



TEXAS OPTOMETRY BOARD

NEWSLETTER

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Texas Optometry Board, 333 Guadalupe St, Ste. 2-420, Austin, TX, 78701; 512-305-8500 (fax: 512-305-8501)

Continuing Education

Approved Courses Check on [website](#) for courses approved by Board
If submitting a course not approved, include supporting documentation so that Board may consider course

Professional Responsibility Course Must be taken each year (by active licensees)

Certificates: Proof of CE Course Attendance

- Mail originals** No facsimiles
- File Copy** Before sending in original, make a copy for your files
- Complete** Certificates should be completely filled out
- License #** Please include license number on certificate

Complete Information See [website](#) for complete CE requirements

Date for Compliance All CE must be completed before renewal

**ALL licenses must be renewed by
December 31, 2010.***

* on-line renewal without penalty is available on 01/01/11. Staff will not be available on that date to assist with renewal issues.

In This Newsletter

Continuing Education Reminders.....	Page 1
License Renewal Information.....	Page 2
Addictions & Mental Health Issues.....	Page 3
Disciplinary Actions.....	Page 3
Advertising	Page 5
Office Inspections.....	Page 6
50 Years of Practice Recollections.....	Page 6
New Lower License Fee	Page 7
Using the Website.....	Page 7
Survey Results	Page 7
Board Rules, New & Amended:	Page 8

License Renewal

All licenses must be renewed by December 31 (01/01/11 for on-line renewals - see notice on first page). Doctors who do not renew cannot practice until their license is renewed. Significant penalties apply to late renewals. Substantial penalties apply for late continuing education compliance.

NEW REGISTRATION PROCESS

The Board will be using a new computer system for license renewals this year. Beginning November 1, doctors wishing to renew on-line will need to register and obtain a password before they may renew. This procedure is a security procedure to protect against the disclosure of personal data. The Board appreciates your cooperation with the new procedure.

Last year over 85 percent of doctors renewed on-line.

CONTINUING EDUCATION

All active licensees (except those first licensed in 2010), must obtain 16 hours of CE before renewing. Please review page one and the [website](#) for more detailed information.

RENEWAL PROCESS

- Start: Renewal Notice Postcard mailed late October
- Period Begins: November 1
- Instructions: On website after 11/1/10
- On-line Renewal: On Board's [website](#)
- Paper Renewal: Request form @ 512-305-8500
- End: December 31 (01/01/11 for on-line renewals)
- Renewal Certificate - Renewal certificates are normally mailed within seven days after payment clears (If certificate is needed for insurance, an early renewal will allow sufficient time to receive certificate)

Please note that the Board cannot guarantee the availability of the license renewal computer to renew timely at the last minute. If a doctor does not have access to a computer, paper renewal forms can be sent upon request.

Jules Dupuy, O.D.

1960

I graduated U. of H. Optometry School in 1960 with a Bachelor of Science degree and a Certificate of Completion in Optometry after five years. The Doctor of Optometry degree required another year of school, which I declined.

As it is today, getting a successful practice started, or becoming an employee was the big decision. I had no money and I remember an offer of \$600.00 per month locating in the back of a jewelry store in an undesirable location in Shreveport, Louisiana. I declined that not so attractive offer. The dichotomy between "commercial" and "professional" solo practice was much greater then than now.

To give a little perspective on the 60's, I bought the established practice of recently deceased Dr. Arch Harbour, a very active TOA member and Optometry Board Member. I paid \$10,000. His exam fee was \$3.00 and on day one all of the pre-appointed patients failed to show. I raised the exam to \$5.00 and started anew.

The best change I've witnessed in the profession is the vast improvement in education. My career essentially started as on the job training as I dealt with patients face to face. We simply did not have the medical background needed to be equal with the Ophthalmologists I had to compete with. I am always impressed with the newer graduate's confidence and education.

When I took the therapeutic course in 1995, I was listening to the lecturer very carefully while recent graduates were checking out the daily newspaper. I've certainly enjoyed the wider scope of practice that followed.

I think the progress in education has been remarkable but let's not forget our roots as primary vision care experts and vision therapists. The push for licensing opticians to take over refractions can only be emboldened by the recent happenings in British Columbia, Canada. Ophthalmology's interest in optical dispensing is financially threatening as well.

For the new graduates just beginning careers I strongly recommend they become expert in practice management and business accounting principles. That is no less important than their professional skills. I always treated my patients as I would have wanted to be treated. Integrity in all of your dealings in life is the most important quality you can bring to any profession.

I've been retired for five years and am enjoying life without the challenge of two offices and fourteen employees. I do a regular two day week relief position and find that to be a good balance of leisure and active involvement. I plan to continue with this as long as it is enjoyable.

