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PROFESSIONAL AND OCCUPATIONAL STANDARDS

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Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LI. Optometrists

Chapter 1. General Provisions

§101. Preamble

A. The Louisiana State Board of Optometry Examiners governs the practice of optometry in accordance with the Optometry Practice Act (the "Act"), R.S. 37:1041 et seq.

1. The Act is incorporated herein by references, as though copied in full.

2. The Act is the source of the board's authority. Primary reference should be made to the act in determining the rules governing the operation of the board. The following rules supplement and further the purposes of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006).

§103. Rulemaking Procedure

A. The board shall be governed by the provisions of the Optometry Practice Act, R.S. 37:1041 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., in adopting rules for the operation of the board and the practice of optometry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006).

§105. Legislative History

A. The practice of optometry in Louisiana was initially governed by Act 193 of 1918, which was amended by Act 181 of 1920.

B. Act 172 of 1921 revised the law as it then existed.

C. In 1950, Louisiana adopted the revised statutes which codified existing legislation. The practice of optometry is currently governed by Chapter 12, Title 37 of the Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006).

§107. Organization of the Board

A. Introduction. See the provision of the Act relative to the organization of the board, in particular, R.S. 37:1041-1048.

B. Definitions

1. As used in this Part, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

2. Masculine terms shall include the feminine and, when the context requires, shall include partnership and/or professional corporations.

3. Where the context requires, singular shall include the plural or plural shall include the singular.

Act—the Optometry Practice Act, R.S. 37:1041 et seq.

Board—the Louisiana State Board of Optometry Examiners.

Diagnostic and Therapeutic Pharmaceutical Agent—any prescription or nonprescription drug delivered by any route of administration, used or prescribed for the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics, only when used in treatment of disorders or diseases of the eye and its adnexa. Licensed pharmacists of this state shall fill prescriptions for such pharmaceutical agents of licensed optometrists certified by the board to use such pharmaceutical agents.

i. Any *diagnostic and therapeutic pharmaceutical agent* as defined above listed in schedules II, III, IV and V of the uniform controlled dangerous substances law shall be limited to use or to be prescribed by a licensed optometrist for a maximum of seven days when used in treatment or disorders or diseases of the eye and its adnexa.

ii. *Diagnostic and therapeutic pharmaceutical agent* shall not include any drug or other substances listed in Schedule I of the uniform controlled dangerous substances law provided in R.S. 40:963 and 964 which shall be prohibited from use by a licensed optometrist.

iii. A licensed optometrist may prescribe one additional seven day prescription only if warranted by a follow-up exam.

Licensed Optometrist—a person licensed and holding a certificate issued under the provisions of the Act.

Optometry—that practice in which a person employs primary eye care procedures including ophthalmic surgery such as YAG laser capsulotomy, laser peripheral iridotomy, and laser trabeculoplasty, except for those surgery procedures specifically excluded in subsection D of section 1041 of the Optometry Practice Act; measures the power and range of vision of the human eye using subjective or objective means, including the use of lenses and prisms before the eye and autorefractors or other automated testing

devices to determine its accommodative and refractive state and general scope of function; and the adaptation of frames and lenses, in all their phases, including plano and zero power contact lenses, to overcome errors of refraction and restore as near as possible normal human vision, or for orthotic, prosthetic, therapeutic or cosmetic purposes with respect to contact lenses. *Optometry* also includes the examination and diagnosis, and treatment of abnormal conditions and pathology of the human eye and its adnexa, including the use or prescription of vision therapy, ocular exercises, rehabilitation therapy, subnormal vision therapy, ordering of appropriate diagnostic lab or imaging tests; the dispensing of samples to initiate treatment; and the use or prescription of diagnostic and therapeutic pharmaceutical agents. Optometrists shall issue prescriptions, directions and orders regarding medications and treatments which may be carried out by other health care personnel including optometrists, physicians, dentists, osteopaths, pharmacists, nurses, and others.

i. *Ophthalmic Surgery*—a procedure upon the human eye in which in vivo human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation. Nothing in this Optometry Practice Act shall limit an optometrist's ability to use diagnostic or therapeutic instruments utilizing laser or ultrasound technology in the performance of primary eye care or limit an optometrist's ability to perform *ophthalmic surgery* procedures other than those specifically excluded in subsection D of section 1041 of the Optometry Practice Act. Only persons licensed to practice medicine by the Louisiana State Board of Medical Examiners under the laws of this state may perform the *ophthalmic surgery* procedures specified in subsection D of section 1041 of the Optometry Practice Act.

ii. *Authorized Ophthalmic Surgery Procedures*—any procedure upon the human eye or its adnexa in which in vivo human tissue is injected, cut, burned, frozen, vaporized, coagulated, photodisrupted, or otherwise altered by the use of surgical instrumentation such as, but not limited to, a scalpel, needle, cryoprobe, laser, cautery, ultrasound, or ionizing radiation, other than procedures listed in subsection D of section 1041 of the Optometry Practice Act.

iii. Nothing in the Optometry Practice Act shall prohibit the dilation and irrigation of lacrimal ducts, insertion and removal of lacrimal plugs, foreign body removal from superficial ocular tissue, suture removal, removal of eyelashes, drainage of superficial lesions of the eye and its adnexa, or corneal shaping with external ophthalmic devices such as contact lenses by optometrists, provided, however, no optometrist shall carry out any such procedures referenced in this Paragraph unless certified by the board to treat those abnormal conditions and pathology of the human eye and its adnexa.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006), amended LR 34:872 (May 2008), LR 40:2249 (November 2014), repromulgated LR 40:2578 (December 2014), amended by the Department of Health, Board of Optometry Examiners, LR 44:1246 (July 2018).

