

Title 17. Professions, Occupations, and Businesses
Chapter LXXII. State Board of Optometry, Department of Health
Subchapter A. Generally
Part 380. State Board of Optometry Rules

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"QUALIFICATIONS FOR AN ARKANSAS LICENSED OPTOMETRIST TO BE CREDENTIALLED TO UTILIZE AND PERFORM AUTHORIZED PROCEDURES LISTED IN A.C.A. §17-90-101 (a)(3)(D)

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

"Section 2

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

BE IT KNOWN that we, Bryant Ashley, O.D., President, Dan Hennessey, O.D. Secretary, Arkansas State Board of Optometry, do hereby state under oath that we have examined the minutes of the meeting of the Board officially convened on October 29, 2020, and the foregoing amendment to the rules and regulations was duly adopted by said Board and certified to the Governor of the State of Arkansas and the Secretary of State of the State of Arkansas, pursuant to the powers and duties invested in said Board by Act 94 of 1941, as amended.

Dated this 29th of October 2020.

Bryant Ashley, O.D. President

Dan Hennessey, O.D. Secretary"

Subpart 1. Generally

17 CAR § 380-101. Meeting of board.

(a)(1) The State Board of Optometry shall meet at least two (2) times each year, time and place to be designated by the President of the State Board of Optometry in his or her official call of such meetings.

(2) However, additional special meetings may be held at the discretion of the president or at the written request of two (2) members of the board, provided such special meetings are necessary.

(b)(1) Meetings may be called by the president by giving three (3) days' notice of meeting.

(2) Notice may be oral or written and shall set forth the time and place of such meeting.

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

Authority. Arkansas Code § 17-90-204.

17 CAR § 380-102. Applications for examination.

(a)(1) Before any person shall be permitted to take the entrance examination prescribed by law, he or she shall submit a written application to the Secretary-Treasurer of the State Board of Optometry setting forth:

(A) His or her name, address, and date of birth; and

(B) A detailed history of his or her educational qualifications showing the:

(i) Name and location of school; and

(ii) Length of time that the applicant attended school.

(2) He or she shall also state in such application whether he or she has engaged in the practice of optometry elsewhere.

(3) To be eligible to take the examination an applicant must be a graduate of a college of optometry approved and accredited by the State Board of Optometry.

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

(c) In making such application the applicant shall state that he or she is willing to abide by the laws of this state regulating the practice of optometry and shall abide by the rules adopted by the board.

(d) Such application shall be subscribed by the applicant and sworn to by him or her before any officer, qualified under the laws of this state, to administer oaths.

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

(f)(1) The examination will be administered no less than twice a year.

(2) The application for examination shall be accompanied by a fee of four hundred dollars (\$400).

(3) The application and the fee must be received by the board office prior to:

(A) 12:00 midnight on June 1 for the mid-year exam; and

(B) 12:00 midnight on January 1 for the first quarter exam of the year.

(4) Applications received after these deadlines will not be accepted.

(g) In case of withdrawal the examination fee, less a twenty-five-dollar service charge, will be refunded if written notice of withdrawal is received at least forty-five (45) days prior to the date the examination is to be given.

(h) All examinations will be given in English.

(i)(1) Pursuant to Acts 2019, No. 990, an individual may petition for a prelicensure determination of:

(A) Whether the individual's criminal record will disqualify the individual from licensure; and

(B) Whether a waiver may be obtained.

(2) The individual must obtain the prelicensure criminal background check petition form from the board.

(3) The board will respond with a decision in writing to a completed petition within a reasonable time.

(4) The board's response will state the reason or reasons for the decision.

(5) All decisions of the board in response to the petition will be determined by the information provided by the individual.

(6) Any decision made by the board in response to a prelicensure criminal background check petition is not subject to appeal.

(7) The board will retain a copy of the petition and response and it will be reviewed during the formal application process.

Authority. Arkansas Code §§ 17-90-204, 17-90-301.

17 CAR § 380-103. Waiver request.

(a) If an individual has been convicted of an offense listed in Arkansas Code § 17-2-102(a), except those permanently disqualifying offenses found in Arkansas Code § 17-2-102(e), the State Board of Optometry may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:

(1) An affected applicant for a license; or

(2) An individual holding a license subject to revocation.

(b) The board may grant a waiver upon consideration of the following, without limitation:

(1) The age at which the offense was committed;

(2) The circumstances surrounding the offense;

(3) The length of time since the offense was committed;

(4) Subsequent work history since the offense was committed;
(5) Employment references since the offense was committed;
(6) Character references since the offense was committed;
(7) Relevance of the offense to the occupational license; and
(8) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

(c) A request for a waiver, if made by an applicant, must:

- (1) Be in writing; and
- (2) Accompany the completed application and fees.

(d) The board will:

- (1) Respond with a decision in writing; and
- (2) State the reasons for the decision.

(e) An appeal of a determination under this section will be subject to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Code §§ 17-90-204, 17-90-301.

17 CAR § 380-104. Entrance examination.

(a) The entrance examination shall be given by:

- (1) Members of the State Board of Optometry; or
- (2) Any duly qualified individual or committee designated by the board.

(b) Such examination may be oral or written, or both, and shall consist of:

- (1) The subjects designated in Acts 1941, No. 94, § 5, as amended by:
 - (A) Acts 1957, No. 102;
 - (B) Acts 1979, No. 710;
 - (C) Acts 1985, No. 875;
 - (D) Acts 1991, No. 397;
 - (E) Acts 1987, No. 101; and
 - (F) Acts 1997, Nos. 176 and 186; and
- (2) Other subjects designated by the board.

(c)(1) Upon successful completion of the entrance examination an applicant must submit:

(A) An application for initial licensure; and

(B) A fifty-dollar fee.

(2) The board shall waive the initial licensure fee if the applicant:

(A) Is receiving assistance through the:

(i) Arkansas Medicaid Program;

(ii) Supplemental Nutrition Assistance Program;

(iii) Special Supplemental Nutrition Program for Women, Infants, and

Children;

(iv) Temporary Assistance for Needy Families Program; or

(v) Lifeline Assistance Program;

(B) Was approved for unemployment within the last twelve (12) months;

or

(C) Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

(d) The board shall grant a license to an applicant who fulfills the Arkansas requirements for licensure and is a person who holds a federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known popularly as a "work permit".

Authority. Arkansas Code §§ 17-90-204, 17-90-301.

17 CAR § 380-105. Licensure by endorsement.

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

(1) Is qualified under this subpart;

(2) Has been issued a certificate or license to practice optometry by a state, territory, the District of Columbia, or Canada having standards of proficiency at least equal to the standards of Arkansas;

(3) Has engaged in the lawful practice of optometry for a period of three (3) years of the past four (4) years in the other state, territory, the District of Columbia, or Canada and has complied with the requirements of the Arkansas licensure law at the time of application; and

(4) Has passed an Arkansas jurisprudence examination as approved by the State Board of Optometry.

(b) The applicant shall pay a fee to the State Board of Optometry of four hundred dollars (\$400) (equal to the fee of a new applicant) to cover the administrative costs of the application process.

(c) An application for licensure by endorsement shall be accompanied by:

(1) The fee described in subsection (b) of this section;

(2) Certification from all states or territories in which the applicant has practiced;

(3) A certificate of good standing from each authority that issued the license, setting forth:

(A) The applicant's:

(i) History with the authority;

(ii) Professional ability; and

(iii) Continuing education compliance; and

(B) Other information or data as the State Board of Optometry may deem necessary or expedient;

(4) A copy of the therapeutic license held by the applicant and current photo;

(5) A copy of the cardiopulmonary resuscitation certification held by the applicant;

(6) Transcripts from:

(A) All colleges or universities attended by the applicant; and

(B) An accredited school or college of optometry;

(7) Proof of completion of all parts of the National Board of Examiners in Optometry examination required at the time of graduation for initial licensure sent directly to the State Board of Optometry;

(8) Information on past medical malpractice claims and any disciplinary actions;

(9) Application to the Identification Bureau of the Division of Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation with the fee of thirty-eight dollars and fifty cents (\$38.50) for processing; and

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

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

Authority. Arkansas Code §§ 17-90-204, 17-90-301, 17-90-302.

17 CAR § 380-106. Licensure for uniformed service members.

(a) **Definitions.** As used in this section:

(1) "Automatic licensure" means granting a license to practice optometry without an individual having met occupational licensure requirements provided under the Arkansas Code or by other provisions in this part;

(2) "Uniformed service member" means an:

(A) Active or reserve component member of the:

(i) United States Air Force;

(ii) United States Army;

(iii) United States Coast Guard;

(iv) United States Marine Corps;

(v) United States Navy;

(vi) United States Space Force; or

(vii) National Guard;

(B) Active component member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps; or

(C) Active or reserve component member of the United States Commissioned Corps of the Public Health Service; and

(3) "Uniformed service veteran" means a former member of the uniformed services of the United States discharged under circumstances other than dishonorable.

(b) Licensure.

(1) Pursuant to the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021, Arkansas Code § 17-4-101 et seq., the State Board of Optometry shall allow the following individuals to secure employment with automatic licensure if the person is a holder in good standing of an optometry license with a similar scope of practice issued by another state, territory, or district of the United States and the person pays the licensure fee in 17 CAR § 380-105(b):

(A) A uniformed member stationed in the State of Arkansas;

(B) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or

(C) The spouse of a:

(i) Person under subdivision (b)(1)(A) or (b)(1)(B) of this section;

(ii) Uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or

(iii) Uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

(2) When considering an application for full licensure, certification, or permitting for a uniformed service member stationed in the State of Arkansas or a uniformed service veteran who resides in or establishes residency in the State of Arkansas, the board shall:

(A) Consider whether or not the applicant's uniformed service education, training, national certification, service-issued credential, and experience in the area of

licensure, certification, or permitting is relevant and applicable to licensure, certification, or permitting; and

(B) Accept the applicant's relevant and applicable uniformed service education, training, national certification, service-issued credential, and experience in the area of licensure, certification, or permitting in lieu of experience or education required for licensure, certification, or permitting.

