards within the Department of Health Professions.

**§ 54.1-3200. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Optometry.

"Optometrist" means any person practicing the profession of optometry as defined in this chapter and the regulations of the Board.

"Practice of optometry" means the examination of the human eye to ascertain the presence of defects or abnormal conditions which may be corrected or relieved by the use of lenses, prisms or ocular exercises, visual training or orthoptics; the employment of any subjective or objective mechanism to determine the accommodative or refractive states of the human eye or range or power of vision of the human eye; the use of testing appliances for the purpose of the measurement of the powers of vision; the examination, diagnosis, and optometric treatment in accordance with this chapter, of conditions and visual or muscular anomalies of the human eye; the use of diagnostic pharmaceutical agents set forth in § 54.1-3221; and the prescribing or adapting of lenses, prisms or ocular exercises, visual training or orthoptics for the correction, relief, remediation or prevention of such conditions. An optometrist may treat certain diseases or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents only as permitted under this chapter. The practice of optometry also includes the evaluation, examination, diagnosis, and treatment of abnormal or diseased conditions of the human eye and its adnexa by the use of medically recognized and appropriate devices, procedures, or technologies. However, the practice of optometry does not include treatment through surgery, including laser surgery, other invasive modalities, or the use of injections, including venipuncture and intravenous injections, except as provided in § 54.1-3222 or for the treatment of emergency cases of anaphylactic shock with intramuscular epinephrine practice in accordance with the provisions of § 54.1-3201.

"TPA-certified optometrist" means an optometrist who is licensed under this chapter and who has successfully completed the requirements for TPA certification established by the Board pursuant to Article 5 (§ 54.1-3222 et seq.). Such certification shall enable an optometrist to prescribe and administer Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedules III through VI controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) to treat diseases, including abnormal conditions, of the human eye and its adnexa, as determined by the Board. Such certification shall not, however, permit treatment through surgery,

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including, but not limited to, laser surgery, other invasive modalities, or the use of injections, including venipuncture and intravenous injections, except as provided in ~~§ 54.1-3222~~ or for treatment of emergency cases of anaphylactic shock with intramuscular epinephrine.

The foregoing shall not restrict the authority of any optometrist licensed or certified under this chapter for the removal of superficial foreign bodies from the human eye and its adnexa or from delegating to personnel in his personal employ and supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by optometrists, if such activities or functions are authorized by and performed for such optometrists and responsibility for such activities or functions is assumed by such optometrists.

**§ 54.1-3201. What constitutes practice of optometry.**

A. *The practice of optometry includes:*

1. *Examination of the human eye to ascertain the presence of defects or abnormal conditions that may be corrected or relieved by the use of lenses, prisms or ocular exercises, or visual training or orthoptics and the prescribing or adapting of lenses, prisms or ocular exercises, or visual training or orthoptics for the correction, relief, remediation, or prevention of such conditions;*

2. *Employment of any subjective or objective mechanism to determine the accommodative or refractive states of the human eye or range or power of vision of the human eye;*

3. *Use of testing appliances for the purpose of the measurement of the powers of vision;*

4. *Examination, diagnosis, and optometric treatment in accordance with this chapter of conditions and visual or muscular anomalies of the human eye;*

5. *Evaluation, examination, diagnosis, and treatment of abnormal or diseased conditions of the human eye and its adnexa by the use of medically recognized and appropriate devices, procedures, or technologies;*

6. *Preoperative and postoperative care related to the human eye and adnexa; and*

7. *Use of diagnostic pharmaceutical agents set forth in § 54.1-3221.*

B. *Except as provided in §§ 54.1-3222 and 54.1-3225, the practice of optometry does not include treatment through:*

1. *Surgery, including:*

a. *Retina laser procedures; laser procedures into the vitreous chamber of the eye to treat vitreous, retinal, or macular disease; laser in situ keratomileusis and photorefractive keratectomy eye surgery; or other laser surgery;*

b. *Penetrating keratoplasty and corneal transplants;*

c. *Surgery (i) related to removal of the eye; (ii) requiring a full-thickness incision or excision of the cornea or sclera; (iii) requiring physical incision of the iris and ciliary body, including the diathermy, and cryotherapy; (iv) requiring incision of the vitreous humor or retina; (v) requiring full-thickness conjunctivoplasty with a graft or flap; (vi) of the eyelid for incisional cosmetic or functional repair, or blepharochalasis, ptosis, or tarsorrhaphy treatment; (vii) of the bony orbit, including orbital implants; (viii) requiring surgical extraction of the crystalline lens; or (ix) requiring surgical anterior or posterior chamber intraocular implants; or*

d. *Incisional or excisional surgery of the (i) extraocular muscles; (ii) lacrimal system, other than probing or related procedures; or (iii) pterygium surgery;*

2. *Cryotherapy of the ciliary body;*

3. *Iodizing radiation;*

4. *The use of injections, including venipuncture and intravenous injections;*

5. *Administration of or surgery using general anesthesia; or*

6. *Other invasive modalities.*

C. *An optometrist may (i) treat certain diseases or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents as permitted under this chapter and (ii) administer intramuscular epinephrine for the treatment of emergency cases of anaphylactic shock.*

D. *Any person who in any way advertises himself as an optometrist or uses the title of doctor of optometry (O.D.) or any other letters or title in connection with his name which in any way conveys the impression that he is engaged in the practice of optometry shall be deemed to be practicing optometry within the meaning of this chapter.*

*Article 6.*

*Certification to Perform of Laser Surgery.*

**§ 54.1-3225. Certification to perform laser surgery.**

A. *The Board shall certify an optometrist to perform laser surgery consisting of peripheral iridotomy, selective laser trabeculoplasty, and YAG capsulotomy for the medically appropriate and recognized treatment of the human eye through revision, destruction, or other structural alteration of the tissue of the eye using laser technology upon submission by the optometrist of evidence satisfactory to the Board that he:*

1. *Is certified by the Board to prescribe for and treat diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents pursuant to § 54.1-3222; and*

2. *Has satisfactorily completed such didactic and clinical training programs provided by an accredited school or college of optometry that includes training in the use of lasers for the medically appropriate and recognized treatment of the human eye as the Board may require.*

*B. The Board shall indicate on any license issued pursuant to this chapter to an optometrist certified to perform laser surgery pursuant to this section that the optometrist is so certified.*

**2. That the Board of Optometry shall promulgate regulations establishing criteria for certification of an optometrist to perform certain procedures limited to peripheral iridotomy, selective laser trabeculoplasty, and YAG capsulotomy for the medically appropriate and recognized treatment of the human eye through revision, destruction, or other structural alteration of the tissue of the eye using approved laser technology. The regulations shall include provisions for: (i) promotion of patient safety; (ii) identification and categorization of procedures for the purpose of issuing certificates; (iii) establishment of an application process for certification to perform such procedures; (iv) establishment of minimum education, training, and experience requirements for certification to perform such procedures; (v) development of protocols for proctoring and criteria for requiring such proctoring; and (vi) implementation of a quality assurance review process for such procedures performed by certificate holders.**

**3. That the Board of Optometry (the Board) shall promulgate regulations requiring optometrists to annually register with the Board and to report certain information as deemed appropriate by the Board. The regulations shall include required reporting for: (i) any disciplinary action taken against a person licensed by the Board in another state or in a federal health institution or voluntary surrender of a license in another state while under investigation; (ii) any malpractice judgment against a person licensed by the Board; (iii) any settlement of a malpractice claim against a person licensed by the Board; and (iv) any evidence that indicates a reasonable belief that a person licensed by the Board is or may be professionally incompetent, has or may have engaged in intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, has or may have engaged in unprofessional conduct, or may be mentally or physically unable to engage safely in the practice of his profession.**

**4. That an optometrist certified to perform laser surgery pursuant to § 54.1-3225 of the Code of Virginia, as created by this act, shall report quarterly to the Board of Optometry (the Board) the following information: (i) the number and type of laser surgeries performed by the optometrist, (ii) the conditions treated for each laser surgery performed, and (iii) any adverse treatment outcomes associated with such procedures that required a referral to an ophthalmologist for treatment. The Board shall report annually to the Governor and the Secretary of Health and Human Resources regarding the performance of laser surgery by optometrists during the previous 12-month period and shall make such report available on the Board's website. The provisions of this enactment shall expire on July 1, 2025.**

**Agenda Item: Issuance of Periodic Review for Chapter 20**

**Included in your agenda package is:**

- 18VAC105-20, Regulations Governing the Practice of Optometry

**Staff Note:** The regulatory committee has begun work on review of Chapter 20. The Board needs to issue an official periodic review notice to gather public comment and move forward with suggested changes.

**Action needed:**

- Motion to initiate a periodic review of Chapter 20.

*Commonwealth of Virginia*



**REGULATIONS**

**OF THE**

**VIRGINIA BOARD OF OPTOMETRY**

**Title of Regulations: 18 VAC 105-20-05 et seq.**

**Statutory Authority: § 54.1-2400 and Chapter 32  
of Title 54.1 of the *Code of Virginia***

**Revised Date: February 2, 2023**

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**18VAC105-20-5. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Acute pain" means pain that occurs within the normal course of a disease or condition for which controlled substances may be prescribed for no more than three months.

"Active clinical practice" means an average of 20 hours per week or 640 hours per year of providing patient care.

"Adnexa" is defined as the conjoined, subordinate, or immediately associated anatomic parts of the human eye, including eyelids and eyebrows.

"Board" means the Virginia Board of Optometry.

"Chronic pain" means nonmalignant pain that goes beyond the normal course of a disease or condition for which controlled substances may be prescribed for a period greater than three months.

"Controlled substance" means drugs listed in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) in Schedules II through V.

"MME" means morphine milligram equivalent.

"NBEO" means the National Board of Examiners in Optometry.

"Prescription Monitoring Program" means the electronic system within the Department of Health Professions that monitors the dispensing of certain controlled substances.

"TMOD" means the treatment and management of ocular disease portion of the NBEO examination.

"TPA" means therapeutic pharmaceutical agents.

"TPA certification" means authorization by the Virginia Board of Optometry for an optometrist to treat diseases and abnormal conditions of the human eye and its adnexa and to prescribe and administer certain therapeutic pharmaceutical agents.

**18VAC105-20-10. Requirements for licensure.**

A. The applicant, in order to be eligible for licensure to practice optometry in the Commonwealth, shall meet the requirements for TPA certification in 18VAC105-20-16 and shall:

1. Be a graduate of a school of optometry accredited by the Accreditation Council on Optometric Education or other accrediting body deemed by the board to be substantially equivalent; have an official transcript verifying graduation sent to the board;
2. Request submission of an official report from the NBEO of a score received on each required part of the NBEO examination or other board-approved examination;
3. Submit a completed application and the prescribed fee; and
4. Sign a statement attesting that the applicant has read, understands, and will comply with the statutes and regulations governing the practice of optometry in Virginia.

B. The board may waive the requirement of graduation from an accredited school of optometry for an applicant who holds a current, unrestricted license in another United States jurisdiction and has been engaged in active clinical practice for 36 out of the 60 months immediately preceding application for licensure in Virginia.

C. Required examinations. For the purpose of § 54.1-3211 of the Code of Virginia, the board adopts all parts of the NBEO examination as its written examination for licensure. After July 1, 1997, the board shall require passage as determined by the board of Parts I, II, and III of the NBEO examination, including passage of TMOD.

D. If an applicant has been licensed in another jurisdiction, the following requirements shall also apply:

1. The applicant shall attest that the applicant is not a respondent in a pending or unresolved malpractice claim.
2. Each jurisdiction in which the applicant is or has been licensed shall verify that:
  - a. The license is current and unrestricted, or if the license has lapsed, it is eligible for reinstatement;
  - b. All continuing education requirements have been completed, if applicable;
  - c. The applicant is not a respondent in any pending or unresolved board action; and
  - d. The applicant has not committed any act that would constitute a violation of § 54.1-3204 or 54.1-3215 of the Code of Virginia.
3. An applicant licensed in another jurisdiction who has not been engaged in active practice within the 12 months immediately preceding application for licensure in



Virginia shall be required to complete 20 hours of continuing education as specified in 18VAC105-20-70.

4. In the case of a federal service optometrist, the commanding officer shall also verify that the applicant is in good standing.

**18VAC105-20-15. (Repealed.)**

**18VAC105-20-16. Requirements for TPA certification.**

A. An applicant for licensure shall meet the following requirements for TPA certification:

1. Complete a full-time, postgraduate or equivalent graduate-level optometric training program that is approved by the board and that shall include a minimum of 20 hours of clinical supervision by an ophthalmologist; and

2. Submit a passing score on the TPA certification examination, which shall be TMOD or be TPA-certified by an examination satisfactory to the board.

B. A candidate for certification by the board who fails the examination as required in subdivision A 2 of this section, following three attempts, shall complete additional postgraduate training as determined by the board to be eligible for TPA certification.

**18VAC105-20-20. Fees.**

A. Required fees.

Initial application and licensure (including TPA certification)	\$250
Annual licensure renewal without TPA certification	\$150
Annual licensure renewal with TPA certification	\$200
Annual renewal of inactive license	\$100
Late renewal without TPA certification	\$50
Late renewal with TPA certification	\$65
Late renewal of inactive license	\$35
Handling fee for returned check or dishonored credit card or debit card	\$50
Reinstatement application fee (including renewal and late fees)	\$400

Reinstatement application after disciplinary action	\$500
Duplicate wall certificate	\$25
Duplicate license	\$10
Licensure verification	\$10

B. Unless otherwise specified, all fees are nonrefundable.

C. From October 31, 2018, to December 31, 2018, the following fees shall be in effect:

Annual licensure renewal without TPA certification	\$75
Annual licensure renewal with TPA certification	\$100
Annual professional designation renewal (per location)	\$25

**18VAC105-20-30. (Repealed.)**

**18VAC105-20-40. Standards of conduct.**

The board has the authority to refuse to issue or renew a license, suspend, revoke, or otherwise discipline a licensee for a violation of the following standards of conduct. A licensed optometrist shall:

1. Use in connection with the optometrist's name wherever it appears relating to the practice of optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."
2. Notify the board of any disciplinary action taken by a regulatory body in another jurisdiction.
3. Post in an area of the optometric office that is conspicuous to the public a chart or directory listing the names of all optometrists practicing at that particular location.
4. Maintain patient records, perform procedures or make recommendations during any eye examination, contact lens examination, or treatment as necessary to protect the health and welfare of the patient and consistent with requirements of 18VAC105-20-45.
5. Notify patients in the event the practice is to be terminated or relocated, giving a reasonable time period within which the patient or an authorized representative can request in writing that the records or copies be sent to any other like-regulated provider of the patient's choice or destroyed in compliance with requirements of § 54.1-2405 of

the Code of Virginia on the transfer of patient records in conjunction with closure, sale, or relocation of practice.

6. Ensure his access to the practice location during hours in which the practice is closed in order to be able to properly evaluate and treat a patient in an emergency.

7. Provide for continuity of care in the event of an absence from the practice or, in the event the optometrist chooses to terminate the practitioner-patient relationship or make his services unavailable, document notice to the patient that allows for a reasonable time to obtain the services of another practitioner.

8. Comply with the provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of patient records and related to the provision of patient records to another practitioner or to the patient or his personal representative.

9. Treat or prescribe based on a bona fide practitioner-patient relationship consistent with criteria set forth in § 54.1-3303 of the Code of Virginia. A licensee shall not prescribe a controlled substance to himself or a family member other than Schedule VI as defined in § 54.1-3455 of the Code of Virginia. When treating or prescribing for self or family, the practitioner shall maintain a patient record documenting compliance with statutory criteria for a bona fide practitioner-patient relationship.

10. Comply with provisions of statute or regulation, state or federal, relating to the diversion, distribution, dispensing, prescribing, or administration of controlled substances as defined in § 54.1-3401 of the Code of Virginia.

11. Not enter into a relationship with a patient that constitutes a professional boundary violation in which the practitioner uses his professional position to take advantage of the vulnerability of a patient or his family to include actions that result in personal gain at the expense of the patient, a nontherapeutic personal involvement, or sexual conduct with a patient. The determination of when a person is a patient is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. The consent to, initiation of, or participation in sexual behavior or involvement with a practitioner by a patient does not change the nature of the conduct nor negate the prohibition.

12. Cooperate with the board or its representatives in providing information or records as requested or required pursuant to an investigation or the enforcement of a statute or regulation.

13. Not violate or cooperate with others in violating any of the provisions of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.) or 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia or regulations of the board.

**18VAC105-20-41. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.**

A. Decision to delegate. In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.

B. Criteria for delegation. Cases may be delegated to an agency subordinate upon approval by a committee of the board, except those in which an optometrist may have conducted his practice in such a manner as to endanger the health and welfare of his patients or the public.

C. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include current or past board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

**18VAC105-20-45. Standards of practice.**

A. An optometrist shall legibly document in a patient record the following:

1. During a routine or medical eye examination:

a. An adequate case history, including the patient's chief complaint;

b. The performance of appropriate testing;

c. The establishment of an assessment or diagnosis; and

d. A recommendation for an appropriate treatment or management plan, including any necessary follow-up.

2. During an initial contact lens examination:

- a. The requirements of a routine or medical eye examination as prescribed in subdivision 1 of this subsection;
- b. Assessment of corneal curvature;
- c. Evaluation of contact lens fitting;
- d. Acuity through the lens; and
- e. Directions for the wear, care, and handling of lenses.

3. During a follow-up contact lens examination:

- a. Evaluation of contact lens fitting and anterior segment health;
- b. Acuity through the lens; and
- c. Such further instructions as necessary for the individual patient.

4. In addition, the record of any examination shall include the signature of the attending optometrist and, if indicated, refraction of the patient.

B. The following information shall appear on a prescription for ophthalmic goods:

1. The printed name of the prescribing optometrist;
2. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;
3. The name of the patient;
4. The signature of the optometrist;
5. The date of the examination;
6. If an expiration date is placed on a prescription for ophthalmic goods, the date shall not be less than one year unless the medical reason for a shorter expiration date is documented in the patient record; and
7. Any special instructions.

C. Contact lens.

1. Sufficient information for complete and accurate filling of an established contact lens prescription shall include (i) the power, (ii) the material or manufacturer or both, (iii)

the base curve or appropriate designation, (iv) the diameter when appropriate, and (v) medically appropriate expiration date.

2. An optometrist shall provide a patient with a copy of the patient's contact lens prescription at the end of the contact lens fitting, even if the patient does not ask for it. An optometrist may first require all fees to be paid, but only if the optometrist requires immediate payment from patients whose eye examinations reveal no need for corrective eye products. Patient confirmation of receipt of the prescription at the end of the contact lens fitting shall be maintained in the patient record.

3. An optometrist shall provide or verify the prescription to anyone who is designated to act on behalf of the patient, including contact lens sellers.

4. An optometrist shall not require patients to buy contact lenses, pay additional fees, or sign a waiver or release in exchange for a copy of the contact lens prescription.

5. An optometrist shall not disclaim liability or responsibility for the accuracy of an eye examination.

#### D. Spectacle lens.

1. A licensed optometrist shall provide a written prescription for spectacle lenses immediately after the eye examination is completed. He may first require all fees to be paid, but only if he requires immediate payment from patients whose eye examinations reveal no need for corrective eye products.

2. An optometrist shall not require patients to buy ophthalmic goods, pay additional fees, or sign a waiver or release in exchange for a copy of the spectacle prescription.

3. An optometrist shall not disclaim liability or responsibility for the accuracy of an eye examination.

#### E. Practitioners shall maintain a patient record for a minimum of six years following the last patient encounter with the following exceptions:

1. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative; or

2. Records that are required by contractual obligation or federal law to be maintained for a longer period of time.

#### F. Practitioners shall post information or in some manner inform all patients concerning the time frame for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality.

G. For the purpose of prescribing spectacles, eyeglasses, lenses, or contact lenses to a patient, a licensee shall establish a bona fide provider-patient relationship in accordance with requirements of § 54.1-2400.01:2 of the Code of Virginia.

**18VAC105-20-46. Treatment guidelines for TPA-certified optometrists.**

A. TPA-certified optometrists may treat diseases and abnormal conditions of the human eye and its adnexa that may be treated with medically appropriate pharmaceutical agents as referenced in 18VAC105-20-47.

