SOUTH CAROLINA BOARD OF EXAMINERS IN OPTOMETRY
AGENDA
Board Meeting, May 24, 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)

Approval of February 8, 2017 Board Meeting Minutes

Office of Investigations and Enforcement (OIE) Statistical Report – David Love, Chief of Investigations

Investigative Review Committee (IRC) Report – David Love, Chief of Investigations

Office of Disciplinary Counsel (ODC) Report– Shanika Johnson, ODC

Legislative Update – Rebecca Leach, Office of Communications and Governmental Affairs

a. Criminal Background checks for licensees
b. Prescription Monitoring Program Bill H. 3824 to amend 40-37-240 (D)(2)

REPORTS / INFORMATION

Administrative Information – April Koon

a. Licensee Totals
b. Endorsement Applicant Report
c. Financial Report
d. Election of Board Member Processes

UNFINISHED BUSINESS

1. Telemedicine

NEW BUSINESS

1. Continuing Education Audit Discussion
2. Scope of Practice inquiry concerning 40-37-310 (D) - Carolina Eye Cataract & Laser

PUBLIC COMMENTS

ANNOUNCEMENTS

Upcoming Board Meeting – July 12, 2017

ADJOURNMENT

South Carolina Department of Labor, Licensing and Regulation (LLR)
Board of Examiners in Optometry
Board Meeting Minutes
February 8, 2017
Synergy Business Park
110 Centerview Drive, Kingstree 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, Kingstree 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
Charles Hill, Public Member
Jesse W. Price, III, Public Member
BOARD MEMBERS ABSENCE:
Dr. Michelle Cooper
SCLLR STAFF PRESENT:
Donnell Jennings, Esquire, Office of Advice Counsel
April Koon, Administrator
Missy L. Jones, Administrative Assistant
Darra Coleman, Chief Advice Counsel of Office of Advice Counsel
For IRC Report:
David Love, Chief Investigator, Office of Investigations and Enforcement
For ODC Report:
Shanika Johnson, Esquire, Office of Disciplinary Counsel
PRESENT:
Gary Haywood, Nationally Certified Court Reporter
Wayne Cannon, OD, IRC Member, LLR
Jackie Rivers, Executive Director, SCOPA
Dr. R.B. Antley, OD
E.J. Movmeg, OD
Marion Efron, OD

CALL TO ORDER: At 3:01 p.m. the meeting was called to order by Dr. Candela.

APPROVAL OF AGENDA: A **motion** was made by Dr. Vaught to accept the February 8, 2017, Agenda. The motion was seconded by Dr. Tucker and carried unanimously.

APPROVAL OF ABSENT BOARD MEMBER(S): A **motion** was made by Dr. Vaught to approve Dr. Michelle Cooper's absence. The motion was seconded by Dr. Tucker and carried unanimously.

APPROVAL OF OCTOBER 12, 2016 MEETING MINUTES: A **motion** was made by Dr. Tucker to accept the October 12, 2016 minutes as written. The motion was seconded by Dr. Vaught and carried unanimously.

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

INVESTIGATIVE REVIEW COMMITTEE (IRC) REPORT: Mr. Love provided the IRC Report. It was recommended to dismiss case #2016-9. A **motion** was made by Dr. Vaught to accept the IRC dismissal recommendations. The motion was seconded by Dr. Tucker and carried unanimously.

OFFICE OF DISCIPLINARY COUNSEL (ODC) REPORT: Ms. Johnson reported that there is one (1) pending case in the Office of Disciplinary Counsel.

OFFICE OF ADVICE COUNSEL (OAC) TRAINING FOR BOARD MEMBERS ON SELECTED LEGAL AND ETHICAL TOPICS: Mrs. Coleman gave the Board a training presentation from OAC on selected legal and ethical topics.

EXECUTIVE SESSION-COMPLAINT PROCESS: A **motion** was made by Dr. Van Veen to go into executive session. The motion was seconded by Dr. Tucker and carried unanimously. A **motion** was made by Dr. Tucker to come out of executive session. The motion was seconded by Dr. Vaught and carried unanimously.

LEGISLATIVE UPDATE: Mr. Singh gave a brief presentation of Bill H3438, Drug Substitutions. Mr. Singh stated that this law allows a pharmacist to substitute an interchangeable biological product for a specific biological product. The pharmacist has five days to notify the prescribing physician that the generic version was used to fill the prescription.
Mr. Jennings gave a brief presentation of SC Code Section 63-7-310. Mr. Jennings stated that this law states that all medically related licensees must report any kind or signs of child abuse or neglect. The Board accepted this as information.

REPORTS / INFORMATION

- **Licensee Totals Report and Endorsement Applicant Report** – S.C. 837 licensed optometrists; 563 practice in S.C.; 274 practice out-of-state. No Endorsement Applicant licenses issued
- **Renewal Report** – 837 optometrist renewed. Only 87 did not renew. Cease and Desist letters were mailed to the 87 optometrist that did not renew on February 2, 2017.
- **Financial Report** - provided and accepted as information
- **ARBO Membership Benefits and Annual Meeting** – Information only.

UNFINISHED BUSINESS

JURISPRUDENCE EXAMINATION REVIEW: A **motion** was made by Dr. Vaught to eliminate "D" in Question 10 and retitle "E" as "D" and adopt all changes. The motion was seconded by Dr. Van Veen and carried unanimously. A **motion** was made by Dr. Van Veen to make the changes and implement the exam. The motion was seconded by Dr. Tucker and carried unanimously.

