

**SOUTH CAROLINA BOARD OF EXAMINERS IN OPTOMETRY
AGENDA**

Board Meeting, February 8, 2017, 3:00 P.M.
Synergy Business Park, Kingstree Building, Room 204
110 Centerview Drive, Columbia, South Carolina

Public Notice of this meeting was properly posted at the Optometry Board's Office, Synergy Business Park, Kingstree Building, and provided to all requesting persons, organizations, and news media in compliance with the South Carolina Freedom of Information Act, Section 30-4-80.

Call to Order

Approval of Agenda

Approval / Disapproval of Absent Board Member(s) -- Dr. Michelle Cooper

Approval of October 12, 2016 Board Meeting Minutes

Office of Investigations and Enforcement (OIE) Statistical Report and IRC Report-- David Love, OIE

Office of Disciplinary Counsel (ODC) Report-- Shanika Johnson, Attorney ODC

Office of Advice Counsel (OAC) Training for Board Members on Selected Legal and Ethical Topics -- Darra Coleman, Attorney, OAC

Executive Session-Complaint Process

Legislative Update-Rebecca Leach, Communications and Governmental Affairs

- Reporting Requirements of SC Code Section 63-7-310-Donnell Jennings. OAC

REPORTS / INFORMATION

Administrative Information – April Koon

- a. Licensee Totals and Endorsement Applicant Report
- b. Renewal Update
- c. Financial Report
- d. ARBO Membership Benefits and Annual Meeting-Information Only

UNFINISHED BUSINESS

1. Jurisprudence Examination Review- Dr. James Vaught

NEW BUSINESS

1. Request for CE approval for unlimited hours-Society of Professional Optometrist Inc.-Dr. Bud Antley
2. Medical Extension and License Renewal
3. Discussion of Renewal Processes and Guidelines
4. Telemedicine
5. Election of Board Officers
6. Approval of Board Member and Administrator travel to Association of Regulatory Boards of Optometry (ARBO) Annual Meeting June 18-20, 2017

ANNOUNCEMENTS

Upcoming Board Meeting – May 24, 2017

PUBLIC COMMENT

ADJOURNMENT

South Carolina Department of Labor, Licensing and Regulation (LLR)
Board of Examiners in Optometry
Board Meeting Minutes
October 12, 2016
Synergy Business Park
110 Centerview Drive, Kingtree Building, Room 204
Columbia, South Carolina

Public notice of this meeting was properly posted at the South Carolina Board of Examiners in Optometry, Synergy Business Park, Kingtree Building and provided to all requesting persons, organizations, and news media in compliance with section 30-4-80 of the South Carolina Freedom of Information Act.

BOARD MEMBERS PRESENT:

Dr. Peter V. Candela, President
Dr. James Vaught, Vice President
Dr. Derek Van Veen
Dr. Thomas E. Tucker
Dr. Michelle Cooper
Charles Hill, Public Member
Jesse Price, III, Public Member

SCLLR STAFF PRESENT:

Donnell Jennings, Esquire, Office of Advice Counsel
Rebecca Leach, Office of Communications and Governmental Affairs
April Koon, Administrator
Missy L. Jones, Administrative Assistant
For IRC Report:
Serrena Swartz, Investigator, Office of Investigations and Enforcement
Adrien Rivera, Investigator, Office of Investigations and Enforcement
For ODC Report:
Shanika Johnson, Esquire, Office of Disciplinary Counsel
Christa Bell, Esquire, Office of Disciplinary Counsel

PRESENT:

Tina F. Behles, Nationally Certified Court Reporter
Jackie Rivers, Executive Director, SCOPA

CALL TO ORDER: At 2:02 p.m. the meeting was called to order by Dr. Candela.

APPROVAL OF AGENDA: A **motion** was made by Dr. Vaught to accept the October 12, 2016 Agenda. The motion was seconded by Dr. Tucker and carried unanimously.

APPROVAL OF ABSENT BOARD MEMBER(S): All Board members were present for this meeting.

INTRODUCTION OF NEW BOARD MEMBER – JESSE PRICE, III: Introduction of Jesse Price, III as a new Board Member.

APPROVAL OF MAY 4, 2016 MEETING MINUTES: A **motion** was made by Dr. Cooper to accept the May 4, 2016 minutes as written. The motion was seconded by Dr. Vaught and carried unanimously.

OFFICE OF INVESTIGATIONS AND ENFORCEMENT (OIE) REPORT: Ms. Swartz presented the OIE Statistical Report. The Board accepted this report as information.

INVESTIGATIVE REVIEW COMMITTEE (IRC) REPORT: Ms. Swartz provided the IRC Report. It was recommended to dismiss case #2014-3, case #2016-1, case #2016-4, and case #2016-6. It was recommended to issue an Order to Cease and Desist for case #2016-8. A **motion** was made by Dr. Vaught to go into Executive Session. The motion was seconded by Dr. Tucker and carried unanimously. A **motion** was made by Mr. Hill to come out of Executive Session. The motion was seconded by Dr. Tucker and carried unanimously. A **motion** was made by Dr. Cooper to accept the IRC dismissal recommendations. The motion was seconded by Dr. Tucker and carried unanimously. Dr. Vaught stated that any complaint that conflicts with the SC Board of Examiners in Optometry Practice Act should be investigated processed through the IRC Committee.

OVERVIEW OF OIE PROCESS: Ms. Bell gave an overview of the investigative process of the Office of Investigations and Enforcement.

OFFICE OF DISCIPLINARY COUNSEL (ODC) REPORT AND ODC OVERVIEW: Ms. Johnson reported that there were two (2) cases pending in the Office of Disciplinary Counsel. Ms. Johnson also gave an overview of the disciplinary counsel process of the Office of Disciplinary Counsel.

LEGISLATIVE UPDATE: Ms. Leach gave a brief presentation of Bill H4999, Immunity from Liability for Providing Free Health Care Services. Ms. Leach stated that this law says a licensee in the medical field can volunteer their services without compensation and receive one hour of continuing education for each hour of volunteer medical services rendered up to a maximum of twenty-five percent of their continuing education requirements. The Board accepted this as information.

NAME WITHHELD – SECTION 40-47-190 CASE 2013-2 MEMORANDUM OF AGREEMENT – CLOSED SESSION: A **motion** was made by Dr. Vaught to go into Executive Session to receive legal advice. The motion was seconded by Dr. Tucker and carried unanimously. A **motion** was made by Dr. Vaught to come out of Executive Session. The motion was seconded by Mr. Hill and carried unanimously. A **motion** was made by Dr. Vaught to adopt the Memorandum of Agreement as presented. The motion was seconded by Mr. Price and carried unanimously. A **motion** was made by Dr. Vaught to issue a private non-disciplinary letter of caution to the respondent. The motion was seconded by Dr. Candela and carried unanimously.

REPORTS / INFORMATION

- **Licensee Totals Report** – 917 S.C. licensed optometrists; 574 practice in S.C.; 343 practice out-of-state
- **Endorsement Applicant Report** – There were three Endorsement Applicant licenses issued since May 5, 2016 through October 10, 2016. There are no Endorsement Applications pending at this time.
- **Financial Report** - provided and accepted as information.
- **Renewal Update** – Mrs. Koon gave a brief update of the renewal process.
- **Association of Regulatory Boards (ARBO) Annual Meeting Report** – Dr. Vaught gave a brief report on the Association of Regulatory Boards Annual Meeting stating that doing a criminal background check for optometrists to get licensed may be coming soon. Dr. Vaught stated that OE Tracker gave a report that they are continuing to become more accepted.

UNFINISHED BUSINESS

BRANCH OFFICE REGISTRATION FEES: A **motion** was made by Dr. Vaught to charge an initial \$50.00 for the branch office registration and \$25.00 for a renewal fee starting February 1, 2017. The motion was seconded by Dr. Cooper and carried unanimously.

NEW BUSINESS

ACEO ACCREDITATION STATUS UPDATE – MCPHS UNIVERSITY SCHOOL OF OPTOMETRY: The Board accepted this as information only.

JURISPRUDENCE EXAM: A **motion** was made by Dr. Tucker for Dr. Vaught to work with Mrs. Koon to revise the South Carolina Jurisprudence Exam and to present it to the Board at the next meeting. The motion was seconded by Dr. Van Veen and carried unanimously.

PHARMACOLOGY DELIVERY SYSTEM FOR CONTACT LENS: Ms. Rivers stated that a question was brought to the South Carolina Optometric Physicians Association regarding whether or not an Optometrist can prescribe or dispense contact lens containing a pharmaceutical agent. The Board stated that an Optometrist can prescribe or dispense contact lens containing a pharmaceutical agent as long as it is within the class of drugs that Optometrists in South Carolina can prescribe per law.

NASO LACRIMAL STIMULATION SYSTEM FOR CONTACT LENS: Ms. Rivers inquired if the Nasal Lacrimal Stimulation Device was in the scope of practice for South Carolina Optometrists. The Board stated that use of this device was within the scope of practice for South Carolina licensed Optometrists.

TELEMEDICINE INQUIRY: The Board carried this item over to the next Board Meeting.

DISPENSING CLARIFICATION: An inquiry was brought to the Board regarding if the most important aspects of dispensing spectacles is the final adjustment of the spectacles to the patient's face and if this procedure was part of the definition of "Dispense" under the Eye Care Consumer Protection Act Section 40-24-10 (2). At this time, the Board has not adopted an official definition for dispense.