(3) A license required to enable the holder to lawfully engage in a profession, trade, or employment in this state held by a uniformed service member deployed outside the State of Arkansas or his or her spouse shall not expire until one hundred eighty (180) days following the uniformed service member's or spouse's return from deployment.

(4) Continuing education.

(A) The board shall exempt from continuing education required as part of licensure, certification, or permitting for a profession, trade, or employment in this state for a deployed uniformed service member or spouse until one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(B) Any uniformed service member or spouse exercising the exemption under this subdivision (b)(4) shall provide evidence of completion of continuing education before the board renews his or her license, certificate, or permit or issues a subsequent license, certificate, or permit.

Authority. Arkansas Code § 17-90-204.

17 CAR § 380-107. Renewals.

(a)(1)(A) All renewal fees shall be paid to the Secretary-Treasurer of the State Board of Optometry on or before the first day of February each year.

(B) Effective February 1, 2001, and every year thereafter, the renewal fee shall be one hundred fifty dollars (\$150) per year.

(C) Each license shall expire at 12:00 midnight on February 1 of each year.

(2)(A) Each license renewal fee must be received in the office of the secretary-treasurer no later than 12:00 midnight on February 1 of each year.

(B) Only those applications received by this deadline shall be considered timely, regardless of postmark.

(C) The responsibility of timely renewal is placed entirely upon the holder of the license and shall not be transferred to any employee, firm, agent, or other third party, including the postal service.

(3)(A) Each license holder who has not renewed his or her license on or before February 1 of each year will be given thirty (30) days' notice of a hearing before the State Board of Optometry.

(B) Notice of such hearing shall be made by certified mail, return receipt requested.

(C) The board may consider the following facts and circumstances in reaching a decision as to the terms and conditions of renewal:

(i) If the applicant continued to practice in any manner whatsoever subsequent to the notice of a hearing before the board; and

(ii) Whether there were any extenuating circumstances preventing a timely application for licensure.

(b)(1) Any optometrist licensed to practice in Arkansas who leaves the state may retain his or her license by:

(A) Complying with the continuing education requirements; and

(B) Paying the renewal fee each year.

(2) If said optometrist fails to renew his or her license or comply with the requirements to practice in Arkansas:

(A) His or her license will be revoked; and

(B) He or she will come under the rules of reciprocity if he or she desires to practice optometry in Arkansas.

(c)(1)(A) License and current certificate of renewal of license to practice optometry will always be displayed in a conspicuous place in the office of the holder thereof, and

whenever requested the license and current certificate of renewal will be exhibited or produced before the board or to its authorized agents.

(B) Any optometrist who performs any of the acts constituting the practice of optometry, or any part thereof, as described in the Arkansas optometry law (Arkansas Code § 17-90-101 et seq.), or who employs others to perform any or all of the same, shall specify to the board a designation for each location where full or partial practice takes place.

(2)(A)(i) Recognizing that modes of practice vary from location to location, and such modes of practice may include the utilization of a primary office only, a rotation between branch offices, or the combination of a primary office and one or more branch offices, the board does hereby set forth rules governing both the:

(a) Definition of office designations; and

(b) Requirements and restrictions pertaining to the same.

(ii)(a) It is the express intent of this part to ensure that all offices, whether primary offices or branch offices, are regulated in a like manner.

(b) The requirements for primary offices must be no less than those for branch offices.

(B)(i) A primary office is defined as:

(a) The permanent location at which a licensed optometrist practices full-time, or if practicing in more than one (1) location, the office at which he or she practices the greatest percentage of time; or

(b) If practicing with a mobile branch office, that office the licensee utilizes for record storage, equipment maintenance, and patient availability in conjunction with the mobile operations.

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

(b) A fixed branch office is a branch office as defined above that is located in a permanent location.

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

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

(ii)(a) A licensee who practices in more than one (1) office location shall make application to the board for a duplicate license for each branch office for display as required by this section.

(b) In issuing a duplicate license, the address of the branch office location and the original certificate number shall be included.

(c) At the time of an annual renewal of the license, those optometrists who have been issued a duplicate license for a branch office shall make application to the board on a form provided by the board for the renewal of the license.

(iii) The holder of a certificate for a branch office may cancel it by returning the certificate to the secretary-treasurer.

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

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

(d) Each licensed optometrist must comply with the following:

(1) Each licensed optometrist shall have on file with the board his or her current business address and telephone number;

(2) If a licensed optometrist changes the physical location of where he or she practices optometry, be it the primary office, fixed branch office, or physical location of the mobile branch office, he or she must first notify the Executive Director of the State Board of Optometry by mail, fax, or electronic communications, on a form as provided

by the board office, of the address and phone number of the intended location of practice and pay an administrative fee of thirty dollars (\$30.00), all prior to resuming practice;

(3) Any correspondence from the board of any nature that is mailed to a listed permanent address of a licensed optometrist and that requires response or action must be taken care of:

(A) Within the time specified in the notice; or

(B) If no time is stated in the notice, within thirty (30) days of the receipt of said notice;

(4)(A) In case of absence or disability, each licensed optometrist shall designate a responsible party (secretary, attorney, or a relative) with appropriate address, to serve as his or her agent.

(B) The designated person will have authority to respond in his behalf to any correspondence received from the board under subdivision (d)(3) of this section;

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

(6)(A) Every licensed optometrist shall, within ten (10) days of receipt of written notification of the filing of a claim or lawsuit alleging malpractice against him or her, notify the board by registered letter of the lawsuit and provide the information on a form provided by the board.

(B) All such information and reports shall be:

(i) Exempt from the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.; and

(ii) Released only upon the order of a court of competent jurisdiction;
and

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

(e) **Requirements and restrictions for primary offices.** Each licensed optometrist owning or using a primary office only shall:

(1) Report to the board the street address and telephone number of the office designated as the primary office;

(2) Maintain reasonable access to all patient records at the primary office location for each patient examined or treated at that location;

(3) Ensure the provision of appropriate follow-up care, continuity of care, and availability for his or her patients in the primary office location;

(4) Maintain in good working order the equipment necessary to provide a routine eye examination, which shall include, but not be limited to, the following minimum equipment:

(A) A device for the accurate measurement of visual acuity;

(B) A lensometer;

(C) A direct ophthalmoscope;

(D) A binocular indirect ophthalmoscope (DPA, TPA, or optometric physician, certified practitioners only);

(E) A retinoscope;

(F) An instrument for the measurement of intraocular pressure;

(G) A refracting instrument;

(H) An instrument for measurement of corneal curvature;

(I) An instrument for the measurement of visual fields; and

(J) A biomicroscope;

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

(6) Meet all the requirements of the Arkansas optometry law, Acts 1991, No. 397, Arkansas Code § 17-90-303.

(f) **Requirements and restrictions for fixed branch offices.** Each licensed optometrist owning or using one (1) or more fixed branch offices shall:

(1) Report to the board each fixed branch office location other than a primary office at which he or she is practicing optometry;

(2) Maintain reasonable access to all patient records at each fixed branch office location for each patient examined or treated at that location;

(3) Ensure the provision of appropriate follow-up care, continuity of care, and availability for his or her patients in the fixed branch office location;

(4) Maintain in good working order the equipment necessary to provide a routine eye examination, which shall include, but not be limited to, the following minimum equipment:

(A) A device for the accurate measurement of visual acuity;

(B) A lensometer;

(C) A direct ophthalmoscope;

(D) A binocular indirect ophthalmoscope (DPA, TPA, or optometric physician, certified practitioners only);

(E) A retinoscope;

(F) An instrument for the measurement of intraocular pressure;

(G) A refracting instrument;

(H) An instrument for measurement of corneal curvature;

(I) An instrument for the measurement of visual fields; and

(J) A biomicroscope;

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

(6) Meet all the requirements of the Arkansas optometry law, Acts 1991, No. 397 (Arkansas Code § 17-90-303).

(g) Requirements and restrictions for mobile branch offices:

(1) Report to the board the office at which all patient records are maintained;

(2) Provide every patient with the telephone number and address of the office used in conjunction with the mobile operations;

(3) Maintain reasonable access to all patient records at the office;

(4) Ensure personal availability via the use of a beeper, mobile telephone, radio, or other modality that is capable of receiving calls from the office while the

licensed practitioner is practicing at one (1) of the various locations served by the mobile operation;

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

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

(7) Maintain in good working order the equipment necessary to provide a routine eye examination which shall include, but not be limited to, the following minimum equipment:

(A) A device for the accurate measurement of visual acuity;

(B) A lensometer;

(C) A direct ophthalmoscope;

(D) A binocular indirect ophthalmoscope (DPA, TPA, or optometric physician, certified practitioners only);

(E) A retinoscope;

(F) An instrument for the measurement of intraocular pressure;

(G) A refracting instrument;

(H) An instrument for measurement of corneal curvature;

(I) An instrument for the measurement of visual field; and

(J) A biomicroscope;

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

(9) Meet all the requirements of the Arkansas optometry law, Acts 1991, No. 397 (Arkansas Code § 17-90-303).

(h)(1) Any licensed optometrist who owns, operates, or leases to or from another person any type of office (practice) or optical dispensary as described in subdivisions (c)(2)(B)(i) and/or (ii) of this section, or who employs others to do the same, shall include his or her full name, displayed in a prominent fashion, on or near the entrance of the office or optical dispensary and in any written advertisement concerning such

operation so that the public is properly informed as to the licensed optometrist responsible for the materials and services offered at such locations.

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

(i) Renewal of the certificate of registration for a professional corporation.

(1) In accordance with Arkansas Code § 4-29-210(a) – (d), the chief corporate officer is required to renew the certificate of registration no later than January 31 of each year.

(2) The fee for renewal is ten dollars (\$10.00).

(j) Failure to comply with any of the requirements contained in this section shall be grounds for suspension or revocation of the practitioner's license to practice and/or fines.

Authority. Arkansas Code §§ 17-90-204, 17-90-304.

Codification Notes. "DPA" means diagnostic pharmaceutical agent.

"TPA" means therapeutic pharmaceutical agent.