B. In addition, the following may be treated:

1. Glaucoma (excluding the treatment of congenital and infantile glaucoma). Treatment of angle closure shall follow the definition and protocol prescribed in subsection C of this section.
2. Ocular-related post-operative care in cooperation with patient's surgeon.
3. Ocular trauma to the above tissues as in subsection A of this section.
4. Uveitis.
5. Anaphylactic shock (limited to the administration of intramuscular epinephrine).

C. The definition and protocol for treatment of angle closure glaucoma shall be as follows:

1. As used in this chapter, angle closure glaucoma shall mean a closed angle in the involved eye with significantly increased intraocular pressure, and corneal microcystic edema;
2. Treatment shall be limited to the initiation of immediate emergency care with appropriate pharmaceutical agents as prescribed by this chapter;
3. Once the diagnosis of angle closure glaucoma has been established by the optometrist, the ophthalmologist to whom the patient is to be referred should be contacted immediately;
4. If there are no medical contraindications, an oral osmotic agent may be administered as well as an oral carbonic anhydrase inhibitor and any other medically accepted, Schedule III, IV or VI, oral antiglaucomic agent as may become available; and
5. Proper topical medications as appropriate may also be administered by the optometrist.

D. An oral Schedule VI immunosuppressive agent shall only be used when (i) the condition fails to appropriately respond to any other treatment regimen; (ii) such agent is prescribed in consultation with a physician; and (iii) treatment with such agent includes monitoring of systemic effects.

**18VAC105-20-47. Therapeutic pharmaceutical agents.**

A. A TPA-certified optometrist, acting within the scope of his practice, may procure, administer, and prescribe medically appropriate therapeutic pharmaceutical agents (or any therapeutically appropriate combination thereof) to treat diseases and abnormal conditions of the human eye and its adnexa within the following categories:

1. Oral analgesics - Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedules III, IV, and VI narcotic and nonnarcotic agents.
2. Topically administered Schedule VI agents:
  - a. Alpha-adrenergic blocking agents;
  - b. Alpha-adrenergic agonists;
  - c. Cholinergic agonists;
  - d. Anesthetic (including esters and amides);
  - e. Anti-allergy (including antihistamines and mast cell stabilizers);
  - f. Anti-fungal;
  - g. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);
  - h. Anti-infective (including antibiotics and antivirals);
  - i. Anti-inflammatory;
  - j. Cycloplegics and mydriatics;
  - k. Decongestants; and
  - l. Immunosuppressive agents.
3. Orally administered Schedule VI agents:
  - a. Aminocaproic acids (including antifibrinolytic agents);
  - b. Anti-allergy (including antihistamines and leukotriene inhibitors);



- c. Anti-fungal;
- d. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);
- e. Anti-infective (including antibiotics and antivirals);
- f. Anti-inflammatory (including steroidal and nonsteroidal);
- g. Decongestants; and
- h. Immunosuppressive agents.

B. Schedules I, II, and V drugs are excluded from the list of therapeutic pharmaceutical agents with the exception of controlled substances in Schedule II consisting of hydrocodone in combination with acetaminophen and gabapentin in Schedule V.

C. Over-the-counter topical and oral medications for the treatment of the eye and its adnexa may be procured for administration, administered, prescribed, or dispensed.

D. Beginning July 1, 2020, a prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription consistent with § 54.1-3408.02 of the Code of Virginia, unless the prescription qualifies for an exemption as set forth in subsection C of § 54.1-3408.02. Upon written request, the board may grant a one-time waiver of the requirement for electronic prescribing, for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

**18VAC105-20-48. Prescribing an opioid for acute pain.**

A. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids. If an opioid is considered necessary for the treatment of acute pain, a TPA-certified optometrist shall follow the regulations for prescribing and treating with opioids.

B. Prior to initiating treatment with a controlled substance containing an opioid for a complaint of acute pain, a TPA-certified optometrist shall perform a health history and physical examination appropriate to the complaint, query the Prescription Monitoring Program as set forth in § 54.1-2522.1 of the Code of Virginia, and conduct an assessment of the patient's history and risk of substance abuse.

C. Initiation of opioid treatment for all patients with acute pain shall include the following:

1. A prescription for an opioid shall be a short-acting opioid in the lowest effective dose for the fewest number of days, not to exceed seven days as determined by the manufacturer's directions for use, unless extenuating circumstances are clearly documented in the patient record.

2. A TPA-certified optometrist shall carefully consider and document in the patient record the reasons to exceed 50 MME per day.

3. A prescription for naloxone should be considered for any patient when any risk factor of prior overdose, substance misuse, or concomitant use of benzodiazepine is present.

D. If another prescription for an opioid is to be written beyond seven days, a TPA-certified optometrist shall:

1. Reevaluate the patient and document in the patient record the continued need for an opioid prescription; and

2. Check the patient's prescription history in the Prescription Monitoring Program.

E. The patient record shall include a description of the pain, a presumptive diagnosis for the origin of the pain, an examination appropriate to the complaint, a treatment plan, and the medication prescribed (including date, type, dosage, strength, and quantity prescribed).

F. Due to a higher risk of fatal overdose when opioids are prescribed for a patient also taking benzodiazepines, sedative hypnotics, tramadol, or carisoprodol, a TPA-certified optometrist shall only co-prescribe these substances when there are extenuating circumstances and shall document in the patient record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.

**18VAC105-20-49. Prescribing an opioid for chronic pain.**

If a TPA-certified optometrist treats a patient for whom an opioid prescription is necessary for chronic pain, he shall either:

1. Refer the patient to a doctor of medicine or osteopathic medicine who is a pain management specialist; or

2. Comply with regulations of the Board of Medicine, 18VAC85-21-60 through 18VAC85-21-120, if he chooses to manage the chronic pain with an opioid prescription.

**18VAC105-20-50. (Repealed.)**

**18VAC105-20-60. Renewal of licensure; reinstatement; renewal fees.**

A. Every person authorized by the board to practice optometry shall, on or before December 31 of 2018, submit a completed renewal form and pay the prescribed annual licensure fee. Beginning with calendar year 2020, the renewal of licensure deadline shall be March 31 of each year. For calendar year 2019, no renewal is required.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current address of record and the public address, if different from the address of record. All changes of address or name shall be furnished to the board within 30 days after the change occurs. All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address of record given and shall not relieve the licensee of the obligation to comply.

C. The license of every person who does not complete the renewal form and submit the renewal fee each year may be renewed for up to one year by paying the prescribed renewal fee and late fee, provided the requirements of 18VAC105-20-70 have been met. After the renewal deadline, a license that has not been renewed is lapsed. Practicing optometry in Virginia with a lapsed license may subject the licensee to disciplinary action.

D. An optometrist whose license has been lapsed for more than one year and who wishes to resume practice in Virginia shall apply for reinstatement. The executive director may grant reinstatement provided that:

1. The applicant has a current, unrestricted license in another United States jurisdiction and has been engaged in active clinical practice within the 12 months immediately preceding application for reinstatement; or
2. The applicant has satisfied current requirements for continuing education as specified in 18VAC105-20-70 for the period in which the license has been lapsed, not to exceed two years; and
3. The applicant has paid the prescribed reinstatement application fee.

**18VAC105-20-61. Inactive licensure; reactivation.**

A. An optometrist who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be required to maintain continuing education requirements and shall not perform any act requiring a license to practice optometry in Virginia.

B. A licensee whose license has been inactive and who requests reactivation to an active license shall file an application, pay the difference between the inactive and active

renewal fees for the current year, and provide documentation of having completed continuing education hours equal to the requirement for the number of years in which the license has been inactive, not to exceed 40 contact hours.

**18VAC105-20-70. Requirements for continuing education.**

A. Each license renewal of an active license shall be conditioned upon submission of evidence to the board of 20 hours of continuing education taken by the applicant during the previous license period. A licensee who completes more than 20 hours of continuing education in a year shall be allowed to carry forward up to 10 hours of continuing education for the next annual renewal cycle.

1. The 20 hours may include up to two hours of recordkeeping for patient care, including coding for diagnostic and treatment devices and procedures or the management of an optometry practice, provided that such courses are not primarily for the purpose of augmenting the licensee's income or promoting the sale of specific instruments or products.
2. For optometrists who are certified in the use of therapeutic pharmaceutical agents, at least 10 of the required continuing education hours shall be in the areas of ocular and general pharmacology; diagnosis and treatment of the human eye and its adnexa, including treatment with new pharmaceutical agents; new or advanced clinical devices, techniques, modalities, or procedures; or pain management.
3. At least 10 hours shall be obtained through real-time, interactive activities, including in-person or electronic presentations, provided that during the course of the presentation, the licensee and the lecturer may communicate with one another.
4. A licensee may also include up to two hours of training in cardiopulmonary resuscitation (CPR).
5. Two hours of the 20 hours required for annual renewal may be satisfied through delivery of professional services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic.

B. Each licensee shall attest to fulfillment of continuing education hours on the required annual renewal form. All continuing education shall be completed prior to the renewal deadline unless an extension has been granted by the Continuing Education Committee. A request for an extension shall be received prior to the renewal deadline of each year.

C. All continuing education courses shall be offered by an approved sponsor or accrediting body listed in subsection H of this section. Courses that are not approved by a board-recognized sponsor in advance shall not be accepted for continuing education credit. For those courses that have a post-test requirement, credit will only be given if the optometrist receives a passing grade as indicated on the certificate.

D. Licensees shall maintain continuing education documentation for a period of not less than three years. A random audit of licensees may be conducted by the board which will require that the licensee provide evidence substantiating participation in required continuing education courses within 30 days of the audit notification.

E. Documentation of hours shall clearly indicate the name of the continuing education provider and its affiliation with an approved sponsor or accrediting body as listed in subsection H of this section. Documents that do not have the required information shall not be accepted by the board for determining compliance. Correspondence courses shall be credited according to the date indicated on the continuing education certificate.

F. A licensee shall be exempt from the continuing competency requirements for the first renewal following the date of initial licensure by examination in Virginia.

G. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

H. An approved continuing education course or program, whether offered by correspondence, electronically, or in person, shall be sponsored, accredited, or approved by one of the following:

1. The American Optometric Association and its constituent organizations.
2. Regional optometric organizations.
3. State optometric associations and their affiliate local societies.
4. Accredited colleges and universities providing optometric or medical courses.
5. The American Academy of Optometry and its affiliate organizations.
6. The American Academy of Ophthalmology and its affiliate organizations.
7. The Virginia Academy of Optometry.
8. Council on Optometric Practitioner Education (COPE).
9. State or federal governmental agencies.

10. College of Optometrists in Vision Development.

11. The Accreditation Council for Continuing Medical Education of the American Medical Association for Category 1 credit.

12. Providers of training in cardiopulmonary resuscitation (CPR).

13. Optometric Extension Program.

I. In order to receive credit for continuing education courses, a licensee shall submit a certificate that shows:

1. The date, location, presenter or lecturer, content hours of the course, and contact information of the provider or sponsor for verification. The certificate of attendance shall be based on verification by the sponsor of the attendee's presence throughout the course, either provided by a post-test or by a designated monitor.

2. Whether the course was in real-time and interactive, including in-person or electronic presentations.

J. Falsifying the attestation of compliance with continuing education on a renewal form or failure to comply with continuing education requirements may subject a licensee to disciplinary action by the board, consistent with § 54.1-3215 of the Code of Virginia.

**18VAC105-20-75. Registration for voluntary practice by out-of-state licensees.**

Any optometrist who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

1. File a complete application for registration on a form provided by the board at least five business days prior to engaging in such practice. An incomplete application will not be considered;

2. Provide a complete list of professional licensure in each state in which he has held a license and a copy of any current license;

3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;

4. Pay a registration fee of \$10; and

5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 2 of § 54.1-3202 of the Code of Virginia.

**Agenda Item: Adoption of fast-track regulatory action to allow agency subordinates to hear credentials cases**

**Included in your agenda package are:**

- Draft regulatory amendments to allow agency subordinates to hear credentials cases;
- HB1622 of the 2023 General Assembly.

**Staff Note:** HB1622 was an agency bill during the 2023 General Assembly. The bill allows agency subordinates to hear credentials cases. Previously, agency subordinates could only hear disciplinary cases.

**Action needed:**

- Motion to adopt proposed regulations regarding laser surgery certification.



**Project 7607 - Fast-Track**

**Board of Optometry**

**Amendment to allow agency subordinates to hear credentials cases**

**18VAC105-20-41. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.**

A. Decision to delegate. In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate ~~upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.~~

B. Criteria for delegation. Cases may be delegated to an agency subordinate upon approval by a committee of the board, except those in which an optometrist may have conducted his practice in such a manner as to endanger the health and welfare of his patients or the public.

C. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include current or past board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

# VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

## CHAPTER 191

*An Act to amend and reenact § 54.1-2400 of the Code of Virginia, relating to health regulatory boards; delegation of authority to conduct informal fact-finding proceedings.*

[H 1622]

Approved March 22, 2023

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2400 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2400. General powers and duties of health regulatory boards.**

The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification, licensure, permit, or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.

2. To examine or cause to be examined applicants for certification, licensure, or registration. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.

3. To register, certify, license, or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.

4. To establish schedules for renewals of registration, certification, licensure, permit, and the issuance of a multistate licensure privilege.

5. To levy and collect fees for application processing, examination, registration, certification, permitting, or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions, and the health regulatory boards.

6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.).

7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license, permit, or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations.

8. To appoint designees from their membership or immediate staff to coordinate with the Director and the Health Practitioners' Monitoring Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.). Each health regulatory board shall appoint one such designee.

9. To take appropriate disciplinary action for violations of applicable law and regulations, and to accept, in their discretion, the surrender of a license, certificate, registration, permit, or multistate licensure privilege in lieu of disciplinary action.

10. To appoint a special conference committee, composed of not less than two members of a health regulatory board or, when required for special conference committees of the Board of Medicine, not less than two members of the Board and one member of the relevant advisory board, or, when required for special conference committees of the Board of Nursing, not less than one member of the Board and one member of the relevant advisory board, to act in accordance with § 2.2-4019 upon receipt of information that a practitioner or permit holder of the appropriate board may be subject to disciplinary action or to consider an application for a license, certification, registration, permit or multistate licensure privilege in nursing. The special conference committee may (i) exonerate; (ii) reinstate; (iii) place the practitioner or permit holder on probation with such terms as it may deem appropriate; (iv) reprimand; (v) modify a previous order; (vi) impose a monetary penalty pursuant to § 54.1-2401, (vii) deny or grant an application for licensure, certification, registration, permit, or multistate licensure privilege; and (viii) issue a restricted license, certification, registration, permit or multistate licensure privilege subject to terms and conditions. The order of the special conference committee shall become final 30 days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the 30-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 2.2-4020, and the action of the committee shall be vacated.

This subdivision shall not be construed to limit the authority of a board to delegate to an appropriately qualified agency subordinate, as defined in § 2.2-4001, the authority to conduct informal fact-finding proceedings in accordance with § 2.2-4019; ~~upon receipt of information that a practitioner may be subject to a disciplinary action.~~ The recommendation of such subordinate may be considered by a panel consisting of at least five board members, or, if a quorum of the board is less than five members, consisting of a quorum of the members, convened for the purpose of issuing a case decision. Criteria for the appointment of an agency subordinate shall be set forth in regulations adopted by the board.

11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 2.2-4020, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 2.2-4019 shall serve on a panel conducting formal proceedings pursuant to § 2.2-4020 to consider the same matter.

12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.

13. To meet by telephone conference call to consider settlement proposals in matters pending before special conference committees convened pursuant to this section, or matters referred for formal proceedings pursuant to § 2.2-4020 to a health regulatory board or a panel of the board or to consider modifications of previously issued board orders when such considerations have been requested by either of the parties.

14. To request and accept from a certified, registered, or licensed practitioner; a facility holding a license, certification, registration, or permit; or a person holding a multistate licensure privilege to practice nursing, in lieu of disciplinary action, a confidential consent agreement. A confidential consent agreement shall be subject to the confidentiality provisions of § 54.1-2400.2 and shall not be disclosed by a practitioner or facility. A confidential consent agreement shall include findings of fact and may include an admission or a finding of a violation. A confidential consent agreement shall not be considered either a notice or order of any health regulatory board, but it may be considered by a board in future disciplinary proceedings. A confidential consent agreement shall be entered into only in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner or facility. A board shall not enter into a confidential consent agreement if there is probable cause to believe the practitioner or facility has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his practice in such a manner as to be a danger to the health and welfare of his patients or the public. A certified, registered, or licensed practitioner, a facility holding a license, certification, registration, or permit, or a person holding a multistate licensure privilege to practice nursing who has entered into two confidential consent agreements involving a standard of care violation, within the 10-year period immediately preceding a board's receipt of the most recent report or complaint being considered, shall receive public discipline for any subsequent violation within the 10-year period unless the board finds there are sufficient facts and circumstances to rebut the presumption that the disciplinary action be made public.

15. When a board has probable cause to believe a practitioner is unable to practice with reasonable skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the board, after preliminary investigation by an informal fact-finding proceeding, may direct that the practitioner submit to a mental or physical examination. Failure to submit to the examination shall constitute grounds for disciplinary action. Any practitioner affected by this subsection shall be afforded reasonable opportunity to demonstrate that he is competent to practice with reasonable skill and safety to patients. For the purposes of this subdivision, "practitioner" shall include any person holding a multistate licensure privilege to practice nursing.

**Agenda Item: Repeal of Guidance Document 105-26**

**Included in your agenda package are:**

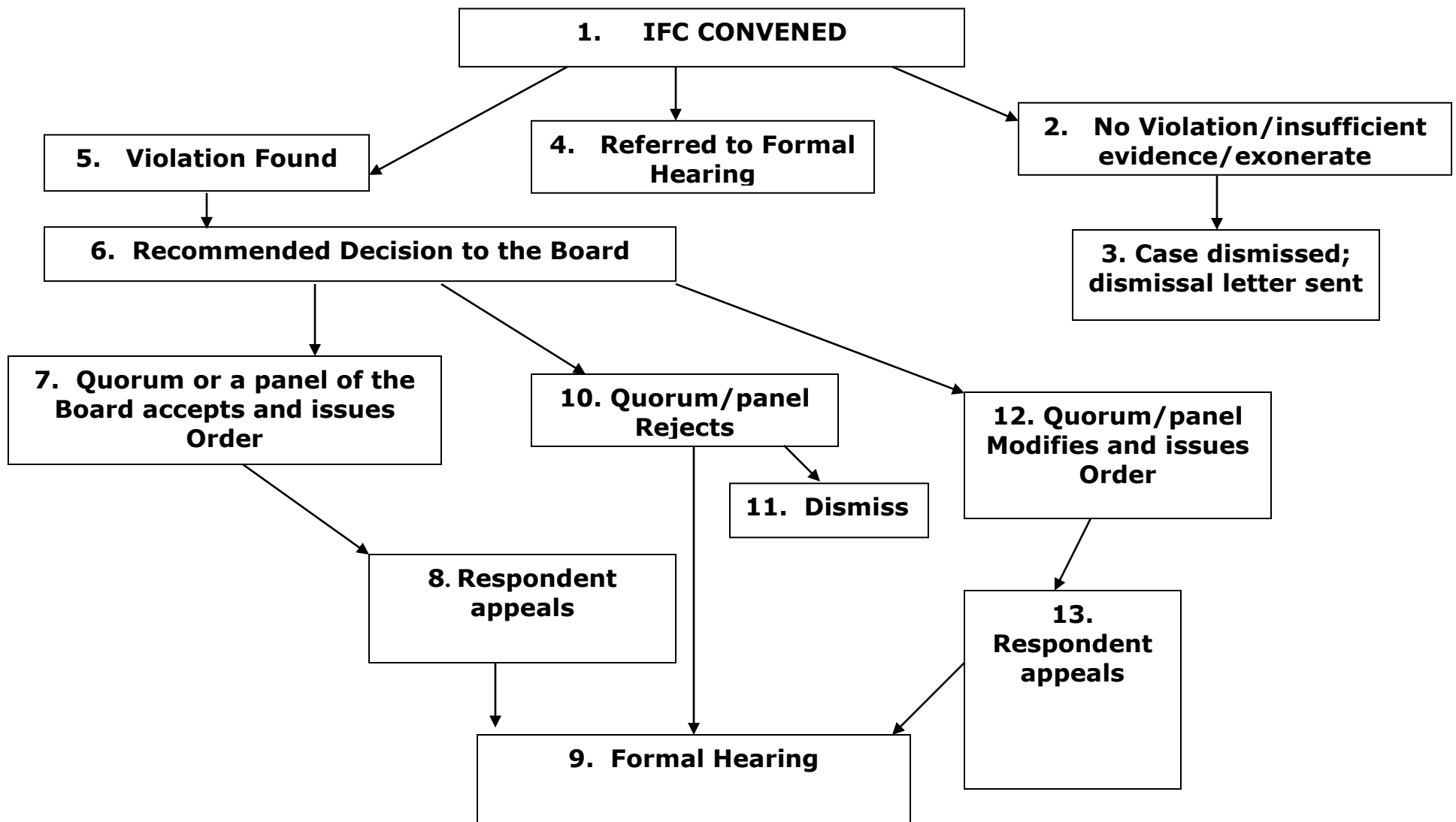
- DHP Guidance Document 76-10.01, Delegation to Agency Subordinate; and
- Guidance Document 105-26.

