

OPTOMETRY LAWS OF OKLAHOMA
59 O.S. 581-598, 601-606,
725, 731, 738, 941-947

Section 581. Practice of Optometry - Scope of Delivery of Care – Certification Requirement

A. The practice of optometry is defined to be the science and art of examining the human eye and measurement of the powers of vision by the employment of any means, including the use or furnishing of any self-testing device, the use of any computerized or automatic refracting device, including applications designed to be used on a computer or video conferencing via an Internet device either in person or in remote locations, the use of pharmaceutical agents, the diagnosis of conditions of the human eye, and the correcting and relief of ocular abnormalities by means including but not limited to prescribing and adaptation of lenses, contact lenses, spectacles, eyeglasses, prisms and the employment of vision therapy or orthoptics for the aid thereof, low vision rehabilitation, laser surgery procedures, excluding retina, laser in-situ keratomileusis (LASIK), and cosmetic lid surgery. The practice of optometry is further defined to be non-laser surgery procedures as authorized by the Oklahoma Board of Examiners in Optometry, pursuant to rules promulgated under the Administrative Procedures Act.

B. The practice of optometry shall also include the prescribing of dangerous drugs and controlled dangerous substances for all schedules specified in the Uniform Controlled Dangerous Substances Act except Schedules I and II but allowing for the prescribing of hydrocodone or hydrocodone-containing drugs regardless of schedule for a period not exceeding five (5) days of supply, and the issuance of refills for such prescriptions following sufficient physical examination of the patient for the purpose of diagnosis and treatment of ocular abnormalities. The practice of optometry shall include the dispensing of medications to treat ocular abnormalities and may include the dispensing of professional samples of medications to treat ocular abnormalities to patients.

C. The Scope of the delivery of care as defined in subsections A and B of this section to an individual who is physically located in this state at the time care is delivered shall constitute the practice of optometry.

D. Optometrists shall be certified by the Board of Examiners in Optometry prior to administering drugs, prescribing drugs, or performing laser or nonlaser surgery procedures.

E. Nothing in this title shall be construed as allowing any agency, board, or other entity of this state other than the Board of Examiners in Optometry to determine what constitutes the practice of optometry.

Section 582. Board of Optometry - Continuance - Vacancies - Qualifications - Term of Members

There is hereby re-created, to continue until July 1, 2020, in accordance with the provisions of the Oklahoma Sunset Law, the Board of Examiners in Optometry. This Board shall consist of five (5) persons, four of whom shall possess sufficient knowledge of theoretical and practical optics to practice optometry, be duly licensed as optometrists, and who shall have been residents of this state actually engaged in the practice of optometry for at least five (5) years. The term of each licensed optometrist member of the Board, one being appointed each year, shall be five (5) years, or until a qualified successor is appointed. The lay member of the Board shall serve a term coterminous with that of the governor and shall serve at the pleasure of the Governor. The Governor is hereby authorized to appoint a member of the Board of Examiners in Optometry at the expiration of any term or whenever, for any reason, a vacancy may occur on said Board. Vacancies shall be filled for the unexpired term only.

Section 583. Board of Examiners - Authority to make Rules and Regulations - Organization – Quorum

Said Board of Examiners shall make such rules and regulations, not inconsistent with the laws, as may be necessary to the performance of its duties, and each member thereof may administer oaths, or take testimony concerning any matter within the jurisdiction of the Board. It shall organize by selecting one of its members as president, one as vice-president, and one as secretary and treasurer (the latter to give bond, approved by the Governor), and shall meet at least twice a year, and at such place or places as it may select. A majority of the Board present shall constitute a quorum, and its meetings shall at all times be open to the public. The Board may adopt a code of ethics for the practice of Optometry. A licensed optometrist may establish a practice in not more than two office locations in accordance with rules and regulations established by the Board of Examiners in Optometry. Practice in a governmental institution shall not be counted as one of these locations. Each office shall be registered by the Board and shall maintain such equipment and personnel as required by the Board.

Section 584. Qualifications of Applicants - Examination - Registration – Certificates to Practice to Persons from other States

A. Every person desiring to commence the practice of optometry except as hereinafter provided, upon presentation of satisfactory evidence, verified by oath, that he is more than twenty-one (21) years of age and has met the undergraduate requirements and is a graduate of an accredited school of optometry, conferring the degree of Doctor of Optometry or its equivalent, shall, upon application, be examined by the Board of Examiners to determine his or her qualifications, and such examination shall be based upon the subjects taught in the standard schools and colleges of optometry, such as general and ocular pharmacology, anatomy of the eyes, use of the ophthalmoscope, retinoscope and the use of trial lenses, general anatomy, physiology, physics, chemistry, biology, bacteriology, ocular pathology, ocular neurology, ocular myology, psychology, physiological optics, optometrical mechanics, clinical optometry, visual field charting and orthoptics, the general laws of optics and refraction, as is essential to the practice of optometry. Every candidate successfully passing such examination shall be registered by the Board as possessing the qualifications as required by Section 581 et seq. of this title and shall receive from the Board a certificate thereof. Every optometrist desiring to use dangerous drugs and controlled dangerous substances as specified in Section 581 of this title shall have satisfactorily completed courses in general and ocular pharmacology at an institution accredited by the Council on Post-Secondary Accreditation or the United States Department of Education. The Board of Examiners in Optometry shall approve such courses and shall certify those qualified by such training to use dangerous drugs and controlled dangerous substances as specified in Section 581 of this title. The use of any such pharmaceuticals by an optometrist or the obtaining of same by an optometrist shall be unlawful unless said optometrist is in possession of a current certificate as provided in this section. Such optometrist shall furnish evidence to any pharmacist or other supplier from whom such pharmaceuticals are sought as to his holding a current certificate. The Board may, in its discretion, issue said certificates to practice, to persons otherwise qualified under this act, who have established by legal proof their knowledge of optometry, as shown by previous examination in any state of the Union; provided, the examination in said state was, at the time taken, of an equal standard with that of this state; provided, further, that citizens of this state are by the statutes of said state, admitted to practice on like conditions.

B. Every person desiring to commence the practice of optometry shall be required to submit to a national criminal history record check, as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The costs associated with the national criminal history record check shall be paid by such person.

Section 585. Revocation of certificate - Grounds - Unprofessional and Unethical Conduct, Definition of - Rules and Regulations - Practice Under Own Name - Notice and Hearing on Revocation - Reissuance of Revoked Certificate

A. The Board shall have the power to revoke or suspend any certificate granted by it pursuant to the provisions of this chapter, for fraud, conviction of crime, unprofessional and unethical conduct, alcohol or narcotic impairment, exorbitant charges, false representation of goods, gross incompetency, contagious disease, any violation of any rule or regulation promulgated by the Board pursuant to the provisions of this chapter or any violation of this chapter.

The following acts shall be deemed by the Board as unprofessional and unethical conduct:

1. Employment by an Oklahoma-licensed optometrist of any person to solicit from house to house the sale of lenses, frames, spectacles, or optometric services or examinations; and

2. Selling, advertising or soliciting the sale of spectacles, eyeglasses, lenses, frames, mountings, eye examinations, or optometric services by house-to-house canvassing either in person or through solicitors; and

3. Acceptance of employment, either directly or indirectly, by an Oklahoma-licensed optometrist from an unlicensed optometrist or person engaged in any profession or business or owning or operating any profession or business to assist it, him, or them in practicing optometry in this state; provided that renting a separate area or room within or adjacent to a retail store pursuant to Section 944 of this title shall not be considered as direct or indirect employment, but any signage and advertisement of the optometric practice shall conform with section 943.1 of this title; and

4. Publishing or displaying, or knowingly causing or permitting to be published or displayed by newspaper, radio, television, window display, poster, sign, billboard, or any other advertising media any statement or advertisement of any price or fee offered or charged by an optometrist for any optometric services or materials including lenses, frames, eyeglasses, or spectacles or parts thereof, including statements or advertisements of discount, premium, or gifts, if the statements or advertisements are fraudulent, deceitful, misleading or in any manner whatsoever tend to create a misleading impression or are likely to mislead or deceive because in context the statements or advertisements make only a partial disclosure of relevant facts; and

5. No person shall practice optometry under any name other than the proper name of the person and it shall be the same name as used in the license issued by the Board of Examiners to the person; provided that renting a separate area or room and practicing optometry within or adjacent to a retail store pursuant to Section 944 of this Title shall not be considered a violation of this section. Before any certificate is revoked or suspended, the holder thereof shall be provided with notice and hearing as provided for in the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes. The Board, after the expiration of the period of three (3) months after the date of the revocation, may entertain application for the reissuance of the revoked certificate and may reissue the certificate upon payment of a reinstatement fee not to exceed three times the annual renewal fee. The Board shall have the right to promulgate such rules and regulations as may be necessary to put into effect the provisions of this chapter. The rules may prescribe which acts are detrimental to the general public health or welfare and may prescribe a minimum standard of sanitation, hygiene, and professional surroundings, and which acts constitute unprofessional or unethical conduct. The conduct shall be grounds for revocation or suspension of the license or certificate issued pursuant to the provisions of Section 584 of this title.

B. If an out-of-state license or certificate of an optometrist who also holds an Oklahoma license or certificate is suspended or revoked for any reason, his Oklahoma license may come under review by the Board. Should the out-of-state suspension or revocation be on grounds the same or similar to grounds for suspension or revocation in Oklahoma, the Board, after notice and hearing pursuant to the

provisions of this section, may suspend or revoke the certificate of the optometrist to practice in Oklahoma.

C. The following acts shall not be deemed by the Board as unprofessional and unethical conduct:

1. An optometrist practicing optometry within or adjacent to a retail store, regardless of whether the retail store derives income from the sale of prescription optical goods and materials; and
2. An optometrist renting a separate area or room within a retail store pursuant to Section 944 of this title to practice optometry.

Section 586. Certificates - Recordation - Exhibition of certificates

Every person practicing Optometry shall display his certificate of registration or exemption in a conspicuous place, and whenever required exhibit such certificate to said Board of Examiners or its authorized representatives.

Section 587. Examinations - Fees - Compensation and Expenses - Optometry Board Revolving Fund

The fee for such examination shall be set by rules promulgated by the Board of Examiners in Optometry, not to be less than One Hundred Dollars (\$100.00) and not to exceed Two Hundred Dollars (\$200.00), and a yearly license fee set by rules promulgated by the Board of Examiners in Optometry, not to exceed Five Hundred Dollars (\$500.00), shall be paid each fiscal year by all persons holding a license to practice optometry in this state, and shall be paid not later than the 30th day of June of each year. In the event of default of payment of such license fee by any person, his or her certificate shall be revoked by the Board who shall take such action only after notifying the person in default by registered mail and allowing that person fifteen (15) days in which to comply with this requirement. The Board shall be paid travel expenses as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. The secretary-treasurer shall receive compensation fixed by the Board, not to exceed Two Hundred Dollars (\$200.00) per month. All fees and charges collected by the secretary-treasurer of the Board shall be paid on the first day of each month into a revolving fund in the State Treasury to be designated as the "Optometry Board Revolving Fund". This fund shall consist of all moneys received by the Board other than appropriated funds. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the control and management of the Board. Expenditures from this fund shall be made pursuant to the purposes of Sections 581 through 606 of this title and without legislative approval. Warrants for expenditures shall be drawn by the State Treasurer based on claims signed by an authorized employee or employees of the Board and approved for payment by the Director of the Office and Enterprise Services.

Section 588. Practice by Unauthorized Person – False Personation - Evidence of Violations – Punishment

A. No person shall practice optometry in this state or make any tests or measurements of the human eye for diagnostic purposes unless said person has been issued a certificate pursuant to the provisions of Section 584 of this title or is a physician or surgeon authorized to practice medicine in this state. No person shall impersonate a registered optometrist. No person shall buy, sell or obtain in any manner a certificate of registration or exemption issued to another. Practicing or offering to practice optometry, or the public representation of being qualified to practice optometry, by any person not authorized to practice optometry shall be sufficient evidence of the violation of the provisions of Sections 581 through 604 of this title. No optometrist shall aid or abet any person not authorized to practice optometry in this state to practice optometry. Any person who violates any of the provisions of Sections 581 through 604 of this title shall be deemed guilty of a misdemeanor, and upon conviction for each offense, shall be punished by a fine of not less than Fifty Dollars (\$50.00), nor more than Five

Hundred Dollars (\$500.00), or imprisonment in the county jail not less than thirty (30) days, nor more than ninety (90) days, or by both fine and imprisonment.

B. In addition to the criminal penalties prescribed above, any natural person, partnership, or business entity, found by a preponderance of the evidence to have practiced optometry within the State of Oklahoma without a currently valid license or certificate issued by the Board, or to have dispensed, supplied, fitted, adjusted, adapted, or in any manner applied contact lenses to the eyes of a person whether or not those contact lenses are designed to aid or correct human vision or have no prescription power or are cosmetic contact lenses, without a full contact lens prescription issued by a person licensed pursuant to Chapter 11, Chapter 13 or Chapter 14 of this title, shall, after notice and an opportunity to be heard pursuant to the Board's rules and Article II of the Administrative Procedures Act, be liable for a civil administrative penalty of at least One Hundred Dollars (\$100.00) but not more than Two Thousand Five Hundred Dollars (\$2,500.00) for each instance of unlicensed practice of optometry. This provision shall not apply to any duly-licensed physician authorized to practice medicine and/or surgery under the laws of the State of Oklahoma and any business entity authorized to practice medicine or optometry in the State of Oklahoma. Any administrative order or settlement agreement imposing a civil administrative penalty pursuant to this section may be enforced in the same manner as civil judgments in this state. The Board may file an application to enforce an administrative order or settlement agreement in the district court of Oklahoma County. Any person aggrieved by a final agency order of the Board may obtain judicial review in accordance with the Oklahoma Administrative Procedures Act. All money received as civil administrative penalties shall be placed in the operational account of the Board.

C. Nothing in the provisions of Sections 581 through 604 of this title shall prohibit the performance of routine visual screening by a person not licensed to practice optometry in this state. Nothing in this section shall prohibit an optometry student officially enrolled in a college of optometry which is approved by the State Regents for Higher Education from performing educational functions within the institution or prohibit an instructor in such optometry college from practicing optometry so long as such practitioner is licensed in any state and his or her practice is limited to instruction of optometry students in an accredited Oklahoma college of optometry or state or federal hospital which is utilized as a teaching institution for students of optometry, provided such instructor has been issued a temporary license by the Oklahoma Board of Examiners in Optometry.

Section 589. Exceptions

Nothing in this act shall be construed to apply to duly-licensed physicians authorized to practice medicine and/or surgery under the laws of the State of Oklahoma.

Section 591. Certificates of Registration

The certificates of registration heretofore issued and not revoked by the Board of Examiners in Optometry prior to the passage and approval of this act, are hereby expressly declared valid and shall entitle the holder thereof to the legal right to practice optometry in the State of Oklahoma as defined herein.

Section 592. Effect of Invalid Sections

Should any section or portion of a section of this act, be, for any cause, adjudged invalid, only such section or portion of section shall be thereby affected.

Section 593. Public Policy

It is the public policy of the State of Oklahoma that optometrists rendering visual care to its citizens shall practice in an ethical, professional manner; that their practices be free from any appearance of commercialism; that the visual welfare of the patient be the prime consideration at all times; and that optometrists shall not be associated with any nonprofessional person or persons in any manner which might degrade or reduce the quality of visual care received by the citizens of this state; provided that renting a separate area or room and practicing optometry within or adjacent to a retail store pursuant to Section 944 of this title shall not be considered a violation of this section.

Section 595. Certain Agreements, Contracts, Understandings, etc. Prohibited

No optometrist, licensed under Chapter 13 of Title 59 of the Oklahoma Statutes, shall enter into any agreement, contract, arrangement, practice, or understanding, written or otherwise, with any optical supplier engaged in the sale of optical goods and materials to the public, whereby persons are referred by the optical supplier to said licensed person, and/or whereby persons are referred back to the optical supplier for the purchase of optical goods and materials.

Section 597. Penalties

Violation of the provisions of this act shall be a misdemeanor. If violation hereof is by a licensed optometrist the same shall constitute grounds for revocation of such license whether or not he may be also charged with a misdemeanor. The Board of Examiners in Optometry shall determine the existence of a violation of this act by an optometrist and shall proceed with revocation under powers granted to said Board and in accordance with procedure prescribed in Section 585 of Title 59 of the Oklahoma Statutes. Said Board may make rules necessary for the enforcement of this act so long as such rules are not inconsistent with the provisions of this or any other law of this state.

Section 598. Provisions Cumulative

The provisions of this act shall be cumulative to other laws.

FINANCES – APPOINTMENTS - POST-GRADUATE WORK

Section 601. Appropriations from Optometry Board Funds

There is hereby appropriated to the Board of Examiners in Optometry from the moneys which will accrue to the Optometry Board Fund of the State of Oklahoma, for each fiscal year hereafter, a sum equal to ninety per cent (90%) of such accruals.

Section 602. Expenses for Operation of Board

Said appropriations herein made shall be used by the Board of Examiners in Optometry for the necessary expenses of operation of said board during the fiscal years set out in Section 1 of this Act, including expenses for personnel services, salary of Secretary-Treasurer of the Board, per diem of members of the Board of Examiners, and all the expenses of the maintenance and operation deemed reasonably necessary or desirable in the operation of the business of said Board.

Section 603. Appointments and Salaries

The Board of Examiners in Optometry shall create positions, make the appointment, and unless otherwise provided by act of the Legislature, shall fix the salary of officials, attorneys and other employees necessary to perform the duties imposed upon the Board of Examiners in Optometry by law, payable from the appropriations made by this act for such services provided in Section 2.