NEW BUSINESS

REQUEST FOR CE APPROVAL FOR UNLIMITED HOURS-SOCIETY OF PROFESSIONAL OPTOMETRIST INC.: Dr. Antley requested that the Board grant unlimited continuing education hours for the Society of Professional Optometrist, Inc. A **motion** was made by Dr. Van Veen to go into executive session. The motion was seconded by Dr. Tucker and carried unanimously. A **motion** was made by Dr. Tucker to come out of executive session. The motion was seconded by Dr. Vaught and carried unanimously. A **motion** was made by Dr. Van Veen to approve the request for unlimited continuing education hours for Society of Professional Optometrists for 2017 only. The motion was seconded by Dr. Tucker and carried with Dr. Vaught and Mr. Price opposing. Dr. Candela suggested that the Society of Professional Optometrist remove the statement

on their website claiming that South Carolina hours are automatically approved since they require approval on a yearly basis.

MEDICAL EXTENSION AND LICENSE RENEWAL: Requests for a medical extension for license renewal will be reviewed on a case-by-case basis. This request must include a medical statement by the attending physician as proof of the medical condition and be reviewed by the Board president and staff. A six month time frame will be given to complete all required continuing education or the license will lapse.

DISCUSSION OF RENEWAL PROCESSES AND GUIDELINES: The Board gave guidance to LLR staff to continue to allow the one month extension for renewal (Jan 1 – 31 odd years) with $50.00 late fee. During that month, the licensee is allowed to practice up until January 31st of any renewal cycle.

TELEMEDICINE: This item has been carried over to the May 24, 2017 Board Meeting.

ELECTION OF BOARD OFFICERS: A **motion** was made by Dr. Tucker for Dr. Vaught to be President of the Board. The motion was seconded by Dr. Van Veen and carried unanimously. A **motion** was made by Dr. Tucker for Dr. Cooper to be Vice President of the Board. The motion was seconded by Dr. Van Veen and carried unanimously.

APPROVAL OF BOARD MEMBER AND ADMINISTRATOR TRAVEL TO ASSOCIATION OF REGULATORY BOARDS OF OPTOMETRY (ARBO) ANNUAL MEETING JUNE 18-20, 2017: A **motion** was made by Dr. Tucker to approve a Board Member and the Administrator to attend the Association of Regulatory Board of Optometry Annual Meeting June 18 – 20, 2017. The motion was seconded by Dr. Van Veen and carried unanimously.

PUBLIC COMMENTS

There were no public comments.

ANNOUNCEMENTS

The next Board meeting is scheduled for May 24, 2017.

ADJOURNMENT

A **motion** was made by Dr. Tucker, seconded by Dr. Van Veen, and unanimously carried to adjourn the meeting. Dr. Candela adjourned the meeting at 6:00 p.m.

These minutes are a record of the official actions taken by the Board and a summary of the meeting provided by April Koon, Administrator. Minutes are presented to the Board for final approval.

Date: May 24, 2017

South Carolina Board of Examiners in Optometry

Statistical Board Report

Case Status (Optometry Cases received from 1/1/17 thru 5/17/17)	Total
Active Investigation (Avg days: 42) (OPTOMETRY)	3
Closed (Avg days: 35) (OPTOMETRY)	1
Do Not Open Case (Avg days: 5) (OPTOMETRY)	1
Total	5

Case Status (Optometry cases received from 1/1/2016 thru 12/31/16)	Total
Closed (Avg days: 110) (OPTOMETRY)	7
Do Not Open Case (Avg days: 6) (OPTOMETRY)	3
Pending Board Action (Avg days: 194) (OPTOMETRY)	2
Total	12

Date: May 24, 2017

South Carolina Board of Examiners in Optometry

IRC held on May 17, 2017

Dismissal – 2

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
2016-10	Adrian Rivera	The complaint alleges Respondent (OD) of substandard care concerning an eye exam for patient on 09/23/2016. In addition Respondent was rude and raised her voice.	IRC met on 05/17/2017 and recommended dismissal. No evidence found to support the allegations.
2016-11	Adrian Rivera	The complaint alleges Respondent (OD) incised and drained a 'cyst" and is practicing outside the scope of practice.	IRC met on 05/17/2017 and recommended dismissal. No evidence found to support the allegations.
Total Cases: 2			

OGC Case Load Statistics

As of 5/17/2017

Board	Open Cases	Pending Actions	Pending CA/MOAs	Pending Hearings	Pending Final Order Hearings	Pending Final Orders	Closed*	Appeals
Optometry	1	0	1	0	0	0	0	0

*Closed Cases on or after 1/1/17

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From: Holly Beeson
Sent: Wednesday, May 17, 2017 12:11 PM
To: April Koon
Subject: H.3824 - ratified, awaiting Governor's consideration

This is the bill I mentioned – the update to the prescription monitoring program bill. It adds some CE requirements for optometrists regarding prescribing and monitoring controlled substances:

http://www.scstatehouse.gov/sess122_2017-2018/prever/3824_20170510.htm

I have included the relevant provision below:

SECTION 6. Section 40-37-240(D)(2) of the 1976 Code is amended to read:

"(2) Continuing education instruction must be on subjects relative to optometry, exclusive of office management or administration, at board-approved and recognized educational seminars and courses or accredited institutions of learning. Four of the forty hours may be for courses directly related to mandated health care programs including, but not limited to, HIPAA, Medicare and Medicaid, and Ethics or Jurisprudence. Sixteen of the forty hours must be pharmacology or pathology related. Satisfactory proof of compliance with this requirement is a prerequisite for biennial license renewal. If an optometrist is authorized pursuant to state and federal law to prescribe controlled substances, two of the requisite hours of continuing education must be related to approved procedures of prescribing and monitoring controlled substances listed in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, and 44-53-250."