**Staff Note:** DHP adopted a guidance document outlining the agency subordinate process for all boards. Individual board documents are no longer needed.

**Action needed:**

- Motion to repeal Guidance Document 105-26.

## Guidance for Conduct of an Informal Conference by an Agency Subordinate of a Health Regulatory Board at the Department of Health Professions



## **Narrative explanation of Flow Chart on Delegation to an Agency Subordinate**

*This describes the process in which a subordinate hears a case at an informal conference up to a case that may be referred to a formal hearing.*

- 1:** Pursuant to a notice, the designated agency subordinate (“subordinate”) will convene the informal conference (“IFC”). An IFC before a subordinate is conducted in the same manner as an IFC before a committee of the board. Following the presentation of information by the parties, the subordinate will consider the evidence presented and render a recommended decision regarding the findings of fact, conclusions of law, and if appropriate, the sanction to be imposed.
- 2:** The subordinate may recommend that the respondent be exonerated, that there be a finding of no violation, or that insufficient evidence exists to determine that a statutory or regulatory violation has occurred.
  - 3:** If the subordinate makes such a finding, the case is dismissed and a dismissal letter is issued to the respondent notifying him of the determination.
- 4:** The subordinate may decide that the case should be referred to a formal hearing. A formal hearing before the board would then be scheduled and notice sent to the respondent.
- 5:** The subordinate may determine that a violation has occurred and recommend the findings of fact and conclusions of law along with an appropriate sanction.
  - 6:** With the assistance of APD, the subordinate drafts a recommended decision that includes findings of fact, conclusions of law and a recommended sanction. The recommendation is provided to the respondent and to the board and must be ratified by a quorum of the board or a panel consisting of at least five members of the board.
- 7 through 9:** If the quorum or panel of the board accepts the recommended decision (**7**) and the respondent objects to and appeals the order (**8**), the matter proceeds to a formal hearing (**9**). A case appealed to a formal hearing proceeds in the same manner as cases considered by special conference committees and appealed to a formal hearing.
- 10:** A quorum or panel of the board may reject the recommended decision of the subordinate, in which case:

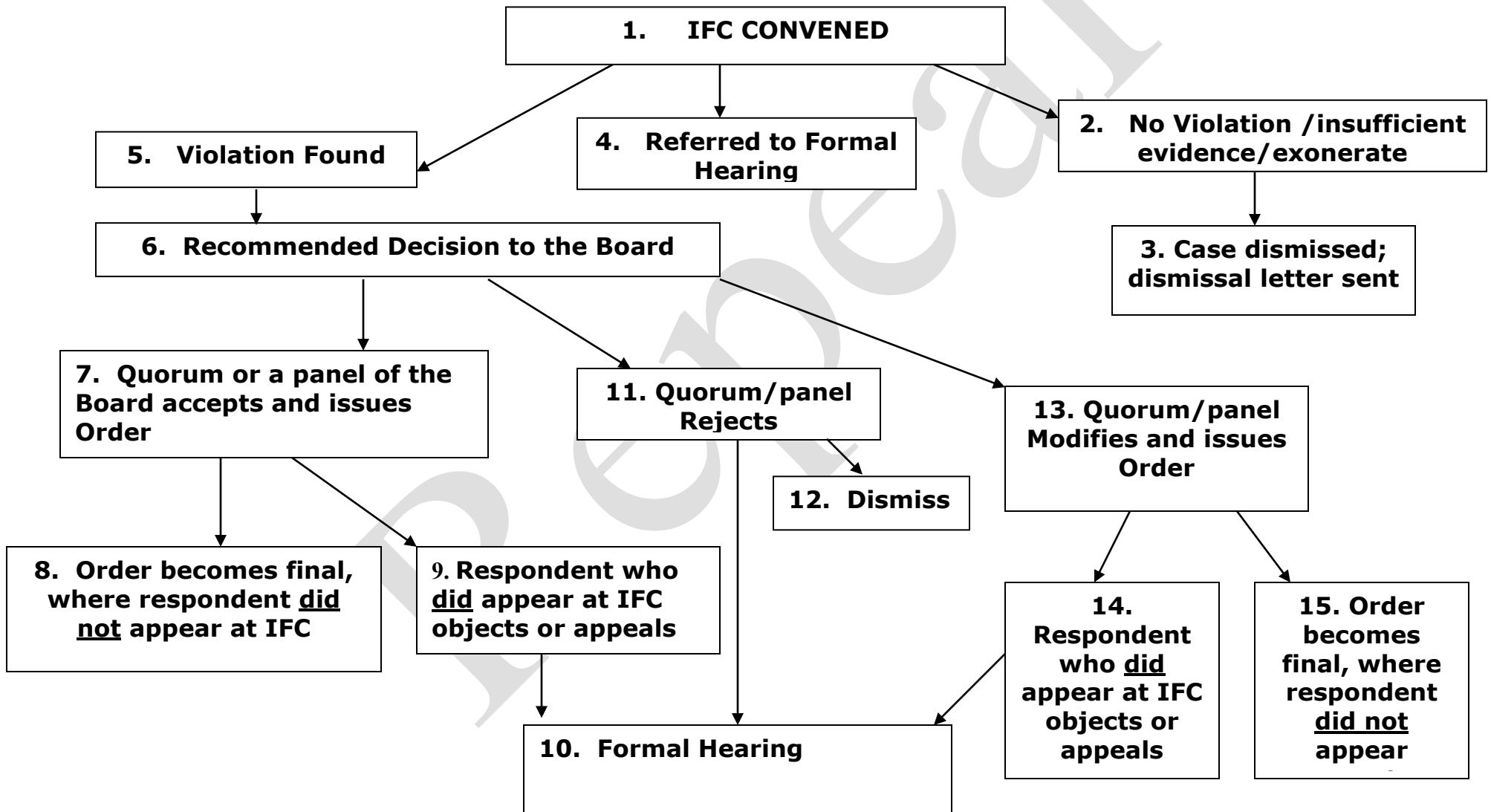
The quorum or panel may decide to refer the case for a formal hearing **(9)**; or

The quorum or panel may decide to dismiss the case. A dismissal letter is issued to the respondent notifying him of the decision of the board **(11)**.

**12:** A quorum or panel of the board may modify the subordinate's recommended decision and issue an order reflecting the modified decision to the respondent.

**13:** If the respondent objects to and appeals the order, the matter proceeds to a formal hearing. A case appealed to a formal hearing proceeds in the same manner as cases considered by special conference committees and appealed to a formal hearing.

## Guidance for Conduct of an Informal Conference by an Agency Subordinate of a Health Regulatory Board at the Department of Health Professions





## **Narrative explanation of Flow Chart on Delegation to an Agency Subordinate**

*This describes the process in which a subordinate hears a case at an informal conference up to a case that may be referred to a formal hearing.*

- 1.** Pursuant to a notice, the designated agency subordinate (“subordinate”) will convene the informal conference (“IFC”). An IFC before a subordinate is conducted in the same manner as an IFC before a committee of the board. Following the presentation of information by the parties, the subordinate will consider the evidence presented and render a recommended decision regarding the findings of fact, conclusions of law, and if appropriate, the sanction to be imposed.
- 2.** The subordinate may recommend that the respondent be exonerated, that there be a finding of no violation, or that insufficient evidence exists to determine that a statutory and/or regulatory violation has occurred.
  - 3.** If the subordinate makes such a finding, the case is dismissed and a dismissal letter is issued to the respondent notifying him of the determination.
- 4.** The subordinate may decide that the case should be referred to a formal hearing. A hearing before the board would then be scheduled and notice sent to the respondent.
- 5.** The subordinate may determine that a violation has occurred and recommend the findings of fact and conclusions of law along with an appropriate sanction.
  - 6.** With the assistance of APD, the subordinate drafts a recommended decision, which includes the findings of fact, conclusions of law and sanction. The recommendation is provided to the respondent and to the board and must be ratified by a quorum of the board or a panel consisting of at least five members of the board.
- 7.** If the quorum or panel of the board accepts the recommended decision and:
  - 8.** If the respondent did not appear at the IFC, the board’s decision becomes a final order that can only be appealed to a circuit court; or
  - 9-10.** If the respondent did appear at the IFC and objects to and appeals the order, he may request a

formal hearing before the board. A case referred to a formal hearing proceeds in the same manner as cases considered by special conference committees convened pursuant to Va. Code § 54.1-2400(10). If the respondent who appeared at the IFC does not request a formal hearing, the order becomes final after a specified timeframe.

**11.** A quorum or panel of the board may reject the recommended decision of the subordinate, in which case:

The quorum/panel may decide to refer the case for a formal hearing **(10)**; or the quorum/panel may decide to dismiss the case and a dismissal letter is issued to the respondent notifying him of the decision of the board **(12)**.

**13.** A quorum or panel of the board may modify the subordinate's recommended decision and issue an order reflecting the modified decision to the respondent.

**15.** If the respondent did not appear at the informal conference, then the board's decision becomes a final order that can only be appealed to a circuit court.

**14-10.** If the respondent did appear at the informal conference and objects to and appeals the order, he may request a formal hearing before the board. A case referred to a formal hearing proceeds in the same manner as cases considered by special conference committees convened pursuant to Va. Code § 54.1-2400(10). If the respondent who appeared at the IFC does not request a formal hearing, the order becomes final after a specified timeframe.

**Agenda Item: Adoption of new guidance document related to Light Adjustable Lens**

**Included in your agenda package is:**

- Draft new Guidance Document 105-2, Guidance on Light Adjustable Lens.

**Action needed:**

- Motion to adopt Guidance Document 105-2 as presented or amended.

## Virginia Board of Optometry

### Guidance on Light Adjustable Lens

Pursuant to Virginia Code § 54.1-3201(A)(6), the practice of optometry includes postoperative care. A light adjustable lens (“LAL”) implanted during cataract surgery provides the ability to customize a patient’s vision post-surgery. The process used to customize a patient’s vision after LAL implantation is considered post-operative care and may be performed by an optometrist following an eye surgeon’s referral.

#### References:

[Va. Code § 54.1-3201](#)

**Agenda Item: Adoption of revised policy on meetings held with electronic participation pursuant to statutory changes**

**Included in your agenda package:**

- Proposed revised electronic participation policy;
- Virginia Code § 2.2-3708.3

**Action needed:**

- Motion to revise policy on meetings held with electronic participation as presented.

# **Virginia Department of Health Professions**

## **Meetings Held with Electronic Participation**

### **Purpose:**

To establish a written policy for allowing electronic participation of board or committee members for meetings of the health regulatory boards of the Department of Health Professions or their committees.

### **Policy:**

Electronic participation by members of the health regulatory boards of the Department of Health Professions or their committees shall be in accordance with the procedures outlined in this policy.

### **Authority:**

This policy for conducting a meeting with electronic participation shall be in accordance with [Virginia Code § 2.2-3708.3](#).

### **Procedures:**

1. One or more members of the Board or a committee may participate electronically if, on or before the day of a meeting, the member notifies the chair and the executive director that he/she is unable to attend the meeting due to:
  - a. a temporary or permanent disability or other medical condition that prevents the member's physical attendance;
  - b. a medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;
  - c. the member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
  - d. the member is unable to attend to the meeting due to a personal matter and identifies with specificity the nature of the personal matter.

No member, however, may use remote participation due to personal matters more than two meetings per calendar year or 25% of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

2. Participation by a member through electronic communication means must be approved by the board chair or president. The reason for the member's electronic participation shall

be stated in the minutes in accordance with Virginia Code § 2.2-3708.3(A)(4). If a member's participation from a remote location is disapproved because it would violate this policy, it must be recorded in the minutes with specificity.

3. The board or committee holding the meeting shall record in its minutes the remote location from which the member participated; the remote location, however, does not need to be open to the public and may be identified by a general description.

Draft

## § 2.2-3708.3. (Effective September 1, 2022) Meetings held through electronic communication means; situations other than declared states of emergency

A. Public bodies are encouraged to (i) provide public access, both in person and through electronic communication means, to public meetings and (ii) provide avenues for public comment at public meetings when public comment is customarily received, which may include public comments made in person or by electronic communication means or other methods.

B. Individual members of a public body may use remote participation instead of attending a public meeting in person if, in advance of the public meeting, the public body has adopted a policy as described in subsection D and the member notifies the public body chair that:

1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance;
2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;
3. The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
4. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description. If participation is approved pursuant to subdivision 1 or 2, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 3, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location. If participation is approved pursuant to subdivision 4, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such



disapproval shall be recorded in the minutes with specificity.

C. With the exception of local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and boards with the authority to deny, revoke, or suspend a professional or occupational license, any public body may hold all-virtual public meetings, provided that the public body follows the other requirements in this chapter for meetings, the public body has adopted a policy as described in subsection D, and:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § 2.2-3707;
2. Public access to the all-virtual public meeting is provided via electronic communication means;
3. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the public body as well;
4. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;
6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
7. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;
8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of § 2.2-3712;
9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting; and
10. Minutes of all-virtual public meetings held by electronic communication means are taken as required by § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

D. Before a public body uses all-virtual public meetings as described in subsection C or allows members to use remote participation as described in subsection B, the public body shall first

adopt a policy, by recorded vote at a public meeting, that shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting. The policy shall:

1. Describe the circumstances under which an all-virtual public meeting and remote participation will be allowed and the process the public body will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests; and
2. Fix the number of times remote participation for personal matters or all-virtual public meetings can be used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9.

Any public body that creates a committee, subcommittee, or other entity however designated of the public body to perform delegated functions of the public body or to advise the public body may also adopt a policy on behalf of its committee, subcommittee, or other entity that shall apply to the committee, subcommittee, or other entity's use of individual remote participation and all-virtual public meetings.

2022, c. [597](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

**DRAFT**

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# *Virginia's Optometrist Workforce: 2023*

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Healthcare Workforce Data Center

April 2023

Virginia Department of Health Professions  
Healthcare Workforce Data Center  
Perimeter Center  
9960 Mayland Drive, Suite 300  
Henrico, VA 23233  
804-597-4213, 804-527-4434 (fax)  
E-mail: [HWDC@dhp.virginia.gov](mailto:HWDC@dhp.virginia.gov)

Follow us on Tumblr: [www.vahwdc.tumblr.com](http://www.vahwdc.tumblr.com)

Get a copy of this report from:

<https://www.dhp.virginia.gov/PublicResources/HealthcareWorkforceDataCenter/ProfessionReports/>

*More than 1,500 Optometrists voluntarily participated in this survey. Without their efforts, the work of the center would not be possible. The Department of Health Professions, the Healthcare Workforce Data Center, and the Board of Optometry express our sincerest appreciation for their ongoing cooperation.*

***Thank You!***

***Virginia Department of Health Professions***

**Arne W. Owens, MS**  
*Director*

**James L. Jenkins, Jr., RN**  
*Chief Deputy Director*

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**Yetty Shobo, PhD**  
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**Barbara Hodgdon, PhD**  
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# Virginia Board of Optometry

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*Hampton*

## ***Vice President***

Devon Cabot  
*Richmond*

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Clifford A. Roffis, OD  
*Richmond*

## ***Executive Director***

Leslie L. Knachel

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# The Optometrist Workforce At a Glance:

## The Workforce

Licensees:	1,809
Virginia's Workforce:	1,297
FTEs:	1,063

## Background

Rural Childhood:	25%
HS Degree in VA:	35%
UG Degree in VA:	33%

## Current Employment

Employed in Prof.:	96%
Hold 1 Full-Time Job:	70%
Satisfied?:	95%

## Survey Response Rate

All Licensees:	83%
Renewing Practitioners:	94%

## Residency Program

Ocular Disease:	9%
Primary Eye Care:	6%

## Job Turnover

Switched Jobs:	3%
Employed Over 2 Yrs.:	70%

## Demographics

% Female:	55%
Diversity Index:	52%
Median Age:	47

## Finances

Median Inc.:	\$130k-\$140k
Health Benefits:	58%
Under 40 w/ Ed. Debt:	75%

## Time Allocation

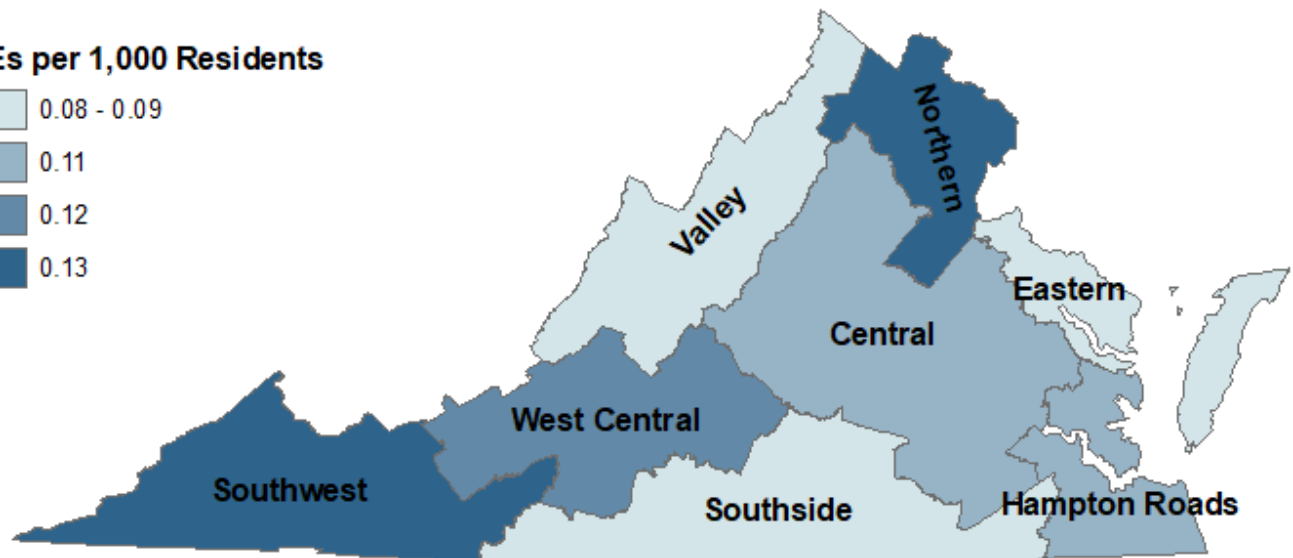
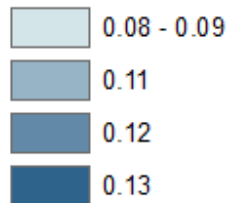
Patient Care:	90%-99%
Administration:	1%-9%
Patient Care Role:	94%

Source: Va. Healthcare Workforce Data Center

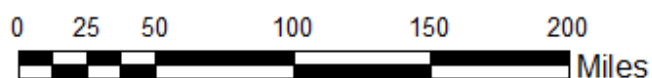
## Full-Time Equivalency Units Provided by Optometrists per 1,000 Residents by Virginia Performs Region

Source: Va Healthcare Work force Data Center

### FTEs per 1,000 Residents



Annual Estimates of the Resident Population: July 1, 2021  
Source: U.S. Census Bureau, Population Division



This report contains the results of the 2023 Optometrist Workforce survey. Among all optometrists, 1,507 voluntarily participated in this survey. The Virginia Department of Health Professions' Healthcare Workforce Data Center (HWDC) administers this survey during the license renewal process, which takes place every March for optometrists. These respondents represent 83% of the 1,809 optometrists licensed in the state and 94% of renewing practitioners.

