Professional Responsibility 2025

KYLE SANDBERG, OD, FAAO
ASSISTANT DEAN FOR PROFESSIONAL ADVANCEMENT
ROSENBERG SCHOOL OF OPTOMETRY

Continuing Education

RULES THAT YOU NEED TO KNOW

Requirements for License Renewal

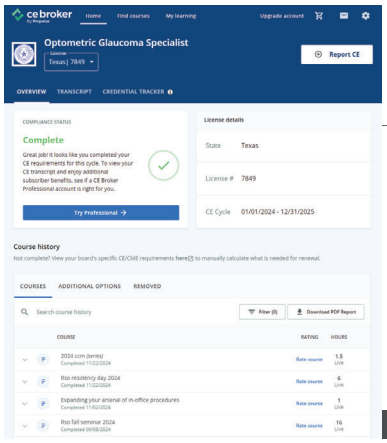
At least HALF of CE the hours (16 or more) must be live or live webinar (participants can interact with speaker).

If you DO NOT prescribe opioids, you must mark yourself EXEMPT in CE Broker.

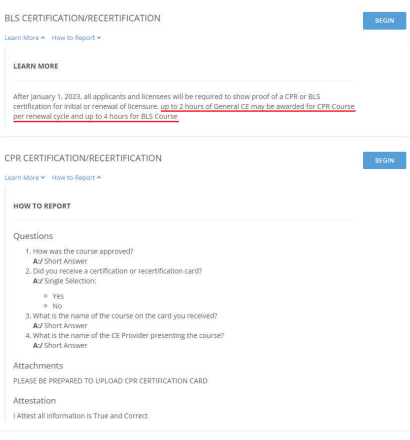
Requirement	Hours needed	Credit for D/T or General
Total Hours	32	D/T = 24 General = 8
Total D/T Hours Needed	24	24 D/T minimum
Max Hours Allowed Online	16	D/T or General
Opioid Course for Optometric Glaucoma Specialist* (License ending in "TG")	2	2 D/T If you don't need this, take any other 2 D/T hours
One-Hour Human Trafficking Course	1	1 General
One-Hour Professional Responsibility**	2	2 General
CPR or BLS (once per cycle)	At least 1 hour	Up to 2 gen hrs for CPR Up to 4 gen hrs for BLS

* One hour each year of the cycle if you prescribe or intend to prescribe controlled substances. You must also have an OGS license and a DEA number.

** One hour each year of the cycle – cannot be 2 hours in the same calendar year



CE Broker



CE Broker – CPR and BLS

The TOB does NOT review or approve these courses

There are in-person and online courses that satisfy the requirements.

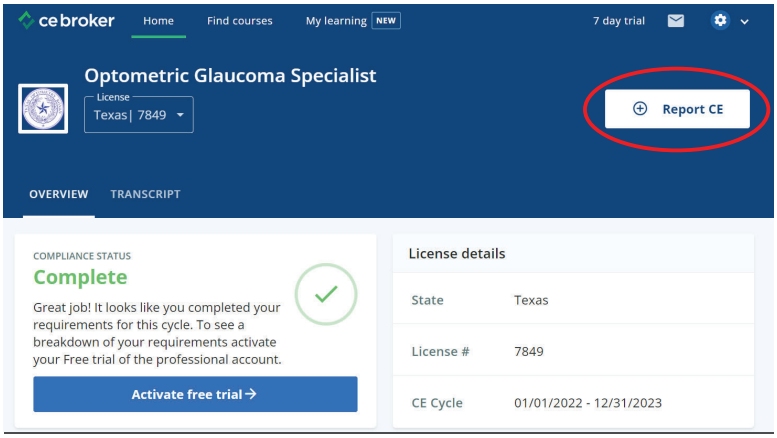
Board Rule §273.17

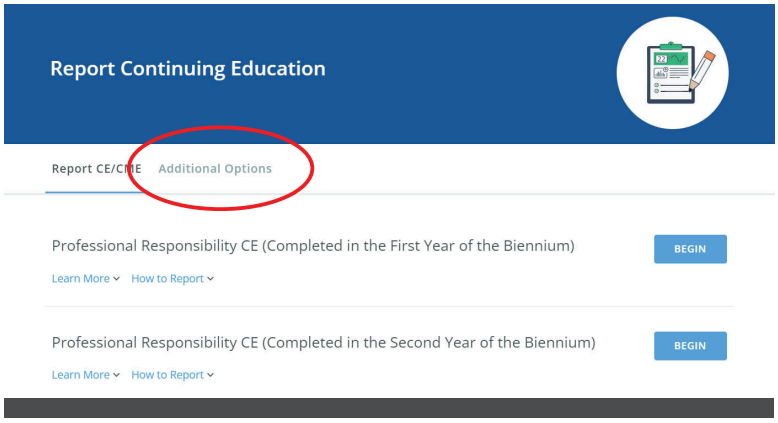
"A certification in CPR includes training and successful course completion in cardiopulmonary resuscitation, AED and obstructed airway procedures for all age groups according to recognized national standards."

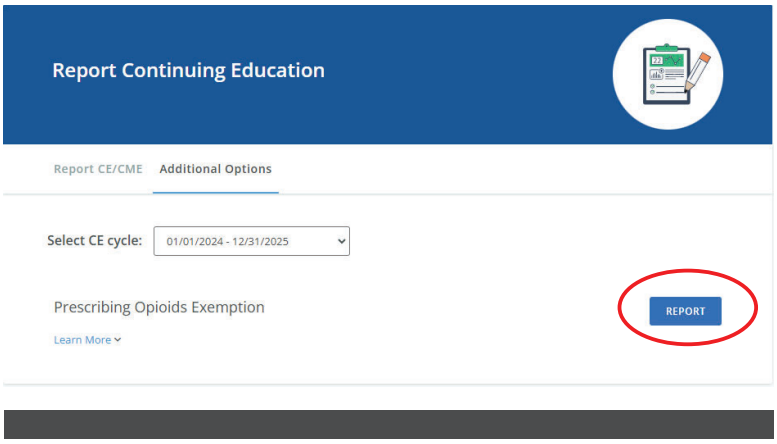
"A certification in BLS includes training and successful course completion in airway management, cardiopulmonary resuscitation (CPR), control of shock and bleeding and splinting of fractures, according to recognized national standards."

