

BOARD OF OPTOMETRY
Board Meeting
January 31, 2017
Board Room 4
9:00 a.m.

Call to Order

Dr. Linas, President

Ordering of Agenda

Dr. Linas

Public Comment

Dr. Linas

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.

Director's Report

Dr. Brown

Approval of Minutes

Dr. Linas

- July 15, 2016, Full Board

Legislative/Regulatory Update

Ms. Yeatts

- 2017 Legislative Update
- 2018 Legislative Session
- Regulatory Update
 - Conforming to Code changes in 2016 (effective on 9/21/16)
 - CE credit for volunteer work (public comment period open until 2/22/17)
 - Periodic Review of Regulations
- Emergency Regulations for Prescribing Opioids

Discussion Items

- Continuing education
 - 2015 Audit results
 - 2016 Audit status
 - Revisions to Guidance Document 105-12:
Guidance for Continuing Education Audits
 - C.O.P.E Course Category Definitions
- Renewal date adjustment
- Attendance at Annual Meeting

Ms. Knachel/Ms. Stamey

Ms. Knachel

Ms. Knachel

Board of Health Professions Report

Dr. Clayton-Jeter

President's Report

Dr. Linas

Executive Director's Report

Ms. Knachel/Ms. Blount

- Statistics
- Budget
- Outreach Activities
- Meeting Schedule
- Discipline Report

New Business

Dr. Linas

Adjournment

Dr. Linas

**BOARD OF OPTOMETRY
FULL BOARD MEETING
JULY 15, 2016**

TIME AND PLACE: The Board of Optometry (Board) meeting was called to order at 9:02 a.m. at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Room 3, Henrico, Virginia 23233.

PRESIDING OFFICER: Joseph E. Droter, O.D., Chair

MEMBERS PRESENT: Helene Clayton-Jeter, O.D.
Steven A. Linas, O.D.
Lisa Wallace-Davis, O.D.
Devon Cabot, Citizen Member

MEMBERS NOT PRESENT: Douglas Weberling, O.D.

STAFF PRESENT: David E. Brown, D.C., Director
Leslie L. Knachel, Executive Director
Amanda E. M. Blount, Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst
Elizabeth A. Carter, Board of Health Professions
Carol Stamey, Operations Manager

OTHERS PRESENT: Bruce Keeney, Virginia Optometric Association (VOA)
Bo Keeney, VOA

QUORUM: With five members of the Board present, a quorum was established.

ORDERING OF AGENDA Dr. Linas moved to approve the agenda with amendment as follows:

- Addition of Dr. Carter’s “Healthcare Workforce Report” to follow the “Approval of the Minutes;”
- Addition of “Notice of Intended Regulatory Action and Continued Professional Development Examination in Optometry” (CPDO) under “Legislative/Regulatory Update;”
- Addition of “Notice of Periodic Review” to “Legislative/Regulatory Update;” and
- Addition of “Process for Licensure” under “Discussion Items.”

PUBLIC COMMENT: No public comment was presented.

DIRECTOR’S REPORT: It was noted that Dr. Brown was attending a concurrent meeting and his report would be presented later in the agenda based upon his availability.

APPROVAL OF MINUTES: Dr. Linas moved to approve the February 19, 2016, meeting minutes as presented. The motion was seconded and carried.

HEALTHCARE WORKFORCE UPDATE: Dr. Carter provided an update on the board’s 2015 Healthcare Workforce Survey.

LEGISLATIVE/REGULATORY UPDATE: **Exempt Changes to Continuing Education (CE)**
Ms. Yeatts reported that the CE changes to §54.1-3219 of the *Code of*

Virginia became effective on July 1, 2016. She indicated that the needed amendments to the Regulations could be done as an exempt action.

Dr. Linas moved to adopt the amendments to the CE regulations by exempt action as presented. The motion was seconded and carried.

Ms. Yeatts provided information for the Board's consideration regarding the implementation for the remainder of the year of the new CE requirements provided in the Code.

Dr. Droter moved to continue with the current CE requirements for the remainder of the 2016 calendar year and to allow up to 10 hours of CE obtained on or after July 1, 2016, in excess of 20 CE hours be carried over to 2017. The motion was seconded and carried.

The board requested staff to draft an email communication to all licensees regarding the audit process of the 2016 CE for the board's review to help clarify the implementation plan.

**Notice of Intended Regulatory Action (NOIRA) – Continued
Professional Development Examination in Optometry (CPDO)**

Ms. Yeatts explained that the board had voted to withdraw the NOIRA at its last meeting; however, she had not removed the action from the Virginia Regulatory Town Hall website prior to the effective date of the new legislation regarding CE. She noted that the legislation addressed all but one of the changes identified in the NOIRA which was related to the CPDO examination. She asked if the Board would like to reconsider the previous action and move forward with a regulatory change to accept the CPDO examination as CE.

It was the consensus of the Board that it did not wish to reconsider the previous action.

Public Participation Guidelines (PPG) Revision

Ms. Yeatts reported that the Board's PPG regulations required an amendment to conform to the changes made to the Administrative Process Act (APA).

Dr. Clayton-Jeter moved to amend the Board's PPG regulations to be consistent with the changes to the APA. The motion was seconded and carried.

Volunteer Hours for CE – HB319

Ms. Yeatts reported that HB319 became effective on July 1, 2016. The legislation requires the boards housed in DHP to allow voluntary practice to count as CE. She commented that the legislation required the Board to amend its regulations. Draft language was provided for the Board's consideration.

Ms. Cabot moved to amend the regulations as proposed to allow up to two hours of CE for voluntary service per year where one hour may be credited for every three hours served.

Petition for Rulemaking – Response

Ms. Yeatts reported that the board had received a petition to amend its regulations to require release of pupillary distance upon the request of a patient. The Board discussed the issue.

Dr. Linas moved to reject the petition because the pupillary distance is a function of fitting glasses and not a requirement of an eye examination. The motion was seconded and carried.

Notice of Periodic Review

As follow-up, Ms. Yeatts informed the Board at its last meeting of the need to conduct a periodic review of its regulations. As requested, she provided a summary of the board’s regulatory actions since the last periodic review in 2003.

Dr. Clayton-Jeter moved to issue a notice of periodic review to begin the process of reviewing the regulations. The motion was seconded and carried.

DIRECTOR’S REPORT:

Dr. Brown provided an update on the agency’s internal training activities and plans for the fall board member training day. In addition, he mentioned the agency’s continued efforts in activities related to reduction of opiate abuse.

DISCUSSION ITEMS:

Attendance at Annual Meeting for Association of Regulatory Boards of Optometry (ARBO)

Dr. Linas, Dr. Clayton-Jeter and Ms. Knachel attended ARBO’s 2016 annual meeting. Dr. Linas provided an overview of the topics discussed at the meeting.

Report on Continuing Education Audit Process

Ms. Stamey provided the statistics for the audit of the 2015 CE.

Report on South Eastern Congress of Ophthalmologists (SECO)

Dr. Droter stated that the SECO report was covered in the report provided by Dr. Linas.

Process for Licensing

Ms. Knachel provided a draft guidance document regarding the processing of applications for licensure that are non-routine.

Dr. Linas moved to accept the draft guidance document as presented. The motion was seconded and carried.

**BOARD OF HEALTH
PROFESSIONS REPORT:**

Dr. Clayton-Jeter provided an overview recent Board of Health Professions’ meetings and activities.