CLARIFICATION OF READING GLASSES/INDUSTRY STANDARD RETINOSCOPY BOARD: An inquiry was submitted to the Board regarding whether or not it is considered practicing optometry if a company sets up a national brick and mortar business for reading glasses where the customer measures their own power of their left and right eye individually using an industry standard retinoscopy board. The customer then would select a frame and a licensed optician edges and inserts the lenses in the customer's self-determined powers in their choice of frames. A **motion** was made by Dr. Vaught that it is the practice of Optometry and referred to Section 40-37-30. The motion was seconded by Dr. Tucker and carried unanimously.

SUPERVISION/SCOPE OF PRACTICE SECTION 40-37-20 – EXECUTIVE SESSION: The Board stated that all cases will be dealt with on an individual basis.

CONTINUING EDUCATION REVIEWER: A **motion** was made by Dr. Van Veen for Dr. Cooper to begin reviewing the Continuing Education inquiries on the Boards behalf. The motion was seconded by Dr. Tucker and carried unanimously.

2017 BOARD MEETING DATES: The Board meetings dates for 2017 are February 8, 2017, May 24, 2017, July 12, 2017, and October 11, 2017.

Case Status (Optometry cases received from 1/1/15 thru 12/31/15)		Total
Closed	(Avg days: 165) (OPTOMETRY)	14
Do Not Open Case	(Avg days: 3) (OPTOMETRY)	1
		Total 15

Case Status (Optometry cases received from 1/1/16 thru 1/17/17)		Total
Active Investigation	(Avg days: 75) (OPTOMETRY)	2
Closed	(Avg days: 96) (OPTOMETRY)	6
Do Not Open Case	(Avg days: 0) (OPTOMETRY)	2
Pending Board Action	(Avg days: 173) (OPTOMETRY)	1
Pending Further Information (OPTOMETRY)	(Avg days: 33)	1
		Total 12

Date: February 8, 2017

South Carolina Board of Examiners in Optometry

IRC held on January 17, 2017

Dismissal – 1

IRC Members

**Shanika Johnson– Attorney
Dr. Wayne Cannon - IRC Advisor
Dr. Timothy Stafford – IRC Advisor
April Koon– Administrator
Adrian Rivera – Investigator
David Love – Chief Investigator**

DISMISS

Case #	Investigator	Initial Complaint Allegations	IRC Logic
2016-9	Adrian Rivera	The complaint alleges Respondent (OD) of substandard care by misdiagnosis and unprofessional conduct by being verbally abusive towards patient on office visit of 05/02/2016.	The IRC that met on 1/17/2017 found no evidence of violations after reviewing the investigator's findings to support the reported allegations made by the complainant. IRC recommends a dismissal.

Total Cases: 1

SECTION 63-7-310. Persons required to report.

(A) A physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, foster parent, police or law enforcement officer, juvenile justice worker, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, judge, or a volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA must report in accordance with this section when in the person's professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 63-7-20.

(B) If a person required to report pursuant to subsection (A) has received information in the person's professional capacity which gives the person reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child's welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child's welfare, the reporter must make a report to the appropriate law enforcement agency.

(C) Except as provided in subsection (A), a person, including, but not limited to, a volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, who has reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report, and is encouraged to report, in accordance with this section.

(D) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found.

Administrative Information – April Koon

a. Licensee Totals

Total of all licensees – 837

Instate licensee total – 563

Out-of-state licensee total – 274

Endorsement Applicant Report

Total of licensees since October 12, 2016 – February 7, 2017 – 0

There are 0 Endorsement Applications pending at this time.

b. Renewal Update

Total number renewed – 837

Total number not renewed – 87

Cease and Desist letters were mailed on February 2, 2017.

Optometry Board
DB0019

June 2015 : June 2016 Dec 2016
Cash Balance : Cash Balance Cash Balance

		<u>FY15</u>	<u>FY16</u>	<u>FY17</u>
Beginning Cash Balance		(18,437.11)	64,843.90	(39,698.10)
Total Revenue		228,674.28	29,055.00	205,460.00
Total Direct Expenditures		(80,149.64)	(57,954.08)	(31,998.78)
Indirect Expenditures (Overhead):				
Admin/Dir/Adv Cou- Based on Previous Yr Expenses	0.651%	(25,800.86)	(32,007.70)	(12,186.04)
POL Admin - Based on Previous Yr Expenses	0.651%	(8,787.85)	(9,543.50)	(2,762.75)
OLC - Former POL Program		0.00	0.00	0.00
OIE - Based on No. of Investigations	0.338%	(11,288.05)	(17,623.39)	(7,115.79)
Legal - Based on No. of Investigations	0.338%	(4,058.44)	(6,166.08)	(2,481.47)
Office of Business Services - Based on Prev Yr Exp		0.00	0.00	0.00
Office of Health & Medical Rel Bds - Based on Pre Yr Exp	0.000%	0.00	0.00	0.00
Remittance to General Fund - Proviso 81.3	10.00%	(8,014.96)	(5,795.41)	0.00
Communications-Based on Prev Yr Exp	0.651%	(1,988.47)	(2,243.48)	(943.45)
Immigration Proviso 81.8-Based on Prev Yr Exp	0.651%	(1,636.36)	(1,848.74)	(455.67)
Osha Proviso 81.7-Based on Prev Yr Exp	0.651%	(3,668.64)	(1,584.56)	0.00
Total Indirect Expenditures (Overhead)		(65,243.63)	(76,812.86)	(25,945.17)
NET		83,281.01	(105,711.94)	147,516.05
Fines Draw			1,169.94	0.00
Year End Balance		64,843.90	(39,698.10)	107,817.95



Association of Regulatory Boards of Optometry, Inc.

Association of Regulatory Boards of Optometry

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ARBO's Mission Statement:

The mission of ARBO is to represent and assist member licensing boards in regulating the practice of optometry for the public welfare. ARBO's membership currently includes 66 Optometric Regulatory Boards in the United States, Canada, Australia and New Zealand.

Why Boards of Optometry choose to be Members of ARBO:

Often when it comes time to make annual member dues payments, Optometric Licensing Boards consider the reason for belonging to the Association of Regulatory Boards of Optometry (ARBO). ARBO, like the Federations of Boards in medicine, dentistry, podiatry, etc., exists to serve its Member Boards. ARBO's objectives are to improve the standards of the profession and the services of regulatory licensing agencies, for the welfare and protection of the general public; as well as to help provide its Member Boards with opportunities to exchange information and to engage in programs and joint activities relating to the licensing and education of optometrists, including the accreditation of schools and colleges.

What other benefits are there for an Optometric Licensing Board to belong to ARBO? Here are just a few:

Committee Appointments

Only those Boards currently holding membership in ARBO are allowed to have their members serve on ARBO committees. Currently there are twelve ARBO standing committees, covering areas from planning the Annual Meeting program to CE accreditation to optometric continuing competence.

Three committees are playing a particularly active role at present in regulatory interests: The Council on Optometric Practitioner Education (COPE) Committee, the Optometric Education (OE) Tracker Committee and the Optometric Continuing Competence (OCC) Committee. These committees hold regular meetings in order to work on projects to provide positive benefits to ARBO's Member Boards.

Annual and Regional Meetings

Only those ARBO Member Boards who have paid their membership dues are allowed to vote at the House of Delegates meeting at the ARBO Annual Meeting. Such votes include nominations and elections of ARBO Board of Directors, approval of the annual budget for the organization, submission and voting on resolutions during the meeting, and the nomination of Directors to the National Board of Examiners in Optometry (NBEO) and representatives the Accreditation Council on Optometric Education (ACOE).



Both of these organizations influence the educational training provided to, as well as the assessment of entry-level skills of entrants to the profession. ARBO will be holding its 98th Annual Meeting June 18-20, 2017, at The Grand Hyatt Washington, Washington, DC. We hope you will be able to participate. ARBO also holds multiple regional meetings each year, in conjunction with regional conferences. These meetings provide ARBO Board representatives unique opportunities to interact and share information with other Optometry Board members about important issues and topics of mutual interest.

Interaction with Other Optometric Organizations

Through ARBO membership, State Board members are often called upon to represent their own State Board as well as ARBO on committees and task forces appointed by other organizations. For example, under a cooperative contract signed between ARBO and the NBEO, ARBO has provided the names of current State Board members to serve on a variety of ad hoc task forces of the NBEO, as well as committees involved in examination construction and review. In addition, the agreement calls for the creation of an ARBO-appointed Examination Review Committee which is charged with annually reviewing all entry-level and licensure examinations produced by the NBEO. Other organizations which have asked for ARBO representation on projects are the Association of Schools and Colleges of Optometry (ASCO) and the ACOE.

ARBO significantly affects the makeup of the Board of Directors of the National Board, and has representation on the ACOE. The National Board is the optometric testing agency acknowledged by all U.S. Licensing Boards for entry-level examination requirements into practice in the profession of optometry. The ACOE is the accrediting organization responsible for the accreditation, and re-accreditation, of the schools and colleges of optometry in North America. Currently, four of the eight board members of the NBEO are nominated by ARBO. ARBO also provides two of the eleven representatives on the ACOE through a nominating process endorsed by the House of Delegates at the ARBO Annual Meeting. An Optometric Licensing Board would only have influence in the makeup of these two organizations through its membership in ARBO. Nominees from ARBO to these organizations must be current active Board members whose own Board is a member in good standing in ARBO.

