



# 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)

## CE Requirements

### Every Optometrist with an Active License

**Human Trafficking Course:** A one hour course on Human Trafficking is required to renew your license. The Health and Human Services Commission determines the available course(s). At present, one on-line free course is available.

Instructions:

<http://www.tob.texas.gov/files/PDFdocs/HumTrafIns.pdf>

**12 D/T Hours:** Twelve of the 16 hours must be D/T hours. This is an increase from previous years.

### Opioid Prescribers

**Optometrists who now prescribe or will prescribe opioids in 2021:** A one hour course in best practices, alternative treatment options, and multi-modal approaches to pain management that may include physical therapy, psychotherapy, and other treatments is required to renew your license. Approved courses are listed on the Board's website:

<http://www.tob.texas.gov/files/PDFdocs/OPIOIDCE.pdf>

### COVID - 19 Requirements

**Live hours:** eight hours must still be live hours. The Board allows licensees to obtain live hours from attending a live webinar. A live webinar is a course presented on the Internet which is held on a specific date and time, attendance is verified, and there is the ability of the speaker and attendees to communicate in

real-time during the presentation of the webinar. Over 700 live webinar hours have been approved. Approved courses are in the "Live Courses" list on the Board's website:

<http://www.tob.texas.gov/files/PDFdocs/LIVECE.pdf>

### CPR Requirement

As this time there is not a requirement to take a CPR course in order to renew. Note that many health professions require such a course on a biennial basis. Licensees will be asked at renewal if a CPR course was taken during the year.

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**HELP** impaired professional  
drugs • alcohol • mental health  
Peer Assistance Link

## Two Year Renewal: CE Requirement

Every active licensee must have 16 hours of Board approved continuing education to renew for **2021**. This amount is the same this year whether renewing the license for two years or one year. So this year, all licensees will have the same CE requirement.

## Future Requirements

All optometric glaucoma specialists must take a two hour course on prescribing controlled substances during 2021.

## Registration w/ PMP

Every Optometric Glaucoma Specialist who prescribes or will prescribe a Controlled Substance must register with the Prescription Monitoring Program (PMP) at the Pharmacy Board. Register here: <http://www.pharmacy.texas.gov/PMP/>

A doctor *cannot* consult the PMP without first registering with the Pharmacy Board.

An Optometric Glaucoma Specialist may prescribe or dispense an analgesic that is classified as a Schedule III, IV, or V Controlled Substance. Tylenol® No.3 is an example of an analgesic that is a Controlled Substance and an opioid.

State law directs the prescriber to consult the Prescription Monitoring Program prior to prescribing or dispensing an opioid to ascertain what controlled substances, if any, have previously been prescribed to the patient. With this information at the doctor's disposal, a determination on safe prescribing may be made by consulting the guidelines in Board Rule §280.10. The rule also lists the narrow exceptions to the requirement to first consult the Prescription Monitoring Program.

Use the <http://www.pharmacy.texas.gov/PMP/> link for information on an advanced analytics and patient support tool called NarxCare and information on integrating the PMP into a doctor's electronic medical record software. Other information on the PMP is available as well.

## Two Year License Renewal

Beginning with the license renewal for 2021, the license renewal period will be shifting to a two year period. For the 2021 renewal, a group of one-half of the licensees will renew for two years, and the other group of one-half for one year.

**All licensees who renew for 2021 will need 16 hours of CE, regardless of whether renewing for one year or two years.**

- Licensees with a license number ending in an **even number** will renew for two years. The license expires on 12/31/2022.
- Licensees with a license number ending in an **odd number** will renew for one year. The license expires on 12/31/2021. At that time these licensees will renew for two years, and 16 hours of CE will be required (i.e., 16 hours must be taken in 2021 for licenses that end in an odd number).

## Once Everyone Has a Two Year License

- A staggered system of license renewal will be in place so that one-half of licensees renew each year.
- CE can be taken at anytime during the two year period prior to license renewal.
- A total of 32 hours must be submitted to the Board in order to renew a license. This includes 24 hours of diagnostic / therapeutic and two hours of Professional Responsibility.
- The fee for license renewal will be adjusted to cover the two year period.
- Substantial penalties are imposed by state law for late renewals or late CE.

The renewal process is "computerized" such that the database must make the decision regarding the group that will renew for two years this winter. So the Board will not be able to accommodate specific requests to be placed into one group or the other.

## COVID -19

Since this situation is so fluid, licensees should consult the Board's website on a regular basis. Links on the website should provide a wealth of information to better handle the crisis.