The HWDC estimates that 1,297 optometrists participated in Virginia's workforce during the survey time period, which is defined as those who worked at least a portion of the year in the state or who live in the state and intend to return to work in the profession at some point in the future. Virginia's optometrist workforce provided 1,063 "full-time equivalency units," which the HWDC defines simply as working 2,000 hours per year.

More than half of Virginia's optometrists are female, including 74% of those who are under the age of 40. In a random encounter between two optometrists, there is a 52% chance that they would be of different races or ethnicities, a measure known as the diversity index. This diversity index increases to 59% for those optometrists who are under the age of 40. For Virginia's population as a whole, the comparable diversity index is 58%. One-quarter of all optometrists grew up in a rural area, and 21% of optometrists who grew up in a rural area currently work in a non-metro area of the state. In total, 10% of all optometrists work in a non-metro area of Virginia.

Among all optometrists, 96% are currently employed in the profession, 70% hold one full-time job, and 43% work between 40 and 49 hours per week. More than 90% of all optometrists are employed in the for-profit sector, while 5% work for the federal government. More than two out of every five optometrists work in a group private practice, while another 20% work in a solo private practice. The typical optometrist earns between \$130,000 and \$140,000 per year, and 57% of optometrists earn this income in the form of a salary or commission. In addition, 77% of wage or salaried optometrists receive at least one employer-sponsored benefit. Among all optometrists, 95% are satisfied with their current work situation, including 60% who indicated that they are "very satisfied."

## Summary of Trends

---

In this section, all statistics for this year are compared to the 2018 optometrist workforce. The number of licensed optometrists has increased by 13% (1,809 vs. 1,597). In addition, the size of the optometrist workforce has increased by 8% (1,297 vs. 1,205), and the number of FTEs provided by this workforce has increased by 4% (1,063 vs. 1,026). Virginia's renewing optometrists are more likely to respond to this survey (94% vs. 89%).

The percentage of Virginia's optometrists who are female has increased (55% vs. 53%). In addition, the diversity index of this workforce has increased (52% vs. 47%), a trend that has also occurred among optometrists who are under the age of 40 (59% vs. 57%). This has taken place during a time in which Virginia's overall population has also become more diverse (58% vs. 56%). Optometrists are slightly more likely to have grown up in a rural area (25% vs. 24%), but optometrists who grew up in a rural area are less likely to work in a non-metro area of Virginia (21% vs. 23%). The percentage of all optometrists who work in a non-metro area of the state has increased (10% vs. 8%).

Although optometrists are less likely to carry education debt (43% vs. 46%), those optometrists with education debt have seen their median debt amount increase (\$120k-\$140k vs. \$100k-\$110k). Optometrists are less likely to be currently employed in the profession (96% vs. 98%), hold one full-time job (70% vs. 71%), or work between 40 and 49 hours per week (43% vs. 47%). Although private practices continue to employ the majority of all optometrists, they are relatively less likely to work in either group (41% vs. 43%) or solo (20% vs. 23%) private practices.

The median annual income of Virginia's optometrists has increased (\$130k-\$140k vs. \$100k-\$110k), and more optometrists receive this income in the form of a salary (57% vs. 55%) instead of from a business or practice (24% vs. 29%). In addition, wage and salaried optometrists are more likely to have access to health insurance (58% vs. 54%) and a retirement plan (60% vs. 55%). Optometrists are slightly less likely to indicate that they are satisfied with their current work situation (95% vs. 96%), including those optometrists who indicated that they are "very satisfied" (60% vs. 64%).



A Closer Look:

Licensees		
License Status	#	%
Renewing Practitioners	1,534	85%
New Licensees	121	7%
Non-Renewals	154	9%
<b>All Licensees</b>	<b>1,809</b>	<b>100%</b>

Source: Va. Healthcare Workforce Data Center

*HWDC surveys tend to achieve very high response rates. More than nine out of every ten renewing optometrists submitted a survey. These represent 83% of the 1,809 optometrists who held a license at some point in the past year.*

At a Glance:

**Licensed Optometrists**

Number: 1,809  
 New: 7%  
 Not Renewed: 9%

**Response Rates**

All Licensees: 83%  
 Renewing Practitioners: 94%

Source: Va. Healthcare Workforce Data Center

**Response Rates**

Completed Surveys	1,507
Response Rate, All Licensees	83%
Response Rate, Renewals	94%

Source: Va. Healthcare Workforce Data Center

**Response Rates**

Statistic	Non Respondents	Respondents	Response Rate
<b>By Age</b>			
Under 30	30	57	66%
30 to 34	59	201	77%
35 to 39	30	186	86%
40 to 44	32	194	86%
45 to 49	28	177	86%
50 to 54	29	205	88%
55 to 59	18	152	89%
60 and Over	76	335	82%
<b>Total</b>	<b>302</b>	<b>1,507</b>	<b>83%</b>
<b>New Licenses</b>			
Issued in Past Year	59	62	51%
<b>Metro Status</b>			
Non-Metro	25	98	80%
Metro	142	928	87%
Not in Virginia	135	481	78%

Source: Va. Healthcare Workforce Data Center

**Definitions**

- 1. The Survey Period:** The survey was conducted in March 2023.
- 2. Target Population:** All optometrists who held a Virginia license at some point between April 2022 and March 2023.
- 3. Survey Population:** The survey was available to optometrists who renewed their licenses online. It was not available to those who did not renew, including some optometrists newly licensed in the past year.

## At a Glance:

### Workforce

Optometrist Workforce: 1,297  
 FTEs: 1,063

### Utilization Ratios

Licensees in VA Workforce: 72%  
 Licensees per FTE: 1.70  
 Workers per FTE: 1.22

Source: Va. Healthcare Workforce Data Center

## Definitions

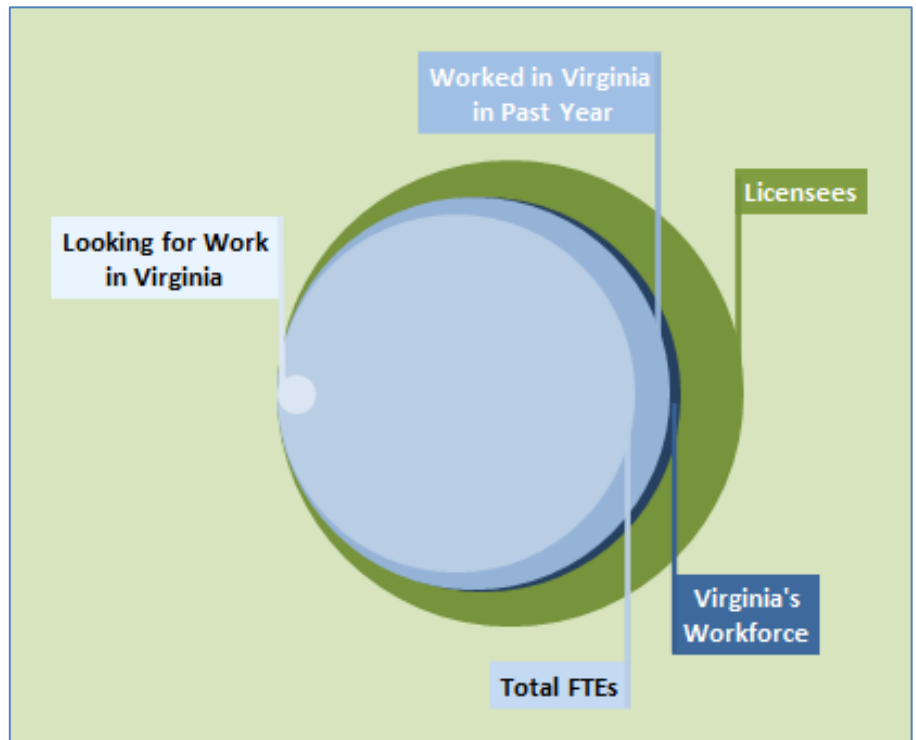
- 1. Virginia’s Workforce:** A licensee with a primary or secondary work site in Virginia at any time in the past year or who indicated intent to return to Virginia’s workforce at any point in the future.
- 2. Full-Time Equivalency Unit (FTE):** The HWDC uses 2,000 (40 hours for 50 weeks with 2 weeks off) as its baseline measure for FTEs.
- 3. Licensees in VA Workforce:** The proportion of licensees in Virginia’s workforce.
- 4. Licensees per FTE:** An indication of the number of licensees needed to create 1 FTE. Higher numbers indicate lower licensee participation.
- 5. Workers per FTE:** An indication of the number of workers in Virginia’s workforce needed to create 1 FTE. Higher numbers indicate lower utilization of available workers.

### Optometrist Workforce

Status	#	%
<b>Worked in Virginia in Past Year</b>	1,283	99%
<b>Looking for Work in Virginia</b>	13	1%
<b>Virginia's Workforce</b>	<b>1,297</b>	<b>100%</b>
<b>Total FTEs</b>	<b>1,063</b>	
<b>Licensees</b>	<b>1,809</b>	

Source: Va. Healthcare Workforce Data Center

*Weighting is used to estimate the figures in this report. Unless otherwise noted, figures refer to the Virginia Workforce only. For more information on the HWDC’s methodology, visit: <https://www.dhp.virginia.gov/PublicResources/HealthcareWorkforceDataCenter/>*



Source: Va. Healthcare Workforce Data Center

A Closer Look:

Age & Gender						
Age	Male		Female		Total	
	#	% Male	#	% Female	#	% in Age Group
Under 30	16	25%	48	75%	64	7%
30 to 34	40	26%	111	74%	151	16%
35 to 39	26	26%	76	74%	101	11%
40 to 44	43	34%	83	66%	126	13%
45 to 49	41	42%	56	58%	97	10%
50 to 54	40	37%	67	63%	107	11%
55 to 59	42	52%	38	48%	80	8%
60 and Over	173	80%	44	20%	216	23%
<b>Total</b>	<b>420</b>	<b>45%</b>	<b>523</b>	<b>55%</b>	<b>942</b>	<b>100%</b>

Source: Va. Healthcare Workforce Data Center

Race & Ethnicity					
Race/ Ethnicity	Virginia*	Optometrists		Optometrists Under 40	
	%	#	%	#	%
White	60%	612	66%	176	57%
Black	19%	52	6%	21	7%
Asian	7%	203	22%	87	28%
Other Race	0%	26	3%	7	2%
Two or More Races	3%	19	2%	9	3%
Hispanic	10%	18	2%	8	3%
<b>Total</b>	<b>100%</b>	<b>932</b>	<b>100%</b>	<b>309</b>	<b>100%</b>

\*Population data in this chart is from the U.S. Census, Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for the United States, States, and Counties: July 1, 2021.

Source: Va. Healthcare Workforce Data Center

More than one-third of all optometrists are under the age of 40, and 74% of this group of professionals are female. In addition, there is a 59% chance that two randomly chosen optometrists from this age group would be of different races or ethnicities.

At a Glance:

Gender

% Female: 55%  
% Under 40 Female: 74%

Age

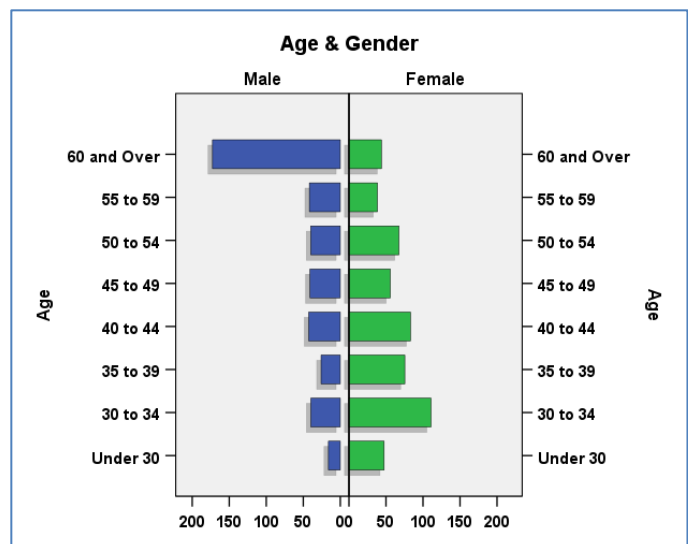
Median Age: 47  
% Under 40: 34%  
% 55 and Over: 31%

Diversity

Diversity Index: 52%  
Under 40 Div. Index: 59%

Source: Va. Healthcare Workforce Data Center

In a random encounter between two optometrists, there is a 52% chance that they would be of different races or ethnicities (a measure known as the diversity index). For Virginia's population as a whole, the comparable number is 58%.



Source: Va. Healthcare Workforce Data Center

## At a Glance:

### Childhood

Urban Childhood: 12%  
 Rural Childhood: 25%

### Virginia Background

HS in Virginia: 35%  
 UG Education in VA: 33%  
 HS/UG Edu. in VA: 39%

### Location Choice

% Rural to Non-Metro: 21%  
 % Urban/Suburban to Non-Metro: 6%

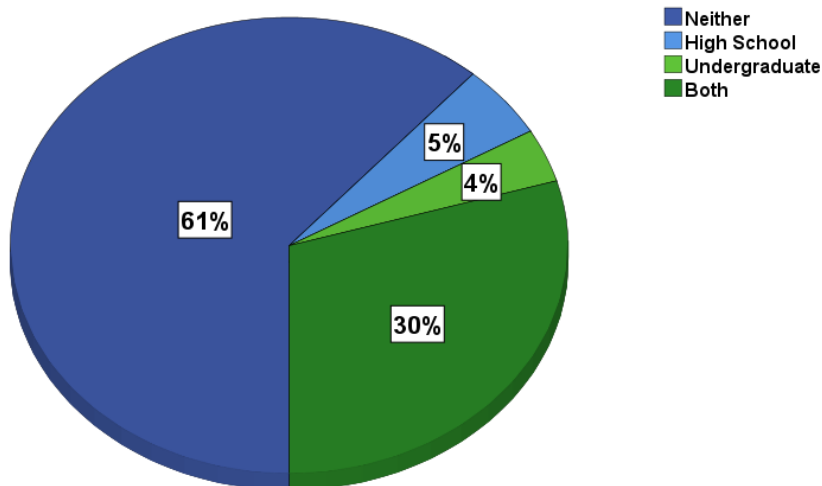
Source: Va. Healthcare Workforce Data Center

## A Closer Look:

Primary Location: USDA Rural Urban Continuum		Rural Status of Childhood Location		
Code	Description	Rural	Suburban	Urban
<b>Metro Counties</b>				
1	Metro, 1 Million+	19%	69%	12%
2	Metro, 250,000 to 1 Million	35%	52%	14%
3	Metro, 250,000 or Less	33%	59%	8%
<b>Non-Metro Counties</b>				
4	Urban, Pop. 20,000+, Metro Adjacent	30%	45%	25%
6	Urban, Pop. 2,500-19,999, Metro Adjacent	40%	53%	7%
7	Urban, Pop. 2,500-19,999, Non-Adjacent	89%	11%	0%
8	Rural, Metro Adjacent	50%	42%	8%
9	Rural, Non-Adjacent	0%	100%	0%
<b>Overall</b>		<b>25%</b>	<b>64%</b>	<b>12%</b>

Source: Va. Healthcare Workforce Data Center

**Educational Background in Virginia**



*One-quarter of all optometrists grew up in a self-described rural area, and 21% of optometrists who grew up in a rural area currently work in a non-metro county. In total, 10% of all optometrists work in a non-metro county of Virginia.*

Source: Va. Healthcare Workforce Data Center

## Top Ten States for Optometrist Recruitment

Rank	All Optometrists			
	High School	#	Professional School	#
1	Virginia	317	Pennsylvania	305
2	Pennsylvania	82	Tennessee	135
3	New York	66	Massachusetts	79
4	Maryland	61	Illinois	50
5	North Carolina	33	Ohio	48
6	Ohio	31	New York	40
7	Florida	30	Florida	39
8	Outside U.S./Canada	28	Alabama	38
9	New Jersey	26	Texas	34
10	California	23	Indiana	33

Source: Va. Healthcare Workforce Data Center

Among all optometrists, 35% received their high school degree in Virginia, while 34% received their Doctorate of Optometry in Pennsylvania. Virginia does not currently have a professional school for optometrists.

Among optometrists who have been licensed in the past five years, 37% received their high school degree in Virginia, while 35% received their Doctorate of Optometry in Pennsylvania.

Rank	Licensed in the Past Five Years			
	High School	#	Professional School	#
1	Virginia	91	Pennsylvania	85
2	Pennsylvania	22	Massachusetts	24
3	Maryland	18	Tennessee	23
4	New York	9	Texas	15
5	California	9	Illinois	12
6	Ohio	7	California	12
7	Texas	7	Florida	10
8	Florida	7	Ohio	9
9	North Carolina	6	Alabama	9
10	Illinois	6	New York	8

Source: Va. Healthcare Workforce Data Center

Along all licensed optometrists, 28% did not participate in Virginia's workforce in the past year. Among these optometrists, 94% worked at some point in the past year, including 90% who currently work as optometrists.