PRESIDENT’S REPORT:

Dr. Droter reported that he had taken a position with a national association and did not seek reappointment as a board member. He thanked the board members and staff for their support and hard work.

**EXECUTIVE DIRECTOR’S
REPORT:**

Statistics

Ms. Knachel reported on licensure statistics and budget information.

Ms. Blount provided an overview of the complaint case statistics.

Budget

Ms. Knachel reported that the budget information specific to the board had been included in the agenda packet.

NEW BUSINESS:

Officer Election

Dr. Droter nominated Dr. Linas for President. The motion was seconded and carried.

Dr. Linas nominated Dr. Wallace-Davis as Vice-President. The motion was seconded.

Dr. Clayton-Jeter nominated herself as Vice-President. The motion was seconded and carried.

A vote was taken by roll call. Dr. Wallace-Davis was elected Vice-President with three votes.

Committee Assignments

Dr. Droter appointed board members to serve on the following committees:

CE Committee

Dr. Clayton-Jeter and Dr. Wallace-Davis

Credentials Committee

Dr. Droter and Dr. Linas

Professional Designation Committee

Ms. Cabot and Dr. Wallace-Davis

Legislative/Regulatory Review Committee

Dr. Clayton-Jeter, Dr. Wallace-Davis and Ms. Cabot

Dr. Clayton-Jeter requested a presentation of the Key Performance Measures at the next board meeting.

ADJOURNMENT:

The meeting adjourned at 11:09 a.m.

Joseph E. Droter, O.D.
Chair

Leslie L. Knachel, M.P.H.
Executive Director

HOUSE BILL NO. 1497

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions

on _____)

(Patron Prior to Substitute--Delegate Farrell)

A BILL to amend the Code of Virginia by adding a section numbered 54.1-2400.01:2, relating to requirements for ophthalmic prescriptions; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-2400.01:2 as follows:

§ 54.1-2400.01:2. Ophthalmic prescription defined; who may provide ophthalmic prescriptions.

A. As used in this section:

"Contact lens" means any lens that is placed directly on the surface of the eye, whether or not the lens is intended to correct a visual defect, including any cosmetic, therapeutic, or corrective contact lens.

"Ophthalmic prescription" means a handwritten or electronic order of a provider that includes necessary and appropriate information for the dispensing of prescription eyeglasses or contact lenses for a patient, including the provider's name, physical address at which the provider practices, and telephone number.

"Provider" means an ophthalmologist licensed by the Board of Medicine pursuant to Chapter 29 (§ 54.1-2900 et seq.) or an optometrist licensed by the Board of Optometry pursuant to Chapter 32 (§ 54.1-3200 et seq.).

B. For the purpose of a provider prescribing spectacles, eyeglasses, lenses, or contact lenses to a patient, a provider shall establish a bona fide provider-patient relationship by an examination (i) in person, (ii) through face-to-face interactive, two-way, real-time communication, or (iii) store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the provider; (b) the provider obtains an updated medical

27 history at the time of prescribing; (c) the provider makes a diagnosis at the time of prescribing; (d) the
28 provider conforms to the standard of care expected of in-person care as appropriate to the patient's age
29 and presenting condition, including when the standard of care requires the use of diagnostic testing and
30 performance of a physical examination, which may be carried out through the use of peripheral devices
31 appropriate to the patient's condition; (e) the ophthalmic prescription is not determined by use of an
32 online questionnaire; (f) the provider is actively licensed in the Commonwealth and authorized to
33 prescribe; and (g) upon request, the prescriber provides patient records in a timely manner in accordance
34 with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations.

35 C. No person shall dispense eyeglasses or contact lenses unless the patient provides to such
36 person an ophthalmic prescription that meets the requirements of this section. However, the
37 requirements of this subsection shall not apply to (i) the sale of eyeglasses not designed to correct or
38 enhance vision by addressing the visual needs of the individual wearer and that may be known as over-
39 the-counter eyeglasses or readers or (ii) a licensed optician providing services in accordance with § 54.1-
40 1509.

41 D. The provisions of this section shall not apply to ophthalmic prescriptions written (i) prior to
42 July 1, 2017, or (ii) by an ophthalmologist or optometrist practicing outside of the Commonwealth who
43 is legally authorized to prescribe in accordance with the laws of that state, provided that such
44 prescription complies with the requirements of subsection B.

45 #

Chapter 32 of Title 54.1 of the Code of Virginia

Optometry

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§ 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.

"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, including, but not limited to, laser surgery or other invasive modalities, except 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.

Code 1950, § 54-368; 1988, cc. 243, 737, 765; 1991, c. 290; 1996, cc. 152, 158, 365, 436; 2004, c. 744; 2015, c. 355.

§ 54.1-3201. What constitutes practice of optometry.

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.

(Code 1950, § 54-368; 1988, cc. 243, 737, 765.)

§ 54.1-3202. Exemptions.

Comment [n1]: Discuss use of student interns in optometry practices and possibly include exemption for students from an accredited school!

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 who (i) does not regularly practice optometry in Virginia, (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 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 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 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.

(Code 1950, § 54-369; 1988, c. 765; 2002, c. 740; 2008, c. 674; 2009, cc. 353, 761.)

§ 54.1-3203. License to be displayed.

Every person practicing optometry shall display his license in a conspicuous place in the principal office in which he practices.

(Code 1950, § 54-386; 1988, c. 765.)

§ 54.1-3204. Prohibited acts.

It shall be unlawful for any person:

1. To practice optometry in this Commonwealth without holding a license issued by the Board. Practicing or offering to practice optometry, or the public representation of being qualified to practice the same by any person not authorized to practice optometry, shall be sufficient evidence of a violation of the law.
2. To impersonate a licensed optometrist of like or different name.
3. To buy or sell or fraudulently obtain a diploma or license.
4. To do any act for which if he were an optometrist his license could be revoked as provided by this chapter.
5. To possess any trial lenses, trial frames, graduated test cards, appliances or instruments used in the practice of optometry, self-testing devices or eyeglass vending machines for the purpose of fitting or prescribing glasses in the practice of optometry, unless he is or unless he regularly employs on the premises a licensed optometrist or a licensed physician.
6. To publish or cause to be published in any manner an advertisement that is false, deceptive or misleading, contains a claim of professional superiority or violates regulations of the Board governing advertising by optometrists.
7. To sell, provide, furnish, supply or duplicate eyeglasses, or lenses for the correction of vision without the prescription of a licensed physician or licensed optometrist, unless he is the holder of a license to practice optometry or a license to practice medicine under the laws of this Commonwealth.
8. To sell or dispense contact lenses, including plano or cosmetic lenses, without holding a license issued by the Board. This subsection shall not apply to a licensed optician operating or working in a retail establishment, when selling or dispensing contact lenses, including plano or cosmetic lenses, upon the valid written prescription of an individual licensed to practice medicine or osteopathy, or a licensed optometrist.
9. To dispense, administer, or sell an ophthalmic device containing Schedule III, IV, or VI controlled substances or an over-the-counter medication without holding a license issued by the Board, including CPA certification. An "ophthalmic device" shall mean any device, as defined in the Drug Control Act (§ 54.1-3400 et seq.) customarily used primarily for ophthalmic purposes, including an ophthalmic device classified by the United States Food and Drug Administration as a drug. Nothing in this subsection shall preclude a pharmacist from dispensing an ophthalmic device, as defined in this subsection, upon the written and valid prescription of an optometrist, providing the patient is then advised by the pharmacist to return for follow-up care to the optometrist prescribing the ophthalmic device.