Shortly after the Governor declared a disaster, the Board requested and obtained an exemption from the Governor of many of the requirements of Board Rule 279.16 regarding telehealth. The Governor authorized the temporarily suspension of Sections (a) – (g). Now a therapeutic optometrist with a preexisting practitioner-patient relationship may, within the scope of the therapeutic optometrist's license, provide telehealth services to a patient at a different physical location than the therapeutic optometrist by using telecommunications or information technology. The therapeutic optometrist must obtain clinical information from the patient's relevant medical records and clinically relevant photographic or video images, including diagnostic images; or from the patient's relevant medical records and laboratory or pathology results. The telehealth service is subject to the standard of care that would apply to the provision of the same health care service or procedure in an in-person setting.

This suspension is in effect until terminated by the Office of the Governor or until the March 13, 2020 disaster declaration is lifted or expires.

On May 1, 2020, the Board held an Emergency Board Meeting to amend, on an emergency basis, Board Rule §279.15. Board Interpretation Number Fifteen. The amendment reads: "(b) Practice during the period covered by the Governor's COVID-19 Disaster Declaration. The minimum standards for safe practice for optometrists during the COVID-19 disaster shall be compliance with the appropriate Centers for Disease Control and Prevention Guidelines and The Governor's Report to Open Texas." Again, links to CDC resources are available on the Board's website.

As of the publication date of the Newsletter, there have been no changes to the license expiration date of December 31, 2020. Eight hours of live continuing education will be required, which is readily obtained from the many live webinars available. These courses are listed in the "Live Courses" list on the website.

## Impaired Optometrists

The Peer Assistance Program has been set up by the Board to offer optometrists a pathway to recovery that remains confidential as long as treatment progresses in a satisfactory manner. During treatment, the Program, which is operated independently of the Board, only reports the number of persons in the program. The Board does not receive any identifying information if the doctor or student is complying with Program requirements. The Program is very similar to the programs utilized by physicians, nurses, dentists, veterinarians, and pharmacists.

Impairment includes alcohol and drug dependency as well as mental health issues. The program is also available to Texas optometry school students.

Information is available on the Board's [website](#) or the impaired doctor or student can call the Program directly at: **1-800-727-5152**. *Colleagues of impaired optometrists may also use this service to assist in finding help for the impaired doctor.*

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## Practice Pointers

- Report Address Changes
- Submission of Continuing Education
- Professional Identification

### Report Address Changes to Board

The Optometry Act requires licensees to report his or her mailing address; the address of the his or her residence; the mailing address of each office, and the address for the location of each office of the licensee that has an address different from the office's mailing address. If there is a change in any of these addresses, the optometrist has 10 days to report the change to the Board. You can e-mail, mail or fax a change of address.

In addition to being a requirement of state law and therefore subject to disciplinary action, important communications are mailed to licensees. The Board receives a significant amount of returned mail each year because the optometrist has not changed their address.



## Submission of Continuing Education

Submit proof of continuing education as soon as you receive the certificate. If the course is approved, you will receive immediate credit and there will not be a delay when you choose to renew. If the course is not approved, this will give Board staff the necessary time to obtain information on the course so that it can be approved.

An e-mail from ARBO that a course has been taken is usually not sufficient since the doctor is not identified by name. If audited, the Board must be able to verify CE from a certificate with the doctor's name.

During November and December staff enter hundreds of courses each day (almost 22,000 entries in 2018). Many of these courses were taken during the first part of the year and not submitted until months after the course was taken. If the course was not approved, this resulted in a significant delay for the doctor trying to renew. As a reminder, a list of approved courses is posted on the website.

CE certificates may be mailed, faxed (512-305-8501) or e-mailed (e-mail address on first page of website).

## Professional Identification

State law specifically defines the professional identification an optometrist may use in Section 104.003 of the Occupations Code. A refresher is printed in each Newsletter. However, just in the last two years, the Board took disciplinary action against 18 doctors who did not comply with Section 104.003. These violations were discovered primarily during office inspections. The correct identification was not present on prescriptions, office signs or business cards. Websites and other advertising also require the correct professional identification.

### Only permitted identification:

- 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

State law also requires doctors to post their name so that it is visible prior to entry into the office. In the last two years, six optometrists were disciplined for failing to comply with this requirement.

## Disciplinary Matters

### License Reinstated Denied

A doctor whose license is revoked may apply for reinstatement a year after the Board revoked the license. State law and Board Rule impose several requirements that must be met before the license may be reinstated. After an informal conference, the Board voted against the reinstatement of the doctor's license. The doctor requested a hearing before the State Office of Administrative Hearings. The Administrative Law Judge agreed with the Board that the doctor had not met the requirements of state law and Board Rule. The Board adopted the Judge's decision and issued an order denying the doctor's request for license reinstatement. Gregory Stringham. Texas Occupations Code Chapter 53, Board Rule §277.4.

### Informal Conference

A licensee was required to attend an Informal Conference in Austin with the Investigation - Enforcement Committee. The optometrists entered into a Letter of Formal Agreement.