Substance Abuse Mental Health Issues

LICENSEES & STUDENTS

The Board is signing a contract with the Texas Pharmacy Association to operate a Peer Assistance Program. A licensee or optometry student with a substance abuse and/or mental health issue that may affect their ability to provide proper health care may contact the Program for assistance. The licensee will be given the opportunity to be evaluated. If a problem is identified, a program will be devised for the licensee. Provided that the licensee complies with the program, the assistance provided and corrected condition will remain confidential. However, if the licensee refuses to enter into a program or does not follow the program, the Program will be required to report the licensee to the Board.

Note that work associates or family members may also refer a licensee or student to the Program. Once the Program is ready to accept referrals, a link will be added to the website with contact information. In addition, a licensee, work associate, or family member may also telephone the Board.

All treatment costs are the responsibility of the licensee.

PATIENTS

State law requires the Board to provide information regarding:

- (1) prescribing and dispensing pain medications, with particular emphasis on Schedule II and Schedule III controlled substances;
- (2) abusive and addictive behavior of certain persons who use prescription pain medications;
- (3) common diversion strategies employed by certain persons who use prescription pain medications, including fraudulent prescription patterns; and
- (4) the appropriate use of pain medications and the differences between addiction, pseudo-addiction, tolerance, and physical dependence.

This information is available on the website of the [Texas Board of Pharmacy](#).

Disciplinary Matters

ADMINISTRATIVE PENALTIES

For 2009 - 2010, administrative penalties were issued in the following agreed settlements for alleged violations of the Texas Optometry Act and Board Rules. All penalties have been paid.

Administrative penalties were issued for failure to comply with the professional identification requirements of the law. See the next page for the identification requirements.

Incorrect identification on signs, including the identification on the front door of the practice. **Administrative Penalty:** \$100

Incorrect identification on prescription pads. Two licensees agreed to submit administrative penalties. **Administrative Penalties:** \$100 each

The Board also issued administrative penalties in the following agreed settlements:

Failure to sign a prescription for optical goods. Board alleges that doctor pre-signed prescriptions and allowed staff to fill out prescription parameters without further review, such that doctor did not actually sign a completed prescription. Optometry Act Section [351.359](#); Rule [279.2](#); Contact Lens Prescription Act Section [353.152](#). **Administrative Penalty:** \$100

Failure to display name of doctor. Doctor's name was not visible to the public before entry into reception area. Board alleges that none of the four doctors receiving an administrative penalty had their name posted on the door or front window of the practice. Optometry Act Section [351.362](#). **Administrative Penalties:** \$100 each.

Failure to record examination findings in patient record. Board alleges one doctor did not record near subjective findings in patient record. That finding was necessary for diagnosis made. An additional doctor receiving an administrative penalty was alleged to have omitted accommodation findings and the diagnosis

in the patient records. [Rule 277.7](#) **Administrative Penalties:** \$100 each

Failure to respond within 14 days. Board alleges information was requested from doctor and no response was received, requiring several additional attempts. Board rule requires response within 14 days of Board's request. Rule [277.1](#). **Administrative Penalty: \$100**

Separation from Optical. Doctor's practice is alleged to have had an entrance opening into an optical. Optometry Act Section [351.364](#). **Administrative Penalty: \$100**

Control by Optical. Complaint concerning doctor's care stated that doctor used optical staff in mercantile to make appointments and provide credit. Board alleges that doctor allowed optical in mercantile to control his practice. Optometry Act Section [351.408](#) and Section [351.459](#). **Administrative Penalty: \$300**

DISCIPLINARY ACTION

—Failure to Make Patient Record of Initial Examination

Five patient records were obtained from the doctor during an inspection of the doctor's office. The Agreed Settlement Order alleges that licensee failed to record in the patient records of the five patients: the medical history; the results of a biomicroscopic examination of the lids, cornea, and sclera; the full results, recorded individually, of an internal ophthalmoscopic examination (with the exception of the recording of the cup to disc ratio); and results of an assessment of binocular function, including the test used and the numerical endpoint value. The doctor's license was suspended for a year, with the period of suspension probated. The terms of the Agreed Settlement also required the doctor to submit an administrative penalty of \$2,000.00, and obtain an additional 16 hours of continuing education. Texas Optometry Act Section [351.353](#). Board Rule [277.7](#). Daniel Sun Jee, O.D.; 2544