### At a Glance:

#### Not in VA Workforce

Total:	513
% of Licensees:	28%
Federal/Military:	19%
VA Border State/DC:	26%

Source: Va. Healthcare Workforce Data Center

A Closer Look:

Residency Programs		
Area	#	% of Workforce
Ocular Disease	114	9%
Primary Eye Care	82	6%
Low Vision Rehabilitation	19	1%
Cornea and Contact Lenses	18	1%
Family Practice Optometry	17	1%
Vision Therapy and Rehabilitation	17	1%
Pediatric Optometry	16	1%
Refractive and Ocular Surgery	13	1%
Geriatric Optometry	7	1%
Brain Injury Vision Rehabilitation	4	0%
Community Health Optometry	2	0%
Other	8	1%
<b>At Least One Program</b>	<b>201</b>	<b>15%</b>

Source: Va. Healthcare Workforce Data Center

## At a Glance:

**Residency Programs**

Ocular Disease: 9%  
 Primary Eye Care: 6%  
 Low Vision Rehab.: 1%

**Education Debt**

Carry Debt: 43%  
 Under Age 40 w/ Debt: 75%  
 Median Debt: \$120k-\$140k

Source: Va. Healthcare Workforce Data Center

*Among all optometrists, 15% have completed at least one residency program, including 9% who have completed a residency program in ocular diseases.*

*More than two out of every five optometrists currently have education debt, including 75% of those who are under the age of 40. For those optometrists with education debt, the median debt amount is between \$120,000 and \$140,000.*

Education Debt				
Amount Carried	All Optometrists		Optometrists Under 40	
	#	%	#	%
<b>None</b>	442	57%	64	25%
<b>Less than \$40,000</b>	47	6%	17	7%
<b>\$40,000-\$59,999</b>	33	4%	6	2%
<b>\$60,000-\$79,999</b>	25	3%	6	2%
<b>\$80,000-\$99,999</b>	28	4%	13	5%
<b>\$100,000-\$119,999</b>	22	3%	11	4%
<b>\$120,000-\$139,999</b>	20	3%	18	7%
<b>\$140,000-\$159,999</b>	16	2%	10	4%
<b>\$160,000 or More</b>	141	18%	114	44%
<b>Total</b>	<b>774</b>	<b>100%</b>	<b>259</b>	<b>100%</b>

Source: Va. Healthcare Workforce Data Center

## At a Glance:

### Employment

Employed in Profession: 96%  
 Involuntarily Unemployed: 0%

### Positions Held

1 Full-Time: 70%  
 2 or More Positions: 13%

### Weekly Hours:

40 to 49: 43%  
 60 or More: 4%  
 Less than 30: 15%

Source: Va. Healthcare Workforce Data Center

## A Closer Look:

Current Work Status		
Status	#	%
Employed, Capacity Unknown	1	< 1%
Employed in an Optometry-Related Capacity	861	96%
Employed, NOT in an Optometry-Related Capacity	9	1%
Not Working, Reason Unknown	0	0%
Involuntarily Unemployed	0	0%
Voluntarily Unemployed	12	1%
Retired	12	1%
<b>Total</b>	<b>895</b>	<b>100%</b>

Source: Va. Healthcare Workforce Data Center

*Among all licensed optometrists, 96% are currently employed in the profession, 70% hold one full-time job, and 43% work between 40 and 49 hours per week.*

Current Positions		
Positions	#	%
No Positions	24	3%
One Part-Time Position	124	14%
Two Part-Time Positions	43	5%
One Full-Time Position	607	70%
One Full-Time Position & One Part-Time Position	54	6%
Two Full-Time Positions	3	0%
More than Two Positions	8	1%
<b>Total</b>	<b>863</b>	<b>100%</b>

Source: Va. Healthcare Workforce Data Center

Current Weekly Hours		
Hours	#	%
0 Hours	24	3%
1 to 9 Hours	18	2%
10 to 19 Hours	42	5%
20 to 29 Hours	74	9%
30 to 39 Hours	238	27%
40 to 49 Hours	377	43%
50 to 59 Hours	63	7%
60 to 69 Hours	21	2%
70 to 79 Hours	7	1%
80 or More Hours	6	1%
<b>Total</b>	<b>870</b>	<b>100%</b>

Source: Va. Healthcare Workforce Data Center

**A Closer Look:**

Annual Income		
Income Level	#	%
Volunteer Work Only	6	1%
Less than \$40,000	32	5%
\$40,000-\$59,999	30	5%
\$60,000-\$79,999	34	5%
\$80,000-\$99,999	75	11%
\$100,000-\$119,999	91	14%
\$120,000-\$139,999	116	18%
\$140,000-\$159,999	114	17%
\$160,000-\$179,999	48	7%
\$180,000-\$199,999	27	4%
\$200,000 or More	88	13%
<b>Total</b>	<b>661</b>	<b>100%</b>

Source: Va. Healthcare Workforce Data Center

## At a Glance:

**Earnings**  
Median Income: \$130k-\$140k

**Benefits**  
Health Insurance: 58%  
Retirement: 60%

**Satisfaction**  
Satisfied: 95%  
Very Satisfied: 60%

Source: Va. Healthcare Workforce Data Center

Job Satisfaction		
Level	#	%
Very Satisfied	524	60%
Somewhat Satisfied	306	35%
Somewhat Dissatisfied	38	4%
Very Dissatisfied	7	1%
<b>Total</b>	<b>874</b>	<b>100%</b>

Source: Va. Healthcare Workforce Data Center

*The typical optometrist earns between \$130,000 and \$140,000 per year. In addition, 77% of all wage or salaried optometrists receive at least one employer-sponsored benefit at their primary work location.*

Employer-Sponsored Benefits			
Benefit	#	%	% of Wage/Salary Employees
Paid Vacation	469	54%	68%
Retirement	434	50%	60%
Health Insurance	420	49%	58%
Dental Insurance	298	35%	44%
Paid Sick Leave	283	33%	39%
Group Life Insurance	203	24%	30%
Signing/Retention Bonus	96	11%	16%
<b>At Least One Benefit</b>	<b>574</b>	<b>67%</b>	<b>77%</b>

\*From any employer at time of survey.

Source: Va. Healthcare Workforce Data Center



**A Closer Look:**

Employment Instability in the Past Year		
In the Past Year, Did You . . . ?	#	%
Experience Involuntary Unemployment?	3	< 1%
Experience Voluntary Unemployment?	40	3%
Work Part-Time or Temporary Positions, but Would Have Preferred a Full-Time/Permanent Position?	22	2%
Work Two or More Positions at the Same Time?	121	9%
Switch Employers or Practices?	45	3%
Experience at Least One?	<b>204</b>	<b>16%</b>

Source: Va. Healthcare Workforce Data Center

Over the past year, less than 1% of optometrists have experienced involuntary unemployment. By comparison, Virginia's average monthly unemployment rate was 2.9%.<sup>1</sup>

Location Tenure				
Tenure	Primary		Secondary	
	#	%	#	%
Not Currently Working at This Location	14	2%	14	6%
Less than 6 Months	44	5%	21	10%
6 Months to 1 Year	66	8%	19	9%
1 to 2 Years	135	16%	59	27%
3 to 5 Years	148	17%	35	16%
6 to 10 Years	135	16%	26	12%
More than 10 Years	316	37%	44	20%
<b>Subtotal</b>	<b>858</b>	<b>100%</b>	<b>219</b>	<b>100%</b>
Did Not Have Location	15		1,074	
Item Missing	423		3	
<b>Total</b>	<b>1,297</b>		<b>1,297</b>	

Source: Va. Healthcare Workforce Data Center

Nearly three out of every five optometrists receive a salary or work on commission at their primary work location. Another 24% receive income from a business or practice.

**At a Glance:**

**Unemployment Experience**

Involuntarily Unemployed: < 1%  
Underemployed: 2%

**Turnover & Tenure**

Switched Jobs: 3%  
New Location: 17%  
Over 2 Years: 70%  
Over 2 Yrs., 2<sup>nd</sup> Location: 48%

**Employment Type**

Salary/Commission: 57%  
Business/Practice Inc.: 24%

Source: Va. Healthcare Workforce Data Center

Seven out of every ten optometrists have been employed at their primary work location for more than two years.

Employment Type		
Primary Work Site	#	%
Salary/Commission	369	57%
Hourly Wage	93	14%
By Contract	25	4%
Business/Practice Income	153	24%
Unpaid	4	1%
<b>Subtotal</b>	<b>643</b>	<b>100%</b>

Source: Va. Healthcare Workforce Data Center

<sup>1</sup> As reported by the U.S. Bureau of Labor Statistics. Over the past year, the non-seasonally adjusted monthly unemployment rate fluctuated between a low of 2.4% and a high of 3.3%. At the time of publication, the unemployment rate from February 2023 was still preliminary, and the unemployment rate from March 2023 had not yet been released.

## At a Glance:

### Concentration

Top Region:	39%
Top 3 Regions:	75%
Lowest Region:	1%

### Locations

2 or More (Past Year):	25%
2 or More (Now*):	23%

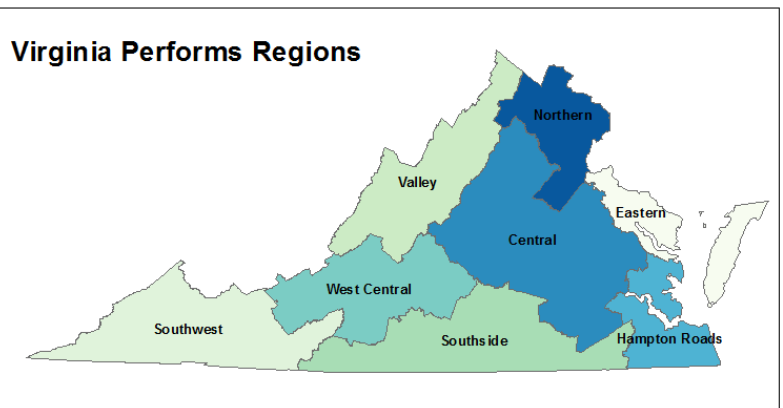
Source: Va. Healthcare Workforce Data Center

*Three out of every four optometrists work in Northern Virginia, Hampton Roads, or Central Virginia.*

## A Closer Look:

Regional Distribution of Work Locations				
Virginia Performs Region	Primary Location		Secondary Location	
	#	%	#	%
Central	148	17%	39	18%
Eastern	10	1%	1	0%
Hampton Roads	165	19%	26	12%
Northern	333	39%	68	31%
Southside	31	4%	8	4%
Southwest	40	5%	13	6%
Valley	39	5%	12	5%
West Central	79	9%	23	10%
Virginia Border State/D.C.	10	1%	14	6%
Other U.S. State	5	1%	17	8%
Outside of the U.S.	0	0%	0	0%
<b>Total</b>	<b>860</b>	<b>100%</b>	<b>221</b>	<b>100%</b>
Item Missing	421		1	

Source: Va. Healthcare Workforce Data Center



Source: Va. Healthcare Workforce Data Center

Number of Work Locations				
Locations	Work Locations in Past Year		Work Locations Now*	
	#	%	#	%
0	13	2%	23	3%
1	637	73%	647	74%
2	151	17%	148	17%
3	50	6%	43	5%
4	10	1%	5	1%
5	3	0%	1	0%
6 or More	7	1%	6	1%
<b>Total</b>	<b>873</b>	<b>100%</b>	<b>873</b>	<b>100%</b>

*Among all optometrists, 23% currently have multiple work locations, while 25% have had multiple work locations over the past year.*

\*At the time of survey completion: March 2023.

Source: Va. Healthcare Workforce Data Center

A Closer Look:

Sector	Location Sector			
	Primary Location		Secondary Location	
	#	%	#	%
<b>For-Profit</b>	739	91%	189	89%
<b>Non-Profit</b>	29	4%	5	2%
<b>State/Local Government</b>	3	0%	6	3%
<b>Veterans Administration</b>	15	2%	2	1%
<b>U.S. Military</b>	24	3%	6	3%
<b>Other Federal Government</b>	1	0%	4	2%
<b>Total</b>	<b>811</b>	<b>100%</b>	<b>212</b>	<b>100%</b>
<b>Did Not Have Location</b>	15		1,074	
<b>Item Missing</b>	469		11	

Source: Va. Healthcare Workforce Data Center

## At a Glance: (Primary Locations)

**Sector**

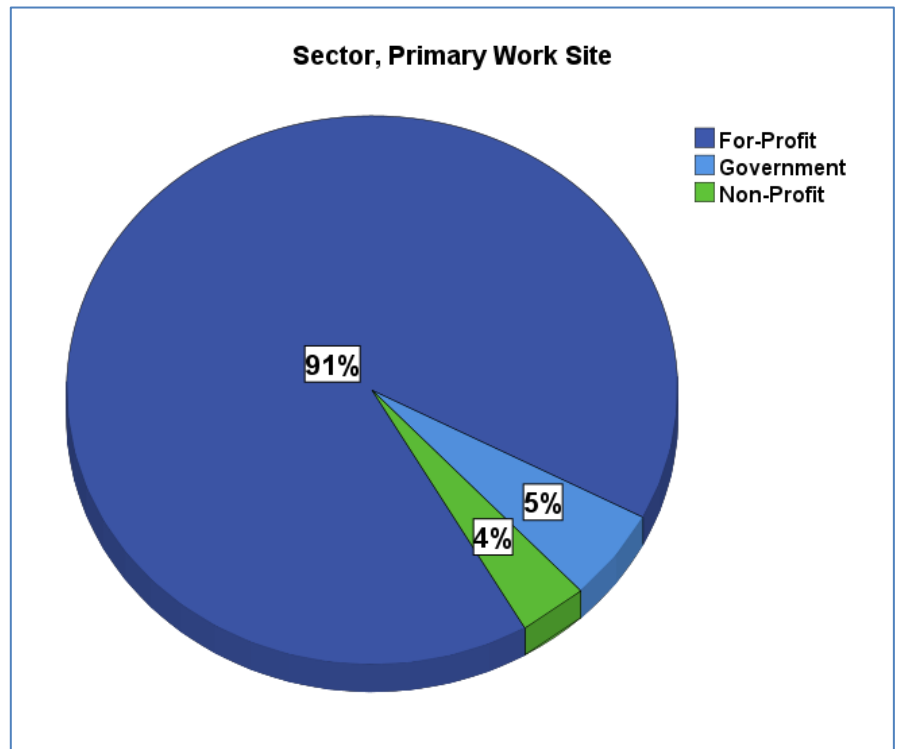
For-Profit:	91%
Federal:	5%

**Top Establishments**

Private Practice, Group:	41%
Private Practice, Solo:	20%
Optical Goods Store:	17%

Source: Va. Healthcare Workforce Data Center

Most optometrists work in the private sector, including 91% who work in the for-profit sector.



Source: Va. Healthcare Workforce Data Center

Location Type				
Establishment Type	Primary Location		Secondary Location	
	#	%	#	%
Private Practice, Group	324	41%	89	44%
Private Practice, Solo	158	20%	32	16%
Optical Goods Store	134	17%	41	20%
Outpatient/Community Clinic	35	4%	9	4%
Physician Office	35	4%	1	0%
General Hospital, Outpatient Department	29	4%	4	2%
Academic Institution	1	0%	3	1%
Home Health Care	1	0%	0	0%
General Hospital, Inpatient Department	0	0%	1	0%
Other	66	8%	24	12%
<b>Total</b>	<b>783</b>	<b>100%</b>	<b>204</b>	<b>100%</b>
<b>Did Not Have a Location</b>	15		1,074	

Source: Va. Healthcare Workforce Data Center

*More than two out of every five optometrists work in a group private practice, while another 20% work in a solo private practice.*

*Nearly three out of every five optometrists work at an establishment that accepts cash/self-pay as a form of payment for services rendered. This makes cash/self-pay the most commonly accepted form of payment among Virginia's optometry workforce.*

Accepted Forms of Payment		
Payment	#	% of Workforce
Cash/Self-Pay	768	59%
Private Insurance	733	57%
Medicare	662	51%
Medicaid	427	33%

Source: Va. Healthcare Workforce Data Center

## At a Glance: (Primary Locations)

### Languages Offered

Spanish:	9%
Vietnamese:	1%
Korean:	1%

### Means of Communication

Other Staff Member:	54%
Respondent:	49%
Virtual Translation:	21%

Source: Va. Healthcare Workforce Data Center

## A Closer Look:

Languages Offered		
Language	#	% of Workforce
Spanish	115	9%
Vietnamese	19	1%
Korean	18	1%
Persian	18	1%
Hindi	17	1%
Chinese	14	1%
French	13	1%
Arabic	12	1%
Tagalog/Filipino	9	1%
Urdu	8	1%
Pashto	5	0%
Amharic, Somali, or Other Afro-Asiatic Languages	4	0%
Others	11	1%
<b>At Least One Language</b>	<b>140</b>	<b>11%</b>

Source: Va. Healthcare Workforce Data Center

*Among all optometrists, 9% are employed at a primary work location that offers Spanish language services for patients.*

## Means of Language Communication

Provision	#	% of Workforce with Language Services
<b>Other Staff Member is Proficient</b>	76	54%
<b>Respondent is Proficient</b>	69	49%
<b>Virtual Translation Service</b>	29	21%
<b>Onsite Translation Service</b>	14	10%
<b>Other</b>	2	1%

Source: Va. Healthcare Workforce Data Center

*More than half of all optometrists who are employed at a primary work location that offers language services for patients provide it by means of a staff member who is proficient.*

## At a Glance: (Primary Locations)

### Typical Time Allocation

Patient Care: 90%-99%  
Administration: 1%-9%

### Roles

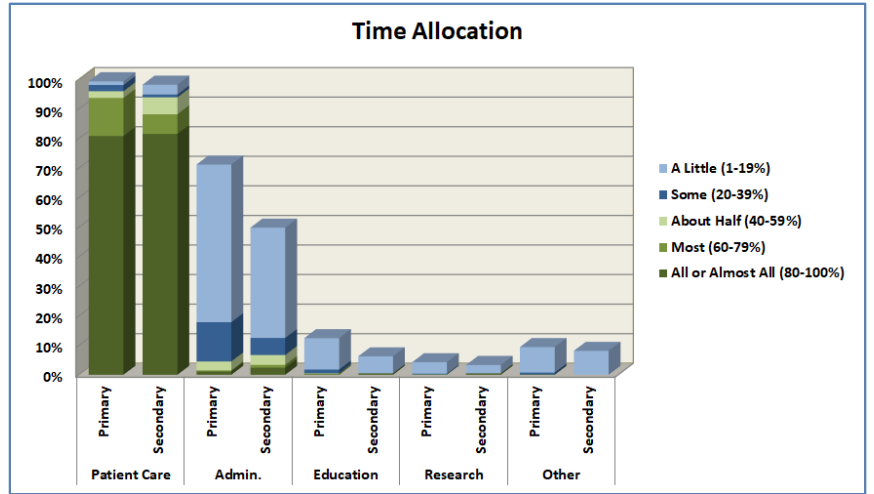
Patient Care: 94%  
Administration: 2%

### Patient Care Optometrists

Median Admin. Time: 1%-9%  
Avg. Admin. Time: 1%-9%

Source: Va. Healthcare Workforce Data Center

## A Closer Look:



Source: Va. Healthcare Workforce Data Center

*Optometrists typically spend most of their time treating patients. In fact, 94% of all optometrists fill a patient care role, defined as spending at least 60% of their time in that activity.*

Time Allocation										
Time Spent	Patient Care		Admin.		Education		Research		Other	
	Pri. Site	Sec. Site	Pri. Site	Sec. Site	Pri. Site	Sec. Site	Pri. Site	Sec. Site	Pri. Site	Sec. Site
<b>All or Almost All (80-100%)</b>	81%	81%	1%	2%	0%	0%	0%	0%	0%	0%
<b>Most (60-79%)</b>	13%	7%	0%	1%	0%	0%	0%	0%	0%	0%
<b>About Half (40-59%)</b>	2%	6%	3%	3%	0%	0%	0%	0%	0%	0%
<b>Some (20-39%)</b>	2%	1%	13%	6%	1%	0%	0%	0%	1%	0%
<b>A Little (1-19%)</b>	1%	3%	53%	37%	11%	6%	4%	3%	9%	8%
<b>None (0%)</b>	1%	2%	29%	50%	88%	93%	96%	97%	91%	92%

Source: Va. Healthcare Workforce Data Center

**A Closer Look:**

Retirement Expectations				
Expected Retirement Age	All Optometrists		Optometrists 50 and Over	
	#	%	#	%
<b>Under Age 50</b>	20	3%	-	-
<b>50 to 54</b>	28	4%	1	0%
<b>55 to 59</b>	73	10%	17	5%
<b>60 to 64</b>	178	24%	56	17%
<b>65 to 69</b>	257	34%	117	35%
<b>70 to 74</b>	104	14%	72	21%
<b>75 to 79</b>	42	6%	36	11%
<b>80 or Over</b>	14	2%	12	4%
<b>I Do Not Intend to Retire</b>	37	5%	25	7%
<b>Total</b>	<b>753</b>	<b>100%</b>	<b>336</b>	<b>100%</b>

Source: Va. Healthcare Workforce Data Center

**At a Glance:**

Retirement Expectations

**All Optometrists**

Under 65: 40%  
Under 60: 16%

**Optometrists 50 and Over**

Under 65: 22%  
Under 60: 5%

Time Until Retirement

Within 2 Years: 7%  
Within 10 Years: 27%  
Half the Workforce: By 2043

Source: Va. Healthcare Workforce Data Center

*Two out of every five optometrists expect to retire before the age of 65. Among optometrists who are age 50 and over, 22% still expect to retire by the age of 65.*

*Within the next two years, 7% of Virginia's optometrists expect to increase their patient care hours, and 4% expect to pursue additional educational opportunities.*

**Future Plans**

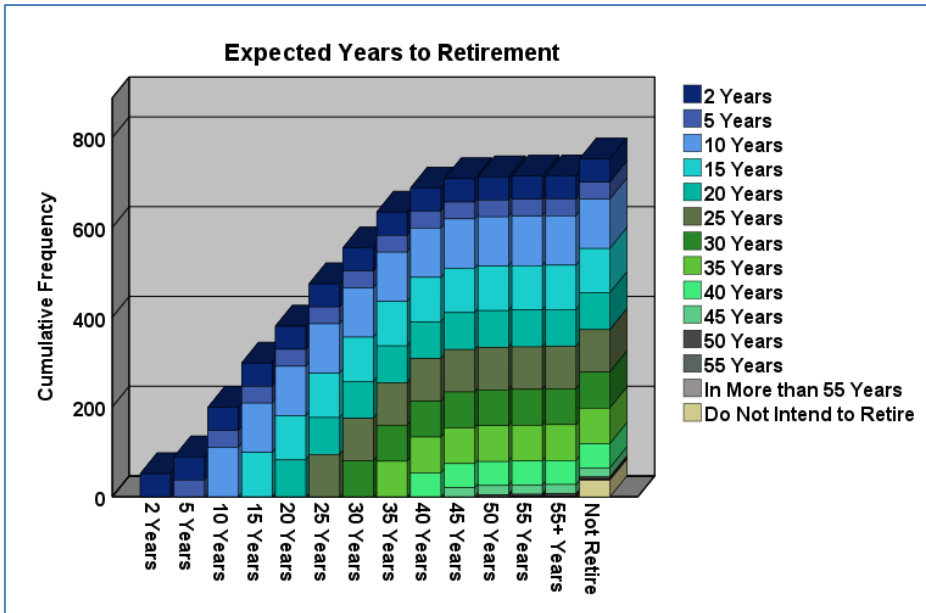
Two-Year Plans:	#	%
<b>Decrease Participation</b>		
<b>Leave Profession</b>	12	1%
<b>Leave Virginia</b>	26	2%
<b>Decrease Patient Care Hours</b>	121	9%
<b>Decrease Teaching Hours</b>	2	0%
<b>Increase Participation</b>		
<b>Increase Patient Care Hours</b>	90	7%
<b>Increase Teaching Hours</b>	29	2%
<b>Pursue Additional Education</b>	58	4%
<b>Return to the Workforce</b>	6	0%

Source: Va. Healthcare Workforce Data Center

By comparing retirement expectations to age, we can estimate the maximum years to retirement for optometrists. While only 7% of optometrists expect to retire in the next two years, 27% expect to retire within the next decade. More than half of the current workforce expect to retire by 2043.