### Failure to Disclose Criminal Arrests and Convictions

Board alleges that doctor did not disclose arrests and convictions on application and subsequently did not disclose conviction as required by Board Rule. Letter of Formal Agreement requires submission of \$1,500 penalty and additional Professional Responsibility Course. Optometry Act §351.501(a). Board Rules §§273.8 and 277.5.

### Administrative Penalties

#### Professional Identification

Administrative penalties were issued for allegedly failing to comply with the professional identification requirements of the law (see Practice Pointers on **page 4** and the [February 2012 Newsletter](#)). Occupations Code §104.003, Board Rule §277.6.





### Incorrect Identification on Rx, Card, or Door

Two doctors received an administrative penalty for allegedly failing to correctly identify as an optometrist on prescriptions written by the doctor. Administrative penalties of \$300 - \$400 (one doctor also did not correctly identify on his business card). One optometrist allegedly used the incorrect professional identification with the doctor's name at the entrance of the practice. \$300 penalty.

### No Identification on Office Door

Three doctors allegedly practiced in offices that did not identify the doctors on signs prior to entry into the offices. Administrative penalty of \$300. Optometry Act [§351.362](#).

### “Glaucoma Specialist” - Misleading Advertising

An optometrist may be licensed as an “optometric glaucoma specialist.” Optometrists using “glaucoma specialist” as a professional identification are not complying with the required professional identification and subject the public to misleading advertising. Several newsletters have discussed this issue. The Board alleged that eight optometrists used the phrase “glaucoma specialist” or “certified glaucoma specialist” on business cards and/or the front door. Penalties of \$300 - \$600 each. Occupations Code [§104.003](#), Optometry Act [§351.403](#), and Board Rule [§277.6](#).

### Control by Optical; Advertising

Optometrists were assessed an administrative penalty for allegedly allowing a leasing optical to control the practice. One doctor allegedly permitted a leasing optical to post signs such that there was no public thoroughfare leading to the entrance of the optometrist's practice. Administrative penalty of \$300. One optometrist allegedly placed the name of the leasing optical on the doctor's business card. Administrative penalty of \$300. The Optometry Act, in regulating the relationship of dispensing optician and an optometrist, prohibits solicitation for one by the other. The Act also prohibits a lessee doctor from allowing a lessor optical to provide advertising services. Optometry Act §§[351.364](#), [351.408](#), [351.459](#) and [351.501\(a\)](#).

## New Rules

Since the last Newsletter, the Board adopted amendments to the following rules.

As part of the process of going to a two year license renewal, the Board adopted amendments to Rules 22 T.A.C. [§273.4](#), [§273.8](#), [§273.14](#), [§275.1](#) and [§275.2](#). The amendments to §273.4 also concerned the retired license renewal fee and a fee increase for Board verifications. The amendments to Rule §273.14 also complied with new legislation regarding licenses for military spouses.

The legislature passed several requirements for continuing education for health professionals. Amendments to Rule [§275.2](#) were adopted to comply with House Bill 2174, House Bill 3285, and House Bill 2059.

The Board also adopted amendments to Rule [§273.10](#) to comply with new legislation that prohibits a licensing board from taking disciplinary action because of a student loan default. State law requires the Board to review the rules every four years. The Board completed the review of Chapters 271, 272, 273 and 275.

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## Office Inspections

The Board has been conducting inspections of doctors' offices for over forty years. The number of inspections conducted is one of the required performance measures submitted to the Texas Legislature each year. Inspections are specifically authorized by Optometry Act [§351.1575](#).

During an office inspection, the investigator will present a letter describing the inspection, which includes information on HIPAA concerns. The optometrist will be asked by the investigator to provide copies of five patient records while the investigator waits. The investigator will look to determine whether any control issues with a leasing optical are present. Frequently an inspection can be completed in half an hour.

The copies of patient records are delivered by the investigator to one of the professional Board Members who determines whether the records show compliance with [§351.353](#) of the Optometry Act and Board Rule [§277.7](#).





The Board investigator is inspecting offices in several communities, large and small, in Northeast Texas this year. If an office is not in compliance with the requirements of state law, it is normal for the Board to impose an administrative penalty (fine), but some violations may require stronger disciplinary penalties.

Common violations include the failure to:

- list the doctor's name at the entrance of the practice
- include all the examination steps of [§351.353](#) in the record
- properly identify the optometrist as required by Occupations Code [§104.003](#)
- maintain a leased office separate from the leasing optical

Each Newsletter, in the "Disciplinary Matters" section, contains information regarding administrative penalties assessed for violations present when an office is inspected.