§109. Employment Restrictions

A. An optometrist, duly licensed under the provisions of the Louisiana Optometry Law as set forth in R.S. 37:1041 et seq. is prohibited from accepting employment as an optometrist from:

1. a corporation other than a professional optometric corporation or professional medical corporation organized pursuant to Title 12 of the Louisiana Revised Statutes and domiciled in the state of Louisiana;
2. a partnership or limited liability company, unless such partnership or limited liability company is domiciled in the state of Louisiana and each partner or member, as the case may be, is:
 - a. an optometrist or physician duly licensed as an optometrist or physician in the state of Louisiana; or
 - b. a professional optometric corporation or professional medical corporation described above in Paragraph A.1 of this Section; or
3. an individual, unless such individual is duly licensed as an optometrist or physician in the state of Louisiana.

B. Notwithstanding the provisions of Paragraph A of Section 109, an optometrist, duly licensed under the provisions of the Louisiana Optometry Law as set forth in R.S. 37:1041 et seq., may accept employment from:

1. a licensed hospital or hospital affiliate;
2. a licensed ambulatory surgical treatment center owned in full or in part by Louisiana-licensed physicians or optometrists;
3. government sponsored healthcare programs or facilities; or
4. the entity is a combination or joint venture of the entities authorized under this §109.A.

C. Violation of the provisions of this §109 by an optometrist shall be considered a violation of provisions of R.S. 37:1061, and as such the board may refuse to renew the license of any such optometrist on its annual renewal date of March 1 of each year (R.S. 37:1056) and/or subject such optometrist to suspension or revocation of his or her license to practice optometry upon due notice and hearing as provided in R.S. 37:1062.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006), amended LR 35:1111 (June 2009), amended by the Department of Health, Board of Optometry Examiners, LR 44:1246 (July 2018).

§111. Prohibition of Fee-Splitting

A. An optometrist, duly licensed under the provisions of the Louisiana optometry law as set forth in R.S. 37:1041 et seq. shall not divide, share, split, or allocate, either directly or indirectly, any fee for optometric services or materials with any person, corporation, partnership, or other entity, other than through an affiliation with:

1. a professional optometric corporation or professional medical corporation organized pursuant to title 12 of the *Louisiana Revised Statutes* and domiciled in the state of Louisiana;
2. a partnership or limited liability company domiciled in the state of Louisiana and for whom each partner or member, as the case may be, is:
 - a. an optometrist or physician duly licensed as an optometrist or physician in the state of Louisiana; or
 - b. a professional optometric corporation or professional medical corporation described above in Paragraph A.1 of this Section;
3. an optometrist or physician duly licensed as an optometrist or physician in the state of Louisiana;
4. a licensed hospital or hospital affiliate;
5. a licensed ambulatory surgical center owned in full or in part by Louisiana-licensed physicians or optometrists;
6. a government sponsored healthcare program or facility;
7. an entity that is a combination or joint venture of the entities authorized under this §111.A.

B. Nothing contained in this Section prohibits an optometrist from paying:

1. an employee in the regular course of employment; or
2. a fair market value fee to a person or entity organized and operated for the primary purpose of providing billing services, collection services, administrative preparation, practice management, marketing materials, cooperative buying and/or group purchasing options for or on behalf of an optometrist or entity described above in §111.A based upon a percentage of professional service fees billed or collected, a flat fee, or any other arrangement that directly or indirectly divides professional fees, so long as:
 - a. the optometrist at all times controls the amount of the fees charged and collected for professional services;
 - b. the fee paid to the service provider is not for the solicitation or referral of a patient; and
 - c. no significant function of the service provider involves activities other than the provision of billing services, collection services, administrative preparation, practice management, marketing materials, cooperative buying and/or group purchasing options.

C. Nothing in this Section shall be construed as to prohibit a licensed optometrist from participating in a government-approved shared savings or alternative payment model such as an accountable care organization, physician specialty model, or Medicare Advantage innovation model.

D. Violation of the provisions of this §111 by an optometrist shall be considered a violation of provisions of R.S. 37:1061, and as such the board may refuse to renew the license of any such optometrist on its annual renewal date of March 1 of each year (R.S. 37:1056) and/or subject such optometrist to suspension or revocation of his or her license to practice optometry upon due notice and hearing as provided in R.S. 37:1062.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006), amended by the Department of Health, Board of Optometry Examiners, LR 44:1247 (July 2018).