Examination Development

ARBO has a long history of listening to the assessment needs of its Member Boards and worked with the NBEO to provide examination instruments for its members. This has resulted in the Clinical Skills/VRICS examination, as well as the Treatment and Management of Ocular Disease (TMOD) examination.

Information Exchange with Other Regulatory Boards

Gathering of information from Member Boards and sharing it among them is a fundamental function of all Federations of Licensing Boards. ARBO's Annual Meeting is the only national meeting that brings all the Optometric Licensing Boards together to exchange information. ARBO also publishes a quarterly newsletter, *The Greensheet*, to provide members with updates on ARBO activities since 1991. Additionally, ARBO staff periodically survey its members to collect information about how other Licensing Boards address certain issues to assist its Member Boards in making regulatory decisions.



Association of Regulatory Boards of Optometry, Inc.

Summary of Membership Benefits:

- Information exchange and communication on important issues among Member Boards through committee work, annual and regional Meetings and the ARBO newsletter.
- Mutual pooling of efforts to solve common concerns in the areas of competency assessment, continuing education and licensing by endorsement.
- Serves as the representative for all licensing boards in discussion and inquiries from other national optometric organizations and associations, as well as with issues on the Federal and international level.
- Influence on makeup of Board of Directors of the National Board of Examiners in Optometry and the Accreditation Council on Optometric Education.

Summary of Program Benefits:

COPE (Council on Optometric Practitioner Education)—

- Standardizes the accreditation of optometric CE courses.
- Reduces duplication efforts by licensing boards, instructors and CE administrators.
- Saves time for Licensing Boards by not having to review/audit individual CE courses.

OE TRACKER—

- Verifies and stores optometrists' continuing education attendance data.
- Allows Licensing Boards to track and audit CE attendance electronically.
- Saves staff time by reducing paperwork and increasing efficiency.
- Allows licensees to view their CE history, print CE attendance certificates, and review their CE licensing renewal status.

NBERC—

- ARBO's National Board Examination Review Committee reviews the content of the NBEO examinations, confirming they are current and appropriate for use by ARBO Member Licensing Boards.

ARBO Website—

- The ARBO website offers a variety of resources for our Member Boards and their licensees including: a directory of all the Member Boards with contact information and links to their websites; a listing of optometric CE requirements by jurisdiction; and the ability to search for COPE-accredited courses by date, location, instructor, etc.



Association of Regulatory Boards of Optometry, Inc.



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HOT LINKS

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- [OE TRACKER APP Comments](#)
- [2016 COPE Workshop](#)

2017 ARBO Annual Meeting

ARBO 2017 Annual Meeting
June 18-20, 2017
Grand Hyatt
Washington, D.C.

Please join us for the 98th ARBO Annual Meeting in Washington, D.C.. Members and staff of Regulatory Boards of Optometry in the United States, Canada, Australia, and New Zealand are invited to attend this important meeting. The ARBO Annual Meeting provides an excellent forum for keeping up-to-date with regulatory issues. This is a great opportunity to interact with your regulatory colleagues discussing hot topics and shared concerns in the regulatory community.

Meeting Registration: COMING SOON

Hotel Reservation Information: COMING SOON



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7. The scope of optometric practice is determined by legislation.

✓ True False

8. Licenses

- ✓ a) must be displayed in a prominent and conspicuous place in the primary place of practice
- ✓ b) are not required to be displayed in each secondary office
- c) must be renewed every year
- d) belong to the licensee

9. Concerning continuing education requirements, which of the following is **NOT** true

- ✓ a) requires a minimum of 40 hours
- ✓ b) must be on subjects relative to optometry
- ✓ c) may include practice management
- d) may include 4 hours directly related to mandated health care programs
- e) must include a minimum of 16 hours of pharmacology or pathology

10. Any licensee that allows his or her license to lapse

- * a) may be reinstated by the board upon satisfactory explanation and payment of fees
- * b) for more than a year may be required to obtain further education for reinstatement
- c) for more than 2 years must reapply for licensure
- d) is engaging in unlicensed practice and subject to penalties
- e) all of the above

11. Delegation of any optometric procedures

- ✓ a) is not allowed under SC law
- b) is only allowed for prescribing contact lenses
- ✓ c) is only allowed for ODs on extended vacation
- d) is not allowed for refraction
- e) does not require direct supervision

12. When prescribing medications, an optometrist

- a) may only prescribe for the treatment for ocular and adnexal eye disease
- * b) must document the patient's chart
- * c) is limited to prescribing a 1 week supply of analgesics
- d) is limited to 21 days of treatment when using steroids without consulting an ophthalmologist
- e) all of the above

13. An optometrist may purchase, possess, administer, supply, and prescribe pharmaceutical agents including oral and topically applied medications other than

- ✓ a) schedule I
- b) schedule I and II controlled substances except controlled substances that have been reclassified from schedule III to schedule II
- c) schedule I, II, and III
- d) any schedule drugs

14. When prescribing oral medications , an optometrist is limited to
- a) antihistamines
 - b) antimicrobial
 - c) antiglaucoma
 - d) OTCs
 - e) analgesics
 - f) all of the above
 - g) none of above
15. Optometrists may not sell pharmaceutical agents prescribed in treatment unless there is a licensed pharmacist on staff.
- True False
16. Optometrists may supply pharmaceutical agents to patients for the purpose of initiating treatment.
- True False
17. An optometrist can refer patients only to an ophthalmologist.
- True False
18. In treating glaucoma, an optometrist
- a) must consult with an ophthalmologist
 - b) has 6 months to establish and reach a target IOP
 - c) has 2 weeks to refer a patient for angle closure
 - d) is held to the same standard of care as an ophthalmologist
19. An optometrist is prohibited from performing surgery requiring suturing, clamping, or lasers.
- True False
20. An optometrist may remove superficial ocular and ocular adnexal foreign bodies.
- True False
21. Optometrists must maintain a minimum malpractice insurance coverage of
- a) 500 thousand dollars
 - b) 750 thousand dollars
 - c) 1 million dollars
 - d) 2 million dollars
 - e) 5 million dollars
22. Which of the following is **NOT** true? For office hours,
- a) an optometrist should post them in a conspicuous place
 - b) an optometrist must close for lunch

c) must specify hours when an optometrist is on the premises

23. In South Carolina, mobile units

- a) may not be used
- b) do not require registration with the board
- c) are limited to visiting and providing services to licensed health care facilities within the state
- d) all of the above

24. The board may promulgate regulations regarding optometrists' offices so as to provide for all of the following **except**

- a) adequate and appropriate office facilities
- b) the proper handling of patient records
- c) appropriate sanitation for office facilities
- d) hours of operation
- e) all of the above may be regulated

25. Duplicate certificates of licensure may be obtained from the board by

- a) filing an application
- b) paying a fee
- c) a and b
- d) duplicate licenses are not necessary
- e) none of the above

26. A nurse, school teacher, or welfare worker, employed in public service are not prevented from ascertaining probable need of visual services as long as the person does not attempt to diagnose or prescribe.

True False

27. The laws pertaining to the practice of optometry in SC does not apply to a person who sells ready-made eyeglasses or spectacles if the person does not aid the purchaser in the fitting of the glasses.

True False

28. Eye examinations may be offered as a premium or bonus with the purchase of merchandise to induce trade.

- a) period
- b) Without disclosing whether the discount is from the offeror's regular selling price
- c) Without disclosing any other price and the source from which the reduced price is based
- d) Free eye exams may not be offered as an inducement for sale of eyeglasses

29. Advertised prices concerning ophthalmic goods and services must include whether

- a) Eyeglasses include single vision or multi-focal lenses
- b) Contact lenses refers to hard or soft contact lenses

- c) Ophthalmic materials includes all dispensing fees
- d) Eyeglasses include both frame and lenses
- e) There is a restriction on selection
- f) All of the above
- g) None of the above

From:
To: April Koon
Subject: Re: CE Seminar
Date: Tuesday, November 01, 2016 7:18:02 AM

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I meant the limited category. I talked with Dr. Candela and he agrees.

Thanks!

Sent from my iPad

On Oct 31, 2016, at 4:10 PM, April Koon <April.Koon@llr.sc.gov> wrote:

I just want to clarify, did you mean 8 hours in the limited or unlimited category? They claim to be a state optometric association which would fall under unlimited hours; however, their name implies they are a local optometric society.

Thank you.

April Koon
Administrator
South Carolina Board of Long Term Health Care Administrators
South Carolina Board of Examiners in Optometry
South Carolina Board of Examiners in Opticianry
South Carolina Panel for Dietetics
SC Department of Labor, Licensing and Regulation
110 Centerview Dr, Columbia, SC 29210
803-896-4625
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Website: www.llronline.com
<image001.jpg>

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From:
Sent: Friday, October 28, 2016 11:55 AM
To: April Koon

Subject: Re: CE Seminar

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After re-reading the regs, the seminar would count toward the 8 hours of other education.

Thanks!

Sent from my iPad

On Oct 25, 2016, at 9:16 AM, April Koon <April.Koon@llr.sc.gov> wrote:

Good morning Dr. Cooper,

Please review the attached along with the email below for CE approval.

Thank you.

April Koon

Administrator

South Carolina Board of Long Term Health Care Administrators

South Carolina Board of Examiners in Optometry

South Carolina Board of Examiners in Opticianry

South Carolina Panel for Dietetics

SC Department of Labor, Licensing and Regulation

110 Centerview Dr, Columbia, SC 29210

803-896-4625

Fax: 803-896-4719

Email: april.koon@llr.sc.gov

Website: www.llronline.com

<image001.jpg>

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From: sharon@sharonellis.org [<mailto:sharon@sharonellis.org>]

Sent: Friday, October 21, 2016 9:16 PM

To: April Koon

Subject: CE Seminar

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Hi, April.

