



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)

Impaired doctor: John Smith, O.D., has increased his alcohol consumption in recent months such that it may be affecting his practice of optometry. Friends, family, employees and co-owners of the optometry practice are aware that the alcohol consumption may be affecting his practice. State law provides for two outcomes, each with very different consequences for Dr. Smith.

Confidential Help ← or → Board Discipline

Dr. Smith clicks on the "Help" button on the Board's website and is directed to the Board's **Peer Assistance Program**. He is evaluated by the Peer Assistance Program and a treatment program is created. As long as Dr. Smith complies with the treatment program and the treatment is successful (alcohol use no longer affects his practice of optometry), the evaluation and treatment are confidential and not reported to the Optometry Board. *The treatment and condition will therefore not be in the Board's records, no report will be made to the national databank and no information will be available to insurers and the public.* The treatment program may require Dr. Smith to stop practicing for a period of time while he undergoes treatment.

Dr. Smith does not need to be the first person to make contact with the Peer Assistance Program -- friends, family, employees and co-owners of the optometry practice can make the first contact.

The Peer Assistance Program is available for substance abuse issues and mental health issues. Both licensees and students may use the program.

Dr. Smith does not click on the "Help" button. A patient visits Dr. Smith, who believes that she received an inadequate eye examination. She files a complaint with the Board, stating that Dr. Smith smelled of alcohol and appeared to slur his words during the examination. The Optometry Board investigates the complaint. In the investigation the Board finds sufficient evidence to prove that Dr. Smith is addicted to alcohol, and that Dr. Smith has provided negligent care to patients while under the influence of alcohol.

The Board enters an agreed disciplinary order with Dr. Smith that suspends his license, and places him on probation while receiving treatment for the addiction. Provided that the treatment is successful and that he is able to competently practice, Dr. Smith is allowed to practice. **The suspension and probation remain a permanent part of the license record, reported to the national databank and available to insurers and the public.**

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

For additional information, click on "Help" button above.

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Contact Lens Prescriptions

- **Limiting Term of the Prescription (Length of Time Less than One Year, or Number of Lenses Will Not Last One Year)**

State and federal law allow the doctor to limit the prescription expiration date to less than one year from the date the parameters are determined, “based on the medical judgment of the prescriber with respect to the ocular health of the patient.” (FTC Rule [16 CFR §315.6](#)). A written explanation of the specific medical reason for the limited time prescription must be made in the patient records (state and federal law). FTC Rule [16 CFR §315.6\(b\)](#) requires the statement to be “maintained” for at least three years. State law also requires the doctor to give the patient a verbal explanation of the reason for the shortened prescription.

Similar requirements apply when the number of lenses is restricted to a number that will not last the year period of the prescription. FTC Rule Comments state:

“The Commission, however, emphasizes that prescribers may not use quantity limits to frustrate the prescription expiration requirements imposed by section 315.6 of the final Rule. The quantity of lenses or refills specified in the prescription must be sufficient to last through the prescription’s expiration date, which typically will be one year after the issue date. If a lesser quantity of lenses or refills is specified in the prescription, the prescriber must have a legitimate medical reason for doing so, and the requirements imposed by section 315.6(b) of the final Rule on writing a prescription for less than one year must be met.”

- **Prescription Requirements When All Contacts Are Dispensed at Time of Exam**

A prescription must still be issued when all the prescribed contacts are dispensed at the time of the exam. Similarly, the filled prescription must also be verified. See [Board Rule 279.2](#) (available on the Board’s website):

(k) Number of Lenses. An optometrist or therapeutic optometrist dispensing contact lenses shall record on the prescription the number of lenses dispensed and return the prescription

to the person. If all the contact lenses authorized by the prescription are dispensed by an optometrist or therapeutic optometrist, the following procedure complies with state law and should not be in conflict with federal law: the optometrist or therapeutic optometrist writes on the prescription “All Lenses Dispensed,” makes a copy of the prescription to retain in the licensee’s records, and returns the original to the person presenting the prescription.

