



NEWSLETTER

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

Renewing Late - But Still Practicing

- Licenses expire December 31, 2012*
- There is no grace period
- No guarantee that on-line renewal is available 24/7
- Significant consequences for practicing w/ expired license
- Falling behind on CE a major factor for late renewal

A license not renewed in time becomes expired. Practicing with an expired license carries the same penalties as practicing without a license. There is no grace period. The Board has imposed disciplinary action ranging from administrative penalties to license suspension for doctors practicing with an expired license. In addition, criminal penalties may be imposed by local law enforcement.

Other issues that may arise during a period when the doctor's license is expired include the liability of the doctor to those patients examined during that period, the liability to insurance carriers for claims filed for that period, and liability for consequences arising from writing drug prescriptions during that period.

The Board has found that a significant share of doctors who do not renew on time fell behind on their continuing education requirements and were not able to complete the necessary courses before the renewal deadline. A doctor cannot renew his or her license until the Board has received proof that the necessary courses have been completed. A doctor can wait until the last minute and attempt to catch up on CE hours and renew, but if there are any hiccups, the doctor may not be able to renew before the end of the year. The Board cannot guarantee that the

on-line renewal system will be available 24 hours a day, and the Board is not responsible for the time needed by course providers to provide proof of CE attendance to the Board.

Any practice with an expired license, even for one day, subjects the doctor to disciplinary action. See inside for more details.

Do not ignore expiration date and continue practicing

Contact Board staff to determine quickest way to obtain needed CE and renew license.

* An on-line renewal, if available, may be completed on January 1, 2013 to timely renew.

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Signature on Prescriptions

The Board has proposed amendments to prescription rules to allow electronic signatures in addition to the manually signed signatures currently allowed. Sufficient safeguards must be employed to prevent both unauthorized prescription releases and the fraudulent presentment of an altered or forged prescription to a pharmacy, optometrist, physician or optician. The restrictions for the electronic signatures are the same restrictions imposed by the Pharmacy Board in Rule [22 T.A.C. 291.34](#).

Therefore, a doctor may electronically sign a prescription, either for drugs or ophthalmic goods, by using a system which electronically replicates the doctor's manual signature on the written prescription, provided:

- (A) that security features of the system require the doctor to authorize each use; and
- (B) the prescription is printed on paper that is designed to prevent unauthorized copying of a completed prescription and to prevent the erasure or modification of information written on the prescription by the prescribing doctor.

The proposed amendments to Rules 280.5, 279.2 and 279.4 will be published in the [Texas Register](#).

Mobile Clinics

Optometrists who practice at nursing homes, industrial sites, or school sites must comply with Board Rule 279.13.

One provision of the rule requires an optometrist providing examinations at a site that is more than 100 miles from his or her office to ". . . have made arrangements, confirmed in writing prior to offering or providing services, for continued care with a qualified eye health professional with an office location or place of practice within 100 miles of such examination site. Failure to comply with this rule shall be deemed as practicing from house-to-house and the improper solicitation of patients in violation of the Act"

See the other requirements in Rule [279.13](#).

Optometrists in Ophthalmology Practice: Writing Rx

Optometrists practicing in an ophthalmology practice, must comply with the Optometry Act, including Section [351.353](#) and Board Rule [277.7](#). When an initial examination results in a glasses or contact lens prescription, all the required elements of eye exam specified in Section 351.353 must be completed.

Note that Board Rules [279.1](#) and [279.3](#) allow an optometrist to authorize an assistant to make and record some examination findings. However, the rules require the optometrist to personally perform the biomicroscopy examination, the internal ophthalmoscopic examination, and the subjective findings. An optometrist does not have authority to delegate these examinations.

Optometrists signing an ophthalmic prescription are therefore required to personally perform the biomicroscopy and internal ophthalmoscopic examination and make and record the subjective findings. This requirement does not change if the optometrist is employed by an ophthalmology practice or practices with an ownership interest in a practice with ophthalmologists.

Required Professional Designation

Every newsletter contains a list of doctors issued fines for failing to use the proper professional identification. State law requires an optometrist to use the following whenever the optometrist identifies himself or herself:

- 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

Disciplinary Action

Letter Agreements with Administrative Penalties

Licensees attended an Informal Conference in Austin with three Board Members. After the conference and a vote of the Board, the licensees entered into a Letter Agreement. In addition to the administrative penalties, licensees agreed to comply with the Optometry Act and Board Rules.

