



# 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)

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## Compliance Issues

### Unlicensed Relief Doctors

An unlicensed person has solicited relief work at offices in Houston. The imposter actually filled-in at some offices. Since practicing, and even posing as a licensee, is a criminal offense, the Harris County Sheriff is working to apprehend the imposter.

Doctors employing or contracting with an optometrist should verify his or her license. Use the Board's website ("Verifying a License" in Table of Contents) or telephone the Board. Since doctors with an "inactive" license occasionally attempt to practice, the license status should also be checked. Contact the Board if you are approached by an unlicensed person. Employees also cannot legally work for or contract with an unlicensed doctor.

Not only is it a violation of the Optometry Act to employ or contract with an unlicensed person, but the practice of an unlicensed individual in the office exposes the office to malpractice liability, fraud, and HIPAA violations.

### Signatures on Prescriptions

Ophthalmic lens and drug prescriptions must

contain the original written signature of the examining doctor. Machine printed or stamped signatures are not sufficient. A doctor, other than the examining doctor, may sign the prescription according to the guidelines of Rules [279.2](#), [279.4](#). See also Rules [280.5](#) & [280.10](#).

### Internal Ophthalmoscopic Exam

In a concerted effort to be pro-active, the board wishes to direct your attention to the Board Rules concerning an internal ophthalmoscopic exam and digital imaging instruments. Board Rules 279.1 and 279.3 specifically require the use of an ophthalmoscope or biomicroscope with fundus condensing lenses to perform the internal ophthalmoscopic exam, a required element of an eye examination. "Videos and photographs may be used only for documentation and consultation." Such videos and photographs (including digital imaging) are not substitutions for an ophthalmoscopic or biomicroscopic exam of the fundus. Performing only digital imaging will not meet the requirements set by Rules 279.1 and 279.3.



## Continuing Education

CONTINUING EDUCATION is an important part of maintaining an optometric license. Board staff receives many calls a year from confused doctors concerned about their CE records. The following are some of the topics covered frequently and printing them here will hopefully help those not in the know.

**ARBO PRINTOUT:** Some CE is being recorded through ARBO on what is called the OE Tracker. You must go to their website ([www.arbo.org](http://www.arbo.org)) and log in to retrieve your Chronological Course History page. We cannot accept the e-mail you receive when you upload individual courses because those pages don't display your name, only your e-mail address, and that may not always prove who you are (e.g., drhappyeyes@yahoo.com could be anyone). Also, we do NOT need the individual printable certificates from each course off the ARBO site because they fail to mention course location, which sometimes makes it difficult to identify said course, plus, it is simply superfluous paper when you already have everything listed on the Chronological Course History page.

**ETHICS COURSE:** All licensees not exempt from CE must take the "Professional Responsibility" course currently offered only by the University of Houston. The course is offered on-line, on CD, and in conjunction with other courses. Since material is specific to Texas and includes a review of Board Rules, other ethics courses are ineligible. Please refer to U of H's website for course information: <http://ce.opt.uh.edu> *U of H, like other providers, has a grading deadline for courses taken in December. You may not be able to submit the certificate in time to renew if you miss the deadline!*

**SEND IN CERTIFICATES NOW:** It is better to send in certificates as you get them. Course providers may take months before sending in the credit for you, if at all. If you are given a certificate at the completion of a course, make sure it is filled out correctly and displays your license number, make a copy for your files, and then send the original to the Board office. If you wait and save all certificates to send in together at the end of the year, you may experience a delay in the posting of the hours and run the risk of renewing late as a result.

**ONLINE CE HOURS CHECK:** The website has a search page where you can look up the amount of CE hours you currently have on file - just use the red "Check CE" button right under the Board logo. Follow directions accurately by entering your license number preceded with a zero and leaving the T and/or G off the end. "Sorry, no matches found" does not mean that your license number doesn't exist, rather that no CE hours were found recorded for your license number. If you have taken CE that is not on the Approved CE Course list (also on the website here: <http://www.tob.state.tx.us/approvedce2002.htm>), then it will NOT appear on your file until the Board next meets to approve courses. Please allow for that extra time. Individual CE records are updated on the internet approximately every two to three weeks during the middle of the year and then every few days during the renewal period at the end of the year.

**BOARD MEETINGS:** The Board meets four times a year to approve CE courses, normally at the beginning of the months of February, May, August and November. The Approved Course List on our website is updated with courses

reviewed and approved from these meetings about one to two business days following each meeting. Hence, the list may appear shorter at the beginning of the year than it does toward the later months. And again, any courses you may take that are not on the [Approved Course List](#) will not show up on your file until after the following Board meeting (this credit usually takes about a week after the meeting to appear on the website's "Check CE" section).