Opioid Course "Opt-Out"

- If you opt-out of the opioid course requirements, you may not prescribe **any** controlled substance – not just opioid narcotics
- If you still want to opt-out, you must mark yourself exempt from the opioid prescribing requirement on your CE Broker account. Otherwise, CE Broker will be "looking" for you to fulfill that requirement.
- If you opt-out, you may decide to opt back in, but you will need to take that year's opioid course prior to prescribing.







Other ways to earn CE

(a) Education for an advanced degree in optometric field or optometrically related field.	One-hour credit will be given for each semester hour earned, and a total of 16 credit hours will be allowed for each full academic year of study.
(b) Research in lieu of training.	Credit will be given only for full-time research. Sixteen credit hours will be given for each full year of research.
(c) Teaching.	One credit hour is allowed for each education hour of teaching of board-approved continuing education courses.
(d) Clinical rotations or rounds.	One hour of CE for every 2 clock spent on clinical rounds. 8 hours max per 2-year renewal cycle. Sponsoring organizations and universities must submit information regarding scheduled rounds and certify to the Board at least on a quarterly basis the number of continuing education hours obtained.

Special Cases – New License

A new licensee is exempt from Board mandated continuing education for the remainder of the first calendar year of the initial license period. During the second calendar year they must:

Take 16 hours of CE approved by the Board in the calendar year preceding the application

- 12 of these hours must be Diagnostic/Therapeutic
- 1 hour must be in Professional Responsibility
- At least 8 hours must be taken in a live or synchronous format

Special Cases – Expired License

If your license is classified as expired for one year or more and you'd like it reinstated. You must:

Take 16 hours of CE approved by the Board in the calendar year preceding the application

- 12 of these hours must be Diagnostic/Therapeutic
- 1 hour must be in Professional Responsibility
- At least 8 hours must be taken in a live or synchronous format

Special Cases – Retired License

If your license is classified as retired and you are wishing to return to practice by having it reinstated, you must:

Take 16 hours of CE approved by the Board

- 8 of these hours must be Diagnostic/Therapeutic
- 1 hour must be in Professional Responsibility
- All 16 hours may be taken asynchronously

Courses that receive automatic approval

- Courses sponsored by an optometry college or school accredited by the American Optometric Council on Education (ACOE);
- Courses sponsored by the American Optometric Association (AOA) or an affiliate of the AOA;
- Courses sponsored by the American Academy of Optometry (AAO) or an affiliate of AAO;
- Courses accredited by the Council on Optometric Provider Education (COPE);
- Courses sponsored and or approved by the Texas Health and Human Services Commission;
- Courses sponsored by the American Board of Optometry;
- Courses approved by the Accreditation Council for Continuing Medical Education (AACME); and

Also of note...

New Licensees in Texas will automatically be Optometric Glaucoma Specialists (OGS) because initial licensure and OGS applications are now combined. This means recent grads are licensed to the fullest extent of their training.

Applies to applicants who graduated optometry school after 2008

If a new applicant does not meet the criteria for OGS, they will be licensed as a Therapeutic Optometrist (could still later apply for OGS)

Contact Lens & Eyeglasses

RULES THAT YOU NEED TO KNOW

Required Elements of an Initial Examination (Rule 277.7 eff, June 18, 2001)

- (1) An accurate identification of the patient;
- (2) The date of the examination;
- (3) The name of the optometrist or therapeutic optometrist conducting the examination;
- (4) Past and present medical history, including complaint presented at visit;
- (5) A numerical value of the monocular uncorrected or monocular corrected visual acuity in a standard acceptable format;
- (6) The results of a biomicroscopic examination of the lids, cornea, and sclera;
- (7) The results of the internal examination of the media and fundus, including the optic nerve and macula, all recorded individually;
- (8) The results of a retinoscopy. A tape from an automatic refractor is acceptable;
- (9) The subjective findings of the examination. A tape from a computer assisted refractor/photometer is acceptable if the instrument is being used to obtain subjective findings;
- (10) The results of an assessment of binocular function, including the test used and the numerical endpoint value;
- (11) The amplitude or range of accommodation expressed in numerical endpoint value including the test used in the examination;
- (12) A tonometry reading including the type of instrument used in the examination; and
- (13) Angle of vision: the extent of the patient's field to the left and right.

These apply to patients who have an initial examination for which an ophthalmic lens prescription is signed

Recording

If it isn't recorded, it wasn't done!!

In some scenarios, there are challenges or legitimate reasons that may make it difficult to perform test, the required elements

- the patient is uncooperative
- You did not record binocular findings on a monocular patient
- they simply refuse to have a test done on them

It should be noted somewhere in the chart **why** the test is not present in order to satisfy the law and Board rules.

You cannot skip exam elements because you don't want to do the test, or you lack the equipment to do the test. You are required to have functioning equipment to meet minimum standards.

Board Rules – YOUR Job

Texas Administrative Code

TITLE 22	EXAMINING BOARDS
PART 14	TEXAS OPTOMETRY BOARD
CHAPTER 279	INTERPRETATIONS
RULE §279.3	Spectacle Examination

(a) The optometrist or therapeutic optometrist shall, in the initial examination of the patient for whom ophthalmic lenses are prescribed:
(1) **Personally make and record, if possible**, the following findings of the conditions of the patient
(A) biomicroscopy examination (lids, cornea, sclera, etc.), using a binocular microscope;
(B) internal ophthalmoscopic examination (media, fundus, etc.), using an ophthalmoscope or biomicroscope with fundus condensing lenses; **videos and photographs may be used only for documentation and consultation purposes but do not fulfill the internal ophthalmoscopic examination requirement**; and
(C) subjective findings, far point and near point.