- **Verification of Prescription Months Into Rx Period**

FTC Rule Comments: “For example, if a verification request indicates that a patient seeks to purchase a nine-month supply of lenses only one month before the prescription expires, the prescriber may treat the verification request as inaccurate. Under such circumstances, the prescriber would be required to provide the seller with information regarding the basis for the inaccuracy as well as to correct the prescription by specifying an appropriate number of lenses to be dispensed.”

- **Copies of Prescriptions**

Neither state or federal law require an optometrist to issue a duplicate prescription, but a doctor may release a copy of a prescription. The doctor may charge a reasonable administrative charge for the duplicate prescription. See [Rule 279.2\(a\)\(2\)](#) for the procedure to follow if another doctor has been authorized to sign a duplicate prescription.

Note that a doctor is required to respond to every request for a contact lens prescription verification.

A doctor can easily show that a prescription was released if a copy of the prescription was placed in the patient records file.

- **Other Common Questions**

- All patients are entitled to a two month extension of their contact lens prescription. [Board Rule 279.2\(l\)](#)
- According to the HIPAA [website](#), a doctor can transfer prescription data to a contact lens dispenser without a signed release from the patient.

Lawsuits Filed Against Board

On October 7, 2013, the Optometry Board and individual Board Members (the Defendants) were sued in the 99th District Court in Lubbock County. The Plaintiffs in the lawsuit are BRIAN KERN, O.D., PETER M. HO, M.D., PA. d/b/a TEXAS VISION ASSOCIATES, P.A., and MING-TAO HO, M.D. a/k/a "PETER" M. HO, M.D. The Plaintiffs also obtained a Ex-parte Temporary Restraining Order that same day.

On the same day that the state lawsuit was filed, individual Board Members were sued in the Federal District Court in the Northern District of Texas, Lubbock Division. Plaintiffs in that lawsuit are NATIONAL VISION, INC., PETER M. HO, M.D., PA. d/b/a TEXAS VISION ASSOCIATES, P.A., and MING-TAO HO, M.D. a/k/a "PETER" M. HO, M.D.

The Board, through the Office of the Attorney General, responded that a lawsuit filed before the completion of an investigation is premature because there is no threat of immediate enforcement, and thus Plaintiffs' claims are not ripe for review. The Board also argued in both lawsuits that the Board is properly interpreting the provisions of the Optometry Act that prevent a wholesaler, retailer or manufacturer of ophthalmic goods from controlling the practice of a licensee, and that the Optometry Act does not violate the constitutional rights of the Plaintiffs.

The Optometry Board filed a Motion to Dismiss in the State District Court which was granted by the Court on February 3, 2014. That Order was appealed by the Plaintiffs to the Court of Appeals. The Board Members (Defendants) filed a Motion to Dismiss the lawsuit in Federal District Court which was denied by the Court.

The Plaintiff's petition in the state court lawsuit alleges, in part:

2. The Texas Optometry Act, TEX. OCC. CODE Chap. 351, "does not . . . prevent or interfere with the right of a physician licensed by the Texas State Board of Medical Examiners to . . . direct or instruct a person under the physician's control, supervision, or direction to aid or attend the needs of a patient according to the physician's specific direction, instruction, or prescription." Id. at § 351.005(2)(B).
3. Plaintiff, Brian Kern, O.D. ("Kern") is a licensed optometrist who

is employed by Plaintiff Peter M. Ho, M.D., P.A., d/b/a Texas Vision Associates, P.A., a practice owned and operated by a board-certified ophthalmologist, Plaintiff "Peter" Ming-Tao Ho, M.D. (together referred to as "Dr. Ho"), to provide eye care services. Kern will provide eye care services under Dr. Ho's direction. Dr. Ho's practice is located inside an optical dispensary owned by National Vision, Inc. ("National Vision"), a nationwide, retail optical company.