Practicing Without Renewing License

The Board alleges in the Letter Agreement that two licensees did not renew their license before the deadline. Prior to renewing late, both licensees are alleged to have continued to practice optometry, a violation of the Optometry Act (see first page). Administrative penalties of \$500 and \$300. Optometry Act §§[351.301](#), [351.308](#)

Control by Optical

The Letter Agreement alleges that the doctor practiced in a space leased from a mercantile / retailer of ophthalmic goods, that a sign stating "Dr. XXX is now accepting walk-in patients," was posted on the main door to the mercantile, and that a sign reading "XXX Family Vision, Dr. XXX," was positioned next to the main door of the mercantile. The Board alleges the doctor, in violation of the Optometry Act, allowed her practice "to be directly or indirectly used in connection with a mercantile establishment in any manner, including in advertising, displays, or signs." Permitting a mercantile / retailer of ophthalmic goods to provide business services (advertising) services is a violation of the Optometry Act. Administrative penalty of \$300. Act §§[351.408](#), [351.459](#), [351.363](#)

Administrative Penalties

Administrative penalties were issued in the following agreed settlements for alleged violations of the Texas Optometry Act and Board Rules.

Professional Identification

Several administrative penalties were issued for failing to comply with the professional identification requirements of the law (see the [February 2012 Newsletter](#)).

Identification on Rx

Seven doctors received administrative penalties for allegedly failing to identify themselves as optometrists on prescriptions written by the doctors. The Board alleges that some of these doctors also did not use the required professional identification on business cards and fee bills. Administrative penalty of \$300 for each doctor.

Identification on Office Door

Two doctors allegedly failed to correctly identify themselves on a sign prior to entry into the doctor's office, either by not having a sign or having a sign that did not identify the doctor as an optometrist. Administrative penalty of \$300 for each doctor.

Patient Records

Two doctors received administrative penalties for the failure to record examination findings in the patient records. The Board alleged that Rule 277.7 and the appropriate standard of care required the doctor to include the findings in the patient record. Administrative penalties of \$200 and \$300. Rule [277.7](#)

Control by Optical

The Board alleges that a doctor permitted a mercantile / retailer of ophthalmic goods to post a sign in the mercantile advertising the services of the doctor, a violation of the Optometry Act. The doctor leased space to practice optometry from the mercantile / retailer of ophthalmic goods. Administrative penalty of \$300. Act §[351.459](#)

New Licensees

- Your license expires on December 31, 2012, regardless of the date you were first licensed.
- You will receive a postcard notifying you that you may start the license renewal process (usually the first week in November). You must renew your license even if you do not receive the postcard. Instructions for renewing are on the website. Almost all licensees renew on the Internet.
- You are exempt from continuing education this year. However, when you renew for 2014, you will need to prove that you took 16 hours of CE during 2013.
- Details about the optometric glaucoma specialist license are on the website (most new licensees have already received the optometric glaucoma specialist license).
- Important information regarding optometry practice, including new laws and rules, recent disciplinary actions, and common issues can be found in each [Newsletter](#). The Optometry Board assumes that all licensees read the Newsletter each August.
- The [website](#) has information on maintaining patient records, treating minors, responsibilities to deaf patients, disability license plates, controlled substances prescription requirements, and partnerships, for example. The Main Information page also has links to Medicare, Medicaid and HIPAA resources.

Survey

In March the Board received over 600 responses to a customer service survey. The results were provided to the Board and state government, and placed on the website. Every comment was presented to the Board Members and of course read by staff. The majority of comments were positive, but some comments showed that Board staff had not met expectations. Every effort is made by staff to respond quickly and helpfully to the many questions telephoned and e-mailed to the staff.

In response to particular comments, one doctor inquired why postcards announcing the newsletter and license renewal were sent instead of just e-mailing notices. Unfortunately, the Board has not found that E-mail notification reaches every licensee. For

example, this comment was provided by a licensee: "was not aware of there even being a newsletter...i never received one."