17 CAR § 380-108. Unprofessional conduct.

(a)(1) The following acts on the part of any licensed optometrist shall be deemed by the State Board of Optometry to be unprofessional conduct:

(A) The violation of any of the provisions of Acts 1941, No. 94, as amended by:

- (i) Acts 1957, No. 102;
- (ii) Acts 1979, No. 710;
- (iii) Acts 1985, No. 875;

- (iv) Acts 1987, No. 101; and
- (v) Acts 1997, Nos. 176 and 186;
- (B) The violation of any of the rules promulgated by the board;
- (C) For any optometrist to fraudulently represent or misrepresent any fact concerning his or her professional activities toward his or her patient;
- (D) False or fraudulent representation, or misrepresentation, of the quality or effectiveness of materials used by such optometrist;
- (E) For any optometrist to treat or prescribe for a patient when he or she is grossly incompetent to do so;
- (F) For any optometrist to make an exorbitant or unreasonable charge for materials or services rendered or furnished by him or her to his or her patients;
- (G) For any optometrist to be:
 - (i) Convicted of a felony; or
 - (ii)(a) Identified by the board as impaired.
 - (b) "Impaired" means the presence of active alcoholism, substance (drug) abuse, and/or any other mental illness resulting in professional incompetence (i.e., the inability or failure of practitioner to practice optometry with reasonable skill and safety);
- (H) For any optometrist to accept employment from an unlicensed person or corporation to engage in the practice of optometry;
- (I) For any optometrist to advertise in any manner:
 - (i) Any fraudulent, false, or misleading statement as to the skill or method of his or her practice; or
 - (ii) That tends to deceive or mislead the public;
- (J) For any optometrist to advertise or represent that he or she possesses a peculiar or particular technique or degree of training that makes him or her superior to or more effective in the practice of optometry than other optometrists;
- (K) For any optometrist to fail to keep secret and inviolate all information of a personal nature obtained by him or her while acting in his or her professional capacity;

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

(M)(i) For any optometrist to use an unprofessional display sign of any type.

(ii) Provided, however, paint, gold-leaf, or other forms of lettering on windows, doors, or walls may be used setting forth the name and title "Optometrist" or "Doctor of Optometry" or the abbreviation "O.D.", provided further, due to multiple practices when an O.D. does one thing and the other does another, and further, due to offices located in shopping centers and located away from the street, it would be considered professional and ethical for a sign in small letters to be placed near the street, also on the building where office is located.

(iii) Be it further considered professional, due to professional corporation act, that the sign may read as follows:

(a) (Last Name) - Optometric Vision Clinic;

(b) (Full Name) - O.D. or Doctor of Optometry;

(c) (Full Name) - Optometrist, O.D., or Doctor of Optometry (not all); or

(d) If incorporated, P.A., P.C., or LTD follows O.D. or incorporated name;

(N) For any optometrist to practice under any name other than his or her own proper name; and

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

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

(b)(1) Arkansas Code § 17-90-305 provides that the board may discipline an optometrist for exhibiting unprofessional conduct.

(2) Any prescription written by a licensed optometrist in the State of Arkansas will contain and comply with the following:

(A) The name of the prescribing optometrist must be printed on each prescription in a legible manner;

(B) The address and telephone number of the prescribing optometrist must be placed on the type printed form on the prescription;

(C) The state license number as issued by the board to the prescribing optometrist must be clearly written on the prescription;

(D) The prescribing optometrist must place his or her signature on each prescription;

(E) The body of the prescription must be legible in order to clearly communicate the quantity and strength of the substance or item to be prescribed as well as any instructions for a medication or use of the item in order to ensure safety of the patient;

(F) That the name of the patient for whom the prescription is written must be clearly printed on the prescription; and

(G) The date that the prescription is given to the patient must be written on the prescription.

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

(c)(1) An optometrist shall have twenty-four-hour access to his or her practice locations and patient records, so that he or she may provide emergency services to patients when necessary.

(2) A failure to have such access would be considered as unprofessional conduct and of a danger and harm to his or her patients.

(d)(1) Any optometrist who examines a patient and creates a record of said patient is responsible for the security and custody of said record.

(2) Because of the confidential nature and relationship between the examining optometrist and patient, the examination record (including the patient's name, address, age, occupation, and findings and pertinent facts) discovered and disclosed during the course of such examination, as well as the record of professional services rendered and fees charged therefore, shall be the exclusive property of the optometrist who rendered the professional services to said patient.

(3)(A) Patient records described aforesaid are the property and responsibility of the examining optometrist, except when the examining optometrist is employed by an optometrist or ophthalmologist.

(B) In this circumstance, the patient records are the property and responsibility of the optometrist or ophthalmologist who employs the optometrist.

(4) If an optometrist is not employed by an optometrist or ophthalmologist and temporarily takes the place of an optometrist, then any records created by him or her shall be removed and secured by him or her at the completion of that day's practice.

(5)(A) Access to patient records is available only to:

- (i) The optometrist who created the record;
- (ii) The optometrist or ophthalmologist who employs the optometrist;
- (iii) The patient or the person designated by the patient in writing to see said records;
- (iv) Employees under the direct personal supervision and control of said optometrist; or
- (v) Those individuals or entities authorized by law or federal regulation to receive the same.

(B) Any optometrist who is the custodian of a patient record and ceases to practice at a particular location must notify said patient where his or her personal record may be obtained.

(C)(i) Before any record of a patient is destroyed, said patient must be:

- (a) Notified prior to his or her record being destroyed; and

(b) Given thirty (30) days to respond before said record is destroyed.

(ii) However, if a patient has not been examined for five (5) years or more, said patient's record may be destroyed by the examining optometrist without notifying said patient.

(D)(i) Any patient is entitled to a copy of his or her patient records and may request the same.

(ii)(a) If the patient makes a request in writing to the optometrist, requesting said records and designating where said record is to be sent and to whom, the optometrist is to copy and make the record available at a reasonable fee, excluding X-rays, not to exceed one dollar (\$1.00) per page for the first five (5) pages and twenty five cents (\$.25) for each additional page, except that a minimum charge may be five dollars (\$5.00).

(b) Provided, however, a reasonable recovery fee for stored records may be added to the photocopying charge.

(c) Provided, further, this section shall not prohibit reasonable fees for a narrative report or medical review of a record when performed by the optometrist subject to the request.

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

(F) It is unprofessional conduct not to comply with this subsection, that is, for an optometrist not to:

(i) Properly secure, store, and protect the privacy of a patient record;
and

(ii) Distribute copies of those said records to the patient or to the person designated by the patient when requested by the patient.

(e)(1)(A) Arkansas Code § 17-90-305(b)(2) states that in addition to those acts that may be prescribed by the board as unprofessional conduct, the following shall be deemed by the board to be unprofessional:

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

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

(C) Arkansas Code § 17-90-104(5) states that it is unlawful “for any person, partnership, or corporation to employ any optometrist, physician, or surgeon to assist it in the unlawful practice of optometry. However, a licensed optometrist or partnership composed of licensed optometrists may employ other licensed optometrists in practicing optometry.”

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

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

(3) For the board to make a determination on whether a licensed optometrist is employed by a nonlicensed person, corporation, or entity in the practice of optometry, the board shall take into consideration all evidence of control by the unlicensed person, corporation, or entity.

(4) The board shall adopt as its guide, where necessary, the Internal Revenue Service Twenty-Factor Test, as may be amended, found in Rev. Rul. 87-41, 1987-1 C.B. 296, and further, may use federal or Arkansas state statutes, the Code of Federal Regulations, or Internal Revenue Service opinion letters or revenue rulings to reach their decision.

(5) Should the board, in an administrative hearing, determine that a violation of Arkansas Code § 17-90-104(5) or § 17-90-104(6) has occurred, the board may levy such sanctions against the licensee and unlicensed entity as provided by law in the practice act.

Authority. Arkansas Code § 17-90-204.

17 CAR § 380-109. Ophthalmic advertising.

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

(1) Such advertising shall specify as to services:

(A) What services are included in the prices quoted and specifically whether the price includes professional examination and prescriptions; and

(B) Whether additional charges may be made for related or subsequent services required in individual cases;

(2) Any statement or advertisement that purports to provide a “guaranteed” cure of any condition as a result of receipt of ophthalmic services or materials is prohibited; and

(3)(A) Any statement or advertisement that involves eyeglasses, lenses, frames, mountings, or prosthetic devices shall specify the kind, type, and quality of the advertised item, as well as the name of the manufacturer, and the manufacturer’s identifying name or number to enable the public to identify and evaluate the advertised item.

(B) Such advertising shall state whether the quoted price includes the cost of professional services, and if not, the amount which will be added for each service.

(b) Any statement or advertisement that makes unsubstantiated claims comparing prices or quality of services and/or materials, such as "best examination in Arkansas" or "lowest prices in Arkansas", is prohibited.

(c) Any statement or advertisement that offers a discount on the price of ophthalmic materials or services must specify the regular price of the material or service.

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

Authority. Arkansas Code § 17-90-204.

17 CAR § 380-110. Continuing education.

(a)(1) Beginning on the first day of January 1996, in addition to the payment of the license renewal fee, each optometrist registered under the provisions of Acts 1941, No. 94, as amended by Acts 1957, No. 102, Acts 1979, No. 710, Acts 1987, No. 101, Acts 1991, No. 3907, and Acts 1997, Nos. 176 and 186, applying for the renewal of his or her license, shall furnish to the State Board of Optometry satisfactory evidence that he or she obtained no less than twelve (12) clock hours of post-graduate education in a course or courses, previously designated or approved by the board, in the year just preceding such application for the renewal of his or her license.

(2)(A) All out-of-state CE must be COPE (Council on Optometric Practitioner Education) approved.

(B) The board will continue to review:

(i) In-state courses; and

(ii) Courses offered by accredited schools and colleges of optometry, schools of medicine, and pharmacy.

(3) Of the twelve (12) clock hours required for license renewal, credit for four (4) clock hours may be obtained through approved correspondence or internet courses.

(4) The Secretary-Treasurer of the State Board of Optometry shall mail by first class United States mail a written notice to this effect to each person holding a license to practice optometry within the state of Arkansas at least thirty (30) days prior to the first day of January in each year, directed to the last-known address of such licensee.

