

**COLORADO STATE BOARD OF OPTOMETRY
POLICIES & GUIDELINES
TABLE OF CONTENTS**

- 10- Administrative
 - 10-1 Annual review
- 20- Licensing
 - 20-1 Application from Optometrists trained in foreign countries
 - 20-2 Jurisprudence
 - 20-3 Financial Responsibility for non-practicing Optometrists
 - 20-4 Inactive Status and Reactivation Requirements
- 30- Practice
 - 30-1 Contact lens
 - 30-2 Continuing Education
 - 30-3 Continuing Education ("CE") Audits
 - 30-4 Continuing Education Requirements during renewal
 - 30-5 Practicing on Lapsed License
 - 30-6 Use of terms
 - 30-7 Employment and Independent Contractor Arrangements
 - 30-8 Community Vision Screenings with donated glasses distribution programs
 - 30-9 Guidelines Pertaining to the Release and Retention of Optometry Records
- 40- Discipline
 - 40-1 Guidelines Pertaining to Confidential Letters of Concern
 - 40-2 Delegated Authority
 - 40-3 Process for Handling Complaints involving Board of Optometry Members
- 50- Miscellaneous
 - 50-1 Approved Procedural Codes – Repealed May 2011

MODEL LEASE

REPORTING FORM

OPTOMETRY SETTLEMENT OR JUDGEMENT FORM

Board of Optometry Policies

10- Administrative

10-1 Annual review

The Board will review and revise these policies, as necessary, and the list of procedures acknowledged by the Board as being within the scope of Optometry practice in Colorado. 8-2002

20- Licensing

20-1 Applications from Optometrists trained in foreign countries

Such applicants are required to choose one of the organizations that belong to NACES (National Association of Credential Evaluation Services) to have their transcripts evaluated. The evaluation will include a course by-course description of classes taken and will tell the Board if the degree is equivalent to an accredited OD program degree. If the evaluation shows the program completed is not an equivalent education, it will list the courses that are lacking. The applicant (not the board) is responsible for any fees charged by the evaluating organization for this service. (May 2002)

20-2 Jurisprudence exam

The "open-book" jurisprudence exam given to new applicants will also be administered to renewing licensees every third licensing period. (August 2002)

20-3 Financial Responsibility for non-practicing Optometrist

Purpose: To provide guidelines and clarification to Optometrists with respect to the State Board of Optometry expectation regarding non-practicing licensed Optometrists.

POLICY: Financial Responsibility for non-practicing Optometrist

Any person *practicing* optometry in this state shall establish financial responsibility as outlined in C.R.S. 12-40-126.

(Adopted August 4, 2010, revised November 2010.)

20-4 Inactive Status and Reactivation Requirements

Purpose: Purpose of this policy is to clarify the inactive license status and how to reactivate that inactive license status to active and practicing status.

POLICY: 1) Inactive license status. During such time as a licensee remains in an inactive status, he or she shall not perform those acts restricted to active licensed optometrists.

- a. Any licensee may apply for an inactive status. Such application shall be in the form and manner designated by the board.

- b. Inactive licensees shall renew and pay a fee in the same manner as active license holders.
 - c. Pursuant to § 12-70-101, C.R.S., the holder of an inactive license shall not be required to comply with the continuing education requirements for renewal so long as he or she remains inactive
 - d. Practicing with an inactive license shall constitute unlicensed practice and, therefore, may be grounds for disciplinary or injunctive action, up to and including revocation
2. **Reactivation.** An inactive license may be reactivated by submitting a reactivation application and paying a reactivation fee.
- a. If the license has been inactive for more than two years, the licensee shall meet the following requirements:

(1) If the licensee is in practice and good standing in another state or territory of the United States or a foreign country, the Board shall require the licensee to take and pass a Board-approved clinical examination; or

(2) If the licensee has been actively practicing and in good standing in another state or territory of the United States or a foreign country, he or she may be issued an active license without reexamination if the Board determines that he or she possesses the credentials and qualifications which are substantially equivalent to requirements in Colorado for current licensure by examination.

(Effective November 2010.)

30- Practice

30-1 Contact lenses

References to contact lenses within the statute and rules include plain contact lenses worn for the sole purpose of their cosmetic or decorative colors.

30-2 Continuing Education

CE must be clinically relevant. Practice management topics or drug companies' sales pitches are not acceptable; study groups are also not acceptable. Continuing education on the topic of clinical record keeping is acceptable for fulfilling the statutory continuing education requirement.