The provisions of this section shall be enforced in accordance with this chapter and § 54.1-2506.

(Code 1950, § 54-396; 1976, c. 758; 1977, c. 161; 1979, c. 39; 1988, c. 765; 2009, cc. 353, 761.)

§ 54.1-3205. Practicing in a commercial or mercantile establishment.

A. It shall be unlawful for any optometrist to practice his profession as a lessee of or in a commercial or mercantile establishment, or to advertise, either in person or through any commercial or mercantile establishment, that he is a licensed practitioner and is practicing or will practice optometry as a lessee of or in the commercial or mercantile establishment.

B. No licensed optometrist shall practice optometry as an employee, directly or indirectly, of a commercial or mercantile establishment, unless such commercial or mercantile establishment was employing a full-time licensed optometrist in its established place of business on June 1, 1938.

C. For the purposes of this section, the term "commercial or mercantile establishment" means a business enterprise engaged in the selling of commodities.

D. For the purposes of this section, an optometrist shall be deemed to be practicing in a commercial or mercantile establishment if he practices, whether directly or indirectly, as an officer, employee, lessee or agent of any person or entity in any location that provides direct access to or from a commercial or mercantile establishment. Direct access includes any entrance or exit, except an entrance or exit closed to the public and used solely for emergency egress pursuant to applicable state and local building and fire safety codes, that prohibits a person from exiting the building or structure occupied by such practice or establishment (i) onto an exterior sidewalk or public way or (ii) into a common area that is not under the control of either the optometry practice or the commercial or mercantile establishment, such as into the common areas of an enclosed shopping mall. For the purposes of this section, neither an optometric practice nor an ophthalmologic practice which sells eyeglasses or contact lenses ancillary to its practice shall be deemed a commercial or mercantile establishment. Further, any entity that is engaged in the sale of eyeglasses or contact lenses, the majority of the beneficial ownership of which is owned by an ophthalmologic practice and/or one or more ophthalmologists, shall not be deemed a commercial or mercantile establishment.

E. This section shall not be construed to prohibit the rendering of professional services to the officers and employees of any person, firm or corporation by an optometrist, whether or not the compensation for such service is paid by the officers and employees, or by the employer, or jointly by all or any of them.

(Code 1950, §§ 54-388, 54-397.1; 1968, c. 505; 1976, c. 758; 1977, c. 161; 1979, c. 39; 1988, c. 765, 805, cc. 711, 720.)

§ 54.1-3205.1. Supervision by unlicensed persons prohibited.

No optometrist shall be directly or indirectly supervised within the scope of the practice of optometry by any officer, employee, or agent of a commercial or mercantile establishment, as defined in subsection C of § 54.1-3205, who is not a Virginia-licensed optometrist or physician. No officer, employee, or agent of a commercial or mercantile establishment, who is not a Virginia-licensed optometrist or physician, shall directly or indirectly control, dictate, or

influence the professional judgment, including but not limited to the level or type of care or services rendered, of the practice of optometry by a licensed optometrist.

(1990, c. 307.)

§ 54.1-3206. Report of conviction or injunction to Board; revocation or suspension of license.

It shall be the duty of the clerk of every circuit court in which any person is convicted of any violation of this chapter or enjoined from unlawfully practicing optometry to report the same to the Board. The Board may thereupon suspend or revoke any certificate or license held by the person so convicted or enjoined. Every such report shall be directed to the secretary of the Board.

(1979, c. 39, § 54-398.02; 1988, c. 765.)

§ 54.1-3207. Board of Optometry.

The Board of Optometry shall be composed of six members as follows: five licensed optometrists and one citizen member. The terms of office of the members shall be four years. The professional members of the Board shall have been engaged in the practice of optometry for at least five years prior to the date of their appointment. After July 1, 1996, all professional members newly appointed to the Board shall be certified in the administration of therapeutic pharmaceutical agents pursuant to Article 5 (§ 54.1-3222 et seq.) of this chapter.

(Code 1950, §§ 54-371, 54-375; 1979, c. 39; 1986, c. 464; 1988, cc. 42, 765; 1996, cc. 152, 158.)

§ 54.1-3208. Nominations.

Nominations may be made for each professional vacancy from a list of at least three names submitted to the Governor by the Virginia Optometric Association, Incorporated. The Governor may notify the Association promptly of any professional vacancy other than by expiration and like nominations may be made for the filling of the vacancy. In no case shall the Governor be bound to make any appointment from among the nominees of the Association.

(Code 1950, § 54-372; 1986, c. 464; 1988, c. 765.)

§ 54.1-3209. Oaths and testimony.

Any member of the Board may, upon being designated by a majority of the Board, administer oaths or take testimony concerning any matter within the jurisdiction of the Board.

(Code 1950, § 54-377; 1988, c. 765.)

§ 54.1-3210. Seal; executive director.

The Board shall adopt a seal of which the executive director shall have the custody. The executive director shall keep a record of all proceedings of the Board, which shall be open to the public for inspection.

(Code 1950, § 54-378; 1988, c. 765.)

§ 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.~~

Comment [n2]: Outdated as the Board no longer requires a state 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.~~

Comment [n3]: Outdated -- relates to state examination.

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.~~

Comment [n4]: Outdated -- relates to state examination.

Those persons licensed on or before June 30, 1997, to practice optometry in this state 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 shall meet the qualifications for a TPA-certified optometrist.

(Code 1950, §§ 54-381 through 54-382; 1972, c. 824; 1973, c. 90; 1988, c. 765; 1996, cc. 365, 436; 2004, c. 744.)

§ 54.1-3212. Qualifications of applicants.

An application for a license to practice optometry shall be made in writing and shall be accompanied by satisfactory proof that the applicant has been graduated and received a doctor of optometry degree from a school of optometry approved by the Board.

(Code 1950, § 54-382; 1972, c. 824; 1973, c. 90; 1988, c. 765.)

§ 54.1-3213. Issuance of license; fee; renewal.

Every candidate successfully passing the examination shall be licensed by the Board as possessing the qualifications required by law to practice optometry.

Comment [n5]: There are other requirements that should be considered prior to licensure.

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.

Comment [n6]: Payments are not made to the ED

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.

(Code 1950, §§ 54-383, 54-393, 54-394; 1970, c. 341; 1976, c. 32; 1977, c. 161; 1979, c. 39; 1988, c. 765.)

§ 54.1-3214.

Repealed by Acts 2016, c. 92, cl. 1.

§ 54.1-3215. Reprimand, revocation and suspension.

Comment [n7]: Recommend changing to "Refusal to grant and to renew, revocation and suspensions of licenses and certifications."

Comment [n8]: Recommend including that the Board may refuse to grant or to renew

The Board may revoke or suspend a license or reprimand the licensee 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. Obtaining of any fee by fraud or misrepresentation or the practice of deception or fraud upon any patient;
9. Advertising which directly or indirectly deceives, misleads or defrauds the public, claims professional superiority, or offers free optometrical services or examinations;
10. Employing, procuring, or inducing a person not licensed to practice optometry to so practice;

Comment [n9]: #5, #10 and #11 may be able to be combined as there is a common theme of allowing unlicensed practice to occur

11. Aiding or abetting in the practice of optometry any person not duly licensed to practice in this Commonwealth;
12. Advertising, practicing or attempting to practice optometry under a name other than one's own name as set forth on the license;
13. 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 Commonwealth;
14. 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. 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 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. Violating other standards of conduct as adopted by the Board;
17. 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.