Jane Mertens at UGA Center for Continuing Education gave me Angie Combs' email address but emails addressed to her come back undeliverable, so I found your contact info on the LLR website.

I am the Seminar Coordinator and Secretary/Treasurer with the Society of Professional Optometrists, we hold 2 Continuing Education Seminars for Optometrists each year at the University of Georgia and have received approvals from SC every year since 2009. I have taken over the duties of applying for approvals for our continuing education Seminars, we get a significant number of attendees from South Carolina.

I am requesting Approval from South Carolina for the Winter Seminar in Optometry, which will take place on January 29, 2017 and provides 8 hours of COPE-approved continuing education. I've attached the brochure for your review, and I've copied the email (below) that shows that we have COPE approval from ARBO for this event.

Can you please take a look at the attached and let me know if it can be approved for January 2017?

I look forward to your reply,
Sharon K. Ellis, O.D.
Society of Professional Optometrists
404-732-6843

"Dear Sharon,

Your COPE Event ID # 112324 has been approved.
Event Title: Winter Seminar in Optometry
City: Athens
State: GA
Dates: 2017-01-29 - 2017-01-29

As you are preparing for your event, please remember:

You must put the Course # and Event # on every certificate.

During your event, you must comply with COPE standards regarding facilities, monitoring attendance, documenting attendance, course evaluations, disclosure of financial/proprietary interests, and acceptance of COPE monitors.

Ask your attendees to provide their OE TRACKER Number when registering; they can easily find this information by going to www.arbo.org and clicking on OE TRACKER Number Lookup.

Attendance data may be submitted in an Excel spreadsheet, from

barcode scanners, or through the OE TRACKER mobile app.

If you have any questions, please contact the ARBO staff at arbo@arbo.org. Thank you again for submitting your Event to COPE.

Sincerely,
The ARBO Staff"

<Jan 2017 Brochure Final Draft Oct 2016.pdf>

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The University of Georgia
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Athens, Georgia 30602-3603
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A part of the Office of Public Service and Outreach



2017 SEMINAR IN
OPTOMETRY
JANUARY 29, 2017

at


The University of Georgia
Center for Continuing Education
Hotel & Conference Center

Athens, Georgia

A program of the
Society of Professional Optometrists, Inc.

ABOUT THE SEMINAR

CERTIFICATION

This seminar will be submitted to ARBO to obtain COPE approval for the event. A total of 8 COPE hours of instruction will be presented, and attendance will be tracked utilizing the ARBO OE Tracker Card. Most state boards accept COPE-approved programs for continuing education hours, but attendees should contact their state boards to confirm approval. Full attendance is mandatory to receive full credit. Effective January 2009, South Carolina has rejoined the list of states granting unrestricted status to CE hours from SOPO.

BE SURE TO BRING YOUR OE TRACKER CARD

If you do not have one, please visit www.arbo.org. Smartphone users can download the "OE Tracker" app for use at this Seminar. For more information, go to www.arbo.org.

Attendance will be monitored with the ARBO scanning system. Proof of attendance will be available on the ARBO website (www.arbo.org) about 2 weeks after the seminar.

OE Tracker Cards must be presented in order to gain admittance to the lectures. Any attendee entering later than 10 minutes after the start of a lecture will NOT receive credit for that lecture.

Any attendee leaving a lecture and missing more than 10 minutes also will NOT receive credit for that lecture.

SEMINAR ADMINISTRATION

For the Society of Professional Optometrists, Inc.

Jack Mooney, OD, Martinez, GA
Jim Barber, OD, Covington, GA
Sharon Ellis, OD, Stone Mountain, GA
Bill Shuman, OD, Athens, GA

For The Georgia Center's UGA Hotel
and Conference Center

Jane Mertens, CPP, Senior Event Coordinator

SEMINAR PURPOSE

This seminar brings the latest information to regional optometrists. The sessions will greatly benefit individual practices and should meet the licensing requirements for optometrists in Alabama, Georgia, South Carolina, Tennessee, and Virginia.

PROGRAM FACULTY

Jason Brody, M.D.
Byron "Trip" Cook, M.D.
Doug Day, M.D.
James Hays, M.D.
Steve Leff, M.D.
Vanessa Ngakeng, M.D.
Brian Salmenson, M.D.
Tom Spetalnick, O.D.
Doyle Stulting, M.D., PhD.
Joseph Walrath, M.D.
Jonathan Woolfson, M.D.



The Society of Professional Optometrists Inc. (SOPO) is dedicated to providing quality optometric continuing education to upgrade professional skills and to satisfy relicensing requirements in Georgia and other Southern states. The Georgia Center's UGA Hotel and Conference Center provides the type of environment that we feel is most appropriate for achieving our stated goal in a relaxed, friendly atmosphere.

We promise that, with your support, we will continue to provide optometric continuing education programs that are among the best available

SOPO BOARD OF DIRECTORS

President E. Jack Mooney, O.D.
Vice-President James D. Barber, O.D.
Secretary/Treasurer Sharon K. Ellis, O.D.
President Emeritus Bill Shuman, O.D.

Seminar Coordinator

Sharon Ellis, OD

SOPO DUES

In order for you to qualify for member-level fees, your dues of \$50 per year must be paid by December 31 of the previous year. Member-level fees represent a savings of at least \$100 per conference.

To become a member of SOPO or to continue your SOPO membership, fill out the following information. Send it with your check (made payable to SOPO in the amount of \$50) to:

SOPO
P.O. Box 942194
Atlanta, GA 31141

Name — please print or type

Address

Address

City

State

Zip

Phone

Email

You may also pay your \$50 membership dues online using PayPal for just a \$2 convenience fee at sopoc.org/members/join.

SAVE THE DATE
Seminar in Optometry
May 20-21, 2017

TENTATIVE AGENDA

SUNDAY, JANUARY 29, 2017

7:00 – 8:00 a.m. REGISTRATION

8:00 – 9:45 **Refractive and Cornea Review and Update**
Jonathan Woolfson, M.D. with Tom Spitalnick, O.D.; Doyle Stulling, M.D.; Byron "Trip" Cook, M.D. (COPE # 50815-RS)

9:45 – 10:00 REFRESHMENT BREAK

10:00 – 12:00 **The Lids and Conjunctiva in Dry Eye Review and Update**
Joseph Walrath, M.D. with Doyle Stulling, M.D., PH.D. (COPE #50821-AS)

12:00 – 1:00 p.m. LUNCH (Magnolia Ballroom)

1:00 – 2:45 **Co-Management of Cataracts, Medications and Complications**
Byron "Trip" Cook, M.D.; Jason Brody, M.D.; James Hays, M.D.; Vanessa Ngakeng M.D.; Brian Salimenson, M.D. & Doyle Stulling, M.D., PH.D. (COPE # 50816-PO)

2:45 – 3:00 REFRESHMENT BREAK

3:00 – 5:00 **Glaucoma and Retina Review and Update**
Dong Day, M.D. with Steve Lell, M.D. (COPE # 50812-PS)



ABOUT YOUR SEMINAR

THE GEORGIA CENTER'S UGA HOTEL AND CONFERENCE CENTER

The Georgia Center's UGA Hotel and Conference Center, located on UGA's beautiful, historic campus in Athens, Georgia, is a total living and learning environment, with a 200-room hotel, restaurants, banquet areas, conference rooms, auditoriums, a fitness center, and a computer lab—all under one roof. For more information, visit www.ugahotel.com.

LODGING AT THE GEORGIA CENTER'S UGA HOTEL AND CONFERENCE CENTER

For your convenience, a block of rooms is being held for your seminar until 5:00 p.m. ET, January 3, 2017.

Policies: (1) Tax Exemption — The State of Georgia only allows tax-exempt charges for a payment by a state-issued credit card or check or by a direct bill to a state agency (with a Georgia State Tax Exemption Certificate).

(2) **Lodging Cancellation** — Cancel your reservation by 4:00 p.m. ET the day prior to your scheduled arrival to avoid being charged one night's room and tax.

(3) Check-in is 4:00 p.m. ET; checkout is 12:00 p.m. ET.

(4) At check-in, you must present your method of payment or a completed credit card authorization form (call 800-884-1381 for a copy, Monday-Friday, 8:00 a.m. to 5:00 p.m. ET).

SPECIAL NEEDS

If you require special services, contact Jean Mann at 706-542-2335 or Jean.Mann@georgiacenter.uga.edu by January 30, 2017.

TRAVEL INFORMATION

Athens, Georgia, is located approximately 60 miles northeast of Atlanta. For directions and airport shuttle information, see www.georgiacenter.uga.edu/air-hair/contract. A parking deck is located adjacent to The Georgia Center (\$10 per night; vehicle height limit, 7 feet). Athens is served by Athens-Ben Epps Airport as well as Hartsfield-Jackson Atlanta International Airport, which is located about 90 minutes south west of Athens. Scheduled ground shuttle service and rental car services are available between Hartsfield-Jackson and The Georgia Center.

SEMINAR CANCELLATION POLICIES

(1) A cancellation received by 5:00 p.m. ET on or before January 20, 2017, will be refunded, minus a \$35 processing fee. No refunds will be issued thereafter; substitutions will be allowed.