—Practicing With Expired License

Agreed Settlement Order alleges that doctor did not renew license until almost a year after the December 31 expiration date. For

several months during the period that the license was expired, the Agreed Order alleges that the doctor practiced optometry, and in addition, hired doctors to practice optometry in the practice owned by the doctor. The doctor's license was suspended for a period of one year, with the period of suspension probated. The terms of the Agreed Settlement also required the doctor to submit an administrative penalty of \$6,000.00, and file quarterly reports with the Board concerning continuing education completed by the doctor. Texas Optometry Act Sections [351.301](#), [351.408](#), [351.501](#). Kristyna Dan Thanh Le, O. D.; 6360T

PROFESSIONAL IDENTIFICATION

An optometrist, in common with all health professionals, must inform the public of their professional license. State law requires an optometrist to use the following whenever the optometrist identifies himself or herself (no exceptions):

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

These designations are set out in the Healing Arts Practitioners section of the Occupations Code (Section 104.003).

An optometric glaucoma specialist must first use one of the above designations prior to identifying themselves as an optometric glaucoma specialist. The Attorney General in Opinion JC-381 (2001) ruled that "An optometric glaucoma specialist may not use the phrase 'optometric glaucoma specialist' exclusively as a professional designation." An example of a proper identification is:

John Smith, O.D.
Optometric Glaucoma Specialist, *or*

Jane Smith, Therapeutic Optometrist
Optometric Glaucoma Specialist

REVIEW OF ADVERTISING GUIDELINES

Prohibited acts:

- Advertising by optical: Mention of an optometrist's office in an advertisement placed by a retailer, manufacturer, or wholesaler of optical goods is prohibited (unless the optometrist owns the optical).
- Referring to an optical: Reference to a retailer, manufacturer, or wholesaler of optical goods in an advertisement by an optometrist is prohibited, even as location landmark (prohibited example: "Next door to YYYY Optical").
- Specialist: Using the term "specialist," such as "Contact Lens Specialist," is prohibited unless the optometrist also includes the name of the organization conferring the specialty designation. An acceptable example, *Janet Smith, O.D., Contact Lens Specialist, Certified by the North American Contact Lens Foundation*. An optometrists may advertise that he or she specializes in a certain type of treatment or patient.
- Certified or Fellow: Using the term "certified" or "fellow" is prohibited, unless the name of a readily identifiable organizations providing the certification or fellowship is clearly included in the advertisement. An acceptable example: Joe Smith, O.D., FNAEI, Fellow of the North American Eye Institute. The Board licenses optometrists, therapeutic optometrists, and optometric glaucoma specialists. The Board does not certify types of licenses or practices. Please see [Rule 279.9](#), which has read since 2001:
 - (b) The term "board certified" or any similar word or phrase denoting certification or specialization may be used by an optometrist if the advertising includes the name of the organization that has conferred the certification or specialization. The Texas Optometry Board does not confer certifications or specializations.

I was born in Brooklyn, New York and attended Brooklyn College for my undergraduate work, and then transferred to I.C.O. in Chicago. I graduated in 1955 in an accelerated program that merged the two optometry schools into I.C.O. My class was the first to graduate with an I.C.O. Diploma.

After working for the college and private practice, I was called into the service as an Optometry Officer in 1956 and was sent to William Beaumont Hospital in El Paso, Texas. At that time there was only a handful of commissioned officers serving as Optometrists in the military. When I reported for duty at the Hospital, there were four enlisted Optometrists, and myself as the only Optometry Officer. I saw this situation gradually change in the military, where today all Optometrists are commissioned officers.

On my discharge from active duty and reserve time, I returned to private practice in the Chicago area with my wife Beverly in 1959. We returned to Texas where I enrolled in a Post Graduate course at the University of Houston School of Optometry before sitting for the Texas Exams. We returned to El Paso where I was employed by a Texas state optometric chain. After a time with the chain, I purchased the practice, and I have been in Private Practice since then.

My wife and I raised two sons, Dr. Dennis J. Reiter, Ophthalmologist, and Dr. Todd A. Reiter, Optometrist, both practicing in El Paso, and have two daughter-in-laws, and six grand children. I am a past State President of the old T.A.O. and was active in Optometric Politics for many years. I am still an active member of BETA SIGMA CAPP Society, but have reduced my community activities over the years.

In my years of practice, I have seen many good trends and unfortunately bad ones. National Corporate chains were always a tempting alternative for young Optometrists coming out of school in my day. However, today it is more of a draw because of the high debt incurred by young graduating Optometrists. This is an ongoing problem for private practice minded Optometrists. Thankfully in Texas we have a two door law that may help. My advice to new Optometrists is be careful, and don't trade your independence for what you perceive as high initial income. The big boxes and corporate practices will not satisfy you down the road. The big threat as I see it today is the idea that the Medical mode of practice is the number one way to practice Optometry. I wholly disagree with this thinking. Organized medicine and Ophthalmologists are not friends of Optometry. You are smart and capable when employed by them doing most of the foot work. But, never on an equal ba-

Morris Reiter, O.D. (continued)

sis when competing against them. For example: you can't sit in an educational meeting with them, nor attend any seminars that are sponsored by them. And, you will never ever be a full equal partner in the practice. The amount of patients that you will see on a daily basis makes corporate practice pale by comparison. You will not be able to practice primary Optometry as taught to you in school. (Basic Competence in exams as required in Texas will be out the window).