(Code 1950, § 54-388; 1968, c. 505; 1976, c. 758; 1977, c. 161; 1979, c. 39; 1988, c. 765; 1990, c. 307; 1992, c. 574; 1999, c. 937.)

§ 54.1-3216. .

Repealed by Acts 2004, c. 64.

§ 54.1-3217. .

Repealed by Acts 1997, c. 556.

§ 54.1-3218. .

Repealed by Acts 2003, cc. 753 and 762.

§ 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 record keeping, 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 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.

1976, c. 32, § 54-394.1; 1988, c. 765; 2016, c. 89.

§ 54.1-3220. Certification for administration of diagnostic pharmaceutical agents.

In order to become certified to administer diagnostic pharmaceutical agents for the purpose of examining and determining abnormal or diseased conditions of the human eye or related structures, an optometrist shall:

1. Complete successfully a Board-approved course in general and ocular pharmacology as it relates to the practice of optometry which shall consist of at least fifty-five classroom hours including a minimum of fifteen classroom hours in general pharmacology, twenty classroom hours in ocular pharmacology and twenty classroom hours of clinical laboratory presented by a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the Council on Post Secondary Accreditation or by the United States Department of Education.

Comment [n10]: Discussion needed as we no longer initially license any optometrist as DPA certified. All new applicants must meet TPA requirements. We still have DPA certified optometrists who renew.

2. Pass a Board-approved, performance-based examination on 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 as defined in this article.

(1983, c. 6, § 54-386.1; 1988, c. 765; 1996, cc. 365, 436.)

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

A. Certified optometrists may administer diagnostic pharmaceutical agents only by topical application to the human eye. "Diagnostic pharmaceutical agents" shall be defined as 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 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.

(1983, c. 6, § 54-386.2; 1988, c. 765; 1992, c. 146; 2004, c. 744.)

§ 54.1-3222. TPA certification; certification for treatment of diseases or abnormal conditions with therapeutic pharmaceutical agents.

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

Comment [n11]: Outdated -- not a criteria for licensure anymore

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. Treatment of angle closure glaucoma shall be limited to initiation of immediate emergency care.
4. Treatment of infantile or congenital glaucoma shall be prohibited.
5. Treatment through surgery or other invasive modalities shall not be permitted, except for treatment of emergency cases of anaphylactic shock with intramuscular epinephrine.
6. 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.

1996, cc. 152, 158; 2004, c. 744; 2015, c. 355.

§ 54.1-3223. Regulations relating to instruction and training, examination, and therapeutic pharmaceutical agents.

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.~~

Comment [n12]: Outdated – the Board does not prepare, administer or grade TPA exams. It recognizes and accepts TMOD portion of the NBEO examination

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 §§ 2.2-4020, 2.2-4030, and 2.2-4031; the Board's regulations shall, however, comply with § 2.2-4100 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, 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 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.

(1996, cc. 152, 158; 2004, c. 744.)

~~§ 54.1-3224. Denial, etc., of TPA certification; disciplinary actions; summary suspension under certain circumstances.~~

~~A. The Board of Optometry may deny, refuse to renew, revoke, or suspend any TPA certificate issued to a TPA-certified optometrist, or applied for by a licensed optometrist in accordance with the provisions of this article, or may discipline or reprimand any certificate holder for violations of this chapter or the Board's regulations.~~

~~B. The Board may take action summarily to suspend a TPA-certified optometrist's certification under this section by means of a telephone conference call if, in the opinion of a majority of the Board, (i) a good faith effort to convene a regular meeting of the Board has failed and (ii) there is an imminent danger to the public health or safety which warrants this action.~~

~~(1996, cc. 152, 158.)~~

Comment [n13]: Outdated if included under § 54 1-3215

For Discussion Only

Agency Department of Health Professions

Board Board of Optometry

Chapter Regulations of the Virginia Board of Optometry [18 VAC 105 – 20]

[Guidance Documents](#) [Periodic Reviews](#)

Chapter Information	
Description	Establishes qualifications for licensure, requirements for renewal and standards of practice for licensed optometrists.
State Authority	Chapter 32 of Title 54.1
Federal Authority	None entered
Exempt from APA	No, changes to this chapter are subject to the <i>Administrative Process Act</i> and the standard executive branch review process.
Text of Regulation	Link to Virginia Administrative Code
Goals of Regulation	1) Achieve high ratings on Customer Service Satisfaction Survey for application process and renewal of licensure due to removal of any unnecessary requirements. 2) Reduction in number of disciplinary cases related to practice in a mercantile establishment.
Meetings	

Contact Information	
Name / Title:	Leslie L. Knachel / <i>Executive Director</i>
Address	9960 Mayland Drive Suite 300 Richmond, VA 23233
Email Address	leslie.knachel@dhp.virginia.gov
Telephone:	(804)367-4508 FAX (804)527-4471 TDD: 0-

Current Actions		
Action Title	Latest Stage	Status
CE credit for volunteer work	Fast-Track	Comment period is underway and will end on 2/22/2017.

Past Actions		
Action Title	Latest Stage	Status
Conforming to Code changes in 2016	Final	Stage complete. This regulation became effective on 9/21/2016.

Agency

Department of Health Professions

Board

Board of Optometry

Chapter

Regulations of the Virginia Board of Optometry [18 VAC 105 – 20]

Periodic Review of this Chapter
Includes a Small Business Impact Review

Date Filed: 8/9/2016

Review Announcement

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Optometry is conducting a periodic review and small business impact review of 18VAC105-20-05 et seq., Regulations Governing the Practice of Optometry.

The review of this regulation will be guided by the principles in Executive Order 17 (2014).
<http://dph.virginia.gov/regs/EO17.pdf>

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins September 5, 2016, and ends on October 5, 2016.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to: Elaine Yeatts, Agency Regulatory Coordinator, 9960 Mayland Drive, Suite 300, Henrico, VA 23233. FAX: 804-527-4434. email address: elaine.yeatts@dhp.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

Public Comment Period

Begin Date: 9/5/2016 End Date: 10/5/2016

Comments Received: 0

Review Result

Pending

Attorney General Certification

Result of Review: Certified

 [Review Memo](#) 8/9/2016

Commonwealth of Virginia



REGULATIONS

OF THE

VIRGINIA BOARD OF OPTOMETRY

Title of Regulations: 18 VAC 105-20-5 et seq.

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

Revised Date: September 21, 2016

9960 Mayland Drive, Suite 300
Henrico, VA 23233

Phone: (804) 367-4508
FAX: (804) 527-4466
optbd@dhp.virginia.gov

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For Discussion Only

18VAC105-20-05. Definitions.

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

"Board" means the Virginia Board of Optometry.

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

"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. Licensure by examination.

A. The applicant, in order to be eligible for licensure by examination 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; 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; and
3. Submit a completed application and the prescribed fee.

B. Applicants who passed the National Board Examination prior to May 1985 shall apply for licensure by endorsement as provided for in 18VAC105-20-15.

C. Required examinations.

1. 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.

2. As part of the application for licensure, an applicant must sign a statement attesting that he has read, understands, and will comply with the statutes and regulations governing the practice of optometry in Virginia.