Holly Beeson
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South Carolina General Assembly
122nd Session, 2017-2018

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Bill 3824

~~Indicates Matter Stricken~~
Indicates New Matter

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

May 9, 2017

H. 3824

Introduced by Reps. Henderson, Bedingfield, Fry, Huggins, Johnson, Hewitt, Crawford, Duckworth, Allison, Arrington, Forrester, Tallon, Hamilton, Felder, Elliott, Jordan, B. Newton, Martin, Erickson, Jefferson, Cobb-Hunter, Govan, Long, Putnam, Cogswell and Collins

S. Printed 5/9/17--S. [SEC 5/10/17 12:16 PM]

Read the first time April 5, 2017.

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-53-1645 SO AS TO REQUIRE HEALTH CARE PRACTITIONERS TO REVIEW A PATIENT'S CONTROLLED SUBSTANCE PRESCRIPTION HISTORY, AS MAINTAINED IN THE PRESCRIPTION DRUG MONITORING PROGRAM, BEFORE PRESCRIBING A SCHEDULE II CONTROLLED SUBSTANCE, WITH EXCEPTIONS; TO AMEND SECTION 44-53-1630, AS AMENDED, RELATING TO THE PRESCRIPTION DRUG MONITORING PROGRAM, SO AS TO ADD A DEFINITION OF "PRACTITIONER"; TO AMEND SECTION 44-53-1640, AS AMENDED, RELATING TO THE PRESCRIPTION DRUG MONITORING PROGRAM, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 44-53-1680, AS AMENDED, RELATING TO PENALTIES FOR VIOLATING REQUIREMENTS OF THE PRESCRIPTION DRUG MONITORING PROGRAM, SO AS TO ESTABLISH A PENALTY IF A PRACTITIONER OR AUTHORIZED DELEGATE FAILS TO REVIEW A PATIENT'S CONTROLLED SUBSTANCE PRESCRIPTION HISTORY, AS MAINTAINED IN THE PRESCRIPTION DRUG MONITORING PROGRAM, BEFORE PRESCRIBING A SCHEDULE II CONTROLLED SUBSTANCE; BY ADDING SECTION 40-15-145 SO AS TO ESTABLISH EDUCATIONAL REQUIREMENTS FOR DENTISTS ADDRESSING THE PRESCRIPTION AND MONITORING OF CERTAIN CONTROLLED SUBSTANCES; TO AMEND SECTIONS 40-37-240, 40-47-965, AS AMENDED, AND 40-51-140, RELATING TO CONTINUING EDUCATION REQUIREMENTS FOR CERTAIN HEALTH CARE PRACTITIONERS, SO AS TO ADD REQUIREMENTS ADDRESSING THE PRESCRIPTION AND MONITORING OF CERTAIN CONTROLLED SUBSTANCES; AND TO AMEND SECTION 40-43-130,

RELATING TO CONTINUING EDUCATION REQUIREMENTS FOR PHARMACISTS, SO AS TO ADD REQUIREMENTS ADDRESSING CERTAIN CONTROLLED SUBSTANCES.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 15, Chapter 53, Title 44 of the 1976 Code is amended by adding:

"Section 44-53-1645. (A) A practitioner, or the practitioner's authorized delegate, shall review a patient's controlled substance prescription history, as maintained in the prescription monitoring program, before the practitioner issues a prescription for a Schedule II controlled substance. If an authorized delegate reviews a patient's controlled substance prescription history, the practitioner must consult with the authorized delegate regarding the prescription history before issuing a prescription for a Schedule II controlled substance. The consultation must be documented in the patient's medical record.

(B) The requirements of this section do not apply to:

(1) a practitioner issuing a prescription for a Schedule II controlled substance to treat a hospice-certified patient;

(2) a practitioner issuing a prescription for a Schedule II controlled substance that does not exceed a five-day supply for a patient;

(3) a practitioner prescribing a Schedule II controlled substance for a patient with whom the practitioner has an established relationship for the treatment of a chronic condition; however, the practitioner must review the patient's controlled substance history maintained in the prescription monitoring program at least every three months;

(4) a practitioner approving the administration of a Schedule II controlled substance by a healthcare provider licensed in South Carolina;

(5) a practitioner prescribing a Schedule II controlled substance for a patient in a skilled nursing facility, nursing home, community residential care facility, or an assisted living facility and the patient's medications are stored, given, and monitored by staff; or

(6) a practitioner who is temporarily unable to access the prescription monitoring program due to exigent circumstances; however, the exigent circumstances and the potential adverse impact to the patient if the prescription is not issued timely must be documented in the patient's medical record.

