

Chapter 1. General Provisions

§101. Preamble

A. The Louisiana State Board of Optometry Examiners governs the practice of optometry in accordance with the Optometry Practice Act (the "Act"), R.S. 37:1041 et seq.

1. The Act is incorporated herein by references, as though copied in full.

2. The Act is the source of the board's authority. Primary reference should be made to the act in determining the rules governing the operation of the board. The following rules supplement and further the purposes of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006).

§103. Rulemaking Procedure

A. The board shall be governed by the provisions of the Optometry Practice Act, R.S. 37:1041 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., in adopting rules for the operation of the board and the practice of optometry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006).

§105. Legislative History

A. The practice of optometry in Louisiana was initially governed by Act 193 of 1918, which was amended by Act 181 of 1920.

B. Act 172 of 1921 revised the law as it then existed.

C. In 1950, Louisiana adopted the revised statutes which codified existing legislation. The practice of optometry is currently governed by Chapter 12, Title 37 of the Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006).

§107. Organization of the Board

A. Introduction. See the provision of the Act relative to the organization of the board, in particular, R.S. 37:1041-1048.

B. Definitions

1. As used in this Part, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

2. Masculine terms shall include the feminine and, when the context requires, shall include partnership and/or professional corporations.

3. Where the context requires, singular shall include the plural or plural shall include the singular.

Act—the Optometry Practice Act, R.S. 37:1041 et seq.

Board—the Louisiana State Board of Optometry Examiners.

Diagnostic and Therapeutic Pharmaceutical Agent—any prescription or nonprescription drug delivered by any route of administration, used or prescribed for the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics, only when used in treatment of disorders or diseases of the eye and its adnexa. Licensed pharmacists of this state shall fill prescriptions for such pharmaceutical agents of licensed optometrists certified by the board to use such pharmaceutical agents.

i. Any *diagnostic and therapeutic pharmaceutical agent* as defined above listed in schedules III, IV and V of the uniform controlled dangerous substances law shall be limited to use or to be prescribed by a licensed optometrist for a maximum of 48 hours when used in treatment or disorders or diseases of the eye and its adnexa.

ii. *Diagnostic and therapeutic pharmaceutical agent* shall not include any drug or other substances listed in schedules I and II of the uniform controlled dangerous substances law provided in R.S. 40:963 and 964 which shall be prohibited from use by a licensed optometrist.

iii. A licensed optometrist may prescribe one additional 48-hour prescription only if warranted by a follow-up exam.

Licensed Optometrist—a person licensed and holding a certificate issued under the provisions of the Act.

Optometry—that practice in which a person employs primary eye care procedures including ophthalmic surgery such as YAG laser capsulotomy, laser peripheral iridotomy, and laser trabeculoplasty, except for those surgery procedures specifically excluded in subsection D of section 1041 of the Optometry Practice Act; measures the power and range of vision of the human eye using subjective or objective means, including the use of lenses and prisms before the eye and autorefractors or other automated testing devices to determine its accommodative and refractive state and general scope of function; and the adaptation of frames and lenses, in all their phases, including plano and zero power contact lenses, to overcome errors of refraction and restore as near as possible normal human vision, or for orthotic, prosthetic, therapeutic or cosmetic purposes with respect to contact lenses. *Optometry* also includes the examination and diagnosis, and treatment of abnormal conditions and pathology of the human eye and its adnexa, including the use or prescription of vision therapy, ocular exercises, rehabilitation therapy, subnormal vision therapy, ordering of appropriate diagnostic lab or imaging tests; the dispensing of samples to initiate treatment; and the use or prescription of diagnostic and therapeutic pharmaceutical agents. Optometrists shall issue prescriptions, directions and orders regarding medications and treatments which may be carried out by other health care personnel including optometrists, physicians, dentists, osteopaths, pharmacists, nurses, and others.

i. *Ophthalmic Surgery*—a procedure upon the human eye in which in vivo human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation. Nothing in this Optometry Practice Act shall limit an optometrist's ability to use diagnostic or therapeutic instruments utilizing laser or ultrasound technology in the performance of primary eye care or limit an optometrist's ability to perform *ophthalmic surgery* procedures other than those specifically excluded in subsection D of section 1041 of the Optometry Practice Act. Only persons licensed to practice medicine by the Louisiana State Board of Medical Examiners under the laws of this state may perform the *ophthalmic surgery* procedures specified in subsection D of section 1041 of the Optometry Practice Act.

ii. *Authorized Ophthalmic Surgery Procedures*—any procedure upon the human eye or its adnexa in which in vivo human tissue is injected, cut, burned, frozen, vaporized, coagulated, photodisrupted, or otherwise altered by the use of surgical instrumentation such as, but not limited to, a scalpel, needle, cryoprobe, laser, cautery, ultrasound, or ionizing radiation, other than procedures listed in subsection D of section 1041 of the Optometry Practice Act.

iii. Nothing in the Optometry Practice Act shall prohibit the dilation and irrigation of lacrimal ducts, insertion and removal of lacrimal plugs, foreign body removal from superficial ocular tissue, suture removal, removal of eyelashes, drainage of superficial lesions of the eye and its adnexa, or corneal shaping with external ophthalmic devices such as contact lenses by optometrists, provided, however, no optometrist shall carry out any such procedures referenced in this Paragraph unless certified by the board to treat those abnormal conditions and pathology of the human eye and its adnexa.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006), amended LR 34:872 (May 2008), LR 40:2249 (November 2014), repromulgated LR 40:2578 (December 2014).