§112. Controlling Professional Judgment of Optometrist

A. Notwithstanding §§109 or 111 of this Part, it shall be unlawful and constitute a violation of this Section for any optometrist to enter into any contract, agreement or other arrangement that allows any person, corporation, partnership, or other entity, to control or attempt to control the professional judgment, the manner of practice, or the practice of an optometrist. For purposes of this Section, “control or attempt to control the professional judgment, the manner of practice, or the practice of an optometrist” shall include, but not be limited to:

1. setting, dictating or attempting to influence the professional fees charged for patient care, other than through a contract, agreement or other arrangement with a person or entity described in §111.A;
2. exerting or attempting to influence independent professional judgment, patient care, or any matter affecting the health and well-being of a patient, or the ability of an optometrist to provide such care;
3. restricting or attempting to restrict an optometrist’s freedom to see patients on an appointment basis;
4. terminating or threatening to terminate any lease, agreement, or other relationship in an effort to control the professional judgment and/or manner of practice of an optometrist;
5. making or guaranteeing a loan to an optometrist in excess of the value of the collateral securing the loan;
6. regulation of the optometrist’s business hours, other than through a contract, agreement or other arrangement with a person or entity described in §111.A;
7. taking custody or control of the optometrist’s business and patient records; or

8. the specification of particular treatments, drugs, products, services, procedures, or optical goods to be dispensed or prescribed for a patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Optometry Examiners, LR 44:1245 (July 2018).

§113. Referrals

A. No optometrist shall offer, make, solicit, or receive payment, directly or indirectly, overtly or covertly, in cash or in-kind, for referring or soliciting patients.

B. No optometrist shall make referrals outside the same group practice as that of the referring optometrist to any other health care provider, licensed health care facility, or provider of health care goods and services including but not limited to medical suppliers, and therapeutic services when the referring optometrist has a financial interest served by such referral, unless in advance of any such referral the referring optometrist, discloses to the patient, in writing, the existence of such financial interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006).

§115. Patient Records

A. All medical records of a patient, including but not limited to prescriptions, files, patient records and business records, maintained in the office of an optometrist are the property and business records of the optometrist.

B. An optometrist shall furnish each patient, upon request of the patient, or his or her legal representative, a copy of any information related in any way to the patient which the optometrist has transmitted to any company, or any public or private agency, or any person in accordance with R.S. 40:1299.96.

C. A patient, or his or her legal representative, shall have a right to obtain a copy of any medical records relating to the patient's medical treatment, history, or condition, including but not limited to any unexpired prescription, in accordance with R.S. 40:1299.96, provided, however, a patient shall not be entitled to obtain business records of the optometrist.

D. A patient, or his or her legal representative, shall be entitled to obtain a copy of such patient's medical records in accordance with Subsections B and C of this Section, upon furnishing a signed authorization and upon payment of a reasonable copying charge, not to exceed \$1 per page for the first 25 pages, \$0.50 cents per page for 26 to 500 pages, and \$0.25 cents per page thereafter, a handling charge not to exceed \$5, and actual postage in accordance with R.S. 40:1299.96. A patient shall have a right to obtain copies of patient X-rays upon payment of reasonable reproduction costs.

E. In the event medical records furnished to a patient pursuant to this Section are not complete, the copy of the records furnished hereunder may indicate, through a stamp,

coversheet, or otherwise, that the record is incomplete in accordance with R.S. 40:1299.96.

F. An optometrist shall not falsely create or alter a medical record or destroy a medical record except as authorized by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006), amended by the Department of Health, Board of Optometry Examiners, LR 44:1247 (July 2018).

§117. Hearings and Investigations

A. The board may summon witnesses and compel the attendance of witnesses, as well as conduct hearings on proceedings to revoke, limit or suspend a license or certificate to practice optometry in Louisiana as provided in R.S. 37:1048.

B. Witnesses shall cooperate with the board in investigating any matter before the board and shall respond to any lawful demand for information, except for an openly expressed claim of a constitutional privilege.

C. Failure to cooperate with the board in investigating any matter before the board, or to respond to any lawful demand for information, except for an openly expressed claim of a constitutional privilege, may be considered a violation of R.S. 37:1063 and grounds for suspension or revocation of a Louisiana optometry license or certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006).

Chapter 3. License

§301. Continuing Education

A. Each licensed optometrist shall comply with the following continuing education requirements.

1. Standard optometry license holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 hours of continuing education courses, of which a minimum of 10 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners; provided, however, a minimum of 9 of 12 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303.

2. License holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 hours of continuing education courses, of which a minimum of 14 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners, and of which at least

eight classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; provided, however, a minimum of 13 of 16 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303. Such certificate holders will be entitled to apply the CPR continuing education to their required annual continuing education, provided that such CPR continuing education shall not count toward the required eight classroom hours related to ocular and system pharmacology and current diagnosis and treatment of ocular disease, and provided further that no more than two hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods. The eight hours of continuing education relating to ocular and systemic pharmacology and/or current diagnosis and treatment of ocular disease shall be obtained solely from the following sources:

- a. the American Optometric Association;
- b. any state optometric association affiliated with the American Optometric Association;
- c. Great Western Council of Optometry, Mountain West Council of Optometrists, North Central States Optometric Council, and Southern Council of Optometrists;
- d. the American Academy of Optometry; or
- e. schools and colleges of optometry accredited by the American Optometric Association Accreditation Council on Optometric Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006), amended LR 35:1111 (June 2009), LR 38:1590 (July 2012), amended by the Department of Health, Board of Optometry Examiners, LR 44:1248 (July 2018), amended LR 46:23 (January 2020).