CE may be obtained at conferences, lectures, clinics, from optometry journals or via the Internet:

Conferences & Lectures: Must be sponsored by COPE, AOA, AOA recognized state associations, AAO, schools and colleges of optometry, COVD, OEP and clinical facilities specializing in eye care that are staffed by professors or adjunct professors of optometry or ophthalmology at accredited optometry or medical schools. If the CE is not sponsored by one of the above organizations, ODs can apply to the board for approval of a specific course they plan to take or have taken.

Internet or journals: Must be sponsored/approved by COPE (Council on Optometric Practitioner Education) or accredited schools/colleges of Optometry. Must also include a post-test evaluation. Only 8 of the 24 required hours may be obtained via the Internet or from journals.

Clinical observation / experience: One hour of CE credit may be obtained for every two hours of observation at a clinical facility which specializes in eye care that is staffed by professors or adjunct professors from optometry or ophthalmology at accredited optometry or medical schools. (The Omni Eye Specialists clinic in Denver is an example of such a clinical facility.) Only 4 hours of CE may be earned by this method in each 24-month cycle.

30-3 Continuing Education (“CE”) Audits

During each RENEWAL licensing cycle, Colorado licensees are randomly selected to submit their proof of CE hours. Additionally, all licensees who have been disciplined by the Board in the last five years will be required to submit proof of CE hours obtained. CE hours may only be applied to one renewal period (two year cycle). Board staff will send an inquiry letter to randomly selected licensees and those previously disciplined in the past five years requesting documentation of completed 24 hours (or the appropriate amount on graduation date) of CE. If the Board determines that the renewal licensee has not obtained appropriate continuing education as outlined in Policy 30-2 or the renewal licensee failed to submit proof of CE's satisfactory to the Board, the Board may consider disciplinary action for failure to comply with statute and rule. The Board may also grant a 90 day period to correct the shortage of CE's. The licensee must maintain in their own files, the date of the CE, certificate of attendance that includes hours of and brief description of course content, instructor, and course sponsor. CE's obtained as ordered by stipulation will not apply to CE's needed to renew. (Revised May 2011)

30- 4 Continuing Education Requirements during renewal (every two years)

The continuing education (CE) requirements for licensee's during the renewal period are as follows:

Licensees licensed less than twelve (12) months – NO CE's are required to renew license.

Licensees licensed over twelve (12) months but less than twenty

four (24) months – must attend and complete twelve **(12) hours** of approved CE.

Licenses licensed over twenty four (24) months – must attend and complete twenty four **(24) hours** of approved CE. See Board Policy 30-2 for additional guidance. (April 2009)

30-5 Practicing on Lapsed License

Optometrists are permitted a sixty-day grace period after the March 31st expiration date in which they may renew their license without penalty by the Board. For the next six months after that grace period, the Board will issue a Letter of Concern to an optometrist practicing on a lapsed license. After that (beginning December 1st), the Board will consider disciplinary action.

30-6 Use of terms

“Optometry physician.” Colorado law does not allow optometrists to call themselves “optometry physicians.” The term “physician” is reserved for use only by medical doctors and doctors of osteopathy.

“Laser Vision Correction.” State Board rules do not allow optometrists to use the phrase “Laser Vision Correction” in isolation because it implies that the OD performs surgery. Yellow pages and other advertising should include phrases to clarify that the OD provides consultation or pre- and post-operative care, such as “Laser Vision Consultation” and “Laser Surgery Co-Management.”

“Board Certified.” State Board rules do not permit optometrists to advertise themselves as “Board Certified” simply because they received a license from the Board, even when they have achieved the “Advanced Ocular Therapeutics” certification level. Board certification implies postgraduate credentials beyond basic licensure, and all new Colorado licenses are being issued with full therapeutic privileges.

30-7 Employment and Independent Contractor Arrangements

Our state law prohibits optometrists from working for opticians, stores, corporations or other individuals, with the exceptions that optometrists may work for other optometrists and optometry professional corporations as described in 12-40-125. Also prohibited are “Independent Contractor” agreements between ODs and opticians, stores, corporations or other individuals (again with the exception that ODs may have an Independent Contractor agreement with other optometrists).

The Board has created a Model Lease to assist ODs seeking to make acceptable agreements between individuals or corporations that are not optometrists. The Model Lease is attached to these policies below.