Board Rules – May Delegate

Texas Administrative Code

TITLE 22	EXAMINING BOARDS
PART 14	TEXAS OPTOMETRY BOARD
CHAPTER 279	INTERPRETATIONS
RULE §279.3	Spectacle Examination

(A) case history (ocular, physical, occupational, and other pertinent information);
(B) visual acuity;
(C) static retinoscopy O.D., O.S., or autorefractor;
(D) assessment of binocular function;
(E) amplitude or range of accommodation;
(F) tonometry;
(G) angle of vision, to right and to left.

Board Rules – YOUR Job

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TITLE 22	EXAMINING BOARDS
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RULE §279.3	Spectacle Examination

Personally notate in the patient's record the reasons why it is not possible to make and record the findings required in this section.

Also important to remember:
The authorization for assistants to make and record the following findings **does not relieve the optometrist or therapeutic optometrist of professional responsibility for the proper examination and recording of each finding** required by §351.353 of the Act:

What about Contacts?

Texas Administrative Code

TITLE 22	EXAMINING BOARDS
PART 14	TEXAS OPTOMETRY BOARD
CHAPTER 279	INTERPRETATIONS
RULE §279.1	Contact Lens Examination

Basically, all of the same elements as a CL Rx, but this section adds a few important points:

When a follow-up visit is medically indicated, schedule the follow-up visit within 30 days of the contact lens fitting, and inform the patient on the initial visit regarding the necessity for the follow-up care; and

Personally or authorize an assistant to instruct the patient in the proper care of lenses.

The optometrist or therapeutic optometrist and assistants shall observe proper hygiene in the handling and dispensing of the contact lenses and in the conduct of the examination. Proper hygiene includes sanitary office conditions, running water in the office where contact lenses are dispensed, and proper sterilization of diagnostic lenses and instruments.

SUMMARY

	Optometry Act 351.353	Board Rule 277.7	Board Rule CL 279.1	Board Rule Specs 279.3
Identification of the patient		X		
Date of Exam		X		
Name of OD		X		
Medical Hx		X		
Case Hx	X	X	X	X
Visual Acuities	X	X - must check monocular	X	X
Ret/Auto	X	X - May use AR tape	X	X
Near/Far Manifest	X	X	X	X
Assess BV	X	X - specify test	X	X
Accommodative Testing	X	X - specify test	X	X
Tonometry	X	X - specify test	X	X
Angle of vision	X	X	X	X
SLE	X	X	X	X
Fundus Exam	X	X	X - Can't use pics	X - Can't use pics
Instruct on the care of CLs (can delegate) and observe proper hygiene**			X	

X- Cannot Delegate these Items

**sanitary office conditions, running water in the office where contact lenses are dispensed, and proper sterilization of diagnostic lenses and instruments

What would you do?

Dr Sandberg:

Hate to bother you, but since you are the instructor for the Professional Responsibility course perhaps you could help

Is it not a Requirement under state law that we do at least one follow up on a new contact lens Rx? Have a patient (RN) that we saw on an initial exam months ago that fails to show up for a follow up on a contact lens fit. We have dispensed multiple additional lenses (dailies) to her so that she can come back in wearing the lenses after being on for more then 2 hours. She is now threatening that we are required by law to release (we have no interest in selling her lenses but am just trying to make sure the lenses are moving and healthy) We continue to tell her that even though it has been months we will see her at NO CHARGE, I can not find the statue that discuses the fitting requirements prior to release.

Thanks,

The Contact lens Rule (FTC - 2004)

The Contact Lens Rule contains two key requirements.

1. Contact lens prescribers (i.e., optometrists and ophthalmologists) **must provide patients with a copy of their contact lens prescriptions at the completion of a contact lens fitting**.
2. A contact lens seller **cannot provide contact lenses to its customer unless the seller either obtains a copy of the prescription or verifies the prescription information with the prescriber through procedures set forth in the Rule.**

The purpose of these requirements is to enhance consumer choice and competition among contact lens sellers, thereby benefitting consumers.

The Eyeglass Rule

The original rule was issued in 1978 and stated that prescribers cannot:

- require that patients buy eyeglasses before providing them with a copy of their prescription,
- place a liability waiver on the prescription
- require patients to sign a waiver in order to receive their prescription, or
- require that patients pay an additional fee in exchange for a copy of their prescription
- refuse to perform an eye exam unless the patient buys eyeglasses, contact lenses, or other ophthalmic goods from them.

The Eyeglass Rule – FTC June 2024

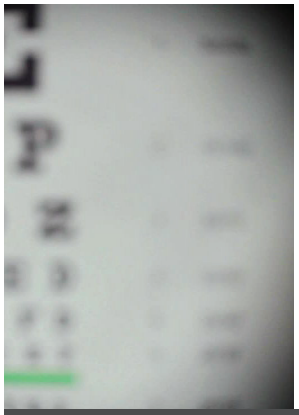
Changes require that prescribers, after providing the prescription, request that their patients sign a statement confirming they received their prescription and keep a record of such confirmation for at least three years.

- These only apply to optometrists and ophthalmologists who have a financial interest in selling prescription eyewear.

Also:

- allows prescribers to provide the patient with a digital copy of a prescription in lieu of a paper copy; if the patient refuses the digital copy, the prescriber must provide a paper copy;
- explicitly specifies that the prescription must be provided immediately after the examination is completed. A patient must have their prescription before any offer to sell them glasses.
- clarifies that presentation of proof of insurance coverage shall be deemed to be a payment for the purpose of determining when a prescription must be provided.
- changes the term "eye examination" to "refractive eye examination". This is because the automatic release of prescriptions is only required following a refractive eye examination.

SOURCE: https://www.ftc.gov/news-events/news/press-releases/2024/06/ftc-announces-final-eyeglass-rule-implementing-updates-promote-competition-expand-consumer-choice



So... when can you hold an Rx?