§303. Continuing Education Requirement for Controlled Dangerous Substances

A. Scope of Rule. This rule provides for the one-time continuing education (CE) requirement for controlled dangerous substances prerequisite to license renewal of an authorized prescriber, definitions and the procedures applicable to approved/qualifying CE, credit for satisfaction, documentation, non-compliance, an exception and conflict resolution with other CE rules of this Part.

B. Definitions. As used in this §303, the following terms and phrases shall have the meanings specified.

Authorized Prescriber—an optometrist whose scope of practice includes authority to prescribe, dispense, or administer CDS.

Board—the Louisiana State Board of Optometry Examiners, as constituted under R.S. 37:1041 et seq.

Controlled Dangerous Substances or CDS—any substance defined, enumerated or included in federal or state statute or regulations 21 CFR. §§1308.11-.15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

C. Continuing Education Requirements

1. Notwithstanding any other provision, including, but not limited to, §301.A.1 pertaining to the requirement for obtaining a minimum of 10 hours of continuing education credit in a classroom setting, every authorized prescriber seeking the renewal of a license on and after January 1, 2019, shall, as part of the continuing education requirement by this part, and as a condition prerequisite to licensure renewal, successfully complete three credit hours of continuing education approved by the board on CDS prescribing practices, all of which may be taken through online courses approved by the board. Such continuing education shall include instruction relating to drug diversion training, best practices regarding prescribing of CDS, appropriate treatment for addiction and any other matters regarding the prescribing of CDS that are deemed appropriate by the board. The continuing education requirement may be satisfied by completing a continuing education program consisting of at least three credit hours approved by the board. Successful completion of this requirement once shall satisfy the requirement in full.

2. An optometrist with prescription authority in Louisiana for CDS shall be exempt from the continuing education requirement for renewal of his/her license to practice optometry if he/she completes and submits to the board a certification developed by the board attesting that he has not prescribed, administered or dispensed a CDS during the previous calendar year. The board shall verify the attestation of the prescriber through the prescription monitoring program. The exemption from the continuing education requirement of this subsection shall only be valid for the calendar year to which the attestation applies. If an optometrist obtains an exemption from continuing education requirements under this subsection, the optometrist with a renewed optometry license may prescribe, administer or dispense a CDS during a subsequent renewed optometry license term, but shall not be exempt from continuing education requirements for renewal of a optometry license during such period and, as such, shall obtain three hours of continuing education approved by the board on CDS prescribing practices prior to the expiration of such renewed optometry license term as provided in Paragraph 1 above.

3. Information on how to access approved, qualifying continuing education courses will be maintained by the board and made available on its website www.laoptometryboard.com. No license shall be renewed for an individual who fails to comply with the provisions of this Section.

4. The continuing education hours required by this section shall be considered among the credit hours required of the prescriber by the board on and after August 1, 2017,

and shall not be considered an additional requirement to be met by a prescriber.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Optometry Examiners, LR 46:24 (January 2020).

Chapter 5. Practicing Optometry

§501. Professional Conduct

A. The following acts or omissions constitute a failure by the optometrist to abide by the minimal standards of acceptable and prevailing optometry practice, as set forth in R.S. 37:1061(10).

1. Failure to keep the visual welfare of the patient uppermost at all times, promote the best care of the visual needs of mankind, strive continuously to develop educational, professional, clinical and technical proficiency and keep informed as to the new developments within his profession.

2. Failure to conduct his or her practice in a decorous, dignified and professional manner and in keeping with the rules, regulations and ethics as promulgated by this board.

3. Engaging in conduct which endangers the public health or renders the licensee unable to practice optometry with safety to the public, including inability to practice optometry with reasonable skill or safety to patients because of mental illness, interdiction or commitment by due process of law, or deficiency or physical illness, including but not limited to deterioration through the aging process or loss of motor skills, shall be grounds for suspension or revocation of any optometry license.

4. Sexual misconduct, including, but not limited to, any improper act of sexual intimacy, contact, exposure, gratification, abuse, exploitation or other sexual behavior with or in the presence of a patient or any other individual related to the practice of optometry.

5. Engaging in the practice of optometry while under the influence of a mood-altering substance that compromises or has the potential to compromise an optometrist's medical judgment or practice, irrespective of whether or not prescribed by an optometrist or authorized practitioner.

6. Using the term "board certified" or "Board Certified" in connection with their title, name, business or practice except to reference certification by organizations approved by the Louisiana State Board of Optometry Examiners.

7. Failing to report to the board:

a. any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court; or

b. any other act, event, or occurrence required to be reported pursuant to Louisiana Revised Statute §37:1061, or that would constitute grounds for disciplinary action pursuant to this Section, which report shall be in writing and

within 30 days of such adverse action, act, event or occurrence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 35:1111 (June 2009), amended by the Department of Health, Board of Optometry Examiners, LR 44:1248 (July 2018), amended by the Department of Health, Board of Optometry Examiners, LR 46:25 (January 2020).

§503. License to Practice Optometry

A. Introduction. See the provisions of the Act relative to the license to practice optometry, in particular, R.S. 37:1049 et seq.

B. Graduate of Approved School. Optometric educational programs that are duly accredited by the Accreditation Council of Optometric Education of the American Optometric Association and recommended to the board by the Association of Regulatory Boards of Optometry as worthy of approval will meet the statutory requirement of R.S. 37:1049(3).