**FAXING CERTIFICATES:** By Board rule, original certificates must be mailed in to receive credit. Faxing is not acceptable. It is highly suggested that you make photocopies of these certificates before mailing them and keep those copies in your files. It is helpful to you to have these handy in case an insurance company or another state licensing agency asks for proof of CE. While the Board can give you a listing of attended CE courses over the past few years, it could take up to two weeks to process and

we charge a fee of \$15 to do so. Also, copies of certificates cannot be provided to you after you have mailed them in. Again, original certificates must be mailed to the Board, and the only exceptions to this rule are if you do not practice in Texas or are in the military.

**ONLINE COURSES:** Please be aware that online CE sites may or may not produce certificates immediately after completing the course. This is of particular importance if you are taking online courses toward the end of the year. Check with the provider – read through their website to find out when you will receive a certificate of completion. If it is not stated, e-mail or call them, or simply move on to another provider. Board staff has no knowledge of which online providers provide immediate certification.

For more information on CE, please see the [website](#).

## Disciplinary Matters

### **Administrative Penalties**

#### Professional Identification

An optometrist, in common with all health professionals, must inform the public of their professional license. State law ([Section 104.003](#) of the Texas Occupations Code) restricts the professional identification of an optometrist to the following:

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

Violation of this statute constitutes misleading advertising and is also a criminal offense! However, each year the Board issues administrative penalties against licensees because the professional identification used does not identify the licensee as an optometrist. This includes:

- print advertising in newspapers, websites and telephone books;
- on signs, including the sign on the front door

- of the practice; and
- on office items, including prescription pads and business cards.

For 2008 - 2009, administrative penalties were issued in the following agreed settlements for alleged violations of the professional identification requirements:

- Incorrect identification in newspaper, website or telephone book: four administrative penalties of \$100 each (*also see Disciplinary Actions, below*)
- Incorrect identification on signs, including the identification on the front door of the practice: one administrative penalty of \$100; one administrative penalty of \$500 (licensee also failed to report address change to the Board)
- Incorrect identification on prescription pads and business cards: two administrative penalties of \$100 each

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

\$100 penalty for using a rubber stamp as a signature on a prescription. Board also alleges that stamped signature was not the "signature" of the examining optometrist. See front page of this Newsletter. Optometry Act Section [351.359](#); Rule [279.2](#); [Contact Lens Prescription Act Section 353.152](#)

\$100 penalty for issuing a contact lens prescription for a period of less than one year. Board alleges that prescription was for a period of 11 months and that licensee would not verify a prescription during the twelfth month after the prescription was issued. The Board alleges that the patient record did not support a prescription for less than one year and did not include the reason for issuing a contact lens prescription with an expiration date of less than one year. [Contact Lens Prescription Act Section 353.156](#), Rule [279.2](#).

\$500 penalty for failing to report change of address. Board alleges the doctor did not report change of practice address to Board within 30 days as required by law (licensee's professional identification on office door was also incorrect). Optometry Act Section [351.351](#).

### **Letter Agreement & Informal Conference**

A doctor attended an Informal Conference at the Board's Office and agreed to the following Letter Agreement:

Failure to record findings of an examination in the patient record. Board alleged doctor did not record all examination steps required in the initial examination of a patient. Based on the inspection of the doctor's office. Optometry Act Section [351.353](#); Rule [277.7](#).

### **Disciplinary Actions**

#### —Failure to Make Patient Record

Agreed settlement alleges that licensee failed to make a patient record for an initial office visit. Board also alleges that subsequent records contained incorrect entries. The doctor agreed to pay a fine of \$2,000.00. Board Rule [277.7](#). Gary White, O.D.; 4599TG

#### —Misleading Advertising/Incorrect Professional Identification

Agreed settlement order alleges that licensee appeared in print advertisements and on website for a physician's office which advertised procedures the licensee was not authorized to perform under his optometry license. The professional identification allegedly used by licensee in the advertisements and website did not meet the requirements of Section [104.003](#) of the Occupations Code. The doctor agreed to pay a fine of \$2,500.00. Occupations Code Sections [101.201](#), [104.003](#); Optometry Act Section [351.403](#). Timothy Wright, O.D.; 5473TG

### **Default on Student Loans**

The Board has filed an administrative law case to prevent the renewal of a license by a doctor who has defaulted on a Texas Guaranteed Student Loan as required by state law, the Texas Education Code.