1. If the patient has not paid for the examination (16 CFR 456.2(a))
   - but only if the prescriber requires immediate payment in the case of an examination that reveals no requirement for ophthalmic goods
2. If there is a medical reason for follow up necessity. In the case of a contact lens fitting, the term of the fitting is accepted to include:
   - (1) An examination to determine lens specifications;
   - (2) Except in the case of a renewal of a contact lens prescription, an initial evaluation of the fit of the contact lens on the eye; and
   - (3) Medically necessary follow-up examinations.

What about the signature thing?

Confirmation of prescription release.

(i) Upon completion of a contact lens fitting, the prescriber shall do one of the following:

(A) Request that the patient acknowledge receipt of the contact lens prescription by signing a statement confirming receipt of the contact lens prescription, (B) Request that the patient sign a prescriber-retained copy of a contact lens prescription that contains a statement confirming receipt of the contact lens prescription or (C)Request that the patient sign a prescriber-retained copy of the receipt for the examination that contains a statement confirming receipt of the contact lens prescription;

(D) If a digital copy of the prescription was provided to the patient (via methods including an online portal, electronic mail, or text message) in compliance with paragraph (a)(1) of this section, retain evidence that the prescription was sent, received, or made accessible, downloadable, and printable.

(ii) If the prescriber elects to confirm prescription release via paragraphs (c)(1)(i)(A), (B), or (C) of this section, the prescriber may, but is not required to, use the statement, **"My eye care professional provided me with a copy of my contact lens prescription at the completion of my contact lens fitting"** to satisfy the requirement.

(iii) In the event the patient declines to sign a confirmation requested underparagraph (c)(1)(i)(A), (B), or (C) of this section, the prescriber shall note the patient's refusal on the document and sign it.

You have to follow it, so why don't they?

The second part of the rule...

If a seller contacts a prescriber (by direct communication) for verification of a contact lens Rx and the prescriber does not notify the seller within eight (8) business hours that the Rx is expired, inaccurate or otherwise invalid, the seller is authorized to treat the Rx as "verified"

8 business hours are defined as 9-5 M-F excluding federal holidays, in the prescribers time zone.

If the seller determines that the prescriber has regular Saturday hours, those hours count as well.

As a reminder, a CL Seller Must NOT

- fill a prescription unless they have a copy of it or have verified it, as required by the Rule
- fill a prescription that the prescriber tells them, by direct communication within eight business hours after getting a complete verification request, is inaccurate, expired, or otherwise invalid
- alter prescriptions. If they submit a verification request for a brand that is not the customer's prescribed brand, they may be violating the Rule by altering the prescription. The only exception is if they've submitted a verification request for a brand that the customer expressly told you is listed on their prescription. To qualify for this exception, they must ask the customer to give them the manufacturer or brand listed on their prescription, and the customer must have told them that information. For private label lenses, however, they can substitute identical contact lenses made by the same manufacturer and sold under a different name
- suggest or state that customers can get contact lenses without a valid prescription either in their possession or on file with their prescriber.
- fill additional shipments of lenses once the prescriber has let them know that the prescription provided in the verification request was inaccurate, expired, or invalid, without re-verifying the request or getting a copy of your patient's valid prescription

What to do

Head over to this page → https://www.aoa.org/news/advocacy/federal-advocacy/are-you-adhering-to-the-contact-lens-rule?sso=y

Here are three ways to help ensure that illegal contact lens sellers are held accountable and adverse patient outcomes are reported:

- Report a website illegally **selling** contact lenses.
- Report an **adverse event** related to contact lenses.
- Email a de-identified case report to **StopIllegalCLs@aoa.org** to help bolster AOA advocacy against harmful contact lens practices. Include the state where you practice in your email.

Board Inspections

Inspection process

The Board has been performing office inspections for 40+ years as required by State Law

The process generally takes about 30 minutes

Inspection results are submitted to the Texas Legislature and act as important evidence that the TOB is actively regulating the practice of optometry in Texas

- This becomes very important when Sunset Legislation threatens to abolish the Board or hand regulation of optometry to another government agency (e.g., DLR)

If you receive a notice of remote inspection, you have 14 business days to comply(§273.16)

Office Inspection Process

- An investigator will present a letter to the doctor which will detail the purpose of the inspection and discuss HIPAA concerns.
- The doctor will be asked to produce 5 exam records from an initial exam in which a contact/glass prescription was written
- The inspector will look to determine if outward violations of control issues by an optical are present.
- The copies of the patient records are reviewed by one of the Board members who ensure compliance with the Optometry Act and Board Rules.
- Most violations are met with Administrative penalties but some more serious offenses can result in disciplinary action against the optometrist

Virtual Inspections

- The Board may also conduct a remote inspection with the help of the doctor.
- Hybrid inspections are also an option
- The board reserves the right to change any remote inspection to an on-site inspection.

Remote inspections

- Remote inspections allow the Board to reach offices in smaller, more rural areas, of Texas instead of just big cities.
- Licensees are notified about remote exams in advance and are required to complete and sign-off on a checklist, provide images (digital images) and patient records.
- Patient records are still reviewed by Board Members the same way as in-person exams.
- Usually, the investigator is present in an office and "observes" signage and other requirements for offices. Remote exams require the submission of images instead.
- Everything is submitted via email to the Board Investigator or through U.S. mail.

Required Signage

What you need to display

In order for the public to be informed regarding the functions of the Board and the Board's procedures by which complaints are filed with and resolved by the Board, each licensee is required to display at every location where optometric services are provided information regarding the Board's name, address, and telephone number.