Section 604. Attendance on Educational or Postgraduate Program

Every person holding a license to practice optometry in this state shall be required to present to the Board of Examiners in Optometry, not later than the thirtieth day of June of each year, satisfactory evidence that during the preceding twelve (12) months the person attended not less than two (2) days of a total of at least twelve (12) hours of educational or postgraduate programs approved by the Board, or that the person was prevented, because of sickness or any other reason acceptable to the Board, from attending the educational or postgraduate program. Such education shall include not less than one (1) hour of education in pain management or one (1) hour of education in opioid use or addiction, unless the person has demonstrated to the satisfaction of the Board that the person does not currently hold a valid federal Drug Enforcement Administration registration number.

The filing of proof of attendance at educational programs or clinics shall be a condition precedent to the issuance of a renewal license. The Board may reinstate the license of the licensee to practice optometry upon presentation of satisfactory proof of postgraduate study of a standard approved by the examiners and payment of all fees due including a late reinstatement fee not to exceed three times the annual renewal fee.

Section 605. Provisions of Act Cumulative

The provisions of this act shall be cumulative to other laws.

Section 606. Invalidity Clause

If any of the provisions hereof are adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity or constitutionality of any of the other provisions hereof.

Section 646.1. Definitions

As used in this act:

1. "Assessment mechanism":

a. means automated or virtual equipment, application or technology designed to be used on a telephone, a computer or an Internet-based device that may be used either in person or remotely to conduct an eye assessment, and

b. includes artificial intelligence devices and any equipment, electronic or nonelectronic, that is used to perform an eye assessment;

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

3. "Eye assessment" means an assessment of the ocular health and/or visual refractive status of a patient that may include but is not limited to objective refractive data or information generated by an automated testing device, including an autorefractor or Internet-based assessment method, in order to establish a medical diagnosis or refractive diagnosis for the correction of vision disorders;

4. "Person" means an individual, corporation, trust, partnership, incorporated or unincorporated association and any other legal entity;

5. "Prescription" means a handwritten or electronic order issued by a Oklahoma-licensed optometrist, or an oral order issued directly by an Oklahoma-licensed optometrists;

6. "Seller" means an individual or entity that sells contact lenses or visual aid glasses and dispenses them to Oklahoma residents in any manner; and

7. "Visual aid glasses":

a. means eyeglasses, spectacles or lenses designed or used to correct visual defects, including spectacles that may be adjusted by the wearer to achieve different types or levels of visual correction or enhancement, and

- b. does not include optical instruments or devices that are:
 - (1) not intended to correct or enhance vision,
 - (2) sold without consideration of the visual status of the individual who will use the optical instrument or device, including sunglasses that are designed and used solely to filter out light, or
 - (3) completely assembled eyeglasses or spectacles designed and used solely to magnify.

Section 646.2 Assessment Mechanisms-Duties-Disclosure-Standard of Care- Non-Limitations

A. An assessment mechanism to conduct an eye assessment or to generate a prescription for contact lenses or visual aid glasses to a patient in Oklahoma shall:

1. Provide synchronous or asynchronous interaction between the patient and the Oklahoma-licensed optometrist;
2. Collect the patient's medical history, previous prescription for corrective eyewear and length of time since the patient's most recent in-person comprehensive eye health examination;
3. Provide any applicable accommodation required by the federal Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq., as amended;
4. Gather and transmit protected health information in compliance with the federal Health Insurance Portability and Accountability Act of 1996, as amended;
5. Be used to perform a procedure with a recognized Current Procedural Terminology code maintained by the American Medical Association, if applicable; and
6. Maintain liability insurance, through its owner or lessee, in an amount adequate to cover claims made by individuals examined, diagnosed, or treated based on information and data, including any photographs, and scans, and other digital data generated by the assessment mechanism.

B. An Oklahoma-licensed optometrist shall:

1. Read and interpret the diagnostic information and data, including any photographs and scans, gathered by the assessment mechanism;
2. Verify the identity of the patient requesting treatment via the assessment mechanism;
3. Create and maintain a medical record for each patient, which is for use during the ongoing treatment of a patient and complies with all state and federal laws regarding maintenance and accessibility and is HIPAA-compliant; and
4. Provide a handwritten or electronic signature, along with their Oklahoma state license number, certifying their diagnosis, evaluation, treatment of the patient, and prescription or consultation recommendations for the patient.

C. Prior to using an assessment mechanism, each Oklahoma patient shall be provided with and shall accept as a term of use a disclosure that includes the following information:

1. This assessment is not a replacement for an in-person comprehensive eye health examination;
2. This assessment cannot be used to generate an initial prescription for contact lenses or a follow-up or first renewal of the initial prescription;
3. This assessment may only be used if the patient has had an in-person comprehensive eye health examination within the previous twenty-four (24) months if the patient is conducting an eye assessment or receiving a prescription for visual aid glasses; and
4. The United States Centers for Disease Control and Prevention (CDC) advises contact lens wearers to be examined by an eye doctor one time a year or more often if needed.

D. Evaluation, treatment and consultation recommendations by an Oklahoma-licensed optometrist utilizing an assessment mechanism as required in this section, including issuing a prescription via

electronic means, shall be held to the same standards of appropriate practice guidelines and standard of care as those in traditional in-person clinical settings.

E. This section shall not:

1. Limit the discretion of an Oklahoma-licensed optometrist to direct a patient to utilize any telehealth service deemed appropriate for any treatment and care of the patient;
2. Limit the sharing of patient information, in whatever form, between an optometrist; or
3. Apply beyond ocular health and eye care.

Section 646.3 Prescriptions for Contact Lenses and Visual Aid Glasses-Required Inclusions

A. A contact lens prescription shall include the following:

1. The ophthalmic information necessary to accurately fabricate or dispense the lenses, including the lens manufacturer, lens series/brand name and the lens material, if applicable;
2. Power and base curve;
3. Name, license number, telephone number and, for written orders, the signature of the prescribing optometrist;
4. Patient's name and address, expiration date of the prescription and number of refills or lenses permitted; and
5. The date of issuance.

B. A contact lens prescription may also include the diameter, axis, add power, cylinder, peripheral curve, optical zone and center thickness.

C. A prescription for visual aid glasses shall include the following:

1. The name, license number, telephone number and, for written orders, the signature of the prescribing optometrist;
2. The patient's name;
3. The date of issuance; and
4. The value of all parameters the Oklahoma-licensed optometrist has deemed necessary to dispense corrective lenses appropriate for a patient.

D. An Oklahoma-licensed optometrist shall not refuse to release a prescription for contact lenses or visual aid glasses to a patient.

Section 646.4 Prescriptions for Contact Lenses - Expiration Dates

Unless a health-related reason for the limitation is noted in the patient's medical records, contact lens prescriptions shall not have an expiration date of less than twelve (12) months from the date the prescription is authorized or the last date of the contact lens evaluation by an Oklahoma-licensed optometrist, whichever date is later. In no event shall a contact lens prescription be valid twelve (12) months after the date of authorization by an Oklahoma-licensed optometrist.

Section 646.5 Verification of Contact Lens Prescription - Method and Protocol - Limitations

A. All contact lens sellers authorized in accordance to dispense contact lenses in this state shall verify the contact lens prescription by the following:

1. Receipt of a written or faxed valid contact lens prescription signed by the prescribing optometrist; or
2. An electronic or oral affirmative communication of the complete contact lens prescription from the prescribing optometrist.

B. If a contact lens seller authorized to dispense contact lenses in this state finds it necessary to contact the prescribing optometrist via telephone in order to verify a contact lens prescription, the following protocols shall be followed:

1. Calls shall be made during regular business hours, which for purposes of this act shall be defined as Monday through Friday during the hours of 9:00 a.m. and 5:00 p.m. Central Standard Time excluding federal holidays;
 2. Any verification requests shall include the name, address and telephone number of the patient;
 3. The toll-free telephone number shall be included in voice mail or messages left on answering machines;
 4. Contact lens prescriptions shall not be mailed, sent, delivered or dispensed before verification by the optometrist;
 5. Touch-tone telephone options offered by a contact lens seller or any person authorized to dispense contact lenses in this state shall not constitute verification;
 6. Response-time options stated by a contact lens seller or any person authorized to dispense contact lenses in this state shall not constitute verification; and
 7. Calls shall comply with federal statutes.
- C. In the absence of a prescription as defined and described in Section 10 of this act, it shall be a violation of this act to dispense contact lenses through the mail or otherwise to an Oklahoma resident.

Section 646.6 Responsibility for Accuracy In Dispensing of Contact Lenses or Visual Aid Glasses

- A. Any seller or any person authorized to dispense contact lenses or visual aid glasses in this state who fills a prescription bears the full responsibility for the accurate dispensing of the contact lenses or visual aid glasses provided under the 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 who issued the contact lens or visual aid glasses prescription.
- B. The optometrist shall not be liable for any damages for injury resulting from the packaging or manufacturing of the contact lenses or visual aid glasses.

Section 646.7 Contact Lens Fitting - Requirements for Completion

A contact lens fitting shall be complete and a contact lens prescription may be written when:

1. The optometrist has completed all measurements, tests and examinations necessary to satisfy his or her professional judgment that the patient is a viable candidate to wear contact lenses, recognizing that more than one visit between the patient and the optometrist may be required; and
2. Contact lenses suitable for the patient's eyes have been evaluated and fitted by the optometrist to the patient's eyes and the optometrist is satisfied with the fitting based on ocular health and the visual needs of the patient.

The patient shall be entitled to receive a copy of the contact lens prescription with the appropriate number of lenses to fulfill the prescription until its expiration date.

DESIGNATION OF BRANCH OF HEALING ART

Section 725.1 Use of Word

A. Every person who writes or prints, or causes to be written or printed, his or her name (whether or not the word "Doctor", or an abbreviation thereof, is used in connection therewith) in connection with, as engaging in, or holding himself or herself out as engaging in, any of the branches of the healing art shall append to his or her name the letters or words set forth in Section 725.2 of this title if the person is one of the nine classes of persons listed in subsection A of Section 725.2 of this title.

B. If the person is not one of the nine classes of persons listed in subsection A of Section 725.2 of this title and is engaged in a branch of the healing art, the person shall write or print, in the same size letters as his or her name, appropriate and generally and easily understood words or letters, which clearly show and indicate the branch of the healing art in which he or she is licensed to practice and is engaged.

Section 725.2 Right to Use Word "Doctor" or Abbreviation Thereof

A. The following nine classes of persons may use the word "Doctor", or an abbreviation thereof, and shall have the right to use, whether or not in conjunction with the word "Doctor", or any abbreviation thereof, the following designations:

1. The letters "D.P.M.", or the words podiatrist, doctor of podiatry, podiatric surgeon, or doctor of podiatric medicine by a person licensed to practice podiatry under the Podiatric Medicine Practice Act;

2. The letters "D.C." or the words chiropractor or doctor of chiropractic by a person licensed to practice chiropractic under the Oklahoma Chiropractic Practice Act;

3. The letters "D.D.S." or "D.M.D.", as appropriate, or the words dentist, doctor of dental surgery, or doctor of dental medicine, as appropriate, by a person licensed to practice dentistry under the State Dental Act;

4. The letters "M.D." or the words surgeon, medical doctor, or doctor of medicine by a person licensed to practice medicine and surgery under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act;

5. The letters "O.D." or the words optometrist or doctor of optometry by a person licensed to practice optometry under Sections 581 through 606 of this title;

6. The letters "D.O." or the words surgeon, osteopathic surgeon, osteopath, doctor of osteopathy, or doctor of osteopathic medicine by a person licensed to practice osteopathy under the Oklahoma Osteopathic Medicine Act;

7. The letters "Ph.D.", "Ed.D." or "Psy.D." or the words psychologist, therapist, or counselor by a person licensed as a health service psychologist pursuant to the Psychologists Licensing Act;

8. The letters "Ph.D.", "Ed.D." or other letters representing a doctoral degree or the words language pathologist, speech pathologist, or speech or language pathologist by a person licensed as a speech and language pathologist pursuant to the Speech-Language Pathology and Audiology Licensing Act and who has earned a doctoral degree from a regionally accredited institution of higher learning in the field of speech and language pathology; and

9. The letters "Ph.D.", "Ed.D." or other letters representing a doctoral degree or the word audiologist by a person licensed as an audiologist pursuant to the Speech-Language Pathology and Audiology Licensing Act and who has earned a doctoral degree from a regionally accredited institution of higher learning in the field of audiology.

B. Unless otherwise specifically provided in a particular section or chapter of the Oklahoma Statutes, the word "doctor" or "doctors" shall mean and include each of the nine classes of persons listed in subsection A and the word "physician" or "physicians", as provided in subsection C of this section. Any other person using the term doctor, or any abbreviation thereof, shall designate the authority under which the title is used or the college or honorary degree that gives rise to use of the title.

C. Unless otherwise specifically provided in a particular section or chapter of the Oklahoma Statutes, the word “physician” or “physicians” shall mean and include each of the classes of persons listed in paragraphs 1 through 6 of subsection A and the word “doctor” or “doctors” as provided in subsection B of this section. The term “physician” shall not include any person specified in paragraphs 7 through 9 of subsection A of this section unless such person is otherwise authorized to use such designation pursuant to this section.

D. For purposes of this section, “provider” means and includes:

1. Each of the nine classes of persons listed in subsection A of this section and referred to in subsections B and C of this section; and

2. Any other person using the term doctor or any abbreviation thereof.

E. Persons in each of the nine classes listed in subsection A, and referred to in subsections B and C, of this section shall identify through written notice, which may include the wearing of a name tag, the type of license under which the doctor is practicing, utilizing the designations provided in subsections A, B and C of this section. Each applicable licensing board is authorized by rule to determine how its license holders may comply with this disclosure requirement.

F.1. Any advertisement for healthcare services naming a provider shall:

a. identify the type of license of the doctor utilizing the letters or words set forth in this section if the person is one of the classes of persons listed in subsection A of this section, and referred to in subsections B and C of this section, or

b. utilize appropriate, accepted, and easily understood words or letters, which clearly show and indicate the branch of the healing art in which the person is licensed to practice and is engaged in, if the person is not one of the nine classes of persons listed in subsection A of this section, or referred to in subsections B and C of this section.

2. The term “advertisement” includes any printed document including letterhead, video clip, or audio clip created by, for, or at the direction of the provider or providers and advertised for the purpose of promoting the services of the doctor or provider.

G.1. It shall be unlawful for any medical doctor, doctor of osteopathic medicine, doctor of dental surgery, doctor of dental medicine, doctor of optometry, doctor of podiatry, or doctor of chiropractic to make any deceptive or misleading statement, or engage in any deceptive or misleading act, that deceives or misleads the public or a prospective or current patient, regarding the training and the license under which the person is authorized to practice.

2. The term “deceptive or misleading statement or act” includes, but is not limited to:

a. such statement or act in any advertising medium,

b. making a false statement regarding the education, skills, training, or licensure of a person, or

c. in any other way describing the profession, skills, training, expertise, education, or licensure of a person in a fashion that causes the public, a potential patient, or current patient to believe that the person is a medical doctor, doctor of osteopathic medicine, doctor of dental surgery, doctor of dental medicine, doctor of optometry, doctor of podiatry, or doctor of chiropractic when that person does not hold such credentials.

H. Notwithstanding, any other provision of this section, a person licensed in this state to perform speech pathology or audiology services is designated to be a practitioner of the healing art for purposes of making a referral for speech pathology or audiology services pursuant to the provisions of the Individuals with Disabilities Education Act, Amendment of 1997, Public Law 105-17, and Section 504 of the Rehabilitation Act of 1973.

Section 725.3 Violations of Provisions

A.1. Any licensed health care provider found by the appropriate licensing board or state agency to be in violation of the provisions of subsection E of Section 725.2 of this title shall be punished by an

administrative penalty of not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00) to be administered and collected by the appropriate licensing board or state agency.

2. Any person who is not a licensed health care provider and found by the appropriate licensing board or state agency to be in violation of the provisions of subsection E of Section 725.2 of this title, shall be punished by an administrative penalty of not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00) to be administered and collected by the appropriate licensing board or state agency. Each day this act is violated shall constitute a separate offense and shall be punishable as such.

B.1. Any licensed health care provider found by the appropriate licensing board or state agency to be in violation of the provisions of this act, other than subsection E of Section 725.2 of this title, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000) to be administered and collected by the appropriate licensing board or state agency.

2. Any person who is not a licensed health care provider and found by the appropriate licensing board or state agency to be in violation of the provisions of this act, other than subsection E of Section 725.2 of this title, shall be punished by an administrative penalty of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000) to be administered and collected by the appropriate licensing board or state agency.

3. Each day this act is violated shall constitute a separate offense and shall be punishable as such.

C. A case shall be referred to the Attorney General for investigation and prosecution if a licensing board or state agency makes a finding of gross or repeated violations of this act by a licensed health care provider or an unlicensed health care provider.

Section 725.4 Written Disclosure of Financial Interest of Professional or Provider - Penalties for Violations

A. Any health or mental health care professional or provider who refers patients or clients to a testing center or laboratory shall provide written disclosure to such patient or client or the guardian of such patient or client of any financial interest of the professional or provider in the center or laboratory or any remuneration received by the professional or provider for referrals to the center or laboratory. Provided, however, that disclosure shall not be required where:

1. The testing center or laboratory is an extension of or ancillary to the health or mental health care professional's or health care provider's practice;

2. The testing center or laboratory is not a separate business entity and is not billed as a separate entity; and

3. The health or mental health care professional or health care provider provides for and supervises these services at the facility.