## **John R. Cox, O.D.**

**50 Years**

On the very afternoon that Dr. Cox finished the 1955 exam, it was announced that the governor had appointed the first "commercial" optometrist to the Board. At that time, Dr. Cox was very concerned of the effect that such an appointment might have on the profession for which he had just qualified. And within a year, he learned that his Alma matter, Columbia University School of Optometry, was closing. Dr. Cox thought this might well be the low point for his profession.

But things got better, and he has enjoyed the practice. Dr. Cox has appreciated that he is in a profession which allowed him to work well past "normal" retirement age. Dr. Cox intends to keep practicing, although he sees insurance issues making the practice more difficult and profits being reduced.

Dr. Cox served two years in the Army practicing optometry, and on March 3, 1958, opened his practice in Sweetwater where he continues to practice after 50 years (but not in the original building). When he started his practice eye exams were \$7.50. A few plastic frames were available, but the European frames had not taken over the market yet.

## Questions

Since the Board is focused solely on optometry, it should be easy for both licensees and the public to ask questions, either by telephone or e-mail. But there is an easier way – the website has information on many topics that is available 24 hours a day and includes links to additional information. Use this link to see the page: [Main Information Page](#).

Day in and day out, the most common questions to the Board are:

### Why isn't my CE posted on the website?

Answer: You may not have sent in the certificate, or the course may not have been approved by the Board. See page two of this Newsletter, and this page of the website: [www.tob.state.tx.us/cegeneral.htm](http://www.tob.state.tx.us/cegeneral.htm)

### Can I prescribe a certain drug?

Answer: For therapeutic drugs, see Rule [280.5](#). For oral medications and glaucoma drugs, see Rule [280.10](#). Use the links in this Newsletter or go this page of the website: [www.tob.state.tx.us/rules.htm](http://www.tob.state.tx.us/rules.htm) Doctors should also determine whether prescribing a drug is within the practice of optometry – see Section [351.358 \(b\)](#).

### Why won't my doctor give me my contact lens prescription?

Answer: Callers are told about the requirements for a follow-up examination and encouraged to contact the doctor.

### I cannot find my renewal certificate. How do I get a replacement?

Answer: Send a written request with a check for the required fee (\$25).

### Is this CE course approved?

Answer: A current list is always on the website at this [link](#).

### How do I complain about an optometrist?

Answer: Callers are told that a complaint form can be sent to the caller or the form can be downloaded from the website.

### Do I need a DEA number?

Answer: No licensee needs a Department of Public Safety Controlled Substance Permit or a DEA Controlled Substance Registration if the licensee is not prescribing or administering Controlled Substances. However, licensees with therapeutic licenses and optometric glaucoma specialist licenses may obtain the DPS and DEA permits (both are required). The [website](#) has instructions, links and telephone numbers.

### How do I obtain a verification of my license for another state?

Answer: Send a written request with a check for the required fee (\$15).

### Where do I report the selling of contacts at a gas station, beauty shop, convenience store, or on Internet want ads?

Answer: To dispense contacts in Texas, the dispenser must have a license from the Texas Department of State Health Services. Complaints should be directed to this agency at: [www.dshs.state.tx.us/contactlens/default.shtm](http://www.dshs.state.tx.us/contactlens/default.shtm)

### What is the FAX number so that I can FAX my CE certificate?

ANSWER: The original of the CE certificate must be mailed to the Board.

### My optometrist says that I am required by state law to get an eye examination once a year. Who is responsible for this law?

ANSWER: Callers are told that state law does not require an eye exam on any particular schedule. State law does set a minimum term of one year for a contact lens prescription. Although doctors can issue a prescription for a longer period in some instances, to do so in most cases could be a violation of the standard of care for which each doctor is responsible.

### I have a glasses prescription from 2004 with no expiration date. Why won't the optical fill it?

ANSWER: Callers are told that the prescription is valid, but that the optical has the authority to decide whether to fill the prescription.



## Rule Changes

On February 12, 2009, the board adopted changes to the following rules. The text of the rules can be found on the Board's website or the end of this Newsletter:

### Rule 280.10: Requirements for Controlled Substances Rx

As discussed in the 2008 Newsletter, the rule was amended to comply with changes in state law. A prescription for a controlled substance must contain:

- date of issuance;
- name, address and date of birth of the patient for whom the controlled substance is prescribed;
- name, strength, and quantity (written as both a number and as a word) of the controlled substance prescribed;
- direction for use of the controlled substance;
- intended use of the controlled substance prescribed unless the optometric glaucoma specialist determines the furnishing of this information is not in the best interest of the patient
- printed or stamped name, address and business telephone number of the optometric glaucoma specialist;
- written signature of the prescribing optometric glaucoma specialist;
- complete license number of the prescribing optometric glaucoma specialist; and
- DEA and DPS registration number.