D. If an applicant has been licensed in another jurisdiction and has not been engaged in active clinical practice for at least 36 out of the last 60 months preceding application, as required for licensure by endorsement, he may apply for licensure by examination, and the following requirements shall also apply:

Comment [n1]: Recommend adding definition of "adnexa," "TMOD," "DPA," and "Active Clinical Practice." Then remove the definitions out of the body of the regulations

Comment [n2]: Update to section recommended

Comment [n3]: Recommend adding "or any other substantially equivalent credentialing body as determined by the Board"

Comment [n4]: Consider adding limitation on number of times can take national exam before taking additional coursework. This is done for IPA - see 18VAC105-20-16(B)

Comment [n5]: Consider adding requirement for separate passage of TMOD

Comment [n6]: Recommend moving up to Subsection A as it does not relate to examinations

Comment [n7]: Consider moving this under endorsement and consolidate the requirements

1. The applicant shall attest that he is not a respondent in a pending or unresolved malpractice claim; and

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.

E. An applicant who completed all parts of the board-approved examination more than five years prior to the date of the board's receipt of his application for licensure may be required to take up to 32 hours of board-approved continuing education.

Comment [n8]: Recommend that they have to submit 40 hours of CE that meets VA's requirements to compensate for not being actively practicing

Comment [n9]: Recommend making n7 change which if done this section can be deleted

Comment [n10]: Recommend that an endorsement applicant complete 20 hours of CE that meet VA's requirements and if they do not have active practice the amount goes up to 40 hours

18VAC105-20-15. Licensure by endorsement.

A. An applicant for licensure by endorsement shall meet the requirements for TPA certification in 18VAC105-20-16, pay the fee as prescribed in 18VAC105-20-20, and file a completed application that certifies the following:

1. The applicant has successfully passed the examination required for licensure in optometry in any jurisdiction of the United States at the time of initial licensure.

2. The applicant has been engaged in active clinical practice for at least 36 months out of the last 60 months immediately preceding application.

3. The applicant is not a respondent in a pending or unresolved malpractice claim.

4. The applicant is currently licensed in another jurisdiction of the United States.

5. 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;

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; and

e. The applicant has graduated from an accredited school or college of optometry.

B. The applicant shall also provide proof of competency in the use of diagnostic pharmaceutical agents (DPAs) that shall consist of a report from the national board of passing scores on all sections of Parts I and II of the NBEO examination taken in May 1985 or thereafter. If the applicant does not qualify through examination, he shall provide other proof of meeting the requirements for the use of DPA as provided in §§ 54.1-3220 and 54.1-3221 of the Code of Virginia.

Comment [n11]: Consider deleting this because all applicants for an initial license must meet TPA certification requirements.

C. As part of the application for licensure, an applicant must sign a statement attesting that he has read, understands, and will comply with the statutes and regulations governing the practice of optometry in Virginia.

D. In the case of a federal service optometrist, the commanding officer shall also verify that the applicant is in good standing and provide proof of credentialing and quality assurance review to satisfy compliance with applicable requirements of subsection A of this section.

Comment [n12]: Consider deleting this requirement.

E. An optometrist previously licensed in Virginia is not eligible for licensure by endorsement but may apply for reinstatement of licensure under 18VAC105-20-60.

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

Comment [n13]: Consider deleting as this is difficult to verify.

2. Take and pass the TPA certification examination, which shall be Treatment and Management of Ocular Disease (TMOD) of the NBEO or, if TPA-certified by a state examination, provide evidence of comparability to the NBEO examination that is satisfactory to the board.

Comment [n14]: Recommend changing beginning to submit passing scores.

Comment [n15]: Recommend deleting as it is extremely difficult to provide comparability information.

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
Application for TPA certification	\$200
Annual licensure renewal without TPA certification	\$150
Annual licensure renewal with TPA certification	\$200
Late renewal without TPA certification	\$50
Late renewal with TPA certification	\$65
Returned check	\$35
Professional designation application	\$100
Annual professional designation renewal (per location)	\$50
Late renewal of professional designation	\$20
Reinstatement application fee (including renewal and late fees)	\$400
Reinstatement application after disciplinary action	\$500

Comment [n16]: Recommend deleting as an individual TPA certification is now obsolete.

Duplicate wall certificate	\$25
Duplicate license	\$10
Licensure verification	\$10

B. Unless otherwise specified, all fees are nonrefundable.

C. From October 31, 2015 to December 31, 2015, the following fees shall be in effect:

Annual licensure renewal without TPA certification	\$100
Annual licensure renewal with TPA certification	\$135
Annual professional designation renewal (per location)	\$30

Comment [n17]: Delete as the fee reduction is now obsolete

18VAC105-20-30. (Repealed).

18VAC105-20-40. Standards of conduct.

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

Comment [n18]: Recommend deleting "deny" and adding refuse to grant or to renew

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. Disclose to the board any disciplinary action taken by a regulatory body in another jurisdiction.
3. Post in an area of the optometric office which 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.

Comment [n19]: Recommend replacing with "Notify"

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, but not be limited to, 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 practice with an expired or unregistered professional designation.

14. 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:

Comment [n20]: Recommend incorporating reference to § 54 1-2400 01.2 based on the amendment in HB1497 from 2017 GA session

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 and an expiration date, if medically appropriate; and

6. Any special instructions.

Comment [n21]: Consider changing to "if the prescription includes an expiration date to document its necessity."

C. Contact lens.

1. Sufficient information for complete and accurate filling of an established contact lens prescription shall include but not be limited to (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 doesn't ask for it. An optometrist 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.

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.

Comment [n22]: Change lens to lenses

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 five years following the last patient encounter with the following exceptions:

Comment [n23]: Recommend changing to six years to be consistent with medical records documentation

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.

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 which may be treated with medically appropriate pharmaceutical agents as referenced in 18VAC105-20-47. The adnexa is defined as conjoined, subordinate or immediately associated anatomic parts of the human eye, including eyelids and eyebrows.

Comment [n24]: Recommend removing if it is defined in the definition section

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 1) the condition fails to appropriately respond to any other treatment regimen; 2) such agent is prescribed in consultation with a physician; and 3) 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 Schedule III, IV and VI narcotic and non-narcotic agents.
2. Topically administered Schedule VI agents:
 - a. Alpha-adrenergic blocking agents;
 - b. Anesthetic (including esters and amides);
 - c. Anti-allergy (including antihistamines and mast cell stabilizers);
 - d. Anti-fungal;
 - e. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);
 - f. Anti-infective (including antibiotics and antivirals);
 - g. Anti-inflammatory;
 - h. Cycloplegics and mydriatics;
 - i. Decongestants; and
 - j. Immunosuppressive agents.

Comment [n25]: Consider emergency regulations to limit the number of days for prescription and referral as appropriate to an ophthalmologist if pain continues

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 non-steroidal);
- g. Decongestants; and
- h. Immunosuppressive agents.

B. Schedule I, II and V drugs are excluded from the list of therapeutic pharmaceutical agents.

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.

18VAC105-20-50. Professional designations.

A. In addition to the name of the optometrist as it appears on the license, an optometrist may practice in an office that uses only one of the following:

- 1. The name of an optometrist who employs him and practices in the same office;
- 2. A partnership name composed of some or all names of optometrists practicing in the same office; or
- 3. A professional designation, if the conditions set forth in subsection B of this section are fulfilled.