B. Any person who has been determined to be in violation of subsection A of this section by the State Board of Health, after notice and a hearing by the board shall be subject of a fine of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00).

C. In addition to any other penalties or remedies provided by law:

1. A violation of this section by a health or a mental health care professional or health care provider shall be grounds for disciplinary action by the state agency licensing, certifying or registering such professional or provider; and

2. A state agency licensing, certifying or registering such professional or provider may institute an action to enjoin violation or potential violation of this section. The action for an injunction shall be in addition to any other action, proceeding or remedy authorized by law.

Section 725.5 Civil Liability - Medical Care on Voluntary Basis at Free Medical Clinic or Educational Sporting Event

A health care provider authorized to use the designation "Doctor", or an abbreviation thereof pursuant to the provisions of Section 725.2 of Title 59 of the Oklahoma Statutes, who renders medical care on a voluntary basis at a free medical clinic or an educational sporting event is not liable for any civil damages, other than for injuries resulting in death, caused by acts or omissions of the health care provider while rendering such medical care unless it is plainly alleged in the complaint and later proven that the acts or omissions of the health care provider constituted gross negligence or willful or wanton wrongs during the rendering of such medical care.

UNLAWFUL PRACTICE OF HEALING ARTS

Section 731.1 Definitions.

As used in Sections 731.1 through 731.7 of this title:

1. "Person" means any individual, or association of individuals or group of individuals;
2. "Human ill" or "human illness" means any human disease, ailment, deformity, injury or unhealthy or abnormal physical and/or mental condition of any nature;
3. "Diagnosis" means the use professionally of any means for the discovery or determination of any human ill as herein defined, or the cause of any such human ill; and
4. "Treatment" means the use of drugs, surgery, including appliances, manual or mechanical means, or any other means of any nature whatsoever, for the cure, relief, palliation, adjustment or correction of any human ill as defined herein.

Section 731.2 Use of Word "Doctor" or "Dr."

A. Proof that any class of persons identified in Section 725.2 of this title appends to their name the word "Doctor," the abbreviation "Dr.," or any other word, abbreviation or designation, which word, abbreviation or designation, indicates that such person is qualified for diagnosis or treatment, as herein defined, shall constitute prima facie evidence that such person is holding himself or herself out, within the meaning of this act, as qualified to engage in diagnosis or treatment.

B. Nothing in this section shall be construed to prevent a person specified in paragraphs 7 through 9 of subsection A of Section 725.2 of this title from appending to such person's name the word "Doctor", so long as such person follows such name and designation with the letters signifying the recognized doctoral degrees specified in paragraphs 7 through 9 of subsection A of Section 725.2 of this title.

Section 731.3 License or Certificate

Except as authorized by the provisions of Sections 492 and 731.5 of this title and Section 5 of this act, no person shall in any manner engage in, offer to engage in, or hold himself out as qualified to engage in the diagnosis and/or treatment of any human ill unless such person is the holder of a legal and unrevoked license or certificate issued under the laws of Oklahoma authorizing such person to practice the healing art covered by such license and is practicing thereunder in the manner and subject to the limitations provided by the laws of the State of Oklahoma for the issuance of such license or certificate for the practice thereunder.

Section 731.4 Violations of Act

Any person who shall violate the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars (\$50.00), nor more than

Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not less than five (5) days, nor more than thirty (30) days, or by both such fine and imprisonment. Each day upon which this act shall be violated shall constitute a separate offense and be punishable as such.

Section 731.5 Application of Law

Nothing in this act shall apply to:

1. Any commissioned officer in any of the healing arts licensed as such in the United States Army, Navy, Marines, Public Health Service, or Marine Hospital Service, in the discharge of the professional duties of such officer;

2. Any legally qualified person when engaged exclusively in the practice of the particular profession of such person, as defined by law;

3. Any licensed person practicing any of the healing arts from another state or territory, when in actual consultation with a licensed practitioner in this state;

4. Any physician's trained assistant who is assisting a licensed physician to render services within the licensed scope of practice of the physician, if the assistant is under the supervision and control of the physician;

5. Any student in any recognized school of the healing arts in carrying out prescribed courses of study provided such school is a recognized institution by the statutes of Oklahoma, and its practitioners are duly licensed as prescribed by law;

6. The practice of those who endeavor to prevent, or cure, disease or suffering, by spiritual means or prayer; or

7. Any legally qualified person specified in paragraphs 7 through 9 of subsection A of Section 725.2 of this title in the discharge of the professional duties of the person, so long as such person is employed by any state or governmental agency, or any recognized college or university.

Section 731.6 Invalidity Clause

If any section, paragraph or clause of this act is for any reason held invalid, such fact shall not affect the validity of any other portion hereof.

Section 736.2 Injunction - County Attorney - Attorney General

Provided that any violation hereof shall be enjoined by any court having jurisdiction of the parties on the application or petition of the county attorney of the county in which the violation occurred, and upon his refusal, by the Attorney General.

Section 738.1 Injunctions - Granted to Boards

Injunctions, without bond, may be granted by district courts to the Board of Podiatric Medical Examiners, the Board of Chiropractic Examiners, the State Board of Medical Licensure and Supervision, the Board of Examiners in Optometry, the Board of Pharmacy, the Board of Dentistry, the Board of Veterinary Medical Examiners or the State Board of Osteopathic Examiners, for the purpose of enforcing the respective acts and laws creating and establishing these boards.

Section 738.2 Permission From Boards to Institute - When

None of the Boards referred to in Section 1 of this act shall be permitted to institute an action to enjoin any person who holds a valid license regularly issued by any other of the above-named Boards without first obtaining the written consent of said other Board to file such injunction proceedings. The terms and provisions of the respective acts and laws creating and establishing the Boards above referred to are set forth in Title 59, Oklahoma Statutes 1951, as Chapters 4, 5, 7, 8, 11, 13 and 14. Provided, that

in the event any of the above-named Boards as to an injunction action, or the proper district attorney as to a criminal action, fails or refuses to file such an action to enforce the respective acts and laws applicable to any such Board within ninety (90) days after the complaint of violation thereof is made thereto, it shall be the duty of the Attorney General of the State of Oklahoma, if such a sworn complaint is made thereto, to file and prosecute an appropriate injunction or criminal action to enforce said act or law, that is, if he finds there is sufficient competent evidence to support such action.

Section 738.3 Attorneys, Employment of

Each of the Boards referred to in Section 1 of this act shall have the authority to employ attorneys to advise and assist such Boards in the performance of its official duties and functions and in carrying out the provisions of this act; provided, that the compensation of such attorney shall be paid from the fund, or moneys, from which other expenses of the Board are paid, and shall not be a charge against the State of Oklahoma.

Section 738.4 County Attorney - Act not to Abrogate Right

Nothing in this act shall abrogate the right of any district attorney in this state to institute an action to enjoin or prosecute for violations of any of the laws of this state relating to the practice of any of the healing arts.

SALE OF OPTICAL GOODS AND DEVICES

Section 941. Public Policy

It is the public policy of the State of Oklahoma that the citizens of Oklahoma shall receive the best possible visual care, through the efforts of well trained and qualified physicians licensed under Chapter 11, Title 59, Oklahoma Statutes and optometrists licensed under Chapter 13, of Title 59, Oklahoma Statutes and that no unqualified person shall be permitted to visually correct for compensation the eyes of another.

Section 942. Fitting, Adjusting or Applying Lenses or Other Optical Appliances, Duplicating or Replacing Lenses, Etc. Without License Unlawful

A. It shall be unlawful for any person, firm, corporation, company, or partnership not licensed pursuant to the provisions of Chapter 11, Chapter 13 or Chapter 14 of this title, to:

1. Fit, adjust, adapt, or to in any manner apply lenses, frames, prisms, or any other optical appliances to the face of a person;
2. Duplicate or attempt to duplicate, or to place or replace into the frames, any lenses or other optical appliances which have been prescribed, fitted, or adjusted for visual correction, or which are intended to aid human vision;
3. Give any treatment or training designed to aid human vision; or
4. Represent or hold oneself out to the public as being qualified to do any of the acts listed in this section.

B. 1. Persons licensed pursuant to the provisions of Chapters 11, 13 or 14 of this title may in a written prescription, or its duplicate, authorize any optical supplier to interpret the prescription. The optical supplier:

- a. may, in accordance with a written prescription or its duplicate, measure, adapt, fit, prepare, dispense, or adjust such lenses, spectacles, eyeglasses, prisms, tinted lenses, frames or appurtenances thereto, to the human face for the aid or correction of visual or ocular anomalies of the human eye, and
- b. may continue to do such acts upon a written prescription, or its duplicate.

2. The physician or optometrist writing such prescription shall remain responsible for the full effect of the appliances so furnished by the other person.

C. 1. It is hereby prohibited and declared contrary to the public health and public policy of this state to dispense, supply, fit, adjust, adapt, or in any manner apply contact lenses to the eyes of a person whether or not those contact lenses are designed to aid or correct human vision or are plano or cosmetic contact lenses, without a prescription issued by a person licensed pursuant to Chapter 11, Chapter 13 or Chapter 14 of this title.

2. The Board of Examiners in Optometry may secure an injunction, without bond, in the district courts to prevent the dispensing, supplying, fitting, adjusting, or adapting of any contact lens without a prescription.

3. As used in this section, "plano" means a contact lens with no prescription power.

D. The provisions of this section shall not prevent a qualified person from making repairs to eyeglasses.

Section 943.1 Advertisement of Ophthalmic Lenses, Frames, Eyeglasses, Spectacles or Parts

A. No person, firm or corporation shall publish or display, or cause or permit to be published or displayed in any newspaper or by radio, television, window display, poster, sign, billboard or any other means, any statement or advertisement concerning ophthalmic lenses, frames, eyeglasses, spectacles or parts thereof, that is fraudulent, deceitful or misleading, including statements or advertisements of discount, premiums, price, gifts or any statements or advertisements of a similar nature, import or meaning or which is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts.

B. No person, firm or corporation shall publish or display or cause or permit to be published or displayed in any newspaper, or by radio, television, window display, poster, sign, billboard or any other means of media, any statement or advertisement of or reference to the price or prices of any eyeglasses, spectacles, lenses, frames or any other optical device or materials or parts thereof requiring a prescription from a licensed physician or optometrist unless such person, firm or corporation complies with the provisions of subsection C through E of this section.

C. Any advertisement or statement published or displayed that contains the price of an item of the following categories:

1. Single vision lenses;
2. Kryptok bifocal lenses;
3. Regular bifocal lenses;
4. Trifocal lenses;
5. Aphakic lenses;
6. Prism lenses;
7. Double segment bifocal lenses;
8. Subnormal vision lenses;
9. Tinted lenses; and
10. Frames;

or any other items advertised shall also contain the prices of all items in the same category. All items and prices shall be published or displayed with equal prominence. No advertisement that shows the price of items listed in the categories shown above shall contain any language which directly or indirectly compares the prices so quoted with any other prices of similar items. In showing the price of all items in any category, it shall be permissible to combine two or more categories into one general category of "all other lenses" and designate the price thereby of "up to \$_____", which represents the highest price of any lenses included within this combined general category. Should there be a category in which two or more price differentials exist, it shall be permissible for the category to have a single listing in the advertisement with the lowest and the highest price in the category designated.

D. In the event the dispensing optician owns more than one office, the prices for all eyeglasses, spectacles, lenses, frames or other optical devices or materials or parts thereof in the same category shall be the same in all offices located within the same county or city regardless of the name under which the dispensing optician operates the offices.

E. All items advertised by price in accordance with this section shall be available at the advertised price without limit to quantity unless the advertisement contained quantity limitations to all persons including, but not limited to, individuals, physicians, optometrists and dispensing opticians.

F. Any advertisement quoting a price or prices of spectacles, eyeglasses and other optical appliances only, shall contain a readily legible statement that the quoted price or prices "Does not include professional services of an examining optometrist or physician."

G. Dispensers of optical appliances or devices are subject to the Oklahoma Deceptive Trade Practices Act, as provided in Sections 51 through 55 of Title 78 of the Oklahoma Statutes, and in addition to the civil remedies provided therein, it shall be a misdemeanor for any dispenser of optical appliances or devices as defined herein to knowingly commit a deceptive trade practice as defined in the Oklahoma Deceptive Trade Practices Act.

H. A person who violates any provision of this act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or by confinement in the county jail for not less than two (2) months nor more than six (6) months, or both. A separate offense is committed each day a violation of this act occurs or continues. Should the violator be an optometrist, such violations also constitute grounds for revocation of his license to practice optometry. Provided, however, the owner, officer or employee of any advertising media, not otherwise having a pecuniary interest in any advertising authorized by the provisions of this act, shall not be guilty of the misdemeanor herein above defined by reason of the publishing or other delivery of any advertising furnished by a vendor of the service or material so advertised.

Section 943.2 Prescriptions for Spectacles or Eyeglasses - Copies

Any person who requests a copy of his prescription for spectacles or eyeglasses, following an eye examination by a person licensed under Sections 481 through 518 or Sections 581 through 606 of Title 59, shall be provided a written, signed copy of such prescription. No extra charge shall be made for the prescription if the patient chooses to take the prescription elsewhere. The examining optometrist or physician shall not be responsible for the accuracy of the optical materials furnished by another person.

Section 943.3 Standards - Eyeglasses, Spectacles, Lenses or other Optical Devices or Parts

All eyeglasses, spectacles, lenses or other optical devices or materials or parts thereof shall conform to standards of quality as promulgated by the American Standards Association, Inc. and commonly known as Z80.1 1964 Standards, as amended.

Section 944. Rebates or Premiums to Optometrists or Physicians Prohibited - Employment for Purposes of Making Eye Examinations or Doing Visual Corrections Prohibited – Exceptions - Renting Separate Area or Room Within a Retail Store – Retail Selling of Optical Goods, Appliances, or Materials

A. It shall be unlawful for any optometrist, physician or other person doing, or purporting or pretending to do eye examination or visual correction to receive or accept any rebate, kick-back, reward or premium from any optical company or any other person, firm or corporation dealing in optical goods,

appliances or materials, or knowingly allow or permit any person engaged in or interested in the sale of such optical goods, appliances, or materials, to solicit business for any person licensed under the provisions of Chapters 11 or 13 of this title. It shall be unlawful for any optometrist, physician, or other person to make an eye examination, or do visual correction in any manner, either directly or indirectly as an employee or associate of a person, firm, corporation, lay body, organization, group or lay person and it shall be likewise unlawful for any corporation, lay body, organization, group or lay person in any manner to make an eye examination or perform any visual correction through the means of engaging the services on a salary, commission or any other compensatory basis of a person licensed under the provisions of Chapters 11 or 13 of this title, provided that this sentence shall not apply to the University of Oklahoma School of Medicine and Hospitals, OSU College of Osteopathic Medicine or to a bona fide resident physician of a licensed hospital, and provided further that renting a separate area or room and practicing optometry within or adjacent to a retail store shall not be considered a violation of this section.

B. A person, firm, or corporation engaged in the business of retailing merchandise to the general public may rent a separate area or room within a retail store to an optometrist or optometric professional corporation for the practice of optometry in the following counties:

1. For the period beginning November 1, 2019, through October 31, 2024, in counties having a population of three hundred thousand (300,000) or more persons according to the latest Federal Decennial Census or most recent population estimate;

2. For the period beginning November 1, 2024, through October 31, 2029, in counties having a population of one hundred thirty thousand (130,000) persons or more according to the latest Federal Decennial Census or most recent population estimate;

3. For the period beginning November 1, 2029, through October 31, 2036, in counties having a population of one hundred thousand (100,000) persons or more according to the latest Federal Decennial Census or most recent population estimate;

4. For the period beginning November 1, 2036, through October 31, 2042, in counties having a population of fifty thousand (50,000) persons or more according to the latest Federal Decennial Census or most recent population estimate; and

5. For the period beginning November 1, 2042, and for all periods thereafter, all counties of the state.

C. For separate areas or rooms rented for the practice of optometry pursuant to subsection B of this section, the area or room rented for the practice of optometry must be definite and apart from space used by other occupants of the premises. Solid, opaque partitions or walls from floor to ceiling, which may contain doors and windows, must separate the area or room rented for the practice of optometry from space used by other occupants. The area or room rented for the practice of optometry must have a patient's entrance opening on a public thoroughfare, such as a public street, hall, lobby or corridor; provided that the space rented for the practice of optometry can also be accessible for a patient from the retail store if the access is through a second room with a door such that the patient does not have access to the space rented for the practice of optometry directly from the general retail area of the retail store. Renting a separate area or room and practicing optometry within or adjacent to a retail store shall not be considered a rebate, kickback, reward or premium.

D. No lessor shall include a requirement in any lease of real property pursuant to which an optometrist or the professional business entity owned by the optometrist is required to maintain specific hours of operation or which provides for payment of rent or reduction of rent based on the gross revenues of the optometrist or the professional business entity, whether characterized as production goals, patient visits or similar economic metrics or that requires or provides any type of incentive through the lease terms based on referrals by the optometrist or the professional business entity owned by the optometrist for purposes of the sale of any form of tangible personal property sold by the lessor, including, but not

limited to, eyeglasses, frames, eye care products, eyeglass accessories or similar tangible personal property related to care of the human eye.

E. A person, firm or corporation engaged in the business of retailing merchandise to the general public may sell optical goods, appliances or materials and function as an optical supplier in a retail store, regardless of whether a majority of the retail store's income is derived from the sale of prescription optical goods, appliances and materials or whether an optometrist is practicing optometry in such retail store.