### Rule 280.8: Application for Optometric Glaucoma Specialist

The amendments allow the certification of skills form to be signed by an optometric glaucoma specialist or an ophthalmologist. For May 2008 and subsequent graduates of certain approved optometry schools, the school is considered to have provided the thirty hour course, and no additional course work is required.

### Rule 273.8: Requirements for re-license of expired license.

Minor changes were made to this rule.

Rule changes continued on page 6.

### Albert Romano, O.D.

50 Years

Dr. Romano has practiced with his brother Gerald (*profiled elsewhere in this issue*) since 1958 in Houston. The brothers graduated at the same time from the University of Houston because Dr. Romano served four years in the Air Force prior to entering optometry school.

After graduating the brothers purchased a building and started their practice. During that period eye exams were \$10 and some frames were available for \$12. A contact lens exam was \$300. Dr. Romano remembers most optometrists making \$5,000 to \$7,000 a year. To help build the practice, Dr. Romano filled-in at other offices and lectured at the University of Houston (a 20 year relationship).

When the practice started, optometrists could not dilate and contact lenses were only just getting started, although the doctor now wonders how anyone could wear those early lenses. Compared to current practice, practice then was mostly what you could not do.

Dr. Romano's other sibling was an optician, as was his dad. At one time all were at the same location. When asked about advice for new optometrists, Dr. Romano thought making the office an enjoyable place to practice would be good advice. This is the philosophy he employed for his practice from the very beginning. That seemed more important than trying to earn as much money as possible. Since he still enjoys going to the office, at 79 Dr. Romano still works three days a week.

On the anniversary of 50 years of practice the office held a reception for patients. The 50 year anniversary was memorialized by the Mayor of Houston proclaiming that day as "Dr. Albert Romano and Dr. Gerald Romano Day."

Two younger partners have kept him abreast of current developments. As the law allowed optometrists to practice first as therapeutic, and then to treat glaucoma, it seemed to Dr. Romano that over the years the practice of optometry meant that doctors had to return to school almost more than what was originally required of them to be licensed.

### *Rule changes continued*

At the August 7, 2009, Board Meeting, [Rule 273.4](#) was amended to change license renewal fees. The additional fee will pay for the Peer Assistance Program which is discussed in detail on page 8 of this Newsletter. In addition, the Board must replace the computerized database which is used to track and compile all licensing and monetary data. The current database has been in use for over 15 years and can no longer be repaired, so reliability has become compromised. The Board is sharing the purchase of the database with five other state agencies to keep costs as low as possible. The one-time increase for the database purchase will allow renewal fees to be reduced in 2011.

## **New Laws**

The Texas Legislature meets every other year. The 2009 Legislature passed the following laws which affect licensees and applicants. The effective date of the law is provided. Use this link to view the text of the laws: [Legislature](#)

### **House Bill 1740 -- Drug Dispensing Contact Lenses**

Defines "therapeutic contact lens" to mean "a contact lens that contains one or more drugs and that delivers the drugs into the wearer's eye."

Amends pharmacy act to permit optometrists to dispense and charge for therapeutic contact lenses as long as the medication delivered is within the scope of practice of the optometrist to prescribe. Licensees would still be prohibited from charging for all other prescription medications provided to patients which are administered outside the licensee's office. *Effective immediately.*

### **Senate Bill 1367 -- Disability License Plates and Parking Placards**

Amends Transportation Code so that optometrists may issue a written statement to assist a person who is "legally blind" and applying for a specialty license plate for vehicles used by persons with disabilities. Law also allows optometrist to issue a written statement or provide a prescription to assist a person who

has a disability caused by a vision impairment to apply for a disabled parking placard. *Effective September 1, 2009.*

### **House Bill 675 -- Retired Practice with Charity Organizations**

Amends Optometry Act to allow an optometrist with an expired license to apply for license reinstatement limited to providing free care for charity organizations. Allows for reduced renewal fees for licensees providing free care for charity organizations. *Effective September 1, 2009, but only applies to applications and renewals after January 1, 2010.*

### **Senate Bill 1476 -- Employment by Community Health Centers**

Allows optometrists to be employed by non profit community health centers organized and operated pursuant to federal law. *Effective immediately.*

### **House Bill 1805 -- Certification that Hunter has Vision Impairment**

Allows hunter with a permanent physical disability to use a laser sight provided that hunter carries a statement from an optometrist certifying the disability. *Effective immediately.*

### **House Bill 963 -- Future Applicant May Request Letter Regarding License Eligibility**

Applicants for optometry school with a criminal history may request a determination of eligibility letter from Board regarding the person's eligibility for a future license. Board would have 90 days to issue letter and may charge a fee for this service. *Effective immediately.*

## **Fifty Years**

Thirty-five optometrists are still practicing 50 years after first receiving their license. Many of these licensees have had their comments published in past newsletters. The most recent comments may be found throughout this Newsletter. Because of space limitations, all comments have been edited by the editor. Publication in the Newsletter is not an endorsement of the comments.

