

CHAPTER I
ARKANSAS STATE BOARD OF OPTOMETRY
RULES AND REGULATIONS

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Pursuant to Act 94 of the Acts of Arkansas of 1941, as amended by Act 102 of 1957, Act 710 of 1979, Act 875 of 1985, Act 397 of 1991, and Act 101 of 1987, and Acts 176/186 of 1997, the Arkansas State Board of Optometry promulgates and adopts the following rules and regulations concerning official action by the Board and the regulation of the practice of optometry.

CHAPTER I, ARTICLE I - Meeting of Board

Section 1 -

The Board shall meet at least two (2) times each year, time and place to be designated by the President of the Board in his official call of such meetings. However, additional special meetings may be held at the discretion of the President of the Board, or at the written request of two (2) members of the Board, provided such special meetings are necessary.

Section 2 -

Meetings may be called by the President of the Board by giving three (3) days' notice of meeting. Notice may be oral or written, and shall set forth the time and place of such meeting.

Section 3 -

A majority of the members of the Board shall constitute a quorum, and if a quorum is not present at the time of such called meeting, same may be adjourned to a later date to be designated by the President.

CHAPTER I, ARTICLE II - Applications for Examination

Section 1 -

Before any person shall be permitted to take the entrance examination prescribed by law, he shall submit a written application to the Secretary of the Board setting forth his name, address, date of birth, and a detailed history of his educational qualifications, showing the name and location of school, and the length of time which the applicant attended school. He shall also state in such application whether he has engaged in the practice of optometry elsewhere. To be eligible to take examination an applicant must be a graduate of a College of Optometry approved and accredited by the State Board.

Section 2 -

Such application shall contain the names of at least three (3) persons, not related to the applicant, as character references with whom the applicant has been associated in the past five (5) years.

Section 3 -

In making such application the applicant shall state that he is willing to abide by the laws of this State regulating the practice of optometry and shall abide by the rules and regulations adopted by this Board.

Section 4 -

Such application shall be subscribed by the applicant and sworn to by him before any officer, qualified under the laws of this State, to administer oaths.

Section 5 -

Any person furnishing false information in such application shall be denied the right to the entrance examination, or if the applicant has been licensed before it is made known to the Board of the falseness of such information, such license shall be the subject of suspension or revocation.

Section 6 -

The examination will be administered no less than twice a year. The application for examination shall be accompanied by a fee of \$400.00. The application and the fee must be received by the State Board office prior to 12:00 midnight, June 1st for the mid-year exam and prior to 12:00 midnight January 1st for the first quarter exam of the year. Applications received after these deadlines will not be accepted.

Section 7 -

In case of withdrawal the examination fee, less a \$25 service charge, will be refunded if written notice of withdrawal is received at least 45 days prior to the date the examination is to be given.

Section 8 -

All examinations will be given in English.

CHAPTER I, ARTICLE III - Entrance Examination

Section 1 -

Entrance examination shall be given by members of the Board, or any duly qualified individual or committee, designated by the Board.

Section 2 -

Such examination may be oral or written, or both, and shall consist of the subjects designated in Section 5 of Act 94 of the Acts of Arkansas of 1941 as amended by Act 102 of 1957, Act 710 of 1979, Act 875 of 1985, Act 397 of 1991, Act 101 of 1987, and Acts 176/186 of 1997 and other subjects designated by the Board.

CHAPTER I, ARTICLE IV – Reciprocity

Section 1 –

An application for licensure by reciprocity pursuant to Subchapter 3 of Section 17-90-302 of Act 397 of 1991, shall be filed with the Secretary of the Board and shall set forth the name, address, date of birth, and the place or places where the applicant has engaged in the practice of optometry for the three (3) years immediately preceding the application. This application shall contain the names of at least three persons not related to the applicant with whom the applicant has been associated in the last five years. Such application shall also state whether or not the applicant has ever been convicted of a crime, or has ever had his license to practice optometry in other states revoked or suspended.

Section 2 –

Such application shall also set forth the educational and professional qualifications of the applicant.

Section 3 –

The application shall contain a statement by the applicant that he is willing to abide by the laws of this State and the rules and regulations of this Board, and such application shall be subscribed by the applicant and sworn to by him before an officer qualified to administer oaths by the laws of this State.

Section 4 –

The application shall be accompanied with a fee of \$400.00. It shall be understood by the applicant that the application fee is to cover the cost of investigation and examination felt necessary by the Board.

Licensure by Endorsement

Section 1 –

Any person from another state desiring to engage in the practice of optometry in this state may be issued a licensure by endorsement at the sole discretion of the State Board of Optometry upon satisfactory proof that he or she:

- 1. Is qualified under this chapter;**
- 2. Has been issued a certificate or license to practice optometry by a state, territory, the District of Columbia, or Canada having standards of proficiency at least equal to the standards of Arkansas;**
- 3. Has engaged in the lawful practice of optometry for a period of three years of the past four years in the other state, territory, the District of Columbia, or Canada and has complied with the requirements of the Arkansas licensure law at the time of application; and**
- 4. Has passed an Arkansas jurisprudence examination as approved by the Board.**

Section 2 –

The applicant shall pay a fee to the State Board of Optometry of \$400.00 (equal to the fee of a new applicant) to cover the administrative costs of the application process.

Section 3 -

An application for licensure by endorsement shall be accompanied by:

- 1. The fee described in Section 2**
- 2. Certification from all states or territories in which the applicant has practiced;**
- 3. A certificate of good standing from each authority which issued the license, setting forth the applicant's moral reputation and character, history with the authority, professional ability, continuing education compliance, and other information or data as the State Board of Optometry may deem necessary or expedient;**
- 4. A copy of the therapeutic license held by the applicant and current photo.**
- 5. A copy of the cardiopulmonary resuscitation certification held by the applicant;**
- 6. Transcripts from all colleges or universities attended by the applicant; and an accredited school or college of optometry;**
- 7. Proof of completion of all parts of the National Board of Examiners in Optometry examination required at the time of graduation for initial licensure sent directly to the State Board of Optometry;**
- 8. Information on past medical malpractice claims and any disciplinary actions;**

9. Application to the Identification Bureau of the Department for Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation; and

10. Appear in person before the State Board of Optometry for an interview.

Section 4 –

Upon furnishing satisfactory proof of fitness, the State Board of Optometry in its discretion may issue a license to practice optometry to the applicant without further cost except as otherwise provided in the Rules and Regulations for the renewal of licenses.

CHAPTER I, ARTICLE V - Renewals

Section 1 -

All renewal fees shall be paid to the Secretary of the Board on or before the 1st day of February each year. Effective February 1, 2001 and every year thereafter, the renewal fee shall be \$150.00 per year. Each license shall expire at 12:00 midnight, February 1st of each year.

A. Each license renewal fee must be received in the office of the secretary of the Arkansas Board of Optometry no later than 12:00 midnight on February 1 of each year. Only those applications received by this deadline shall be considered timely, regardless of postmark. The responsibility of timely renewal is placed entirely upon the holder of the license, and shall not be transferred to any employee, firm, agent, or other third party, including the postal service.

B. Each license holder, who has not renewed his or her license on or before February 1 of each year, will be given thirty (30) days' notice of a hearing before the Board. Notice of such hearing shall be made by certified mail, return receipt requested. The Board may consider the following facts and circumstances in reaching a decision as to the terms and conditions of renewal:

1. If the applicant continued to practice in any manner whatsoever subsequent to the notice of a hearing before the Board.
2. Whether there were any extenuating circumstances preventing a timely application for licensure.

Section 2 -

Any optometrist licensed to practice in Arkansas, who leaves the State, may retain his license by complying with the continuing education requirements and paying the renewal fee each year. If said optometrist fails to renew his license or comply with the requirements to practice in Arkansas, his license will be revoked, and he will come under the rules of reciprocity if he desires to practice optometry in Arkansas.

Section 3 -

License and current certificate of renewal of license to practice optometry, will always be displayed in a conspicuous place in the office of the holder thereof, and whenever requested the license and current certificate of renewal will be exhibited or produced before the Arkansas State Board of Optometry, or to its authorized agents. Any optometrist who performs any of the acts constituting the practice of optometry, or any part thereof, as described in the Arkansas Optometry Law (A.C.A. § 17-90-101 et. seq.), or who employs others to perform any or all of the same, shall specify to the State Board of Optometry a designation for each location where full or partial practice takes place. Recognizing that modes of practice vary from location to location, and such modes of practice may include the utilization of a primary office only, a rotation between branch offices, or the combination of a primary office and one or more branch offices, the Board does hereby set forth rules and regulations governing both the definition of office designations and the requirements and restrictions pertaining to the same. It is the express intent of these rules and regulations to ensure that all offices, whether primary offices or branch offices, are regulated in a like manner. The requirements for primary offices must be no less than those for branch offices.

A. A primary office is defined as: the permanent location at which a licensed optometrist practices full-time, or if practicing in more than one location, the office at which he or she practices the greatest percentage of time, or if practicing with a mobile branch office, that office the licensee utilizes for record storage, equipment maintenance, and patient availability in conjunction with the mobile operations.