F. Optical goods, appliances or materials shall be subject to all provisions regarding below cost sales set forth in the Unfair Sales Act created in Section 598.1 et seq. of Title 15 of the Oklahoma Statutes.

G. Nothing in this section shall prohibit a person licensed under Chapter 11 or Chapter 13 of Title 59, Oklahoma Statutes, this title from organizing or maintaining a professional association with other persons so licensed.

Section 945. Discrimination between Licensed Practitioners by State Employees Prohibited – Exception

No department, commission, board, official, employee, or agency of the State of Oklahoma, or of any county, municipality or other sub-division of the State of Oklahoma shall, in the performance of its duties and functions in obtaining examination for refractions and visual training or correction for citizens of this state discriminate between persons licensed to perform examination for refraction and visual training or correction within the field for which their respective license entitle them to practice; and no such department, commission, board, official or agency of the state, county, municipality, or other sub-division shall send any resident of the State of Oklahoma out of this state to receive or be furnished such services. This section shall have no application with respect to any person confined in the Oklahoma Medical Center.

Section 946. Violations and Punishment - Injunction - Duties of County Attorneys - Act to be Cumulative with Existing Laws

Any person, firm, company, corporation, or partnership violating any of the provisions, of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished for each such offense, as provided by law, and in addition thereto may be enjoined by a Court of competent jurisdiction for any further violations of the provisions of this act. It shall be the mandatory duty of the district attorneys of the respective counties to bring such injunction suits when a verified complaint is filed with such district attorney alleging any violations of this act. This act shall not supersede other laws, but shall be cumulative to other statutes of the State of Oklahoma.

Section 947. Not to Affect Laws Concerning Chapter 14, Title 59, O.S. 1951

The provisions of Sections 1, 2 and 6 of this act shall not extend, limit or affect the legal scope of practice of persons licensed under the provisions of Chapter 14, Title 59, Oklahoma Statutes 1951.

PROFESSIONAL CORPORATIONS

Optometrists are included in the Professional Corporation Act. See statute books for provisions.

36 O.S. 6051 Free Choice of Practitioner and Profession - Equal Reimbursement

Notwithstanding any provision of any individual or group policy, contract, plan or agreement of accident and/or health insurance or any provisions of a policy, contract, plan or agreement for hospital

or medical service or indemnity, whenever such policy, contract, plan or agreement provides for reimbursement for any visual or optometric service which is within the lawful scope of practice of a duly licensed optometrist, the person entitled to benefits, or person performing services, under such policy, contract, plan or agreement shall be entitled to reimbursement on an equal basis for such service, whether the said service is performed by a physician licensed under 59 O.S. 1961 Sections 481 through 518, inclusive, or by an optometrist licensed under 59 O.S. 1961 Sections 581 through 606, inclusive. Optometric services shall include eye and/or visual examination or a correction of any vision or muscular anomaly and the supplying of ophthalmic materials, including contact lenses and subnormal vision aids. Unless such policy, contract, plan or agreement shall otherwise provide, there shall be no reimbursement for ophthalmic materials, lenses, contact lenses, spectacles, eyeglasses, and/or appurtenances thereto.

56 O.S. 199. Visual or Optometric Services - Free Choice of Practitioner and Profession

Whenever visual or optometric services within the lawful scope of practice of a duly licensed optometrist are included in any program financed with public funds or administered by any public agency, for aid to the indigent, the aged, the legally blind, or any other group or class, the recipient of such aid or his parent or guardian shall be entitled to choose whether such services are to be performed by a duly licensed optometrist or by a duly licensed physician who shall be equally compensated. Visual or optometric services as used herein shall include eye and/or visual examination or a correction of any vision or muscular anomaly and the supplying of ophthalmic materials, including contact lenses and subnormal vision aids. And in the expenditure of public funds for any purpose involving the care of human vision, or in the administration of any public program, the public agency and its employees including school districts and other state, county and municipal agencies or any subdivision of the State of Oklahoma and its employees and agents responsible for such expenditures or services shall not, under any circumstances, in informing a person requiring vision care, or for a correction of any vision or muscular anomaly, either directly or indirectly refer such person to any particular health discipline, but shall merely advise such person the need exists for professional services.

DRUGS AND PHARMACY - OPTOMETRISTS

59 O.S. 353.1

For the purposes of the Oklahoma Pharmacy Act:

10. "Dangerous drug", "legend drug", "prescription drug" or "Rx Only" means a drug:
 - a. for human use subject to 21 U.S.C. 353(b)(1), or

b. is labeled "Prescription Only", or labeled with the following statement: "Caution: Federal law restricts this drug except for use by or on the order of a licensed veterinarian".

12. "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or a patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. Dispense includes sell, distribute, leave with, give away, dispose of, deliver or supply;

17. "Drugs" means all medicinal substances and preparations recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and/or internal use in the cure, diagnosis, mitigation, treatment or prevention of disease in humans or animals and all substances and preparations, other than food, intended to affect the structure or any function of the body of a human or animals;

19. "Filled prescription" means a packaged prescription medication to which a label has been affixed which contains such information as is required by the Oklahoma Pharmacy Act;

21. "Licensed practitioner" means an allopathic physician, osteopathic physician, podiatric physician, dentist, veterinarian, or optometrist licensed to practice and authorized to prescribe dangerous drugs within the scope of practice of such practitioner;

40. "Prescription" means and includes any order for drug or medical supplies written or signed, or transmitted by word of mouth, telephone or other means of communication by:

a. a licensed prescriber ...

RULES AND REGULATIONS OF THE STATE BOARD OF EXAMINERS IN OPTOMETRY

Title 505:1-1-1 Purpose

These set out the makeup of the Board, the administration of the Board's duties, the procedure and effect of enacted rules and the procedure for individual proceedings. These rules were enacted so that the Board can carry out its statutory duties.

Title 505:1-3-1 General Board Purpose and Method of Operation

The general purpose and method of the Board's operation is prescribed by the Legislature, and the Board acts as the agency in the exercise of the police powers of the State of Oklahoma for the protection of the health, safety and welfare of the people of the State, for the purpose of licensing and regulating the practice of Optometry in the State by administrative and disciplinary procedures whereby licenses are issued, denied, suspended or revoked, in accordance with the Oklahoma Administrative Procedures Act and to maintain personal data records on each licensee in this State.

Title 505:1-3-2 Powers and Duties of the Board

The Board shall have the following powers and duties, which shall include, but not limited to:

- (1) Conducting examinations required by law to determine the qualifications of persons seeking a license to practice optometry in the State of Oklahoma;
- (2) To promulgate rules and regulations to control applications for examinations and the taking of examinations and the preparation and grading of examination;
- (3) To issue, or refuse to issue, a license to practice optometry for any cause specified by law;
- (4) To revoke or suspend, if necessary, for cause any license issued by the Board, after an opportunity for a hearing has been granted.
- (5) To design and provide the forms of applications for licenses and the information to be shown thereon, and of all reports which it deems necessary in administering the law.
- (6) To hire personnel to advise and assist in the performance of its duties;
- (7) To collect and assess all fees prescribed by law and to deposit said fees in the "Board of Examiners in Optometry Revolving Fund", and to pay from said fund all necessary expenses incurred in the performance of its duties;
- (8) To maintain personal data records on each applicant or licensee;
- (9) To maintain proceedings to enjoin persons unlicensed from the practice of Optometry; and
- (10) To perform any other duties or functions specified by law or deemed necessary for the proper administration and enforcement of the laws and rules and regulations governing the practice of Optometry.

Title 505:1-3-3 Board Composition and Officers

(a) The Oklahoma Board of Examiners in Optometry is an administrative body consisting of five (5) members who are appointed by the Governor. The Board shall elect a President, Vice-President and Secretary-Treasurer. The President shall perform such duties as prescribed by the Board and by law.

(b) The Oklahoma Board of Examiners in Optometry consists of five (5) members, four (4) of whom shall be optometrists. The term of each licensed Optometrist member of the Board, one (1) being appointed each year, shall be five (5) years, or until a qualified successor is appointed. The lay member of the Board shall serve a term coterminous with that of the governor and shall serve at the pleasure of the governor.

Title 505:1-3-4 Board Meetings

(a) Time and place of meetings. The Board meets quarterly, as official business requires and conducts examinations of applicants for certification as Optometrists. The time and place of a meeting is fixed by a majority of the members of the Board. All Board Meetings comply with the Open Meetings Act.

(b) Special meetings. Special meetings may be called by the President, or whenever petitioned for by members of the Board.

(c) Quorum. Three (3) members of the Board shall constitute a quorum.

(d) Adoption of Roberts' Rules of Order. The Board will follow Roberts' Revised Rules of Order at its meetings, whenever any objection is made as to the manner in which it proceeds at a meeting.

Title 505:1-3-5 Official Board Records

The operations or business transacted by the Board can be obtained from any of the five (5) members of the Board, but the official records of the Board are kept at the official office of the Board at such location as the Board may from time to time designate.

Title 505:1-3-6 Availability of Records and Manner of Obtaining Information

All files, records, minutes, proceedings, rules and regulations, documents, decisions and opinions, written statements of policy, orders, instructions, and written materials of any other nature required by law to be maintained by the Board are available for public inspection in the Office of the Board. Any person desiring any information concerning the Board, its policies or procedures, or any pertinent information concerning said organization or licensee may make submission or request to the Board, either in person or by regular mail, electronic mail, or facsimile, by directing such submissions or requests to the Office of the Oklahoma Board of Examiners in Optometry, at such location as the Board may from time to time designate.

Title 505:1-3-7 Availability of Board Rules, Regulations, Policy Statements

Rules and regulations of the Board will be available in the office of the Board for public inspection from 9:00 o'clock a.m. to 4:00 o'clock p.m., daily, except Saturdays, Sundays and legal holidays or on the Board website. All other written statements of policy or interpretations, formulated, adopted, or used by the Board in the discharge of its functions and all final orders, decisions and opinions of the Board will be available in the office of the Board for public inspection from 9:00 o'clock a.m. to 4:00 o'clock p.m., daily, except Saturdays, Sundays and legal holidays.

Title 505:1-3-8 Office of the Board is deemed to be the Office of the Executive Director

The office of the Board of Examiners in Optometry is deemed to be the office of the Executive Director for all purposes under the rules of the Board. Any application, pleading, document or other matter which, under the rules of the Board, must be in any way filed with, submitted to, or requested of, the Executive Director shall be addressed to the Executive Director at the Board's office. Similarly, documents or records required to be kept by the Executive Director shall be kept at the Board's office and shall be available to the Executive Director for the performance of his or her duties.

Title 505:1-3-9 Examination and Annual License Fee

(a) The fee for examination of candidates for persons desiring to commence the practice of optometry is set at \$200.00. This fee shall apply to those initially taking the examination, and to any persons retaking the examination as may be allowed by law or by the rules of the Board.

(b) The annual license fee is set at \$300.00 for each fiscal year beginning July 1, 2010.

SUBCHAPTER 5. RULEMAKING AND DECLARATORY RULINGS

Title 505: 1-5-1 Opportunity for Hearing

Prior to the adoption, amendment, or repeal of any rule, the Board affords any interested person a reasonable opportunity to submit data, views, or arguments, orally or in writing to the Board concerning the proposed action on the rule. Should the proposed action on a rule affect ones substantive rights, the opportunity for an oral hearing will be granted if requested in writing by at least

twenty-five (25) members, if no substantive rights are involved, the opportunity for oral argument or views is within the discretion of the Board.

Title 505:1-5-2 Petition for Rulemaking

(a) Any interested person may petition the Board requesting promulgation, amendment, or repeal of a rule. The petition shall be filed with the Executive Director of the Board and shall set forth in writing, clearly and concisely, all matters pertaining to the requested action and the reasons for the request. The request should, also, state whether there is someone, known to the petitioner, who is concerned with the subject and should be notified of the hearing.

(b) The Board at its next regularly scheduled meeting or at a special meeting specified in the notice will hear the petition and notify the petitioner of the ruling within twenty (20) days after the decision. In either event, a hearing on said petition shall be held within sixty (60) days after received in proper form by the Executive Director. For just cause, the Board may postpone the discussion and ruling on the petition until a subsequent meeting and all parties shall be notified of the postponement, if necessary.

Title 505:1-5-3 Notice

(a) In any rulemaking action, initiated by petition, at least twenty (20) days' notice shall be given to the party filing the petition for rulemaking that his or her request will be heard by the Board. The notice shall state the time and place, and the manner in which interested persons may present their views. Should the Board decide to proceed with rulemaking, it shall comply with the terms of the Administrative Procedures Act to do so.

Title 505:1-5-4 Rulemaking hearing

(a) A rulemaking hearing before the Board shall be informal, but in an orderly manner. The attendance of witnesses and production of records may be required in accordance with 505:1-7-13 (a).

(b) Minutes shall be kept of the official meetings of the Board. Transcripts of all matters pertaining to rulemaking shall be open for public inspection at the office of the Board of Examiners in Optometry.

Title 505:1-5-5 Effective date

Each rule adopted shall be effective twenty (20) days after filing, unless a later date is required by statute or specified in the rule, or unless the rule is adopted as an emergency rule.

Title 505:1-5-6 Emergency Rules

(a) Emergency rules may be adopted by the Board without the prescribed notice and hearing if the Board, stating in writing its reasons, finds that imminent peril to the public health, safety, or welfare requires this shortened procedure. However, the sufficiency of the reasons is subject to judicial review.

(b) Emergency rules become effective immediately upon filing with the State Officials, as required by law, and upon their approval as provided for by the Administrative Procedures Act. Emergency rules shall remain effective as provided for by the Administrative Procedures Act, but the Board may adopt an identical rule under the general rulemaking procedures prescribed in Rules 505:1-5-1 through 505:1-5-5.

(c) The Board shall distribute a copy of the emergency rules to those persons who have requested to be notified of the rulemaking activities, and shall take other appropriate measures, where reasonable and practical, to notify other persons who may be affected by the rule.

Title 505:1-5-7 Request for declaratory ruling

Any person affected by any rule or order promulgated or issued by the Board, or wishing to determine the validity or applicability of a Board rule, or one of its authorized agents may request in writing to the Board an interpretation or declaratory ruling regarding the application of such a rule or order to the facts furnished with the request.

(1) Filing and contents of petition. The petition shall be styled similarly to an ex parte petition filed in a court of law in this State, and shall be filed with the Executive Director of the Board in triplicate. It shall state fully, clearly and concisely the rule or order involved or affected, and state the facts giving rise to the need for such ruling, giving all pertinent data necessary for consideration.

(2) Consideration of petition by Board; refusal to issue ruling.

(A) The Petition will be considered preliminarily at the next regular meeting of the Board or at a special meeting called to hear the petition, but in either event, a hearing shall be held on said petition within ninety (90) days after received by the Executive Director, and the petitioner shall be notified promptly of the date by the Executive Director and shall be entitled to be present in person or represented by counsel. At this meeting the Board shall determine whether or not to issue a ruling or to continue the matter for hearing upon the petition. The Board may refuse to entertain a petition for a declaratory ruling if it determines:

- (i) that the facts stated in the petition do not afford an adequate basis therefore, or
- (ii) that the experience under the rule or order is not adequate to enable it to make an effective or proper ruling, or
- (iii) that the request is premature, or
- (iv) that the request is one that should be handled through rule-making procedure, or that there exist other conditions rendering a declaratory ruling in opportune.

(B) If the Board determines to entertain the petition for the declaratory ruling, it may issue the ruling at its meeting or it may continue the matter to a day certain for further consideration and for hearing of evidence and argument if necessary.

(C) If the applicant is not represented at the preliminary consideration, he shall be notified of the ruling if one is issued, in accordance with the rules respecting notice of orders; or, if the matter is continued, he shall be notified of the continuance in accordance with the rules respecting notice of hearings in individual proceedings. If the applicant is present or is represented at the preliminary consideration, no further notice of the subsequent hearing than announcement in open meeting is necessary; but the applicant shall receive a written copy of any ruling that is issued, as in the case of orders.

(3) Request for formal hearing. A petitioner for a declaratory ruling in his petition or by written motion prior to or at the preliminary consideration may request a formal hearing at which to present evidence in support of his petition, setting forth the substance of the facts to be proved, if they do not appear in his petition. The Board thereupon will set the matters for formal hearing within sixty (60) days from the date of the preliminary consideration, and notice shall be given as prescribed in (2) of this Section.

(4) Joining of other parties affected by rule. If, at any time, it appears from the papers filed or from evidence adduced that the interests of persons other than the petitioner are so affected by the requested ruling that it is improper to entertain the proceedings without hearing them, the Board may refuse to issue a declaratory ruling, or, in its discretion, it may require them to be made parties, and if the matter can be so handled consistently with the public interest and the efficiency of the Board's procedures, then in that event, notice shall be served upon them, as in individual proceedings, and the matter will be governed thereafter by the procedure applicable to individual proceedings.

(5) Issuance of the ruling. If the Board, conducts a hearing upon a petition for a declaratory ruling, at the conclusion of the hearing it may issue the ruling or it may decline to do so upon any of the rounds specified in (2) and (4) of this Section or upon any other legal grounds.

Title 505:1-7-1 Definitions

All words which are defined in 75 O.S. 1981 Sec. 301 are used in accordance with such meanings, or any other appropriate definition.

Title 505:1-7-2 Filing of papers

All papers required by this Subchapter are to be filed with the Executive Director of the Board.

Title 505:1-7-3 Initiation of petition for individual proceeding

An individual proceeding, may be initiated by the Board or by an individual filing a verified petition containing a brief statement, setting forth the relief requested, and the facts alleged to give rise to the right of relief, and naming the persons against whom relief is sought.