4. Defendants have threatened Kern's optometrist license, claiming that Kern's employment by Dr. Ho violates the Optometry Code's prohibition on optometrists co-locating with optical dispensaries that are not optometrist-owned. TEX. OCC. CODE § 351.364. That action likewise impermissibly threatens to restrict Dr. Ho's medical practice even though he is a physician not regulated by the Optometry Board. Defendants ignore the plain language of the statute, which does not limit physicians and their employees. Id. at § 351.005(2)(B). In fact, the Act specifically excludes physicians and their employees from its provisions. Id.

5. Thus, the Optometry Board's members are seeking to enforce a prohibition that is expressly disclaimed by the Optometry Act. Id. The Board's actions are thus without legal authority and are ultra vires.

6. The Board's interpretation of the statute is not a proper exercise of discretion for several additional reasons. Even assuming the Board's interpretation of the Act could be squared with its plain language, the Board has no independent authority to promulgate substantive rules interpreting the scope of the Optometry Act. TEX. OCC. CODE § 351.151(b).

7. Furthermore, the Board's interpretation of the Act violates both state and federal constitutional guarantees against irrational economic protectionism. The Optometry Act clearly authorizes optometrists to provide eye exams in the same physical space where eyeglasses are sold—so long as the optometrist is the one doing all the selling. TEX. OCC. CODE § 351.356; see also id. § 351.363(c) (an optometrist may engage in the business of a dispensing optician so long as patient records and accounts are kept separately); id. at § 351.408(d) (allowing optometrist to operate three separate locations that sell both eye exams and eyewear). The Board contends that the Optometry Act prevents an optometrist employed by a physician from doing the very same thing—providing eye care services in the same location where eyeglasses are sold. But there is no colorable public health rationale or other permissible justification for this distinction. If anything, a consumer receiving an eye exam from an optometrist under the direction of a physician has the benefit of an additional layer of professional judgment and quality control as compared to a consumer receiving an eye exam from a solo optometrist who has a clear economic incentive to maximize sales of eyeglasses. Thus, the Board's position, as applied to these

circumstances, is nothing more than economic protectionism.

...

9. Because many practice settings that offer co-location of optometry services and optical dispensaries arise from arrangements between vision care providers and national optical companies, such as National Vision, the burden of such protectionist restrictions on co-location falls disproportionately on professionals who associate with out-of-state optical companies. Furthermore, under the Board's interpretation, the benefit of being allowed to bundle sales of eyewear with eye exams, for a valuable "one-stop shopping" business model, is exclusively, but unjustifiably reserved to local, in-state optometrists who practice independently. Consumers in general greatly prefer to obtain their eyewear from the same location where they receive their eye examination; accordingly, this de facto monopoly on this model creates a substantial competitive advantage for in-state optometrists.

Disciplinary Action

Each newsletter contains a list of doctors issued fines for failing to use the proper professional identification. State law requires an optometrist to use one of 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

Letter Agreements with Administrative Penalties

Licensee 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.

Patient Records

Board alleges that patient records for two exams of a patient were made using Electronic Medical Records and handwritten records. Some examination findings and diagnoses contained in the handwritten records do not appear in the EMR. The EMR records were not finalized on the day of the examination or the day after, but information was added or changed in the EMR months after the examination date. Respondent did not make notations in the EMR to identify when or what information was added, removed, or changed. Drop down menus did not accurately state recall dates. The patient record, the EMR, which was provided to the patient, does not provide sufficient information such that another optometrist or therapeutic optometrist could identify the specific examination performed and the results obtained. Administrative penalty of \$2,500.00, and additional course work required. 5891TG: Kellee N. Bertsch, O. D. Optometry Act §[351.501\(a\)](#) and [Board Rule 277.7](#).

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 above and the [February 2012 Newsletter](#)). Occupations Code §[104.003](#), [Board Rule 277.6](#).

Identification on Rx

Four doctors received administrative penalties for allegedly failing to identify themselves as optometrists on prescriptions written by the doctors. Administrative penalty of \$300 for each doctor.