B. A branch office is defined as any office, other than the primary office, at which a licensed optometrist or employee or agent of a licensed optometrist solicits patients either directly or indirectly and in a premeditated fashion for the purpose of rendering any type of optometric services, including the measuring, repairing, ordering, dispensing, verifying, or adjusting of ophthalmic materials or spectacle lens prescriptions.

1. A fixed branch office is a branch office as defined above is located in a permanent location.

2. A mobile branch office is a mobile operation utilized for the practice of optometry at multiple locations.

C. Availability is the reasonable ability to ensure provision of optometric care in a timely manner as warranted by patient needs, including, but not limited to, emergencies.

A licensee who practices in more than one (1) office location shall make application to the Board for a duplicate license for each branch office for display as required by this section. In issuing a duplicate license, the address of the branch office location and the original certificate number shall be included. At the time of an annual renewal of the license, those optometrists who have been issued a duplicate license for a branch office shall make application to the Arkansas State Board of Optometry on a form provided by the Board for the renewal of the license. The holder of a certificate for a branch office may cancel it by returning the certificate to the Secretary of the Board.

The fee for a duplicate license for each branch office be it fixed or mobile, shall be \$50.00, to be renewed annually, and will expire at 12:00 midnight February 1 of each year.

A licensed optometrist practicing in more than one (1) office shall provide information to patients as to how he or she, or another licensed optometrist, may be contacted during regular business hours.

Section 4 -

Each licensed optometrist must comply with the following:

A. Each licensed optometrist shall have on file with the Board his current business address and telephone number.

B. If a licensed optometrist changes the physical location of where he or she practices optometry, be it the primary office, fixed branch office, or physical location of the mobile branch office, he or she must first notify the Executive Director of the Arkansas State Board of Optometry by mail, fax, or electronic communications, on a form as provided by the Board Office, of the address and phone number of the intended location of practice and pay an administrative fee of \$30.00, all prior to resuming practice.

C. Any correspondence from the State Board of Optometry, of any nature, which is mailed to a listed permanent address of a licensed optometrist, which requires response or action, must be taken care of within the time specified in the notice, or if no time is stated in the notice, within thirty (30) days of the receipt of said notice.

D. In case of absence or disability, each licensed optometrist shall designate a responsible party (secretary, attorney, or a relative) with appropriate address, to serve as his agent. The designated person will have authority to respond in his behalf to any correspondence received from the Board under © above.

E. The name, address, and phone number of the person designated as agent for the licensed optometrist shall be listed with the Board at each license renewal time, or in the event of any change, as required above.

F. Every licensed optometrist shall, within ten (10) days of receipt of written notification of the filing of a claim or lawsuit alleging malpractice against him or her, notify the Arkansas State Board of Optometry by registered letter of the lawsuit and provide the information on a form provided by the Board. All such information and reports shall be exempt from the Freedom of Information Act, and shall be released only upon the order of a court of competent jurisdiction.

G. Failure to comply with any of the above requirements shall be grounds for suspension or revocation of the licensed optometrist to practice and/or fines.

Section 5 -

Requirements and restrictions for primary offices:

Each licensed optometrist owning or using a primary office only shall:

A. Report to the Board the street address and telephone number of the office designated as the primary office.

B. Maintain reasonable access to all patient records at the primary office location for each patient examined or treated at that location.

C. Ensure the provision of appropriate follow-up care, continuity of care, and availability for his or her patients in the primary office location.

D. Maintain in good working order the equipment necessary to provide a routine eye examination which shall include, but not be limited to, the following minimum equipment: a device for the accurate measurement of visual acuity, a lensometer, a direct ophthalmoscope, a binocular indirect ophthalmoscope (DPA, TPA, or optometric physician, certified practitioners only), a retinoscope, an instrument for the measurement of intra-ocular pressure, a refracting instrument, an instrument for measurement of corneal curvature, an instrument for the measurement of visual fields, and a biomicroscope.

E. Ensure that a licensed optometrist be in personal attendance at least twenty percent (20%) of the time, per month, the primary office is open, seeing patients.

F. Meet all the requirements of the Arkansas Optometry Law, Act 397 of the Acts of Arkansas-1991 (A.C.A. §17-90-303).

Section 6 -

Requirements and restrictions for fixed branch offices:

Each licensed optometrist owning or using one or more fixed branch offices shall:

A. Report to the Board each fixed branch office location other than a primary office at which he or she is practicing optometry.

B. Maintain reasonable access to all patient records at each fixed branch office location for each patient examined or treated at that location.

C. Ensure the provision of appropriate follow-up care, continuity of care, and availability for his or her patients in the fixed branch office location.

D. Maintain in good working order the equipment necessary to provide a routine eye examination which shall include, but not be limited to, the following minimum equipment: a device for the accurate measurement of visual acuity, a lensometer, a direct ophthalmoscope, a binocular indirect ophthalmoscope (DPA, TPA, or optometric physician, certified practitioners only), a retinoscope, an instrument for the measurement of intra-ocular pressure, a refracting instrument, an instrument for measurement of corneal curvature, an instrument for the measurement of visual fields, and a biomicroscope.

E. Ensure that a licensed optometrist be in personal attendance at least twenty percent (20%) of the time, per month, the fixed branch office is open.

F. Meet all the requirements of the Arkansas Optometry Law, Act 397 of the Acts of Arkansas-1991 (A.C.A. § 17-90-303).

Section 7 -

Requirements and restrictions for mobile branch offices:

A. Report to the Board, the office at which all patient records are maintained.

B. Provide every patient with the telephone number and address of the office used in conjunction with the mobile operations.

C. Maintain reasonable access to all patient records at the office.

D. Ensure personal availability via the use of a beeper, mobile telephone, radio, or other modality that is capable of receiving calls from the office while the licensed practitioner is practicing at one of the various locations served by the mobile operation.

E. Ensure the provision of appropriate follow-up care, continuity of care, and availability for his or her patients in every location served by the mobile operation.

F. Maintain and use appropriate facilities for the storage and transit of all pharmaceutical agents used by the licensed practitioner or certified optometrist that will ensure the safety and condition of such agents when they are in transit or being stored.

G. Maintain in good working order the equipment necessary to provide a routine eye examination which shall include, but not be limited to, the following minimum equipment: A device for the accurate measurement of visual acuity, a lensometer, a direct ophthalmoscope, a binocular indirect ophthalmoscope (DPA, TPA, or optometric physician, certified practitioners only), a retinoscope, an instrument for the measurement of intra-ocular pressure, a refracting instrument, an instrument for measurement of corneal curvature, an instrument for the measurement of visual field, and a biomicroscope.

H. Ensure that a licensed optometrist be in personal attendance at least twenty percent (20%) of the time, per month, the mobile branch office is open.

I. Meet all the requirements of the Arkansas Optometry Law, Act 397 of the Acts of Arkansas - 1991 (A.C.A. §17-90-303).

Section 8 -

Any licensed optometrist who owns, operates, or leases to or from another person any type of office (practice) or optical dispensary as described in Section 3 (a) and/or (b) of the Rules and Regulations of the Arkansas State Board of Optometry, or who employs others to do the same, shall include his or her full name, displayed in a prominent fashion, on or near, the entrance of

the office or optical dispensary, and in any written advertisement, concerning such operation, so that the public is properly informed as to the licensed optometrist responsible for the materials and services offered at such locations.

In addition, at each location, the full name of the licensed optometrist physically present and responsible for the provision of optical goods and/or services on each particular day shall be displayed in a prominent fashion, on or near, the entrance of the office or optical dispensary.

Section 9 -

Renewal of the Certificate of Registration for a Professional Corporation.

A. In accordance with section 64-2005 and 64-2006 of the General Statutes of Arkansas, the Chief Corporate Officer is required to renew the Certificate of Registration no later than January 31 of each year. The fee for renewal is \$10.00.

Section 10 -

Failure to comply with any of the requirements contained herein in ARTICLE V, RENEWALS, Rules and Regulations of the Arkansas State Board of Optometry, shall be grounds for suspension or revocation of the practitioner's license to practice and/or fines.

CHAPTER I, ARTICLE VI - Unprofessional Conduct

Section 1 -

The following acts on the part of any licensed optometrist shall be deemed by the Board to be unprofessional conduct.

A. The violation of any of the provisions of Act 94 of 1941, as amended by Act 102 of 1957, Act 710 of 1979, Act 875 of 1985, Act 101 of 1987 and Acts 176/186 of 1997.

B. The violation of any of the rules and regulations promulgated by this Board.

C. For any optometrist to fraudulently represent or misrepresent any fact concerning his professional activities toward his patient.

D. False or fraudulent representation, or misrepresentation, of the quality or effectiveness of materials used by such optometrist.

E. For any optometrist to treat or prescribe for a patient when he is grossly incompetent to do so.

F. For any optometrist to make an exorbitant or unreasonable charge for materials or services rendered, or furnished by him, to his patients.

G. For any optometrist to be convicted of a felony or to be identified by the Board as impaired. "Impaired" shall mean the presence of active alcoholism, substance (drug) abuse, and/or any other mental illness resulting in professional incompetence (i.e... the inability or failure of practitioner to practice optometry with reasonable skill and safety).

H. For any optometrist to accept employment from an unlicensed person or corporation to engage in the practice of optometry.