The other major threat to Optometry is the Vision Insurance Industry. These companies want Optometrists to work at slave labor prices. They want volumes out of us to make up for their lack of proper professional fees. I warn young Optometrists not to accept Insurance Plans that do not treat the Optometrists fairly. Do not take every plan that comes along.

I see a bright future for Optometry if they stay with independence, and remember that Optometry should be a practice of Optometrists. We should not try to emulate medicine to become "Real Doctors". You are Doctors in your own right, and your image will be enhanced in the public's mind if you stay independent.

Optometry has been a wonderful profession for me and my family, and I intend to stay active in Optometry if my health permits me.

Office Inspections

The Board has investigated offices and examinations for over 30 years. The current procedure has the Board's investigator visiting licensee's offices and asking for copies of a few recent patient records. These records are reviewed by the Board for compliance with Section [351.353](#) and Rule [277.7](#).

Although HIPAA regulations do not prohibit the copying of the entire patient record by the Optometry Board, a licensee may remove personal identifying information from the copies. The office inspection should only disrupt a practice for a short time as staff may make the copies requested by the Board. Frequently the visit only requires 15 minutes of the office's time (depending in part on the speed of the copier). This is a performance measure set by the legislature for the Board. This year the Board inspected offices in Houston and Fort Worth.

50 Years of Practice

Thirty-six optometrists have been actively licensed for 50 years or more. Many of these licensees have had their comments published in past newsletters. This issue has the most recent comments. Comments have been edited by the editor due to space issues. Publication is not an endorsement of the comments.

Samuel Gold, O.D. 1959

When I graduated from Pennsylvania College of Optometry in 1956, our principle focus was on physics and math, and even minor systemic conditions such as conjunctivitis were regularly referred. Today's graduates have a far better understanding of the impact of the whole body as it concerns a patient's vision. We had difficulty referring patients, and only a few ophthalmologists would refer our patients back to us for their visual needs. This is a very positive development today.

The worse change is the mall hours that our practices have maintained. In 1960 or 1961 all of the optometrists in Houston got together and decided that we would be open 9:00 to 5:30, Monday thru Friday, and 9:00 to 1:00 on Saturday. Almost all did this, and it was very pleasant. There are only so many patients to be seen in any one week or month and there was no need to add 20-30 hours per week to our office schedules. If you need an MRI or even a chest x-ray you go during regular hours, not on Sunday.

The best advice I can give younger optometrists is to talk to and become friends with your patients, while maintaining a doctor-patient relationship. I take time and explain what I am doing and findings. I draw pictures and explain about my findings. When the patient is in the chair they are your most important patient. Tell the patient that if a family member wants an explanation, to call or come in and I will discuss my results. I still do all of my case histories and I ask a lot of questions!

If I sold my office all I would get for it is money. I have done better. I practice with my two sons. The best of all worlds. Two of my grandsons have expressed an interest in optometry.

What am I doing now? I'm smiling! At 77, what a lucky man I am.

— New Lower License Fee —

At the August 2010 Board Meeting, the Board proposed amendments to Rule 273.4 to lower the license renewal fee by \$8.00. For active licenses, the 2011 license renewal fee will be \$409.00 (includes a \$200 professional fee). For inactive licenses, the fee will be \$209.00.

A lower license renewal fee is possible because the Board has completed the purchase of the replacement computer database.

William Elizondo, O.D. 1959

Upon graduating Cum Laude as the Vice-President of the graduating class from Southern California College of Optometry (formerly Los Angeles College of Optometry) in summer of 1959, passing the Boards of California and Texas in the fall of 1959, I entered the private, non-commercial, practice of Optometry in San Antonio. My initial office was located on the fifth floor of a downtown building and was outfitted with brand new equipment. Our initial complete eye examination fee was between \$3.00 and \$5.00. My philosophy was and continues to be a professional approach in a professional setting following the 1960's AOA guidelines. My hours were, and today continue, to be by appointment with the exceptions of urgencies and emergencies.