B. Optometrists licensed in this Commonwealth who practice as individuals, partnerships, associations, or other group practices may use a professional designation for the optometric office in which they conduct their practices provided the following conditions are met:

- 1. A professional designation shall be registered with the board by a licensed optometrist who has an ownership or equity interest in the optometric practice and who must practice in any location with that registered designation and who shall assume responsibility for compliance with this section and with the statutes and regulations governing the practice of optometry.
- 2. A professional designation shall be approved by the board and a fee shall be paid as prescribed by board regulations prior to use of the name. Names which, in the judgment of the board, are false, misleading, or deceptive will be prohibited.

Comment [n26]: Need to add with the exception of hydrocodone in combination with acetaminophen

3. No licensed optometrist may, at any time, register to practice optometry under more than one professional designation.
4. All advertisements, including but not limited to signs, printed advertisements, and letterheads, shall contain the word "optometry" or reasonably recognizable derivatives thereof unless the name of the optometrist is used with the professional designation with the O.D. designation, Doctor of Optometry or optometrist.
5. In the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location shall be kept at all times prominently and conspicuously displayed.
6. The names of all optometrists who practice under the professional designation shall be maintained in the records of the optometric office for five years following their departure from the practice.
7. The name of the licensed optometrist providing care shall appear on all statements of charges and receipts given to patients.
8. An optometrist may use a professional designation which contains the name of an inactive, retired, removed, or deceased optometrist for a period of no more than one year from the date of succession to a practice and so long as he does so in conjunction with his own name, together with the words, "succeeded by," "succeeding," or "successor to."

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 every year, submit a completed renewal form and pay the prescribed annual licensure fee.
- 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 by December 31 of 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 December 31, a license that has not been renewed is lapsed. Practicing optometry in Virginia with a lapsed license may subject the licensee to disciplinary action and additional fines by the board.
- 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 can demonstrate continuing competence;

Comment [n27]: Discussion needed on possibly changing the renewal date to another time of year

Comment [n28]: Recommend adding additional requirements similar to endorsement regarding licensure verifications and disciplinary action

Comment [n29]: Recommend adding a requirement for active practice and if no active practice complete 40 hours of CE that meets VA's requirements

2. The applicant has satisfied current requirements for continuing education for the period in which the license has been lapsed, not to exceed two years; and

Comment [n30]: Recommend reducing to one year if they can prove active practice

3. The applicant has paid the prescribed reinstatement application fee.

E. The board may require an applicant who has allowed his license to expire and who cannot demonstrate continuing competency to pass all or parts of the board-approved examinations.

Comment [n31]: Recommend deleting if the CE and active practice requirements are added

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

A. Each license renewal 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, or new or advanced clinical devices, techniques, modalities, or procedures.

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).

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 December 31 unless an extension or waiver has been granted by the Continuing Education Committee. A request for an extension or waiver shall be received prior to December 31 of each year.

Comment [n32]: Would need to change if renewal date is changed

Comment [n33]: Recommend changing "waiver" to "exemption" and separating an exemption into its own subsection. An exemption is not always received by the renewal date due to unforeseen circumstances. This recommendation would allow for more flexibility.

C. All continuing education courses shall be offered by an approved sponsor or accrediting body listed in subsection G 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 14 days of the renewal date.

Comment [n34]: Recommend changing as renewal date does not necessarily correspond to the audit date. Recommend they must reply within 30 days of audit notification

Comment [n35]: Recommend adding "Failure to comply may subject the licensee to disciplinary action"

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 G 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 on which the post-test was graded as indicated on the continuing education certificate.

Comment [n36]: Consider removing "post-test" requirement as the Board goes by the date on the 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. 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:

Comment [n37]: Recommend reviewing list for deletions or additions that might be needed

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.

H. In order to maintain approval for continuing education courses, providers or sponsors shall:

Comment [n38]: Consider placing requirement on the licensee to ensure that the certificates that they receive have the needed information. The Board would not have jurisdiction over providers or sponsors.

1. Provide a certificate of attendance that shows 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.

Comment [n39]: Recommend adding additional information about mode of course delivery so that the Board will be able to determine if the in-person requirements have been met

2. Maintain documentation about the course and attendance for at least three years following its completion.

I. 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.

Virginia Board of Optometry

Guidance for Continuing Education (CE) Audits and Sanctioning for Failure to Complete CE

Applicable Law, Regulation and Guidance

Code of Virginia: § 54.1-3219

Regulations of the Board of Optometry: 18VAC105-20-70

Guidance

CE Extension or Waiver Requests

CE extensions or waivers must be received by the Board prior to December 31 of each year. Licensees who have not completed the CE requirements and submit a request on or after December 31 may be subject to disciplinary action.

CE Waiver for Long-standing Illness

The Board may grant a long-term CE waiver on a case by case basis to licensees who have a verified long-standing illness and are not actively practicing. Long-term CE waiver requests must be accompanied by documentation of the illness. A licensee who has been granted a waiver for a long-standing illness must notify the Board if he resumes practice in which case the waiver may be reconsidered or withdrawn.

CE Audit Procedures

- After each renewal cycle, the Board may audit the following licensees for compliance with CE requirements:
 - Licensees who fail to respond or respond “no” to the CE renewal question on the annual license renewal form; and
 - Licensees selected for random audit using a statistically valid audit sample and a method that ensures randomness of those selected.
- For those selected for the audit:
 - Board staff will first query the Association of Regulatory Boards of Optometry’s CE tracking database, OE Tracker, to determine if the licensee maintains an account.
 - OE Tracker accounts will be reviewed to determine if the CE requirements have been met.
 - If all CE requirements have been met, the licensee will be notified that he was audited and no further action on his part is required; or
 - If partial or no CE requirements have been met or the licensee does not have an OE Tracker account, the licensee will be notified that he is being audited and to submit the necessary documentation to verify CE completion.
 - Documentation submitted to verify CE completion will be reviewed for compliance with the regulations.
 - Licensees who have not completed the required CE will be referred for possible disciplinary action.

Disciplinary Action for Non-Compliance with CE Requirements

The Board adopted the following guidelines for resolution of cases of non-compliance with CE requirements:

Cause	Possible Action
First offense; short 1 – 4 hours	Confidential Consent Agreement; 45 days to make up missing hours
First offense; short 5 – 16 hours	Consent Order; Monetary Penalty of \$500; 45 days to make up missing hours
Second offense; short 1 – 16 hours	Consent Order; Reprimand; Monetary Penalty of \$250 per missing hour; 45 days to make up missing hours
No response to audit notifications or three or more offenses	Informal Fact-Finding Conference

Note: The Board may offer a pre-hearing consent order or hold an informal fact finding conference when probable cause is found that a licensee has falsely certified completion of the required CE for renewal of his license.

Currently in Effect

Virginia Board of Optometry

Guidance for Continuing Education (CE) Audits and Sanctioning for Failure to Complete CE

Applicable Law, Regulation and Guidance

Code of Virginia

§ 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 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.

Regulations of the Virginia Board of Optometry

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 every year, submit a completed renewal form and pay the prescribed annual licensure fee.

B. A 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 by December 31 of 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 December 31, a license that has not been renewed is lapsed. Practicing optometry in Virginia with a lapsed license may subject the licensee to disciplinary action and additional fines by the board.