(5) In the event that any licensee shall fail to obtain twelve (12) clock hours of post-graduate education previously designated or approved by the board, this is declared to be unprofessional conduct by the board and shall be cause:

(A) For revocation or suspension of license to practice optometry in this state and/or fines; or

(B) To refuse to issue a renewal of any license at any time.

(b) Provided, however, the board may reinstate such licensee to practice optometry in this state any time or issue a renewal license to any licensee at any time upon the:

(1) Presentation of satisfactory evidence of completion of the post-graduate study required for license renewal; and

(2) Payment of all fees due.

(c) Provided, further, that any optometrist, who because of illness or other unavoidable circumstances is unable to comply herewith, may make application to the board stating the circumstances as to why he or she is unable to so comply, and the board, at its discretion, may relieve the applicant from so complying for such time and under such circumstances as the board deems proper.

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

(e)(1) One (1) clock hour of continuing education requirements of the required twelve (12) clock hours per year must be in the subject matter of Arkansas jurisprudence, to include the study of the Arkansas statutes and rules of the board governing the practice of optometry.

(2) Said jurisprudence course must be preapproved by the board in order to meet the one-hour requirement of continuing education.

(3) Any licensee completing the jurisprudence course online must provide the board with the thirty-five-dollar course fee.

(f)(1) Optometrists serving in the United States Armed Forces or United States Public Health Service assigned to duties outside the boundaries of the United States will be classified as "hardship" and excluded from the continued education requirements.

(2) The board shall waive the annual renewal fee for all registered optometrists if the registered optometrist:

- (A) Holds a license to practice optometry in the State of Arkansas; and
- (B) Is a uniformed service member.

Authority. Arkansas Code §§ 17-90-204, 17-90-304.

Codification Notes. "CE" means continuing education.

17 CAR § 380-111. Ophthalmic standards.

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

Authority. Arkansas Code § 17-90-204.

17 CAR § 380-112. Filing and investigation of charges.

(a)(1) Any person may make a complaint before the State Board of Optometry against any licensed optometrist by filing with the Secretary-Treasurer of the State Board of Optometry a written statement setting forth the:

- (A) Name of the optometrist;
- (B) Nature of the acts to be discussed; and

(C) Time and place where the alleged acts occurred.

(2) Such information shall be kept confidential unless it is made the basis of a hearing before the board.

(b)(1) The board shall investigate all complaints before taking action thereon or making the name public.

(2) The board shall also give any optometrist, against whom a complaint may be filed, an opportunity to explain his or her side of the complaint.

(c) If, after investigation, the board finds the complaint was justified, it may:

(1) Take action thereon; or

(2) Issue a warning to such optometrist that any future violation will result in immediate action by the board.

Authority. Arkansas Code § 17-90-204.

17 CAR § 380-113. Revocation and suspension proceedings.

(a) Before proceedings are had by the State Board of Optometry, it shall cause to be issued a notice to the accused, according to Acts 1941, No. 94, § 10, as amended by Acts 1957, No. 102.

(b) Such notice shall:

(1) Designate in detail the nature of the charges against the person accused;
and

(2) Set forth the time and place of the hearing.

(c) All hearings contemplating the revocation, suspension, or rejection for renewal of licenses shall be conducted:

(1) According to Acts 1941, No. 94, § 10, as amended by Acts 1957, No. 102;
or

(2) As provided in the uniform law pertaining to state boards.

Authority. Arkansas Code § 17-90-204.

17 CAR § 380-114. Release of contact lens prescriptions — Registration of entities outside of the state who sell contact lenses.

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

(b) **Definitions.** As used in this section:

(1)(A) "Business hours" means an hour between 9:00 a.m. and 5:00 p.m. during a weekday (Monday through Friday), excluding federal holidays (New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving, and Christmas).

(B) "Business hours" also may include, at the registered mail-order contact lens seller's option, a prescriber's regular business hours on Saturdays, provided that the registered mail-order contact lens seller has actual knowledge of these hours.

(C) "Business hours" shall be determined based on the time zone of the prescriber.

(D)(i) Eight (8) business hours shall be calculated from the time the prescriber receives a complete prescription verification request and contains all of the required information to the prescriber (subdivision (e)(3) of this section) from the registered mail-order contact lens seller and shall conclude when eight (8) business hours have elapsed.

(ii) For verification requests received by a prescriber during non-business hours, the calculation of eight (8) business hours shall begin at 9:00 a.m. on the next weekday that is not a federal holiday or, if applicable, on Saturday;

(2) "Buyer" means a state resident who purchases contact lenses;

(3) "Contact lens" means any contact lens for which state or federal law requires a prescription, including tinted plano lenses;

(4)(A) "Contact lens fitting" means the process that begins after the initial eye examination and ends when a successful fit has been achieved as determined by the examining optometrist or ophthalmologist.

(B) In the case of a renewal prescription, the fitting ends when:

(i) The prescriber determines that no change in the existing prescription is required; or

(ii) A new fitting is completed after medically necessary follow-up examinations;

(5)(A) "Contact lens prescription" means a written order, as defined in subsection (c) of this section, bearing the original signature of a licensed optometrist or ophthalmologist that authorizes a contact lens prescription.

(B) Tinted contact lenses that are sold for cosmetic purposes which are without power require a contact lens prescription;

(6) "Direct communication" means a completed direct communication through:

(A) The telephone;

(B) Facsimile; or

(C) Electronic mail;

(7) "Issue date" means the date on which the patient receives a copy of the prescription at the completion of a contact lens fitting;

(8) "Person" means:

(A) An individual;

(B) A corporation;

(C) A trust;

(D) A partnership;

(E) An incorporated or unincorporated association; and

(F) Any other legal entity;

(9) "Prescriber" means an optometrist or ophthalmologist;

(10) "Registered mail-order contact lens seller" means a person or entity who:

(A) Sells contact lenses through electronic mail, the internet, alternative channels or other means, the United States Postal Service, or other common carrier to buyers within the State of Arkansas; and

(B) Is registered in the State of Arkansas; and

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

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

- (1) Name of the patient;
- (2) Date of the examination;
- (3) Issue date and expiration date of the prescription;
- (4) Name, license number, postal address, telephone number, facsimile telephone number, and original signature of the prescriber;
- (5) Brand of lens, power, material or manufacturer, or both if needed;
- (6) Base curve or appropriate designation;
- (7) Diameter, when appropriate;
- (8) In the case of a private label contact lens, name of manufacturer, trade name of private label brand, and, if applicable, trade name of equivalent brand name by the same manufacturer, but sold under the labels of other sellers;
- (9) Number of lenses or refills permitted; and
- (10) The prescription may also include the diameter, axis, add power, cylinder, peripheral curve, optical zone, and center thickness and any additional information necessary in order that the prescription be accurately filled.

(d) **Release of contact lens prescription.**

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

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

(3)(A) Contact lens prescriptions shall expire one (1) year after the issue date unless there is a medical reason that warrants a prescription for less than one (1) year.

(B) The medical reasons for issuing a prescription for less than one (1) year shall be documented in the patient's medical record.

(4)(A) The issue date means the date on which the patient receives a copy of the prescription.

(B) The patient cannot alter the issue date by requesting additional copies of the prescription after the issue date.

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

(B) Presentation of proof of insurance coverage for that service shall be deemed to be a payment.

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

(7) A prescriber may not:

(A) Require purchase of contact lenses from the prescriber or from another person as a condition of providing a copy of the prescription;

(B) Require a payment in addition to, or as part of, the fee for an eye examination, fitting, and evaluation as a condition of providing a copy of a prescription or verification of a prescription; or

(C) Require the patient to sign a waiver or release as a condition of verifying or releasing a prescription.

(8) Any optometrist or ophthalmologist who releases a contact lens prescription in accordance with Arkansas Code § 17-90-108(a)(2) shall not be liable for any damages for injury resulting from the purchasing, manufacturing, or dispensing of the contact lenses unless the contact lens seller and the contact lens prescriber are the same person.

(e) Verification of contact lens prescription.

(1) **Prescription requirement.** A registered mail-order contact lens seller may sell contact lenses only in accordance with an unexpired contact lens prescription:

(A) Presented to the registered mail-order contact lens seller by the patient or prescriber directly or by facsimile; or

(B) Verified by direct communication.

(2) **Record requirement.** A registered mail-order contact lens seller shall maintain a complete detailed record for five (5) years of all direct communications with prescriber and buyer including:

(A) Date and time the request was made;

(B) Method of direct communication;

(C) Persons involved, listing the names of the individuals who participated in the communications with a telephone log;

(D) Communication details, including copies of prescriptions received directly from a patient or prescriber:

(i) Describing the information that the registered mail-order contact lens seller provided to the prescriber;

(ii) Recording the date and time the conversation was completed;

(iii) Indicating how the call was completed; and

(iv) Copies of the telephone bills must be retained by the registered mail-order contact lens seller; and

(E) Final outcome of the recommendations.

(3) Recordkeeping — Saturday business hours.

(A) A registered mail-order contact lens seller that exercises its option to include a prescriber's regular Saturday business hours in a time period for verification shall maintain a record of the prescriber's regular business hours and the basis for the registered mail-order contact lens seller's actual knowledge thereof.

(B) Such records shall be maintained for a period of not less than five (5) years.

(C) These records must be available for inspection by the State Board of Optometry, its employees, and its representatives.

(4) **Information for verification.** When seeking verification of a contact lens prescription, a registered mail-order contact lens seller shall provide the prescriber with the following information:

(A) Patient's full name, address, and phone number;

(B) Contact lens power, brand name, manufacturer, base curve or appropriate designation, diameter, and color when appropriate;

(C) Quantity of lenses ordered;

(D) Date and time of patient's request;

(E) Date and time of verification request;

(F) Name of contact person at seller's company, including toll-free facsimile and telephone number for optometrist and ophthalmologist verification usage; and

(G) If the seller opts to include the prescriber's regular business hours on Saturdays as "business hours", a clear statement of the prescriber's regular Saturday business hours must be provided.

(5) **Registered mail-order contact lens sellers.**

(A) Direct communication with the optometrist and ophthalmologist shall be made Monday through Friday, including Saturday (only if the prescriber is in his or her office on a regular basis) and excluding Sunday and all federal holidays (New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving, Christmas).