Some comments inquired about the availability of the Optometry Act and current rules. Booklets for the Act and for the Rules are available on the website. Each booklet contains a Table of Contents and an index. The booklets can be viewed on-line, downloaded, or printed. The Newsletter always identifies rules adopted in the last year, and any changes to the Act.

Several comments found the new on-line renewal process inferior to the previous process. The Board is working with the database vendor to make the process better. Pending these improvements, please feel free to contact Board staff if there are problems with the on-line renewal.

Some comments discussed issues that would require changes to the Optometry Act or other state law. The Board read the comments, but state agencies are prohibited from lobbying the legislature to change the law.

Substance Abuse Help

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 Board's Peer Assistance Program for help.

The Peer Assistance Program is operated by the Professional Recovery Network which provides assistance to optometrists, pharmacy professionals, dental professionals, and veterinarians.

After contacting the Professional Recovery Network, the licensee or optometry school student 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 Professional Recovery Network may be required to report the licensee to the Board.

Work associates or family members may also refer a licensee or student to the Program.

The Professional Recovery Network may be contacted by telephone (**1-800-727-5152**). In addition, the Professional Recovery

Network has a [website](#) with contact information, a description of the program, and helpful information concerning addictions, mental health issues, and intervention information.

License Renewal

- Renewal period expected to start first week in November
- Postcard is sent to address in database
- Instructions will be on website
- On-line renewal system allows a January 1, 2013 renewal, if system is operational on that day
- Board cannot guarantee that on-line renewal system will be operational at all times
- Same on-line renewal system used last year (hoped for improvements may not be ready)
- Most doctors will not need to reregister to renew on-line – use password created last year
- Same fee as last year

Continuing Education

- Courses must be approved by the Board – courses are approved at each board meeting
- Approved courses are listed on website
- Doctor or course provider must send proof of attendance to Board
- Individual hours are posted on the website (only those hours from approved courses)
- Last chance to have Board approve medical exemption is November 2, 2012
- COPE courses are generally accepted, but must still be formally approved before credit can be given*
 - *other state jurisprudence courses are not approved, some poster sessions are not approved
- Last minute attempt to obtain CE – frequently very stressful for doctor
- Last minute attempt to obtain CE – Board office may be able to offer suggestions
- Insufficient CE hours – substantial monetary penalty and doctor cannot renew

- Detailed information on CE requirements is on website: www.tob.state.tx.us/cegeneral.htm

Thomas Pruett, O.D.

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WHAT WAS IT LIKE TO PRACTICE OPTOMETRY 57 YEARS AGO? It was a heady experience for a small town boy to be called Dr. and to be able to be independent for the first time in his life, but it was very different from today's practice of optometry. First off, we were "drug less" by law, being deemed incompetent to properly administer any drug. My equipment, which was "used" when I got it, would today be in a museum. I still have the record from my very first patient in Lake Jackson, Texas. The exam charge was \$5.00 and the bifocal glasses, with frame, were \$22.50. Having to evaluate the patient's retina through a non dilated pupil was perhaps one of the most challenging things we had to do, followed next by looking at the cornea without a slit lamp. YES, many of us did not have slit lamps in those days, even those of us who fit contact lenses. We could not even use fluorescein without a 'standing order' from a real doctor. When we first began to use dilate drops it had to also be with such a standing order. When optometry attempted to change the law in Texas to allow optometrists to use diagnostic drugs, "medicine" painted a dooms-day picture of 'untrained people causing angle closure glaucoma by using drugs they were not competent to use nor competent to solve the dire consequences of such use.'

Perhaps the best and the worst change to my practice was "Therapeutics." I was in my 35th very successful year when faced with the question of "What to do about therapeutic certification?" I really did not want to have to exert the time and energy to learn all this new stuff, I was very comfortable. However, I realized that this was the optometry of the future and I certainly did not want to miss out. Never before had I worked so hard or spent so many hours trying to learn everything in Jimmy Bartlett's Second Edition of "Clinical Ocular Pharmacology." I knew I was only going to get one shot at passing the board exam afterwards, because I was mentally used up. Fortunately, I passed and now had to

figure out how to begin my "New" practice and to deal with third party pay. YES, dear children, that was also new...before that, it was, 'doctor did and patient paid' short and simple!