C.1. Application for Licensure by Endorsement. The waiver provided for by R.S. 37:1054 (endorsement) is within the discretion of the board. The board shall refer to the laws provided for the regulation of the practice of optometry, the public interest, the interest of licensed optometrists and the interest of the applicant in the exercise of this discretion.

2. The board may require satisfactory performance on the clinical/practical examination given by the board for licensure by endorsement pursuant to R.S. 37:1054.

D. Duplicate License. The secretary of the board, subject to prior board approval, may issue a duplicate certificate upon application of a licensed optometrist in good standing if all provisions of the Act applicable to the licensed optometrist have been satisfied and the applicant has paid the fee prescribed in §801.

E. Beginning Practice. Upon beginning practice, a licensee shall notify the secretary of the board as to the address of his office and the telephone number. If any time any office has relocated, the licensee involved shall notify the secretary of his new office address and telephone number. If, for any reason, he ceases to practice, he shall so notify the secretary.

F. Continuing Education. In order to qualify for the annual license renewal required by R.S. 37:1057, the following information shall be presented to the secretary of the board:

1. Written certification that the doctor requesting license renewal has completed 12 hours of continuing education, or 16 hours of continuing education if the doctor maintains a current certificate to treat ocular pathology, between January 1 and December 31 of each year immediately preceding the March 1 renewal date set forth in R.S. 37:1057 by attendance and completion of courses approved by the Louisiana State Board of Optometry Examiners.

2. Education hours will not qualify unless they are completed within the above stated calendar period.

3. While the education hours shall be accomplished within the calendar dates set forth in Paragraph 1 hereof, the written evidence of attendance shall be submitted on or before the first day of March of each calendar year provided that same is in the office of the secretary of the board on or before the first day of March of each calendar year in which license renewal is sought.

4. The requirement shall only be waived in cases of certified illness, certification by the commanding officer of those in the military that due to his military assignment it was impossible for him to comply or upon evidence satisfactory to the board that the applicant for renewal was unable to meet the requirement because of undue hardship.

5. Pay to the board the annual renewal fee provided in R.S. 37:1058 and §801 herein on or before the first day of March of each year.

G. Qualifications for a Louisiana Licensed Optometrist to be Credentialed to Utilize and Perform Authorized Ophthalmic Surgery Procedures

1. Louisiana licensed optometrists shall be credentialed to perform authorized ophthalmic surgery procedures if:

a. the applicant provides proof of holding a Louisiana license to practice therapeutic optometry and is in good standing, or in the case of a new applicant for licensure, has satisfied the requirements of R.S. 37:1049(1)-(8); and

b. the applicant provides proof of satisfactory completion of a course of instruction approved by the board that may include:

- i. the following didactic classroom instructions:
 - (a). laser physics, hazards, and safety;
 - (b). biophysics of lasers;
 - (c). laser application;
 - (d). laser tissue interactions;
 - (e). laser indications, contraindications, and potential complications;
 - (f). gonioscopy;
 - (g). laser therapy for open angle glaucoma;
 - (h). laser therapy for angle closure glaucoma;
 - (i). posterior capsulotomy;
 - (j). common complications, lids, lashes, lacrimal system;
 - (k). medicolegal aspects of procedures;
 - (l). peripheral iridotomy;
 - (m). laser trabeculoplasty;

- (n). minor surgical procedures;
- (o). overview of surgical instruments, asepsis, and O.S.H.A.;
- (p). relevant surgical anatomy;
- (q). emergency surgical procedures;
- (r). chalazion management;
- (s). local anesthesia: techniques and complications;
- (t). anaphalaxis and other office emergencies;
- (u). radiofrequency surgery;
- (v). post-operative wound care; and

c. the applicant satisfactorily completes a written test approved by the board on aspects of the Louisiana Optometry Practice Act pertaining to authorized ophthalmic surgery procedures.

2. A board-approved course of instruction shall be:

- a. provided by an accredited optometry, osteopathy or medical school;
- b. a minimum of 32 clock hours in length; and
- c. sponsored by an organization approved by the board.

3. Prohibitions and Referrals

a. Performing authorized ophthalmic surgery procedures without credentialing based upon the education requirements outlined in this administrative regulation shall be grounds for suspension or revocation of an optometry license and/or credentialing to perform authorized ophthalmic surgery procedures as per section 1061 of the Optometry Practice Act.

4. Outcomes Reporting

a. Every optometrist who has met the requirements for certification to perform authorized ophthalmic surgery procedures shall report to the board the outcome of authorized ophthalmic surgery procedures performed in such form as required or directed by the board.

5. Beginning with the graduating class of 2015 any optometrist who provides proof that he/she graduated from an optometry school whose program includes all of the training and testing requirements established by the board may be deemed to have met the requirements for certification to perform authorized ophthalmic surgery procedures.

6. Performance of authorized ophthalmic surgery procedures by any person without a valid and current certificate issued by the board to perform such procedures shall be considered a violation of section 1061(A)(1) of the Optometry Practice Act.

H. Participation in Student Extern Program. An optometrist may participate in student extern programs in

accordance with rules and regulations promulgated from time to time by the board.

1. The level of responsibility assigned to a student extern shall be at the discretion of the supervising optometrist who shall be ultimately responsible for the duties, actions or work performed by such student extern.