(B)(i) The registered mail-order contact lens seller may send one (1) verification request per patient via direct communication to the prescriber.

(ii) Unless a subsequent request contains additional or revised information, a registered mail-order contact lens seller may not resend the same verification request to the prescriber.

(C) The rule does not expressly require the prescriber to notify the registered mail-order contact lens seller of an incomplete request.

(D)(i) The prescribing optometrist or ophthalmologist shall have eight (8) business hours to verify the information in subsection (c) of this section.

(ii) The prescriber shall be allowed to respond that a prescription is expired without providing additional information to the registered mail-order contact lens seller.

(E) A prescription is verified when one (1) of the following occurs:

(i) The prescriber confirms the prescription is accurate by direct communication with the registered mail-order contact lens seller;

(ii) The prescriber:

(a) Informs the registered mail-order contact lens seller that the prescription is inaccurate; and

(b) Provides the accurate prescription; or

(iii)(a) The prescriber fails to communicate with the registered mail-order contact lens seller within eight (8) business hours.

(b) During these eight (8) hours, the registered mail-order contact lens seller shall provide a reasonable opportunity for the prescriber to communicate with the registered mail-order contact lens seller concerning the verification request.

(F) If the registered mail-order contact lens seller processes the contact lens order and the sale occurs prior to the end of the eight-hour verification period and does not confirm a valid prescription with the prescriber, the registered mail-order contact lens seller will be held in violation of Arkansas Code §§ 17-90-108 and 17-90-109.

(6) Invalid prescription.

(A)(i) If the prescriber informs a registered mail-order contact lens seller before the deadline that the contact lens prescription is inaccurate, expired, or otherwise invalid, the registered mail-order contact lens seller shall not fill the prescription.

(ii) The prescriber shall specify the basis for the inaccuracy or invalidity of the prescription.

(B) If the prescription communicated by the registered mail-order contact lens seller to the prescriber is inaccurate, the prescriber shall correct the prescription.

(7) No alteration.

(A) A registered mail-order contact lens seller may not alter a contact lens prescription.

(B) Tinted contact lenses:

(i) Shall be specifically prescribed for the patient as to brand, power, material, tint, and type of lens by the prescriber; and

(ii) Shall not be changed or altered without a new prescription from the prescriber.

(C) Notwithstanding the first sentence, if the same contact lens is manufactured by the same company but sold under multiple labels to individual providers, the registered mail-order contact lens seller may fill the prescription with an identical contact lens manufactured by that same company but sold under another label.

(f) Standards and procedures for licensed optometrists in the State of Arkansas.

(1) Licensed optometrists in the State of Arkansas who sell contact lenses are to comply with the standards and procedures set forth in this section.

(2) To fail to do so would be:

(A) Considered unprofessional conduct; and

(B) Harmful to the health and safety of the citizens of Arkansas.

(3) Said failure to comply with this section may subject the licensee to disciplinary charges, which could result in the suspension or revocation of licensure.

(g) Prohibition of certain waivers.

(1) A prescriber may not place on the prescription, require the patient to sign, or deliver to the patient a form or notice waiving or disclaiming the liability or responsibility of the prescriber for the accuracy of the eye examination.

(2) The preceding sentence does not impose liability on a prescriber for the ophthalmic goods and services dispensed by another seller pursuant to the prescriber's correctly verified lenses.

(h) Mail-order contact lens seller.

(1)(A) Any registered mail-order contact lens seller or any person authorized to sell contact lenses in the State of Arkansas who fills a contact lens prescription bears the full responsibility for the accurate selling and dispensing of the contact lenses provided for in the contact lens prescription.

(B) At no time shall any changes or substitutions be made including brand, type of lenses, or ophthalmic parameters without the direction of the optometrist or ophthalmologist who issued the contact lens prescription except as provided in subdivision (e)(7) of this section.

(2) A registered mail-order contact lens seller who fills, ships, mails, or delivers through electronic mail, the internet, alternative channels, other means, or sells contact lenses to a patient at an Arkansas address must register with the board.

(3)(A) The board shall require annual registration and payment of all applicable fees required by the board of all registered mail-order contact lens sellers outside the State of Arkansas who sell and dispense contact lenses to Arkansas residents.

(B) A registered mail-order contact lens seller's registration shall be granted upon the disclosure and certification by the registered mail-order contact lens seller of all the following:

(i) The registered mail-order contact lens seller shall register to do business in the State of Arkansas with the Secretary of State and designate a registered agent for service of process;

(ii) The registered mail-order contact lens seller will provide:

(a) The name of the optometrist or ophthalmologist licensed in the state of the seller who will supervise the sale of the contact lenses and the filling of the contact lens prescriptions; and

(b) His or her address, phone number, and state or states where he or she is licensed, and providing proof of current licensure standing in that state;

(iii) The registered mail-order contact lens seller's location, names and titles of all owners, partners, or corporate officers, and the optometrist or ophthalmologist who is responsible for overseeing the selling and dispensing of the contact lenses to residents of the State of Arkansas;

(iv) The payment of an annual registration fee of one thousand dollars (\$1,000) for each registered mail-order contact lens seller; and

(v) The completion of an application form for registration by the registered mail-order contact lens seller.

(4) The registered mail-order contact lens seller shall comply with and shall continue to comply with all lawful directives and appropriate requests for information from the appropriate agency of each state in which the seller is licensed or registered.

(5) The registered mail-order contact lens seller shall respond to all requests for information from the board within thirty (30) days from registered receipt of the request.

(6) The registered mail-order contact lens seller shall maintain records of contact lenses dispensed to residents of this state for a period of five (5) years, and the records shall be readily available for inspection by the board.

(7)(A) The registered mail-order contact lens seller shall provide a toll-free telephone service during its regular hours of operation for the sole purpose of responding to the patients in this state concerning questions and complaints.

(B) All questions relating to eye care shall be referred to the doctor prescribing the contact lenses.

(8) The registered mail-order contact lens seller shall provide a toll-free telephone service during its regular hours of operation solely for the use of prescribers.

(9) The registered mail-order contact lens seller shall provide the following notification to the patient whenever contact lenses are supplied:

WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING SYMPTOMS, REMOVE YOUR CONTACT LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE, REDNESS, OR LIGHT SENSITIVITY.

(10) If the registered optometrist or ophthalmologist utilized by the registered mail-order contact lens seller has his or her license suspended or revoked in the state in which he or she practices, the seller is to immediately notify the board of said actions.

(11) The board shall charge a fee for investigation and registration of registered mail-order contact lens sellers.

(12) Any person who engages in the manufacture, processing, assembly, sale, offering for sale, or distribution of contact lenses may not represent by advertisement, sales presentation, or otherwise that contact lenses may be obtained without a prescription.

(13) A registration may be denied, suspended, revoked, or otherwise subjected to discipline for any of the following:

(A) Incompetence, gross negligence, or repeated similar negligent acts performed by the registrant or any employee of the registrant;

(B) An act of dishonesty or fraud;

(C) Committing any act resulting in conviction of a crime constituting grounds for denial of licensure or registration; or

(D) Any violation of Arkansas Code § 17-90-101 and the rules of the board.

Authority. Arkansas Code § 17-90-204.

17 CAR § 380-115. Tele-optometry — Requirement for all services provided by optometrists using tele-optometry.

For purposes of this part, a proper optometrist–patient relationship at a minimum requires that:

(1) For the purposes of this part, a proper optometrist–patient relationship is deemed to exist in the following situations:

(A) Performs a history and an in-person physical examination of the patient adequate to establish a diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided; or

(B) When treatment is provided in consultation with, or upon referral by, another optometrist who has an ongoing relationship with the patient and who has agreed to supervise the patient’s treatment, including follow-up care and the use of any prescribed medications;

(C) On-call or cross-coverage situations arranged by the patient’s treating optometrist;

(D) The optometrist personally knows the patient and the patient’s general health status through an ongoing personal or professional relationship;

(2) Appropriate follow-up be provided or arranged, when necessary, at medically necessary intervals;

(3)(A) An optometrist–patient relationship must be established before the delivery of service via tele-optometry.

(B) A patient completing an optometric history online and forwarding it to an optometrist is not sufficient to establish the relationship, nor does it qualify as store-and-forward technology; and

(4) The following requirements apply to all services provided by optometrists using tele-optometry:

(A) The practice of optometry via tele-optometry shall be held to the same standards of care as traditional in-person encounters;

(B) The optometrist must obtain a detailed explanation of the patient's complaint from the patient or the patient's treating optometrist;

(C) If a decision is made to provide treatment, the optometrist must agree to accept responsibility for the care of the patient;

(D) If follow-up care is indicated, the optometrist must agree to provide or arrange for such follow-up care;

(E) An optometrist using tele-optometry may not issue a prescription for any controlled substances defined as any scheduled medication under Schedules II through V unless the optometrist has seen the patient for an in-person exam or unless a relationship exists through consultation or referral/on-call or cross-coverage situations or through an ongoing personal or professional relationship;

(F) The optometrist must keep a documented patient record;

(G)(i) At the patient's request, the optometrist must make available to the patient an electronic or hardcopy version of the patient's optometric record documenting the encounter.

(ii) Additionally, unless the patient declines to consent, the optometrist must forward a copy of the record of the encounter to the patient's regular treating optometrist if that optometrist is not the same one delivering the service via tele-optometry;

(H) Services must be delivered in a transparent manner, including providing access to information identifying the optometrist in advance of the encounter, with licensure and board certifications, as well as patient financial responsibilities;

(I)(i) If the patient, at the recommendation of the optometrist, needs to be seen in person for their current optometric issue, the optometrist must:

(a) Arrange to see the patient in person; or

(b) Direct the patient to their regular treating optometrist or other appropriate provider if the patient does not have a treating optometrist.

(ii) Such recommendation shall be documented in the patient's optometric record;

(J) Optometrists who deliver services through tele-optometry must establish protocols for referrals for emergency services; and

(K) All optometrists providing care via tele-optometry to a patient located within the State of Arkansas shall be licensed to practice optometry in the State of Arkansas.

Authority. Arkansas Code § 17-90-204.