## Reports on Website

The website contains these reports that may be of interest to licensees:

- Report on Customer Satisfaction: Results of the survey conducted during the spring of 2020. Almost 2,000 optometrists responded to the survey. The Board also surveyed complainants and license applicants.
- Strategic Plan: Filed on June 1, 2020, this document includes a discussion of issues affecting the Board, legislative reporting requirements, and a Workforce Plan.
- Legislative Appropriations Request: The official budget request for operating funds of the Board. The request for years 2022 and 2023 will be on the website later this year.
- Miscellaneous Reports: Board Expenditures, Certain Board Contracts, and Staff Compensation.

## License Renewal Certificate

The annual renewal certificate is now provided on-line, available on the website 24 hours after license renewal. To download the certificate, click on the blue "Optometrists" button, and then scroll down to the "Renew License" heading. Use the same procedure to replace a lost certificate. Renewal certificates will not be mailed.

## Information for New Licensees

(also a refresher for current licensees)

### Suggestions from the Board

Read the Newsletter every year (the Board assumes that all licensees read the Newsletter). Important information regarding optometry practice, including new laws and rules, recent disciplinary actions, and common issues can be found in each [Newsletter](#).

Telephone or e-mail the Board if you have a question (but check the website first -- the website might have just what you are looking for)

- On the website, look first in the [Main INFORMATION Page](#) which has information on maintaining patient records, treating minors, responsibilities to deaf patients, disability license plates, controlled substances prescription requirements, and partnerships, for example. This page also links to pages that have links to Medicare, Medicaid and HIPAA resources.
- The [Texas Optometry Act](#) is on the website. A [PDF booklet](#) is also on the website which includes an index.
- All the [Board Rules](#) are also on the website. Again, a [PDF booklet](#) with index is available.

Your license *expires* on January 1, 2021\*

- Usually during the first week in November all licensees are mailed a postcard to the address on file with the Board (state law requires that this address be current). You must renew your license even if you do not receive the postcard announcing that licenses can be renewed.
- Instructions for renewing will be on the website starting November 1. Almost all licensees renew on the Internet.
- You are exempt from continuing education to renew for 2021 (if you were first eligible for a license in 2020).

\* *Recent licensees who are veterans, spouses of veterans, or military service members may have a different expiration date*

Drug prescribing authority: start with the [website](#)

Office Inspections: Your office may be inspected by the Board's investigator. See information on page 5.

## New Executive Director

At the July 31, 2020, Meeting, the Board announced the hiring of Kelly Parker as the new Executive Director of the Board. Ms. Parker replaces the retiring Chris Kloeris, who has been with the Board since 1997 and Executive Director since 2001.

Ms. Parker has experience as an executive director of a Texas agency that licenses health professionals and will be a welcome addition to the Board. She will be tasked with assisting the Board with the upcoming legislative session as well as budget hearings that will determine the amount of money the Board can spend for 2021, 2022, and 2023. Ms. Parker will also oversee the move of the office to the brand new George H. W. Bush State Office Building in 2022.

So this is the last Newsletter for Mr. Kloeris. To take a more personal tone, I have enjoyed serving the Board and the State of Texas, and will miss the many relationships I have formed with licensees, board members, and government officials. I will especially miss the staff, past and present, who have been essential to accomplishing the mission of protecting the public while operating as efficiently as possible.

I had the advantage of taking over from Lois Ewald who had done an excellent job as Executive Director. I have seen many changes during my tenure, including the implementation of the Peer Assistance Program, the Optometric Glaucoma Specialist license, a continued robust growth in the number of licensees, a new optometry school in Texas, the move to a completely new database, staff changes as some retired and others moved on to different careers, two Sunset Reviews with the Board maintaining an independent status, on-line license renewals, the Professional Responsibility Course, a much expanded Internet presence, and a stronger presence in the national association of state optometry boards.

Next year marks the 100th anniversary of state law authorizing the practice of optometry in Texas. I am glad I was able to play a small part in the first 100 years.

## Drug Abuse & Poison Control

According to the Texas State Board of Pharmacy, “within the last decade, abuse and misuse of certain prescription drugs, especially pain medications, has become prevalent. Studies have indicated that educating health care providers about the growing problem and providing them with information will create a heightened awareness of the appropriate use of pain medication as well as the misuses and diversion of addictive pain medications.”

State law requires the Optometry Board to provide information on:

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

The information may be accessed on the Pharmacy Board’s [website](#). The Optometry Board’s [website](#) contains the link to the Pharmacy Board, as well as a link and phone number for the [Texas Poison Center Network](#).

As a reminder, note that optometric glaucoma specialists cannot prescribe Schedule II narcotics because of legislation passed a few years ago. Also note that many of these concerns are covered in the approved opioid continuing education courses listed on the website: [Opioid Courses](#).

*Not for renewal in 2021*, but required to renew for 2022, is a two hour course that all active optometric glaucoma specialists will be required to take. This will be a one time requirement. All new licensees will also be required to take the course.