In my first and second year in practice I employed one person and grossed \$8,700 and \$13,000, respectively, with future returns continuing upwards. Early in my career, I was offered salaries three times those amounts in commercial settings which I did not accept. In the 50's we prescribed sclera (later hard) contact lenses which were 15-18 mm width, whereas we now have a myriad to prescribe. During the hard contact lens era (60's-70's), I was often awakened in the wee hours of the morning by patients over-wearing their contact lenses with resulting corneal abrasions. I would meet them at that time of the morning in my office only a few minutes away. Opportunely, a wondrous evolution in Optometry occurred from that 50's eye exam, lenses and frames, and "not to touch the eyes" profession to the now greater reaching medical practice of optometry.

From the 60's to 80's, private pay patients were the norm. There were no managed care programs or managed care paperwork involved in the practice. If asked what was the worst change in the practice, I would say the evolution of managed care. Conversely, the best change is the growth of optometric services to the public. Due to the persistence, dedication, and sacrifice of the visionaries in our profession, we have the opportunity to provide more complete eye

continued on next page

— Using the Website —

WHERE TO LOOK FOR QUICK ANSWERS

Frequently the Board receives questions along with the explanation, "I could not find this anywhere on the website." Staff is happy to answer the question, but more often than not, the answer to the question is on the website.

Start your search by going to the "Main Information Page" [[Website Home Page](#) > [Table of Contents](#) > [Main Information Page](#)] where over 50 topics are covered, from ADA to Volunteer. Topics are organized alphabetically.

Information on "Continuing Education," "Prescription Requirements" (drug and optical), and links to "Forms," "Optometry Act," and the Board "Rules" are accessible straight from the Table of Contents [[Website Home Page](#) > [Table of Contents](#)].

Many of the topics on the "Main Information Page" were added after receiving questions from licensees. If you have any suggestions for additional topics, or any other item on the website, please notify the Board.

Comments from the Customer Satisfaction Survey are always considered, and websites for other agencies and other states are examined to continually refine the Board's website. You may notice that the home page has been streamlined in order to take users to the information more quickly. In addition, the home page is formatted so that it may be translated by web translation programs more completely.

— Customer Service Survey —

The 2010 Customer Service Survey shows continued satisfaction by all of the agency's customers: licensees, applicants for license, website users, and complainants.

About 360 licensees completed the survey, and many provided comments, both favorable and unfavorable. Results were extremely similar to the 2008 survey. All the comments were read by the staff and provided to all the Board Members. Several comments suggested e-mail notifications from the Board. The Board added such notifications for this newsletter.

William Elizondo, O.D. (continued)

care to our patients. We must salute and thank the leadership from the TOA, AOA, and optometric schools who provided millions of hours so that we may enjoy the expanded privileges today. Our leaders advanced the profession into subspecialties: low vision, contact lenses, visual therapy, pediatrics, geriatrics, therapeutics, treating glaucoma, and others.

A strong work ethic and thriftiness from a very young age was instilled by my family and provided me energy and assets to pay for all my Optometry education. Beginning at six, I worked in my father's grocery store and later at a pharmacy. In middle and high school I worked at a drug store every day after school (no child labor laws in the 40's). I also worked as a shoe salesman, real estate salesman, warehouseman, city clerk, and Post Office clerk and carrier. While serving in the Marine Corps in California and later in combat in the Korean War (1951) with the First Marine Division, I would send 80% of my pay home to support the family business, and unbeknownst to me my parents actually saved the entire amount and presented it to me after my tour of duty. Federal loans, grants, or loans of any kind did not exist in the 50's, hence your family or you had to pay college when you registered. The money I saved was enough to pay for most of my tuition at optometry school but I found myself working through school for room and board. I went to school during the work week and managed to watch some professional football games on the weekend at the Los Angeles Coliseum as I ushered people to their seats. Other weekends went by quickly, as I worked as an orderly and nurse's assistant in a hospital and during the summers, when I had more "free time," I worked construction during the day and at LEUR Packing at night. I realized that extra time was important and one must be industrious and productive to obtain desired goals.

Time continues to be a commodity even now, however I would strongly urge all of our colleagues to dedicate or rededicate their extra time towards continuously building our profession in all levels of government. We must urge our younger doctors to be highly involved in community and political affairs. Each doctor should meet their respective Representative, Senator, Lt. Governor, Governor, and Federal Congressmen. These are the individuals that develop, design, and direct our chosen profession and determine whether we can provide the optometric care for which we are trained. Along with vision and medical insurance programs, they decide to whom you can medically and visually prescribe your services. In the past 40 years, optometry has been elevated in the eyes of the general public because of the enhanced optometric services we can provide, and consequently, allow us to obtain more appropriate compensation. This accomplishment could not have been obtained without continuous involvement in all levels of government.