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## Newsletter Additions

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La Junta Estatal de la Optometría de Tejas se esfuerza continuamente para servir a todos los ciudadanos de Tejas en una manera profesional y excelente. Algunos de nuestros ciudadanos se enfrentan a obstáculos, como la discapacidad y las dificultades económicas, que afectan o limitan su acceso a nuestro sitio web. La Junta Estatal de la Optometría de Tejas ya ha tomado medidas para hacer que nuestro sitio web más accesible a las personas con discapacidad. Ahora estamos orgullosos de anunciar que hemos tomado medidas para hacer que nuestro sitio web más accesible a los ciudadanos con las barreras del idioma, específicamente Español. Los oradores Españoles podrán hacer clic en el enlace en español en nuestra página web y tener acceso a todo, desde "Cómo encontrar a un optómetra," a "Cómo comprar lentes de contacto." Estamos seguros que esta característica de lengua en nuestro sitio web será una herramienta útil para nuestros ciudadanos de habla hispana. La Junta es muy entusiasmada con esta porción de nuestro sitio web y da la bienvenida a cualquier comentario o sugerencia que usted puede tener para ayudarnos a mejorar nuestra accesibilidad a las personas con las barreras del idioma.

The Texas Optometry Board continually strives to serve all of the citizens of Texas in a professional and superb manner. Some of our citizens face barriers, such as disabilities and economic difficulties, which affect or limit their access to our website. The Texas Optometry Board has already taken steps to make our website more accessible to individuals with disabilities. We are now proud to announce that we have taken action to make our website more available to citizens with language barriers; specifically Spanish. Spanish speakers will be able to click the en Espanol link on our website and have access to everything from "How to find an Optometrist," to "How to purchase contact lenses." We are certain that this language feature on our website will be a useful tool to our Spanish speaking citizens. The Texas Optometry Board is very excited about this portion of our website and welcomes any comments or suggestions you may have to help us improve our accessibility to those with language barriers.

## Substance Addictions and Mental Health Issues

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### New Board Program

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The licensing boards for physicians, pharmacists, dentists, nurses, and veterinarians all have programs to assist licensees who have a substance abuse or mental health problem that may affect their ability to provide proper health care. These programs are called Peer Assistance Programs. Without a Peer Assistance Program, there was no mechanism available to the Optometry Board for providing confidential assistance to a licensee in trouble – the Board could only act through the issuance of a public Board Order.

Now the Board has received authority from the legislature to adopt a similar program for licensees. The Peer Assistance Program will receive referrals from the affected licensee, or from the licensee's family or work associates. 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 follows the program, the assistance provided and the past abuse condition remain confidential. However, if the licensee refuses to enter into a program or does not follow the program, the Peer Assistance Program will be required to report the licensee to the Board.

All treatment costs are the responsibility of the licensee. Most health licensing state agencies contract with an association to provide the Peer Assistance. The Board plans to follow this model and will be soliciting contract proposals from associations shortly. The Board has proposed raising the license renewal fee \$10 to pay for the association contract.

Once the program is up and running, contact information will appear on the website. In addition, licensees will be notified by mail.



## — New Optometry School —

Since 1952 the University of Houston College of Optometry has been the only optometry school in Texas. That will change beginning in the fall of 2009, when the University of the Incarnate Word School of Optometry will be starting classes for first year students. Located in San Antonio, Incarnate Word also currently offers nursing and pharmacy programs. Information on the school may be obtained from their website: <http://optometry.uiw.edu>

Incarnate Word is not the only new optometry school in the country. Two other schools have also received preliminary approval from the Accreditation Council on Optometric Education: Midwestern University Arizona College of Optometry in Glendale, Arizona, and Western University Of Health Sciences College of Optometry in Pomona, California.

Information concerning the University of Houston can also be obtained from their website: <http://www.opt.uh.edu>

California is the only other state with more than one optometry school. There are now twenty accredited schools in the United States.

## — Appointments —

The governor made three appointments to the Board in 2009. The new appointment, Cynthia Jenkins of Arlington, is a public member who replaces Elsa Silva of El Paso, whose term had expired. The Board thanks Ms. Silva for her service on the Board.