2. The duties, actions and work performed by a student extern in accordance with the provisions of this §603 and §603 shall not be considered the practice of optometry without a license as set forth in R.S. 37:1061(14).

I. Retirement of License

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be retired. The request to have a license retired must be in writing and delivered to the board. The request for a retired license will be placed on the board agenda for consideration at the next scheduled board meeting and the effective date of retirement determined by the board will be set and may be retroactive. A person who holds a retired license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding a retired license is exempt from the continuing education requirements of §301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of a retired license need not renew the retired license annually nor pay any renewal fees.

2. Re-Activation of Retired License. For an retired license to be re-activated, the license holder must pay the reinstatement fee set forth in §801.A.6 plus any and all license renewal fee(s) and comply with all continuing education requirements. To re-activate a retired license the license holder must show 16 hours of board approved continuing education for each year of retired license status. The required continuing education may be obtained at any time during the retired status period. If the inactive license holder fails to practice optometry in any state for greater than five consecutive years from the date the license was granted retired status, an examination acceptable to the board may be required to re-activate the original license. For holders of a retired license with authorized ophthalmic surgery procedures, if the retired license holder fails to practice authorized ophthalmic surgery procedures in any state for greater than five consecutive years from the date the license was granted retired status, a recertification of advanced procedure proficiency and examination acceptable to the board may be required to re-activate the original license.

J. Inactive Status

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be placed on inactive status. The request to have a license be considered inactive must be in writing and delivered to the board. The request for inactive status will be placed on the board agenda for consideration at the next scheduled board meeting and the

effective date of inactive status determined by the board will be set and may be retroactive. A person who holds an inactive license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding an inactive license is exempt from the continuing education requirements of Section 301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of an inactive license must renew the inactive license annually and pay appropriate renewals fees to avoid revocation.

2. Re-Activation of Inactive License. For an inactive license to be re-activated, the license holder must pay the reinstatement fee set forth in §801.A.6 plus any and all license renewal fee(s) and comply with all continuing education requirements. To re-activate an inactive license the license holder must show 16 hours of board approved continuing education for each year of inactive license status. The required continuing education may be obtained at any time during the inactive status period. If the inactive license holder fails to practice optometry in any state for greater than five consecutive years from the date the license was granted inactive status, an examination acceptable to the board may be required to re-activate the original license. For holders of an inactive license with authorized ophthalmic surgery procedures, if the inactive license holder fails to practice authorized ophthalmic surgery procedures in any state for greater than five consecutive years from the date the license was granted inactive status, a recertification of advanced procedure proficiency and examination acceptable to the board may be required to re-activate the original license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 34:873 (May 2008), LR 38:1590 (July 2012), LR 40:2250 (November 2014), repromulgated LR 40:2580 (December 2014), amended by the Department of Health, Board of Optometry Examiners, LR 44:1248 (July 2018), amended LR 46:25 (January 2020).

§505. Prescriptions for Eyeglasses or Contact Lenses

A. To constitute a valid spectacle prescription, every spectacle prescription for use in correcting errors of refraction and restoring, as near as possible, normal human vision shall contain in a legible form the name, address, telephone number and license number of the provider, the name of the patient, the prescription date, refractive power (including spherical power, cylindrical power, axis, prism, and multifocal addition power, as applicable), and may contain information specifying the physical design (i.e. base curve, material type, and other pertinent measurements such as pupillary distance). Every spectacle prescription shall contain an expiration date and the signature of the provider issuing the prescription. The expiration date may not exceed 18 months, unless the provider documents a valid medical reason in the chart for doing so.

B. Contact lenses may not be sold or dispensed without a signed, unexpired prescription. Every contact lens prescription shall contain, in a legible form, the name, address, telephone number and license number of the provider, the name of the patient, the prescription date, brand or material, curvature and lens diameter (if more than one base curve and diameter is available), refractive power (including spherical power, cylindrical power, axis, and multifocal addition power, as applicable), the number of lenses/boxes to be dispensed,. An optometrist, when issuing a prescription for contact lenses, shall also include the number of refills allowed and the expiration date of the prescription. The expiration date may not exceed 12 months, unless the provider documents a valid medical reason in the chart for doing so.

C. An optometrist, when filling a prescription for eyeglasses or contact lenses, shall be required to keep the original prescription, copy, or electronic facsimile of the original prescription. An optometrist may not refuse to release to a patient a copy of the patient's prescription if requested by the patient; provided, however, an optometrist shall not be required to release a prescription that has expired.

D. A spectacle prescription shall not be construed to be or substituted for a contact lens prescription nor shall a contact lens prescription be construed to be or substituted for a spectacle prescription.

E. No owner, employer, or agent of any business establishment that buys, sells, offers to sell, dispenses, or gives away prescription or non-prescription contact lenses, or prescription spectacle lenses may fill a contact lens or spectacle prescription after the expiration date, or if the information specified in Subsections A and B of this Section is not included on the prescription.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Optometry Examiners, LR 46:26 (January 2020).

Chapter 6. Dispensation of Medication

§601. Scope of Chapter

A. The Sections of this Chapter govern the prescription and dispensation of drugs, chemicals, and medications by optometrists. These Sections are not intended to alter or modify the effect or applicability of state and federal laws and regulations governing the acquisition, possession, maintenance, prescription, dispensation, or administration of, or accounting for, legally controlled substances and other drugs and medications, but are complimentary and supplementary to such laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:634 (April 2006).