(C) A practitioner is deemed to be in compliance with this section if the practitioner utilizes technology that automatically displays the patient's controlled substance prescription history from the prescription monitoring program in the practitioner's electronic medical record system. The practitioner must be able to demonstrate that this technology has been deployed in his practice, but no additional documentation is required in the patient's medical record."

SECTION 2. Section 44-53-1630 of the 1976 Code, as last amended by Act 244 of 2014, is further amended to read:

"Section 44-53-1630. As used in this ~~section~~ article:

(1) 'Authorized delegate' means an individual who is approved as having access to the prescription monitoring program and who is directly supervised by an authorized practitioner or pharmacist.

(2) 'Controlled substances' means those substances listed in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, 44-53-250, and 44-53-270.

~~(2)~~(3) 'Dispenser' means a person who delivers a Schedule II-IV controlled substance to the ultimate user, but does not include:

(a) a licensed hospital pharmacy that distributes controlled substances for the purpose of inpatient hospital care or dispenses prescriptions for controlled substances at the time of discharge from the hospital;

(b) a practitioner or other authorized person who administers these controlled substances; or

(c) a wholesale distributor of a Schedule II-IV controlled substance.

~~(3)~~(4) 'Drug control' means the Department of Health and Environmental Control, Bureau of Drug Control.

~~(4)~~(5) 'Patient' means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, or both.

~~(5)~~(6) 'Practitioner' means an individual authorized pursuant to state and federal law to prescribe controlled substances."

SECTION 3. Section 44-53-1640(A) of the 1976 Code is amended to read:

"(A) The Department of Health and Environmental Control, Bureau of Drug Control ~~may~~ shall establish and maintain a program to monitor the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense these substances in this State."

SECTION 4. Section 44-53-1680 of the 1976 Code, as last amended by Act 244 of 2014, is further amended to read:

"Section 44-53-1680.(A) A dispenser or authorized delegate who knowingly fails to submit prescription monitoring information to drug control as required by this article, or who knowingly submits incorrect prescription information, is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

(B) A person ~~or persons authorized to have prescription monitoring information pursuant to this article~~ who knowingly discloses ~~this~~ prescription monitoring information in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(C) A person ~~or persons authorized to have prescription monitoring information pursuant to this article~~ who knowingly uses ~~this~~ prescription monitoring information in a manner or for a purpose in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(D) A pharmacist or practitioner, licensed in Title 40, who knowingly discloses prescription monitoring information in a manner or for a purpose in violation of this article shall be reported to his respective board for disciplinary action.

(E) Nothing in this chapter requires a pharmacist ~~or practitioner~~ to obtain information about a patient from the prescription monitoring program. A practitioner or authorized delegate of a practitioner who knowingly fails to review a patient's controlled substance prescription history, as maintained in the prescription monitoring program, or a practitioner who knowingly fails to consult with his authorized delegate regarding a patient's controlled substance prescription history before issuing a prescription for a Schedule II controlled substance, as required by this article, must be reported to his respective board for disciplinary action.

(F) A pharmacist or practitioner does not have a duty and must not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist or practitioner did or did not seek or obtain information from the prescription monitoring program. A pharmacist or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving information from the prescription monitoring program."

SECTION 5. Article 1, Chapter 15, Title 40 of the 1976 Code is amended by adding:

"Section 40-15-145. As part of the biennial continuing education required by the board or pursuant to law, including Regulation 39-5, South Carolina Code of State Regulations, a dentist authorized pursuant to state and federal law to prescribe controlled substances shall complete at least two hours of continuing education every two years related to approved procedures of prescribing and monitoring controlled substances listed in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, and 44-53-250."

SECTION 6. Section 40-37-240(D)(2) of the 1976 Code is amended to read:

"(2) Continuing education instruction must be on subjects relative to optometry, exclusive of office management or administration, at board-approved and recognized educational seminars and courses or accredited institutions of learning. Four of the forty hours may be for courses directly related to mandated health care programs including, but not limited to, HIPAA, Medicare and Medicaid, and Ethics or Jurisprudence. Sixteen of the forty hours must be pharmacology or pathology related. Satisfactory proof of compliance with this requirement is a prerequisite for biennial license renewal. If an optometrist is authorized pursuant to state and federal law to prescribe controlled substances, two of the requisite hours of continuing education must be related to approved procedures of prescribing and monitoring controlled substances listed in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, and 44-53-250."

SECTION 7. Section 40-47-965(B)(3) of the 1976 Code is amended to read:

"(3) every two years, the physician assistant shall provide documentation of four continuing education ~~contact~~ hours ~~in prescribing controlled substances acceptable to the board~~ related to approved procedures of prescribing and monitoring controlled substances listed in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, and 44-53-250;"

SECTION 8. Section 40-51-140 of the 1976 Code is amended to read:

"Section 40-51-140. A person licensed to practice podiatry must pay ~~an annual~~ a biennial renewal license fee which must be established in regulation by the board, ~~annually~~ biennially must complete ~~twelve~~ twenty-four hours of continuing medical education through a program approved by the South Carolina Board of Podiatry Examiners, and must submit documentation to the board of completion of this education. If a podiatrist is authorized pursuant to state and federal law to prescribe controlled substances, two of the requisite biennial hours of continuing education must be related to approved procedures of prescribing and monitoring controlled substances listed in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, and 44-53-250.~~ If the renewal fee is not accompanied with the appropriate continuing education documentation, the license may not be renewed and is considered late and subject to the penalties promulgated by the board in regulation. ~~This continuing education requirement takes effect and applies to licenses being renewed beginning in 1997.~~ If the renewal fee is not paid within two months after the date of notification by the ~~secretary~~ department that the fee is due, the license of the person failing to pay shall be considered late and a penalty imposed as determined by regulation. After an additional sixty days a nonrenewed license must be suspended or revoked and must be reissued only by a majority vote of the Board of Podiatry Examiners and upon payment of a late fee and penalties established by the board."