No Identification on Office Door

Five doctors allegedly failed to identify themselves on signs

Administrative Penalties, continued

prior to entry into the their offices. Some of the doctors assessed a penalty were employees of a practice. Administrative penalty of \$300 for each doctor. Optometry Act §[351.362](#).

Misleading Application

Four applicants received an administrative penalty for allegedly submitting misleading applications, and specifically for not disclosing arrests or criminal convictions. The instructions for the application clearly spell out that all arrests and convictions must be reported. Administrative penalties ranging from \$300 to \$500 depending on severity of information not disclosed. Optometry Act §[351.501\(a\)](#), [Board Rule 271.2](#).

Practicing Without Renewing License

Doctor allegedly attempted to timely renew license but had not taken all of the required continuing education. Penalties were assessed for late renewal of license and for not obtaining sufficient continuing education. Doctor submitted partial payment of penalties and incorrectly assumed that all penalties had been paid. Administrative penalty of \$100. Optometry Act §[351.301](#).

Control by Optical

An optometrist was assessed an administrative penalty for allowing a leasing optical to control the practice. The doctor allegedly placed the name of the leasing optical on the doctor's business card. Administrative penalty of \$300. Optometry Act §§[351.364](#), [351.408](#), [351.459](#).

Failure to Comply with Initial Examination Requirements

Optometry Act requires that, at a minimum, a specifically enumerated examination be given for new patients for whom an ophthalmic prescription is written. Doctor, complying with the request of a patient who said he was under the care of an ophthalmologist, performed only a refraction on the patient before writing an ophthalmic prescription. The patient who made the

special request was the person who filed a complaint with the Board. Optometry Act §[351.353](#), [Board Rule 279.3](#).

New Remedial Disciplinary Procedure

Section [351.509](#) of the Optometry Act and [Board Rule 277.10](#) allow the Board to use a Remedial Plan instead of a discipline procedure. A Remedial Plan is based on an agreement between the Board and the licensee. As part of the plan, the licensee is required to comply with the Optometry Act and provide proof that any violations of the Optometry Act found by the Board have been corrected. The Plan would last two years, and during that time period the licensee would be required to report regularly on compliance with the Optometry Act. At the end of the period, any record of the remedial plan would be removed from the licensee's record (provided that the licensee complies with the terms of the Plan).

No fine or administrative penalty is assessed. There is a Plan administration fee in the amount of \$1,000, that must be paid to recover the costs of administering the plan.

50 Joe Blackburn, O.D.

Fifty Years Goes by Really Fast

It just seems like yesterday that we were packing and loading that small trailer. Inside the trailer, in addition to our household items, was a newly refinished B&L Chair and Stand, a Green's Refractor and a B&L Keratometer. I had purchased them from Lester Cheatham, O.D., when I worked for him during optometry school. I had been offered the opportunity to purchase a practice in Hurst. When we arrived in Dallas I called the selling OD and he gave me some bad news, "Sorry but I've decided to sell the practice to another Doctor." I was in a bad fix...no practice...no employment...with very little money and a wife and little baby girl to provide for.

I called an OD friend, who was working for an OD in Fort Worth and he asked me to come over and meet Dr. Bill Mikesell. I did and he hired me. The practice was in downtown at 203 Main Street and had originally been owned by an optometric pioneer, Dr. William Palmer. In 1964 there were at least 8 optometry practices in the downtown area. Dr. Mikesell had a very busy practice that had a full-service optical laboratory, Service Optical Laboratory, in the back of the practice. The optical laboratory

(glass only in 1964) made spectacles for our patients plus we had several accounts in Fort Worth and in the surrounding small towns.