§603. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

Administer—with respect to a medication provided or dispensed by an optometrist for use by a patient, the term *administered* means directly or through an agent to give, provide, or supply for immediate oral ingestion, insertion, or topical application by the patient, or to insert or apply topically.

Board—the Louisiana State Board of Optometry Examiners.

Controlled Substance—any medication or other substance which is defined, enumerated or designated as a controlled substance and regulated as such under Louisiana or federal statute or regulations 21 CFR §§1308.11-15 or R.S. 40:964, or any substance hereafter designated as a controlled substance by amendment or supplementation of such regulations and statute.

Drug—synonymous with medication, as defined herein.

Medication—any chemical, potion, compound, mixture, suspension, solution, or other substance or material, natural or synthetic, recognized and listed in the official United States Pharmacopoeia, which is lawfully produced, manufactured, sold, or provided and intended and approved for medical, diagnostic, therapeutic, or preventative use in and by humans.

Optometrist—a person lawfully entitled to engage in the practice of optometry in the state of Louisiana, as evidenced by a current license or permit duly issued by the board.

Student Extern—a student extern is a person who is a regular student at an optometry school or program approved by the board pursuant to §503 who is performing duties or actions assigned by his or her instructors or as part of his or her curriculum, which must be under the direct supervision of an optometrist licensed by the board as defined in this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:634 (April 2006), amended LR 38:1591 (July 2012).

§605. Prohibitions

A. No optometrist shall prescribe, dispense, administer, supply, sell, give or otherwise use for the purpose of treating a patient, any controlled substance or other medication, except in strict compliance with the Louisiana and federal law and regulations applicable thereto and with the rules of this Chapter.

B. No optometrist shall prescribe, dispense or administer any medication except in the usual and ordinary course of his optometry practice for a legitimate medical purpose.

C. No optometrist shall dispense any medication upon the prescription of another practitioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:635 (April 2006).

§607. Use of Controlled Substances; Limitations

A. Requisite Prior Conditions. In utilizing any controlled substances, an optometrist shall comply with the following.

1. Evaluation of the Patient. Evaluation of the patient shall initially include a full history, including complete medical, pain, alcohol and substance abuse histories.

2. Medical Diagnosis. A medical diagnosis shall be established and fully documented in the patient's medical record, which indicates the nature of the underlying disease, presence of pain and pain mechanism if such are determinable.

3. Treatment of Pain. An individual treatment plan shall be formulated and documented in the patient's medical record, which includes medical justification for controlled substance therapy.

4. Patient Information. An optometrist shall ensure that the patient and/or his guardian is informed of the benefits and risks of controlled substance therapy.

B. Controlled Substance Therapy. Upon completion and satisfaction of the conditions prescribed in §607.A, and upon an optometrist's judgment that the prescription of a controlled substance is medically warranted, an optometrist shall adhere to the following.

1. Treatment Records. An optometrist shall document and maintain in the patient's medical record, accurate and complete records of all history, physical and other examinations and evaluations, consultations, laboratory and diagnostic reports, treatment plans and objectives, controlled substance and other medication therapy, informed consents, periodic assessments and reviews.

2. Any optometrist qualified to prescribe controlled substances shall maintain complete records on any controlled substances he or she prescribes, which records shall clearly identify the controlled substances prescribed, the individual to whom each controlled substance was prescribed, the date of each prescription and the amount of the controlled substance prescribed.

3. An optometrist shall not dispense or administer controlled substances in their optometry practice and shall not keep an inventory of controlled substances on hand for purposes of dispensation or administration by an optometrist in their optometry practice.

4. The controlled substances records required by this Chapter shall be readily retrievable and available for examination, inspection, copying, and verification of accuracy, currency and completeness by the board or its designated employee or agent, immediately upon the request of the board, its agents, or employees, at any reasonable time, but without the necessity of prior notice by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:635 (April 2006).

§609. Action against Optometry License

A. Violation or failure to comply with the provisions set forth in §§605 or 607, or providing false or misleading statements in connection with any application required by this Chapter, shall be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice optometry in the state of Louisiana held or applied for by an optometrist culpable of such violation, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:635 (April 2006).

§611. Mandatory Access and Review of Prescription Monitoring Program Data; Exceptions

A. Scope of Rule. The rules for this §611 provide for prescriber mandatory access and review of the Louisiana Prescription Monitoring Program, R.S. 40:100 et seq., as from time to time may be amended (PMP), and for exceptions and non-compliance.

B. As used in this §611, the following terms and phrases shall have the meanings specified.

Administer—with respect to a medication provided or dispensed by a prescriber for use by a patient, the term *administer* means directly or through an agent to give, provide or supply for immediate oral ingestion, insertion or topical application by the patient, or to insert, apply topically, or inject intravenously, intramuscularly, subcutaneously, intrathecally, or extrathecally.

Board—the Louisiana State Board of Optometry Examiners, as constituted under R.S. 37:1041 et seq.

Controlled Dangerous Substance (CDS)—any substance defined, enumerated or included in federal or state statute or regulations 21 CFR §§1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

Delegate—an individual authorized by a prescriber or dispenser who is also authorized to access and retrieve prescription monitoring program data for the purpose of assisting the prescriber or dispenser, and for whose actions the authorizing prescriber or dispenser retains accountability.