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 can demonstrate continuing competence;*
 - 2. The applicant has satisfied current requirements for continuing education 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.*
- E. The board may require an applicant who has allowed his license to expire and who cannot demonstrate continuing competency to pass all or parts of the board-approved examinations.*

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

A. Each license renewal 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, or new or advanced clinical devices, techniques, modalities, or procedures.*
- 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).*

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 December 31 unless an extension or waiver has been granted by the Continuing Education Committee. A request for an extension or waiver shall be received prior to December 31 of each year.

C. All continuing education courses shall be offered by an approved sponsor or accrediting body listed in subsection G 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 14 days of the renewal date.

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 G 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 on which the post-test was graded as 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. 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.
- H. In order to maintain approval for continuing education courses, providers or sponsors shall:
1. Provide a certificate of attendance that shows 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. Maintain documentation about the course and attendance for at least three years following its completion.
- I. 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.

Guidance

Q: How many CE hours are required at renewal time?

A: The Regulations require the completion of 20 CE hours that meet the regulatory requirements per licensure year.

Q: Does the Board approve CE courses or programs?

A: No, the Board does not approve CE courses or programs. The Board accepts CE courses or programs sponsored, accredited, or approved by the list of entities found in 18VAC105-20-70(G).

Q: Does the Board require documentation of CE to be provided at renewal time?

A: No, CE documentation is not to be submitted at renewal. A licensee will be notified if he/she is chosen for a CE audit. The directions for submission of documentation during an audit are provided in the notification.

Q: Are TPA certified optometrists required to have any specific type of CE?

A: Yes, the Regulations require that at least 10 hours of the required 20 shall be in the following areas:

- 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 procedure.

Q: Does the Board have a requirement for in-person CE attendance?

A: The Regulations require that at least 10 hours of the required 20 hours be obtained through real-time, interactive activities that include in-person or electronic attendance provided that during the course of the presentation the licensee and the lecturer may communicate with one another.

Q: Will the Board accept attendance at a webinar that was recorded to satisfy the 10 hour of real-time CE requirement?

A: No, the Regulations require that a real-time presentation be one at which the lecturer and the licensee are able to communicate with one another. However, a recorded webinar may be accepted if it is not being used to satisfy the 10 hour or real-time requirement.

Q: Does the Board grant CE extensions or waivers?

A: Yes, the Board does grant CE extensions and waivers. Per the Regulations, requests must be received by the Board prior to December 31 of each year. A request for an extension or waiver will not be granted

for requests received on or after December 31. Failure to complete required CE may subject a licensee to disciplinary action.

Q: Will the Board grant a CE waiver for a long-standing illness?

A: Yes, the Board may grant a long-term CE waiver on a case by case basis to licensees who have a verified long-standing illness and are not actively practicing. Long-term CE waiver requests must be accompanied by documentation of the illness. A licensee who has been granted a waiver for a long-standing illness must notify the Board if he/she resumes practice in which case the waiver may be reconsidered or withdrawn.

Q: What is the Board’s process for conducting CE audits?

A: The following outlines the Board’s procedures for conducting CE audits:

- After each renewal cycle, the Board may audit the following licensees for compliance with CE requirements:
 - Licensees who fail to respond or respond “no” to the CE renewal question on the annual license renewal form; and
 - Licensees selected for random audit using a statistically valid audit sample and a method that ensures randomness of those selected.
- For those selected for the audit:
 - Board staff will first query the Association of Regulatory Boards of Optometry’s CE tracking database, OE Tracker, to determine if the licensee maintains an account.
 - OE Tracker accounts will be reviewed to determine if the CE requirements have been met.
 - If all CE requirements have been met, the licensee will be notified that he was audited and no further action on his part is required; or
 - If partial or no CE requirements have been met or the licensee does not have an OE Tracker account, the licensee will be notified that he is being audited and to submit the necessary documentation to verify CE completion.
 - Documentation submitted to verify CE completion will be reviewed for compliance with the regulations.
 - Licensees who have not completed the required CE will be referred for possible disciplinary action.

The Board adopted the following guidelines for resolution of cases of non-compliance with CE requirements:

Cause	Possible Action
First offense; short 1 – 5 hours	Confidential Consent Agreement; 45 days to make up missing hours
First offense; short 6 – 20 hours	Consent Order; Monetary Penalty of \$500; 45 days to make up missing hours
Second offense; short 1 – 20 hours	Consent Order; Reprimand; Monetary Penalty of \$250 per missing hour; 45 days to make up missing hours
No response to audit notifications or three or more offenses	Informal Fact-Finding Conference

Note: The Board may offer a pre-hearing consent order or hold an informal fact finding conference when probable cause is found that a licensee has falsely certified completion of the required CE for renewal of his license.

COURSE CATEGORY DEFINITIONS

A. CLINICAL OPTOMETRY

Contact Lenses (CL): All aspects of contact lens applications.

Functional Vision/Pediatrics (FV): Those portions of optometric practice that deal with visual processing and neuro-optometric rehabilitation, including sports vision, binocular vision, and visual training or vision development courses.

General Optometry (GO): Any study in the area of the eye and vision care, which constitutes eye and vision research, or examination, diagnosis and treatment of anomalies of the human eye and visual system. For the purposes of these categories "General Optometry" excludes any other category enumerated here.

Low Vision/Vision Impairment & Rehabilitation (LV): All aspects of low vision devices, care and therapy.

Public Health (PB): Those portions of optometry focused on disease prevention and health promotion at a population level and considering evidence from the fields of biostatistics, environmental health, health policy and management of social and behavioral sciences.

Examples: Disease surveillance, vision screening, health disparities, determinants of health, health literacy, health education, environmental optometry, infection control, health services research, health law, health economics, evidence based practice, behavior change communication, cultural competency, etc.

B. OCULAR DISEASE

Glaucoma (GL): The study of the etiology, clinical pathophysiology, diagnosis, treatment, management, and the outcomes of therapeutic regimens.

Examples: Any course with major emphasis on diagnosis, treatment, and/or surgical and medical management of glaucoma (i.e., trabeculectomy, laser surgery for glaucoma).

Injection Skills (IS): Instruction and clinical training in subcutaneous, intra-muscular, and intravenous injection for the purpose of therapeutic diagnosis and treatment of disease or anaphylaxis.

Laser Procedures (LP): The study and clinical training in the performance of any ophthalmic laser procedure of the anterior segment and adnexa.

Examples: SLT, ALT, LPI, YAG, Punctoplasty, etc.

Peri-Operative Management of Ophthalmic Surgery (PO): The study of all aspects of pre- and post-operative management of invasive ophthalmic surgery procedures (excludes Refractive Surgery).

Examples: Cataract surgery, blepharoplasty, strabismus surgery, keratoplasty, etc.

Refractive Surgery Management (RS): Instruction and/or clinical training in refractive or photorefractive technologies, which may include Peri-operative Patient Management: Counseling and evaluation for indications or contra-indications in patient selection, including recognition of associated complications and course of action in analysis and treatment.

Examples: Courses related specifically to management of PRK, RK and LASIK patients; corneal refractive surgery, etc.

Surgery Procedures (Optometric) (SP): Instruction and/or clinical training in the performance of ocular surgery procedures.

Examples: I&D of lesions, surgical lid lesion excision, suturing techniques, stromal micropuncture, chalazion curettage, etc.

Treatment & Management of Ocular Disease: Anterior Segment (AS): The study of the etiology, clinical pathophysiology, diagnosis, treatment, management, and outcomes of therapeutic regimens for anomalies of the anterior segment of the human eye.