The governor also reappointed two current Board Members. Dixon Golden, O.D., of Center, was reappointed as the Chair of the Board for an additional term. The governor also reappointed Randall Reichle, O.D., of Houston, to an additional term. Dr. Reichle currently serves as Vice-Chair of the Board.

Each Board Member serves a six-year term. The Board consists of six professional members and three public members from all areas of the state. Each appointment is confirmed by the Senate when the legislature is in session.

The Secretary-Treasurer of the Board is public member Larry Fields of Carthage.

Gerald Romano, O.D.

50 Years

In 1958, when Dr. Romano graduated, optometrists received a state of the art education at the University of Houston. New graduates also receive a state of the art education, but there have been unbelievable advances in the medical area and education. Looking at the practice of optometry, the best thing to happen has been changes in the law which allow optometrists to use the education that they received. Although in many cases, such as therapeutic practice and glaucoma treatment, Dr. Romano notes the changes required going back to school. This was of course a little difficult 30 years after graduating.

Dr. Romano believes the greatest advance in the eye care field is the advancements in treating cataracts. Now with surgery being more advanced with much fewer complications, it has reduced the need to prescribe thick glasses while surgery was postponed to the last possible date.

Dr. Romano's advice to new graduates is to work for another doctor after graduating. Find a doctor who practices philosophy is the same as yours. Dr. Romano and his brother Albert, however, started out by opening their own practice. This required financial sacrifices the first years – the brothers had to even share a car at first. But the sacrifices were worth it and he enjoys the practice. And Dr. Romano will continue to practice as long as he is healthy and enjoys coming into work. The quality of the practice was always important and he valued time-off with his family.

Dr. Romano has always treated the patients with dignity and did whatever it took to take care of the patient. Patients treated this way will come back. Patients say they enjoy coming to his practice and some have become friends. On the 50 year anniversary of his practice, Dr. Romano was honored by the Mayor of Houston proclaiming the day as "Dr. Albert Romano and Dr. Gerald Romano Day."

## Rule Text

*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.*

### **Rule 280.8. Optometric Glaucoma Specialist: Required Education, Examination and Clinical Skills Evaluation.**

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

(d) Clinical Skills Evaluation. Each applicant for licensure as an optometric glaucoma specialist shall submit a signed and dated certification prepared by a licensed ophthalmologist or optometric glaucoma specialist. The certification shall confirm the demonstration by the applicant in an adequate and appropriate manner, as directly observed by the ophthalmologist or optometric glaucoma specialist, of the following skills:

- (1) tonometry,
- (2) gonioscopy,
- (3) slit lamp examination,
- (4) optic nerve examination/fundus, and
- (5) interpretation of visual fields.

(e) Applicants Graduating from Curriculums Which Include Instructional Clinical Course [Work]. An applicant [~~shall be considered as having met~~] meets the requirements of §351.3581 of the Act and subsections (a) - (c) of this section, provided:

(1) the Board determines in a review of the curriculum and by certification of the dean of a school or college of optometry that:

(A) The [the] course work [and examination] required for certification in this section, including an instructional clinic review component, is [included in the] part of the school or college of optometry's regular curriculum [required for graduation from the school or college of optometry, and], and that the examination required for graduation from the school or college is the substantive equivalent of an examination approved by the Board pursuant to subsection (b) of this section.

(B) The [the] students of the school or college must receive clinical training [in the skills listed] and satisfy the evaluation requirement set out in subsection (d) of this section.

~~[(2) Clinical Skills Evaluation. Notwithstanding sub-~~

~~section (d) of this section, each applicant meeting the requirements of paragraph (3) of this subsection shall submit a signed and dated certification prepared by a licensed ophthalmologist or optometric glaucoma specialist. The certification shall confirm the demonstration by the applicant in an adequate and appropriate manner, as directly observed by the ophthalmologist or optometric glaucoma specialist, of the following skills:]~~

~~[(A) tonometry,]~~

~~[(B) gonioscopy,]~~

~~[(C) slit lamp examination,]~~

~~[(D) optic nerve examination/fundus, and]~~

~~[(E) interpretation of visual fields. ]~~

~~(2) [(3)] This subsection [rule] shall apply to all applicants graduating on or after May 1, 2008, from a school or college of optometry for which the Board has issued a determination under paragraph (1) of this subsection, in the calendar year during which the determination was issued or any year thereafter.~~

### **Rule 280.10. Optometric Glaucoma Specialist: Administration and Prescribing of Oral Medications and Anti-Glaucoma Drugs**

(a) An optometric glaucoma specialist may administer and prescribe any drug authorized by the Texas Optometry Act, §351.358 and §351.3581 [~~Article 4552-1.03, as amended by House Bill 1051, 76th Legislature, Regular Session~~], in addition to those drugs that may be administered and prescribed by a therapeutic optometrist.