I hardly know how to offer any advice to a young practitioner, as a matter of fact, I find myself calling on them frequently for advice. However, in so far as enjoying optometry, I still believe one must love their patients and really desire to treat them with the utmost respect, then, perhaps the hardest thing to do with the third party driven mode of practice of today, is to actually enjoy the practice of optometry. I believe it is imperative to adjust ones attitude to honestly enjoy whatever one is doing, if they are to be successful at it. I found that after entering practice, I simply did not know how to become successful, so I called three of the most successful optometrists in Texas and asked to spend a day in each of their offices. It was an eye opening experience and helped me to become successful myself. It is my observation, however, that the restoration of vision and quality opticianry has taken a backseat to providing eye health in many modern offices today. I am constantly bombarded by my former paying patients about where to go to receive the kind of care they found in my office and especially where to go for glasses that fit. This is sad! Has optometry lost sight of its roots as it has made quantum leaps into therapeutic care?

After closing my office in 2000, I continue to travel to Mexico twice each year for huge charity clinics where the most wonderful health care givers of all kinds put forth super-human effort for the benefit of truly un-served people. Then four years ago, I was able to open a charity optometric clinic in a community center to provide care for local citizens who have no where else to turn. It is just as exciting today as it was 57 years ago to be able to restore vision and to refer those needing medical care. I would advise anyone seeking a rewarding career to consider optometry.

Doctors actively licensed for 50 years or more were invited to submit comments. 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.

New Rules

Since the last Newsletter, the Board amended the following rules.

Use the link for each rule to see the actual text of the rule.

Military spouses - expedited requirements for license applications. Rule [273.6](#) was amended to allow a spouse of a active duty military member stationed in Texas to apply for a license without some of the requirements for other applicants. Significant restrictions are part of the rule amendments. Legislation allowed the Board to make the changes.

Dyslexia - Rule [271.3](#) was amended to allow license applicants with dyslexia to take advantage of certain testing accommodations.

Office Inspections

The Board has investigated offices and initial patient examinations for over 30 years. The current procedure requests doctors to give the Board's investigator copies of a few recent patient records -- *only records of first time patients for whom an ophthalmic prescription was issued*. These records are reviewed for compliance with Section [351.353](#) and Board Rule [277.7](#).

HIPAA regulations do not prohibit the copying of the entire patient record by the Optometry Board, but the licensee may remove personal identifying information from the copies. This is explained in a letter presented to the optometrist as the investigator enters the office.

The office inspection should only disrupt a practice for a short time. 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 Galveston, Baytown, League City, Pearland, Friendswood, Webster, Dickinson, La Porte, Texas City, Kemah, San Angelo, Abilene, Early, and Brady.

My name is Lewis Landsman, O.D.,FA.A.O, I have been engaged in the practice of Optometry for over 51 years since graduating from the University of Houston, College of Optometry in 1961. During those years I have had many experiences in the field beginning as an Army O.D. stationed at Ft. Hood for three years. I remember my Dean, Dr. Chet Pfeiffer, telling me that while I would gain experience, be careful to not get sloppy. I understood what he meant after examining 36 patients per day. When my tour of duty was over, I opened my own practice and experienced the starvation period we were taught about. Later I worked with various other O.D.'s and finally left a 9-year partnership to join the faculty at the University of Houston. Wanting to return to the direct contact with patients, I left the University of Houston in 1978 to open a practice in Alvin, Texas which I eventually sold in 2000. I continued to work with the new owner until 2007 at which time I left and like a boxer who hears the bell, I once more jumped into the ring and opened a new office in Onalaska, Texas.