Time to Retirement			
Expect to Retire Within . . .	#	%	Cumulative %
2 Years	52	7%	7%
5 Years	38	5%	12%
10 Years	110	15%	27%
15 Years	99	13%	40%
20 Years	82	11%	51%
25 Years	95	13%	63%
30 Years	80	11%	74%
35 Years	80	11%	84%
40 Years	54	7%	92%
45 Years	20	3%	94%
50 Years	5	1%	95%
55 Years	1	0%	95%
In More than 55 Years	1	0%	95%
Do Not Intend to Retire	37	5%	100%
<b>Total</b>	<b>753</b>	<b>100%</b>	

Source: Va. Healthcare Workforce Data Center



Source: Va. Healthcare Workforce Data Center

Using these estimates, retirement will begin to reach over 10% of the current workforce every five years by 2033. Retirement will peak at 15% of the current workforce around the same time before declining to under 10% again around 2063.



## At a Glance:

### FTEs

Total: 1,063  
 FTEs/1,000 Residents<sup>2</sup>: 0.123  
 Average: 0.83

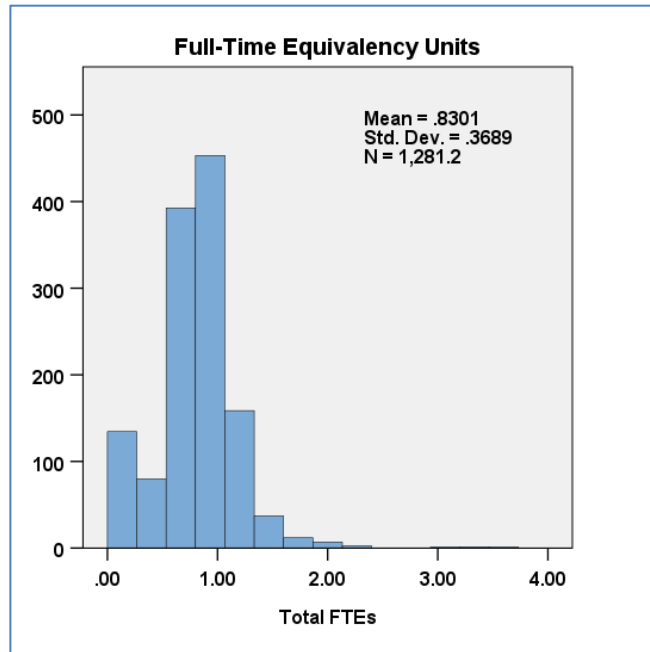
### Age & Gender Effect

Age, *Partial Eta*<sup>2</sup>: Small  
 Gender, *Partial Eta*<sup>2</sup>: Small

*Partial Eta*<sup>2</sup> Explained:  
*Partial Eta*<sup>2</sup> is a statistical  
 measure of effect size.

Source: Va. Healthcare Workforce Data Center

## A Closer Look:

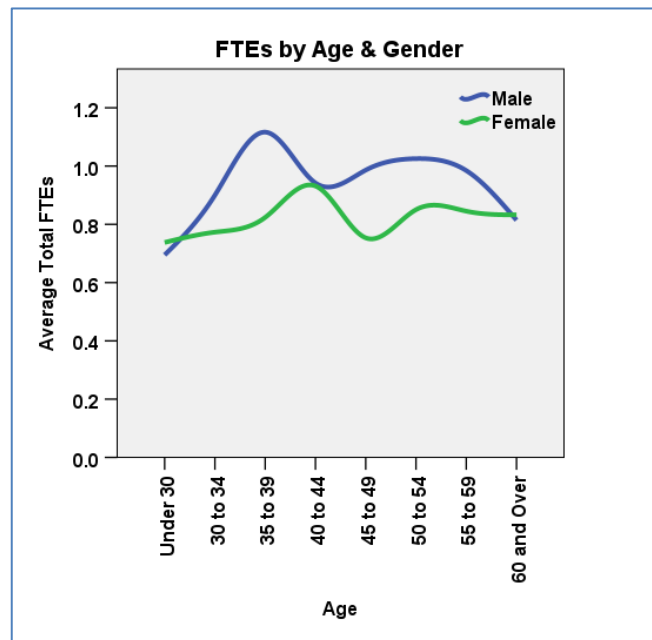


Source: Va. Healthcare Workforce Data Center

*The typical (median) optometrist provided 0.83 FTEs in the past year, or approximately 33 hours per week for 50 weeks. Although FTEs appear to vary by age and gender, statistical tests did not verify that a difference exists.<sup>3</sup>*

Full-Time Equivalency Units		
Age	Average	Median
<b>Age</b>		
Under 30	0.73	0.74
30 to 34	0.67	0.76
35 to 39	0.94	1.05
40 to 44	0.92	0.84
45 to 49	0.83	0.78
50 to 54	0.86	0.78
55 to 59	0.92	0.91
60 and Over	0.80	0.78
<b>Gender</b>		
Male	0.90	0.96
Female	0.82	0.83

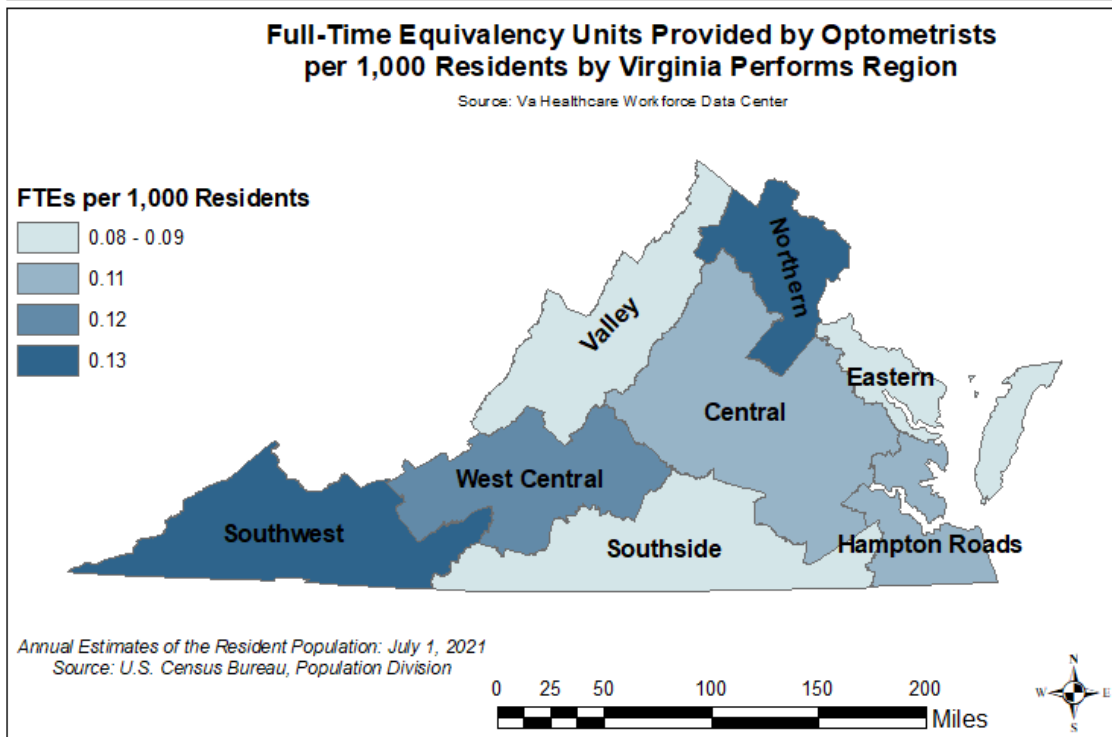
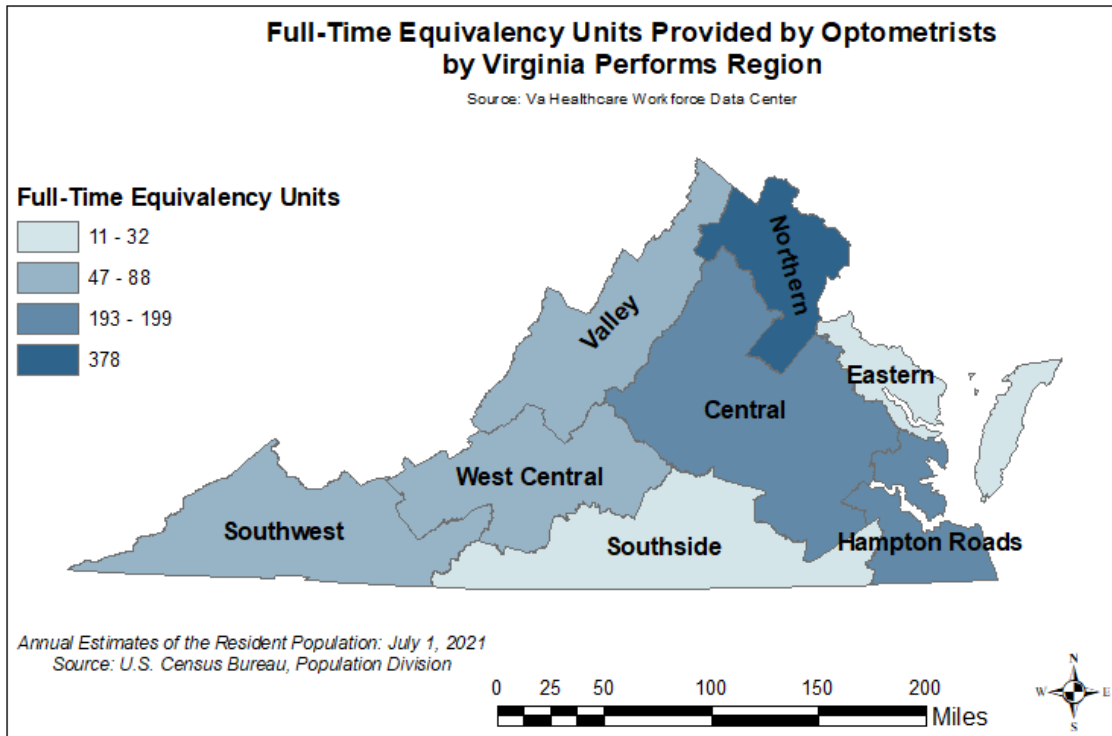
Source: Va. Healthcare Workforce Data Center

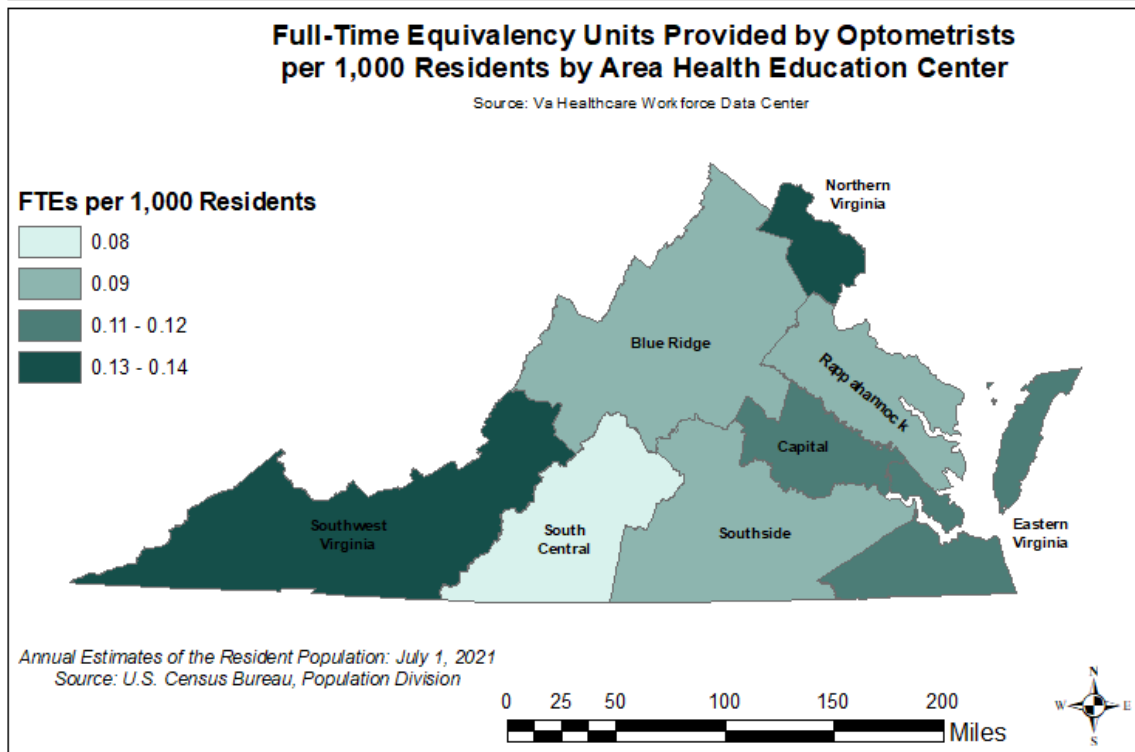
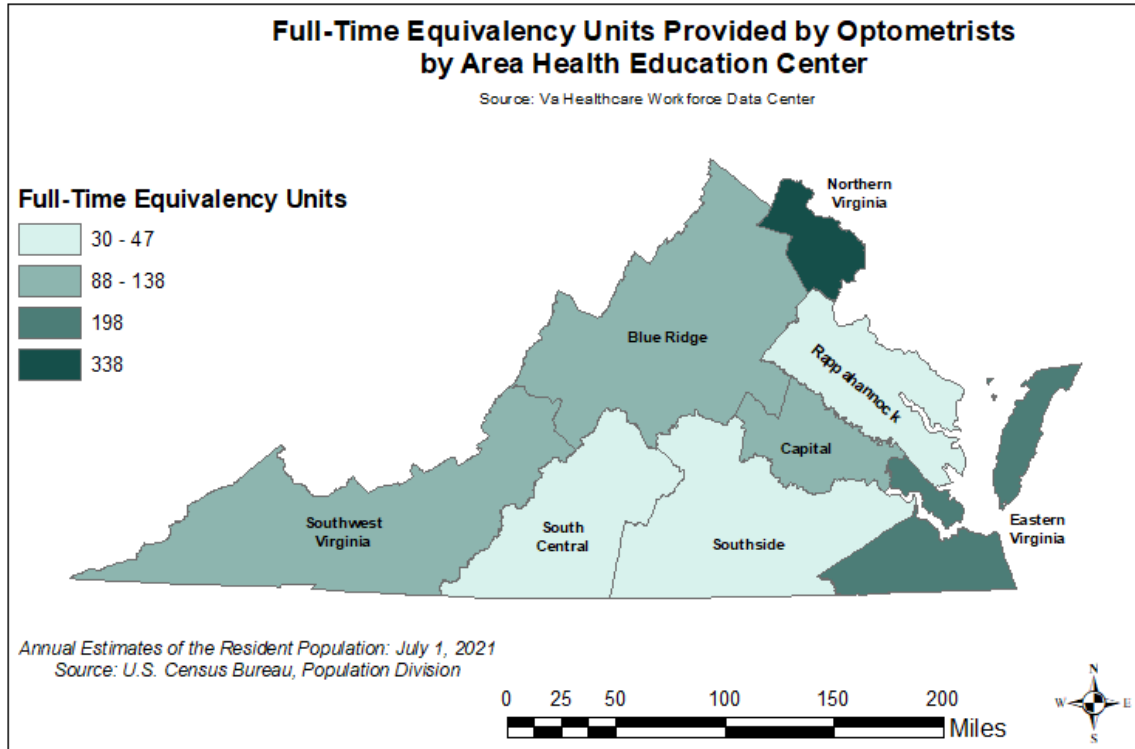


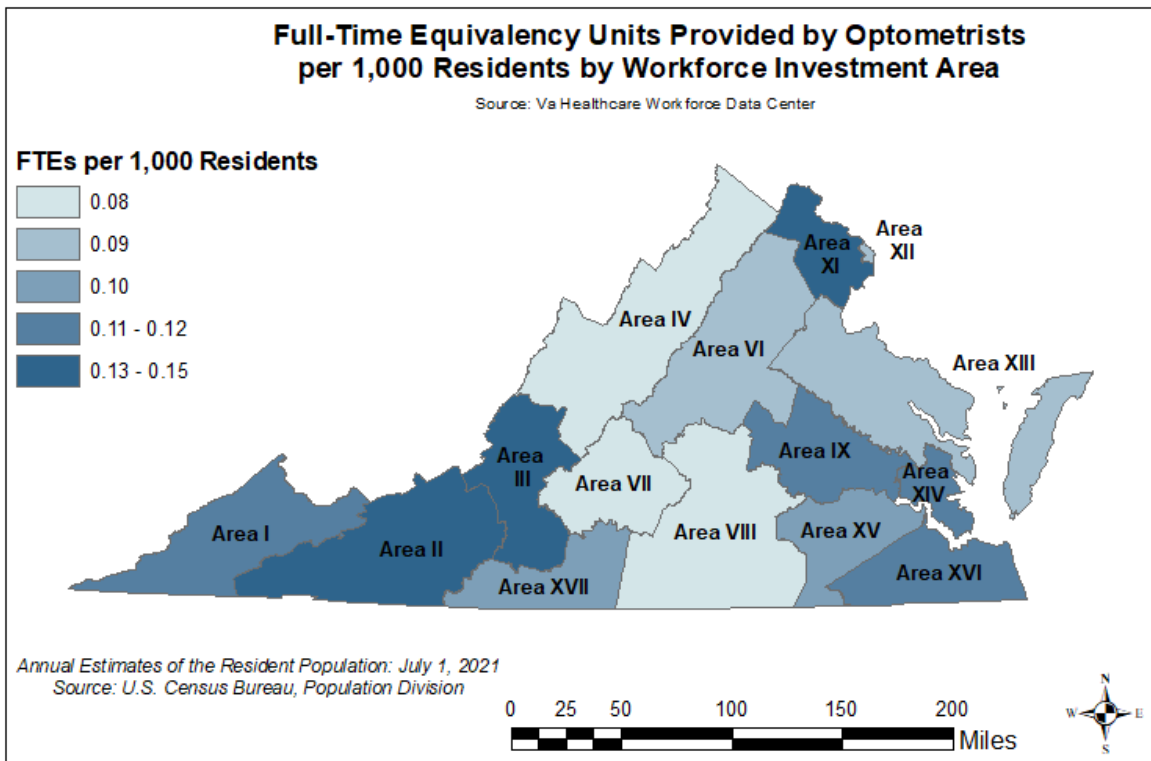
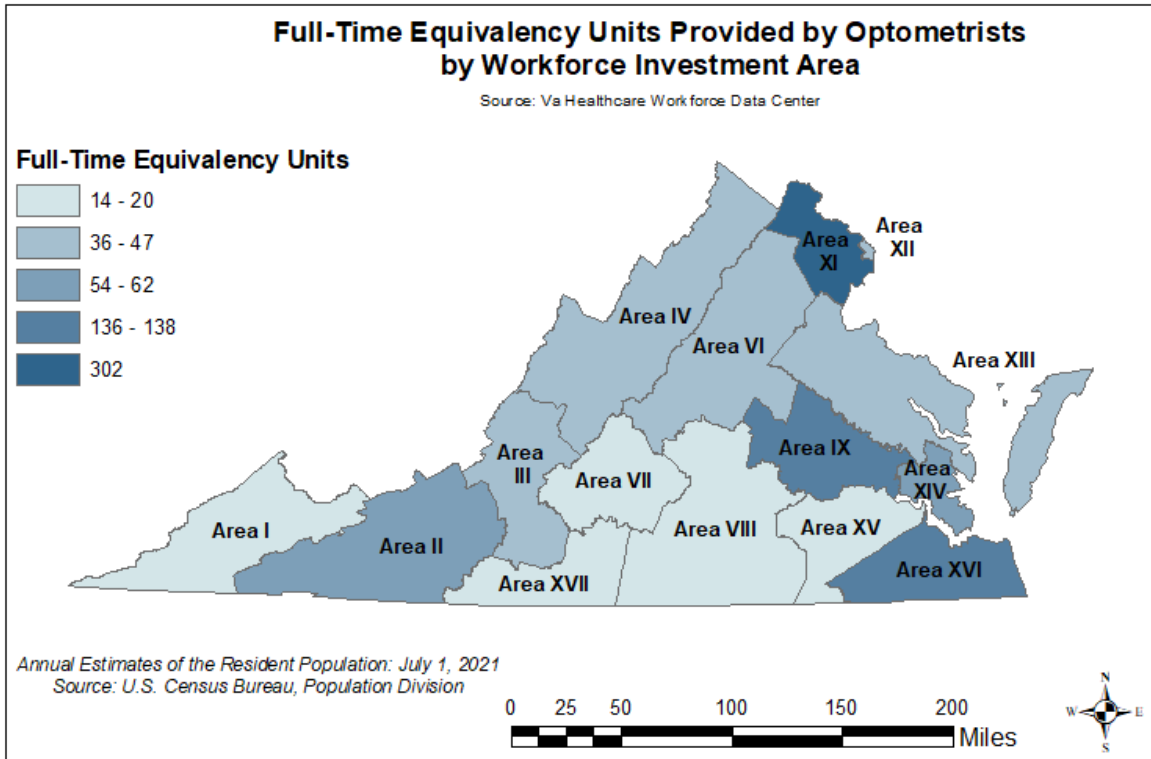
Source: Va. Healthcare Workforce Data Center