SECTION 9. Section 40-43-130(B) of the 1976 Code is amended to read:

"(B) Each licensed pharmacist, as a condition of an active status license renewal, shall complete fifteen hours (1.5 CEU's) of American Council on Pharmaceutical Education (ACPE) accredited continuing pharmacy education or continuing medical education (CME), Category I, or both, each license year. Of the fifteen hours, a minimum of six hours must be obtained through attendance at lectures, seminars, or workshops. At least fifty percent of the total number of hours required must be in drug therapy or patient management. and at least one hour must be related to approved procedures for monitoring controlled substances listed in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, and 44-53-250."

SECTION 10. A. Section 40-43-82(C) of the 1976 Code is amended to read:

"(C)(1) Notwithstanding any other provision of this chapter, a supervising pharmacist may authorize a certified pharmacy technician to perform any of the following actions including, but not limited to:

~~(1)~~(a) ~~receive~~ receiving and ~~initiate~~ initiating verbal telephone orders;

~~(2)~~(b) ~~conduct~~ conducting one time prescription transfers;

~~(3)~~(c) ~~check~~ checking a technician's refill of medications if the medication is to be administered by a licensed health care professional in an institutional setting; and

~~(4)~~(d) ~~check~~ checking a technician's repackaging of medications from bulk to unit dose in an institutional setting.

(2) Nothing in this section prevents the Board of Pharmacy from establishing duties for a certified technician; provided, however, that a certified technician is prohibited from checking another technician's fill, refill, or repackaging of medications for delivery to a patient in an outpatient setting."

B. Section 40-43-82 is amended by adding an appropriately lettered new subsection to read:

"( ) Pharmacy technicians are exempt from continuing education requirements for the first renewal period following initial registration."

SECTION 11. Section 40-43-86(B)(4)(b) of the 1976 Code is amended to read:

"(b) The pharmacist-in-charge shall develop and implement written policies and procedures to specify the duties to be performed by pharmacy technicians. The duties and responsibilities of these personnel shall be consistent with their training and experience. These policies and procedures shall, at a minimum, specify that pharmacy technicians are to be personally supervised by a licensed pharmacist who has the ability to control and who is responsible for the activities of pharmacy technicians and that pharmacy technicians are not assigned duties that may be performed only by a licensed pharmacist. One pharmacist may not supervise more than ~~three~~ a total of four pharmacy technicians at a time~~; through June 30, 2006, at least one of these three technicians must be state-certified, and after June 30, 2006, at least two of these three technicians must be state-certified~~, including both state certified and non-state certified technicians. One pharmacist may not supervise more than two non-state certified technicians at a time. If a pharmacist supervises only one or two pharmacy technicians, these technicians are not required to be state-certified. Pharmacy technicians do not include personnel in the prescription area performing only clerical functions, including data entry up to the point of dispensing, as defined in Section 40-43-30(14)."

SECTION 12. Section 40-43-130(G) is amended by adding an appropriately numbered new item to read:

"( ) Pharmacy technicians are exempt from continuing education requirements while enrolled in a pharmacy technician program, as well as during the first renewal period following successful completion of the program."

SECTION 13. Chapter 43, Title 40 of the 1976 Code is amended by adding:

"Section 40-43-75. (A) For purposes of this section:

(1) 'Renal dialysis facility' or 'RDF' means an outpatient facility that treats and offers staff-assisted dialysis or training and support services for self-dialysis patients to end-stage renal disease patients, as defined by Centers for Medicare and Medicaid Services. An RDF may be composed of one or more fixed buildings, mobile units, or a combination of them, as defined in R. 61-97. An RDF must be certified by Medicare to provide dialysis-related services to ESRD patients and must have a medical director licensed as a physician, pursuant to Chapter 47, Title 40, on staff.

(2) 'End-stage renal disease' or 'ESRD' means the disease state, and associated conditions, defined under 42 C.F.R. 406.13 and the United States Social Security Act.

(B) An RDF may deliver a legend drug or device to a patient of an RDF if:

(1) the drug or device is for home use by the patient or for administration in the facility as required by the prescriber's order or prescription;

(2) the drug or device is dispensed to the RDF by a properly licensed resident or nonresident pharmacy licensed by the board or administered by a properly licensed healthcare practitioner;

(3) the drug or device is dispensed by the pharmacy pursuant to a valid prescription issued by a licensed practitioner, as defined in Section 40-43-30(45);

(4) the drug or device delivered by the RDF is properly labeled in accordance with state and federal law;

(5) the drug or device is held by the RDF in a secure location in an area not accessible to the public, and packages containing drugs or devices are delivered by RDF staff, unopened, to the patient;

(6) the patient is given a choice of receiving the drug or device from the RDF, at their home, or from another agent;

(7) the drugs exclude controlled substances; and

(8) the RDF maintains policies and procedures concerning how it will receive, store, maintain, and return any drugs or devices that are not picked up by the patient and returned to the dispensing pharmacy.