Prescribe—to issue a request or order for a drug or medical device by an individual licensed under this Part for a legitimate medical purpose. The act of prescribing must be in good faith and in the usual course of the licensee's professional practice.

Prescriber—an optometrist or other health care provider as may hereafter be licensed by the board under this Part, whose scope of practice includes authority to prescribe opioids.

Prescription—an order from a practitioner authorized by law to prescribe for a drug or device that is patient specific and is communicated by any means to a pharmacist in a permitted pharmacy.

Prescription Monitoring Program or *PMP*—the electronic system for the monitoring of controlled substances and other drugs of concern established by the Prescription Monitoring Program Act, R.S. 40:1001 et seq., as may from time to time be amended.

C. Mandatory Access and Review

1. Prior to initially prescribing any opioid to a patient, a prescriber or his/her delegate shall access and review the patient’s record in the PMP; and

2. If opioids are prescribed to the patient for more than 90 days, the prescriber or his/her delegate shall access and review the record in the PMP at least every 90 days.

3. This Section shall not apply if:

a. the drug is prescribed or administered to a hospice patient or any other patient who has been diagnosed as terminally ill;

b. the drug is prescribed or administered for the treatment of cancer-related chronic or intractable pain;

c. the drug is ordered or administered to a patient being treated in a hospital;

d. the PMP is not accessible or not functioning properly due to an electronic issue. However, the prescriber shall check the PMP after electronic accessibility has been restored and note the cause for the delay in the patient’s chart; or

e. no more than a single seven-day supply of the drug is prescribed or administered to a patient.

D. Action against Optometry License. Violation or failure to comply with the provisions set forth in §§303 or 611, or providing false or misleading statements in connection with any application required by this Chapter may be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice optometry in the state of Louisiana or applied for by an optometrist culpable of such violation, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Optometry Examiners, LR 46:26 (January 2020).

Chapter 7. Examination

§701. Examination Requirements

A. In order to take the examination required by R.S. 37:1051, an applicant must satisfy the following licensing requirements set forth in R.S. 37:1049:

1. be of good moral character;

2. have graduated from an approved high school or school maintaining a similar standard;

3. have graduated from a school or college of optometry approved by the board and hold the graduate level doctor of optometry degree;

4. file with the secretary of the board upon the form furnished an application under oath stating that he fulfills each requirement of this Section and include with the application the papers required by R.S. 37:1050;

5. have reached the required level of performance on those parts of the examination administered by the National Board of Examiners in Optometry required by the board and cause to be furnished to the secretary of the board a true written copy of the score report of such national board examination;

6. have demonstrated that they have reached the qualification level necessary to become certified to treat abnormal conditions and pathology of the human eye and its adnexa as set forth in R.S. 37:1051, and the rules and regulations established, published, and administered by the board; and

7. meet the credentialing requirements of the board to perform authorized ophthalmic surgery procedures.

B. The Louisiana State Board of Optometry Examiners shall have the discretion to allow an applicant to take the examination required by R.S. 37:1051 prior to having satisfied the requirements of §701.A for circumstances beyond the control of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:635 (April 2006), amended by the Department of Health, Board of Optometry Examiners, LR 44:1250 (July 2018).

Chapter 8. Fees and Expenses

§801. Fees

A. The board shall charge and collect the following fees, consistent with R.S. 37:1058:

1. application for examination—\$500;

2. original license fee—\$300;

3. duplicate license fee—\$50;

4. annual license renewal fee—\$200;

5. license delinquency fee—\$300;

6. license reinstatement fee—\$300;

7. original authorized ophthalmic surgery procedure certificate—\$50;

8. inactive license annual renewal fee—\$100.

B. Notwithstanding the foregoing, the board may, by a majority vote, reduce the amount of and/or waive the collection of any such fees.

PROFESSIONAL AND OCCUPATIONAL STANDARDS

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:636 (April 2006), amended LR 40:2252 (November 2014), repromulgated LR 40:2580 (December 2014), amended by the Department of Health, Board of Optometry Examiners, LR 44:1250 (July 2018).

§803. Expenses

A. Prior to issuance of a subpoena to any witness, the board shall require that the party (other than the board) who wishes to subpoena such witness deposit a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671 in accordance with R.S. 49:956.

B. The board shall have discretion, but shall not be required, to pay any witness compelled by the board (and not another party) to attend a hearing conducted by the board fees or expenses pursuant to R.S. 49:956, and shall further have the discretion to pay any witness fees and expenses in excess of the amount required pursuant to R.S. 49:956;

provided, however, no party who wishes to subpoena a witness shall be required to pay fees or expenses in excess of the amount required to be paid to a witness in a civil case pursuant to R.S. 13:3661 and R.S. 13:3671 in accordance with R.S. 49:956.

C. Each member of the board shall be reimbursed when actually in attendance of a board meeting or when required to travel for the official authorized business of the board, not more than \$75 per day, plus actual expenses unlimited by any rate or reimbursement set by the Division of Administration, as well as mileage to and from their domicile to the place of the meeting, provided, however, mileage shall be reimbursed at the same rate of reimbursement set by the division of administration for state employees under the provisions of R.S. 39:231.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:636 (April 2006).