(2) To change or cancel your registration, call 800-884-1381, Monday through Friday, 8:00 a.m. to 5:00 p.m. ET.

(3) If an event is cancelled for any reason, The Georgia Center will not be responsible for any charges related to travel.

SEMINAR REGISTRATION/HOTEL RESERVATION

FOUR WAYS TO REGISTER:

Web: www.georgiacenter.uga.edu/uga-hotel — Credit Card Only
Fax: 706-542-6596 or 800-884-1381 — Credit Card Only
Mail: Seminar is Optometry, 88333, UGA Hotel and Conference Center
1197 South Lumpkin Street, Athens, Georgia 30602-3605
Phone: 706-542-3134 or 800-884-1381 — Credit Card Only
(Mon-Fri, from 8:00 a.m. to 5:00 p.m. ET)

Name — please print or type _____ Preferred first name for naming _____
Date of Birth (for transcript retrieval) _____

Title/Position _____ Company/Organization _____

Business mailing address _____ or home address _____

City _____ State _____ County, if Georgia _____ Zip _____

Email _____

Home phone _____ Work phone _____ Fax _____

Please send me email about UGA Hotel and Conference Center programs.

SEMINAR REGISTRATION: Your registration will not be processed until payments received. If you are a newly licensed GA OD (2016 graduates), call 800-884-1381 to register for the Seminar. Please do not register via any other method.

SOPO Member fee paid on or before January 9, 2017 _____ \$369

SOPO Member fee paid after January 9, 2017 _____ \$369

Nonmember fee paid on or before January 9, 2017 _____ \$469

Nonmember fee paid after January 9, 2017 _____ \$469

Registration fees DO NOT include SOPO dues. Total \$ _____

Do you receive duplicate brochures? Yes No

By registering for this event, I agree to comply with all seminar and lodging cancellation policies.

Dietary Restrictions (We are unable to provide kosher meals): _____

METHOD OF PAYMENT TO GUARANTEE EVENT REGISTRATION

Enclosed is a check payable to The University of Georgia.

By credit card:

MasterCard Visa American Express Discover

Card No. _____ Expires _____

Name on Card _____

Please bill my organization. A purchase order number must be included to bill all non-UGA companies and organizations

Billing Contact Person _____

Phone No. _____

Email _____

Company/Organization _____

UGA Department/Division (if applicable) _____

PO Number _____

Billing Address _____

City/State/Zip _____

Hotel Reservation

To request a room at the UGA Hotel, please call 706-542-2134 or 800-884-1381

and reference hotel block code 83313 or make a reservation online by using the

following link: myurl.com/uga-hotel/block/83313

From: Benjamin Ondersma
To: [April Koon](#)
Subject: SOPO status with SC board of Optometry
Date: Wednesday, February 01, 2017 11:08:42 AM

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Dear Board Members,

Please reconsider allowing the Society of Professional Optometrists unlimited approval status for continuing education credit. SOPO is an excellent source for CE credit, and I have greatly benefited from it.

The two seminars that SCOPA offers are beneficial as well, but as a busy father (with two children born the week before the summer conference 2014 and 2016) it is nice to have another option in place. I will continue to attend the conferences that SC offers, and did so spring 2016 in Greenville. The only downside is that the spring conference allows only 10 hours of CE. Therefore, since the local society and online hours are limited to 8, this would leave me short of the 40 hours needed. Being a solo private practice owner, I do not have unlimited time to donate to continuing education. I am sure most of you can relate to that.

As past president of the Midlands Optometric Society, I know these decisions are not always a top priority, but please reconsider allowing SOPO unlimited CE approval status.

Thank you for your consideration!

Dr. Benjamin Ondersma

EYE CONCEPTS
331 Killian Rd., Ste B2
Columbia, SC 29203
Tel: (803) 754-8370

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From: William Jenkins
To: [April Koon](#)
Subject: CONTINUED INCLUSION OF SOPO
Date: Saturday, February 04, 2017 12:36:33 PM

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Please consider this as a request to continue inclusion of The Society of Professional Optometrists in the list of accepted and approved organizations that provide Continuing Education to South Carolina Optometrists.

This has been an important organization in my continued educational pursuits. The Society provides COPE approved, attendance verified, continuing education. It is very convenient as far as travel, excellent facilities, and excellent providers.

I request that the continuation of approved providers to continue for Society of Professional Optometrists

William P. Jenkins, O.D., F.A.A.O.
Life Member, South Carolina Optometric Physicians.
Walhalla, S.C.

Alabama	Article 5 Section 34-22-80, 34-22-82, & 34-22-83
Alaska	No Telemedicine laws or policies
Arizona	No Telemedicine laws or policies
Arkansas	No Telemedicine laws or policies
California	Chapter 5 Article 3 pg. 75
Colorado	Policy pg. 6
Connecticut	No Telemedicine laws or policies
Delaware	§2101 Definition of practice of optometry
Florida	Survey for law change
Georgia	No Telemedicine laws or policies
Hawaii	No Telemedicine laws or policies
Idaho	No Telemedicine laws or policies
Illinois	No Telemedicine laws or policies
Indiana	No Telemedicine laws or policies
Iowa	No Telemedicine laws or policies
Kansas	No Telemedicine laws or policies
Kentucky	Chapter 320.390 and Reg 201 KAR 5:055
Louisiana	No Telemedicine laws or policies
Maine	No Telemedicine laws or policies
Maryland	No Telemedicine laws or policies
Massachusetts	No Telemedicine laws or policies
Michigan	No Telemedicine laws or policies
Minnesota	No Telemedicine laws or policies
Mississippi	No Telemedicine laws or policies
Missouri	No Telemedicine laws or policies
Montana	No Telemedicine laws or policies
Nebraska	No Telemedicine laws or policies
Nevada	No Telemedicine laws or policies
New Hampshire	No Telemedicine laws or policies
New Jersey	No Telemedicine laws or policies
New Mexico	No Telemedicine laws or policies
New York	No Telemedicine laws or policies
North Carolina	No Telemedicine laws or policies
North Dakota	No Telemedicine laws or policies
Ohio	No Telemedicine laws or policies
Oklahoma	Title 505:10-3-6 (B) (4)
Oregon	No Telemedicine laws or policies
Pennsylvania	No Telemedicine laws or policies
Rhode Island	No Telemedicine laws or policies
South Dakota	No Telemedicine laws or policies
Tennessee	No Telemedicine laws or policies
Texas	§279.16 Telehealth Services
Utah	No Telemedicine laws or policies
Vermont	No Telemedicine laws or policies

Virginia	No Telemedicine laws or policies
Washington	No Telemedicine laws or policies
Washington DC	No Telemedicine laws or policies
West Virginia	No Telemedicine laws or policies
Wisconsin	No Telemedicine laws or policies
Wyoming	No Telemedicine laws or policies

Alabama

34-22-81. Definitions.

For the purposes of this article, the following terms shall have the following meanings:

(7) **TELEMEDICINE.** A health service that is delivered by a licensed optometrist acting within the scope of his or her license and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including all of the following:

- a. Compressed digital interactive video, audio, or data transmission.
- b. Clinical data transmission using computer imaging by way of still image capture and store and forward.
- c. Other technology that facilitates access to health care services or optometric specialty expertise.

34-22-82. Telemedicine - Protocols; privacy practices.

(a) A provider who uses telemedicine in his or her practice shall adopt protocols to prevent fraud and abuse through the use of telemedicine.

(b)(1) Privacy practices.

- a. A provider that communicates with patients by electronic communications other than telephone or facsimile shall provide patients with written notification of the provider's privacy practices before evaluation or treatment.
- b. The notice of privacy practices shall include language that is consistent with federal standards under 45 CFR Parts 160 and 164 relating to privacy of individually identifiable health information.
- c. A provider shall make a good faith effort to obtain the patient's written acknowledgment of the notice.

(2) **Limitations of telemedicine.** A provider who uses telemedicine services, before providing services, shall give each patient notice regarding telemedicine services, including the risks and benefits of being treated via telemedicine, and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A signed and dated notice, including an electronic acknowledgement by the patient, establishes a presumption of notice.

(3) **Necessity of in-person evaluation.** When, for whatever reason, the telemedicine modality in use for a particular patient encounter is unable to provide all pertinent clinical information that a healthcare provider exercising ordinary skill and care would deem reasonably necessary for the

practice of optometry at an acceptable level of safety and quality in the context of that particular encounter, then the distant site provider shall make this known to the patient and advise and counsel the patient regarding the need for the patient to obtain an additional in-person evaluation reasonably able to meet the patient's needs.

34-22-83. Telemedicine - Services; provider-patient relationship; standards of practice; confidentiality.

(a) Telemedicine services provided at an established treatment site may be used for all patient visits, including initial evaluations to establish a proper doctor-patient relationship between a provider and a patient.

(1) A provider shall be reasonably available onsite at the established medical site to assist with the provision of care.

(2) A provider may delegate tasks and activities at an established treatment site to an assistant who is properly trained and supervised or directed.

(b) A distant site provider who provides telemedicine services to a patient that is not present at an established treatment site shall ensure that a proper provider-patient relationship is established, which at a minimum includes all of the following:

(1) Having had at least one face-to-face meeting at an established treatment site before engaging in telemedicine services. A face-to-face meeting is not required for new conditions relating to an existing patient, unless the provider deems that such a meeting is necessary to provide adequate care.

(2) Establishing that the person requesting the treatment is in fact whom he or she claims to be.