(C) The provisions of this section do not waive any other requirements to obtain licensure, permits, or certification as required by law to possess legend drug products. A facility engaged in an activity related to the delivery or distribution of legend drugs still shall hold the requisite licensure or drug permits required by law."

SECTION 14. Section 40-43-86(P) of the 1976 Code is amended to read:

"(P) If a pharmacist receives a request for a prescription refill and the pharmacist is unable to obtain refill authorization from the prescriber, the pharmacist may dispense, ~~a one-time emergency~~ ~~refill~~ once within a twelve-month period, ~~of up to~~ a ~~seventy-two hour~~ an emergency refill of up to a ten-day supply of the prescribed medication if:

(1) the prescription is not for a controlled substance;

(2) the medication is essential to the maintenance of life or to the continuation of therapy;

(3) in the pharmacist's professional judgment, continuing the therapy for ~~seventy-two hours~~ up to ten days will produce no undesirable health consequences or cause physical or mental discomfort;

(4) the pharmacist properly records the dispensing; and

(5) the dispensing pharmacist notifies the prescriber of the ~~emergency dispensing~~ refill and the amount of the refill, not to exceed a ten-day supply, within ~~seventy-two hours~~ a reasonable time, but no later than ten-days after the ~~one-time emergency~~ once in twelve months refill dispensing."

SECTION 15. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 16. This act takes effect upon approval by the Governor.

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This web page was last updated on May 10, 2017 at 12:17 PM

Administrative Information – April Koon

a. **Licensee Totals**

Total of all licensees – 852

Instate licensee total – 572

Out-of-state licensee total – 280

b. **Endorsement Applicant Report**

Total of licensees since February 8, 2017 – May 18, 2017 – 0

Name	State(s) Licensed	Parts of National Exam Taken & Passed	Approval Reason

Optometry Board DB0019		June 2015 Cash Balance	June 2016 Cash Balance	Apr 2017 Cash Balance
		FY15	**FY16**	**FY17**
Beginning Cash Balance		(18,437.11)	64,843.90	(39,698.10)
Total Revenue		228,674.28	29,055.00	230,710.00
Total Direct Expenditures		(80,149.64)	(57,954.08)	(58,095.13)
Indirect Expenditures (Overhead):				
Admin/Dir/Adv Cou- Based on Previous Yr Expenses	0.651%	(25,800.86)	(32,007.70)	(21,863.05)
POL Admin - Based on Previous Yr Expenses	0.651%	(8,787.85)	(9,543.50)	(5,192.16)
OLC - Former POL Program		0.00	0.00	0.00
OIE - Based on No. of Investigations	0.338%	(11,288.05)	(17,623.39)	(11,830.23)
Legal - Based on No. of Investigations	0.338%	(4,058.44)	(6,166.08)	(4,251.19)
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)	(1,873.34)
Immigration Proviso 81.8-Based on Prev Yr Exp	0.651%	(1,636.36)	(1,848.74)	(1,196.91)
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)	(46,206.88)
NET		83,281.01	(105,711.94)	126,407.99
Fines Draw			1,169.94	0.00
Year End Balance		64,843.90	(39,698.10)	86,709.89

Telemedicine
Approved by the Board at its August 3, 2015 meeting
Service Area: Medical
Subject: Telemedicine

For purposes of offering guidance to licensed professional regulated by the South Carolina Board of Medical Examiners ("Board"), the Board defines "telemedicine" as the practice of medicine using electronic communication, information technology or other means between a licensee in one location and a patient in another location with or without an intervening health care provider.

The Board recognizes that technological advances have made it possible for licensees to provide medical care to patients who are separated by some geographical distance. As a result, telemedicine is a potentially useful tool that, if employed appropriately, can provide important benefits to patients, including: increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and the reduced cost of patient care.

The Board cautions, however, that licensees practicing via telemedicine will be held to the same standard of care as licensees employing more traditional in-person medical care. A failure to conform to the appropriate standard of care, whether that care is rendered in-person or via telemedicine, may subject the licensee to discipline by this Board. [1]

It is the Board's position that there is not a separate standard of care applicable to telemedicine. Telemedicine providers will be evaluated according to the standard of care applicable to their area of specialty. Additionally, telemedicine providers are expected to adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing this information upon request.

The Board provides the following considerations to its licensees as guidance in providing medical services via telemedicine:

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[1] See also the Board's Advisory Opinion regarding the Establishment of Physician-Patient Relationship as Prerequisite to Prescribing Drugs.

Training of Staff — Staff involved in the telemedicine visit must be trained in the use of the telemedicine equipment and competent in its operation.

Evaluations and Examinations — Licensees using telemedicine technologies to provide care to patients located in South Carolina must provide an appropriate evaluation prior to diagnosing and/or treating the patient. This evaluation need not be in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care.

Other evaluations may also be considered appropriate if the licensee is at a distance from the patient, but a licensed health care professional is able to provide various physical findings that the licensee needs to complete an adequate assessment. On the other hand, a simple questionnaire without an appropriate evaluation may be a violation of law and/or subject the licensee to discipline by the Board.