(b) The requirements of §280.5 and the statutes cited in the rule apply to the optometric glaucoma specialist's prescription orders, the administration of drugs in the optometric office and the labeling of drugs supplied to patients. The requirements for a prescription order for a Controlled Substance are listed in subsection (f).

(c) - (e) (No change.)

(f) Controlled Substances

(1) The following subsections apply to an optometric glaucoma specialist possessing, administering or prescribing a Schedule III, IV or V analgesic Controlled Substance. The subsections also apply to an optometric glaucoma specialist who has obtained the registrations necessary to possess, administer, or prescribe a Schedule III, IV or V Controlled Substance.

(2) [(H)] An optometric glaucoma specialist must possess a current Controlled Substances Registration from the United States Drug Enforcement Administration (DEA) and the Texas Department of Public Safety (DPS) in order to procure, possess, administer or prescribe a Schedule III, IV or V analgesic Controlled Substance. A licensee applying for or possessing a Controlled Substances Registration [the] must observe all requirements of the Texas Controlled Substances Act, the Health and Safety Code, Chapter 481, applicable federal law, and all requirements of the Texas Department of Public Safety [(DPS)] Drug Rules, 37 T.A.C. Chapter 13[, in making application and maintaining

When I was a junior in high school, I remember distinctly being out in the backyard hoeing weeds, leaning against my hoe. I even remember exactly what I was wearing. Dr. Grady Jolly, an optometrist, who lived in the house behind me, came over to our fence and asked me what I was going to be when I grew up. I answered that I had no idea. He said, why don't you be an optometrist? I said, what is an optometrist? He must have been a great salesman, as I decided right then and there to be an optometrist. If it had been a ditch digger or a brain surgeon, that was my deciding moment. My best friend since early childhood, Jimmy McNeil, and a past president of the T.O.A., and I decided to attend Southern College of Optometry. The University of Houston College of Optometry was just getting started about that time. Jimmy and I heard that we would never pass the Texas board having attended a college elsewhere. We were scared to death the rumors were true. Thankfully they were false.

After graduating from optometry school, June 6, 1958, and getting married the same day to my sweetheart, Sue Smith, I worked for one year in Abilene with Dr. O. B. Stanley. Deciding that the future of optometry was in contact lenses and realizing that my training in contact lenses was very limited, I went to work for Wesley Jessen Contact Lens Co. in Dallas. Wesley Jessen trained me for several months under the wings of Dr. Ralph Langenfeld and then sent me out into the world to give contact lens lectures. That was a great life experience as I visited all kinds of practices in both optometry and ophthalmology. Found that we all put our britches on the same way, one leg at a time. It was not the degree that determined a good practitioner, it was the individual.

After getting a good background in contact lenses, I moved to Big Spring and worked in a large private practice with Dr. Allen Hamilton and Dr. Marshall Cauley. The optician in that practice was Charles Neefe, the only real genius that I have ever known. He decided to start manufacturing contact lenses and wanted me to partner with him since I had the background with Wesley Jessen. I considered it but decided that I preferred to open my own optometric office there in Big Spring. Incidentally, Mr. Neefe

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renewal of a United States Drug Enforcement Administration (DEA) registration number for possession and prescribing authority of the Schedule III, IV, and V analgesic controlled substances].

(3) [(2)] An optometric glaucoma specialist must obtain a registration number from the DPS for the principal office of practice. Application may be made for a separate registration for the possession, administration, and prescribing of controlled substances at a satellite office but all requirements of this rule shall apply in all locations.

(4) All prescriptions for a Schedule III, IV or V Controlled Substance shall contain the following information:

(A) date of issuance;

(B) name, address and date of birth of the patient for whom the controlled substance is prescribed;

(C) name, strength, and quantity (written as both a number and as a word) of the controlled substance prescribed;

(D) direction for use of the controlled substance;

(E) intended use of the controlled substance prescribed unless the optometric glaucoma specialist determines the furnishing of this information is not in the best interest of the patient

(F) printed or stamped name, address and business telephone number of the optometric glaucoma specialist;

(G) written signature of the prescribing optometric glaucoma specialist;

(H) complete license number of the prescribing optometric glaucoma specialist; and

(I) DEA and DPS registration number.

Licenses telephoning or communicating the prescription orally to a pharmacist shall supply the information in this subsection to the pharmacist, except for the signature of the optometric glaucoma specialist.