Subpart 2. Rules Governing Diagnostic Pharmaceutical Agents Certification

17 CAR § 380-201. Diagnostic pharmaceutical agents certification.

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

(b) For those optometrists holding only a DPA certificate, the following rules shall apply.

(c) The following general categories of pharmaceutical agents are hereby approved for use as diagnostic agents:

- (1) Topical anesthetics;
- (2) Mydriatics;
- (3) Cycloplegics; and
- (4) Dyes.

(d)(1) No optometrist shall use a pharmaceutical agent until he or she has exhibited his or her qualifications by passing an examination prepared or approved by the State Board of Optometry.

(2) Prior to taking the examination, an applicant must present evidence that he or she has:

(A) Graduated from an accredited college of optometry since January 1973; or

(B) Successfully completed a course of study approved by the board.

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

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

(5)(A) The board hereby approves the examination in pharmacology of the board for purposes of these standards.

(B) However, the examination shall be reviewed by the board at least every two (2) years to assure that the questions contained therein sufficiently cover the subject of pharmacology.

(e)(1) Each certified optometrist shall establish a written procedure prior to use of any approved pharmaceutical agent.

(2) These procedures should include:

(A) A prior arrangement should be established that assures communication between the optometrist and any one (1) of the following:

(i) An ophthalmologist;

(ii) A general physician;

(iii) The emergency medical service unit in the area; or

(iv) The emergency room personnel at a local hospital;

(B) All office personnel shall be instructed concerning these emergency procedures;

(C)(i) An optometrist certified to use pharmaceutical agents shall be certified for CPR (cardiopulmonary resuscitation).

(ii) An optometrist may apply in writing to the board for a waiver of this requirement; and

(D) Verification shall be provided to the Secretary-Treasurer of the State Board of Optometry that items in subdivisions (d)(2)(A) – (C) of this section have been implemented.

(f) Referrals of patients shall be made in accordance with the rules of the board.

(g) The board may suspend or revoke the DPA certification of any optometrist who violates any of the provisions of:

- (1) This part;
- (2) Acts 1979, No. 710; or
- (3) Acts 1985, No. 875.

Authority. Arkansas Code § 17-90-204.

Codification Notes. “DPA” means diagnostic pharmaceutical agent.

Subpart 3. Rules Governing the Educational Qualifications for Optometrists Who Possess, Administer, and Prescribe Pharmaceutical Agents

17 CAR § 380-301. Generally.

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

(b) The State Board of Optometry shall have the right and responsibility to approve those optometrists who shall be authorized to possess, administer, and prescribe pharmaceutical agents approved pursuant to Acts 1987, No. 101.

(c) The board shall have the right and responsibility to promulgate educational standards as prerequisites to authorization for use of pharmaceutical agents pursuant to Acts 1987, No. 101.

(d) The following educational standards are the prerequisites required by the board to possess, administer, and prescribe pharmaceutical agents pursuant to Acts 1987, No. 101.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

Codification Notes. "TPA" means therapeutic pharmaceutical agent.

17 CAR § 380-302. Post-graduate course.

(a)(1) Any optometrist who is a graduate of a school or college of optometry, or licensed as of the effective date of Acts 1987, No. 101 (July 20, 1987), and who has not already completed a post-graduate course of study of transcript quality in ocular therapy and pharmacology from an accredited school or college of optometry which complies with all the prerequisites and requirements of the State Board of Optometry and Acts 1987, No. 101, must successfully complete such course.

(2) The successful completion of such course is a prerequisite to the internship program.

(b)(1) The post-graduate course in ocular therapy and pharmacology must be:

- (A) From an accredited school or college of optometry;
- (B) Of transcript quality credit; and
- (C) Approved by the board.

(2) A successful passing grade on the examination for the course is required to indicate successful completion of such course as determined by the institution or the board.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-303. Internship.

(a)(1) Upon successful completion of an approved post-graduate course in ocular therapy and pharmacology, the optometrist may apply to the State Board of Optometry to begin the required internship program.

(2) No optometrist shall be authorized until he or she has served in an internship program established by the board.

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

(b)(1) The internship program shall be conducted under the supervision of a board-certified ophthalmologist.

(2) Each ophthalmologist shall certify the hours attained under his or her supervision by the intern (optometrist) in the area specified in subsection (a) of this section.

(3) The intern (optometrist) shall log his or her hours in the logbook provided by the board.

(4) The board shall certify that each intern (optometrist) has met the one-hundred-hour minimum training in the area specified in subsection (a) of this section.

(c) Those optometrists who graduate after the effective date of Acts 1987, No. 101, (July 20, 1987) shall be required to successfully pass a test in pharmacology given or approved by the board and then shall apply to the board for a log book to begin their one hundred-hour internship program.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-304. Educational standards — Emergency situations.

(a) Each certified optometrist shall establish a written procedure prior to use of any approved pharmaceutical agent.

(b) These procedures should include:

(1) A prior arrangement should be established, which assures communication between the optometrist and any one (1) of the following:

- (A) An ophthalmologist;
- (B) A general physician;
- (C) The emergency medical service unit in the area; or
- (D) The emergency room personnel at a local hospital;

(2) All office personnel shall be instructed concerning these emergency procedures;

(3)(A) An optometrist certified to use pharmaceutical agents shall be certified for CPR (cardiopulmonary resuscitation).

(B) An optometrist may apply in writing to the State Board of Optometry for a waiver of this requirement; and

(4) Verification shall be provided to the Secretary-Treasurer of the State Board of Optometry that items in subdivisions (b)(1) – (3) of this section have been implemented.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-305. Issue and renewal of therapeutic drug certificate.

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

(b)(1) For renewal of the therapeutic drug certificate, the optometrist must submit proof that he or she has, during the year, a total of twenty (20) hours of continuing education.

(2) A maximum of eight (8) hours of distance learning (maximum of four (4) from correspondence (printed) material) with testing, maximum of four (4) hours of practice management, and at least one (1) hour of jurisprudence.

(c)(1) All renewal fees shall be paid to the Secretary-Treasurer of the State Board of Optometry on or before the first day of February of the year of renewal.

(2) The renewal fee shall be fifteen dollars (\$15.00) per three-year period.

(3) Failure to renew shall be cause for suspension or revocation of the certificate.

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

(e)(1) The TPA (therapeutic pharmaceutical agents) certificate supersedes the DPA (diagnostic pharmaceutical agents) certificate.

(2) Both are not required.

(f)(1) Duplicate TPA or DPA certificates must be displayed in a branch office.

(2) The fee for the duplicate certificate for each branch office shall be fifteen dollars (\$15.00) per three-year period.

(3) All renewal fees shall be paid to the secretary-treasurer on or before the first day of February of the year of renewal.

(4) Failure to renew shall be cause for suspension or revocation of the certificate.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-306. Certification.

(a) Upon successful completion of a State Board of Optometry-approved post-graduate course in ocular therapy and pharmacology and the one hundred-hour internship, certified by the State Board of Optometry, the optometrist shall apply to take an examination prepared or approved by the board.

(b) Upon successful completion of this examination, the board shall authorize the optometrist to possess, administer, and prescribe the drugs approved by Acts 1987, No. 101.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-307. Revocation or suspension.

The State Board of Optometry may suspend or revoke the TPA certification of any optometrist and/or fine anyone who violates any of the provisions of:

- (1) This part;
- (2) Acts 1979, No. 710;
- (3) Acts 1985, No. 875; or
- (4) Acts 1987, No. 101.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

Codification Notes. "TPA" means therapeutic pharmaceutical agent.

Subpart 4. Rules Governing the Use of Topical Therapeutic Drugs for Optometric Care (for TPA-Certified Optometrist)

17 CAR § 380-401. Use of therapeutic drugs.

(a)(1) The following pharmaceutical agents are authorized to be possessed, administered, and prescribed by a board-certified optometrist.

- (2) The following agents are to be applied topically to the eye:
 - (A) Anesthetics;
 - (B) Anti-allergy;
 - (C) Antibacterial/antiseptic;
 - (D) Antibiotic;
 - (E) Antifungal;
 - (F) Antiglaucoma;
 - (G) Antihistamine/decongestant;
 - (H) Artificial tear preparation;
 - (I) Anti-inflammatory;
 - (J) Anti-inflammatory/antibiotic;
 - (K) Anti-inflammatory/antibacterial;
 - (L) Decongestants;

- (M) Decongestants/astringent;
- (N) Demulcents;
- (O) Dyes;
- (P) Emollients;
- (Q) Hyperosmotic agents;
- (R) Irrigation solution;
- (S) Lubricants;
- (T) Mydriatics;
- (U) Miotics;
- (V) Mydriatic/cycloplegics; and
- (W) Vasoconstrictors.

(3) The strength and manner in which these agents may be possessed, administered, and prescribed shall be in accordance with the reasonable standard of care accepted in the community in which the certified optometrist practices.

(b)(1) Prior to beginning the treatment of patients for glaucoma, a certified optometrist shall consult with an ophthalmologist and develop a written protocol.

(2) Written protocol shall include the following:

- (A) Visual acuity;
- (B) Intraocular pressure; and
- (C) Evaluation of the:
 - (i) Optic nerve;
 - (ii) Visual fields; and
 - (iii) Anterior chamber angle.

(3) The manner of care rendered by the optometrist:

(A) Depends upon the individual written protocol established between the optometrist and the ophthalmologist; and

(B) May be altered by mutual written consent on an as-needed basis.

(c) The certified optometrist may remove superficial foreign bodies from the:

- (1) Lid;
- (2) Conjunctiva;

(3) Adnexa; and

(4) Cornea (not deeper than the posterior region of the Bowman's membrane of the cornea).

(d) This will certify that the foregoing rules governing the use of topical therapeutic drugs for optometric care by State Board of Optometry-certified optometrists were duly adopted by the board on May 1, 1997.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

Subpart 5. Rules and Educational Qualifications Governing Optometrists Certified as Optometric Physicians Pursuant to Acts 1997, Nos. 176 and 186

17 CAR § 380-501. Generally.

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

(1) Promulgate rules pursuant Acts 1997, Nos. 176 and 186;

(2) Approve those optometrists who shall be authorized to possess, administer, and prescribe all drugs to diagnose and treat the eye, lid, and adnexa approved pursuant to Acts 1997, Nos. 176 and 186;

(3) Promulgate educational standards as prerequisites to authorization for use of all drugs to treat the eye, lid, and adnexa pursuant to Acts 1997, Nos. 176 and 186; and

(4) Promulgate educational standards as prerequisites to authorization for primary eye care procedures pursuant to Acts 1997, Nos. 176 and 186.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-502. Definitions.