Licensee-Patient Relationship —The Board stresses the importance of proper patient identification in the context of the telemedicine encounter. Failure to verify the patient's identity may lead to fraudulent activity or the improper disclosure of confidential patient information. The licensee using telemedicine must verify the identity and location of the patient and must be prepared to inform the patient of the licensee's name, location and professional credentials. A diagnosis must be established through the use of accepted medical practices, i.e., a patient history, mental status evaluation, physical examination and appropriate diagnostic and laboratory testing. Licensees using telemedicine must also ensure the availability for appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care providers.

Prescribing — Licensees are expected to practice in accordance with the Board's Advisory Opinion "Establishment of Physician-Patient Relationship as Prerequisite to Prescribing Drugs." It is the position of the Board that prescribing controlled substances for the treatment of pain by means of telemedicine is not consistent with the standard of care. Licensees prescribing controlled substances by means of telemedicine for other conditions must obey all relevant federal and state laws and are expected to participate in the South Carolina Prescription Monitoring Program.

Medical Records — The licensee treating a patient via telemedicine must maintain a complete record of the telemedicine patient's care according to prevailing medical record standards. The medical record serves to document the analysis and plan of an episode of care for future reference. It must reflect an appropriate evaluation of the patient's presenting symptoms, and relevant components of the electronic professional interaction must be documented as with any other encounter.

The licensee must maintain the record's confidentiality and disclose the records to the patient consistent with state and federal law. If the patient has a primary care provider and a telemedicine provider for the same ailment, then the primary care provider's medical record and the telemedicine provider's record constitute one complete patient record. Licensees practicing via telemedicine will be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as those licensees practicing via traditional means.

Licensure — The practice of medicine is deemed to occur in the state in which the patient is located. Therefore, any licensee using telemedicine to regularly provide medical services to patients located in South Carolina must be licensed to practice medicine in South Carolina. Licensees need not reside in South Carolina, as long as they have a valid, current South Carolina license.

South Carolina licensees intending to practice medicine via telemedicine technology to treat or diagnose patients outside of South Carolina must check with other state licensing boards. Most states require physicians to be licensed, and some have enacted limitations to telemedicine practice or require or offer a special registration. A directory of all U.S. medical boards may be accessed at the Federation of State Medical Boards website: http://www.fsmb.org/directory_smb.html.

SECTION 40-47-37. Practice of telemedicine, requirements.

(A) A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall adhere to the same standard of care as a licensee employing more traditional in-person medical care and be evaluated according to the standard of care applicable to the licensee's area of specialty. A licensee shall not establish a physician-patient relationship by telemedicine pursuant to Section 40-47-113(B) for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis. The failure to conform to the appropriate standard of care is considered unprofessional conduct under Section 40-47-110(B)(9).

(B) A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall generate and maintain medical records for each patient using such telemedicine services in compliance with any applicable state and federal laws, rules, and regulations, including this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). Such records shall be accessible to other practitioners and to the patient in a timely fashion when lawfully requested to do so by the patient or by a lawfully designated representative of the patient.

(C) In addition to those requirements set forth in subsections (A) and (B), a licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall:

(1) adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing such information upon request of the board;

(2) provide an appropriate evaluation prior to diagnosing and/or treating the patient, which need not be done in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care; provided, that evaluations in which a licensee is at a distance from the patient, but a practitioner is able to provide various physical findings the licensee needs to complete an adequate assessment, is permitted; further, provided, that a simple questionnaire without an appropriate evaluation is prohibited;

(3) verify the identity and location of the patient and be prepared to inform the patient of the licensee's name, location, and professional credentials;

(4) establish a diagnosis through the use of accepted medical practices, which may include patient history, mental status evaluation, physical examination, and appropriate diagnostic and laboratory testing in conformity with the applicable standard of care;

(5) ensure the availability of appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care practitioners, to be distributed to other treating health care practitioners only with patient consent and in accordance with applicable law and regulation;

(6) prescribe within a practice setting fully in compliance with this section and during an encounter in which threshold information necessary to make an accurate diagnosis has been obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II and Schedule III prescriptions are not permitted except for those Schedule II and Schedule III medications specifically authorized by the board, which may include, but not be limited to, Schedule II-nonnarcotic and Schedule III-nonnarcotic medications; further, provided, that licensees prescribing controlled substances by means of telemedicine must comply with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44; further, provided, that prescribing of lifestyle medications including, but not limited to, erectile dysfunction drugs is not permitted unless approved by the board; further, provided, that prescribing abortion-inducing drugs is not permitted; as used in this article "abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child. This includes off-label use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing an abortion, such as misoprostol (Cytotec), and methotrexate. This definition does not apply to drugs that may be known to cause an abortion, but which are prescribed for other medical indications including, but not limited to, chemotherapeutic agents or diagnostic drugs. Use of such drugs to induce abortion is also known as "medical", "drug-induced", and/or "chemical abortion";

(7) maintain a complete record of the patient's care according to prevailing medical record standards that reflects an appropriate evaluation of the patient's presenting symptoms; provided that relevant components of the telemedicine interaction be documented as with any other encounter;

(8) maintain the patient's records' confidentiality and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing telemedicine shall be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as licensees practicing via traditional means; further, provided, that if a patient has a primary care provider and a telemedicine provider for the same ailment, then the primary care provider's medical record and the telemedicine provider's record constitute one complete medical record;

(9) be licensed to practice medicine in South Carolina; provided, however, a licensee need not reside in South Carolina so long as he or she has a valid, current South Carolina medical license; further, provided, that a licensee residing in South Carolina who intends to practice medicine via telemedicine to treat or diagnose patients outside of South Carolina shall comply with other state licensing boards; and

(10) discuss with the patient the value of having a primary care medical home and, if the patient requests, provide assistance in identifying available options for a primary care medical home.