Texas Administrative Code

TITLE 22	EXAMINING BOARDS
PART 14	TEXAS OPTOMETRY BOARD
CHAPTER 273	GENERAL RULES
RULE §273.9	Public Interest Information

Consumer Information Notice

Consumer Information Notice

Complaints regarding optometrists, therapeutic optometrists, or other individuals regulated by the Texas Optometry Board, may be reported to the following address:

TEXAS OPTOMETRY BOARD
George H.W. Bush State Office Building
1801 Congress Avenue, Suite 9.300
Austin, Texas 78701
512/305-8500

OR

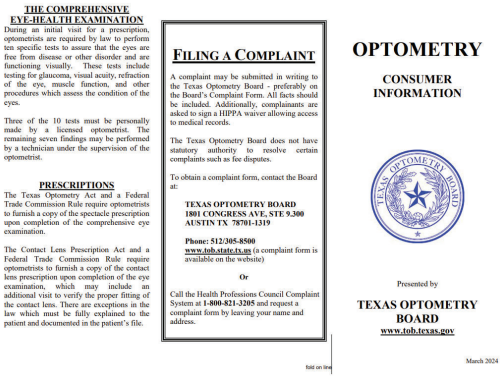
Call Health Professions Council Complaint System at **1-800-821-3205** to leave name and address to receive a complaint form.

Aviso al Consumidor

Cualquier queja respecto a optometristas, optometristas terapeutas, asi como otros individuos reglamentados por el consejo de Optometria de Texas (Texas Optometry Board), puede reportarse a la direccion siguiente:

TEXAS OPTOMETRY BOARD
George H.W. Bush State Office Building
1801 Congress Avenue, Suite 9.300
Austin, Texas 78701
512/305-8500
o

llame al Sistema de quejas del Consejo de Professiones en el Área de la Sajud al **1-800-821-3205** para dejar su nombre y dirección para recibir un formulario para quejas.



THE COMPREHENSIVE EYE-HEALTH EXAMINATION

During an initial visit for a prescription, optometrists are required by law to perform ten specific tests to assure that the eyes are free from disease or other disorder and are functioning visually. These tests include testing for glaucoma, visual acuity, refraction of the eye, muscle function, and other procedures which assess the condition of the eyes.

Three of the 10 tests must be personally made by a licensed optometrist. The remaining seven findings may be performed by a technician under the supervision of the optometrist.

PRESCRIPTIONS

The Texas Optometry Act and a Federal Trade Commission Rule require optometrists to furnish a copy of the spectacle prescription upon completion of the comprehensive eye examination.

The Contact Lens Prescription Act and a Federal Trade Commission Rule require optometrists to furnish a copy of the contact lens prescription upon completion of the eye examination, which may include an additional visit to verify the proper fitting of the contact lens. There are exceptions in the law which must be fully explained to the patient and documented in the patient's file.

FILING A COMPLAINT

A complaint may be submitted in writing to the Texas Optometry Board - preferably on the Board's Complaint Form. All facts should be included. Additionally, complainants are asked to sign a HIPPA waiver allowing access to medical records.

The Texas Optometry Board does not have statutory authority to resolve certain complaints such as fee disputes.

To obtain a complaint form, contact the Board at:

TEXAS OPTOMETRY BOARD
1801 CONGRESS AVE, STE 9.300
AUSTIN TX 78701-1319

Phone: 512/305-8500
www.tob.state.tx.us (a complaint form is available on the website)

Or

Call the Health Professions Council Complaint System at **1-800-821-3205** and request a complaint form by leaving your name and address.

fold on line

OPTOMETRY

CONSUMER INFORMATION

Presented by

TEXAS OPTOMETRY BOARD
www.tob.texas.gov

March 2024

Consumer Information Brochure

Texas Optometry Board

The mission of the Texas Optometry Board (TOB) is to promote, preserve, and protect the health, safety and welfare needs of the people of Texas by fostering the providing of quality optometric care to the citizens of Texas through the regulation of the practice of optometry.

The Board is comprised of nine members, six licensed optometrists and three public members. The duties of the Board include issuing and renewing licenses, monitoring professional practice through inspections, answering questions, and receiving and processing complaints from the public.

This brochure contains information for consumers about optometry in the State of Texas and is made available by the TOB. Additional information can be obtained by writing or calling:

TEXAS OPTOMETRY BOARD
1801 CONGRESS AVE, STE 9.300
AUSTIN, TEXAS 78701-1319

Telephone: 512/305-8500
www.tob.texas.gov

Esta publicación se puede pedir en español. (This pamphlet is available in the Spanish language upon request.)

Frequently Asked Questions About Optometry

What is the difference between an optometrist, ophthalmologist, and optician?

An **OPTOMETRIST**, licensed by the Texas Optometry Board, is a health care practitioner trained to diagnose signs of ocular, neurological and systemic health problems and treat vision disorders. A therapeutic optometrist may also treat eye diseases and injuries, prescribe medicine and perform other procedures such as eye foreign body removal. An optometric glaucoma specialist may also treat glaucoma as authorized by the Texas Optometry Act and prescribe oral prescription drugs listed in the Optometry Act.

An **OPHTHALMOLOGIST**, licensed by the Texas Medical Board, is a physician trained in eye surgery and eye disease. Ophthalmologists prescribe glasses, contact lenses, and medicine, and perform major eye surgery such as cataract surgery.

An **OPTICIAN** is an eye wear provider trained to select, manufacture and dispense spectacles and sell or deliver contact lenses upon a prescription written by an optometrist or ophthalmologist. An optician is not licensed as an optometrist or ophthalmologist.

What is the education and training of an optometrist?

The academic credentials of students entering a college of optometry are the same as those entering other health professions and the optometry college curriculum is a minimum of four years. Prior to licensure in Texas, optometrists must take and pass a four-part national examination which test the optometrist on the science of the eye structures, abnormality and disease, treatment and management of disease, and clinical skills. Additionally, applicants must pass a Texas state jurisprudence exam covering the laws and rules of the Texas Optometry Board.

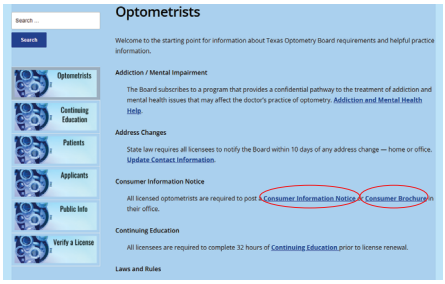
How is the competency of the optometrist continually evaluated?