I have some observation concerning our profession after all these years, some good and some bad. First the good. When I began to practice in 1961 there was still the claim that "a lens is not a pill." Therefore, we were well schooled in optics and the art and science of a complete visual analysis. I knew especially after my association with numerous ophthalmologists both in the service and in civilian life that we were more capable of providing the best visual care for patients. Their limited understanding of physiological optics was surprising. One of the ophthalmologists at the hospital wondered why there were prisms on a phoropter. We were familiar with concepts that present O.D.'s are probably not, such as check, chain and type or graphical analysis. We understood the affects of different base curves and were excited about the masterpiece and corrected curve lenses. Lenses have certainly evolved from the 6 base curve crown to the present abundance of choices among materials and styles. I am saddened by the fact that most patients will never experience the achievements in the field of optics because the internet and big box retail chains are not interested in what is best for the patient but what is best for their bottom line profits. The ability to shop the market place for the cheapest cost to fill a prescription has robbed the public of not only what would be the best available but usually ends up costing them more in dollars lost on unwearable glasses and keeps them from having what would have been a better correction.

In the field of contact lenses, the changes have been dramatic. Working with PMMA lenses to achieve a high level of success, we went from 10.0 to 6.0 and back to 9.2 mm diameter and we had to be skilled in analyzing fluoresce patterns. I spent many an evening modifying PMMA lenses adding or changing peripheral curves, reducing diameters and even drilling holes to allow oxygen to reach the edematous cornea. It was in those early 60's that we discovered that the lack of oxygen was causing the edema. Along came the soft lenses but even then we still had to deal with edema and failures. Thankfully the technology continued to evolve and today there are excellent materials and lens designs to accommodate every visual need. I remember lecturing in the late 1970's to an optometric group on the use of mono vision technique to correct presbyopia. The majority of the O.D.'s thought I was doing a disservice to the patients and that it would never work. What helped them to appreciate the technique was the fact that I was wearing it successfully at the time. In 1959, while wearing PMMA lenses I inadvertently drove to the optometry clinic and forgot to put on my contact lenses. My uncorrected vision of 20/2100 was improved to 20/20 uncorrected. I continued to monitor my visual acuity for 1-1/2 weeks before it began to decrease at which time I reinserted my lenses. When I read the work of Drs. Grant and May in which they corrected myopia with contact lenses, I knew that is what happened to my eyes years before and became the first fellow in the International Orthokeratology Society in Texas. In later years, we were able to add the rigid gas permeable lenses enabling us to fit rigid lenses without the associated edema. It is wonderful to have all of these tools at our disposal to correct our patients vision, but again it is those retailers selling the lowest cost lenses to the uninformed public that continues to provide us with patients saying "I couldn't be fit with contacts because I have astigmatism or my eyes are too dry" or "they did try on one pair of lenses but they didn't work." I tell the patients that it is the responsibility of the doctor to fit the lens to the patient and not the patient to the particular lens that they were fitting in that office. The good things that I have seen in optometry go beyond the technical advances in materials, equipment and include the educational advancement and legal achievements that enable us to provide treatment for our patients involving eye diseases. Patients now come to my office when they have any eye related problem. Now when I tell people I am an Optometrist they no longer think I deliver babies or adjust the spine.

Over the years, the bad that I have seen has been the shift from the private practitioner who was trying to compete on the basis of his professional ability to the corporate setting where the competition is in the marketplace with who has the best advertisement, lowest prices to attract the patients. The doctor now seems to be the best, who can examine the fastest and code with the highest reimbursement. It still bothers me after all these years to do a basic exam and hear patients say: " I have never had ALL that done before." Knowledge of optics and skill in examination and dispensing doesn't seem important to patients ordering their glasses over the internet or going to the nearest big box retailer to get the lowest price. Skill has been replaced by equipment with bells and whistles run by technicians that do not understand why they are running the test. At a time when we have the knowledge, instrumentation and legal abilities to enhance our patient care I'm afraid it is reimbursements that determine the quality of care our patients receive. I feel like I have been blessed by God to practice this profession enabling me to provide a good income for my family enjoying the presence of my wife in the office as my buyer and dispensing optician for the last 34 years. The most rewarding aspect has been helping people to use one of God's most precious gifts, vision, to the extent it was given them to see, enjoy and gain information from this world with all the ease and accuracy they should have. We in optometry have the best training to fulfill our mission of providing the best, clear comfortable single, binocular vision the patient is capable of receiving. My hope in the future is that we will not lose sight of this or have it taken away from us by third parties whose only concern is providing minimum eye care at the lowest possible cost. It may be time for me to think about retiring my retinoscope or at least slowing down. If someone wants to practice in Onalaska Texas, please call me at 713-906-7966.