(D) A licensee, practitioner, or any other person involved in a telemedicine encounter must be trained in the use of the telemedicine equipment and competent in its operation.

(E) Notwithstanding any of the provisions of this section, the board shall retain all authority with respect to telemedicine practice as granted in Section 40-47-10(I) of this chapter.

HISTORY: 2016 Act No. 210 (S.1035), Section 2, eff June 3, 2016.

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 Distribution Programs (February 2004; Amended May 23, 2014)

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 Opiods (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.)

Texas

§279.16. Telehealth Services (a) Definitions. The following words and terms, when used in this section shall have the fol- lowing 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 suf- ficient technology and equipment to allow for an adequate physical evaluation as appro- priate for the patient's presenting complaint. It requires an optometrist-patient relation- ship. 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 deliv- ered 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 cap- ture 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 prac- tices shall adopt protocols to prevent fraud and abuse through the use of telehealth ser- vices. 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 tele- health services, the optometrist or therapeutic optometrist must implement written pro- tocols 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, pro- gram 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 40 faith effort must be made to obtain the patient's written acknowledgement, includ- ing 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 individu- ally identifiable health information. (2) Limitations of Telehealth. Providers who use telehealth services must, prior to provid- ing 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 no- tice, including an electronic acknowledgement, by the patient establishes a presumption of notice. (3) Necessity of In-Person Evaluation. When, for whatever reason, the telehealth modal- ity in use for a particular patient encounter is unable to provide all pertinent clinical infor- mation that a health care provider exercising ordinary skill and care would deem reason- ably 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 regard- ing 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 es- tablished 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 estab- lished 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 Con- tact 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 pro- vider-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, in- cluding 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 commu- nications, recordings and records remain confidential. (3) Electronic Communications. (A) Written policies and procedures must be maintained when using electronic mail 41 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 infor- mation; (ii) health care personnel, in addition to the provider, who will process mes- sages; (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 commu- nications, 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 pa- tient record.

From: Nima Mazhari
To: April Koon
Subject: Scope of practice
Date: Friday, April 21, 2017 10:45:12 AM

Mrs. Koon,

I am writing so that you may present a question to the board for me, when you and I had spoken last, the board had just met prior. The question by myself and my employer (ophthalmologist) is pertaining to Section 40-37-310 (D).

"An optometrist is prohibited from performing surgery. For purposes of this section surgery includes, but is not limited to, an invasive procedure using instruments that require closure by suturing, clamping, or other similar devices or a procedure in which the presence or assistance of a nurse anesthetist or an anesthesiologist is required. An optometrist is also prohibited from performing laser surgery. However, nothing in this section or any other provision of law may be construed to prohibit an optometrist from removing superficial ocular and ocular adnexal foreign bodies; removal of other foreign bodies must be referred to an ophthalmologist."

The area with which we are looking for more clarity is in regards to removal of foreign bodies with the use of an Alger Brush. Is this considered surgery and are optometrists allowed to perform this procedure in S.C. If a patient presents with a rust ring status post removal of the FB and the overlying there is re-epithelization, this requires breaking of the epithelium to access the underlying rust. Is this considered surgery and if so, is this still considered superficial since you have to break the surface? Furthermore, what is to prevent an optometrist from performing corneal scraping and/or removal of epithelial tissue with forceps, ie. Salzman's Nodules. We are looking for more clarification so that we do not run into any future litigation concerns.

Thanks for your time,
Nima Mazhari, OD
Carolina Eye Cataract & Laser

SOUTH CAROLINA BOARD OF EXAMINERS IN OPTOMETRY

SIGN IN SHEET

PLEASE PRINT

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Missy Jones

From: Missy Jones
Sent: Thursday, May 18, 2017 10:55 AM
To: Charles Hill; 'Derek Van Veen'; 'James Vaught'; Jesse Price III; Michelle Cooper; 'Peter Candela'; 'Thomas Tucker'
Cc: Mary League; Shanika Johnson; David Love; Adrian Rivera; 'Tina F. Behles, CVR-M'
Subject: South Carolina Board of Optometry Board Meeting

Importance: High

Good morning,

The SC Board of Examiners in Optometry Board meeting is scheduled for May 24, 2017 at 3:00 p.m. in room 204. The agenda along with all the materials have been posted to the secure site for your review. We are right at a week away from the meeting but I wanted you to have plenty of time to log in and review the material ahead of schedule. Please let me know if you have any questions.

Please do not hesitate to contact me if you have any further questions or concerns.

Thank you!

Missy D. Jones
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Please click here: **_Customer Service Survey_ to take a quick 30-second survey regarding the service you received from me today. It is greatly appreciated! ☺ Thank you.**