New Rules & Amendments

The Board has met four times since the last newsletter was published. New rules and amendments to existing rules may be proposed or adopted at each Board Meeting. When a rule is first proposed, the public, including licensees, have an opportunity to make comments on the proposal. A link to the proposed rule will be on the [Board's website](#). Once a rule is adopted, all licensees are required to comply with the rule. The [website](#) contains links to all the Board Rules.

The following rules were amended during the last year:

- [§273.7](#) and [§275.1](#) **Retired License:** Amendments to implement legislative changes regarding the retired license to practice volunteer charity care. License limits doctor to volunteer practice for charity organizations. Renewal fee is reduced and continuing education requirements are not as extensive. Permits doctors who have allowed their license to expire to obtain the retired license to practice volunteer charity care.
- [§271.7](#). **Criminal History Evaluation Letters:** Students, when enrolling in optometry school, can request an opinion from the Board regarding the effect of criminal history on their eligibility for license.
- [§273.13](#). **Community Health Center Employment:** A new rule with procedures for those doctors seeking employment with Community Health Centers.
- [§271.3](#). **Internet Exam:** Amendments made to allow the Jurisprudence Examination to be administered over the Internet.

Application and continuing education requirements for the Retired License to Practice Volunteer Charity Care

§273.7. Inactive Licenses and Retired License for Volunteer Charity Care.

(a) - (c) (No change.)

(d) Retired License. The Board may issue a Retired License to optometrists or therapeutic optometrists [~~Occupations Code Section 112.051 requires the Board to adopt rules providing for reduced fees and continuing education requirements for a retired health care practitioner~~] whose only practice is volunteer charity care pursuant to subsections (d) - (k) of this section.

(e) Application. An applicant holding a current license may apply for a Retired License by submitting to the Board a completed application with the license fee required by §273.4 of this title (relating to Fees (Not Refundable)) [~~for a Retired License must complete and submit to the Board the Retired License Application~~] There is no charge to apply. A Retired License will not be issued to applicants subject to current or pending disciplinary action. In determining whether to grant retired status, the Board shall consider the age, years of practice, and status of the license holder at the time of the application. Applicants must supply proof that the continuing education requirements for a Retired License have been met in §275.1(g)(1) of this title (relating to General Requirements) [~~See §275.1 of this title~~] (Rule 275.1).

(f) Application by Expired Licensee. A former licensee whose license has expired for one year or more may apply for a Retired License by submitting to the Board a completed application with the license fee required by §273.4 of this title. There is no charge to apply. A Retired License will not be issued to applicants subject to current or pending disciplinary action. Applicants must supply proof of having met the continuing education requirements of §275.1(g)(2) of this title. An applicant for a therapeutic Retired License must have been licensed by the Board as a therapeutic optometrist. An applicant for a therapeutic Retired License whose license has been expired for five years or more must supply proof of a passing score on the jurisprudence examination taken within the one year period prior to the submission of the application. In determining whether to grant retired status, the Board shall consider the age, years of practice, and status of the license holder at the time of the application.

(g) [(f)] Scope of License. The holder of a Retired License may practice optometry or therapeutic optometry in the same manner as an active licensee of the Board, subject to the restrictions contained in this section. A holder of a Retired License may only practice optometry or therapeutic optometry when such practice is without compensation or expectation of compensation (except for the reimbursement of travel and supply expenses) as a direct service volunteer of a charitable organization.

(h) [(g)] Charitable Organization. A charitable organization [~~is defined in Section 84.003 of the Texas Civil Practice and Remedies Code and~~] includes any bona fide charitable, religious, prevention of cruelty to

Richard T. Delgado, O.D.

1960

Fifty years ago an Optometrist was capable of identifying eye diseases, but could not even use ophthalmic eye wash because he would be practicing medicine. If you practiced in a corporate setting, i.e., TSO, you were not embraced or invited to join any local, state, or national Optometry societies. You were considered inferior and unethical. And now today, if you are not therapeutic/glaucoma specialist, you are like some step-child.

The best changes have really emerged in the last 30-40 years through education and training techniques. Optometry has enhanced its scope of practice laws, gaining the privileges to function as primary eye-care physicians. Had organized Ophthalmology had its ways and wishes, Optometry today would still be a profession with no privileges, including no privilege to utilize diagnostic and or therapeutic skills.

Worst change, maybe because of the education emphasis on diagnostic and therapeutics, is that refracting skills have slipped some. This leaves the gate open for opticians to refract (some are already doing so). As a second worst change: we may be graduating too many OD's.