30-8 Community Vision Screenings with Donated Glasses

Distribution Programs

Screenings that involve refractive evaluation must be done by a licensed optometrist. It is allowable for such screenings to include matching used donated glasses to the screening participants' needs. Screening participants must be informed that this is a screening only, not a full examination that includes thorough eye health evaluation. (February 2004)

30-9 Guidelines Pertaining to the Release & Retention of Optometry Records

Purpose: To provide guidelines to optometrists with respect to the State Board of Optometry expectation regarding patient record release and retention.

POLICY: Release of Records

Records shall be available to the patient upon submission of a written authorization / request. There are no exceptions for things such as the patient's failure to pay an outstanding bill, failure to follow treatment instructions, failure to return, etc.

A valid request for release of records must be in writing. It should clearly identify the patient and be signed and dated by the patient or the patient's authorized representative.

The SBO has concluded that 15 business days is reasonable response time when records have been requested.

Federal law requires glasses prescriptions are provided to the patient immediately at the conclusion of the eye examination, regardless of whether the patient requests it or not.

Colorado state law and Board rules require contact lens prescriptions to be released to the patient upon the patient's written request, once the fitting is complete. Although, the SBO recommends that the contact lens prescription be provided as soon as practically possible after the optometrist receives the patient's valid written request, the Board has concluded that seven business days is reasonable response time when a contact lens prescription has been requested.

Optometrists may charge a reasonable fee for copying of records and may require payment in advance. It is customary when a patient is transferring care for optometrists and physicians to provide copies of records to another optometrist's or physician's office free of charge.

Items such as photographs, digital images, corneal topographies, etc., (including items which may not at the time of the request be physically in the medical records) are considered part of the medical record. If these are specifically requested, then they must be copied and sent to the patient. The optometrist may charge the requesting party the cost of

copying these records. Unless a summary of the case has already been prepared and is part of the medical record (e.g., a hospital summary at the time of discharge), an optometrist is not obligated to provide one. It is a violation of Colorado statute [CRS 12-40-118] to alter the medical record at any time.

Disclosure of information concerning drug or alcohol problems may be restricted by the Federal confidentiality statute (42 CFR Part 2) in some instances. The statute defines specific consent requirements such as purpose of disclosure, limitation of information released, right to revocation, expiration date of release, and signature of patient.

An optometrist must provide copies of only the patient records generated by that optometrist (or all OD's in a group practice), unless the optometrist possesses original patient records generated by previous optometrists. In the instance where an optometrist possesses original patient records created by previous optometrists, copies of those records should be forwarded either to the patient or the new optometrist at the patient's request.

In general, the entire medical records should be provided upon receipt of a request and release; however, it is acceptable to require that the requesting party state which parts are desired.

The SBO advises optometrists to consult their professional liability insurance carrier regarding any guidelines they may have for record release.

Retention of Records

The SBO recommends retaining all patient records for a minimum of seven (7) years after the last date of treatment.

At the time an optometrist discontinues his/her practice, patients should be notified and instructed to submit a written authorization/release if they wish their records transferred to another optometrist or physician. Records should be retained after discontinuation of practice using the guidelines above.

* The SBO recommends sending notice to patients seen in the last three (3) years notifying them of discontinuation of practice:

* The optometrist may want to place a notice in the newspaper announcing discontinuation of practice.

* If all records are being transferred to another optometrist, patients should be notified as above.

In the event of an optometrist's death, the estate should retain the records utilizing the guidelines above.

In the case of litigation, SBO investigation or other investigation, records must be retained until resolution of the matter.

When records are destroyed, it should be done in a manner that maintains patient confidentiality (e.g. mechanical shredding, burning, NOT recycling

or throwing in the trash).

The SBO advises optometrist to consult with their professional liability insurance carrier regarding any guidelines they may have for record retention. (August 2008)

40- Discipline

40-1 Guidelines Pertaining to Confidential Letters of Concern

Purpose: To clarify the basis for this type of dismissal, when the Optometry Board may reopen such case and designation of a specific retention period for these types of cases.

POLICY: It is the policy of the Optometry Board that complaints that are dismissed with Confidential Letters of Concern are not dismissed as being without merit but rather are dismissed due to no reasonable cause to warrant further action at that time. Cases that are dismissed with a Confidential Letter of Concern will be retained in the Board's files for a period of five years.