(5) An optometric glaucoma specialist shall maintain a complete and accurate record of purchases (to include samples received from pharmaceutical manufacturer representatives) and administrations of Schedule III, IV or V analgesic Controlled Substances. [(3) The optometric glaucoma specialist shall include the optometrist's DEA number on all prescriptions for controlled substances.]

(6) [(4)] The record keeping listed in this section shall be subject to inspection at all times by the Texas Department of Public Safety, the U.S. Drug Enforcement Administration, and the Texas Optometry Board and any officer or employee of the governmental agencies shall have the right to inspect and copy records, reports, and other documents, and inspect security controls, inventory and premises where Schedule III, IV, and V analgesic controlled substances are possessed or administered.

(7) [(5)] Minimum security controls shall be established

to include but not limited to:

(A) establishing adequate security to prevent unauthorized access and diversion of the controlled substance,

(B) during the course of business activities, not allowing any individual access to the storage area for controlled substances except those authorized by the optometric glaucoma specialist,

(C) storing the controlled substance in a securely locked, substantially constructed cabinet or security cabinet which shall meet the requirements under the DPS Drug Rules, and

(D) not employ in any manner an individual that would have access to controlled substances who has had a federal or state application for controlled substances denied or revoked, or have been convicted of a felony offense under any state or federal law relating to controlled substances or been convicted of any other felony, or have been a licensee of a health regulatory agency whose license has been revoked, canceled, or suspended.

(8) [(6)] Failure of the optometric glaucoma specialist to maintain strict security and proper accountability of controlled substance shall be deemed to be a violation of the Texas Optometry Act, §351.501 and §351.551.

#### **RULE 273.8. Renewal of License**

(a) Expired license.

(1) – (3) (No change.)

(4) If a person's license has been expired for one year or longer, the person may not renew the license but may obtain a new license by taking and passing the jurisprudence exam, [~~obtaining 16 hours of board approved continuing education;~~] and complying with the requirements and procedures for obtaining an initial license. If the person was not licensed as a therapeutic optometrist when the license expired, the person must also complete the requirements for therapeutic license in §§280.1 - 280.3 of this title prior to obtaining a new license.

(5) The board, however, may renew without examination an expired license of a person who was previously licensed in Texas, is currently licensed in another state, and has been in practice for two years immediately preceding application for renewal. The person shall be required to furnish documentation of continuous practice for the two-year period, pay the renewal fee as established by subsection (a)(3) of this section [~~title, above~~]. The person must furnish license verifications from each state in which the person is currently or previously licensed. A license renewal under this section is subject to the same requirements of §351.501 of the Act as a license applicant.

(6) (No change.)

(7) A licensee receiving a felony or misdemeanor criminal conviction, other than a Class C Misdemeanor traffic violation, shall report the conviction to the Board

within thirty days of the date the conviction is entered by the court. A licensee receiving a conviction shall also report the fact that the licensee was convicted at the next license renewal. The failure of a licensee to report a criminal conviction is deceit, dishonesty and misrepresentation in the practice of optometry and authorizes the board to take disciplinary action under §351.501 [~~section 351.501~~] of the Act. The licensee shall furnish any document relating to the criminal conviction as requested by the Board.

(b) Mandatory Continuing Education for Renewal of License.

(1) -(3) (No change.)

(4) The licensee must pay to the board the license renewal fee with a late penalty fee authorized by §351.304 [~~Section 351.304~~] of the Act, plus a penalty authorized by §351.308 [~~Section 351.308~~] of the Act, in an amount equal to the amount of the license renewal fee.

(5) -(6) (No change.)

**Harold Smith, O.D.**

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went on to become one of the great pioneers in the contact lens field. He probably had more contact lens patents than anyone in the United States. Dr. Cauley and I joined forces with our own practice there in Big Spring. We sold the practice after some forty years together to Dr. John Marshall.

My part of the practice was primarily in contact lenses. Many of the early contact lens designs by Mr. Neefe were initiated in our office. After soft contact lenses were developed, I jumped right in and had the privilege to participate in many FDA trials. The most interesting and rewarding was the B&L Fresh Lens Program and the challenge to develop a computer program to monitor and manage it.

My only advice to young optometrists is to take care of your patients and they will take care of you. Learn all you can but remember it is not so much what you know as it is what your patient thinks you know. Patient education and communication is essential to a successful practice. Utilize the new equipment technology that is available to accomplish that end.

My years of active practice are mostly behind me. I still do some contract work for the Federal Prison System but spend most of my time trying to figure out how to hit a golf ball. Waiting until age 74 to start playing golf is not a good idea, but it sure is fun.