One of the most well-known ODs in Texas, Sol K. Lesser, who was instrumental in forming the Optometric Extension Program and wrote one of their instruction manuals called "The Little Black Book", which we studied while learning analytical analysis at UHCO, had a practice in downtown Fort Worth. He would occasionally drop by to get a rush job done for one of his patients. A few times a week, I would see him and I started walking with him to his office...talking about optometry and practice management. One day I asked him what was the secret to success...he said, "A great many patients will praise you and try to make you think you can do no wrong...some patients will be unhappy with you and try to make you think you can't do anything right...It is best not to listen to either one of them...but do the very best job you know how to do on each and every patient...that I think is the secret to success." I took his advice and have tried to follow that advice for the past 50 years and I would urge you to follow that sound advice in your optometric career.

We left Fort Worth in 1970 and moved back to Houston I eventually opened up my own TSO in north Houston. In 1982, thanks to learning how to fabricate lenses in Fort Worth, we started Eye+Tech, the first one-hour optical superstore chain. The Gillette Company purchased a 40% interest in Eye+Tech and we built 38 superstores in 6 states. We eventually sold Eye+Tech to Pearle and I signed a non-compete agreement and retired for the first time.

In 2002, we returned to Houston from Danbury, Connecticut, and I started practicing at the Walmart-affiliated practice in east Houston. In addition to practicing optometry, for the past several years, I have been a speaker for the Optometric Business Academy; given Billing and Coding Seminars and been a Professional Development Consultant for Alcon Vision Care. This year I had the pleasure of presenting a seminar to UHCO's Student Optometric Practice Management Association. I will be retiring from the Walmart-affiliated practice on August 31, 2014.

In my 50 years of practice, I have seen a great many changes, but some of the most significant changes I believe are:

1. The quality of optometric education. We had some great teachers in the basement of the Science Building at UH but not near the facilities and education that are presently enjoyed by optometry students.
2. The expanding scope of practice due to advanced diagnostic instrumentation and our ability to use pharmaceutical agents and do minor surgical procedures.
3. The great advances in contact lenses. In my career, we have gone from PMMA to Water-Gradient Soft lenses, an amazing improve-

ment and technological advance.

My advice to younger optometrists:

1. Participate in your profession by joining the TOA and the AOA. Do more than join but be active, go to meetings, offer suggestions, help your profession become even better, volunteer to serve as an officer. Your help will be appreciated and you will be helping optometry advance.
2. Become super-skilled in your profession. Attend seminars and CE events. Always keep learning new skills and techniques to improve the care you provide for your patients. Always seek the highest level of licensure and practice at the highest level possible.
3. Follow Dr. Lesser's advice and "do the best job you know how to do on each and every patient." That was good advice he gave me 50 years ago and it is still good advice for you to follow.

My retirement plans include finishing a book I am writing on some recently discovered manuscripts attributed to Thomas Aquinas. Also I recently contributed a chapter to Brian Tracy's new book "Transform" that will be published in September, 2014.

50 Years of Practice

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.

License Renewal/CE

- Renewal period expected to start first week in November
- Postcard is sent to address in database
- Instructions will be on website starting November 1
- On-line renewal system allows a January 1, 2015, renewal, but only 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
- Most doctors will not need to reregister to renew on-line – use password created last year
- Same fee as last year
- *Doctors waiting until the last minute may find it very stressful to complete all requirements in a timely fashion*

Continuing Education

- Detailed information on CE requirements is on website: www.tob.state.tx.us/cegeneral.htm Courses must be approved by the Board – courses are approved at each board meeting
- Last chance to have Board approve medical exemption is November 14, 2014

Important Notice Regarding License Renewal

A license renewal is not effective unless the requirements for CE have been met. Note that the renewal procedure requires an attestation that sufficient CE has been obtained. Since CE hours are posted, this should be very easy to determine: on the Board's website, click on "Check CE" and enter license number.