The **Board** may reopen a case that was dismissed with a Confidential Letter of Concern in the face of a change in circumstances. Such a change in circumstances would include but not be limited to:

- discovery of new evidence supporting the underlying charges
- evidence that the licensee has engaged in further unprofessional conduct/grounds for discipline following issuance of the Confidential Letter of Concern in which there is a nexus between the new conduct and that was addressed in the case that was dismissed with the Confidential Letter of Concern.

After five years from the date of the Confidential Letter of Concern, the file will be disposed in accordance with the Division's records management procedures. If the licensee has other active cases pending at the end of the five year retention period, the Confidential Letter of Concern may be kept for a longer period of time at the discretion of the Board staff.

Since a letter of concern is confidential, the complaint and investigation materials are also considered confidential and not open records.

(Adopted August 2008)

40-2 Delegated Authority

Purpose: To clarify the authority delegated to the Program Director or Section Director to assist the Board in carrying out its duties.

POLICY: The Board delegates to the Program Director or Section Director or designee the authority to:

1. Sign Stipulations and Final Agency Orders, and other orders authorized by the Board.
2. Sign Suspension Orders as required by the Child Support Enforcement Program.

3. Perform the initial review of complaints relating to the practice of persons under the Board's jurisdiction and to issue 30-day letters relating to the complaints.
 4. Sign and issue subpoenas and otherwise gather information in order to assist the Board in carrying out its duties.
 5. Initiate complaints and issue 30-day letters to licensees currently under Stipulation or other Final Board Order if, in the opinion of the Program Director or designee, the licensee has failed to comply with any of the terms of the Stipulation of other Final Board Order.
 6. Initiate complaints and issue 30-day letters where otherwise authorized by the Board.
 7. Utilize services of the Office of Investigations as warranted to carry out duties of the Board.
 8. Approve practice monitor reports after consultation with the Board President or other designated Board person.
 9. Issue appropriate discipline to expired licenses including confidential letters of concern and letters of admonition in accordance with Board Policy 30-5.
 10. Issue the Board's Procedural Order Regarding Review of the Initial Decision ("Order") and serve the Order and the Initial Decision upon all parties by first class mail.
 11. Perform additional delegated duties as set forth in other Board policies.
- (Adopted May 2009, revised August 2009, revised November 2010)

40-3 Process for Handling Complaints involving Board of Optometry Members.

Purpose: To provide written notice regarding the process by which specific types of complaints against current Board members, licensees who have served on the Board within the past five years, or licensees who have an ongoing formal relationship with the Board will be handled. The purpose of this policy is to assure the integrity of the disciplinary process and prevent any appearance of bias or preferential treatment.

POLICY: It is the policy of the Board of Optometry that any signed complaint received by the Board against a current licensee who is a member of the Board or one who has served on the Board within the past five years, or a licensee who has an ongoing formal relationship with the Board will be handled as follows:

- At a minimum, the complaint shall be sent to the Office of Investigations to determine if there is any validity to the allegations. If the complaint alleges sexual boundary violations, substance abuse, or physical or mental impairment, the Board may require the licensee to undergo

evaluation by the designated peer assistance provider to the Board or a qualified healthcare provider selected by the Office of Investigations.

- If the complaint alleges a violation of the Practice Act, the complaint will be sent to the Office of Investigations within the Division of Registrations for a formal investigation.
- If the complaint alleges substandard practice, the Office of Investigations will also have the case reviewed by an independent optometry consultant selected by the Office of Investigations.

Upon completion of the investigation or evaluation, the report will be referred to the Board for appropriate action.

- If the complaint alleged sexual boundary violations, substance abuse, or physical or mental impairment and the report from the Office of Investigation substantiates such allegations, the Board shall require the licensee to undergo evaluation by the designated peer assistance provider to the Board or a qualified healthcare provider selected by the Office of Investigations, if the Board has not already done so.

All other customary procedures for the handling of a complaint by the Board will apply. These may include but are not limited to issuance of a 30-day letter, notification to the licensee and complainant of Board decisions, and the confidentiality of the complaint and investigation as provided by the Practice Act.

Anonymous complaints filed against a current licensee who is a member of the Board or one who has served on the Board within the past five years, or a licensee who has an ongoing formal relationship with the Board will be evaluated by the Board on a case by case basis.(Adopted August 2009)