

NOTICE OF INTENT

Department of Health and Hospitals Board of Optometry Examiners

Notice is hereby given, in accordance with the Administrative Procedures Act, R.S. 49:950, *et seq.*, that the Louisiana State Board of Optometry Examiners, pursuant to authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, intends to amend Title 46, Part LI by adopting the following proposed amendments to the Sections set forth below.

A description of the subjects and issues involved is as follows. Subsection C of §503 is repealed, but the content and substance are included within the provisions of new §507. The remaining sections of §503 are renumbered. Section 507 adopts provisions for licensure by endorsement, including provisions of current §503.C and R.S. 37:1054.

This Rule establishes specific criteria to be generally applicable to all licensees. Section 801 amends some of the required fees, as follows:

1. annual license renewal fee changed from \$200 to \$300;
2. license delinquency fee changed from \$300 to \$500.

The proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 *et seq.*

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LI. Optometrists

Chapter 5. Practicing Optometry

§503. License to Practice Optometry

A. - B. ...

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

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

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

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

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

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

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

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

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

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

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

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

i. the following didactic classroom instructions:

- (a). laser physics, hazards, and safety;
- (b). biophysics of lasers;
- (c). laser application;
- (d). laser tissue interactions;
- (e). laser indications, contraindications, and potential complications;
- (f). gonioscopy;
- (g). laser therapy for open angle glaucoma;
- (h). laser therapy for angle closure glaucoma;
- (i). posterior capsulotomy;
- (j). common complications, lids, lashes, lacrimal system;
- (k). medicolegal aspects of procedures;
- (l). peripheral iridotomy;
- (m). laser trabeculoplasty;
- (n). minor surgical procedures;
- (o). overview of surgical instruments, asepsis, and O.S.H.A.;

- (p). relevant surgical anatomy;
- (q). emergency surgical procedures;
- (r). chalazion management;
- (s). local anesthesia: techniques and complications;
- (t). anaphalaxis and other office emergencies;
- (u). radiofrequency surgery;
- (v). post-operative wound care; and

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

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

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

3. Prohibitions and Referrals

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

4. Outcomes Reporting

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

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

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

G. Participation in Student Extern Program. An optometrist may participate in student extern programs in accordance with rules and regulations promulgated from time to time by the board.

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

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

H. Retirement of License

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

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

I. Inactive Status

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be placed on inactive status. The request to have a license be considered inactive must be in writing and delivered to the board. The request for inactive status will be placed on the board agenda for consideration at the next scheduled board meeting and the effective date of inactive status determined by the board will be set and may be retroactive. A person who holds an inactive license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding an inactive license is exempt from the continuing education requirements of Section 301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of an inactive license must renew the inactive license annually and pay appropriate renewals fees to avoid revocation.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 34:873 (May 2008), LR 38:1590 (July 2012), LR 40:2250 (November 2014), repromulgated LR 40:2580 (December 2014), amended by the Department of Health, Board of Optometry Examiners, LR 44:1248 (July 2018), LR 46:25 (January 2020), LR 47:

§507. Licensure by Endorsement

A. The board may license by endorsement, an optometrist who holds a license that was obtained by examination from another state or territory of the United States subject to the following conditions.

1. An applicant for licensure by endorsement must have been engaged in the active practice of optometry within 12 months immediately preceding his or her application, except as otherwise provided in R.S. 37:3651 with respect to individuals with military training and/or military spouses. For purposes of this Section, active practice means directly involved with patient care on day to day basis.

2. An applicant will not be considered for licensure by endorsement in the state of Louisiana if he or she has failed the Louisiana practical examination within two years preceding the date on which the application for endorsement is filed.

3. The applicant must not have committed any act that would constitute a material violation of the Louisiana laws and/or LSBOE rules and regulations as determined in the discretion of the board. Furthermore, he or she must not be the subject of any pending or unresolved board action or malpractice in this or any other state or territory;

4. An applicant for licensure by endorsement must meet all of the qualifications for regular state licensure as set forth in R.S. 37:1049 and LAC 46:LI.503, except as otherwise provided by applicable law or regulations of the Board, and except that the applicant shall not be required to sit for any portion of the examination required by R.S. 37:1051 other than the laws portion as required by Paragraph E.4 of this Section; provided, however, the waiver provided for by R.S. 37:1054 (endorsement) is within the discretion of the board and the board shall refer to the laws provided for the regulation of the practice of optometry, the public interest, the interest of licensed optometrists and the interest of the applicant in the exercise of this discretion.

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

B. As part of the licensure process, the applicant shall complete an application for licensure by endorsement and shall:

1. submit the endorsement license fee (\$1,500);
2. cause to be submitted directly from the boards of all states in which the applicant holds a license to practice optometry certification demonstrating his or her good standing. To be considered for licensure by endorsement, an applicant's license(s) must be in good standing in all states and territories of the United States in which a license to practice optometry is held;
3. submit official proof documenting his or her compliance with all continuing education requirements imposed by any states or territories in which a license to practice optometry is held; and

4. submit proof that he or she has taken and passed the law portion of the licensing examination required by R.S. 37:1051.

C. In the case of an application for licensure by endorsement by any military personnel applicant, or his or her spouse, pursuant to R.S. 37:3651, said applicant shall:

1. provide the board with official documentation of the applicant's credentialing and quality assurance review to satisfy the requirements of Subsection A and Paragraphs E.2, and E.4 of this Section;

2. cause the boards of any state in which he or she is or has been licensed to practice optometry to provide the board with all of the remaining information required by this Section;

3. submit a temporary practice permit fee (\$750), which fee shall be credited toward the endorsement license fee (\$1,500) upon licensure; and

4. pay all applicable licensing fees.

D. Notwithstanding any provision to the contrary, a temporary practice permit issued pursuant to R.S. 37:3651(D) shall expire on July 31 following the date of issuance of such temporary practice permit.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Optometry Examiners, LR 47:

Chapter 8. Fees and Expenses

§801. Fees

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

1. - 3. ...

4. annual license renewal fee—\$300;

5. license delinquency fee—\$500;

A.6. - B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:636 (April 2006), amended LR 40:2252 (November 2014), repromulgated LR 40:2580 (December 2014), amended by the Department of Health, Board of Optometry Examiners, LR 44:1250 (July 2018), LR 47:

Family Impact Statement

It is anticipated that the proposed Rule amendments will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

It is anticipated that the proposed Rule amendments will have no significant impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule amendments have no significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule until 5 p.m., December 20, 2020, to Dr. James D. Sandefur, O.D., Louisiana State Board of Optometry Examiners, P.O. Box 555, 419 Hwy. 165 N., Oakdale, LA 71463. He is responsible for responding to inquiries regarding the proposed Rule.

Dr. James D. Sandefur, O.D.

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY).

The proposed rule changes will not result in any material costs or savings for state or local governments other than a marginal, one-time publication expense \$600 for the LA State Board of Optometry Examiners. The proposed rule changes increase fees in the aggregate for optometry examiners due to certain required continuing education courses.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY).

The proposed rule change will increase the annual revenue of the LA State Board of Optometry Examiners by an estimated \$64,400 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY).

Increased licensing fees will result in an increased cost for licensed optometrists by \$100 per year. For optometrists who fail to timely renew their optometry license, the delinquency will increase costs for licensed optometrists by an additional \$200 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (SUMMARY).

There is no estimated effect on competition and employment.