

BOARD OF EXAMINERS IN OPTOMETRY

Administrative Rules Report | Executive Order 2020-03

Comprehensive Review of Administrative Rules as of July 1, 2020

Report Submitted by: Dr. Russell Laverty

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Method Used to Conduct Review: Detailed review of the requirements of Executive Order 2020-03 and of the rules of the Board, focusing on which rules, if any, constituted unnecessary regulatory restrictions or outdated regulations.

TOTAL NUMBER OF UNECESSARY, COSTLY, INEFFECTIVE, DUPLICATIVE OR OUTDATE REGULATIONS: 4 are wholly or partially outdated.

Title 505 Rules and Regulations of the State Board of Examiners in Optometry

Chapter 1 – Administrative Operations

Subchapter 1 – General Provisions

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
1-1-1	Purpose	12-31-91						X	States purpose of the Board

Chapter 1 – Administrative Operations

Subchapter 3 – Board Organization and Administration

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
1-3-1	General Board Purpose and Method of Operation	Amended eff 9-11-17						X	General Board organization and methods of operations

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
1-3-2	Powers and Duties of the Board	Amended eff 9-11-17						X	General Board organization and methods of operations
1-3-3	Board Composition and Officers	Amended eff 9-11-17						X	General Board organization and methods of operations
1-3-4	Board Meetings	Amended eff 9-11-17						X	General Board organization and methods of operations
1-3-5	Official Board Records	Amended eff 9-11-17						X	General Board organization and methods of operations
1-3-6	Availability of Records and Manner of Obtaining Information	Amended eff 5-11-08						X	General Board organization and methods of operations
1-3-7	Availability of Board Rules, Regulations, Policy Statements	Amended eff 9-11-17						X	General Board organization and methods of operations
1-3-8	Office of the Board is deemed to be the Office of the Executive Director	Amended eff 9-11-17						X	General Board organization and methods of operations

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
1-3-9	Examination and Annual License Fee	Amended eff 5-27-10						X	General Board organization and methods of operations

Chapter 1 – Administrative Operations

Subchapter 5 – Rulemaking and Declaratory Rulings

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
1-5-1	Opportunity for Hearing	12-31-91						X	Requests for rulemaking and declaratory rulings & hearings therefor
1-5-2	Petition for Rulemaking	Amended eff 9-11-17						X	Requests for rulemaking and declaratory rulings & hearings therefor
1-5-3	Notice	Amended eff 9-11-17						X	Requests for rulemaking and declaratory rulings & hearings therefor
1-5-4	Rulemaking hearing	Amended eff 9-11-17						X	Requests for rulemaking and declaratory rulings & hearings therefor

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
1-5-5	Effective date	12-31-91						X	Requests for rulemaking and declaratory rulings & hearings therefor
1-5-6	Emergency Rules	Amended eff 7-11-05						X	Requests for rulemaking and declaratory rulings & hearings therefor
1-5-7	Request for declaratory ruling	Amended eff 9-11-17						X	Requests for rulemaking and declaratory rulings & hearings therefor

Chapter 1 – Administrative Operations

Subchapter 7 – Individual Proceedings

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
1-7-1	Definitions	12-31-91						X	Terms pertinent to individual proceedings
1-7-2	Filing of papers	Amended eff 9-11-17						X	Notice, conduct of hearings and rulings on individual proceedings.

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
1-7-3	Initiation of petition for individual proceeding	12-31-91						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-4	Notice to parties	Amended eff 9-11-17						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-5	Service of notice	Amended eff 9-11-17						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-6	Time of hearing; request for extension	Amended eff 9-11-17						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-7	Conduct of hearing	Amended eff 6-12-95						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-8	Record of Hearing	Amended eff 9-11-17						X	Notice, conduct of hearings and

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
									rulings on individual proceedings.
1-7-9	Findings of fact	Amended eff 9-11-17						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-10	Notice of facts	Amended eff 6-12-95						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-11	Final orders, proposed finding of facts and conclusions of law	12-31-91						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-12	Communication with parties	12-31-91						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-13	Subpoenas	Amended eff 6-12-95						X	Notice, conduct of hearings and rulings on individual proceedings.

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
1-7-14	Requests for disqualification	Amended eff 9-11-17						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-15	Rehearing, reopening or reconsideration	Amended eff 9-11-17						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-16	Informal hearing of a matter	12-31-91						X	Notice, conduct of hearings and rulings on individual proceedings.
1-7-17	Stipulation of an order	12-31-91						X	Notice, conduct of hearings and rulings on individual proceedings.

Chapter 10 – Licensure and Regulation of Operations

Subchapter 1 – General Provisions

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-1-1	Purpose	Amended eff 9-11-17						X	Establishes general purpose and procedures

10-1-2	Forms and instructions	Amended eff 9-11-17						X	Establishes general purpose and procedures
10-1-3	Sample of official forms	<u>Revoked</u> eff 9-11-17					X		Revoked section is unnecessary.