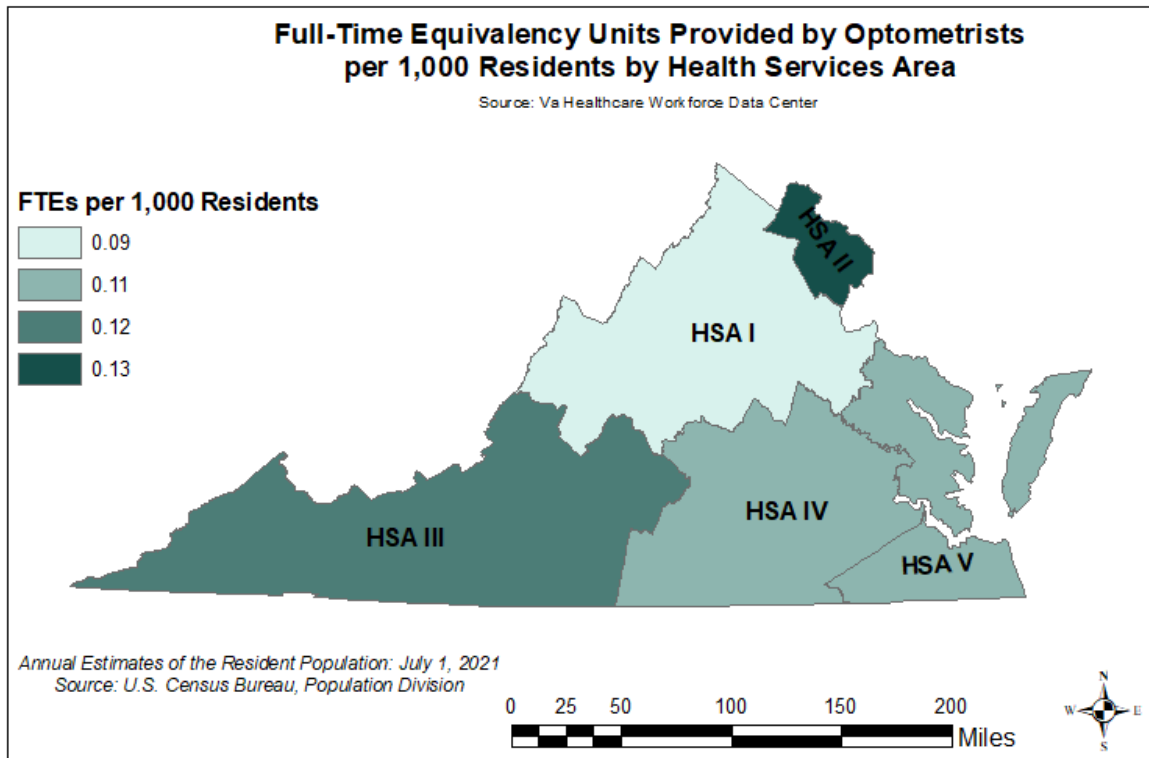
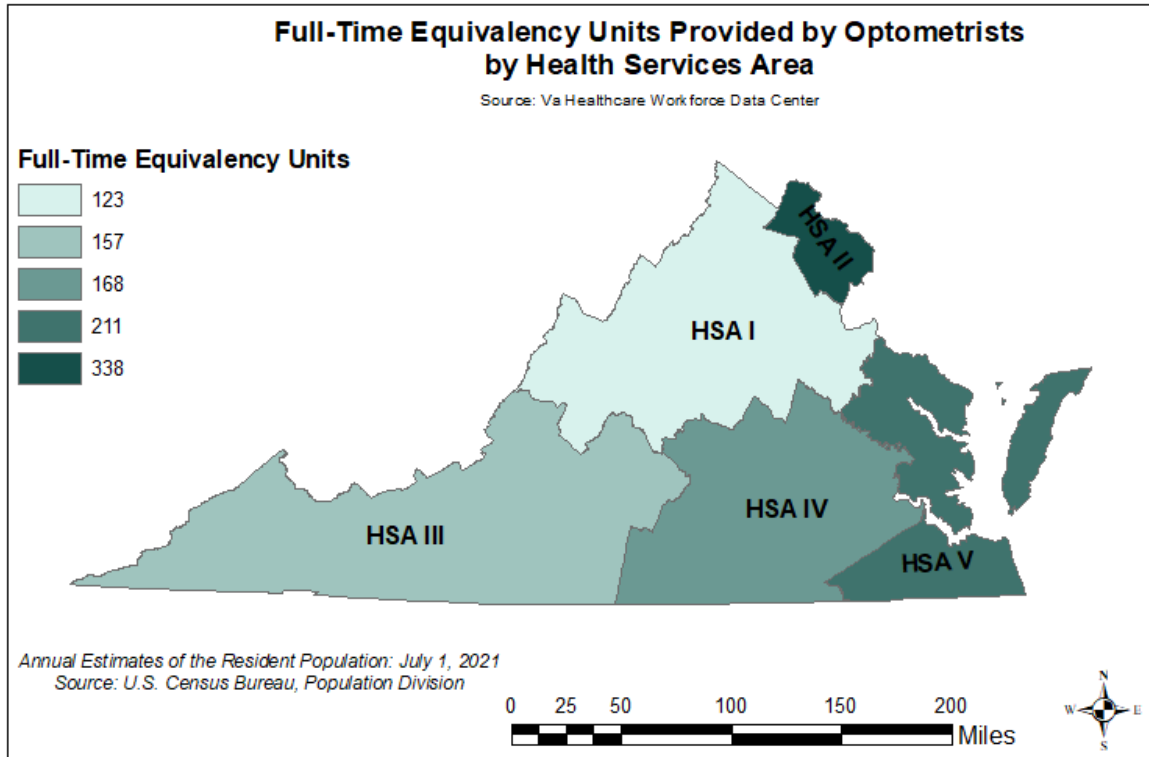
<sup>2</sup> Number of residents in 2021 was used as the denominator.

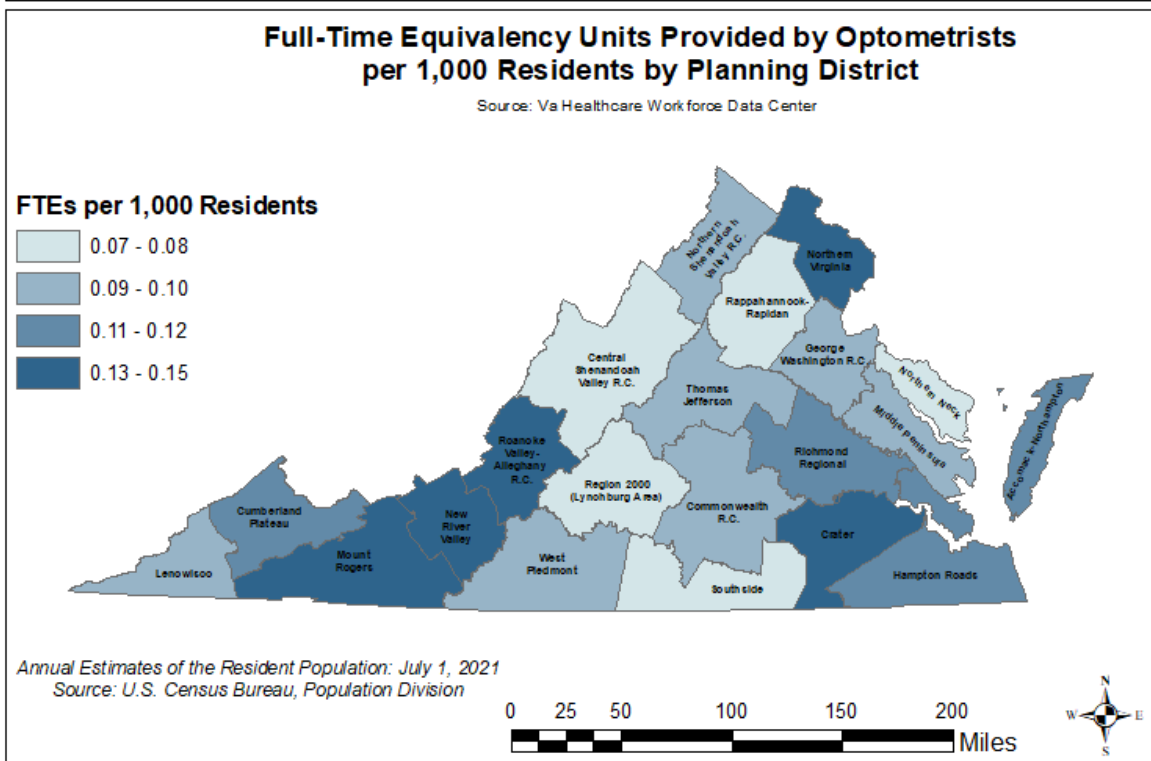
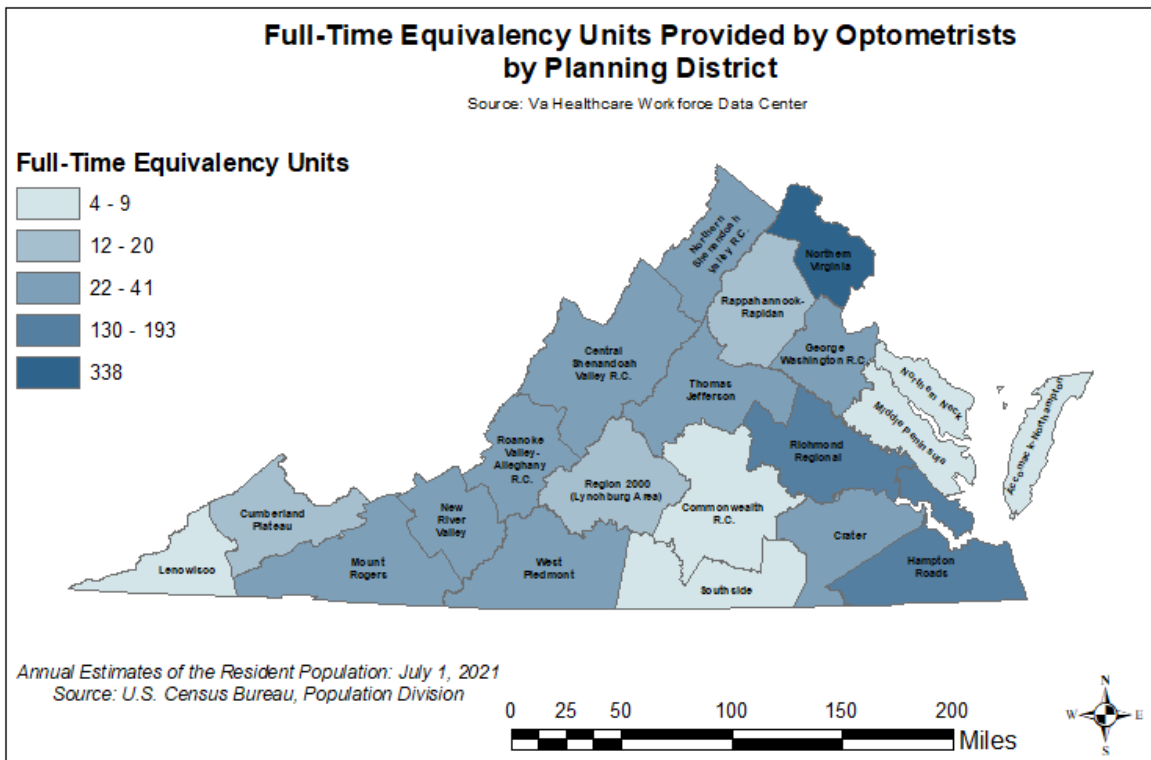
<sup>3</sup> Due to assumption violations in Mixed between-within ANOVA (Levene's Test was significant).











## Appendices

### Weights

Rural Status	Location Weight			Total Weight	
	#	Rate	Weight	Min.	Max.
<b>Metro, 1 Million+</b>	873	86.03%	1.162	1.083	1.478
<b>Metro, 250,000 to 1 Million</b>	89	86.52%	1.156	1.077	1.470
<b>Metro, 250,000 or Less</b>	108	92.59%	1.080	1.006	1.373
<b>Urban, Pop. 20,000+, Metro Adj.</b>	12	83.33%	1.200	1.118	1.226
<b>Urban, Pop. 20,000+, Non-Adj.</b>	0	NA	NA	NA	NA
<b>Urban, Pop. 2,500-19,999, Metro Adj.</b>	41	78.05%	1.281	1.194	1.629
<b>Urban, Pop. 2,500-19,999, Non-Adj.</b>	38	73.68%	1.357	1.264	1.726
<b>Rural, Metro Adj.</b>	25	88.00%	1.136	1.059	1.445
<b>Rural, Non-Adj.</b>	7	85.71%	1.167	1.109	1.257
<b>Virginia Border State/D.C.</b>	246	81.71%	1.224	1.140	1.556
<b>Other U.S. State</b>	370	75.68%	1.321	1.231	1.680

Source: Va. Healthcare Workforce Data Center

Age	Age Weight			Total Weight	
	#	Rate	Weight	Min.	Max.
<b>Under 30</b>	87	65.52%	1.526	1.373	1.726
<b>30 to 34</b>	260	77.31%	1.294	1.164	1.462
<b>35 to 39</b>	216	86.11%	1.161	1.045	1.313
<b>40 to 44</b>	226	85.84%	1.165	1.048	1.317
<b>45 to 49</b>	205	86.34%	1.158	1.042	1.309
<b>50 to 54</b>	234	87.61%	1.141	1.027	1.291
<b>55 to 59</b>	170	89.41%	1.118	1.006	1.264
<b>60 and Over</b>	411	81.51%	1.227	1.104	1.387

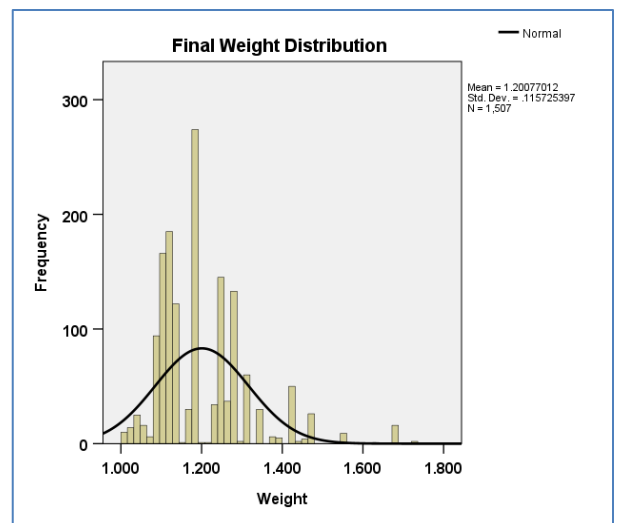
Source: Va. Healthcare Workforce Data Center

See the Methods section on the HWDC website for details on HWDC methods: <https://www.dhp.virginia.gov/PublicResources/HealthcareWorkforceDataCenter/>

Final weights are calculated by multiplying the two weights and the overall response rate:

$$\text{Age Weight} \times \text{Rural Weight} \times \text{Response Rate} = \text{Final Weight.}$$

**Overall Response Rate: 0.833057**



Source: Va. Healthcare Workforce Data Center



May 1, 2023

Dr. Lisa Wallace-Davis, President  
Virginia Board of Optometry

Via email: [optbd@dhp.virginia.gov](mailto:optbd@dhp.virginia.gov)

Dear Dr. Lisa Wallace-Davis,

**RE: Canadian Optometry Board Exam — An Acceptable Alternative**

With the dramatic fee increase in the NBEO exam fees, we are receiving queries from State Boards and prospective candidates about the possibility of the Optometry Examining Board of Canada (OEBC) exam becoming an acceptable alternative entry-to-practice exam. OEBC advises candidates that they must meet the registration requirements of the jurisdiction where they will practice.

Please note, that the Accreditation Council on Optometric Education (ACOE) considers the NBEO and OEBC exams as acceptable outcome measures to meet its Standard I. Twenty-five Optometric Degree Programs in the United States and Canada are accredited by ACOE.

OEBC sets and administers the national entry-to-practice examination. The Canadian board exam is designed to assess candidates' competencies in key areas of optometry, including ocular health, diagnosis, treatment, and patient-centred care. The ten provincial optometry regulatory authorities are our members, who provide exam oversight, and are our "customers" for the exam.

One important factor that candidates consider is the cost of the (Canadian) board exam. Compared to the US board exam, the Canadian board exam costs \$1200 CAD less than the NBEO.

For example, a state board recently asked, "Does Canada's exam in part 1 identify a Treatment Management of Ocular Disease (TMOD) score separate from the overall score?"

While we do not currently provide the information, we would happily provide a separate pass/fail cut-off for Treatment Management of Ocular Disease (TMOD) if required by a regulatory authority. The score would be psychometrically the equivalent of the 75% score currently provided by NBEO. Currently, the provincial regulatory authorities in Canada do not review a separate TMOD score.

To assist with your assessment, please find a chart comparing the Board Exams for optometry in US and Canada. I'd be pleased to set up a Zoom meeting to discuss the OEBC exam with you and our staff.

If you have any further questions or would like additional information, please do not hesitate to reach out to us at [kim.allen@oebc.ca](mailto:kim.allen@oebc.ca).