As used in this subpart:

(1) "Optometric physician" means any optometrist certified by the State Board of Optometry to perform primary eye care procedures with topical anesthesia and to

prescribe and administer all oral and topical drugs to treat the eye, lid, and adnexa pursuant to Acts 1997, Nos. 176 and 186; and

(2) "Primary optometric eye care". Any optometric eye care treatments and procedures provided by an optometrist certified as an optometric physician, approved by the State Board of Optometry, shall constitute primary optometric eye care.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-503. Educational requirements for optometrists certified as optometric physicians.

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

(1) Optometrists licensed prior to the effective date of Acts 1997, Nos. 176 and 186, (February 17, 1997) who have:

(A) Graduated from a college or school of optometry prior to Acts 1987, No. 101;

(B) Passed an approved accredited post-graduate course of transcript quality in general and ocular therapy and pharmacology;

(C) Passed a State Board of Optometry test in general and ocular therapy and pharmacology;

(D) Passed a State Board of Optometry test on jurisprudence and other tests as required by the State Board of Optometry;

(E) Completed the one hundred-hour internship program; and

(F) Completed twenty (20) clock hours of a State Board of Optometry-approved oral therapeutic update CE course;

(2) Optometrists licensed prior to the effective date of Acts 1997, Nos. 176 and 186, (February 17, 1997) and graduated after the effective date of Acts 1987, No. 101, (July 20, 1987) who have:

(A) Graduated from an accredited college or school of optometry;

(B) Passed a State Board of Optometry test in general and ocular therapy and pharmacology;

(C) Passed a State Board of Optometry test on jurisprudence and other tests as required by the State Board of Optometry;

(D) Completed the one-hundred-hour internship program; and

(E) Completed twenty (20) clock hours of a State Board of Optometry-approved oral therapeutic update CE course;

(3) Optometrists who are graduates of a school or college of optometry and who apply for licensure in Arkansas after the effective date of Acts 1997, Nos. 176 and 186, (February 17, 1997) must have:

(A) Passed all parts of the National Board Examinations for Optometry;

(B) Passed a State Board of Optometry test in general and ocular therapy and pharmacology;

(C) Passed a State Board of Optometry test on jurisprudence and other tests as required by the State Board of Optometry; and

(D) Completed the one hundred-hour internship program; or

(4) Arkansas licensed optometrists who are not included in the paragraphs above (DPA and non-DPA) and desire to become certified as an optometric physician must:

(A) Pass a comprehensive accredited transcript quality course in general and ocular therapy and pharmacology from a school or college of optometry approved by the State Board of Optometry;

(B) Pass a State Board of Optometry test on jurisprudence and rules, and other tests as required by the State Board of Optometry; and

(C) Have completed the one hundred-hour internship program.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

Codification Notes. "CE" means continuing education.

"DPA" means diagnostic pharmaceutical agent.

17 CAR § 380-504. Internship program.

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

(b)(1) The internship program shall be conducted under the supervision of a board-certified ophthalmologist.

(2) Each ophthalmologist shall certify the hours attained under his or her supervision by the intern (optometrist) in the area specified in subsection (a) of this section.

(3) The intern (optometrist) shall log his or her hours in the logbook provided by the State Board of Optometry.

(4) The State Board of Optometry shall certify that each intern (optometrist) has met the one hundred-hour minimum training in the area specified in subsection (a) of this section.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-505. Emergency situations.

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

(1) Prior arrangement that assures communication between the optometrist and any one (1) of the following:

(A) An ophthalmologist;

(B) A general physician;

(C) The emergency medical service unit in the area; or

(D) The emergency room personnel at a local hospital;

(2) Instruction of all office personnel concerning these emergency procedures;

(3)(A) Shall maintain current certification in CPR (cardiopulmonary resuscitation).

(B) An optometrist may apply in writing to the State Board of Optometry for a waiver of this requirement; and

(4) Verification shall be provided to the Secretary-Treasurer of the State Board of Optometry that the items in subdivisions (1) – (3) of this section have been implemented upon renewal of certificate.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-506. Issue and renewal of optometric physician certificate.

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

(b)(1) Effective February 2, 1998, to renew the optometric physician certificate, the optometrist must submit proof that he or she has, during the preceding twelve (12) months, received a minimum of twenty (20) clock hours of continuing education.

(2) Of the twenty (20) clock hours, ten (10) hours must be in general and ocular therapy and pharmacology approved by the board.

(3) The other ten (10) hours may be in any optometric course of study approved by the board.

(4)(A) Of the total twenty (20) hours required, eight (8) hours may be non-classroom type CE (only four (4) hours may be a COPE approved correspondence course).

(B) The full eight (8) hours may be a COPE approved interactive (internet) course.

(c)(1) All renewal fees shall be paid to the Secretary-Treasurer of the State Board of Optometry before midnight on February 1 of the year of renewal.

(2) The renewal fee shall be fifty dollars (\$50.00) per twelve-month period.

(3) Failure to renew shall be grounds for suspension or revocation of the certificate and/or fines.

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

(e)(1) The optometric physician certificate supersedes the TPA (therapeutic pharmaceutical agents) and DPA (diagnostic pharmaceutical agents) certificate.

(2) All are not required to be certified as an optometric physician.

(f)(1) Duplicate optometric physician certificates must be displayed in a branch office.

(2) The fee for the duplicate certificate for each branch office shall be twenty-five dollars (\$25.00) per twelve-month period.

(3) Renewal of the optometric physician duplicate certificate will be twenty-five dollars (\$25.00).

(4) All renewal fees shall be paid to the secretary-treasurer on or before midnight the first day of February of the year of renewal.

(5) Failure to renew shall be grounds for suspension or revocation of the certificate and/or fines.

(6) The certificate will expire at 12:00 midnight on February 1 of each year.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

Codification Notes. "CE" means continuing education.

"COPE" means Council on Optometric Practitioner Education.

17 CAR § 380-507. Certification.

Any optometrist who has successfully completed all the requirements of the State Board of Optometry may be certified as an optometric physician pursuant to Acts 1997, Nos. 176 and 186.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-508. Revocation or suspension.

The State Board of Optometry may suspend or revoke an optometric physician certification of any optometrist who violates any of the provisions of:

- (1) Optometry law;
- (2) This part;
- (3) Acts 1979, No. 710;
- (4) Acts 1985, No. 875;
- (5) Acts 1987, No. 101; or
- (6) Acts 1997, Nos. 176 and 186.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-509. Prescribing oral steroids.

(a)(1) Before an optometrist who is certified as an optometric physician initiates treatment for an eye disorder with an oral steroid, he or she must take a written detailed medical history, including:

- (A) Past drug reactions;
- (B) Medical/general health conditions; and
- (C) Current medications.

(2) This must be duly noted in the patient's record.

(b) If oral steroid therapy is indicated, the prescriber must be consistent with the standard of eye care as it relates to oral steroids.

(c) If the history suggests contraindications for the use of oral steroids, before prescribing a steroid, a consult with the patient's family doctor, a physician, or an ophthalmologist should be duly noted in the record.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-510. Prescribing controlled substances.

(a)(1) Arkansas optometrists licensed as optometric physicians who apply for and possess a Drug Enforcement Administration number shall:

(A)(i) Prescribe Schedule II, III, IV, and V controlled substances only.

(ii)(a) It is incumbent of optometrists to prescribe sufficient but minimal opiate medications.

(b) Any prescription for a Schedule II or III opiate shall not exceed the total maximum manufacturer's recommended daily dose for a total of seventy-two (72) hours administration.

(c) Any refill of a prescription beyond the initial seventy-two-hour prescription requires an inpatient visit and exam.

(d) Optometrists shall not prescribe more than fifty (50) morphine milligram equivalents (MME) per day.

(iii) Patient record must be documented for a justification for the original prescription and for the need of any refill;

(B) Administer and prescribe controlled substances for the diagnosis and treatment of diseases and conditions of the:

(i) Eye;

(ii) Lids; and

(iii) Adnexa;

(C) Not sell any prescription medication, including controlled substances;

(D)(i) Be responsible for knowing and abiding by all state rules and federal regulations pertaining to controlled substances, with emphasis on the Mid-Level Practitioner's Manual published by the Drug Enforcement Administration, and all State Board of Optometry rules pertaining to controlled substances.

(ii) Record the names and directions of prescribed controlled substances in the patient's record;

(E)(i) A prescriber who has been found by the board to be in violation of a rule or law involving prescription drugs shall be required by the board to register with

the Prescription Drug Monitoring Program and access patient information before writing a prescription for an opioid.

(ii) The board, in its discretion, may remove this requirement after a period of time if the board deems removal of the requirement appropriate;

(F)(i) Within the first two (2) years of being granted a license in the state, a prescriber shall obtain a minimum of three (3) hours of prescribing education approved by the board.

(ii) The education approved by the board under this subsection shall include:

(a) Options for online and in-person programs;

(b) Information on prescribing rules, regulations, and laws that apply to individuals who are licensed in the state; and

(c) Information and instructions on prescribing controlled substances, record keeping, and maintaining safe and professional boundaries;

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

(i) An opioid from Schedule II or Schedule III for every time prescribing the medication to a patient; and

(ii) A benzodiazepine medication for the first time prescribing the medication to a patient; and

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

(2) This subsection shall apply to all prescribers licensed after December 31, 2015.

(b)(1) Only optometrists certified as optometric physicians, and/or approved by the board, shall apply for and possess a Drug Enforcement Administration number to prescribe controlled substances.

(2) Optometrists not specifically approved by the board to prescribe controlled substances cannot:

(A) Apply for, obtain, or possess a Drug Enforcement Administration number; or

(B) Prescribe controlled substances without being in violation of state and federal laws.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-511. Board testing of optometrists for optometric physician certification.