I. For any optometrist to advertise in any manner any fraudulent, false, or misleading statement as to the skill or method of his practice, or to advertise in any manner that tends to deceive or mislead the public.

J. For any optometrist to advertise or represent that he possesses a peculiar or particular technique or degree of training which makes him superior to, or more effective, in the practice of optometry than other optometrists.

K. For any optometrist to fail to keep secret and inviolate all information of a personal nature obtained by him while acting in his professional capacity.

L. For any optometrist to exaggerate the visual defects of a patient, but on the other hand must reveal in a fair and candid manner the actual condition of the patient, if requested to do so.

M. For any optometrist to use an unprofessional display sign of any type, provided, however, paint, gold-leaf, or other forms of lettering on windows, doors or walls may be used setting forth the name and title "Optometrist" or "Doctor of Optometry" or the abbreviation "O.D.," provided further, due to multiple practices when an O.D. does one thing and the other does another, and further, due to offices located in shopping centers and located away from the street, it would be considered professional and ethical for a sign in small letters to be placed near the street, also on building where office is located; be it further considered professional, due to professional corporation Act, that the sign may read as follows:

1. (Last Name) - Optometric Vision Clinic
2. (Full Name) - O.D. or Doctor of Optometry
3. (Full Name) - Optometrist, O.D., or Doctor of Optometry NOT ALL
4. If incorporated, P.A., P.C., or LTD, follows O.D. or incorporated name.

N. For any optometrist to practice under any name other than his own proper name.

O. The receipt, directly or indirectly, of any rebate, commission, refund, or discount from any person, firm, or corporation who supplies and/or dispenses ophthalmic materials directly to the optometrist's patient, whether said rebate, commission, refund, or discount in the form of money, property, or other financial considerations, whether it be based upon a percentage or upon the difference between so-called wholesale and retail price, or otherwise.

It is determined by the Board that the preceding acts are unethical and constitute unprofessional conduct, and shall be discontinued forthwith under penalty of revocation or suspension of license and/or fines for violation thereof.

P. Arkansas Code Annotated § 17-90-305 provides that the Board may discipline an optometrist for exhibiting unprofessional conduct. Any prescription written by a licensed optometrist in the State of Arkansas will contain and comply with the following:

1. The name of the prescribing optometrist must be printed on each prescription in a legible manner.
2. The address and telephone number of the prescribing optometrist must be placed on the type printed form on the prescription.
3. The State license number as issued by the Arkansas State Board of Optometry to the prescribing optometrist must be clearly written on the prescription.
4. The prescribing optometrist must place his signature on each prescription.
5. The body of the prescription must be legible in order to clearly communicate the quantity and strength of the substance or item to be prescribed as well as any instructions for a medication or use of the item in order to insure safety of the patient.
6. That the name of the patient for whom the prescription is written must be clearly printed on the prescription.
7. The date that the prescription is given to the patient must be written on the prescription.

An optometrist would be considered as exhibiting unprofessional conduct if he does not comply with the above state requirements in writing prescriptions.

Q. An optometrist shall have twenty-four hour access to his or her practice locations and patient records, so that he or she may provide emergency services to patients when necessary. A failure to have such access would be considered as unprofessional conduct and of a danger and harm to his or her patients.

R. Any optometrist who examines a patient and creates a record of said patient is responsible for the security and custody of said record. Because of the confidential nature and relationship between the examining optometrist and patient, the examination record (including the patient's name, address, age, occupation, and findings and pertinent facts) discovered and disclosed during the course of such examination, as well as the record of professional services rendered and fees charged therefore, shall be the exclusive property of the optometrist who rendered the professional services to said patient. Patient records described aforesaid are the property and responsibility of the examining optometrist, except when the examining optometrist is employed by an optometrist or ophthalmologist. In this circumstance, the

patient records are the property and responsibility of the optometrist or ophthalmologist who employs the optometrist. If an optometrist is not employed by an optometrist or ophthalmologist and temporarily take the place of an optometrist, then any records created by him shall be removed and secured by him at the completion of that day's practice.

Access to patient records is available only to the optometrist who created the record, the optometrist or ophthalmologist who employs the optometrist, the patient (or the person designated by the patient in writing to see said records) or employees under the direct personal supervision and control of said optometrist, or to those individuals or entities authorized by law or Federal Regulation to receive the same. Any optometrist, who is the custodian of a patient record and ceases to practice at a particular location, must notify said patient where his or her personal record may be obtained. Before any record of a patient is destroyed, said patient must be notified prior to his or her record being destroyed and given thirty (30) days to respond before said record is destroyed. However, if a patient has not been examined for five (5) years or more, said patient's record may be destroyed by the examining optometrist without notifying said patient.

Any patient is entitled to a copy of his or her patient records and may request the same. If the patient makes a request in writing to the optometrist, requesting said records and designating where said record is to be sent and to whom, the optometrist is to copy and make the record available at a reasonable fee, excluding x-rays, not exceed one dollar (\$1.00) per page for the first five pages and twenty five cents (\$.25) for each additional page, except that a minimum charge may be five dollars (\$5.00) provided, however, a reasonable recovery fee for stored records may be added to the photocopying charge. Provided, further, this section shall not prohibit reasonable fees for a narrative report or medical review of a record when performed by the optometrist subject to the request.

If an optometrist renders treatment to a patient in a hospital or nursing home, he may elect to utilize the record keeping system of the facility, if he determines that it is accurate and secure and can be available to him or the patient.

It is unprofessional conduct to not comply with this regulation, that is, for an optometrist not to properly secure, store and protect the privacy of a patient record and to not distribute copies of those said records to the patient or to the person designated by the patient when requested by the patient.

S. ACA § 17-90-305 (B) (2) states that in addition to those acts which may be prescribed by the Board as unprofessional conduct, the following shall be deemed by the Board to be unprofessional:

The acceptance of employment, by a licensed optometrist from an optometrist not licensed in Arkansas, or an unlicensed person, firm or corporation engaged in any business or profession to assist it, him, or them in practicing optometry in this State.

ACA § 17-90-104 (4) provides that it is unlawful "for any person, firm, corporation, or partnership not having a license, to engage in the practice of optometry."

ACA § 17-090-104 (5) states that it is unlawful “for any person, partnership, or corporation to employ any optometrist, physician, or surgeon to assist it in the unlawful practice of optometry. However, a licensed optometrist or partnership comprised of licensed optometrists may employ other licensed optometrist in practicing optometry.”

ACA § 17-90-104 (6) provides that it is unlawful “for an optometrist, physician, or surgeon to accept employment from an unlicensed person, firm, partnership, corporation, or in any manner to assist it, or them, in the unlawful practice of optometry.”

If warranted the Board shall open an investigation and shall subpoena if necessary such evidence, documents and persons so as to make a determination on whether a formal hearing shall be held before the Board.

For the Board to make a determination on whether a licensed optometrist is employed, by a non-licensed person, corporation, or entity in the practice of optometry, the Board shall take into consideration all evidence of control by the unlicensed person, corporation, or entity.

The Board shall adopt as its guide where necessary, the Internal Revenue Service (IRS) Twenty Factor Test, as may be amended, found in Revenue Ruling 87-14 and further, may use federal or Arkansas state statutes, the Code of Federal Regulations or IRS opinion letters or revenue rulings to reach their decision.

Should the Board, in an administrative hearing, determine that a violation of ACA & 17-90-104 (5) or ACA § 17-90-104 (6) has occurred, the Board may levy such sanctions against the licensee and unlicensed entity as provided by law in the Practice Act.

CHAPTER I, ARTICLE VII - Ophthalmic Advertising

Section 1 -

Any optometrist who advertises as to his services, charges, or items furnished shall do so in such a manner as not to directly or indirectly mislead the public with respect thereto and in accordance with the following:

A. Such advertising shall specify as to services, what services are included in the prices quoted and specifically whether the price includes professional examination and prescriptions, and whether additional charges may be made for related or subsequent services required in individual cases.

B. Any statement or advertisement, which purports to provide a “guaranteed” cure of any condition as a result of receipt of ophthalmic services or materials, is prohibited.

C. Any statement or advertisement which involves eyeglasses, lenses, frames, mountings, or prosthetic devices shall specify the kind, type, and quality of the advertised item, as well as the name of the manufacturer, and the manufacturer’s identifying name or number to enable the public to identify and evaluate the advertised item. Such advertising shall state whether the quoted price includes the cost of professional services, and if not, the amount which will be added for each service.

Section 2 -

Any statement or advertisement which makes unsubstantiated claims comparing prices or quality of services, and/or materials such as “best examination in Arkansas,” or “Lowest prices in Arkansas” is prohibited.

Section 3 -

Any statement or advertisement which offers a “discount” on the price of ophthalmic materials or services must specify the regular price of the material or service.

Section 4 -

Optometrists may obtain a listing in the Yellow Pages or classified section of the telephone or other directories, as long as such listing conforms to the style and type of listing of other health professionals.