Title 505:1-7-4 Notice to parties

As soon as possible after the filing of an individual proceeding petition, the Executive Director shall notify the persons named therein of the filing and of the date set for hearing. The notice shall contain:

- (1) A statement of the time, place and nature of the hearing, and of the relief demanded;
- (2) A brief statement, which may be in the words of the petition or in adequate condensation, of the matters asserted as grounds for relief;
- (3) A citation of the statutes, rules or other legal foundation for the proceeding and for the Board's jurisdiction, giving specific citation and statement of the provisions basic to the proceedings;
- (4) A statement that the persons notified may appear at the hearing and be heard, in person or other counsel, and that they may file such answer or other pleading as they may deem appropriate including a request for more detailed statements of the matters asserted, if this is necessary to define the issues;
- (5) A statement that, in the default of appearance, the relief demanded may be granted.

Title 505:1-7-5 Service of notice

(a) Methods of serving notice. All notices or other papers, service of which is required in individual proceedings shall, be served in one of the following manners;

(1) Personally upon the notice, by any person appointed to make service by the Executive Director of the Board, and in any manner authorized by the law of this state for the personal service of summons in proceedings in the state courts; or

(2) By certified mail, mailed by the Executive Director of the Board, or by such other person at such post office address as he may have filed with the Board, or if no such address has been filed, at the noticee's last known post office address;

(b) Time notice is completed. Service of notice shall be complete upon personal service, or upon the deposit of certified mail in the post office, or upon the posting of notice, or first publication thereof, as the case may be.

(c) Proof of service. Proof of service of all notices, subpoenas or other documents requiring service may be made by affidavit of the party making service, specifying dates and manner of service. Such proof shall be prima facie evidence of the fact of service as stated, and the burden of proof shall be upon any person or party contesting the same to establish its invalidity.

Title 505:1-7-6 Time of hearing; request for extension

The time set for an individual proceeding hearing shall be specified in the notice thereof. If the noticee deems that the date specified gives inadequate time for preparation for the hearing, the noticee may apply in writing for an extension, stating the time desired and the reasons for the request. The

application shall be acted upon promptly by the Executive Director, and if the extension is denied, the party may renew the request and make proper showing for a continuance at the hearing.

Title 505:1-7-7 Conduct of Hearing

(a) Hearing Procedures; presiding officer. The hearing for an individual proceeding shall be conducted in an orderly manner by the Board. The order of procedure will follow generally that which obtains in civil proceedings at law. However, strictness of procedures shall not be required, the objective being that fairness and orderliness prevail to afford a full hearing which protects the rights of all concerned. The rules of evidence shall be those specified by the Oklahoma Administrative Procedures Act. The President of the Board shall be the presiding officer at the hearing or proceeding. However, in his absence the Vice-President shall serve as the presiding officer. The Board may at their discretion select a Hearing Officer to conduct any hearings.

(b) Assistance of Counsel of Board. The Board may seek the assistance of the Attorney General or an Assistant Attorney General, if requested and available at the time of the hearing, to sit with the Board as a law member. Nothing contained herein shall, however, prevent the Board from employing outside counsel when in the opinion of the Board it is necessary to do so in order to administer and enforce the provisions of the law governing the practice of Optometry and the Rules and Regulations promulgated thereunder.

(c) Testimony of Witnesses. The testimony of witnesses and documentary evidence may be admitted on behalf of any party at the hearing, subject to objections as to relevancy by the opposing party. A party may conduct cross-examination required for a full and true disclosure of the facts.

(d) Right of Counsel. Any party shall at all times have the right to be represented by counsel duly licensed to practice law in the State of Oklahoma.

(e) Administration of oaths; ruling upon Offers of Evidence. The President of the Board or any members presiding at a hearing shall administer oath or require affirmations for the purposes of the hearing. He or the Hearing Officer, shall rule upon the motions, objections, offers of proof of other incidents of the hearing, but his ruling may be overruled by a majority of the membership conducting the hearing, and upon request of a party or his attorney, the presiding officer shall submit the sustention or rejection of his ruling to the Board.

Title 505:1-7-8 Record of Hearing

(a) The report of a hearing shall be set forth in such forms and detail as the President or Board may direct, unless the hearing is fully transcribed, and shall be placed on file in the office of the Executive Director. The record shall include all pleadings, motions, and intermediate rulings; evidence received or considered; a statement of matters officially noticed; questions and offers of proof, objections, and rulings thereon; and decision opinion, or report by the officer presiding at the hearing; all staff memoranda or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.

(b) The full proceedings of any hearing shall be transcribed on the request of any party. The fee for the reporter shall be paid by the party requesting the services of a reporter, but may be taxed as costs to another party at the direction of the Board in appropriate circumstances.

Title 505:1-7-9 Findings of fact

All findings of fact made by the Board in an individual proceeding shall be made in compliance with the Administrative Procedures Act based exclusively on the evidence, on matters officially noticed during the hearing, and if deemed reliable upon the information received by the Board through investigation and examination made by its agents or staff prior to or during the hearing as allowed pursuant to the Administrative Procedures Act.

Title 505:1-7-10 Notice of facts

The Board shall give notice to all parties in an individual proceeding, prior to or at the hearing, of any facts of which it proposes to take official notice. Any party or his attorney may request that official notice be taken of any fact qualified for such notice by the Statutes of this State. If such official notice is taken, it shall be stated in the record, and all parties shall have opportunity to contest and give evidence in rebuttal or derogation of the official notice.

Title 505:1-7-11 Final orders, proposed finding of facts and conclusions of law

All final orders in any individual proceeding shall be in writing or stated in the record. A final order shall include findings of fact and conclusions of law separately stated. Any party to a proceeding before the Board may file proposed findings of fact and conclusions of law; and if proposed findings of fact are filed, the final order of the Board shall include a ruling upon each proposed finding. All parties shall be notified either in person or by mail of any order. Upon request, a copy of the order shall be delivered or shall be mailed forthwith to each party and to his attorney at the address specified in the request.

Title 505:1-7-12 Communication with parties

Unless required for the disposition of ex parte matters authorized by law, the President and the members of the Board or the agents of the Board shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party or his representative except upon notice and an opportunity for all parties to participate. The President and members of the Board may communicate with one another and have the aid and advice of one or more personal assistants. Advice may also, be secured from the attorney by the Board.

Title 505:1-7-13 Subpoenas

(a) Issuance and service of subpoena. Subpoenas for the attendance of witnesses, or for the furnishings of information required by the Board, or for the production of evidence or records of any kind shall be issued by any Board member at the direction of the President or upon order of the Board. In like manner, and for like purpose, subpoenas shall be issued by any Board Member at the request of any party to a proceeding before the Board for the attendance of witnesses or for the production of evidential materials at a hearing in such proceeding. The signature of any Board Member shall be sufficient authentication for any subpoena. Subpoenas shall be served in any manner prescribed by these rules for the service of notices.

(b) Refusal to obey subpoena or to testify. Upon the failure of any person to obey a subpoena, or upon the refusal of any witness to be sworn or make an affirmation or to answer a question put to him in the course of a hearing in any rulemaking proceeding, proceeding for a declaratory ruling, or in an individual proceeding, or in any other authorized action of the Board, the Board as soon as convenient shall consider the matter. By resolution, it may direct the institution of appropriate judicial proceedings under the law of the State for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. Meanwhile, the hearing or other matters shall proceed, so far as is possible, but the Board at its discretion at any time may continue the proceedings for such time as may be necessary to secure a final ruling in the compliance proceedings.

(c) Costs. The costs covering the issuance and service of subpoenas and all witness fees incurred on behalf of a party to the proceedings, other than the Board, shall be borne by the party on whose behalf they are incurred, but the Board in its final order may tax such costs to some other party if justice so requires.

Title 505:1-7-14 Requests for disqualification

Requests for the disqualification of a member or members of the Board in an individual proceeding shall be embodied in an affidavit, stating with particularity the grounds alleged therefor. Such requests must be filed prior to the commencement of the hearing unless it is made to appear in the affidavit that the ground of disqualification was not previously known and that the application has been made promptly upon discovery. Upon the filing of such affidavit, the President of the Board or the Executive Director, if the affidavit is filed against the President, shall set the matters for the hearing at the earliest date at which the Board can be convened giving notice thereof personally or by telephone to the party or his counsel. The Board, or those members thereof qualified to sit at the hearing, shall take evidence and make prompt decisions. In the event the disqualification is sustained or in the event of a mandamus requiring disqualification, the hearing shall be continued to such time as is necessary for the appointment of members pro tem to proceed with the matters, and due notice of the continuance shall be given to all parties.

Title 505:1-7-15 Rehearing, reopening or reconsideration

A petition for rehearing, reopening or reconsideration of a final order in an individual proceeding must be filed with the Executive Director within ten (10) days from the entry of the order. It must be signed by the party or his attorney, and must set forth with particularity such of the statutory grounds upon which it is based. However, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening, or reconsideration will be considered and ruled upon as soon as the convenient conduct of the Board's business will permit.

Title 505:1-7-16 Informal hearing of a matter

The parties to any individual proceeding may present the matter to the Board or to any authorized representative in informal conference, and upon mutual consent of all parties and of the Board, the matters may be submitted and determined and an order may be issued without resort to formal procedures. The order shall be in writing and shall be furnished to the parties as prescribed for orders issued after formal hearing in individual proceedings.

Title 505:1-7-17 Stipulation of an order

At any time in an individual proceeding the parties thereto may enter into stipulation for the issuance of an order, specifying its terms, or may enter into an agreement for settlement upon specified terms, or may consent to the issuance of an order upon specified terms. In either event the stipulation, the settlement agreement or the consent shall be reduced to writing duly executed by the parties, or shall be entered upon the record in open hearing. Orders made under this rule shall be in writing and shall be served as other orders are served.

Title 505:10-1-1 Purpose

These rules provide for the method of obtaining licensure by qualified applicants, and for regulation of licensed practitioners of optometry. The Rules are to ensure that the public safety and welfare is protected by requiring all licensees to be competent.

Title 505:10-1-2 Forms and instructions

The following forms and instructions for their use have been adopted by the Board and are in use by the Board:

- (1) Application for License Examination.
- (2) Application for Special Volunteer License.
- (3) Annual License Renewal Certificate.
- (4) Application for Branch Office.

Title 505:10-3-1 Application for license

The application for a license to practice Optometry shall be on a form prescribed by the Board. This form is provided on the Board of Examiner's website.

Title 505:10-3-2 Examination of Candidates

(a) Times of meeting. The Board will meet during the month of July for the initial examination and then again in January for the re-examination of any applicant who fails to pass any part of the initial examination.

(b) Filing of application for examination. A candidate desiring to take the examinations may obtain the official form of application for such purpose from the Executive Director. The application and all necessary information must be filed with the Executive Director at least thirty (30) days before the date of the examination, and the application must be accompanied by an examination fee in the amount of \$200.00. A failure to appear for an examination is cause for forfeiture of the examination fee.

(c) Required passing grade. A candidate must make a passing grade of at least 75 grade points in all subjects of the examination in order to receive a certificate of registration.

(d) Retaking examination. A candidate who fails to make the necessary passing grade at an examination may re-take the examination on the subjects failed at the January Board Meeting with the payment of an examination fee in the amount of \$200.00; but if passing grades are not made on the second examination, a new application for the entire examination must be instituted and another examination fee of \$200.00 must be paid.

Title 505:10-3-3 License requirements

The specific requirements for the issuance of a license are set forth by statute, 59 O.S. 1981 Secs. 584, 586 and 587.

Title 505:10-3-4 Granting of license

Where the information furnished on the application for the license, or for the renewal thereof, appears to establish all requirements for the grant thereof and there appears no reason to question its authenticity, the Board may issue the license, or renewal thereof, without a hearing. However, if there appears reason for a formal consideration of whether the license, or renewal, should be granted, the matter shall be treated as an individual proceeding, wherein the applicant is the petitioner, and the procedure applicable to individual proceedings thereafter shall be followed except as modified by statute or by these rules.

Title 505:10-3-5 Reciprocity abolished

Since reciprocity has been the cause of much turmoil in Oklahoma, the Oklahoma Board has discontinued reciprocity with other states.

Title 505:10-3-6 Special volunteer licenses

(a) Pursuant to statute, 59 O.S. Supp. 2009, Section 493.5, the Oklahoma Board of Examiners in Optometry creates a special volunteer license to practice optometry within the State of Oklahoma under the following terms and conditions.

(1) The special volunteer license provided for herein shall be the subject of disciplinary action by the Board upon the same grounds, terms, and conditions as all other licenses or certificates to practice optometry in the state of Oklahoma. Additionally, if the Board, acting through its president, Secretary Treasurer, or Executive Director, finds that the public health, safety, or welfare imperatively requires emergency action suspending a special volunteer license, and makes such a finding regarding the emergency in an order, emergency actions may be ordered suspending such license pending the final outcome of proceedings instituted pursuant to the Administrative Procedures Act in a hearing by the full Board at the earliest practical date.

(2) For purposes of this section "eligible volunteer" means an optometrist.

(3) The special volunteer license shall be:

- (A) issued to eligible optometrists by the Board of Examiners in Optometry (the Board), or by such person as the Board may designate in writing;
- (B) issued without the payment of an application fee, license fee or renewal fee;
- (C) issued or renewed without any continuing education requirements in this state;
- (D) issued for a fiscal year or part thereof; and
- (E) renewable annually upon approval of the Board.

(b) An eligible volunteer shall meet the following requirements before obtaining a special volunteer license:

(1) Completion of a special volunteer license application, in a form to be approved from time to time by the Board, including documentation of:

- (A) the school graduation of the optometrist from a recognized school or college of optometry, and
- (B) the relevant practice history of the applicant;

(2) Documentation that the eligible volunteer has been previously issued a full and unrestricted license to practice in Oklahoma or in another state of the United States and that he or she has never been the subject of any professional disciplinary action in any jurisdiction;

(3) Acknowledgement and documentation that the practice of the eligible volunteer under the special volunteer license will be exclusively and totally devoted to providing care to needy and indigent persons in Oklahoma or to providing care under the Oklahoma Medical Reserve Corps; and

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

(5) Acknowledgement that the eligible volunteer shall practice optometry as limited by the scope of practice of the state in which he or she is regularly licensed, including but not limited to, limitations made in the regularly licensing state regarding the authority to prescribe medications.

(6) Acknowledgement by the eligible volunteer that he or she has reviewed the legal requirements for the practice of optometry in the State of Oklahoma and will practice under the authority of a special volunteer license in conformity with the laws, statutes, and rules, of the State of Oklahoma for optometrists, to include, but not be limited to requirements governing:

- (A) equipment required to conduct examinations;
- (B) required findings on examination of a patient;
- (C) release of contact lens prescription;
- (D) Code of Ethics and acts constituting unprofessional conduct; and

(E) in lieu of providing the Board no more than two fixed office locations, provision to the Board a record, on such form as the Board may from time to time require, of all dates, times, and locations at which the eligible volunteer practices optometry within the State of Oklahoma and performs any examination or treatment pursuant to his or her special volunteer license.

(7) Provision by the eligible volunteer for the responsible recording of the particulars of examination or treatment of all patients and the maintenance of patient records, to include either provision of records of examination of or treatment to the patient, or disclosure of the location within the patient's community where the patient may secure copies of his or her records upon request.

(8) Acknowledgement by the eligible volunteer that before the volunteer professional or volunteer health practitioner provides services, the volunteer professional and the person receiving the services or, if that person is a minor or otherwise legally incapacitated, the person's parent, conservator, legal guardian, or other person with legal responsibility for the care of that person signs a written statement that acknowledges:

(A) that the volunteer professional or volunteer health practitioner providing services has no expectation of and will receive no compensation of any kind for providing the services, and

(B) an understanding of the limitations on the recovery of damages from the volunteer professional or volunteer health practitioner pursuant to law in exchange for receiving free services.

(C) these acknowledgements regarding expectation or receipt of compensation, or limitation on recovery of damages, must be obtained whether the volunteer health practitioner sees the patient for primary care, or is referred the patient by another volunteer health practitioner.

505: 10-3-7. Acceptance of Military education, training, and experience toward qualification for licensure examination.

A. Any person wanting to apply education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any state, the Military Reserves of any state, or the Naval Militias of any state (hereafter the Armed Forces) may submit to the Board, through the Executive Secretary, satisfactory evidence of that education, training, and experience.

B. The Board, through the Executive Secretary, may request and require such additional evidence or information regarding education, training, and experience completed as a member of the Armed Forces as it, in its sole discretion, deems reasonably necessary.

C. Upon receipt of evidence and information the Board, through the Executive Director, or otherwise, shall review the evidence and information provided and apply it in the most favorable manner toward satisfying the qualifications for sitting for the licensure examination.

D. If upon review the evidence and information, applied most favorably toward satisfying the qualification for issuance of a license, is not sufficient to justify sitting for the licensure examination, the Board shall notify the applicant what additional education, training, or experience is necessary.

E. Nothing in the submission of evidence of education and training, and the consideration of that education and training in the most favorable manner, pursuant to this section relieves an applicant of the obligation of passing the licensure examination given by the Board as a prerequisite to licensure. See, 59 O.S. § 4100.7.

F. Additionally, in determining if an applicant has satisfactory education, training, and experience to sit for the licensure examination, the Board may verify that the applicant has:

- i. not to been subject to pending criminal charges or disciplinary actions;
- ii. not been convicted of any offense prohibiting licensure;
- iii. no other impairment that prohibits licensure in this state, including, but not limited to, professional discipline in another state that would, if committed in Oklahoma, potentially justify loss of license.