(c) Evaluation, treatment, and consultation recommendations made in a telemedicine setting, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional in-person clinical settings.

(d)(1) Adequate security measures shall be implemented to ensure that all patient communications, recordings, and records remain confidential.

(2)a. Written policies and procedures shall be maintained when using electronic mail for provider-patient communications. Policies shall be evaluated periodically to make sure they are up to date. Policies and procedures shall address all of the following:

1. Privacy to assure confidentiality and integrity of patient-identifiable information.
2. Health care personnel, in addition to the provider, who will process messages.
3. Hours of operation and availability.
4. Types of transactions that shall be permitted electronically.
5. Required patient information to be included in the communication, such as the patient name, identification number, and type of transaction.
6. Archival and retrieval.
7. Quality oversight mechanisms.

b. All relevant provider-patient email, and other patient-related electronic communications, shall be stored and filed in the patient record.

c. Patients shall be informed of alternative forms of communication for urgent matters.

34-22-84. Maintenance of records.

(a) Patient records shall be maintained for all telemedicine services. The provider or distance site provider shall maintain the records created at any site where treatment or evaluation is provided.

(b) Distance site providers shall obtain an adequate and complete medical history for the patient before providing treatment and shall document the medical history in the patient record.

(c) Patient records shall include copies of all relevant patient-related electronic communications, including relevant provider-patient emails, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions. If possible, telemedicine encounters that are recorded electronically shall also be included in the patient record.

34-22-85. Exceptions.

(a) A licensed optometrist, who is not licensed in Alabama pursuant to Section 34-22-20 or Section 34-22-21, who utilizes telemedicine across state lines in an emergency, as defined by the board, is not subject to the requirements of this article.

(b) A provider that is contacted in an emergency is not subject to the notice and security provisions of this article, but is subject to those provisions should any nonemergency care continue with the patient.

California

§2290.5. TELEHEALTH; PATIENT CONSENT; HOSPITAL PRIVILEGES AND APPROVAL OF CREDENTIALS FOR PROVIDERS OF TELEHEALTH SERVICES (a) For purposes of this division, the following definitions shall apply: (1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient. (2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system. (3) "Health care provider" means a person who is licensed under this division. (4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates. (5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site. (6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. (b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented. (c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth. (d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section. (e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law. (f) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions. (g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility. (h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations. (2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1). (3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations. Added Stats 2011 ch 547 § 4 (AB 415), effective January 1, 2012. Amended by Stats. 2014, Ch. 404, Sec. 1. Effective September 18, 2014.

§ 1571. REQUIREMENTS FOR GLAUCOMA CERTIFICATION

- (A) Case Management Course: Completion of a 16- hour case management course developed cooperatively by the accredited California schools and colleges of optometry and approved by the Board, with at least 15 cases of moderate to advanced complexity. The course may be

conducted live, over the Internet, or by use of telemedicine. One hour of the program will be used for a final competency examination. Although the Case Management Course does not involve treatment of patients, completion of the 16-hour Case Management Course is equivalent to prospectively treating 15 individual patients for 12 consecutive months. Therefore, completion of the 16-hour Case Management Course will count as a 15-patient credit towards the Case Management Requirement. The full course must be completed to receive the 15-patient credit. The course must include the following topics/conditions: 1. Presentation of conditions/cases that licensees may treat: a. All primary open-angle glaucoma; b. Exfoliation and pigmentary glaucoma. 2. Presentation of conditions/cases that licensees may not treat, but must recognize and refer to the appropriate physician and/or surgeon such as: a. Pseudoglaucoma with vascular, malignant, or compressive etiologies; b. Secondary glaucoma; c. Traumatic glaucoma; d. Infective or inflammatory glaucoma; e. Appropriate evaluation and analysis for medical or surgical consultation; f. In an emergency, if possible, stabilization of acute attack of angle closure and immediate referral of the patient.

(C) Preceptorship Program: Completion of a preceptorship program where each patient must be initially evaluated by the licensee and co-managed with a preceptor. Each patient must be prospectively treated for a minimum of 12 consecutive months. A preceptor for purposes of this section is defined as: 1. A California licensed, Board certified ophthalmologist in good standing; or 2. A California licensed optometrist in good standing, who has been glaucoma certified for two or more years. Preceptors shall confirm the diagnosis and treatment plan, and then approve the therapeutic goals and management plan for each patient. Consultation with the preceptor must occur at appropriate clinical intervals or when the therapeutic goals are not achieved. Clinical data will be exchanged at appropriate intervals determined by the preceptor and the licensee. Telemedicine and electronic exchange of information may be used as agreed upon by the preceptor and the licensee. Each patient that is seen by the optometrist in the program will count as a 1-patient credit towards the Case Management Requirement.

Delaware

§ 2101 Definition of practice of optometry.

(e) The practice of optometry also includes services provided by telemedicine and participation in telehealth. For the purposes of this section, "telehealth" is defined as the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. "Distant site" means a site at which a health-care provider legally allowed to practice in the State is located while providing health-care services by means of telemedicine or telehealth. "Originating site" means a site in Delaware at which a patient is located at the time health-care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties. "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

**STATE BOARD OF OPTOMETRY
POLICIES & GUIDELINES**

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**30-8 Community Vision Screenings with Donated Glasses
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Screenings that involve refractive evaluation must be done by a licensed optometrist. It is allowable for such screenings to include matching used donated glasses to the screening participants' needs. Screening participants must be informed that this is a screening only, not a full examination, which would include a thorough eye health evaluation.

30-9 Electronic Records (Adopted May 23, 2014)

The State Board of Optometry determines electronic records to be adequate if the entire record is date-stamped without the ability to be subsequently altered.

30-10 Prescribing and Dispensing Opioids (Adopted August 13, 2014)
This policy begins on page 16.

30-11 Policy Statement Regarding the Provider/Patient Relationship (Adopted August 10, 2016)

Policy: The State Board of Optometry ("Board") adopts the following policy regarding the provider-patient relationship:

The Board defines "Provider" to include licensees regulated by the Board and the "Provider-Patient Relationship" as the mutual understanding, between a provider and patient, of the shared responsibility for the patient's healthcare. This relationship is established when:

- A. The provider agrees to undertake diagnosis and treatment of the patient, and the patient, or a medical proxy for the patient, agrees to be treated - whether or not there has been an in-person encounter between the patient and the provider; and,
- B. The provider:
 - i. Verifies and authenticates the patient's identity and location;
 - ii. Discloses his or her identity and applicable credential(s) to the patient; and,
 - iii. Obtains appropriate informed consent after any relevant disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telehealth technologies.

A "Provider-Patient Relationship" has not been established when either the identity of the provider is unknown to the patient or the identity of the patient is not known to the provider.

Further, the Board finds the relationship between a provider and a patient is fundamental, and is not to be constrained or adversely affected by any considerations other than what is best for the patient. The existence of other considerations, including financial or contractual concerns must be secondary to the fundamental relationship. Prevailing models of optometric practice may result in an inappropriate restriction of the provider's ability to practice quality medicine, creating negative consequences for the patient. It is the expectation of the Board that providers take those actions they consider necessary to assure that the procedures in question do not adversely affect the care that they render to their patients.

30-12 Guidelines for the Appropriate Use of Telehealth Technologies in the Practice of Optometry (Adopted August 10, 2016)

Purpose: To provide guidance regarding the appropriate use of telehealth technologies in the practice of optometry.

Policy: The State Board of Optometry ("Board") has adopted the following guidelines for providers utilizing telehealth technologies in the delivery of patient care.

1) Introduction

The advancements and continued development of medical and communications technology offer opportunities for improving the delivery and accessibility of health care, particularly in the area of telehealth, which includes the practice of optometry using electronic communication, information technology or other means of interaction between a healthcare provider in one location and a patient in another location with or without an intervening healthcare provider.¹ The State Board of Optometry ("Board") recognizes that using telehealth technologies in the delivery of optometric services offers potential benefits in the provision of optometric care. However, in fulfilling its duty to protect the public, the Board must also consider patient safety concerns in adapting rules and policies historically intended for the in-person provision of optometric care to new delivery models involving telehealth technologies.

The Board is committed to assuring patient access to the convenience and benefits afforded by telehealth technologies, while promoting the responsible practice of optometry by providers. The Board has developed guidelines to educate licensees as to the appropriate use of telehealth technologies in the delivery of medical services directly to patients. These guidelines do not set a standard of care, do not alter generally accepted standards of optometric practice, the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law. It is the expectation of the Board that providers of optometric care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;
- Maintain the generally accepted standards of optometric practice;
- Adhere to recognized ethical codes governing the optometric profession;
- Properly supervise non-optometric staff; and
- Protect patient confidentiality.

This policy does not apply to the use of telehealth technologies when solely providing consulting services to another provider who maintains the primary provider-patient relationship with the patient, the subject of the consultation.