CHAPTER I, ARTICLE VIII - Continuing Education

Section 1 -

Beginning on the first day of January, 1996, in addition to the payment of the license renewal fee, each optometrist registered under the provisions of Act 94 of 1941, as amended by Act 102 of 1957, Act 710 of 1979, Act 101 of 1987, Act 3907 of 1991, and Acts 176/186 of 1997 of the Acts of the General Assembly of the State of Arkansas applying for the renewal of his license, shall furnish to the Arkansas State Board of Optometry satisfactory evidence that he obtained no less than twelve (12) clock hours of post-graduate education in a course, or courses, previously designated or approved by the Board, in the year just preceding such application for the renewal of his or her license. All out of state C.E. must be COPE (Council on Optometric Practitioner Education) approved. The State Board will continue to review in-state courses and courses offered by accredited schools and colleges of optometry, schools of medicine, and pharmacy. Of the twelve (12) clock hours required for license renewal, credit for four (4) clock hours may be obtained through approved correspondence or Internet courses. The Secretary of the Arkansas State Board of Optometry shall mail by first class United States mail a written notice to this effect to each person holding a license to practice optometry within the state of Arkansas at least thirty (30) days prior to the first day of January in each year, directed to the last-known address of such licensee. In the event that any licensee shall fail to obtain twelve (12) clock hours of post-graduate education previously designated or approved by the Board, this is declared to be unprofessional conduct by the Arkansas State Board of Optometry and shall be cause for revocation, or suspension of license to practice optometry in this state and/or fines; or to refuse to issue a renewal of any license at any time.

Provided, however, the Arkansas State Board of Optometry may reinstate such licensee to practice optometry in this State any time, or issue a renewal license to any licensee at any time upon the presentation of satisfactory evidence of completion of the post-graduate study required for license renewal and upon the payment of all fees due.

Provided, further, that any optometrist, who because of illness or other unavoidable circumstances, is unable to comply herewith, may make application to the State Board stating

the circumstances as to why he or she is unable to so comply, and the Board, at its discretion, may relieve the applicant from so complying for such time and under such circumstances as the Board deems proper.

If any licensee desires to be considered by the Board as retired and not practicing optometry, then the licensee may renew his or her license without complying with the continuing education requirements.

One clock hour of continuing education requirements of the required 12 clock hours per year must be in the subject matter of Arkansas Jurisprudence, to include the study of the Arkansas Statutes and Regulations of the Board governing the practice of optometry. Said jurisprudence course must be pre-approved by the Board in order to meet the one hour requirement of continuing education.

Optometrists serving in the U.S. Armed Forces or Public Health Service assigned to duties outside the boundaries of the United States will be classified as "hardship" and excluded from the continued education requirements. The Board shall waive the annual renewal fee for all registered optometrists if the registered optometrist:

- a. holds a license to practice optometry in the State of Arkansas; and
- b. is an active duty member of the military

CHAPTER I, ARTICLE IX - Ophthalmic Standards

Section 1 -

All ophthalmic lenses and material dispensed by licensed optometrists in this state shall conform to standards of quality as promulgated by the American National Standards Institute (commonly known as Z-80 standards), which are in effect on the date these rules take effect.

CHAPTER I, ARTICLE X - Filing and Investigation of Charges

Section 1 -

Any person may make a complaint before this Board against any licensed optometrist by filing with the Secretary a written statement setting forth the name of the optometrist, the nature of the acts to be discussed, and the time and place where the alleged acts occurred. Such information shall be kept confidential, unless it is made the basis of a hearing before the Board.

Section 2 -

The Board shall investigate all complaints before taking action thereon or making name public. The Board shall also give any optometrist, against whom a complaint may be filed, an opportunity to explain his side of the complaint.

Section 3 -

If, after investigation, the Board finds the complaint was justified, it may take action thereon, or may issue a warning to such optometrist that any future violation will result in immediate action by the Board.

CHAPTER I, ARTICLE XI - Revocation and Suspension Proceedings

Section 1 -

Before proceedings are had by the Board it shall cause to be issued a notice to the accused, according to Section 10 of Act 94 of 1941, as amended by Act 102 of 1957.

Section 2 -

Such notice shall designate in detail the nature of the charges against the person accused and shall set forth the time and place of the hearing.

Section 3 -

All hearings contemplating the revocation, suspension, or rejection for renewal of licenses shall be conducted according to Section 10 of Act 94 of 1941 as amended by Act 102 of 1957, or as provided in the uniform law pertaining to State Boards.

ARTICLE XII - RELEASE OF CONTACT LENS PRESCRIPTIONS, AND

REGISTRATION OF ENTITIES OUTSIDE OF THE STATE WHO SELL CONTACT LENSES

This regulation sets forth the standards for the writing of a contact lens prescription, the method of releasing said contact lens prescription to the patient, and the registration with the Arkansas State Board of Optometry of entities located outside the state of Arkansas who ship, mail, or deliver contact lenses or prescriptions for contact lenses to residents of Arkansas, all pursuant to ACA §17-90-108, 109, and 110.

Section 1 Definitions

- or
- (1) “Person” means an individual, corporation, trust, partnership, incorporated or unincorporated association, and any other legal entity.
 - (2) “Prescriber” means an optometrist or ophthalmologist.
 - (3) “Buyer” means a state resident who purchases contact lenses.
 - (4) “Seller” means an optometrist or ophthalmologist licensed in the state Arkansas

to sell contact lenses to individuals for whom he/she prescribed, or those persons, firms, corporations, or other legal entities in conjunction with an optometrist or ophthalmologist licensed in that state who may be located outside of the State of Arkansas, who are authorized to sell contact lenses to individuals who have been lawfully prescribed contact lenses.

- (5) “Business hours” means an hour between 9:00 a.m. and 5:00 p.m. during a Weekday (Monday through Friday) excluding federal holidays (New Year’s Day; Martin Luther King, Jr. Day; President’s Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran’s Day; Thanksgiving; and Christmas). “Business hours” also may include, at the “Registered Mail Order Contact Lens Seller’s” option, a prescriber’s regular business hours on Saturdays, provided that the “Registered Mail Order Contact Lens Seller” has actual knowledge of these hours. “Business Hours” shall be determined based on the time zone of the prescriber.

Eight (8) business hours shall be calculated from the time the prescriber receives a complete prescription verification request and contains all of the required information to the prescriber (section 4 (3)) from the “Registered Mail Order Contact Lens Seller,” and shall conclude when eight (8) business hours have elapsed. For verification requests received by a prescriber during non-business hours, the calculation of “eight (8) business hours” shall begin at 9:00 a.m. on the next weekday that is not a federal holiday or, if applicable, on Saturday.

- sells
or
to
- (6) “Registered Mail Order Contact Lens Seller” means a person or entity who contact lenses through electronic mail, the internet, alternative channels or other means, the United States Postal Service, or other common carrier to buyers within the State of Arkansas and is registered in the State of Arkansas.

- 2,
that
for
- (7) “Contact Lens Prescription” means a written order, as defined in Section bearing the original signature of a licensed optometrist or ophthalmologist authorizes a contact lens prescription. Tinted contact lens that are sold for cosmetic purposes which are without power require a contact lens prescription.

- (8) “Contact Lens Fitting” means the process that begins after the initial eye examination and ends when a successful fit has been achieved as determined by the examining optometrist or ophthalmologist. In the case of a renewal prescription, the fitting ends when the prescriber determines that no change in

the existing prescription is required or a new fitting is completed after medically necessary follow-up examinations.

the (9) “Direct Communication” means a completed direct communication through telephone, facsimile, or electronic mail.

the (10) “Issue date” means the date on which the patient receives a copy of prescription at the completion of a contact lens fitting.

a (11) “Contact lens” means any contact lens for which State or Federal law requires a prescription including tinted plano lenses.

Section 2 Contact Lens Prescription

A contact lens prescription means a prescription issued in accordance with state and federal law that contains sufficient information for the complete and accurate filling of a prescription, including the following:

- (1) Name of the patient;
- (2) Date of the examination;
- (3) Issue date and expiration date of the prescription;
- (4) Name, license number, postal address, telephone number, facsimile number, and original signature of the prescriber;
- (5) Brand of lens, power, material or manufacturer, or both if needed;
- (6) Base curve or appropriate designation;
- (7) Diameter, when appropriate;
- (8) In the case of a private label contact lens, name of manufacturer, trade name of private label brand, and, if applicable, trade name of equivalent brand name by the same manufacturer, but sold under the labels of other sellers;
- (9) Number of lenses or refills permitted;

(10) The prescription may also include the diameter, axis, add power, cylinder, peripheral curve, optical zone, and center thickness and any additional information necessary in order that the prescription be accurately filled.

Section 3 Release of Contact Lens Prescription

of (1) A contact lens prescription shall be given to the patient after the completion of the contact lens fitting whether or not it is requested by the patient.

the (2) A prescriber shall, as directed by any person designated to act on behalf of prescription. patient, provide or verify, as defined in Section 4, the contact lens prescription.

(3) Contact lens prescriptions shall expire one (1) year after the issue date unless there is a medical reason that warrants a prescription for less than one (1) year. The medical reasons for issuing a prescription for less than one year shall be documented in the patient's medical record.

the (4) The issue date means the date on which the patient receives a copy of additional prescription. The patient cannot alter the issue date by requesting copies of the prescription after the issue date.