Chapter 10 – Licensure and Regulation of Operations

Subchapter 3 – Licensing Procedures

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-3-1	Application for license	Amended eff 9-11-17						X	Method of obtaining licensure by qualified applicants, regulation of optometrists for the public safety and welfare
10-3-2	Examination of Candidates	Amended eff 9-11-17						X	Method of obtaining licensure by qualified applicants, regulation of optometrists for the public safety and welfare
10-3-3	License requirements	12-31-91						X	Method of obtaining licensure by qualified

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
									applicants, regulation of optometrists for the public safety and welfare
10-3-4	Granting of license	12-31-91						X	Method of obtaining licensure by qualified applicants, regulation of optometrists for the public safety and welfare
10-3-5	Reciprocity abolished	12-31-91						X	Method of obtaining licensure by qualified applicants, regulation of optometrists for the public safety and welfare
10-3-6	Special volunteer licenses	Added eff 8-25-13						X	Method of obtaining licensure by qualified applicants, regulation of optometrists

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
									for the public safety and welfare
10-3-7	Acceptance of Military education, training, and experience toward qualification for licensure examination.	Added eff 8-25-13						X	Method of obtaining licensure by qualified applicants, regulation of optometrists for the public safety and welfare
10-3-8	Expediting issuances of license or certificate, or temporary permit.	Added eff 8-25-13						X	Method of obtaining licensure by qualified applicants, regulation of optometrists for the public safety and welfare
10-3-9	Automatic extension of licenses for those deployed on active duty with the Armed Forces.	Added eff 8-25-13						X	Method of obtaining licensure by qualified applicants, regulation of optometrists for the public safety and welfare

Chapter 10 – Licensure and Regulation of Operations

Subchapter 5 – Regulation of Licensees

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-5-1	Minimum standard of sanitation, hygiene and professional surroundings	Amended eff 9-11-17					X (partially)		<u>Partially</u> superseded by statute regarding door access to outside.
10-5-2	Prohibition against practicing in proximity to retail optical outlet	Amended eff 6-12-95					X		Superseded by statute.
10-5-3	Prohibition against solicitation	12-31-91						X	Regulation of practice, unprofessional conduct defined, employment relationships
10-5-4	Prohibition against practicing in connection with commercial business	12-31-91					X		Superseded by statute.
10-5-5	Prohibition against practicing under name other than proper name	12-31-91						X	Regulation of practice, unprofessional conduct defined,

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
									employment relationships
10-5-6	Requirement of registering intent to dispense dangerous drugs and controlled dangerous substances	Amended eff 6-12-95						X	Regulation of practice, unprofessional conduct defined, employment relationships
10-5-7	Practice in two locations	Amended eff 9-11-17						X	Regulation of practice, unprofessional conduct defined, employment relationships
10-5-8	Penalties for practicing without renewal certificate	12-31-91						X	Regulation of practice, unprofessional conduct defined, employment relationships
10-5-9	Required findings on examination of patient	Amended eff 7-27-98						X	Regulation of practice, unprofessional conduct defined, employment relationships

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-5-10	Prohibition against false advertising	12-31-91						X	Regulation of practice, unprofessional conduct defined, employment relationships
10-5-11	Authorized post-graduate educational work	Amended eff 9-23-19						X	Regulation of practice, unprofessional conduct defined, employment relationships
10-5-12	Code of Ethics	12-31-91						X	Regulation of practice, unprofessional conduct defined, employment relationships
10-5-13	Acts constituting unprofessional conduct	Amended eff 9-11-17					(4) Sell samples of medication.		Prohibition on selling samples is outdated in light new statutory ability to dispense medications. Balance of this rule is necessary.

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-5-14	Release of contact lenses prescription	Amended eff 9-11-17						X	Regulation of practice, unprofessional conduct defined, employment relationships
10-5-15	Employment relationships of optometrists, including Professional Entities	Amended eff 7-27-98						X	Regulation of practice, unprofessional conduct defined, employment relationships
10-5-16	Therapeutic Pharmaceutical Agent certificate required after June 30, 2006	Added 9-13-02						X	Regulation of practice, unprofessional conduct defined, employment relationships
10-5-17	Proper scope of practice of nonlaser surgical procedures	Amended eff 7-11-05						X	Regulation of practice, unprofessional conduct defined, employment relationships

Chapter 10 – Licensure and Regulation of Operations

Subchapter 7 – Complaints, Regulations and Renewals

Section	Title	Date Created	Costly	Ineffective	Duplicate	Location Of Duplication	Outdated/ Unnecessary	Necessary	Explanation of determined category
10-7-1	Notification of action on License	12-31-91						X	Procedure for notice & complaints against optometrists, restoration or inactive status of licenses
10-7-2	Complaints against licensees	Amended eff 9-11-17						X	Procedure for notice & complaints against optometrists, restoration or inactive status of licenses
10-7-3	Renewal after revocation	Amended eff 7-27-98						X	Procedure for notice & complaints against optometrists, restoration or inactive status of licenses
10-7-4	Placement of license on inactive status and restoration to active status of such licenses	Added eff 8-12-99						X	Procedure for notice & complaints against optometrists, restoration or inactive status of licenses

END OF REPORT