Examples: Keratitis, anterior uveitis, conjunctivitis, blepharitis, lid anomalies, foreign body removal, etc.

Treatment & Management of Ocular Disease: Posterior Segment (PS): The study of the etiology, clinical pathophysiology, diagnosis, treatment, management, and outcomes of therapeutic regimens for anomalies of the posterior segment of the human eye.

Examples: Degenerative, infective, and vascular diseases of the retina/choroid/sclera and optic nerve, inclusive of all aspects of surgical care involving the posterior segment of the eye, i.e., retinopathies, neuropathies, retinal laser surgery, retinal detachment surgery, etc.

COURSE CATEGORY DEFINITIONS — *Continued*

C. RELATED SYSTEMIC DISEASE

Neuro-Optometry (NO): The study of the etiology, clinical evaluation, diagnosis, treatment and management of disease and disorders of the nervous system, both systemically and as it relates directly to the eye and visual system.

Examples: Includes all aspects of nervous system conditions involving the brain, cranial nerves, spinal cord, peripheral nerves, and corresponding muscles, i.e., multiple sclerosis, pituitary tumor, brain trauma, Myasthenia Gravis, papilledema, Horner's Syndrome, etc.

Oral Pharmaceuticals (OP): The study of the etiology, clinical evaluation, diagnosis and treatment of ocular disease using the appropriate indications, prescription utilization, and follow-up assessment of the oral medications used for ocular therapy.

Pharmacology (PH): The study of the interaction of chemical agents with biological systems.

Examples: Toxicology; adverse effects of systemic drugs; adverse effects of ocular drugs; control of ocular pain. Any courses related to medications and how they affect the various tissues or their mechanism of actions.

Principles of Diagnosis (PD): The study of the art and science of the process of determining the nature and circumstances of a diseased condition with emphasis on the biological and clinical procedures utilized in medical examination and disease differentiation, and underlying clinical pathophysiology, e.g., corneal topography, visual fields (unless specific to glaucoma); laboratory testing and imaging; fluorescein angiography; gonioscopy.

Systemic/Ocular Disease (SD): The study of the relationship of any anomaly of normal function of the human body and the possible manifestation of such as signs and/or symptoms in the eye or visual system.

Examples: General study of diabetes, HIV/AIDS, thyroid disease, etc., along with their ocular manifestations. Vascular diseases both systemic and ocular.

D. OPTOMETRIC BUSINESS MANAGEMENT

Ethics/Jurisprudence (EJ): The study of the body of law in the practice of optometry and its relationship to the medicolegal system.

Examples: Any courses related to the rules and practice acts for optometry, or addressing medicolegal issues related to patient treatment, and liability concerns and issues.

Practice Management (PM): The study of management of the **business** affairs of optometric practice. *This includes the concepts of managed care and operations management, courses designed to help market practices, to educate office staff, to improve billing efficiency and coding skills, to improve clinical recordkeeping and to enhance fiscal efficiency. EHR and ICD-10 courses are included in this category. This does not include courses that are intended for personal enhancement or investment prowess.*

Join Us for the 2017 ARBO Annual Meeting in Washington, DC!

Mark Your Calendars for June 18-20, 2017, to Attend the 98th ARBO Annual Meeting!

ARBO's 2017 Annual Meeting will be held at the Grand Hyatt Washington, DC. The Grand Hyatt Washington is located in the Penn Quarter-Chinatown area of downtown DC. Located only 3 blocks from the convention center and close to hundreds of restaurants, bars, shopping venues, everything you need is within easy access. Grand Hyatt Washington is the only hotel to have metro access directly from the lobby and is within walking distance to most of Washington, DC's iconic landmarks including the White House, National Mall, Smithsonian Museums and Verizon Center. You will definitely want to be there!



Grand Hyatt
Washington, DC



National Mall
Washington, DC

More information and online registration will be available in January!

Criteria for this report:

License Status = Current Active, Current Inactive, Probation - Current Active, Adverse Findings - Current Active, Current Active-RN Privilege and Expiration Date >= Today or is null.

License Count Report for Optometry

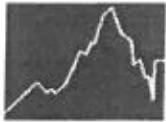
Board	Occupation	State	License Status	License Count
Optometry				
Optometrist				
	Optometrist	Virginia	Current Active	26
	Optometrist	Out of state	Current Active	90
	Total for Optometrist			116
Professional Designation				
	Professional Designation	Virginia	Current Active	255
	Professional Designation	Out of state	Current Active	1
	Total for Professional Designation			256
TPA Certified Optometrist				
	TPA Certified Optometrist	Virginia	Current Active	1,115
	TPA Certified Optometrist	Out of state	Current Active	354
	Total for TPA Certified Optometrist			1,469
Total for Optometry				1,841

License Type	FY2011	FY2012	FY2013	FY2014	FY2015	2016	2017
Optometrist	185	163	150	143	131	124	116
Optometrist - Volunteer	0	0	0	0	0	0	0
Profession Designation	225	230	245	251	250	247	256
TPA Certified Optometrist	1384	1434	1480	1512	1527	1486	1469
Total	1794	1827	1875	1906	1908	1857	1841

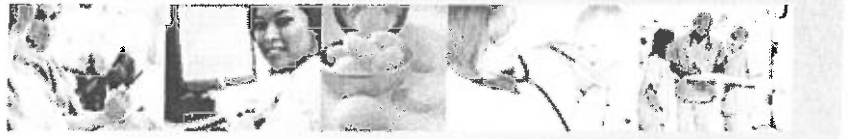
Virginia Department of Health Professions
Cash Balance
As of December 31, 2016

	<u>105- Optometry</u>
Board Cash Balance as of June 30, 2016	\$ 529,791
YTD FY17 Revenue	325,230
Less: YTD FY17 Direct and In-Direct Expenditures	<u>167,093</u>
Board Cash Balance as December 31, 2016	<u><u>687,928</u></u>

From: Virginia Board of Optometry [mailto:optbd@dhp.virginia.gov]
Sent: Wednesday, September 21, 2016 7:01 PM
Subject: News You Need: Effective Date for Regulatory Action



Virginia Department of
Health Professions



Board of Optometry

Board of Optometry

Effective Date for Regulatory Action

The following regulatory action became effective on **September 21, 2016**:

Conforming continuing education (CE) regulations with 2016 Code of Virginia changes: During the 2016 General Assembly Session, [HB564](#) amended § 54.1- 3219 of the Code of Virginia. This section relates to CE required to renew a license issued by the Virginia Board of Optometry. [Click here](#) to review final text related to the change.

During the Board's [July 15, 2016](#) board meeting, it voted to continue the previous CE requirements for the remainder of the 2016 calendar year and allow up to 10 hours of CE obtained on or after July 1, 2016, in excess of 20 CE hours to be carried over to 2017. All CE carried over must meet the new regulatory requirements. Please note that if selected for an audit and carryover hours are submitted, documentation of having met the previous year's requirements must also be submitted.

Questions may be directed to optbd@dhp.virginia.gov

2017 Meetings

Date	Location/Time	Type	Agenda	Minutes
January 31, 2017	Board Room 4 9:00 a.m.	Full Board		
January 31, 2017	Board Room 4 11:00 a.m.	Informal Conference Hearing(s)	<u>Agenda</u>	
July 21, 2017	Board Room 4 9:00 a.m.	Full Board		
November 3, 2017	Training Room 4 9:00 a.m.	Full Board		