(5) A prescriber may require payment of fees for an eye examination, fitting, and evaluation before the release of a contact lens prescription, but only if the prescriber requires immediate payment in the case of an examination that reveals no requirement for ophthalmic goods. Presentation of proof of insurance coverage for that service shall be deemed to be a payment.

(6) When specialty or custom-made contact lenses are necessary to complete the fitting process, the prescriber may charge patients for such lenses as part of the cost of the fitting process and as such may condition the release of a contact lens prescription on payment of the fitting fee.

(7) A prescriber may not

- (a) Require purchase of contact lenses from the prescriber or from another person as a condition of providing a copy of the prescription;
 - (b) Require a payment in addition to, or as part of, the fee for an eye examination, fitting, and evaluation as a condition of providing a copy of a prescription or verification of a prescription;
 - (c) Require the patient to sign a waiver or release as a condition of verifying or releasing a prescription.
- (8) Any optometrist or ophthalmologist who releases a contact lens prescription in accordance with §17-90-108 (a)(2) shall not be liable for any damages for injury resulting from the purchasing, manufacturing, or dispensing of the contact lenses unless the contact lens seller and the contact lens prescriber are the same person.

Section 4 Verification of Contact Lens Prescription:

- (1) Prescription Requirement - A “Registered Mail Order Contact Lens Seller” may sell contact lenses only in accordance with an unexpired contact lens prescription
- (a) Presented to the “Registered Mail Order Contact Lens Seller” by the patient or prescriber directly or by facsimile; or
 - (b) Verified by direct communication.

- (2) Record Requirement - A "Registered Mail Order Contact Lens Seller" shall maintain a complete detailed record for five (5) years of all direct communications with prescriber and buyer including:
- (a) Date and time the request was made;
 - (b) Method of direct communication
 - (c) Persons involved listing the names of the individuals who participated in the communications with a telephone log.
 - (d) Communication details including copies of prescriptions received directly from a patient or prescriber
 - (1) Describing the information that the "Registered Mail Order Contact Lens Seller" provided to the prescriber.
 - (2) Recording the date and time the conversation was completed.
 - (3) Indicating how the call was completed.
 - (4) Copies of the telephone bills must be retained by "Registered Mail Order Contact Lens Seller."
 - (e) Final outcome of the recommendations.
- (3) Recordkeeping-Saturday business hours. A "Registered Mail Order Contact Lens Seller" that exercises its option to include a prescriber's regular Saturday business hours in a time period for verification shall maintain a record of the prescriber's regular business hours and the basis for the "Registered Mail Order Contact Lens Seller" actual knowledge thereof. Such records shall be maintained for a period of not less than five (5) years. These records must be available for inspection by the Arkansas State Board of Optometry, its employees, and its representatives.
- (4) Information for Verification - When seeking verification of a contact lens prescription, a "Registered Mail Order Contact Lens Seller" shall provide the prescriber with the following information:
- (a) Patient's full name, address, and phone number;
 - (b) Contact lens power, brand name, manufacturer, base curve or appropriate designation, diameter, and color when appropriate;

- (c) Quantity of lenses ordered;
 - (d) Date and time of patient's request;
 - (e) Date and time of verification request;
 - (f) Name of contact person at seller's company, including toll-free facsimile and telephone number for optometrist and ophthalmologist verification usage.
 - (g) If the seller opts to include the prescriber's regular business hours on Saturdays as "business hours" a clear statement of the prescriber's regular Saturday business hours must be provided.
- (5) "Registered Mail Order Contact Lens Seller's" - Direct communication with the optometrist and ophthalmologist shall be made Monday through Friday, including Saturday (only if the prescriber is in his/her office on a regular basis) and excluding Sunday, and all Federal holidays (New Years Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving, Christmas).
- (a) "Registered Mail Order Contact Lens Seller" may send one verification request per patient via direct communication to the prescriber. Unless a subsequent request contains additional or revised information, a "Registered Mail Order Contact Lens Seller" may not resend the same verification request to the prescriber.
 - (b) The rule does not expressly require the prescriber to notify the "Registered Mail Order Contact Lens Seller" of an incomplete request.
 - (c) The prescribing optometrist or ophthalmologist shall have eight (8) business hours to verify the information in Section 2. The prescriber shall be allowed to respond that a prescription is "expired" without providing additional information to the "Registered Mail Order Contact Lens Seller."
 - (d) A prescription is verified when one of the following occurs:

- (1) The prescriber confirms the prescription is accurate by direct communication with the “Registered Mail Order Contact Lens Seller.”
 - (2) The prescriber informs the “Registered Mail Order Contact Lens Seller” that the prescription is inaccurate and provides the accurate prescription.
 - (3) The prescriber fails to communicate with the “Registered Mail Order Contact Lens Seller” within eight (8) business hours. During these eight (8) hours, the “Registered Mail Order Contact Lens Seller” shall provide a reasonable opportunity for the prescriber to communicate with the “Registered Mail Order Contact Lens Seller” concerning the verification request.
- (e) If the “Registered Mail Order Contact Lens Seller” processes the contact lens order and the sale occurs prior to the end of the eight (8) hour verification period and does not confirm a valid prescription with the prescriber, the “Registered Mail Order Contact Lens Seller” will be held in violation of §17-90-108 and §17-90-109.
- (6) Invalid Prescription - If the prescriber informs a “Registered Mail Order Contact Lens Seller” before the deadline that the contact lens prescription is inaccurate, expired, or otherwise invalid, the “Registered Mail Order Contact Lens Seller” shall not fill the prescription. The prescriber shall specify the basis for the inaccuracy or invalidity of the prescription. If the prescription communicated by the “Registered Mail Order Contact Lens Seller” to the prescriber is inaccurate, the prescriber shall correct the prescription.
 - (7) No Alteration - A “Registered Mail Order Contact Lens Seller” may not alter a contact lens prescription. Tinted contact lenses shall be specifically prescribed for the patient as to brand, power, material, tint, and type of lens by the prescriber and shall not be changed or altered without a new prescription from the prescriber. Notwithstanding the first sentence, if the same contact lens is manufactured by the same company but sold under multiple labels to individual providers, the “Registered Mail Order Contact Lens Seller” may fill the prescription with an identical contact lens manufactured by that same company by sold under another label.

Section 5 Standards and Procedures for Licensed Optometrists in the State of Arkansas

Licensed optometrists in the State of Arkansas who sell contact lenses are to comply with the standards and procedures set forth in this regulation. To fail to do so would be considered unprofessional conduct and would be harmful to the health and safety of the citizens of Arkansas. Said failure to comply with this regulation may subject the licensee to disciplinary charges, which could result in the suspension or revocation of licensure.

Section 6 Prohibition of Certain Waivers

A prescriber may not place on the prescription, or require the patient to sign, or deliver to the patient a form or notice waiving or disclaiming the liability or responsibility of the prescriber for the accuracy of the eye examination. The preceding sentence does not impose liability on a prescriber for the ophthalmic goods and services dispensed by another seller pursuant to the prescriber's correctly verified lenses.

Section 7 Mail Order Contact Lens Seller

- (1) Any "Registered Mail Order Contact Lens Seller" or any "Person" authorized to sell contact lenses in the State of Arkansas who fills a contact lens prescription bears the full responsibility for the accurate selling and dispensing of the contact lenses provided for in the contact lens prescription. At no time shall any changes or substitutions be made including brand, type of lenses, or ophthalmic parameters without the direction of the optometrist or ophthalmologist who issued the contact lens prescription except as provided in Section 4 subsection (7).
- (2) A "Registered Mail Order Contact Lens Seller" who fills, ships, mails, or delivers through electronic mail, the internet, alternative channels, other means, or sells contact lenses to a patient at an Arkansas address must register with the Arkansas State Board of Optometry.
- (3) The Arkansas State Board of Optometry shall require annual registration and payment of all applicable fees required by the State Board of Optometry of all

“Registered Mail Order Contact Lens Sellers” outside the State of Arkansas who sell and dispense contact lenses to Arkansas residents. “Registered Mail Order Contact Lens Seller’s” registration shall be granted upon the disclosure and certification by the “Registered Mail Order Contact Lens Seller” of all the following:

- (a) The “Registered Mail Order Contact Lens Seller” shall register to do business in the State of Arkansas with the Secretary of State and designate a registered agent for service of process;
 - (b) The “Registered Mail Order Contact Lens Seller” will provide the name of the optometrist or ophthalmologist licensed in the state of the seller, who will supervise the sale of the contact lenses and the filling of the contact lens prescriptions, and further provide his or her address, phone number, and states where he/she is licensed, and providing proof of current licensure standing in that state.
 - (c) The “Registered Mail Order Contact Lens Seller’s” location, names, and titles of all owners, partners, corporate officers, and the optometrist or ophthalmologist who is responsible for overseeing the selling and dispensing of the contact lenses to residents of the state of Arkansas.
 - (d) The payment of an annual registration fee of \$1,000 for each “Registered Mail Order Contact Lens Sellers”
 - (e) The completion of an application form for registration by the “Registered Mail Order Contact Lens Seller.”
- (4) The “Registered Mail Order Contact Lens Seller” shall comply with and shall continue to comply with all lawful directives and appropriate requests for information from the appropriate agency of each state in which the seller is licensed or registered.