§109. Employment Restrictions

A. An optometrist, duly licensed under the provisions of the Louisiana Optometry Law as set forth in R.S. 37:1041 et seq. is prohibited from accepting employment as an optometrist from:

1. a corporation other than a professional optometric corporation or professional medical corporation organized pursuant to Title 12 of the Louisiana Revised Statutes and domiciled in the state of Louisiana;
2. a partnership or limited liability company, unless such partnership or limited liability company is domiciled in the state of Louisiana and each partner or member, as the case may be, is:
 - a. an optometrist or physician duly licensed as an optometrist or physician in the state of Louisiana; or
 - b. a professional optometric corporation or professional medical corporation described above in Paragraph A.1 of this Section; or
3. an individual, unless such individual is duly licensed as an optometrist or physician in the state of Louisiana.

B. An employer of an optometrist, whether a professional optometric or medical corporation, partnership, limited liability company or individual described above in Subsection A of this Section, shall exert no influence over the employee optometrist in regards to professional judgment, patient care, or any matter affecting the health and well being of the patient, or the ability of the optometrist to provide such care.

C. An optometrist, duly licensed under the provisions of the Louisiana Optometry Law as set forth in R.S. 37:1041 et seq., shall not enter into a contract, agreement or other arrangement with any individual or entity, other than an individual or entity described above in Section A of this §109, which allows such individual or entity to dictate to or influence the fees charged by the optometrist for patient care.

D. Violation of the provisions of this §109 by an optometrist shall be considered a violation of provisions of R.S. 37:1061, and as such the board may refuse to renew the license of any such optometrist on its annual renewal date of March 1 of each year (R.S. 37:1056) and/or subject such optometrist to suspension or revocation of his or her license to practice optometry upon due notice and hearing as provided in R.S. 37:1062.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006), amended LR 35:1111 (June 2009).

§111. Prohibition of Fee-Splitting

A. An optometrist shall be prohibited from sharing or splitting fees with any person, corporation, partnership or other entity, other than through an affiliation with a person or entity described above in §109.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006).

§113. Referrals

A. No optometrist shall offer, make, solicit, or receive payment, directly or indirectly, overtly or covertly, in cash or in-kind, for referring or soliciting patients.

B. No optometrist shall make referrals outside the same group practice as that of the referring optometrist to any other health care provider, licensed health care facility, or provider of health care goods and services including but not limited to medical suppliers, and therapeutic services when the referring optometrist has a financial interest served by such referral, unless in advance of any such referral the referring optometrist, discloses to the patient, in writing, the existence of such financial interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006).

§115. Patient Records

A. All medical records of a patient, including but not limited to prescriptions, files, patient records and business records, maintained in the office of an optometrist are the property and business records of the optometrist.

B. An optometrist shall furnish each patient, upon request of the patient, or his or her legal representative, a copy of any information related in any way to the patient which the optometrist has transmitted to any company, or any public or private agency, or any person in accordance with R.S. 40:1299.96.

C. A patient, or his or her legal representative, shall have a right to obtain a copy of any medical records relating to the patient's medical treatment, history, or condition, including but not limited to any unexpired prescription, in accordance with R.S. 40:1299.96, provided, however, a patient shall not be entitled to obtain business records of the optometrist.

D. A patient, or his or her legal representative, shall be entitled to obtain a copy of such patient's medical records in accordance with Subsections B and C of this Section, upon furnishing a signed authorization and upon payment of a reasonable copying charge, not to exceed \$1 per page for the first 25 pages, \$0.50 cents per page for 26 to 500 pages, and \$0.25 cents per page thereafter, a handling charge not to exceed \$5, and actual postage in accordance with R.S. 40:1299.96. A patient shall have a right to obtain copies of patient X-rays upon payment of reasonable reproduction costs.

E. In the event medical records furnished to a patient pursuant to this Section are not complete, the copy of the records furnished hereunder may indicate, through a stamp, coversheet, or otherwise, that the record is incomplete in accordance with R.S. 40:1299.96.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006).

§117. Hearings and Investigations

A. The board may summon witnesses and compel the attendance of witnesses, as well as conduct hearings on proceedings to revoke, limit or suspend a license or certificate to practice optometry in Louisiana as provided in R.S. 37:1048.

B. Witnesses shall cooperate with the board in investigating any matter before the board and shall respond to any lawful demand for information, except for an openly expressed claim of a constitutional privilege.

C. Failure to cooperate with the board in investigating any matter before the board, or to respond to any lawful demand for information, except for an openly expressed claim of a constitutional privilege, may be considered a violation of R.S. 37:1063 and grounds for suspension or revocation of a Louisiana optometry license or certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006).