¹ See Center for Telehealth and eHealth Law (Ctel), <http://ctel.org/>

2) Definitions

For the purpose of this policy, the following terms are defined as:

- a. "TELEHEALTH"
 - (1) "Telehealth" means a mode of delivery of health care services through telecommunications systems, including information, electronic, and communication technologies, to facilitate the assessment, diagnosis, consultation, treatment, education, care management, or self-management of a person's health care while the person is located at an originating site and the provider is located at a distant site. The term includes synchronous interactions and store-and-forward transfers.
 - (2) "Telehealth" includes the delivery of medical services and any diagnosis, consultation, or treatment using interactive audio, interactive video, or interactive data communication.
 - (3) This policy defines "telehealth" for purposes of compliance with the Optometric Practice Act. Telehealth may be defined differently in different statutory contexts, including but not limited to, insurance requirements or reimbursement.
 - (4) Nothing in this policy authorizes optometrists to deliver services outside their scope of practice or limits the delivery of health services by other licensed professionals, within the professional's scope of practice, using advanced technology, including, but not limited to, interactive audio, interactive video, or interactive data communication.
- b. "TELEHEALTH TECHNOLOGIES" means technologies and devices enabling secure electronic communications and information exchange between a licensee in one location and a patient in another location with or without an intervening healthcare provider.
- c. "DISTANT SITE" means a site at which a provider is located while providing optometric services by means of telehealth.
- d. "ORIGINATING SITE" means a site at which a patient is located at the time optometric services are provided to him or her by means of telehealth.
- e. "STORE-AND-FORWARD TRANSFER" means the electronic transfer of a patient's medical information or an interaction between providers that occurs between an originating site and distant sites when the patient is not present.
- f. "SYNCHRONOUS INTERACTION" means a real-time interaction between a patient located at the originating site and a provider located at a distant site.
- g. "PROVIDER" means a licensee regulated by the State Board of Optometry.
- h. "PROVIDER-PATIENT RELATIONSHIP" means the relationship as defined in Board Policy 30-11.

3) Guidelines

a. Licensure

Providers, who evaluate, treat or prescribe through telehealth technologies are practicing optometry. The practice of optometry occurs where the patient is located at the time telehealth technologies are used. Therefore, a provider must be licensed to practice optometry in the state of Colorado in order to evaluate or treat patients located in Colorado utilizing telehealth technologies or otherwise.

b. Establishment of a Provider-Patient Relationship

Where an existing provider-patient relationship is not present, a provider must take appropriate steps to establish a provider-patient relationship consistent with the guidelines identified in Board Policy 30-11. Provider-patient relationships may be established using telehealth technologies so long as the relationship is established in conformance with generally accepted standards of practice.

c. Evaluation and Treatment of the Patient

An appropriate medical evaluation and review of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided should be performed prior to providing treatment, including issuing prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (encounter in person) settings. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.

d. Informed Consent

Appropriate informed consent should be obtained for a telehealth encounter including those elements required by law and generally accepted standards of practice.

e. Continuity of Care

Optometrists should adhere to generally accepted standards of optometric practice as it relates to continuity and coordination of care.

f. Referrals for Emergency Services

An emergency plan should be provided by the provider to the patient when the care provided using telehealth technologies indicates that a referral to an acute care facility or Emergency Department for treatment is necessary for the safety of the patient.

g. Medical Records

The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-provider communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telehealth technologies. Informed consents obtained in connection with an encounter involving telehealth technologies should also be filed in the medical record. The patient record established during the use of telehealth technologies must be accessible and documented for both the provider and the patient, consistent with all established laws and regulations governing patient healthcare records.

- h. Privacy and Security of Patient Records & Exchange of Information
Providers should meet or exceed applicable federal and state legal requirements of medical/health information privacy, including compliance with the Health Insurance Portability and Accountability Act (HIPAA) and state privacy, confidentiality, security, and medical record retention rules.

Written policies and procedures should be maintained at the same standard as traditional in-person encounters for documentation, maintenance, and transmission of the records of the encounter using telehealth technologies.

- i. Disclosures and Functionality for Providing Online Services
Disclosures and advertising should be made in accordance with state and federal law.

- j. Prescribing
Prescribing medications and/or medical devices, in-person or via telehealth technologies, is at the professional discretion of the provider. The indication, appropriateness, and safety considerations for each telehealth visit prescription must be evaluated by the provider in accordance with current standards of practice and consequently carry the same professional accountability as prescriptions delivered during an encounter in person. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, providers may exercise their judgment and prescribe medications as part of telehealth encounters.

- k. Parity of Professional and Ethical Standards
There should be parity of ethical and professional standards applied to all aspects of a provider's practice.

A provider's professional discretion as to the diagnoses, scope of care, or treatment should not be limited or influenced by non-clinical considerations of telehealth technologies, and provider remuneration or treatment recommendations should not be materially based on the delivery of patient-desired outcomes (i.e. a prescription or referral) or the utilization of telehealth technologies.

40- Discipline

40-1 Guidelines Pertaining to Confidential Letters of Concern (Adopted August 2008; Amended May 23, 2014)

Purpose: To clarify the basis for this type of dismissal, when the Optometry Board may reopen such case and designation of a specific retention period for these types of cases.

POLICY: It is the policy of the Board that complaints dismissed with Confidential Letters of Concern are not dismissed as being without merit but rather are dismissed due to no reasonable cause to warrant further action at that time. Cases that are dismissed with a Confidential Letter of Concern will be retained in the Board's files for a period of five years.

The Board may reopen a case that was dismissed with a Confidential Letter of Concern in the face of a change in circumstances. Such a change in circumstances would include but not be limited to:

- discovery of new evidence supporting the underlying charges

Florida

During the 2016 Legislative Session, House Bill 7087 was passed and became law on April 14, 2016, as Chapter 2016-240, Laws of Florida. This bill creates the Telehealth Advisory Council and also requires the Agency for Healthcare Administration (AHCA), the Department of Health (DOH) and the Office of Insurance Regulation (OIR) to survey health care facilities, health care practitioners, insurers and health maintenance organizations regarding the use of telehealth in Florida. The Telehealth Advisory Council is tasked with reviewing the survey and research findings and making recommendations to increase the use and accessibility of telehealth in Florida.

Effective July 1, 2016, DOH will survey all health care practitioners, as defined by section 456.001, Florida Statutes, upon and as a condition of renewal. The telehealth survey conducted by DOH during licensure renewal is required, and the Department may assess fines for non-compliance with the survey request.

AHCA has launched a dedicated webpage for House Bill 7087, which includes information regarding the Telehealth Advisory Council, telehealth resources and links, telehealth industry surveys and frequently asked questions. For more information and to sign up for Telehealth Advisory Council updates, visit <http://www.ahca.myflorida.com/SCHS/telehealth>.

To view a full list of bill summaries from the 2016 Legislative Session, please visit www.FLHealthSource.gov/2016-bills. Once there, you will be able to view summaries, effective dates and a link to the final enrolled text.

Kentucky

Chapter 320.390

320.390 Duty of treating optometrist utilizing telehealth to ensure patient's informed consent and maintain confidentiality -- Board to promulgate administrative regulations -- Definitions of "telehealth". (1) A treating optometrist who provides or facilitates the use of telehealth shall ensure: (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law. (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to: (a) Prevent abuse and fraud through the use of telehealth services; (b) Prevent fee-splitting through the use of telehealth services; and (c) Utilize telehealth in the provision of optometric services and in the provision of continuing education. (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education. Effective: July 14, 2000 History: Created 2000 Ky. Acts ch. 376, sec. 18, effective July 14, 2000.

Regulation 201 KAR 5:055 Telehealth

201 KAR 5:055. Telehealth. RELATES TO: KRS 320.300, 320.390 STATUTORY AUTHORITY: KRS 320.390(2) NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.390(2) requires the Board of Optometric Examiners to promulgate administrative regulations to prevent abuse and fraud through the use of telehealth services, prevent fee-splitting through the use of telehealth services, and utilize telehealth in the provision of optometric services and in the provision of continuing education. This administrative regulation establishes requirements for the use of telehealth services. Section 1. Definitions. (1) "Contact lens prescription" is defined by KRS 367.680(3). (2) "Eye examination" means an examination that meets the requirements for a complete eye examination established in 201 KAR 5:040, Section 7(1). (3) "Face to face" means in person and not via telehealth. (4) "Licensed health care professional" means an optometrist licensed pursuant to KRS Chapter 320, or a physician or osteopath licensed under KRS 311.550(12). (5) "Optometrist" means an individual licensed by the Kentucky Board of Optometric Examiners to engage in the practice of optometry. (6) "Patient" means the person receiving services or items from an optometrist or a physician. (7) "Physician" is defined by KRS 311.550(12). (8) "Practice of optometry" is defined by KRS 320.210(2). (9) "Prescription" means an order for a pharmaceutical agent, or any other therapy within the scope of practice of an optometrist or a physician. --PAGE 24 OF 33-- (10) "Prescription for eyewear" means a written prescription for visual aid glasses or a contact lens prescription after a complete eye examination is performed by an optometrist or physician. (11) "Telehealth" is defined by KRS 320.390(3). (12) "Telehealth provider" means an optometrist licensed pursuant to KRS Chapter 320 who performs a telehealth consultation. (13) "Telepractice" means the practice of optometry that is provided by using communication technology that is two (2) way, interactive, simultaneous audio and video. (14) "Visual aid glasses" is defined by KRS 320.210(4).