- (5) The "Registered Mail Order Contact Lens Seller" shall respond to all requests for information from the Arkansas State Board of Optometry within thirty (30) days from registered receipt of the request.
- (6) The "Registered Mail Order Contact Lens Seller" shall maintain records of contact lenses dispensed to residents of this state for a period of five (5) years, and that the records shall be readily available for inspection by the Arkansas State Board of Optometry.
- (7) The "Registered Mail Order Contact Lens Seller" shall provide a toll-free telephone service during its regular hours of operation for the sole purpose of responding to the patients in this state concerning questions and complaints. All questions relating to eye care shall be referred to the doctor prescribing the contact lenses.
- (8) The "Registered Mail Order Contact Lens Seller" shall provide a toll-free telephone service during its regular hours of operation solely for the use of prescribers.
- (9) The "Registered Mail Order Contact Lens Seller" shall provide the following notification to the patient whenever contact lenses are supplied: **WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING SYMPTOMS, REMOVE YOUR CONTACT LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE, REDNESS, OR LIGHT SENSITIVITY.**
- (10) If the registered optometrist or ophthalmologist utilized by the "Registered Mail Order Contact Lens Seller" has his license suspended or revoked in the state in which he or she practices, the seller is to immediately notify the Arkansas State Board of Optometry of said actions.
- (11) The Arkansas State Board of Optometry shall charge a fee for investigation and registration of "Registered Mail Order Contact Lens Sellers."

- (12) Any person who engages in the manufacture, processing, assembly, sale, offering for sale, or distribution of contact lenses may not represent, by advertisement, sales presentation, or otherwise, that contact lenses may be obtained without a prescription.
- (13) A registration may be denied, suspended, revoked, or otherwise subjected to discipline of any of the following:
- (a) Incompetence, gross negligence, or repeated similar negligent acts performed by the registrant or any employee of the registrant.
 - (b) An act of dishonesty or fraud.
 - (c) Committing any act resulting in conviction of a crime constituting grounds for denial of licensure or registration.
 - (d) Any violation of §17-90-101 and the rules and regulations of the Arkansas State Board of Optometry.

CHAPTER 1, ARTICLE XIV – Tele Optometry

Requirement for all services provided by optometrists using Tele Optometry:

For purposes of this regulation, a proper optometrist/patient relationship, at a minimum requires that:

1. For the purposes of this regulation, a proper optometrist – patient relationship is deemed to exist in the following situations:
 - a. Performs a history and an “in person” physical examination of the patient adequate to establish a diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided, OR
 - b. When treatment is provided in consultation with, or upon referral by, another optometrist who has an ongoing relationship with the patient, and who has agreed to supervise the patient’s treatment, including follow up care and the use of any prescribed medications.
 - c. On-call or cross-coverage situations arranged by the patient’s treating optometrist
 - d. The optometrist personally knows the patient and the patient’s general health status through an “ongoing” personal or professional relationship
2. Appropriate follow-up be provided or arranged, when necessary, at medically necessary intervals.
3. An optometrist/patient relationship must be established before the delivery of service via Tele Optometry. A patient completing an optometric history online and

forwarding it to an optometrist is not sufficient to establish the relationship, nor does it qualify as store-and-forward technology.

4. The following requirements apply to all services provided by optometrists using Tele Optometry:
 - a. The practice of Optometry via Tele Optometry shall be held to the same standards of care as traditional in-person encounters.
 - b. The optometrist must obtain a detailed explanation of the patient's complaint from the patient or the patient's treating optometrist
 - c. If a decision is made to provide treatment, the optometrist must agree to accept responsibility for the care of the patient.
 - d. If follow-up care is indicated, the optometrist must agree to provide or arrange for such follow-up care.
 - e. An optometrist using Tele Optometry may NOT issue a prescription for any controlled substances defined as any scheduled medication under schedules II through V unless the optometrist has seen the patient for an in-person exam or unless a relationship exists through consultation or referral/ on-call or cross-coverage situations; or through an ongoing personal or professional relationship.
 - f. The optometrist must keep a documented patient record
 - g. At the patient's request, the optometrist must make available to the patient as electronic or hardcopy version of the patient's optometric record documenting the encounter. Additionally, unless the patient declines to consent, the optometrist must forward a copy of the record of the encounter to the patient's regular treating optometrist if that optometrist is not the same one delivering the service via Tele Optometry.
 - h. Services must be delivered in a transparent manner, including providing access to information identifying the optometrist in advance of the encounter, with licensure and board certifications, as well as patient financial responsibilities.
 - i. If the patient, at the recommendation of the optometrist, needs to be seen in person for their current optometric issue, the optometrist must arrange to see the patient in person or direct the patient to their regular treating optometrist or other appropriate provider if the patient does not have a treating optometrist. Such recommendation shall be documented in the patient's optometric record
 - j. Optometrists who deliver services through Tele Optometry must establish protocols for referrals for emergency services.
 - k. All optometrists providing care via Tele Optometry to a patient located within the State of Arkansas shall be licensed to practice optometry in the State of Arkansas.

CHAPTER II
RULES AND REGULATIONS
GOVERNING DIAGNOSTIC PHARMACEUTICAL
AGENTS CERTIFICATION

[CHAPTER II, ARTICLE I- Diagnostic Pharmaceutical Agents Certification](#)

(This chapter will expire when all Arkansas DPA certified optometrists have successfully met the requirements to become an optometrist certified as an optometric physician.)

Section 1 -

For those optometrists holding only a DPA certificate, the following rules and regulations shall apply.

Section 2 -

The following general categories of pharmaceutical agents are hereby approved for use as diagnostic agents: Topical Anesthetics, Mydriatics, Cycloplegics, and Dyes.

Section 3 -

No optometrist shall use a pharmaceutical agent until he or she has exhibited his or her qualifications by passing an examination prepared or approved by the Board. Prior to taking the examination, an applicant must present evidence that he or she has (1) graduated from an accredited college of optometry since January 1973, or (2) has successfully completed a course of study approved by the Board.

Upon meeting the qualifications and passing an approved examination, the Board shall issue a certificate to the optometrist that shall be valid for a period of three (3) years unless suspended or revoked.

For renewal of a certificate, each optometrist must submit proof that he or she has, during the preceding three (3) years, received six (6) clock hours of instruction in pharmacology approved by the Board.

The Board hereby approves the examination in pharmacology of the Board for purposes of these standards; however, the examination shall be reviewed by the Board at least every two (2) years to assure that the questions contained therein sufficiently cover the subject of pharmacology.

Section 4 -

Each certified optometrist shall establish a written procedure prior to use of any approved pharmaceutical agent. These procedures should include:

- A. A prior arrangement should be established which assures communication between the optometrist and any one of the following: an ophthalmologist, a general physician, the Emergency Medical Service Unit in the area, or the emergency room personnel at a local hospital.
- B. All office personnel shall be instructed concerning these emergency procedures.
- C. An optometrist certified to use pharmaceutical agents shall be certified for CPR (cardiopulmonary resuscitation). An optometrist may apply in writing to the Board for a waiver of this requirement.
- D. Verification shall be provided to the Secretary of the State Board of Optometry that items (a), (b), and (c) have been implemented.

Section 5 -

Referrals of patients shall be made in accordance with the rules of the Board.

Section 6 -

The Board may suspend or revoke the DPA certification of any optometrist who violates any of the provisions of these rules and regulations, or Act 710 of 1979, or Act 875 of 1985.

CHAPTER III
RULES AND REGULATIONS
GOVERNING THE EDUCATIONAL QUALIFICATIONS
FOR OPTOMETRISTS WHO POSSESS, ADMINISTER, AND PRESCRIBE
PHARMACEUTICAL AGENTS

(This chapter will expire when all Arkansas TPA certified optometrist have successfully met the requirements to become an optometrist certified as an optometric physician.)

The Arkansas State Board of Optometry shall have the right and responsibility to approve those optometrists who shall be authorized to possess, administer, and prescribe pharmaceutical agents approved pursuant to Act 101 of 1987.

The Arkansas State Board of Optometry shall have the right and responsibility to promulgate educational standards as prerequisites to authorization for use of pharmaceutical agents pursuant to Act 101 of 1987.

The following educational standards are the prerequisites required by the Arkansas State Board of Optometry to possess, administer, and prescribe pharmaceutical agents pursuant to Act 101 of 1987.

CHAPTER III, ARTICLE I - Post Graduate Course

Section 1 -

Any optometrist who is a graduate of a school, or college of optometry, or licensed as of the effective date of this Act (July 20, 1987), and who has not already completed a post-graduate course of study of transcript quality in ocular therapy and pharmacology from an accredited school or college of optometry which complies with all the prerequisites and requirements of the Board and this Act, must successfully complete such course. The successful completion of such course is a prerequisite to the internship program.

Section 2 -

The post-graduate course in ocular therapy and pharmacology must be from an accredited school or college of optometry, and of transcript quality credit, and must be approved by the Arkansas State Board of Optometry. A successful passing grade on the examination for the course is required to indicate successful completion of such course as determined by the institution, or the Arkansas State Board of Optometry.