If sufficient CE hours are not obtained on or before December 31, 2014:

1. Renewal is not effective
2. Late renewal fee will be due (\$104), and
3. Late CE fee will be due (\$208)

50 Jerry Jacobs, O.D.

Fifty Years in Optometry

No profession has changed as much as optometry in the past 50 years. When I was in optometry school I recall our professors saying "don't waste time learning all the details of a particular disease, you only need to know that an eye is not normal and make sure you refer it to the ophthalmologist for diagnosis and treatment". Today we are responsible for appropriate testing, diagnosis and necessary treatment of the condition or disease. Since we did not treat ocular disease more time was spent on theories in evaluating the eye examination (analytical vs. graphical analysis) than on pathology. Obviously I welcome the expansion of the scope of practice in our profession.

Partly due to these changes in the scope of optometry we now receive much more respect as a profession. This includes third party insurance carriers, other medical providers and the public. We rarely hear "I only will go to an ophthalmologists" like we use to when I got out of school.

There have been some negative changes in optometry. One is the cost of the education. Today the average graduate of optometry school owes \$150,000 at graduation. When I was in optometry school the cost was \$400 a semester - thus even taking in account inflation it only took a

few years to repay a school loan. Today this debt can limit the options of the new graduate in that it is difficult and frightening to borrow another \$100,000 to open an office without any patients on the appointment book.

Another significant change is that the patients often carry out their glasses and contact lens prescriptions to purchase the products online or from optical chain stores. A third difference is the third party vision plans which did not exist until the 1980's. Until then the patient paid the doctors' fees and no one controlled what the doctor received from the patient. Today, sixty to ninety percent of the patients seen for an eye examination in most offices are on vision plans. The plans bring new patients into the office but in return we have had to give up control of our fees. Some plans pay eye examination fees that we charged back in the 1970's.

A significant change within the profession in Texas has been the change in corporate or "commercial chain" optometry. When we got out of optometry school the optometrists in these settings were controlled by the owner of the "chain" dictating the hours, materials, examination fees, etc. Often the doctors' name was not on the door. With the separated offices we were able to give independence to the optometrist and as a result more respect for the profession. Until the 1980's the optometrists practicing in these settings were not allowed to be members of the Texas Optometric Association due to the advertising by the corporate chains violated the code of ethics guidelines of the Association. At that time the Association was attempting to have advertising standards in optometry to be the comparable to other professions in the state. The optometrists working in the corporate settings were in violation of these guidelines and were prevented from joining the Association. While some in recent years have stated this was discrimination they fail to recognize that the Association was trying to uphold the standards and image of optometry and that the commercial settings were preventing us from improving the image of the profession. This all changed when the courts ruled that all professionals could advertise and not prevent membership in a professional association. Soon other professions such as dentists, surgeons and others began to advertise their services and products.

What am I doing today? I am in private practice in Dallas. I continue to serve as Grievance Committee Chairman for the Texas Optometric Association (over 25 years), and lead a study group of 15 optometrists and ophthalmologists that has been meeting monthly for 39 years. I also continue to assist optometrists in appraising, buying and selling optometric practices and how to structure their agreement. I have been doing this for over 30 years and involved in over 150 practices around the state.

New Rules

Application Procedure

The amendments to [Rule §271.2](#) clarify the procedure for submitting required fingerprints when making an application for license. In addition, the form of remittance required with the application submission is set out in the rule. The amendments also clarify the deadlines to apply for reexamination and the deadlines to submit all the documents required for license.

Licensing a Military Spouse

The board adopted changes to [Rule §273.6](#), and new [Rule §273.14](#), to implement state law providing an expedited licensing application for spouses of persons serving in the military.

Remedial Plan

The board adopted changes to [Rules §277.1](#) and [§277.2](#), and new [Rule §277.10](#), to set the procedure for the Remedial Plan disciplinary process, as authorized by changes to the Optometry Act. The Remedial Plan is discussed in the Disciplinary Section of the Newsletter.

Common Questions

Questions from Patients:

Q: Is my doctor required to put the PD measurement on my prescription?

Board's Answer: [Section 351.359](#) of the Optometry Act requires a prescription to contain, "... the information and parameters the [doctor] considers relevant or necessary." The doctor is not required to include a PD measurement.