Optometrists, by law, must complete 32 hours of continuing education each biennial renewal cycle. Twenty-four of the hours must be in diagnostic and therapeutic education and techniques.

Am I entitled to a copy of my patient records?

The Texas Optometry Act states that the optometrist owns the patient record, but the patient is entitled to a copy of the record when a signed written request is made to the optometrist. The optometrist may charge a reasonable fee. A "patient record" has been defined by Board rule as the patient chart, historical record, or working document during the course of examination and patient care between the doctor and patient (but should not be considered a prescription).

tob.texas.gov/optometrists/



When we lose someone

Texas Administrative Code

TITLE 22	EXAMINING BOARDS
PART 14	TEXAS OPTOMETRY BOARD
CHAPTER 273	GENERAL RULES
RULE §273.2	Use of Name of Retired or Deceased Optometrist

- If a partner retires or dies, you are allowed to continue to use their name, however, you must first:
  - Receive their permission (or the permission of their legal representative)
  - Clearly state that they are retired or deceased

Example:

SMITH, JONES & BROWN, INC. OPTOMETRISTS,
Jim Smith O.D. (1912-1981), Jim Jones, O.D. Retired, Paul Brown, O.D

The Optometry Act

A REMINDER that all optometrists are required to follow the provisions laid out in the Optometry Act

Are there Exceptions?

Section 351.005(a)(2) & (b)

(a) This chapter does not:

(2) ***prevent or interfere with the right of a physician*** *licensed by the Texas Medical Board to:*

(A) treat or prescribe for a patient; or

(B) ***direct or instruct a person under the physician's control, supervision, or direction to aid or attend to the needs of a patient according to the physician's specific direction, instruction, or prescription;***

*(b) A direction, instruction, or prescription described in Subsection (a)(2)(B)****must be in writing*** *if it is to be followed, performed, or fulfilled outside the physician's office*

What physicians can do

Sec. 157.001 Texas Occupations Code: *"A physician may delegate to a qualified and properly trained person acting under the physician's supervision any medical act that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate…"*

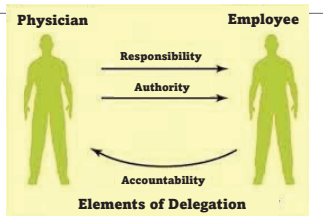
When an optometrist is under delegation of a physician per the terms of Section 157.001 of the Medical Practices Act which means the physician signs the medical record and the prescription, the optometrist is operating under the PHYSICIAN'S license and IS NOT bound by the Texas Optometry Act.

BUT…

If you sign the prescription, you provided the service and you MUST follow the Act and Board Rules as an OD.

Delegation is NOT the same as direction, instruction or prescription.

Optometrists simply employed by, contracted with (legally or illegally), under the direction of, or who receive a paycheck signed by a physician are NOT operating under delegation unless they have a written delegation order from the physician.



NOTE: Texas optometrists have NO legal delegation authority.

Evidence-Based Optometry

How do we know what the "right" way to practice is?

- What we were taught in school?
- Research that provides outcomes?
- It's what everyone else is doing?
- Look at legal cases for precident?
- A combination of all of the above

Standard of Care

A legal term that defines what a reasonable healthcare provider would do in a similar situation.

It may be informed by other court cases

It may vary based on the location or local practice patterns

In most cases, it will be based on evidence, but it may not be quick to change as new evidence emerges.

Evidence based practice

Evidence:

- Any empirical observation about the relationship between an event (or intervention) and an outcome.

"The conscientious, explicit and judicious use of current best evidence in making decisions about the care of the individual patient. It means integrating individual clinical expertise with the best available external clinical evidence from systematic research." (Sackett D, 1996)[1]

Evidence-Based Medicine

History:

- It is a relatively new philosophy.
- It began in Canada in the 1970s
- Formally named in 1990

	EBM
How/ Where?	Group at McMaster University teaching clinicians how to read & apply clinical journals.
When?	• Original idea (Above) = '70s • Term (EBM) = 1990
Who?	Gordon Guyatt, MD (Residency Director in Internal Medicine at McMaster Univ.)

Why should you care?

There are disparities in how the court views Evidence Based Practice and Standard of Care.

Evidence Based practice typically searches for objective data that points to the best quality outcomes. Standard of Care is subjective and can be determined based on expert witness opinion (which may vary widely in a malpractice case)

More court cases are willing to look to at evidence-based practice than in the past, but it seems that Standard of Care arguments still dominate court cases. The predominant question being

"What would a similarly qualified and reasonable medical professional do under the same circumstances?"

Evidence -Based Practice Guidelines help set a standard and are a more objective way to determine what the "right" thing to do is.

https://www.mckeonassociates.com/blog/2017/05/what-is-the-difference-between-evidence-based-standards-and-legal-standard-of-care/
https://journalofethics.ama-assn.org/article/medicine-law-and-conceptions-evidence/2013-01
https://lawecommons.luc.edu/cgi/viewcontent.cgi?article=1456&context=annals

What is the best way to stay up to date?

- Read! Literature informs practice
- Talk to Colleagues and come to meetings– If everyone else is doing it, it must be okay, right?!?
- Best Answer: Find something that is well-researched and uses objective guidelines to produce recommendations that create Clinical Practice Guidelines.

Sira Grosso, J.D., Ph.D., LL.M.

"I suggest that EBM and its Clinical Practice Guidelines (CPGs) are both essential, albeit different, concepts for establishing medical negligence in court. While EBM can clarify the standard of care in medical practice, CPGs may serve in proving this standard…"

So… Does optometry have something like that?