CHAPTER III, ARTICLE II - Internship

Section 1 -

Upon successful completion of an approved post-graduate course in ocular therapy and pharmacology, the optometrist may apply to the Arkansas State Board of Optometry to begin the required internship program. No optometrist shall be authorized until he or she has served in an internship program established by the Board. The internship shall consist of at least 100 hours of supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa.

Section 2 -

The internship program shall be conducted under the supervision of a board-certified ophthalmologist. Each ophthalmologist shall certify the hours attained under his supervision by the intern (optometrist) in the area specified in Section 1 above. The intern (optometrist) shall log his or her hours in the logbook provided by the State Board of Optometry. The Arkansas State Board of Optometry shall certify that each intern (optometrist) has met the 100-hour minimum training in the area specified in Section 1 above.

Section 3 -

Those optometrists who graduate after the effective date of Act 101 July 20, 1987) shall be required to successfully pass a test in pharmacology given or approved by the Arkansas State Board of Optometry and then shall apply to the State Board for a log book to begin their 100 hour internship program.

CHAPTER III, ARTICLE III - Educational Standards - Emergency Situations

Section 1 -

Each certified optometrist shall establish a written procedure prior to use of any approved pharmaceutical agent. These procedures should include:

- A. A prior arrangement should be established, which assures communication between the optometrist and any one of the following: an ophthalmologist, a general physician, the Emergency Medical Service Unit in the area, or the emergency room personnel at a local hospital.
- B. All office personnel shall be instructed concerning these emergency procedures.
- C. An optometrist certified to use pharmaceutical agents shall be certified for CPR (cardiopulmonary resuscitation). An optometrist may apply in writing to the Board for a waiver of this requirement.
- D. Verification shall be provided to the Secretary of the State Board of Optometry that items (a), (b), and (c) have been implemented.

CHAPTER III, ARTICLE IV - Issue and Renewal of Therapeutic Drug Certificate

Section 1 -

Upon certification by the Arkansas State Board of Optometry, a therapeutic drug certificate shall be issued to the optometrist that shall be valid for a period of three (3) years.

Section 2 -

For renewal of the therapeutic drug certificate, the optometrist must submit proof that he or she has, during the year, a total of twenty (20) hours of continuing education. A maximum of eight hours of distance learning (maximum of four from correspondence (printed) material) with testing, maximum of four hours of practice management, and at least one hour of jurisprudence.

Section 3 -

All renewal fees shall be paid to the Secretary of the Board on or before the first day of February of the year of renewal. The renewal fee shall be fifteen dollars (\$15.00) per three-year period. Failure to renew shall be cause for suspension or revocation of the certificate.

Section 4 -

The current therapeutic drug certificate shall at all times be displayed in a conspicuous place in the office of the holder thereof, and whenever requested, the certificate shall be exhibited or produced before the Arkansas State Board of Optometry or to its authorized agents.

Section 5 -

The TPA (Therapeutic Pharmaceutical Agents) certificate supersedes the DPA (Diagnostic Pharmaceutical Agents) certificate. Both are not required.

Section 6 -

Duplicate TPA or DPA certificates must be displayed in a branch office. The fee for the duplicate certificate for each branch office shall be fifteen dollars (\$15.00) per three-year period. All renewal fees shall be paid to the Secretary of the Board on or before the first day of February of the year of renewal. Failure to renew shall be cause for suspension or revocation of the certificate.

CHAPTER III, ARTICLE V - Certification

Section 1 -

Upon successful completion of a Board approved post-graduate course in ocular therapy and pharmacology and the 100 hour internship, certified by the Arkansas State Board of Optometry, the optometrist shall apply to take an examination prepared or approved by the Arkansas State Board of Optometry. Upon successful completion of this examination, the Board of Optometry shall authorize the optometrist to possess, administer and prescribe the drugs approved by Act 101 of 1987.

CHAPTER III, ARTICLE VI - Revocation or Suspension

Section 1 -

The Board may suspend or revoke the TPA certification of any optometrist, and/or fine, anyone who violates any of the provisions of these rules and regulations, or Act 710 of the Acts of Arkansas of 1979, or Act 875 of the Acts of Arkansas, or Act 101 of the Acts of Arkansas of 1987.

CHAPTER IV
RULES AND REGULATIONS
GOVERNING THE USE OF TOPICAL THERAPEUTIC DRUGS
FOR OPTOMETRIC CARE

(For TPA certified optometrist)

CHAPTER I, ARTICLE I - Use of Therapeutic Drugs

Section 1 -

The following pharmaceutical agents are authorized to be possessed, administered, and prescribed by a board-certified optometrist. The following agents are to be applied topically to the eye: anesthetics, anti-allergy, antibacterial/antiseptic, antibiotic, antifungal, anti-glaucoma, antihistamine/decongestant, artificial tear preparation, anti-inflammatory, anti-inflammatory/antibiotic, anti-inflammatory/antibacterial, decongestants, decongestants/astringent, demulcents, dyes, emollients, hyperosmotic agents, irrigation solution, lubricants, mydriatics, miotics, mydriatic/cycloplegics, and vasoconstrictors. The strength and manner in which these agents may be possessed, administered, and prescribed shall be in accordance with the reasonable standard of care accepted in the community in which the certified optometrist practices.

Section 2 -

Prior to beginning the treatment of patients for glaucoma, a certified optometrist shall consult with an ophthalmologist and develop a written protocol. Written protocol shall include the following: visual acuity, intraocular pressure, and evaluation of the optic nerve, visual fields, and the anterior chamber angle. The manner of care rendered by the optometrist depends upon the individual written protocol established between the optometrist and the ophthalmologist, and may be altered by mutual written consent on an as needed basis.

Section 3 -

The certified optometrist may remove superficial foreign bodies from the lid, conjunctiva, adnexa, and cornea (not deeper than the posterior region of the Bowman's membrane of the cornea.)

Section 4 -

This will certify that the foregoing regulations governing the use of topical therapeutic drugs for optometric care by Board certified optometrists were duly adopted by the Arkansas State Board of Optometry on May 1, 1997.

CHAPTER V

RULES, REGULATIONS AND EDUCATIONAL QUALIFICATIONS

GOVERNING OPTOMETRISTS CERTIFIED

AS OPTOMETRIC PHYSICIANS PURSUANT TO

ACTS 176/186 OF 1997

The Arkansas State Board of Optometry shall have the rights and responsibilities to:

1. Promulgate rules and regulations pursuant Acts 176/186 of 1997.
2. Approve those optometrists who shall be authorized to possess, administer, and prescribe all drugs to diagnose and treat the eye, lid, and adnexa approved pursuant to Acts 176/186 of 1997.
3. Promulgate educational standards as prerequisites to authorization for use of all drugs to treat the eye, lid, and adnexa pursuant to Acts 176 and 186 of 1997.
4. Promulgate educational standards as prerequisites to authorization for primary eye care procedures pursuant to Acts 176/186 of 1997.

CHAPTER V, ARTICLE I - Definitions

Section 1 -

Optometric Physician -

Any optometrist certified by the State Board of Optometry to perform primary eye care procedures with topical anesthesia, and to prescribe and administer all oral and topical drugs to treat the eye, lid, and adnexa pursuant to Acts 176/186 of 1997.

Section 2 -

Primary Optometric Eye Care -

Any optometric eye care treatments and procedures, provided by an optometrist certified as an optometric physician, approved by the Board, shall constitute primary optometric eye care.

CHAPTER V, ARTICLE II - Educational requirements for optometrists certified as optometric physicians.

Section 1 -

The following qualifications must be met to be certified as an optometric physician:

A. Optometrists licensed prior to the effective date of Acts 176/186 of 1997(Feb. 17, 1997), who have graduated from a college or school of optometry prior to Act 101 of 1987, who have passed an approved accredited post graduate course of transcript quality in general and ocular therapy and pharmacology, who have passed a State Board test in general and ocular therapy and pharmacology, who have passed a State Board test on jurisprudence and other tests as required by the Board, who have completed the 100 hour internship program, and must have completed twenty (20) clock hours of a Board approved Oral Therapeutic Update CE Course.

B. Optometrists licensed prior to the effective date of Acts 176/186 of 1997(Feb. 17, 1997) and graduated after the effective date of Act 101 of 1987, (July 20, 1987), who have graduated from an accredited college or school of optometry, who have passed a State Board test in general and ocular therapy and pharmacology, who have passed a State Board test on jurisprudence and other tests as required by the Board, who have completed the 100 hour internship program, and must have completed twenty (20) clock hours of a Board approved Oral Therapeutic Update CE Course.

C. Optometrists who are graduates of a school or college of optometry and who apply for licensure in Arkansas after the effective date of Acts 176/186 of 1997 (February 17, 1997), must have passed all parts of the National Board Examinations for Optometry, must have passed a State Board test in general and ocular therapy and pharmacology, must have passed a State Board test on jurisprudence, and other tests as required by the Board and must have completed the 100 hour internship program.

D. Arkansas licensed optometrists, who are not included in the paragraphs above (DPA and Non-DPA) and desire to become certified as an optometric physician, must pass a comprehensive accredited transcript quality course in general and ocular therapy and pharmacology from a school or college of optometry approved by the Board, must pass a State Board test on jurisprudence, rules, regulations and other tests as required by the Board, and must have completed the 100 hour internship program.