Q: My doctor has moved and I need a copy of my patient records?

Board's Answer: The Board can give you the current business address in the Board's records. There is no requirement in the Optometry Act to maintain patient records if the doctor closes a practice.

Q: Why will the doctor not give me my contact lens prescription?

Board's Answer: If the doctor is requiring you to obtain a follow-

up examination, the contact lens fit must be evaluated before the doctor is required to give you the prescription.

Questions from Optometrists

Q: Can I prescribe a specific drug?

A: See [Board Rule 280.5](#), and for oral prescriptions prescribed by an optometric glaucoma specialist, [Rule 280.10](#).

Q: Why has my CE not show up on the website?

A: CE cannot be posted until the Board approves the CE course. The CE provider has the duty to submit a course to the Board for approval. The earlier the course is submitted, the earlier it can be approved by the Board. A list of approved courses is on the website.

Q: Can an optometrist terminate the doctor-patient relationship if the doctor believes the patient might put staff or other patients in danger?

A: The doctor may request that the patient see another doctor in the future. If the patient is currently receiving treatment, the doctor may not discontinue that treatment without giving the patient adequate notice and the opportunity to obtain the services of another eye care professional.

Customer Survey

The Board received many instructive comments from the Customer Survey conducted in May. Information on office inspections and approving CE courses in this newsletter are in response to comments in the survey. The Board members read the comments, and the full results of the survey are on the Board's website at www.tob.state.tx.us/CusServ.pdf.

Links

The links in the Newsletter may link to websites not affiliated with the Optometry Board. The Board cannot be responsible for the content on these websites.

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 conducted under the authority of Optometry Act §[351.1575](#).

The Board investigator (or on occasion, the executive director) conducts the inspections. The optometrist practicing at the location is asked to submit copies of five recent patient records to the investigator, who then delivers the records to a licensed Board Member. The records are checked for compliance with [Board Rule 277.7](#) and Optometry Act §[351.353](#).

The Board reviews the patient records to determine whether the records show that each test of the required exam was performed ([Rule 277.7](#) gives specifics of the information required on the patient record). If not, the doctor is notified that the records and/or the exam appear to be incomplete. The failure to properly conduct the exam and record it may be grounds for disciplinary action. A review of disciplinary action in each Newsletter will illustrate the consequences of an improper exam.

The investigator also checks the doctor's compliance with notice requirements at the entrance of the practice (Optometry Act §[351.362](#)), sanitation requirements in [Board Rule 279.1](#), and compliance with the Healing Arts Identification Act (Occupations Code §[104.003](#)). If the doctor's practice is in space leased from a retailer of optical goods, the investigator checks to see whether the doctor's practice is free from control by the leasing optical. Again, a review of the disciplinary section of the Newsletters will give specific information regarding violations found during the inspection process.

Since the last Newsletter, the Board has inspected offices in Allen, McKinney, Lewisville, Carrollton, Frisco, The Colony, Flower Mound, Harlingen, McAllen, Weslaco and Mercedes.

New Licensees

About 200 optometrists are licensed each year in Texas. Information on the practice of optometry was provided with each license, but to review, please note the following:

- Your license expires on January 1, 2015. No exceptions!

- You will be mailed a postcard when it is time to renew (usually the first week in November), 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.
- 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 2015 (if you were first licensed in 2014).
- Optometric glaucoma specialist license details are on the website (many new licensees have already received the 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. Use the "General Information" link from the first page of the website, or the "Main Information" page from the Table of Contents for links to Medicare, Medicaid and HIPAA resources as well.

Pain Medication

The DEA has issued a final rule rescheduling hydrocodone combination products from schedule III to schedule II ([link to rule](#)). An optometric glaucoma specialist does not have the authority to prescribe a Schedule II Controlled Substance.

Information on prescribing and dispensing pain medications, with emphasis on Schedule III controlled substances; on 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 can be found at this [link](#).