After 50 years I believe I chose the right profession. I still enjoy going to my office and performing my duties with the same care each patient desires, using the education and skills to the very best of my ability. This philosophy has never wavered from day one to the present. I thank the Lord for this opportunity, and privilege to serve - still practicing.

children or animals, youth sports and youth recreational, neighborhood crime prevention or patrol, or educational organization (excluding fraternities, sororities, and secret societies), or other organization organized and operated exclusively for the promotion of social welfare by being primarily engaged in promoting the common good and general welfare of the people in a community, including these types of organizations with a §501(c)(3) or (4) [~~Section 501(c)(3) or (4)~~] exemption from federal income tax, some chambers of commerce, and volunteer centers certified by the Department of Public Safety.

(i) [(h)] Renewal. A Retired License expires on the same date as a regular license. Prior to renewing the license, the licensee must supply proof that the continuing education requirements for a Retired License have been met. The license renewal fee is set in §273.4 of this title.

(j) [(i)] Penalty. The holder of a Retired License shall not receive compensation for the practice of optometry. To do so constitutes the practice of optometry without a license and subjects the optometrist or therapeutic optometrist to the penalties imposed for this violation.

(k) Reinstatement of an Active License by a Holder of a Retired License. The Board may reinstate an active license to applicants who hold a Retired License pursuant to the requirements of this subsection. Applicants may apply for reinstatement by submitting to the Board a completed application with the application fee required by §273.4 of this title. Applicants must supply proof that the continuing education requirements for an active license have been met. If the Board approves the application to reinstate the active license, the Board may issue the license once the requirements of subsection (b)(1)(C) and (D) of this section have been met. An active license will not be issued.

§275.1. General Requirements.

(a) -(f) (No change.)

(g) Retired License Continuing Education.

(1) An applicant with a current license applying for [or a licensee renewing] the Retired License shall obtain 8 hours of Board [board] approved continuing education during the calendar year preceding the date of application [prior to receiving or renewing the license]. All of the hours may be obtained on the Internet or by correspondence. At least one half of these hours must be diagnostic/therapeutic as approved by the Board and one hour must be professional responsibility [board].

(2) An applicant whose license has expired for one year or more shall obtain 16 hours of Board approved continuing education during the calendar year preceding the date of application. All of the hours may be obtained on the Internet or by correspondence. At least 8 of these hours must be diagnostic/therapeutic as approved by the Board and one hour must be professional responsibility.

(3) The holder of a retired license shall obtain 8 hours of Board approved continuing education during the calendar year prior to renewing the license. All of the hours may be obtained on the Internet or by correspondence. At least one half of these hours must be diagnostic/therapeutic as approved by the Board and one hour must be professional responsibility.

Student Request for Decision on Criminal Background

Rule §271.7. Criminal History Evaluation Letters

(a) Authority. A person may request the Board to issue a criminal history evaluation letter regarding the person's eligibility for a license as authorized by Chapter 53 of the Texas Occupations Code.

(b) Eligibility. Only a person planning to enroll or who is enrolled in optometry school and who has reason to believe that the person is ineligible for licensure due to a conviction or deferred adjudication for a felony or misdemeanor offense may request the criminal history evaluation letter.

(c) Request. The request must include:

(1) A completed Board request form available from the Board;

(2) A statement by the person of the basis for the person's potential ineligibility;

(3) The required fee set out in §273.4 of this title;

continued on next page

Thomas Riebe, O.D.

1955

Dr. Riebe graduated with the first graduating class of the University of Houston in 1955. After his military service, he took over the practice of a deceased optometrist and practiced on the fourth floor of an office building in downtown San Antonio. Dr. Riebe did not charge for eye exams -- income for the practice was generated by the optical goods. But the rent for the office was only \$100.00 a month. Zale's Jewelry was located on the bottom floor, and Dr. Riebe did charge \$5.00 for patients referred by the store. At that time the norm was a very basic patient record kept on a 3 x 5 card. Another aspect of practice during the 1950's was an extremely limited choice of frames available to the patient.

Ten years later Dr. Riebe built his own office and practiced in that office until the mid 1980's when he sold that practice. The doctor moved to a rural area North of San Antonio where he maintains a small part-time practice of two days a week when he is not operating his ranch.

Dr. Riebe has seen many positive changes since he started practicing: the most significant being the ability to use diagnostic drugs, but also the development of the many types of contact lenses including toric lenses, and of course being able to charge for eye exams. Negative changes include the involvement of insurance companies with complicated claim submission forms and the possibility that claims will be denied. Dr. Riebe also feels that the emphasis optometry placed on visual exams has become less of a priority with the greater emphasis on the medical aspect of exams. The doctor notes that the art of refraction was at one time a real positive difference between the practice of optometrists versus physicians.