Sira Grosso What is Reasonable and What Can Be Proved as Reasonable: Reflections on the Role of Evidence- Based Medicine and Clinical Practice Guidelines in Medical Negligence Claims, 27 Annals Health L. 74 (2018). Available at: https://lawecommons.luc.edu/annals/vol27/iss1/5

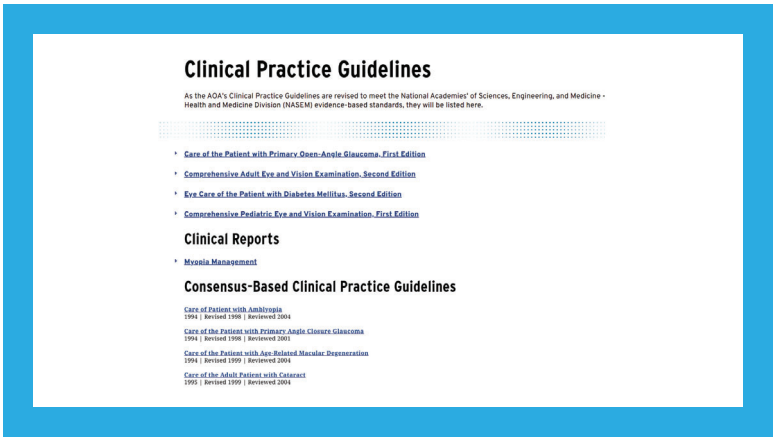
Evidence Based Practice in Optometry

From the AOA:

In 2008, The National Academy of Medicine (NAM) was tasked, by Congress, to determine the best methods for the development of trustworthy clinical practice guidelines. These methods would address the structure, process, reporting and final products of systematic reviews of comparative effectiveness research and evidence-based clinical practice guidelines.

In 2012 the AOA created its own Committee to crease an evidence-based process that aligns with the standards set by the NAM. This is known as the Evidence Based Optometry (EBO) Committee.

There is a 14 step process that is used to create Evidence-Based Clinical Practice Guidelines



Clinical Practice Guidelines

As the AOA's Clinical Practice Guidelines are revised to meet the National Academies' of Sciences, Engineering, and Medicine - Health and Medicine Division (NASEM) evidence-based standards, they will be listed here.

- Care of the Patient with Primary Open-Angle Glaucoma, First Edition
- Comprehensive Adult Eye and Vision Examination, Second Edition
- Eye Care of the Patient with Diabetes Mellitus, Second Edition
- Comprehensive Pediatric Eye and Vision Examination, First Edition

Clinical Reports

- Myopia Management

Consensus-Based Clinical Practice Guidelines

Care of Patient with Amblyopia
1994 | Revised 1998 | Reviewed 2004

Care of the Patient with Primary Angle Closure Glaucoma
1994 | Revised 1998 | Reviewed 2001

Care of the Patient with Age-Related Macular Degeneration
1994 | Revised 1999 | Reviewed 2004

Care of the Adult Patient with Cataract
1995 | Revised 1999 | Reviewed 2004

Highlights from the Newsletter

Identification of an optometrist

John Smith, O.D., or
- John Smith, Doctor of Optometry, or
- John Smith, Optometrist, or
- Dr. John Smith, Optometrist

A therapeutic optometrist must use one of the above identifications, or any of the following:
- Jane Smith, Therapeutic Optometrist, or
- Dr. Jane Smith, Therapeutic Optometrist

Identification of an optometrist

Optometric Glaucoma Specialist

- This title may be used in professional designation but ***only*** in conjunction with one of the approved designations previously mentioned;
  - John Smith, O.D.
    Optometric Glaucoma Specialist, or
  - Jane Smith, Therapeutic Optometrist
    Optometric Glaucoma Specialist

EYEGLASSES AS PRIZE OR INDUCEMENT

Sec. 351.404. EYEGLASSES AS PRIZE OR INDUCEMENT. A person in this state may not give or deliver, or cause to be given or delivered, in any manner, eyeglasses as:

(1) a prize or premium; or

(2) an inducement to sell an item of merchandise, including a book, paper, magazine, or work of literature or art.

You ARE allowed to offer BOGO glasses, and you are allowed to provide glasses for charity as long as it is not used to sell merchandise.

Free Eye Exams

You may advertise a free eye exam, but it cannot be false, deceptive or misleading (Sec. 351.403).

You need to include these statements in the ad:

1. That a prescription is needed to purchase prescription glasses or contacts

2. Any restrictions on the offer if the results of the examination do not show a need for glasses.

False Deceptive or Misleading Advertising

If you are including the price of glasses or CLs in the ad, you must include:

1. If the cost of additional testing or follow up care are included in the price
2. A time limitation on the offer (if the offer is good less than 30 days)
3. If there is less than an unlimited supply, you must specify the total quantity available to all customers
4. If there is a limit per customer
5. The number of CLs that are included in the price (if the ad is for CLs)

HB 1696 – where are we in 2025?

DISCLAIMER

This information may change as things unfold in the courts. This information is current as of February 2025

Link to bill language

HB 1696

Vision Plan and Managed Care Reform

Outline of Bill Provisions – applies only to new contracts entered into or renewed after January 1, 2024

**unless noted, provisions apply to all managed care plans, including vision plans and medical insurance plans*

- Prohibits plans from the identifying and tiering of in-network ODs based on discounts on non-covered services, amounts spent on products, or brands or sources of products utilized by the OD.
- Prohibits plans from steering patients towards any particular in-network OD, any retail location owned by or affiliated with the plan, or any internet site or virtual provider owned by or affiliated with the plan.
- Requires plans to provide direct, immediate, electronic access to complete in-network and out-of-network plan benefits to the patient and OD.
- Requires plans to accept standardized claim submission forms and processes, and reimburse doctors via electronic funds.
- Prohibits improper chargebacks to reimbursements when the plan is not supplying the materials (cost of goods) for a patient.
- Prohibits plans from calling services and products "covered" when the reimbursement amount to the OD is considered "de minimus" in nature. De minimis means of nominal or very small value.
- Prohibits plans from calling services and products as "covered" when zero reimbursement of the service or product comes from the plan to the OD.
- Prohibits plans from using or offering reimbursement rates that are different from another OD based on the OD's particular practice and business decisions, such as what lab they choose to use or what products they choose for a patient.
- Requires plans to give 90-day notice to any provider contract changes.
- Prohibits plans from requiring an OD provide a covered product or service at a financial loss.
- Prohibits plans from requiring that an OD receive reimbursement through a virtual credit card.
- Prohibits plans from requiring an OD to use any particular EHR.
- Prohibits plans from requiring an OD to use any particular clearinghouse or claim filing service.
- Prohibits plans from requiring unneeded and unrelated patient information to file a claim or receive reimbursement for a wellness eye exam, including glasses/contact lens prescriptions, unique anatomical measurements like PD, or facial photographs.
- Prohibits vision plans from using extrapolation as a method to complete an audit. This provision does not apply to medical plans.
- Requires that the provisions of the bill are to be enforced by the Texas Insurance Commissioner.