Section 2. Patient Identity, Communication and Informed Consent Requirements. (1) An optometrist-patient relationship shall not commence via telehealth. (2) An initial, in-person meeting for the

optometrist and patient who will prospectively utilize telehealth shall occur in order to evaluate whether the potential or current patient is a candidate to receive services via telehealth. (3) An optometrist who uses telehealth to deliver vision or eye care services shall at the initial, face-to-face meeting with the patient: (a) Verify the identity of the patient; (b) Establish a medical history and permanent record for the patient; (c) Obtain alternative means of contacting the patient other than electronically such as by the use of a telephone number or mailing address; (d) Provide to the patient alternative means of contacting the optometrist other than electronically such as by the use of a telephone number or mailing address; (e) Provide contact methods of alternative communication the optometrist shall use for emergency purposes such as an emergency on call telephone number; (f) Document if the patient has the necessary knowledge and skills to benefit from the type of telepractice provided by the optometrist; and (g) Inform the patient in writing and document acknowledgement of the risk and limitations of: 1. The use of technology in the use of telepractice; 2. The potential breach of confidentiality of information or inadvertent access of protected health information due to technology in telepractice; 3. The potential disruption of technology in the use of telepractice; 4. When and how the optometrist will respond to routine electronic messages; 5. The circumstances in which the optometrist will use alternative communications for emergency purposes; 6. Others who may have access to patient communications with the optometrist; 7. How communications shall be directed to a specific optometrist; 8. How the optometrist stores electronic communications from the patient; and 9. Whether the optometrist may elect to discontinue the provision of services through telehealth. Section 3. Jurisdictional Considerations. A licensed health care professional providing eye and vision services via telehealth shall be licensed by the Kentucky Board of Optometric Examiners or the Kentucky Board of Medical Licensure if services are provided: (1) To a person physically located in Kentucky; or (2) By a person who is physically located in Kentucky. --PAGE 25 OF 33-- Section 4. Representation of Services and Code of Conduct. (1) A telehealth provider shall not engage in false, misleading, or deceptive advertising. A person shall not advertise an eye examination unless the requirements of 201 KAR 5:040, Section 7(1) are met. A person shall not purport to write a prescription for eyewear solely by using an autorefractor or other automated testing device. (2) Treatment and consultation recommendations made in an online setting, including a prescription or a prescription for eyewear via electronic means, shall be held to the same standards of appropriate practice as those in traditional practice, face-to-face settings. Treatment, including issuing a prescription for eyewear based solely on an online autorefraction, shall not constitute an acceptable practice or standard of care. (3) Prescriptions for controlled substances shall not be made via telehealth. (4) A telehealth provider shall: (a) Not split fees in accordance with KRS 320.300(3); (b) Shall maintain a medical record of a service or item provided to a patient via telepractice; (c) Document the patient's presenting problem, purpose, or diagnosis and include which services were provided by telepractice; (d) Use secure communications with each patient including encrypted text messages, via email or secure Web site and not use personal identifying information in non-secure communications; and (e) Dispense visual aids only in accordance with KRS 320.300(1). Section 5. Utilization of Telehealth in Provision of Continuing Education. Credit for telehealth educational presentations shall be granted in accordance with 201 KAR 5:030, Section 2. Educational hours obtained through telehealth shall be considered as part of the credit hours granted in accordance with 201 KAR 5:030, Section 6(1). Section 6. This administrative regulation shall not be construed as giving jurisdiction over physicians licensed under KRS Chapter 311 to the Kentucky Board of Optometric Examiners. (41 Ky.R. 672; 1040; 1308; eff. 11-19-2014.)

Oklahoma

Title 505:10-3-6 Special volunteer licenses

(B) the relevant practice history of the applicant;

(4) Acknowledgement and documentation that the eligible volunteer shall not receive or have the expectation to receive any payment or compensation, either direct or indirect, for any services rendered in this state under the special volunteer license. The only exception to the indirect compensation provision is for those out-of-state optometrists that participate in the free care given by means of Telemedicine through the Shriner's Hospitals for Children national network.

Texas

§279.16. Telehealth Services (a) Definitions. The following words and terms, when used in this section shall have the following meanings unless the context indicates otherwise. (1) Established treatment site--A location where a patient will present to seek optometric care where there is an optometrist, therapeutic optometrist or physician present and sufficient technology and equipment to allow for an adequate physical evaluation as appropriate for the patient's presenting complaint. It requires an optometrist-patient relationship. A patient's private home is not considered an established medical site. (2) Face-to-face visit--An evaluation performed on a patient where the provider and patient are both at the same physical location or where the patient is at an established medical site. (3) In-person evaluation--A patient evaluation conducted by a provider who is at the same physical location as the location of the patient. (4) Provider--An optometrist or therapeutic optometrist holding an active Texas license. (5) Distant sight provider--The provider providing the telehealth service from a site other than the patient's current location. (6) Telehealth service--A health service, other than a telemedicine service, that is delivered by a licensed optometrist or therapeutic optometrist acting within the scope of his or her license, and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including: (A) compressed digital interactive video, audio, or data transmission; (B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and (C) other technology that facilitates access to health care services or optometric specialty expertise. (b) Fraud and Abuse Prevention. (1) All optometrist or therapeutic optometrists that use telehealth services in their practices shall adopt protocols to prevent fraud and abuse through the use of telehealth services. These standards shall be consistent with those established by the Texas Health and Human Services Commission pursuant to §531.02161 of the Government Code. (2) In order to establish that an optometrist or therapeutic optometrist has made a good faith effort in the licensee's practice to prevent fraud and abuse through the use of telehealth services, the optometrist or therapeutic optometrist must implement written protocols that address the following: (A) authentication and authorization of users; (B) authentication of the origin of information; (C) the prevention of unauthorized access to the system or information; (D) system security, including the integrity of information that is collected, program integrity, and system integrity; (E) maintenance of documentation about system and information usage; (F) information storage, maintenance, and transmission; and (G) synchronization and verification of patient profile data. (c) Notice. (1) Privacy Practices. (A) Providers that communicate with patients by electronic communications other than telephone or facsimile must provide patients with written notification of the providers' privacy practices prior to evaluation or treatment. In addition, a good faith effort must be made to obtain the patient's written acknowledgement, including by e-mail, of the notice. (B) The notice of privacy practices shall include language that is consistent with federal standards under 45 CFR Parts 160 and 164 relating to privacy of individually identifiable health information. (2) Limitations of Telehealth. Providers who use telehealth services must, prior to providing services, give their patients notice regarding telehealth services, including the risks and benefits of being treated via telehealth, how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A signed and dated notice, including an electronic acknowledgement, by the patient establishes a presumption of notice. (3) Necessity of In-Person Evaluation. When, for whatever reason, the telehealth modality in use for a particular patient encounter is unable to provide all pertinent clinical information that a health care provider exercising ordinary skill and care would deem reasonably necessary for the practice of optometry or therapeutic

optometry at an acceptable level of safety and quality in the context of that particular encounter, then the distant site provider must make this known to the patient and advise and counsel the patient regarding the need for the patient to obtain an additional in-person evaluation reasonably able to meet the patient's needs. (4) Complaints to the Board. Optometrists or therapeutic optometrists that use telehealth services must provide notice of how patients may file a complaint with the Board on the optometrist's or therapeutic optometrist's website or with informed consent materials provided to patients prior to rendering telehealth services. (d) Services Provided at an Established Medical Site. Telehealth services provided at an established medical site may be used for all patient visits, including initial evaluations to establish a proper doctor-patient relationship between a distant site provider and a patient. (1) a provider or licensed physician must be reasonably available onsite at the established medical site to assist with the provision of care. (2) A distant site provider may authorize an assistant at the established medical site to perform the procedures authorized by §279.1 and §279.3 of this title (relating to Contact Lens Examination and Spectacle Examination), subject to the same requirements as provided in those sections. (e) Evaluation and Treatment of the Patient. (1) Distant site providers who utilize telehealth services must ensure that a proper provider-patient relationship is established which at a minimum includes: (A) establishing that the person requesting the treatment is in fact whom he/she claims to be; (B) establishing a diagnosis through the use of acceptable medical practices, including patient history, mental status examination, physical examination (unless not warranted by the patient's mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identify underlying conditions or contra-indications, or both, to treatment recommended or provided; (C) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and (D) ensuring the availability of the distant site provider or coverage of the patient for appropriate follow-up care. (2) Treatment. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional in-person clinical settings. (f) Technology and Security Requirements. (1) At a minimum, advanced communication technology must be used for all patient evaluation and treatment conducted via telehealth. (2) Adequate security measures must be implemented to ensure that all patient communications, recordings and records remain confidential. (3) Electronic Communications. (A) Written policies and procedures must be maintained when using electronic mail for provider-patient communications. Policies must be evaluated periodically to make sure they are up to date. Such policies and procedures must address: (i) privacy to assure confidentiality and integrity of patient-identifiable information; (ii) health care personnel, in addition to the provider, who will process messages; (iii) hours of operation and availability; (iv) types of transactions that will be permitted electronically; (v) required patient information to be included in the communication, such as patient name, identification number and type of transaction; (vi) archival and retrieval; and (vii) quality oversight mechanisms. (B) All relevant provider-patient e-mail, as well as other patient-related electronic communications, must be stored and filed in the patient record. (C) Patients must be informed of alternative forms of communication for urgent matters. (g) Patient Records for Telehealth Services. (1) Patient records must be maintained for all telehealth services. Both the distant site provider and the provider or physician at the established medical site must maintain the records created at each site unless the distant site provider maintains the records in an electronic health record format. (2) Distant site providers must obtain an adequate and complete medical history for the patient prior to providing treatment and must document this in the patient record. (3) Patient records must include copies of all relevant patient-related electronic communications, including relevant provider-patient e-

mail, prescriptions, laboratory and test results, evaluations and consultations, records of past care and instructions. If possible, telehealth encounters that are recorded electronically should also be included in the patient record.

SOUTH CAROLINA BOARD OF EXAMINERS IN OPTOMETRY

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