505: 10-3-8. Expediting issuances of license or certificate, or temporary permit

The Board establishes the following procedures to expedite the issuance of a license or certificate, or issuance of temporary permits, for spouses of certain members of the Armed Forces on active duty in this state.

A. The spouse of a member of the Armed Forces on active duty in the state of Oklahoma may submit to the Board, through the Executive Secretary, evidence that:

- 1. He or she is the spouse of a member of the Armed Services on active duty within the State of Oklahoma; or
- 2. He or she is the spouse of a member of the Armed Services who was a permanent resident in the State of Oklahoma for at least six (6) months prior to assignment to active duty; or
- 3. He or she is the spouse of a member of the Armed Services who is subject to a military transfer to Oklahoma; and
- 4. He or she is certified or licensed to practice optometry in a state other than Oklahoma; and
- 5. He or she left employment as an optometrist in another state to accompany his or her spouse to the State of Oklahoma.

B. The Board, or the Executive Director, may ask for such additional evidence as it may, in its sole discretion, deem reasonably required to make its determination of the facts in the preceding subsection.

C. The Board, or the Executive Director, may also obtain information from the state in which the military spouse is licensed to determine, in its sole discretion, if the requirements for licensure are substantially equivalent to those required in Oklahoma.

D. The Board shall expedite consideration of requests by military spouses by methods appropriate to the volume of such requests by, in its sole discretion, appointing a committee to review them, scheduling special Board meetings to consider them, or other appropriate methods. It is the Board's intention to gather supplemental information as may be necessary within thirty days of the spouse's request, and to consider the request within sixty days thereafter.

E. Upon consideration, the Board may issue the optometrist spouse of an active duty member of the Armed Forces a license or a temporary permit, in its sole discretion, under the following circumstances;

- 1. The conditions of subsection A of this section are satisfied;
- 2. the military spouse has been verified:
 - a. not to be subject to pending criminal charges or disciplinary actions;
 - b. not to have been convicted of any offense prohibiting licensure;
 - c. not to have any other impairment that prohibits licensure in this state, including, but not limited to, professional discipline in another state that would, if committed in Oklahoma, potentially justify loss of license.
- 3. The Board may issue a license if it determines, in its sole discretion, that the requirements for licensure of the state in which the military spouse is licensed are substantially equivalent to those required in Oklahoma and that the issuance of such license is in the best interest of the optometric

health of the state. Such license is subject to all requirements of Oklahoma licensure, including, but not limited to, continuing education, payment of license and renewal fees, and compliance with all applicable statutes and rules of the Board;

4. Upon verification of the qualifications required by subsection A above, and determination that none of the disqualifying circumstances listed in subsection E(2) above is present, the President of the Board, acting through the Executive Director or otherwise, may authorize issuance of a temporary permit to practice optometry if the applicant (1) has successfully completed, in Oklahoma or in the state where the applicant was previously licensed, requirements for administration therapeutic medications, to include those for glaucoma, substantially equivalent to those required in Oklahoma, and (2) the standard jurisprudence examination covering Oklahoma law. Upon completion of these requirements, the President of the Board may issue temporary permits to practice optometry as follows:

a. A temporary permit may be issued for a period not to exceed one year (on the same fiscal year licensing schedule that applies to all other licenses) to permit the practice of optometry while completing any specific requirements in Oklahoma that were not required in the state in which the military spouse is licensed;

b. The scope of practice of a temporary permit may be limited by the President to allow practice consistent with the military spouse's training until the spouse completes specific Oklahoma requirements not previously met in another state. This limitation could include, but is not be limited to, limitations on the use of lasers, or limitations on prescriptions of particular medications or classes of medications;

c. The President may authorize successive temporary permits upon the request of a military spouse optometrist, with or without limitation on scope of practice, if the Board finds that doing so is in the best interest of optometric health for the public;

d. The President may authorize a temporary permit that allows an optometrist to practice, with or without limitation on the scope of his or her practice, until such time as the optometrist sits for the Oklahoma licensure examination. See, 59 O.S. § 4100.7.

5. The full Board, in open meeting with proper notice to the public and due process to the optometrist holding a temporary permit, may revise or withdraw such permit as improvidently granted, or for any ground that would justify discipline on an optometrist under Oklahoma statutes or the Rules of the Board.

6. Upon satisfactory completion of any specific requirements in Oklahoma that were not required in the state in which the military spouse is licensed, or passing the Oklahoma licensure examination, the Board may issue the applicant a license to practice optometry, subject to the usual requirements of Oklahoma licensure, including, but not limited to, continuing education, payment of license and renewal fees, and compliance with all applicable statutes and rules of the Board.

505: 10-3-9. Automatic extension of licenses for those deployed on active duty with the Armed Forces

A. The Board shall automatically extend, on a year to year basis, the license of any optometrist duly licensed by the Board who is a member of the Armed Forces and is deployed outside the state of Oklahoma on active duty, conditioned on the prior written request for such extension by the duly licensed optometrist.

B. Within thirty days of his or her permanent return, the Oklahoma licensed optometrist shall notify the Board of his or her return from active duty deployment outside the state.

C. The automatic extension of the license shall continue after return from deployment outside the state until the next regular relicensing date. The optometrist shall be automatically relicensed as of the first regular relicensing date following return from deployment outside the state. During the year

following the next regular relicensing date, the optometrist shall comply with all regular requirements for re-licensure.

D. While an Oklahoma optometrist's license is on automatic extension pursuant to this rule, including for that portion of the extension after the optometrist returns from out of state deployment, and until the first regular relicensing date, the following conditions shall apply:

1. No payment of license renewal fees shall be required;
2. If the following conditions are met, no continuing education shall be required:
 - a. the optometrist requests a waiver of continuing education requirements in writing, including by electronic mail;
 - b. circumstances associated with his or her military duty prevent obtaining continuing education; and
 - c. the optometrist on active duty practices optometry as a part of his or her military duties; or
 - d. the optometrist on active duty presents other grounds justifying, in the sole discretion of the Board, waiver of continuing education requirements.
3. No evidence of completion of CPR training, or any other requirement, need be made to the Board.

Title 505:10-5-1 Minimum standard of sanitation, hygiene and professional surroundings

In order to establish a minimum standard of sanitation, hygiene and professional surroundings of and for optometric offices in this State, the Board of Optometry of Oklahoma, acting under authority of Subdivision "E", Section 3, House Bill No. 307 of the Sixteenth Legislature of Oklahoma, does hereby prescribe the following rules and regulations, to-wit:

(1) All optometric offices, including instruments and equipment, contained therein, in this State, must at all times be kept clean and free from any condition or surroundings that will make or tend to make same unsanitary or unhygienic.

(2) The Patient's entrance to each optometric office in this state shall open on a public street, hall, lobby or corridor.

(3) Every optometrist practicing his profession in this state must have available in his office for examination of the human eye the following minimum equipment, to-wit: an Ophthalmoscope, a Retinoscope, a Keratometer, a Refractor, or their equivalent and an instrument for recording visual fields. Every such examination must be made in an optometric office, such as is referred to in (1) and (2) of this Section, and in a room of such office used exclusively for the practice of optometry. Provided, that if a person desiring optometric services informed an Optometrist that by reason of sickness, or other cause, he or she is confined to his or her place of abode, said optometrist may make an examination at the place of abode of said person. Provided, further, that said optometrist must have available at said place of abode for said examination, the following minimum equipment, to-wit: an Ophthalmoscope, a Retinoscope, or their equivalent, a reliable astigmatic test and a reliable trial frame suitable for muscular test.

(4) No Optometrist shall practice Optometry in a room or part of a room occupied in whole or in part by a wholesale or retail mercantile establishment, or maintain an optometric office therein, or in connection therewith.

Title 505:10-5-2 Prohibition against practicing in proximity to retail optical outlet

(a) No optometrist shall, with intent or purpose to induce patronage for himself, practice optometry in such proximity to a retail optical outlet as to induce the public to associate his practice with such retail optical outlet.

(b) It shall be considered unprofessional and unethical to practice adjacent to a retail optical outlet without a solid wall between the two. There shall be no windows, doors or openings in the wall and there shall be no access from one side of the wall to the other and there shall be no referral of patients or persons from one side of the wall to the other.

Title 505:10-5-3 Prohibition against solicitation

No optometrist shall knowingly allow or permit any person engaged in or interested in the sale of optical goods, appliances or materials to solicit business for him.

Title 505:10-5-4 Prohibition against practicing in connection with commercial business

Practices may not be established within the premises of any commercial business nor in conjunction with any commercial business, and no optometrist shall use a commercial business as a "feeder" to his practice of optometry, nor shall any optometrist be employed in practicing optometry by one other than an optometrist registered by the Oklahoma Board of Examiners in Optometry.

Title 505:10-5-5 Prohibition against practicing under name other than proper name

No person or persons shall practice optometry under any trade name, franchise name, corporate name, fictitious name or any name other than his or her own proper name as the name appears on the certificate of license issued by the Board of Examiners in Optometry. Neither shall any optometrist be listed in any telephone book, city directory, other directory or on any list of any type whatever except by his or her own proper name as it appears on that person's license certificate.

Title 505:10-5-6 Requirement of registering intent to dispense dangerous drugs and controlled dangerous substances

Any certified licensed practitioner of Optometry desiring to dispense dangerous drugs, pursuant to 59 OS Supp. 1987 Section 355.1 shall register such intent with the Oklahoma Board of Examiners in Optometry and meet annual continuing education requirements as set by the Board. Any certified licensed professional Optometrist desiring to dispense controlled dangerous substances shall first obtain a registration number from the United States Drug Enforcement Agency.

Title 505: 10-5-7 Practice in two locations

Any licensed optometrist in Oklahoma may practice in two, but not more than two, office locations; either one principal and one branch or two principal offices. Practice in a government institution shall not be counted as one of these locations. Practice in another doctor's office shall be considered as one of the optometrist's two locations.

(1) Registration of each office. Each office must be registered with the Board and such registration shall be renewed annually along with the Optometrist's license renewal. No less than a \$100.00 late renewal fee shall be charged after June 30th of each year. The fee for initial and renewal registration for a secondary office will be determined by the Board. Each optometrist is responsible for notifying the Board and registering each office with the Executive Director of the Board on a form provided by the Board.

(2) Displaying license certificate. A license certificate must be displayed in each office location and duplicate licenses shall be furnished by the Board at a fee to be determined by the Board.

(3) Minimum equipment in second office. A second office is defined and construed by the Board as a secondary practice, at a fixed location and must be registered with the Board. The following minimum equipment is required in each office:

- (A) Phoropter
- (B) Projector

- (C) Auto Keratometer or Keratometer or Ophthalmometer
- (D) Slit Lamp or Biomicroscope
- (E) Tonometer
- (F) Ophthalmoscope
- (G) Retinoscope
- (H) Lensometer
- (I) Perimeter or other visual fields testing instrument
- (J) Color Vision Testing Device

(4) Required personnel. Each office must have such personnel present at all times the office is open which is necessary to assist the optometrist to make appointments for patients.

Title 505:10-5-8 Penalties for practicing without renewal certificate

Practicing optometry without an annual renewal certificate for the current year, as required by statutes, shall have the same force and effect and be subject to all penalties of practicing optometry without a license.

Title 505:10-5-9 Required findings on examination of patient

(a) In order to insure an adequate examination of a patient for whom an optometrist signs a prescription for an ophthalmic lens, at least the following findings must be made and recorded, if possible in the initial examination of the patient:

- (1) Case history (ocular, physical, occupational and other pertinent health information)
- (2) Far point acuity, O.D., O.S., O.U., unaided; with old glasses; if available, and with new glasses, if any.
- (3) External examination (lids, cornea, sclera, etc.)
- (4) Internal ophthalmoscopic examination (media, fundus, etc.)
- (5) Static retinoscopy, O.D., O.S.
- (6) Subjective findings, far point and near point.
- (7) Phorias or ductions, far and near, lateral and vertical.
- (8) Amplitude or range of accommodation.
- (9) Amplitude or range of convergence.
- (10) Angle of vision, to right and to left.
- (11) Other tests must be made and recorded as necessary for the visual health and welfare of the patient.

(b) Diagnosis and treatment plan endorsed should follow the American Optometric Association's clinical guidelines.

(c) When a licensed practitioner or certified optometrist performs public service visual screenings for governmental agencies, each recipient of such screening should be clearly informed in writing of the following:

- (1) The limitations of the screening;
- (2) That the screening is not representative of or a substitute for a comprehensive vision analysis; and
- (3) That the screening will not result in a prescription for visual correction.

Title 505:10-5-10 Prohibition against false advertising

An optometrist may not publish or display or cause or permit to be published or displayed in any newspaper or by radio, television, billboard, window display, or any other means or medium, any statement or advertisement concerning ophthalmic services or materials, including but not limited to eye examinations, lenses, frames, spectacles, contact lenses, or parts thereof, which is false, deceptive, misleading or in any manner whatsoever tends to create a misleading impression or is likely to mislead or deceive because in context said statement or advertisement makes only a partial disclosure of relevant facts.

Title 505: 10-5-11. Authorized post-graduate educational work

(a) Every Optometrist must cause to be filed with the Board not later than June 30th of each year, beginning 2017 proof showing that during the preceding year he/she attended not less than twenty-five (25) hours of continuing medical education (CME) or an affidavit showing that he was unavoidably prevented, because of sickness or for some other reason satisfactory to the Board, from attending any such educational or post-graduate program. Of the twenty-five (25) hours required annually, up to six (6) hours may be remote learning, up to six (6) hours shall be practice management and a minimum of one (1) hour shall be judicious prescribing of dangerous drugs and controlled dangerous substances provided by the Oklahoma Association of Optometric Physicians, the Oklahoma Chapter of the AAO if taught by the faculty of the Northeastern State University of Oklahoma College of Optometry, the Oklahoma Bureau of Narcotics and Dangerous Drugs, or Northeastern State University Oklahoma College of Optometry. Up to 15 hours may be completed in a live virtual format and a minimum of 10 hours must be completed in a live in person format.

(b) The Board approves the following vendors providing continuing medical education (CME) provided the faculty or staff of each vendor substantially develops and presents the program and the program is free from any appearance of commercialism:

- (1) Optometry college accredited by the American Optometric Council on Education
- (2) American Optometric Association, or an affiliate of the American Optometric Association
- (3) College of Optometrists in Vision Development
- (4) Southeast Council of Optometry (SECO)
- (5) Oklahoma Association of Optometric Physicians
- (6) Great Western Council of Optometry (GWCO)
- (7) Heart of America Eye Care Congress
- (8) American Academy of Optometry (AAO), or any affiliate of the AAO
- (9) State Optometric Associations of the United States
- (10) Canadian Optometric Association, or an affiliate of the Canadian Optometric Association
- (11) Global Contact Lens Symposium
- (12) U.S. Department of Veterans Affairs
- (13) Vision Expo West and East Conferences
- (14) International Academy of Low Vision Specialists
- (15) American Board of Optometry

(c) Any Optometrist desiring approval of any other continuing medical education (CME) must make a written request for approval to Office of the Board of Examiners in Optometry at least forty-five (45) days before he/she attends such program.

(d) Simultaneously with the requirement of this rule, every Optometrist shall not later than June 30, 2017 and each year thereafter file with the Board evidence that he or she has a current cardiopulmonary resuscitation card issued by the American Red Cross, or equivalent training.

(e) At its discretion, the Board may amend the approved providers in the list above at an Open Meeting and will maintain a list of current approved providers. Should the list be amended, Optometrists will be notified by email.

Title 505:10-5-12 Code of Ethics

It Shall Be The Ideal, The Reserve, And The Duty of Each Optometrist in Oklahoma:

- (1) TO KEEP the visual welfare of the patient uppermost at all times
- (2) TO PROMOTE in every possible way, in collaboration with this Board, better care of the visual needs of mankind;
- (3) TO ENHANCE continuously their educational and technical proficiency to the end that their patients shall receive the benefits of all acknowledged improvements in visual care;
- (4) TO SEE THAT no person shall lack for visual care, regardless of his financial status;
- (5) TO ADVISE the patient whenever consultation with an optometric colleague or reference for other professional care seems advisable;
- (6) TO HOLD professional confidence all information concerning a patient and to use such data only for the benefit of the patient;
- (7) TO CONDUCT themselves as exemplary citizens;
- (8) TO MAINTAIN their offices and their practices in keeping with professional standards;
- (9) TO PROMOTE and maintain cordial and unselfish relationships with members of their own profession and of their professions for the exchange of information to the advantage of mankind;
- (10) TO BE ACCOUNTABLE to and to refrain from any appearance of negligence of a patient;
- (11) TO BE AVAILABLE and responsive to a patient for consultation on his or her visual care;
- (12) TO CONDUCT their practices in total independence from any corporation, firm, company, entity, or non-licensed lay person; except that an optometrist may incorporate a practice under the Professional Corporation Act as provided by law;
- (13) TO PRACTICE in his or her own name and to avoid any appearance of affiliation which might confuse or mislead members of the public, in any manner, with any retail optical concern or outlet.

Title 505: 10-5-13. Acts constituting unprofessional conduct

(a) Pursuant to 59 O.S. 1991, Section 585, the Board has authority to reprimand a licensee or to revoke or suspend a license to practice optometry for unprofessional or unethical conduct. The Board also has authority pursuant to this Section to enact rules stating what acts constitute unprofessional or unethical conduct.