Dr. Riebe believes that doctors should take plenty of time with each patient and show real concern for the patient and their family. Prices should be reasonable, and the doctor should be able to explain the charges. Establishing relationships with his patients built up a loyalty between patient and doctor. Dr. Riebe did not advertise and did not even send out patient reminders. He has had patients who would try other doctors and then come back to see him after their experience with that other doctor.

It was always assumed the Dr. Riebe would enter the profession since his father was an optometrist. He says that he has much enjoyed the practice of optometry and would choose the same career if given the chance.

(4) Official copies of all court documentation regarding a conviction or deferred adjudication which the person believes may make that person ineligible for license; and

(5) Proof that the person has requested the Federal Bureau of Investigation and the Texas Department of Public Safety to provide a criminal history report to the Board based on fingerprints submitted by the person.

(d) Investigation. The Board has the same powers to investigate a request submitted under this section and the person's eligibility that the Board has to investigate a person applying for a license. The Board may request additional information from the person in order to complete the investigation. The person must timely respond to requests from the Board.

(e) Issuance of Letter. The Board will issue a letter stating that a ground for ineligibility does not exist or a letter setting out each basis for potential ineligibility and the Board's determination as to eligibility, within 90 days of the receipt of the items listed in subsection (c), and receipt of the criminal history report on the person from the Federal Bureau of Investigation and the Texas Department of Public Safety. The 90 day period may be extended if the person has not timely provided information requested by the Board.

(f) Limitation of Board's Determination. In the absence of new evidence known to but not disclosed by the person or not reasonably available to the Board at the time the letter is issued, the Board's ruling on the request determines the person's eligibility with respect to the grounds for potential ineligibility set out in the letter. The letter is limited to the law in effect on the date the letter is issued.

Employment by Community Health Centers Authorized

§273.13. Contract or Employment with Community Health Centers.

(a) Definitions.

(1) Community Health Center. A nonprofit corporation under the Texas Non-Profit Corporation Act and §501(c)(3), Internal Revenue Code of 1986 that is organized and operated as either:

(A) a migrant, community, or homeless health center under the authority of and in compliance with 42 U.S.C. §254b or §254c; or

(B) a federally qualified health center under 42 U.S.C. §1396d(l)(2)(B).

(2) Application for Certification by Board. A completed application contains:

(A) the completed application form provided by the Board,

(B) the certificate of incorporation under the Texas Non-Profit Corporation Act;

(C) documentation that the organization is tax exempt under §501(c)(3) of the Internal Revenue Code and,

(D) documentation that the organization is organized and operated as a migrant, community, or homeless health center under the authority

of and in compliance with 42 U.S.C. §254b or §254c, or is a federally qualified health center under 42 U.S.C. §1396(d)(1)(2)(B).

(3) Certified Community Health Center. A community health center certified by the Board as making application and meeting the requirements of this section and therefore authorized to employ an optometrist or therapeutic optometrist. A certified community health center shall annually report to the Board the status of the community health center under paragraph (1) of this subsection, and shall notify the Board immediately if the health center no longer meets the requirements of paragraph (1) of this subsection. The Board shall remove the certification granted if the community health center does not meet the requirements of paragraph (1) of this subsection.

(b) Section 351.367 of the Optometry Act authorizes an optometrist or therapeutic optometrist to contract with or be employed by a certified community health center to practice optometry and therapeutic optometry.

On-line Jurisprudence Exam Procedures

§271.3. Jurisprudence Examination Administration.

(a) -(c) (No change.)

(d) Applicants shall not communicate any words or signs, in person, in writing, or electronically, with another applicant while the applicant's [the] examination is in progress. Applicants shall not collaborate in any manner with any other person, including another applicant, a licensee, or a staff member of the Board, on examination matters while the applicant's examination is in progress [without the permission of the presiding examiner, nor leave the examination room except when so permitted by the presiding examiner]. Violations of this rule shall subject the offender to disciplinary action [expulsion].

~~[(e) The executive director or designee shall at all times be in the examination room while the examination is in progress and no persons except applicants, board members, employees of the board, or persons having the express permission of the board shall be permitted in the examination rooms.]~~

~~[(f) At the beginning of an examination each applicant shall select a number. Applicants shall use the number for purposes of identification throughout the examination, and no applicant name or any other identification mark other than the selected number shall be entered on any paper containing answers to the questions of an examination. Members of the board shall in every way endeavor to avoid identification of an applicant prior to the awarding of the general averages.]~~

(e)[-(g)] Examination materials [papers] are the property of the board and shall not be returned to the applicant. An [All test papers must be retained in the board office to be preserved for a period of 30 days after final grading in order to allow an] unsuccessful candidate may [the opportunity to] request an analysis of such person's performance, which request must be made in writing within 30 days after final grading [such 30-day period].