Best regards,

Kim Allen

Chief Executive Officer, OEBC



# Optometry Board Exams Comparison

For students in an ACOE-accredited (Accreditation Council on Optometric Education) optometry program

	Canadian Board Exam (OEBC) – July 1, 2023	US Board Exam (NBEO) – August 1, 2023
<b>Organization</b>	<b>Optometry Examining Board of Canada</b> ( <a href="#">website</a> )	<b>National Board of Examiners in Optometry, Inc.</b> ( <a href="#">website</a> )
<b>Exam Fee</b>	• <b>\$4500</b> — Written Exam is \$1500 + OSCE is \$3000	• <b>Over \$5700<sup>1</sup></b> — each part is \$1380 USD
<b>Student Success Rate</b> (first-time writers)	<ul style="list-style-type: none"> <li>• <b>Written – 92%</b></li> <li>• <b>OSCE – 86%</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Part 1 – 77%</b></li> <li>• <b>Part 2 – 90%</b></li> <li>• <b>Part 3 – 81%</b></li> </ul>
<b>Components</b>	<ul style="list-style-type: none"> <li>• <b>Written Exam</b> — case-based examination assessing candidates’ clinical thinking &amp; decision-making with a heavy emphasis on assessment (31%), diagnosis &amp; planning (28%), patient management (29%)</li> <li>• <b>OSCE</b> — an objective structured clinical evaluation presenting 12 realistic clinical settings, involving a patient, where a candidate constructs the appropriate response; also integrated assessment of technical skills</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Part I - Applied Basic Science</b> examination tests the underlying basic science concepts necessary to enter the clinical practice of optometry.</li> <li>• <b>Part II - Patient Assessment &amp; Management</b> examination assesses candidates’ clinical thinking and decision-making with a particularly heavy emphasis on diagnosis and treatment.</li> <li>• <b>Part III - Clinical Skills Examination</b> is a distinctive clinical skills examination for optometry requiring fundamental skills that reflect actual practice.</li> </ul>
<b>Eligibility</b>	<p>Student candidates must be in their final academic year.</p> <p>Students may challenge either the Written Exam and/or the OSCE during the Fall or Spring administration. The OSCE and Written exams are typically at least 3-4 weeks apart.</p>	<p><b>Part 1</b> - Student candidates must be in the Spring of their third academic year.</p> <p><b>Part 2</b> - Not until December of the student candidate’s final academic year.</p> <p><b>Part 3</b> - Student candidates may challenge Part III in their final year, however, a candidate's official score report will not be released to the state boards until NBEO receives notification from the candidate's Dean/President or authorized liaison that graduation has been confirmed.</p>
<b>Delivery – written exams</b>	<b>Written Exam</b> – online via remote proctoring, written anywhere (subject to privacy conditions)	<b>Part 1 &amp; Part 2</b> – at a Pearson VUE Testing Centre
<b>Delivery – clinical assessment</b>	<b>OSCE</b> – Montreal, Waterloo (or Hamilton, based on the availability of WOVS)	<b>Part 3</b> - NCCTO® TEST CENTER, Charlotte, NC
<b>Meets School Requirements re Challenging/Passing Board Exam Components<sup>2</sup></b>	Yes, with one exception—Kentucky College of Optometry students must pass NBEO Part 1	Yes, with one exception—École d'optométrie, Université de Montréal students must pass the OEBC written exam

<sup>1</sup> Based on the exchange rate of March 29, 2023

<sup>2</sup> 13 ACOE-accredited optometry schools require their student to challenge and/or pass a component(s) of a Board Exam to graduate.

	Canadian Board Exam (OEBC) – July 1, 2023	US Board Exam (NBEO) – August 1, 2023
<b>Acceptable outcome measure to meet ACOE Standard I</b>	Yes	Yes
<b>Multiple Languages</b>	Yes, English and French	No, English only
<b>Registration Opens</b>	Opens in early July for Fall administration (October-OSCE and November-Written Exam). Opens early in January for the Spring administration (March- Written Exam; April/May for OSCE)	<b>Part 1</b> – August for March admin; April for August admin <b>Part 2</b> – December for April admin; April for December admin <b>Part 3</b> – May for administrations starting in August
<b>Online Registration</b>	Yes, through a custom portal	Yes, through a custom portal
<b>Candidate Space Limits</b>	None, accommodate all registered candidates	Yes, must schedule based on the available space at the centres
<b>Candidate Accommodation</b>	Yes, see <a href="#">Accommodations Policy</a>	Yes, see <a href="#">Test Accommodations</a>
<b>Request for Policy Exception</b>	Yes, see <a href="#">Appeals Policy</a>	No
<b>Results Issued</b>	Within six weeks of the exam administration	Score Reports for computer-based exams are typically posted for viewing within 5-7 weeks following the complete administration of an examination. Clinical Results – 2 months after the exam
<b>Maximum attempts</b>	Four per component	Six per part
<b>Rescoring of exam</b>	Yes, see <a href="#">Requesting a Rescore</a>	No
<b>Appeal Policy</b>	Yes, see <a href="#">Appeals Policy</a>	No
<b>Access to the Exam Blueprint and Competency Model</b>	Yes, see <a href="#">Blueprint</a>	No, however a content Matrix for each Part is available
<b>Access to Patient Interaction Scoring Rubric</b>	Yes, see Appendix B of the <a href="#">Blueprint</a>	N/A
<b>Free Study Guide</b>	Yes, the <a href="#">Study Guide</a> includes how to write OSCE cases for practice	No
<b>TMOD<sup>3</sup> score separate from the overall score</b>	Not currently, however, it can be provided if required by the regulatory authority	Yes
<b>Members and Governance</b>	The ten provincial optometry regulators in Canada elect directors from among persons nominated by the regulators. (Each province nominates one director)	Membership in NBEO is limited to eight persons, who shall also compose the Board of Directors. The existing NBEO Board elects <ul style="list-style-type: none"> <li>• 4 members from among persons nominated by the Association of Regulatory Boards of Optometry</li> <li>• 3 members from among persons nominated by the Association of Schools and Colleges of Optometry</li> <li>• 1 person to represent the public at large</li> </ul>

<sup>3</sup> Treatment Management of Ocular Disease



May 31, 2023

Subject: Erroneous Information Distributed by OEBC regarding NBE O

Dear State and Provincial Regulatory Board Members:

The National Board of Examiners in Optometry (NBE O®) has become aware that the Optometry Examining Board of Canada (OEBC) has recently distributed erroneous information regarding NBE O examinations. Without confirming the accuracy of its information with the NBE O, the OEBC has recently distributed a letter and a chart to a variety of recipients, including optometry schools in the United States, third-year optometry students and state regulatory boards, that attempt to compare the OEBC exams with the NBE O series of examinations. **The letter and its enclosures that you may have received from OEBC contains numerous errors with regard to the NBE O examination series.**

In response to the recent OEBC communications, NBE O's general counsel has expedited a formal letter to OEBC CEO Kim Allen, advising that the information he has published contains false and misleading information which may deceive consumers and the general public. NBE O has instructed that he and the OEBC cease and desist from engaging in further false or misleading communications.

NBE O's longstanding mission is to serve the public and the profession of optometry by developing, administering, scoring, and reporting results of valid examinations that assess competence. Therefore, the NBE O examination series is used by state and provincial regulatory boards to determine if a candidate is competent to enter into the safe, effective independent practice of optometry. The competencies that make up the foundation of the exam series are derived from a research-driven process that informs the competencies necessary for unsupervised practice in the United States. The examination series are a culmination of the feedback received from state and provincial regulatory boards, the Association of Regulatory Boards of Optometry (ARBO), the Association of Schools and Colleges of Optometry (ASCO), as well as the entire profession. In essence, the examination series delivered today has developed as part of that ongoing dialogue with our many stakeholders.

Each NBE O entry-into-the-profession examination (Part I Applied Basic Science (ABS®), Part II Patient Assessment & Management/Treatment and Management of Ocular Disease (PAM®/TMOD®) and Part III Clinical Skills Exam (CSE®)) covers an aspect of optometric competency, but it is the combination of the series of exams that represents overall competency and ultimately enables a candidate to demonstrate and be evaluated on the optometric knowledge and skills necessary to practice optometry in the United States. NBE O examinations are accepted throughout the United States and in multiple Canadian provinces.

NBE O recently completed a Job Task Analysis in which optometrists throughout the United States and Canada were surveyed to inform the content of the NBE O examination series. The results confirmed and reinforced that the content included on the entire NBE O examination series (Part I ABS, Part II

PAM/TMOD, and Part III CSE) is important in the determination of optometric competency. Each examination in the series measures different competencies necessary to enter the unsupervised, independent profession of optometry. Therefore, lacking any of these examination parts could limit a regulatory board from determining a candidate's full optometric competency.

NBEO is proud of its examinations and processes, which follow best practices consistent with professional testing standards and healthcare assessments in the United States. NBEO remains committed to following these best practices in all aspects of assessment (design, development, scoring, reporting, etc.) as detailed in the Standards for Educational and Psychological Testing (American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, 2014). More information is available at our website ([www.optometry.org](http://www.optometry.org)).

Attached is a chart that summarizes each part of the NBEO licensure examination series.

Please let me know if you have any questions or would like any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Jill Bryant, OD".

Jill Bryant, OD, MPH, FAAO, FSLS  
NBEO Executive Director

National Board of Examiners in Optometry (NBEO®)--May 31, 2023	
<b>Organization</b>	National Board of Examiners in Optometry, Inc. (NBEO®)
<b>Exam Fee</b>	Each part of the licensure exam costs \$1380 USD (total for all three parts is \$4,140 USD)
<b>Candidate Success Rate</b>	Please see the NBEO Institutional Report at: <a href="https://optometriceducation.org/news/national-board-of-examiners-in-optometry-yearly-performance-report/">https://optometriceducation.org/news/national-board-of-examiners-in-optometry-yearly-performance-report/</a>
<b>Entry Into Profession Examination Series</b>	<p><b><u>Part I - Applied Basic Science (ABS®)</u></b> examination tests the underlying basic science concepts necessary to enter the clinical practice of optometry.</p> <p><b><u>Part II - Patient Assessment &amp; Management (PAM®)/ Treatment and Management of Ocular Disease (TMOD®)</u></b> examination assesses candidate's clinical thinking and decision-making with a particularly heavy emphasis on diagnosis and treatment.</p> <p><b><u>Part III - Clinical Skills Examination (CSE®)</u></b> is a distinctive clinical skills examination for optometry requiring fundamental skills that reflect actual practice. NBEO's state-of-the-art testing facility exam room simulate real-life optometric examination rooms and allow NBEO to provide the safety, security and standardization necessary to ensure fairness and validity in a high-stakes testing environment.</p> <p><b><u>Injections Skills Examination (ISE®)</u></b> is used by some regulatory boards for entry into the profession. The examination is a distinctive clinical skills assessment requiring the preparation and performance of two injections.</p>
<b>Eligibility</b>	<p><b><u>Part I</u></b> - Student candidates are first eligible to take in the spring of their third academic year.</p> <p><b><u>Part II</u></b> - December of the student candidate's final academic year.</p> <p><b><u>Part III</u></b> - Students may take <b><u>Part III</u></b> in their final year and receive scores monthly (e.g., if a candidate tests in January their scores are available to them the first week of March). Score reports are released to state boards at year end with confirmation of candidate graduation.</p> <p><b><u>ISE</u></b> - Students may take ISE in their final year and receive scores monthly (e.g., if a candidate tests in January their scores are available to them the first week of March). Score reports are released to state boards at year end with confirmation of candidate graduation.</p>

National Board of Examiners in Optometry (NBEO®)--May 31, 2023	
<b>Delivery - computer-based exams</b>	<b>Part I</b> and <b>Part II</b> are administered in windowed administrations at Pearson VUE Testing Centers
<b>Delivery - performance exam</b>	<b>Part III</b> and <b>ISE</b> are administered from approximately August through May/June (end is dependent on inclusion of all candidates) at the National Center of Clinical Testing in Optometry® in Charlotte, North Carolina
<b>Meets School Requirements re Challenging/Passing Board Exam Components</b>	Graduation requirements vary by institution. Please see the requirements for each institution and the Institutional Report at: <a href="https://optometriceducation.org/news/national-board-of-examiners-in-optometry-yearly-performance-report/">https://optometriceducation.org/news/national-board-of-examiners-in-optometry-yearly-performance-report/</a>
<b>Acceptable outcome measure to meet ACOE Standard I</b>	Yes.
<b>Language</b>	English
<b>Registration Opens</b>	<b>Part I</b> - August for March administration; April for August administration. <b>Part II</b> - January for April administration; April for December administration. <b>Part III</b> - February/March for all administrations beginning in August. <b>ISE</b> - February/March for all administrations beginning in August.
<b>Online Registration</b>	Yes, through a custom portal
<b>Candidate Space Limits</b>	No. <b>Part I</b> and <b>Part II</b> are administered at over 300 Pearson VUE Professional Centers throughout the United States and Canada for each windowed administration. <b>Part III</b> and <b>ISE</b> allows for scheduling throughout the year.
<b>Candidate Accommodation</b>	Yes. See Test Accommodations Policy: <a href="https://www.optometry.org/policies/test_accommodations">https://www.optometry.org/policies/test_accommodations</a>
<b>Request for Policy Exception</b>	Yes. See Score Review Policy: <a href="https://www.optometry.org/policies/score_review">https://www.optometry.org/policies/score_review</a>
<b>Results Issued</b>	<b>Part I</b> and <b>Part II</b> - typically within five to seven weeks following the complete administration of an examination. <b>Part III</b> and <b>ISE</b> - scores are released monthly (e.g., if a candidate tests in January their scores are available to them the first week of March). Score reports are released to state boards at year end with confirmation of candidate graduation.
<b>Maximum attempts</b>	Six Attempt Limit per part

National Board of Examiners in Optometry (NBEO®)--May 31, 2023	
Rescoring of exam	<p><b>Part I, Part II, TMOD, ACMO®, CPDO®, and LSPE®</b> (multiple-choice component) - are not subject to review given computer administration (issues are addressed through the NBEO Computer-Based Testing Policy at:  <a href="https://www.optometry.org/policies/cbt">https://www.optometry.org/policies/cbt</a></p> <p><b>Part III, ISE, and LSPE</b> (skills component) - Candidates with an overall failing score may request a score review within 30 days of score availability.  <a href="https://www.optometry.org/policies/score_review">https://www.optometry.org/policies/score_review</a></p>
Appeal Policy	<p>Yes.  Six-Time Limit Policy:  <a href="https://www.optometry.org/policies/six_time_limit">https://www.optometry.org/policies/six_time_limit</a></p> <p>Score Review Policy:  <a href="https://www.optometry.org/policies/score_review">https://www.optometry.org/policies/score_review</a></p>
Access to the Exam Blueprint and Competency Model	<p>Yes. The NBEO Content Matrices and Outlines are equivalent to an Exam Blueprint and Competency Model. Each can be located under the specific exam information on the NBEO website.</p>
Access to Patient Interaction Scoring Rubric	<p>Yes.  Please see the <b>Part III</b> Evaluation Form on the NBEO website:  <a href="https://www.optometry.org/exams/part_III">https://www.optometry.org/exams/part_III</a></p> <p>Please see the <b>ISE</b> Evaluation Forms on the NBEO website:  <a href="https://nbeo.optometry.org/exams/ise">https://nbeo.optometry.org/exams/ise</a></p>
Study Guide	<p>Yes. NBEO provides Sample Test Items and a Tutorial for each exam readily available at no charge. Each can be located on the NBEO website under the specific exam information. Additionally, a <b>Part I</b> Practice Items Databank subscription is available for purchase to <b>Part I</b> candidates. A <b>Part II</b> Practice Items Databank will be available for purchase in Fall 2023 for <b>Part II</b> candidates.</p>
TMOD score separate from the overall score	<p>Yes. Psychometrically designed and provided to all with <b>Part II</b> scores as well as being a stand-alone exam.</p>

National Board of Examiners in Optometry (NBEO®)--May 31, 2023	
<b>Members and Governance</b>	<p>The NBEO Board of Directors includes eight diverse individuals. Four are nominated by the Association of Regulatory Boards of Optometry (ARBO®), three are nominated by the Association of Schools and Colleges of Optometry (ACSO), and one represents the public at large.</p> <p>There are additionally diverse committees and councils including Subject Matter Experts from across practice types/areas, different geographical regions (including Canada), and different amounts of time in practice.</p>
<b>Other Examinations</b>	<p><b><u>Laser and Surgical Procedures Examination (LSPE®)</u></b> - designed to assess optometric cognitive ability to appropriately manage and perform certain laser and surgical skills. <b><u>LSPE</u></b> is a stand-alone elective exam offered to 4th year optometric students, optometric residents, and optometric practitioners administered at NCCTO. This is a hybrid examination consisting of both a clinical skills portion and a multiple-choice portion which is administered in a computer-based testing (CBT) format.</p> <p><b><u>Continued Professional Development in Optometry (CPDO®)</u></b> - is a self-assessment intended to assess practice-level knowledge and experience in ocular disease and related systemic conditions.</p> <p><b><u>Advanced Competency in Medical Optometry (ACMO®)</u></b> - is a computer-based exam consisting of 40 simulated patient cases related to ocular disease and associated systemic conditions.</p>



### **Optometry Monthly Snapshot for May 2023**

Optometry closed more cases in May than received. Optometry closed 2 patient care cases and 3 non-patient care cases for a total of 5 cases.

Cases Closed	
Patient Care	2
Non Patient Care	3
<b>Total</b>	<b>5</b>

Optometry has received 0 patient care cases and 1 non-patient care cases for a total of 1 case.

Cases Received	
Patient Care	0
Non-Patient Care	1
<b>Total</b>	<b>1</b>

As of May 30, 2023, there were 19 patient care cases open and 11 non-patient care cases open for a total of 30 cases.

Cases Open	
Patient Care	19
Non-Patient Care	11
<b>Total</b>	<b>30</b>

There are 1,789 Optometry licensees as of May 30, 2023. The number of current licenses is broken down by profession in the following chart.

Current Licenses	
Optometrist	49
TPA Certified Optometrist	1,740
<b>Total for Optometry</b>	<b>1,789</b>

There were 33 licenses issued for Optometry for the month of May. The number of licenses issued are broken down by profession in the following chart.

Licenses Issued	
TPA Certified Optometrist	33
<b>Total for Optometry</b>	<b>33</b>

# **BOARD OF OPTOMETRY**

## **2024 CALENDAR**

<b>FEBRUARY 16, 2024 (Friday)</b>	<b>BR 3 9:00 a.m.</b>	<b>BOARD MEETING FORMAL HEARING IF NEEDED</b>
May 17, 2024 (Friday)	TR 2 HR 2 & 4 9:00 AM	INFORMAL CONFERENCE(S)
<b>JULY 12, 2024 (Friday)</b>	<b>BR 3 9:00 a.m.</b>	<b>BOARD MEETING FORMAL HEARING IF NEEDED</b>
<b>November 8, 2024 (Friday)</b>	<b>BR 4 9:00 a.m.</b>	<b>BOARD MEETING FORMAL HEARING IF NEEDED</b>
December 6, 2024 (Friday)	TR 1 HR 2 & 4	INFORMAL CONFERENCE(S)

CALENDAR\_OPT\_2023

**VIRGINIA BOARD OF OPTOMETRY  
BY-LAWS**

**Article I. Officers of the Board**

**A. Election of officers.**

1. The officers of the Board of Optometry (Board) shall be a President and a Vice-President.
2. At the first meeting of the organizational year, the Board shall elect its officers. Nominations for office shall be selected by open ballot. Voting will be by roll-call ballot and require a majority.
3. The organizational year for the Board shall be from July 1<sup>st</sup> through June 30<sup>th</sup>. At the first regularly scheduled meeting of the organizational year, the Board shall elect its officers with an effective date of January 1st. The term of office shall be one year.
4. A vacancy occurring in any office shall be filled during the next meeting of the Board.

**B. Duties of the Officers**

1. President.

The President shall preside at all meetings and formal administrative hearings in accordance with parliamentary rules and the Administrative Process Act, and requires adherence of it on the part of the Board members. The President shall appoint all committees unless otherwise ordered by the Board.

2. Vice-President.

The Vice-President shall, in the absence or incapacity of the President, perform pro tempore all of the duties of the President.

3. In the absence of the President and Vice-President, the President shall appoint another board member to preside at the meeting and/or formal administrative hearing.

4. The Executive Director shall be the custodian of all Board records and all papers of value. She/He shall preserve a correct list of all applicants and licensees. She/He shall manage the correspondence of the Board and shall perform all such other duties as naturally pertain to this position.

**Article II. Meetings**