(b) It shall be unprofessional conduct for an Optometrist to:

- (1) Administer, dispense and/or prescribe dangerous drugs for purposes other than generally accepted treatment for the relief of ocular abnormalities.
- (2) Prescribe controlled dangerous substances to immediate family members.
- (3) Prescribe controlled dangerous substances for a period exceeding 7 days of supply and/or reissue refills without sufficient patient examination.
- (4) Sell samples of medication.
- (5) Indiscriminately or excessively prescribe, dispense or administer controlled dangerous substances.
- (6) Prescribe, dispense, or administer controlled dangerous substances in excess of the amount considered good optometric practice or prescribing, dispensing or administering controlled dangerous substances without medical need in accordance with published standards.
- (7) Habitually or excessively use any drug which impairs the ability to practice optometry with reasonable skill and safety to the patient.
- (8) Disburse or prescribe any controlled dangerous substance for optometric physician's personal use.
- (9) Dispense, prescribe or administer controlled dangerous substances without medical need.

- (10) Delegate authority to another person for the signing of prescriptions for either controlled dangerous substances or drugs.
- (11) Commit fraud or to misrepresent facts in applying for or procuring an optometric license or in connection with applying or procuring periodic re-registration of an optometric license.
- (12) Cheat on or attempt to subvert the optometric licensing examinations.
- (13) Be convicted of a felony or any offense involving moral turpitude whether or not related to the practice of optometry.
- (14) Be guilty of conduct likely to deceive, defraud or harm the public.
- (15) Make a false or misleading statement regarding skill or the efficacy or value of the medicine, treatment or remedy prescribed by an optometrist or at an optometrist's direction in the treatment of any ocular abnormality.
- (16) Represent to the patient that an incurable condition, sickness, disease or injury can be cured.
- (17) Willfully or negligently violate the confidentiality between an optometric physician and patient to the detriment of a patient except as required by law.
- (18) Grossly or repeatedly commit negligence in the practice of optometry.
- (19) Be found mentally incompetent by any court of competent jurisdiction; involuntary commitment to a mental institution shall be considered prima facie evidence of inability of any optometrist to practice optometry until such optometrist satisfies the Board of his or her ability to safely practice optometry.
- (20) Be physically or mentally unable to practice optometry with reasonable skill and safety.
- (21) Practice or commit other behavior that demonstrates an incapacity or incompetence to practice optometry.
- (22) Use any false or fraudulent deceptive statement in any document connected with the practice of optometry.
- (23) Practice optometry under a false or assumed name.
- (24) Aid or abet the practice of optometry by an unlicensed, incompetent or impaired person.
- (25) Allow another person or organization to use an optometrist license to practice optometry.
- (26) Commit any act of sexual abuse, misconduct, or exploitation related to or unrelated to the licensee's practice of optometry.
- (27) Violate any state or federal regulation relating to controlled substances.
- (28) Obtain any fee by fraud, deceit or misrepresentation, including fees from Medicare, Medicaid, or insurance.
- (29) Have disciplinary action taken by another state or jurisdiction against a licensee to practice optometry based upon acts of conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined by these rules, with a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof.
- (30) Fail to report to the Board any adverse action taken against the optometrist by another licensing jurisdiction (United States or foreign), by any governmental agency, by any law enforcement agency, or conduct that would constitute grounds for action as defined in these rules.
- (31) Fail to report to the Board surrender of a license to practice optometry in another state or jurisdiction, or surrender of membership in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts of conduct that would constitute grounds for actions as defined in these rules.
- (32) Improperly manage optometric records.
- (33) Fail to furnish the Board, its investigators or representatives, information lawfully requested by the Board, or to fail to comply with an order of the Board.

(34) Fail to cooperate with a lawful investigation conducted by the Board.

(35) Be unable to practice optometry with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. To enforce this paragraph, the Board, may upon probable cause, request an optometric physician to submit to a mental or physical examination by physicians designated by it. If the optometrist refused to submit to the examination, the Board shall issue an order requiring the optometrist to show cause why he will not submit to the examination and shall schedule a hearing on the order within 30 days after notice is served on the optometrist. The optometrist shall be notified by either service or by certified mail with return receipt requested. At the hearing, the optometrist and his attorney are entitled to present any testimony and other evidence to show why the optometrist should not be required to submit to the examination. After a complete hearing, the Board shall issue an order either requiring the optometrist to submit to the examination or withdrawing the request for examination. The optometric license of the optometrist ordered to submit to examination may be suspended until the results of the examination are received and reviewed by the Board.

505:10-5-14. Release of contact lenses prescription

(a) Upon request by a patient, who has paid for all professional services rendered in connection with care, the Optometrist shall release to the patient a copy of the prescription for contact lenses. An Optometrist shall comply with any state or federal law or regulation regarding release of contact lens prescriptions.

(b) A contact lens prescription release by an Optometrist upon patient request shall contain the following, to wit:

- (1) Date of issue.
- (2) Name and address of patient.
- (3) Name, address and signature of the prescribing Optometrist.
- (4) All parameters required to properly supply the contact lenses, to include brand names and materials types.
- (5) A specific date of expiration, not to exceed twelve (12) months.
- (6) Any limitations on refills and notification of scheduled follow-up visits.
- (7) Explicit statement that it is a contact lens prescription.
- (8) Specific notation that any person, firm or corporation that dispenses or sells contact lenses from the prescription should inform the patient in writing that they should return to the prescribing Optometrist to ascertain the accuracy and suitability of the contact lenses and that the prescribing Optometrist shall not be responsible for any damage or injury resulting from negligence of third parties to include but not limited to negligence in packaging, manufacturing, improper care regimen or recommendations (cleaning, disinfection and wetting) or instructions provided by the seller that lead to over-wear of lenses or improper care of lenses which result in damage to lenses or visual system, and that the prescribing doctor shall not be responsible for contact lens damage, eye injury or damage occurring during the time that lenses are provided by another dispenser.
- (9) Notice that the contact lens dispenser shall not adapt, substitute or change the contact lens prescription without prior authorization from the prescribing doctor, to include brand names and specific material types, to do so constitutes the practice of Optometry.
- (10) A contact lens prescription is deemed to be determined after the refraction, eye health examination, corneal assessment, and diagnostic lens fitting. No Optometric physician will write a contact lens prescription until the above steps have been performed.

No Optometric physician will write a contact lens prescription should the said patients eye health be compromised because of contact lenses.

(11) The words "ok for contact lens", "fit with contact lenses" etc. or similar wording do not constitute a contact lens prescription.

(12) Further - all contact lenses used in the determination of a contact lens prescription are considered to be diagnostic lenses and the use of such lenses by anyone other than an optometric physician or medical physician or someone under his or her direct supervision shall constitute the practice of Optometry.

(c) Failure to comply with the provisions of this Section shall be considered unprofessional and unethical conduct.

Title 505:10-5-15. Employment relationships of optometrists, including Professional Entities

Oklahoma law prohibits some employment relationships while permitting others. The Board of Examiners in Optometry recognizes the following employment arrangements to be legal, and undertakes actions as set out herein to facilitate the lawful practice of optometry in Oklahoma. In doing so, the board recognizes, and each licensed optometrist must also recognize, that the provisions of Oklahoma law which impose obligations or prohibitions on the practice of optometry apply to all licensed optometrists, whatever their employment relationships, including practice of optometry as a sole proprietor of an optometric office.

(1) Pursuant to the Oklahoma Professional Entity Act, 18 O.S. § et seq. (The Act), it is lawful for a licensed optometrist to practice optometry or "related professional services" as an employee of a professional entity, as defined by that Act. Pursuant to the Act, licensed optometrists may practice optometry through a professional entity, or they may practice optometry in conjunction with practitioners of certain other healing arts, including but not limited to, medical doctors and doctors of osteopathy, in a professional entity. In order to facilitate the practice of optometry by licensed optometrists in professional entities, the Board shall perform the following functions and impose the following requirements upon its licensees.

(A) Upon request by a licensed optometrist, and upon receipt of the affidavit and assurances required by subsection A(2) of this Rule, the Board of Examiners shall issue a certificate pursuant to 18 O.S. § 804(2) that the licensed optometrist who proposes to become an owner or manager of a professional entity is duly licensed in accordance with the provisions of the Oklahoma Optometry Act, 59 O.S. § 581 et seq.

(B) As a part of any application for a certificate pursuant to 18 O.S. § 804(2) as a condition of becoming an owner or manager of a professional entity, a licensed optometrist shall provide a sworn affidavit, in a form acceptable to the Board of Examiners in Optometry, reciting the names and addresses of the prospective owners and managers and containing the following assurances:

(i) The applicant optometrist recognizes that the practice of optometry as an owner or manager of a professional entity does not exempt him or her from any obligation or prohibition otherwise imposed by law. The applicant optometrist recognizes that no professional entity may do any act which is prohibited to be done by individual persons licensed to practice optometry (18 O.S. § 814). Further, the licensed optometrist recognizes that the authority of the Board of Examiners in Optometry is in no way limited or restricted by virtue of the fact that an optometrist practices as an owner, manager, or employee of a professional entity (18 O.S. § 813).

(ii) The applicant optometrist promises to abide by all requirements of Oklahoma law regarding optometric practice, and to ensure that all of his or her employees who are licensed optometrists shall also abide by all such requirements of law. The applicant optometrist must report to the Board of Examiners any licensed optometrist who is an

employee of the professional entity who violates any provision of Oklahoma law regarding optometric practice.

(iii) Any applicant optometrist must assure the Board that he or she understands that practice of optometry through a professional entity does not waive Oklahoma statutory law, or the Board's rules, which prohibit, among other things;

(I) acceptance of employment, either directly or indirectly, by a licensed optometrist from an unlicensed optometrist or any person engaged in any profession or business except the lawful practice of optometry through a professional entity (59 O.S. § 585) or an employee of a licensed optometrist or medical doctor as permitted in subsection C of this rule

(II) entering into any agreement, contract, arrangement, practice or understanding, written or otherwise, with any optical supplier for the referral of patients either to or from such optical supplier (59 O.S. § 595);

(III) practicing with the appearance of commercialism or association with any nonprofessional person in any manner which might degrade or reduce the quality of visual care received by citizens of this state (59 O.S. § 593);

(IV) rendering optometric care in any retail, mercantile establishment or providing to the public prescription eyeglasses, prescription lenses, frames or mountings within or on the premises of any retail or mercantile establishment in which the majority of the establishment's income is not derived from the sale of such prescription optical goods and materials (59 O.S. § 596);

(2) It is lawful for a licensed optometrist to practice optometry or to render "related professional services" through a professional entity as an employee as well as an owner or manager of the professional entity. Such employment does not relieve a licensed optometrist of any duty or prohibition otherwise imposed by law, including, but not limited to those listed in this rule as applicable to owners and managers, and the obligation of registering his or her office location with the Board (59 O.S. § 583), and proper display of his or her certificate of registration (59 O.S. § 586).

(3) Further, Pursuant to 59 O.S. § 944 it is not prohibited for a licensed optometrist to maintain a professional association with either another licensed optometrist or with a medical doctor, licensed pursuant to Chapter 11 of Title 59 of the Oklahoma statutes. The Board interprets 59 O.S. § 944 to authorize a licensed optometrist to enter into a partnership with other optometrists or with medical doctors for the purpose of practicing optometry. Further, the Board interprets 59 O.S. § 944 to authorize a licensed optometrist to be directly employed by either another licensed optometrist (or optometrists) or by a medical doctor (or medical doctors). Such partnership or employment in no way relieves any licensed optometrist of any obligation or prohibition otherwise imposed by law.

Title 505: 10-5-16 Therapeutic Pharmaceutical Agent certificate required after June 30, 2006

The Board recognizes that the widespread use by optometrists of therapeutic pharmaceutical agents, as authorized by law and under the regulation of the Board, has provided profound benefits for the ocular health of Oklahoma citizens who are patients of doctors of optometry. The Board further recognizes that only a small number of licensed optometrists in Oklahoma have not been certified to administer therapeutic pharmaceutical agents and that patients of those doctors may find themselves at a disadvantage because they cannot obtain the full range of treatment necessary to guarantee their visual welfare. Therefore, the Board shall not renew the license of any optometrist to practice after June 30, 2006 unless that optometrist has completed the necessary education and secured from the Board a certificate to administer therapeutic pharmaceutical agents.

Title 505:10-5-17 Proper scope of practice of nonlaser surgical procedures

(a) The practice of optometry is defined to be the science and art of examining the human eye and measurement of the powers of vision by the employment of any means, including the use or furnishing of any self-testing device, the use of any computerized or automatic refracting device, the use of pharmaceutical agents, the diagnosis of conditions of the human eye, and the correcting and relief of ocular abnormalities by means including but not limited to prescribing and adaptation of lenses, contact lenses, spectacles, eyeglasses, prisms and the employment of vision therapy or orthoptics for the aid thereof, low vision rehabilitation, laser surgery procedures, excluding retina, laser in-situ keratomileusis (LASIK), and cosmetic lid surgery. (59 O.S. § 581) In addition, the practice of optometry shall include the correction and relief of ocular abnormalities by Non-Laser Surgical procedures not excluded in paragraph (b) of this rule.

(b) Except for the Post-Operative Care of these procedures, the following Non-Laser Surgeries are excluded from the scope of practice of optometry:

- (1) Non-Laser Surgery related to removal of the eye on a living human being;
- (2) Non-Laser Surgery requiring full thickness incision or excision of the cornea or sclera other than Paracentesis in an emergency situation requiring immediate reduction of the pressure inside the eye;
- (3) Penetrating Keratoplasty (Corneal Transplant), or Lamellar Keratoplasty;
- (4) Non-Laser Surgery requiring incision of the Iris and Ciliary body, also includes Iris diathermy or cryotherapy;
- (5) Non-Laser Surgery requiring incision of the Vitreous;
- (6) Non-Laser Surgery requiring incision of the Retina;
- (7) Non-Laser Surgical Extraction of the Crystalline Lens;
- (8) Non-Laser Surgery Intraocular Implants;
- (9) Incisional or excisional Non-Laser Surgery of the Extraocular Muscles;
- (10) Non-Laser Surgery of the eyelid for incisional Cosmetic or Mechanical repair of Blepharochalasis, ptosis, and tarsorrhaphy or eyelid malignancies;
- (11) Non-Laser surgery of the boney Orbit, including Orbital Implants;
- (12) Incisional or excisional Non-Laser surgery of the Lacrimal System other than Lacrimal probing or related procedures;
- (13) Non-Laser Surgery requiring full thickness Conjunctivoplasty with graft or flap; and
- (14) Any Non-Laser Surgical procedure that does not provide for the correction and relief of ocular abnormalities.

(c) the language of the Oklahoma Statutes shall be controlling if there is any conflict between this rule and the statutes.

505:10-5-18 Dispensing Medications by Optometrists

Pursuant to 75 O.S. § 250.3(17), this Rule interprets and prescribes law and policy for registered Optometrists licensed by the Board. Effective November 1, 2020, 59 O.S. 581(B) was amended to include in the definition of the practice of optometry the dispensing of drugs and may include the dispensing of professional samples to patients. This new statutory grant of authority to dispense drugs comes with it a duty to comply with a number of pre-existing laws governing dispensing drugs. Foremost among these is the Board rule on unprofessional conduct. It is considered unprofessional conduct to “[v]iolate any state or federal regulation relating to controlled substances.” OAC 505:10-5-13. It is the responsibility of any Oklahoma licensed Optometrist wishing to dispense drugs as part of his or her practice to be fully informed of all the applicable laws pertinent to dispensing and to comply with them. The laws pertinent to dispensing include, but are not limited to, the following.

1. The Uniform Controlled Dangerous Substances Act, 63 O.S. Section 2-101(11) defines "dispense" as follows: "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such distribution. "Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject. (emphasis added). The Board interprets this provision to mean that an Optometrist can only "dispense" a drug for which he or she has lawfully issued a prescription to the patient.
2. The existing scope of practice of Optometrists to prescribe drugs is found in 59 O.S. § 581(B) which states:

The practice of optometry shall also include the prescribing of dangerous drugs and controlled dangerous substances for all schedules specified in the Uniform Controlled Dangerous Substances Act except Schedules I and II but allowing for the prescribing of hydrocodone¹ or hydrocodone-containing drugs regardless of schedule for a period not exceeding five (5) days of supply, and the issuance of refills for such prescriptions following sufficient physical examination of the patient for the purpose of diagnosis and treatment of ocular abnormalities.

Thus, by statute, Oklahoma licensed Optometrists may not prescribe Controlled Dangerous Substances from Schedules 1 and 2 except for hydrocodone or hydrocodone-containing drugs and only as authorized above.

3. Pursuant to 63 O.S. §2-302, every person who dispenses drugs must register with the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Further, 63 O.S. § 309C requires dispensers of Schedule II, III, IV or V controlled dangerous substances to electronically report certain information to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBN). Willful failure to transmit the required information is a misdemeanor. Similar information is required by OAC 475:45-1-2 (Required reporting of certain information) for dispensing practitioners filling any Schedule II, III, IV, or V prescriptions who must provide certain information to a central repository maintained by the (OBN) for each prescription dispensed. *Any optometric practitioner registering with the Director of the OBNDD shall promptly provide a copy to the Board of Examiners in Optometry with the application for registration and shall promptly inform the Board of any circumstance and provide all documentation from the OBNDD concerning any disciplinary proceeding by the OBN against the registrant, regardless of its final disposition.*
4. In addition, Board Rule OAC 505:10-5-6 (Requirement of registering intent to dispense dangerous drugs and controlled dangerous substances) provides that "[a]ny certified licensed practitioner of Optometry desiring to dispense dangerous drugs, pursuant to 59 OS Supp. 1987 Section 355.1 shall register such intent with the Oklahoma Board of Examiners in Optometry and meet annual continuing education requirements as set by the Board. Any certified licensed professional Optometrist desiring to dispense controlled dangerous substances shall first obtain a registration number from the United States Drug Enforcement Agency." The pharmacy statute, 59 O.S. § 355.1, also contains substantive requirements for licensed practitioners like Optometrists to dispense dangerous drugs.
5. All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled dangerous substances pursuant to OAC 475:20-1-2. (General security requirements).