CHAPTER V, ARTICLE III - Internship program

Section 1 -

The internship shall consist of at least 100 hours of supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye, lid and adnexa.

Section 2 -

The internship program shall be conducted under the supervision of a board-certified ophthalmologist. Each ophthalmologist shall certify the hours attained under his supervision by the intern (optometrist) in the area specified in Section 1 above. The intern (optometrist) shall log his or her hours in the logbook provided by the State Board of Optometry. The Arkansas State Board of Optometry shall certify that each intern (optometrist) has met the 100-hour minimum training in the area specified in Section 1 above.

CHAPTER V, ARTICLE IV - Emergency Situations

Section 1 -

An optometrist, certified as an optometric physician, shall establish a written procedure for emergency situations which shall include:

- A. Prior arrangement which assures communication between the optometrist and any one of the following: an ophthalmologist, a general physician, the Emergency Medical Service Unit in the area, or the emergency room personnel at a local hospital.
- B. Instruction of all office personnel concerning these emergency procedures.
- C. Shall maintain current certification in CPR (cardiopulmonary resuscitation). An optometrist may apply in writing to the Board for a waiver of this requirement.
- D. Verification shall be provided to the Secretary of the State Board of Optometry that items (a), (b), and (c) have been implemented upon renewal of certificate.

CHAPTER V, ARTICLE V - Issue and Renewal of Optometric Physician Certificate

Section 1 -

Upon certification by the Arkansas State Board of Optometry, an optometrist certified as an optometric physician shall be issued an optometric physician certificate which shall expire at 12:00 midnight, February 1 of each year.

Section 2 -

Effective February 2, 1998, to renew the optometric physician certificate, the optometrist must submit proof that he/she has, during the preceding twelve (12) months, received a minimum of twenty (20) clock hours of continuing education. Of the twenty (20) clock hours, ten (10) hours must be in general and ocular therapy and pharmacology approved by the Board. The other ten (10) hours may be in any optometric course of study approved by the Board. Of the total twenty (20) hours required, eight (8) hours may be non-classroom type C. E., (only four (4) hours may be a COPE approved correspondence course). The full eight hours may be a COPE approved interactive (Internet) course.

Section 3 -

All renewal fees shall be paid to the Secretary of the Board before midnight, February 1 of the year of renewal. The renewal fee shall be fifty dollars (\$50.00) per twelve (12) month period. Failure to renew shall be grounds for suspension or revocation of the certificate and/or fines.

Section 4 -

An optometrist, with a current optometric physician certificate, shall at all times display the certificate in a conspicuous place in the office of the holder thereof, and whenever requested, the certificate shall be exhibited or produced before the Arkansas State Board of Optometry or to its authorized agents.

Section 5 -

The optometric physician certificate supersedes the TPA (Therapeutic Pharmaceutical Agents) and DPA (Diagnostic Pharmaceutical Agents) certificate. All are not required to be certified as an optometric physician.

Section 6 -

Duplicate optometric physician certificates must be displayed in a branch office. The fee for the duplicate certificate for each branch office shall be twenty-five dollars (\$25.00) per twelve (12) month period. Renewal of the optometric physician duplicate certificate will be twenty-five dollars (\$25.00). All renewal fees shall be paid to the Secretary of the Board on or before midnight the first (1st) day of February of the year of renewal. Failure to renew shall be grounds for suspension or revocation of the certificate and/or fines. The Certificate will expire at 12:00 midnight, February 1 of each year.

CHAPTER V, ARTICLE VI - Certification**Section 1 -**

Any optometrist who has successfully completed all the requirements of the Arkansas State Board of Optometry may be certified as an optometric physician pursuant to Act 176/186 of 1997.

CHAPTER V, ARTICLE VII - Revocation or Suspension**Section 1 -**

The Board may suspend or revoke an optometric physician certification of any optometrist who violates any of the provisions of optometry law, these rules and regulations, or Act 710 of the Acts of Arkansas of 1979, or Act 875 of the Acts of Arkansas, or Act 101 of the Acts of Arkansas of 1987 or Acts 176/186 of 1997.

CHAPTER V, ARTICLE VIII - Prescribing oral steroids

Section 1 -

Before an optometrist, certified as an optometric physician, initiates treatment for an eye disorder with an oral steroid, he must take a written detailed medical history including past drug reactions, medical/general health conditions, and current medications. This must be duly noted in the patient's record. If oral steroid therapy is indicated, the prescriber must be consistent with the standard of eye care as it relates to oral steroids. If the history suggests contraindications for the use of oral steroids, before prescribing a steroid, a consult with the patient's family doctor, a physician, or an ophthalmologist should be duly noted in the record.

CHAPTER V, ARTICLE IX - Prescribing controlled substances.

Section 1 -

Arkansas optometrists licensed as optometric physicians who apply for and possess a DEA number shall:

- A. Prescribe schedules III, IV, and V controlled substances only.
- B. Administer and prescribe controlled substances for the diagnosis and treatment of diseases and conditions of the eye, lids, and adnexa.
- C. Not sell any prescription medication including controlled substances.
- D. Be responsible for knowing and abiding by all state and federal regulations pertaining to controlled substances with emphasis on the "Mid Level Practitioner's Manual", published by the DEA, and all State Board rules and regulations pertaining to controlled substances. Record the names and directions of prescribed controlled substances in the patient's record.
- E. A prescriber who has been found by the Arkansas State Board of Optometry to be in violation of a rule or law involving prescription drugs shall be required by the board to register with the Prescription Drug Monitoring Program and access patient information before writing a prescription for an Opioid. The board, in its discretion, may remove this requirement after a period of time if the board deems removal of the requirement appropriate.
- F. Within the first two (2) years of being granted a license in the state, a prescriber shall obtain a minimum of three (3) hours of prescribing education approved the Arkansas

State Board of Optometry. The education approved by the board under this section shall include:

1. Options for online and in-person programs; and
2. Information on prescribing rules, regulations, and laws that apply to individuals who are licensed in the state.
3. Information and instructions on prescribing controlled substances, record keeping and maintaining safe and professional boundaries.

G. A prescriber shall check the information in the Prescription Drug Monitoring Program when prescribing:

1. **An opioid from Schedule II or Schedule III for every time prescribing the medication to a patient: and**
2. **A benzodiazepine medication for the first time prescribing the medication to a patient.**

H. A practitioner who fails to access the Prescription Drug Monitoring Program as required is subject to disciplinary action by the Board.

This section shall apply to all prescribers licensed after December 31, 2015.

Section 2 -

A. Only optometrists certified as optometric physicians, and/or approved by the Board, shall apply for and possess a DEA number to prescribe controlled substances.

B. Optometrists not specifically approved by the Board to prescribe controlled substances:

1. Cannot apply for, obtain or possess a DEA number.
2. Cannot prescribe controlled substances without being in violation of state and federal laws.

CHAPTER V, ARTICLE X - Board Testing of Optometrists for Optometric Physician Certification

Section 1 -

Any optometrist applying to the State Board of Optometry for certification as an optometric physician must take and pass tests administered by the Board or its approved agent as follows:

1. A test including but not limited to; rules, regulations, federal controlled substance regulations, jurisprudence, impaired provider program and prescription writing.

2. Other tests as deemed necessary by the Board.

CHAPTER V, ARTICLE XI - Optometric Physician Laboratory Orders.

1. A Board Certified Primary Care Optometrist (optometric physician) may order any procedure or laboratory test necessary in the examination, diagnosis, treatment, or management of disease or conditions of the human eye, lid, adnexa, or visual system.

CHAPTER VI

IMPAIRED OPTOMETRIST TREATMENT PROGRAM

CHAPTER VI, ARTICLE I - Impaired Optometrist Treatment program.

Section 1 -

Any optometrist, who is identified as being impaired or voluntarily reports his impairment, will be responsible for the following:

1. Paying fines for violations of law, rules, or regulations as determined by the Board.
2. Paying expenses incurred from determining impairment, approved treatment program, post treatment monitoring, evaluation of reports concerning impairment, and other expenses identified by the Board.
3. Knowledge of his board approved treatment program procedures, responsibilities, and consequences of non-compliance.

Section 2 -

An impaired provider may request a specific treatment program if that program is approved by the Board.

CHAPTER VII

REPEAL OF RULES

CHAPTER VII, ARTICLE I

Section 1 -

All rules and parts of rules theretofore promulgated and adopted by this Board in conflict herewith be, and the same are hereby repealed.

Section 2 -

These rules being for the regulation and practice of optometry and the protection of the public, the provisions hereby are declared to be separable and the invalidity of any rule, clause, sentence, paragraph, or section hereof shall not affect the validity of the remainder hereof.

BE IT KNOWN that we, Bryant Ashley, O.D., President, Robert Smalling, O.D. Secretary, Arkansas State Board of Optometry, do hereby state under oath that we have examined the minutes of the meeting of the Board officially convened on November 30, 2017, and the foregoing amendment to the rules and regulations was duly adopted by said Board and certified to the Governor of the State of Arkansas and the Secretary of State of the State of Arkansas, pursuant to the powers and duties invested in said Board by Act 94 of 1941, as amended.

Dated this 30th day of November, 2017.

Bryant Ashley, O.D. President

Robert Smalling, O.D. Secretary