HB 1696

All provisions are in effect at this time with the exception of the first two clauses.

One strategy that Vision plans used to avoid having to comply with the law was to "Evergreen" existing contracts and close provider panels.

New legislation introduced by the TOA in 2025 seeks to reopen these panels.

While the anti-tiering and anti-steering clauses are being examined by the courts, it is your job to help identify when these laws are being violated. Organizations like the TOA can HELP, but they cannot file complaints with the TDI on your behalf.

From HB 3211

A vision care plan issuer must include on the issuer's internet website a method for a licensed optometrist or therapeutic optometrist to submit an application for inclusion as a participating provider in the plan.

From HB 3211

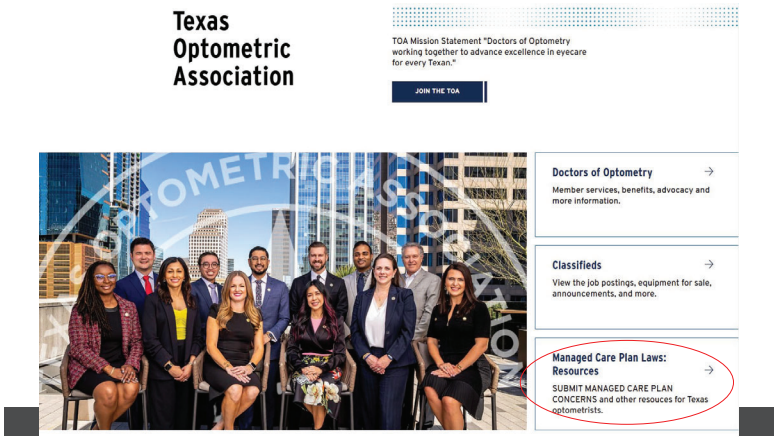
A vision care plan issuer shall:

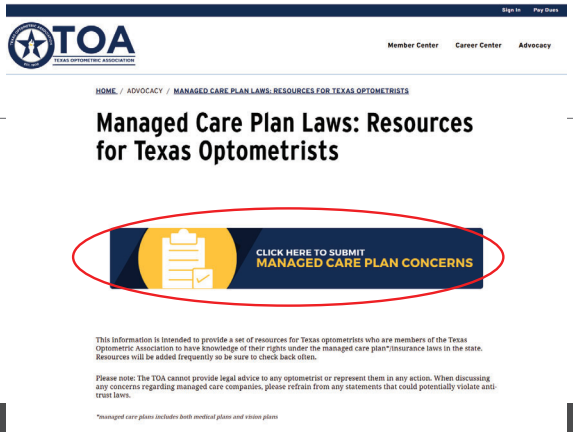
(1) not later than the fifth day after the date the issuer receives an application described by Subsection (b) that meets the plan's credentialing requirements, electronically deliver to the applicant a participating provider contract, including applicable reimbursement fee schedules, provider handbooks, and provider manuals; and

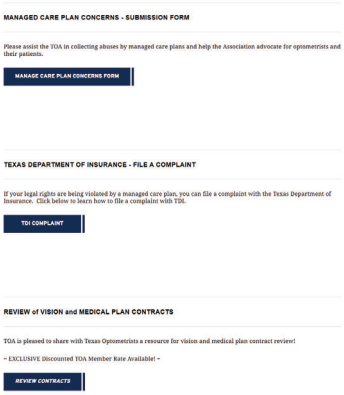
(2) not later than the 20th business day after the date the applicant accepts the contract, include the applicant as a participating provider in the plan.

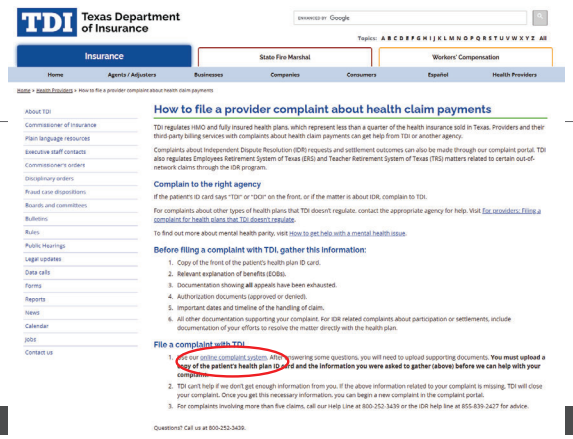
(d) A vision care plan issuer must allow an optometrist or therapeutic optometrist to be a participating provider to the full extent of the optometrist's or therapeutic optometrist's license on all of the issuer's:

(1) vision care plans and other managed care plans with vision benefits that have enrollees located in this state









Professional Recovery Network

Professional Recovery Network

Established in 1981 by the Texas Pharmacy Association
- Optometry was added September 1, 2010

Helps professionals, students and professional staff in the fields of pharmacy, optometry, dentistry and veterinary medicine overcome potential impairment due to substance abuse issues or mental illness.

Professional recovery network

The reporting and treatment are confidential

The goal is to provide public safety while preventing disciplinary action against a professional license.

The above criteria apply if the individual complies with their treatment program.

PRN

Contact information:
- PRN Hotline: 1-800-727-5152
- PRN Address: 6207 Bee Caves Road, Suite 120, Austin, TX 78746
- Website: http://www.txprn.com/

Thank you!

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