¹ Since 2014 Hydrocodone has been classified as a Schedule 2 drug.

6. Though 475:20-1-5 (Other security controls for nonpractitioner registrants) by its title appears not to apply to practitioner registrants, in its text certain requirements on practitioner registrants appear.
7. Because hydrocodone is now a Schedule 2 drug, OAC 475:20-1-6 (Physical security controls for practitioners) provides security requirements for its storage.

The foregoing provisions are only some of the presently existing legal requirements for those who dispense drugs. It is the responsibility of the optometric practitioner to inform himself or herself of all applicable requirements, as they presently exist and as they may exist in the future, and to comply with those requirements while dispensing drugs as part of the practice of optometry.

505:10-5-19 Telemedicine in optometry.

(a) Introduction.

(1) **Definition of optometry.** The practice of optometry is defined to be the science and art of examining the human eye and measurement of the powers of vision and measurement of the powers of vision by the employment of any means. This includes asynchronous and synchronous technologies including the use of videoconferencing, internet-based services, store-and-forward imaging, streaming media, and terrestrial and wireless communications. The scope of delivery of care as defined in subsections A and B of 59 OS § 581 to an individual who is physically located in this state when the care is delivered shall constitute the practice of optometry. 59 O.S. § 581(c).

(2) **The comprehensive visual examination.** The prescribing for spectacles or contacts lenses by an optometrist requires a comprehensive visual examination conducted by a physician holding a license to practice optometry in this state. Board Rule 505:10-5-9 establishes the tests and measurements that require findings on the comprehensive examination of a patient when an optometrist intends to sign a prescription for ophthalmic lenses or contact lenses. Some of these required findings must be based on an examination made in person by an optometrist physically present with the patient. Therefore, a comprehensive visual examination shall be in-person by an eye doctor with a face-to-face encounter. In the absence of an existing doctor patient relationship, a prescription for glasses or contact lenses can only be derived through the completion of a comprehensive eye examination. While technology has advanced and continues to advance, in-person care, provided by a doctor of optometry, is the criterion standard for the delivery of a comprehensive eye exam. Direct-to-patient eye and vision-related applications, based on current technologies and uses, cannot replace or replicate a comprehensive eye exam provided by a doctor of optometry who is physically present with the patient. Direct-to-patient eye and vision-related applications may provide data related to elements of a comprehensive eye exam, but do not constitute patient care and fragmentation of a comprehensive eye exam into components delivered independently is deleterious and deceptive to patients. Telemedicine encounters in this state shall not be used to establish a valid physician-patient relationship for prescribing contact lenses and or spectacles because it is not on par with the same service delivered in person. The relationship for prescribing shall include a medically appropriate and timely scheduled face to face encounter between the patient and a physician. The prescribing physician must provide the patient with the treating physicians' identity and professional credentials. Screenings cannot be used to diagnosis or treat conditions. Screenings cannot be used to replace in person comprehensive eye examination. Refractive tests, including online vision tests and other mobile vision related applications, cannot be, based on current technologies and uses, used to provide a refractive diagnosis and/or an eyeglass or contact lens prescription.

(3) **Confidentiality and the standard of care.** Telemedicine encounters shall comply with the Health Insurance Portability and Accountability Act 1996 and OAC 435:10-7-13 and ensure that all patient communication and records are secure and confidential. Doctors may not waive their obligation or require patients to waive their right to receive the standard of care. Payors may not require either

doctor to perform less than the standard of care or patient to waive right to receive the standard of care. The doctor must establish and maintain fundamental elements of the doctor-patient relationship. Board approval of telemedicine: In the event a specific telemedicine program is outside the parameters of these rules, the Board reserves the right upon application of an Oklahoma licensed optometrist, to approve or reject such program or any part or parts of it, pending a formal rulemaking proceeding pursuant to the Administrative Procedure Act.

(b)Telemedicine in Optometry Encounters. Physicians treating patients in Oklahoma through telemedicine in optometry must be fully licensed to practice optometry in Oklahoma and must proceed as follows. Physicians cannot establish a doctor-patient relationship via telehealth alone. During telemedicine encounters, the distant site physician performs an exam of a patient at a separate, remote originating site location which shall be registered with the Board of Examiners in optometry by the distant site physician as a primary or branch practice location pursuant to Rule OAC 505:10-5-7. If the distant site physician deems it to be medically necessary, or if Oklahoma law requires manual procedures at the near site in order to meet legal definitions of procedures which meet the standard of care, a licensed optometrist in this state trained in the use of the equipment shall be utilized at the originating site to “present” the patient, manage the camera, and perform any physical activities to successfully complete the exam. The on-site optometrist must obtain or review all aspects of the patient’s medical history and any available medical records. A medical record must be kept and be accessible at both the distant and originating sites; preferably a shared Electronic Medical Record, that is full and complete and meets the standards as a valid medical record. There should be provisions for appropriate follow up care equivalent to that available to face-to-face patients and be on par with the same service delivered in person. The information available to the distant site physician for the medical problem to be addressed must be equivalent in scope and quality to what would be obtained with an original or follow-up face-to-face encounter and must meet all applicable standards of care for that medical problem including the documentation of a history, a physical exam, the ordering of any diagnostic tests, making a diagnosis and initiating a treatment plan with appropriate discussion and informed consent.

(c) Informed consent and patient evaluation. Informed consent for a telemedicine in optometry encounter will include:

- (1) Determining how physician will respond to electronic messages.
- (2) Determining how to use alternate communications means in emergencies.
- (3) Determining who has access to electronic communications.
- (4) Determining how electronic messages delivered to specific physician.
- (5) Determining how electronic communications are stored.
- (6) Determining when/how physician will discontinue providing telehealth services.

During a telemedicine in optometry encounter the physician must also evaluate the following aspects of the patient.

- (7) The physician must verify the patient’s identity.
- (8) The physician must establish a medical history and permanent patient record.
- (9) The physician must have and share contact methods other than electronic only – such as phone, mailing address and physician emergency contact information.
- (10) The physician must assess and document that patient is capable of electronic visits.
- (11) All physicians will disclose their identity and credentials, including informing the patient that the optometrist is licensed to practice in the jurisdiction in which the patient is located.
- (12) The physician must attach a photograph (head shot) attached to the optometrist’s license and displayed prominently in the examination room so that the patient can identify and match the doctor on the telemedicine prompter to the doctor’s license.

(13) The physician must place the welfare of the patient first; protect patient confidentiality; maintain acceptable standards of practice; and properly supervise and oversee any technicians participating in the telemedicine process, thus maintaining appropriate control over the practice.

(d) **One single standard of care.** The Board believes that telemedicine is a tool and not a separate field of optometry, nor does telemedicine alter the scope of practice of Oklahoma-licensed optometrists. Accordingly, the Board cautions those subject to its jurisdiction and control that there is no separate or different scope of practice or standard of care applicable to those who practice optometry via telemedicine within this state or to those optometrists located outside Oklahoma who diagnose and treat via telemedicine patients located within this state. A failure to conform to the appropriate standard of care,

whether that care is rendered in person or via telemedicine, may subject the licensee to investigation and potentially discipline by the Board. On-line refractions do NOT meet acceptable standards of care. Physicians cannot prescribe controlled substances via telehealth. Physicians cannot split fees for care. The optometrist who utilizes telemedicine in Oklahoma should be mindful of certain requirements and challenges inherent in practice via remote means, among them the following.

(e) **Examination, evaluation, and diagnosis.** The optometrist must conduct an appropriate evaluation prior to diagnosing or treating the patient, including prior to rendering a prescription for pharmaceuticals, spectacles, or contact lenses. Physical remoteness of the patient does not change the need for a proper patient identification, appropriate intake procedures, adequate patient history, examination, and, where indicated, testing. An optometrist is not excused from performing an appropriate examination, evaluation, and assessment of the patient's condition by virtue of the patient's physical remoteness from the optometrist. Any technician involved in the telemedicine patient encounter should be trained in the use of all equipment utilized in the telemedicine encounter and competent in the operation of such equipment.

(f) **Patient records.** The optometrist treating via telemedicine must create and maintain a complete record of the patient's intake, diagnosis, and treatment, no different than for an in-person patient encounter. The optometrist must have access to those records at all times so that the optometrist can address and communicate with the patient about any issue the patient brings to the optometrist's attention. Maintaining these records electronically so that they can be accessed from any of the optometrist's practice locations and after normal business hours meets the standard of care.

(g) **Prescribing.** Prior to prescribing any medication or ophthalmic device (such as spectacles, contact lenses, or low vision devices) the optometrist must conduct an appropriate assessment of the ocular health and visual status of the patient. It is the position of this Board that the standard of care does not permit an examination consisting solely of objective refractive data or information generated by an automated testing device such as an autorefractor in order to establish a medical diagnosis or to establish refractive error. Likewise, issuing a prescription based solely on a patient's responses to a written or online questionnaire does not meet the standard of care in Oklahoma.

(h) **Where the practice of optometry occurs.** The Board considers that the practice of optometry occurs both where the patient is located and where the optometrist providing professional services is located. In order for an optometrist to provide professional optometric services to a person located in Oklahoma that optometrist must be licensed by the Oklahoma Board of Examiners in Optometry.

(i) **Laws and regulations governing the practice of optometry in Oklahoma.** As indicated previously, there is no separate standard of care for telemedicine in the practice of optometry in Oklahoma. Accordingly, the optometrist who seeks to use telemedicine in his or her practice should be familiar with the requirements of the Oklahoma Board of Optometry subsections A and B of 59 O.S. § 581 and all other applicable laws and regulations, whether state or federal. By way of example and not limitation, Board Rule OAC 505:10-5-9 Oklahoma establishes the tests and measurements that require findings on

the comprehensive examination of a patient for which an optometrist will sign a prescription for ophthalmic lenses or contact lenses. The optometrist should have an established and appropriate procedure for the provision of eye care to his/her patients outside of normal practice hours, and should inform patients of those procedures

(j) **Displaying license and current certificate of renewal; branch office licenses:** Title 505:10-5-7(2) requires display of a copy of the optometrist's license at each of no more than two offices. The licensee must display his/her license and current certificate of renewal in a conspicuous place in each of the optometrist's offices. As noted above, a head shot photograph of the doctor should be attached to the license so as to be visible to a near site patient consulting with a remote site physician. A licensee who practices in more than one office location must obtain a duplicate license for each such branch office, with such branch office licenses to be displayed in like manner.

(k) Equipment and technical standards.

Telemedicine technology must be sufficient to provide the same information to the provider as if the exam has been performed face-to-face. Telemedicine encounters must comply with HIPAA (Health Insurance Portability and Accountability Act of 1996) security measures to ensure that all patient communications and records are secure and remain confidential. Audio and video equipment must permit interactive, real-time communications, or may be a store and forward system allowing the distant site optometrist to review the results of a near site examination at a later time.

(l) Unprofessional Conduct.

Unprofessional conduct includes prescribing for treatment without sufficient examination as provided in Board Rule 505:10-5-9, proceeding without the establishment of a valid physician-patient relationship, violations of this telemedicine rule under the authority of 59 O.S. § 585(A). and not prescribing in a safe, medically accepted manner.

(m) **Applicability and scope.** The purpose of this Section is to implement telemedicine policy that increases access to optometric services, while complying with all applicable state and federal laws and regulations. Telemedicine services are not an expansion of the scope of practice of Optometry, but an option for the delivery of certain services within that scope of practice. However, if there are technological difficulties in performing an objective, thorough medical assessment, or problems in the patient's understanding of telemedicine, hands-on-assessment and/or in-person care must be provided for the patient. Any service delivered using telemedicine technology will be appropriate for telemedicine delivery and be of the same quality and otherwise on par with the same service delivered in person. A telemedicine encounter will maintain the confidentiality and security of protected health information in accordance with applicable state and federal law. For purposes of the scope and practice of optometry, telemedicine is deemed to be "the use of any computerized or automatic refracting device, including applications designed to be used on a computer or video conferencing via an Internet device either in person or in remote locations," within the meaning of 59 O.S. § 581(A).

Title 505:10-7-1 Notification of action on License

In accordance with statute, no optometrist's license will be revoked, suspended, annulled, withdrawn or its renewal refused until the licensee is notified by certified mail or by other means of notification as specified in individual proceedings of the facts which warrant the intended action by the Board, and the licensee is given an opportunity to show compliance with all lawful requirements for the retention of the license.

Title 505:10-7-2 Complaints against licensees

Charges against Optometrists must be made in the form of a Complaint filed with the Executive Director. If the complaint is unable to be reconciled, then a formal or informal hearing will be set and the Executive Director will advise the members of the Board of the filing of the same, whereupon the

time and place of hearing the Complainant will be set. Notice of the time and place of hearing will be given to the Optometrists complained against, and to the Complainant, by the Executive Director by mail at least ten (10) days before the date of the hearing. The proceedings will be conducted in accordance with the Oklahoma Administrative Procedures Act, 75 O.S. 1971 Sections 301 – 327.

Title 505:10-7-3 Renewal after revocation

(a) Renewal after revocation for failure to pay fees. The Board shall have discretion to issue a new certificate of registration to any of its licensees whose certificate has been revoked for failure to pay the annual license fee. The Board may, at its discretion, issue a new certificate upon payment all annual license fees then due and owing for all years since the revocation of the certificate plus payment of a reinstatement fee of three times annual fee. Prior to issuance of such a new certificate, the Board may, in its discretion, require the applicant to establish his knowledge of Optometry by passing such examinations, including as the Board may deem appropriate, all or part of either state or national board examinations. The applicant may also be required to furnish proof, acceptable to the Board, of good moral character during the period of revocation, and that the applicant has not been convicted of any felony offense at any time.

(b) Renewal of certificates in circumstances of possible misconduct by licensee. If information comes to the Board's attention that the applicant for issuance of a new license after revocation may have engaged in conduct either before or during the period of revocation which, had the applicant been a current licensee, might have resulted in discipline by the Board, the Board may, prior to issuing a new certificate of registration, conduct a hearing to determine if misconduct has occurred which should result in the denial of a new certificate of registration. The Board may decline to issue a new certificate of authority for any misconduct which could result in the suspension or revocation of a certificate under applicable statutes or rules of the Board. Any such hearing shall be conducted with the same notice and procedures employed in keeping the Optometry statutes, the Board's rules and the Administrative Procedures Act. If at the conclusion of the hearing, the Board determines by clear and convincing evidence that applicable statutes or rules have been violated and that a new certificate of registration should not be issued, it will so hold in a written order.

Title 505:10-7-4 Placement of license on inactive status and restoration to active status of such licenses

(a) Licensee's request to put license on inactive status. A licensee of the Board may submit to the Board a written request to have his or her license placed upon inactive status under either of the following circumstances:

- (1) Permanent retirement from the practice of optometry; or
- (2) Temporary withdrawal from the practice of optometry.

While a license is in inactive status, the licensee is not required to pay fees to the Board or attend and report continuing education courses as required by 59 O.S. § 604, but the licensee may do so if desired. During such time as his or her license is in inactive status, the licensee shall not engage in any practice of optometry until the license is restored to active status. A request to place a license in inactive status shall not preclude the Board from taking any disciplinary action against the licensee which the Board may deem necessary and appropriate.

(b) Prohibition on practice of optometry while license is in inactive status. Any licensee of the Board placing his or her license in inactive status shall not engage in any act within the definition of the practice of optometry under the Oklahoma Optometry Act or the rules and regulations of the Board until such time as the license shall be restored to active status. Any act within the definition of optometry performed while a licensee's license is in inactive status shall be considered the unlicensed

practice of optometry and shall be subject to all punishments and sanctions available under the laws of the State of Oklahoma and the rules of the Board.

(c) Restoration of license to active status. A licensee who has placed his or her license in inactive status may apply to the Board to have the license restored to active status. All such applications shall meet the following requirements:

- (1) The licensee shall be required to provide proof of attendance at and successful completion of educational programs or clinics in a total amount equivalent to the continuing education required by 59 O.S. § 604 and the rules of the Board for all calendar years or partial calendar years during which the license was in inactive status. Any partial year in inactive status shall be counted as a full year, but the licensee shall receive credit for any approved education successfully completed in the partial year before placing his or her license in inactive status. The Board, in its sound discretion, shall determine whether the submitted education is satisfactory and equivalent to that required by 59 O.S. § 604 and the rules of the Board.
- (2) The Licensee shall pay all annual fees which came due during the period the license was on inactive status, including a late reinstatement fee not to exceed three times the annual renewal fee.
- (3) If the Board has reason to believe the licensee has been guilty of any misconduct which might have resulted in discipline by the Board either before or during the period the licensee's license has been on inactive status, the Board may, prior to restoring the license to active status conduct a hearing to determine if the licensee has violated any law of the State of Oklahoma or Board Rule which should result in discipline by the Board. The Board may decline to restore a license to active status for any misconduct which could result in the suspension or revocation of a certificate under applicable statutes or rules of the Board. The licensee shall also comply with all requirements of Rule 505:10-7-3, governing renewal of certificates after revocation, as may be required by the Board.

Upon satisfaction of the foregoing requirements, the Board may, in its sound discretion, restore the licensee's license to active status and shall communicate its decision to the licensee promptly following consideration at a regular meeting of the Board.