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

(1) A test including, but not limited to:

(A) Rules;

(B) Regulations;

(C) Federal controlled substance regulations;

(D) Jurisprudence;

(E) Impaired provider program; and

(F) Prescription writing; and

(2) Other tests as deemed necessary by the board.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

17 CAR § 380-512. Optometric physician laboratory orders.

A State Board of Optometry-certified primary care optometrist (optometric physician) may order any procedure or laboratory test necessary in the examination, diagnosis, treatment, or management of disease or conditions of the human eye, lid, adnexa, or visual system.

Authority. Arkansas Code §§ 17-90-204, 17-90-401.

Subpart 6. Impaired Optometrist Treatment Program

17 CAR § 380-601. Impaired Optometrist Treatment Program.

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

(1) Paying fines for violations of law, rules, or regulations as determined by the State Board of Optometry;

(2) Paying expenses incurred from determining impairment, approved treatment program, post-treatment monitoring, evaluation of reports concerning impairment, and other expenses identified by the board; and

(3) Knowledge of his or her board-approved treatment program procedures, responsibilities, and consequences of noncompliance.

(b) An impaired provider may request a specific treatment program if that program is approved by the board.

Authority. Arkansas Code §§ 17-90-204, 17-90-305.

Subpart 7. Repeal of Rules

17 CAR § 380-701. Generally.

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

Authority. Arkansas Code § 17-90-204.

Subpart 8. Qualifications for an Arkansas-licensed Optometrist to be Credentialed to Utilize and Perform Authorized Procedures Listed in Arkansas Code § 17-90-101(a)(3)(D)

Codification Notes. This subpart as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"SECTION I – AUTHORITY

The following regulations have been hereby promulgated pursuant of Act 579 of 2019 codified in Arkansas Code Annotated §17-90-101."

17 CAR § 380-801. Definitions.

As used in this section, the "practice of optometry", as stated in Arkansas Code § 17-90-101(a) is amended to include the following procedures:

- (1) Injections, excluding intravenous or intraocular injections;
- (2) Incision and curettage of a chalazion;
- (3) Removal and biopsy of skin lesions with low risk of malignancy, excluding lesions involving the lid margin or nasal to the puncta;
- (4) Laser capsulotomy; and
- (5) Laser trabeculoplasty.

Authority. Arkansas Code §§ 17-90-101, 17-90-204.

17 CAR § 380-802. Requirements for applicants for Arkansas optometric physician licensure with credentialing for procedures listed in Arkansas Code § 17-90-101(a)(3)(D).

Applicants for Arkansas optometric physician licensure shall be credentialed to perform authorized procedures listed in Arkansas Code § 17-90-101(a)(3)(D) if:

- (1) The applicant meets all requirements to receive an Arkansas license pursuant to 17 CAR §§ 380-102 and 380-103 or pursuant to 17 CAR § 380-104 to practice as an optometric physician;
- (2) Optometric physicians who graduated in 2019 or later who provided proof that he or she graduated from an optometry school whose program includes the education requirements for certification pursuant to this subpart; and

(3) Once applicant satisfactorily completes the education requirements listed in this part under 17 CAR § 380-803(a)(2), the applicant must satisfactorily complete a:

(A) Written test administered or approved by the State Board of Optometry on aspects of the Arkansas Optometry Practice Act pertaining to this subpart;

(B) Clinical examination administered or approved by the board pertaining to this subpart; and

(C) Written jurisprudence examination administered by the board pertaining to this subpart.

Authority. Arkansas Code §§ 17-90-101, 17-90-204.

17 CAR § 380-803. Requirements for existing Arkansas-licensed optometric physicians for credentialing for procedures listed in Arkansas Code § 17-90-101(a)(3)(D).

(a) Pursuant to Acts 2019, No. 579, codified in Arkansas Code § 17-90-101(a)(3)(D), Arkansas-licensed optometric physicians shall be credentialed to perform authorized procedures listed in Arkansas Code § 17-90-101(a)(3)(D) if:

(1) The applicant provides proof of holding an Arkansas license to practice as an optometric physician and is in good standing;

(2) The applicant provides proof of satisfactory completion of a course of instruction completed not more than five (5) years prior to application of credentialing, provided that the course:

(A) Is provided by an accredited college of:

(i) Optometry;

(ii) Osteopathy; or

(iii) Medicine;

(B) Includes a minimum of thirty-two (32) clock hours in length;

(C) Is sponsored by an organization approved by the board;

(D) Includes the following didactic classroom instructions:

- (i) Laser physics, hazards, and safety;
- (ii) Biophysics of lasers;
- (iii) Laser application on clinical optometry;
- (iv) Laser tissue interactions;
- (v) Laser indications, contraindications, and potential complications;
- (vi) Gonioscopy;
- (vii) Laser therapy for open angle glaucoma;
- (viii) Laser therapy for angle closure glaucoma;
- (ix) Posterior capsulotomy;
- (x) Common complications: lids, lashes, lacrimal system;
- (xi) Medicolegal aspects of anterior segment procedures;
- (xii) Peripheral iridotomy;
- (xiii) Laser trabeculoplasty;
- (xiv) Minor surgical procedures;
- (xv) Overview of surgical instruments, asepsis, and the Occupational

Safety and Health Administration;

- (xvi) Surgical anatomy of the eyelids;
- (xvii) Emergency surgical procedures;
- (xviii) Chalazion management;
- (xix) Local anesthesia: techniques and complications;
- (xx) Anaphylaxis and other office emergencies;
- (xxi) Radiofrequency surgery; and
- (xxii) Postoperative wound care; and

(E) Includes the following clinical or laboratory experience:

- (i) Video demonstration; and
- (ii) In vitro observation or participation.

(b) Once applicant satisfactorily completes education requirements listed in this part in subdivision (a)(2) of this section, the applicant must satisfactorily complete a:

(1) Written test administered or approved by the State Board of Optometry on aspects of the Arkansas Optometry Practice Act pertaining to this subpart;

(2) Clinical examination administered or approved by the board pertaining to this subpart; and

(3) Written jurisprudence examination administered by the board pertaining to this subpart.

Authority. Arkansas Code §§ 17-90-101, 17-90-204.

17 CAR § 380-804. Certification.

(a) Once an applicant satisfactorily completes the education requirements listed in this subpart, the testing requirements listed in this subpart, and an application for certification and submits an application fee of fifty dollars (\$50.00), the State Board of Optometry shall issue a certification to the applicant certifying that the applicant is qualified and credentialed to utilize procedures listed in Arkansas Code § 17-90-101(a)(3)(D).

(b) The certificate shall be conspicuously displayed in the optometric physician's office.

Authority. Arkansas Code §§ 17-90-101, 17-90-204.

17 CAR § 380-805. Prohibitions.

Performing procedures pursuant to this subpart and Arkansas Code § 17-90-101(a)(3)(D) without credentialing based upon the education requirements and testing requirement outlined in this subpart and having first obtained a certification as outlined in this subpart shall be grounds for suspension or revocation of an optometry license pursuant to the Arkansas Optometry Practice Act.

Authority. Arkansas Code §§ 17-90-101, 17-90-204.

17 CAR § 380-806. Ophthalmic laser procedures outcome reporting.

(a) Every optometric physician who has met the requirements for certification pursuant to this subpart and Arkansas Code § 17-90-101(a)(3)(D) shall report to the State Board of Optometry the outcome of authorized ophthalmic laser procedures performed in such form as required or directed by the board.

(b) The reports shall be submitted no less than annually.

(c) The board shall provide the reports to the Department of Health.

Authority. Arkansas Code §§ 17-90-101, 17-90-204.

17 CAR § 380-807. Renewal.

(a) Every optometric physician who is granted certification under this subpart shall submit a renewal application each year together with a renewal fee of ten dollars (\$10.00) to the Secretary-Treasurer of the State Board of Optometry on or before the first day of February.

(b)(1) In addition to the renewal application and the renewal fee, each optometric physician shall also supply proof in the form of a certificate of completion of two (2) hours of continuing education specifically regarding the procedures listed in this subpart and for which they are certified to perform.

(2) The two (2) hours of continuing education required by this subpart may be included in the ten (10) hours of general and ocular therapy and pharmacology required in 17 CAR § 380-506(b).

Authority. Arkansas Code §§ 17-90-101, 17-90-204.

Subpart 9. Prelicensure Criminal Background Check

17 CAR § 380-901. Petition — Decision.

(a) Pursuant to Acts 2019, No. 990, an individual may petition for a prelicensure determination of:

(1) Whether the individual's criminal record will disqualify the individual from licensure; and

(2) Whether a waiver may be obtained.

(b) The individual must obtain the prelicensure criminal background check petition form from the State Board of Optometry.

(c) The board will respond with a decision in writing to a completed petition within a reasonable time.

(d) The board's response will state the reason or reasons for the decision.

(e) All decisions of the board in response to the petition will be determined by the information provided by the individual.

(f) Any decision made by the board in response to a prelicensure criminal background check petition is not subject to appeal.

(g) The board will retain a copy of the petition and response, and it will be reviewed during the formal application process.

Authority. Arkansas Code §§ 17-3-104, 17-90-204.

17 CAR § 380-902. Waiver request.

(a) If an individual has been convicted of an offense listed in Arkansas Code § 17-3-102(a) or (e), the State Board of Optometry may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by an:

(1) Affected applicant for a license; or

(2) Individual holding a license subject to revocation.

(b) The board may grant a waiver upon consideration of the following, without limitation:

(1) The age at which the offense was committed;

(2) The circumstances surrounding the offense;

(3) The length of time since the offense was committed;

(4) Subsequent work history since the offense was committed;

(5) Employment references since the offense was committed;
(6) Character references since the offense was committed;
(7) Relevance of the offense to the occupational license; and
(8) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

(c) A request for a waiver, if made by an applicant, must:

- (1) Be in writing; and
- (2) Accompany the completed application and fees.

(d) The board will:

- (1) Respond with a decision in writing; and
- (2) State the reasons for the decision.

(e) An appeal of a determination under this section will be subject to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Code §§ 17-3-104, 17-90-204.