

The Alabama Board of Optometry Administrative Code

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-1

RULE-MAKING PROCEDURES

630-X-1-.01 Promulgation of Rules and Regulations. No rule or regulation shall be promulgated by the Alabama Board of Optometry except after a complete compliance with the requirements of Chapter 630-X-1 (Rule-Making Procedures).

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-1-.02 Adoption of Provisions of Alabama Administrative Procedure Act. Except for the additional special requirement of a notice set out in rule 630-X-1-.03, all rules and regulations and amendments thereto shall be hereafter adopted or promulgated strictly following the rules and procedures set out in the Alabama Administrative Procedure Act (Code of Ala. 1975, §§ 41-22-1, et seq.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-1-.03 Special Notice. Within 14 days after the date of the meeting at which a rule or regulation is so proposed and provisionally adopted, the secretary-treasurer shall cause to be mailed via first class United States mail to each licensed optometrist in the state of Alabama at their addresses last known to the board a notice in writing which shall contain a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-1-.04 Amendments to Rules and Regulations. The above procedure shall be followed in amending existing rules and regulations.

History: Author, Dr Larry Carter; Filed July 9, 1990

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-2

GENERAL ADMINISTRATION

630-X-2-.01 Meetings. An annual meeting of the Board shall be held during the month of October each year in the city of Montgomery, or in such place as designated by the president of the Board at a time and place to be specified by the president. This meeting shall be for election and installation of officers and other business deemed appropriate. Other meetings of the Board shall be held upon call of the

president, or as specified in a resolution of the Board. The president shall call a special meeting of the Board within 30 days of receipt of a petition asking for such a meeting, said petition being signed by a majority of the members of the Board.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-2-.02 Officers. The officers of the Board shall consist of a president, a vice president, and a secretary-treasurer. The officers shall be elected at the annual meeting of the Board and until their successors are elected and installed.

(a) President: The president shall preside at all meetings of the Board and shall be entitled to vote as any other Board member. He shall call meetings of the Board deemed by him to be necessary to the expeditious handling of Board affairs and upon petition from a majority of the Board as specified in Rule 630-X-2-.01. The president shall countersign all checks drawn by the secretary-treasurer on Board bank accounts. He shall give bond made by a duly authorized company, in such sum as may be fixed by the Board, conditioned for the proper accounting for of all monies and property coming into his hands or over which he has control by virtue of his office, the premiums of which shall be paid by the Board.

(b) Vice President: In the absence, sickness or disability of the president, the vice president shall perform all duties and exercise all authority of the president, and shall perform such duties as the president may assign him.

(c) Secretary-Treasurer: The secretary-treasurer shall record the proceedings of all the meetings of the Board which record shall be open for public inspection at all reasonable times. He shall perform all duties required of him by other rules and regulations promulgated by the Board from time to time. The secretary-treasurer shall be custodian of all records and the official seal of the Board. He shall have charge of all funds of the Board; shall keep books of account; shall be responsible for the accuracy of the same, as well as for all monies and other property coming into his hands or over which he has control by virtue of his office; shall at each meeting of the Board or upon the Board's request report a full and correct statement of the accounts, and disclose the true financial condition of the Board; and shall give bond made by a duly authorized surety company, in such sum as may be fixed by the Board, conditioned for the proper accounting for all monies and property coming into his hands or over which he has control by virtue of his office to the credit of the Board in a bank selected by the Board for the use of the Board as provide by law. All such monies shall be deposited in a timely fashion and in no case shall they be deposited more than three business days after receipt by the secretary-treasurer. All correspondence received by the secretary-treasurer shall be dated by him to reflect the date on which he received it. All applications for licenses shall be filed with the secretary-treasurer. He shall keep a record of and examine and investigate all applicants and all applications for the purpose of determining whether the applicants are qualified to take examination for license and to be issued a license and shall report same to the Board. He shall notify members of the Board of all meetings; and issue other notices to applicants for license and others required by law or by rules and regulations of the Board. He shall keep a record of laws and regulations and a record of all proceedings taken by the Board in connection therewith. He shall keep a registry in which shall be entered the names of all persons to whom license certificates, annual registration certificates, and teaching permits have been granted, the serial numbers of such license certificates and annual registration certificates, and relating to continuing education as may be required by the regulations relating thereto.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-2-.03 Seal. The Board shall have a seal in the form of two circular metal discs bearing the imprint and inscription around their respective borders the words -- "Alabama Board of Optometry," and in the center the word -- "Seal." The seal shall be impressed upon all instruments executed by the Board and the president, the vice president, and the secretary-treasurer shall severally have like power to impress and attest the seal upon any instrument requiring the seal.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-2-.04 Order of Business. Except as set out below, the order of business at meetings of the Board shall be as follows:

- (a) Call of the roll.
 - (b) Reading and consideration of the minutes of previous meetings of the Board.
 - (c) Report of the secretary-treasurer.
 - (d) Report of special committees.
 - (e) Consideration of complaints against licensees.
 - (f) Consideration of violations of the optometry laws and regulations reported to or known by the Board.
 - (g) Old business.
 - (h) New business.
 - (I) Consideration of any other matters which any member desires to submit to the Board.
- (2) Exceptions to the order of business at meetings are as follows:
- (a) At the annual meeting for giving examinations for licenses or any other meeting called for giving such examinations, the commencing of the examination procedure as set out in the regulation relating thereto shall be inserted into the order of business in a manner deemed appropriate by the president of the Board, and thereafter the above order of business shall be followed.
 - (b) At meetings called for the purpose of conducting public hearings, the first order of business shall be hearing those persons desiring to be heard; the second order of business shall be consideration of the proposition giving rise to the public hearing; and thereafter the above order of business shall be followed.
 - (c) The order of business for disciplinary hearings will be set out in a regulation relating thereto.
 - (d) At the annual meeting the first order of business shall be the election and installation of officers and thereafter the above order of business shall be followed.
 - (e) At the annual meeting required by law to be held at least 30 days prior to October 1 in each year for the purpose of selecting five persons to be certified to the Governor from which appointments to the Board will be made, the only order of business shall be the nomination and selection procedures established by the regulations relating thereto and no other business shall be conducted at that meeting.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-2-.05 Expenses and Per Diem of Board Members. Board members will be reimbursed their expenses and paid per diem as provided by law upon making claim to the secretary-treasurer therefor upon forms to be provided by the secretary-treasurer. Board members desiring to travel out-of-state on Board business and be reimbursed their expenses therefor shall ask the secretary-treasurer to request approval of the Governor for such travel. Said request shall set out the inclusive dates of such travel and the purpose of such travel.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-2-.06 Payment of Other Expenses of the Board. The secretary-treasurer is authorized to pay from funds of the Board, without prior approval of the Board, with checks drawn on the Board's bank account and countersigned by the president, all normal operating and other expenses authorized by law after ascertaining the same to be valid, legal and just indebtednesses of the Board. Extraordinary expenses and those which the secretary-treasurer doubts to be legal, valid or just shall be submitted to the Board for approval prior to payment. The secretary-treasurer shall comply strictly with the state competitive bid laws.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-2-.07 Hiring of Investigators. From time to time and at its discretion, the Board may hire one or more persons whose duties shall entail investigating whether any optometrist or other individual is violating any provision of these rules or the Optometry Act.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-2-.08 Hiring of Personnel. From time to time and at its discretion, the Board may employ personnel to aid in carrying out the provisions of this act. Said personnel shall be hired for an amount to be negotiated between said individual and the Board but shall not exceed the resources of the Board.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-2-.09 Executive Director. The Board may employ a qualified individual to serve as Executive Director, who shall perform such duties and assume such responsibilities as may be delegated by the Board. The Executive Director shall be hired for an amount to be negotiated between said individual and the Board but such amount shall not exceed the resources of the Board.

History: Author, E. Terry Brown; Filed Dec 10, 1990

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-3

COMPLAINTS AND DISCIPLINARY ACTION RESULTING FROM VIOLATIONS OF OPTOMETRY ACT

630-X-3-.01 Complaints. Complaints against licensed optometrists for unprofessional, unethical, or illegal conduct and complaints against any other person who may be accused of violating any provision of this act shall be filed with the secretary-treasurer or other specified agent of the Board in writing and under oath. Said complaints must set out in detail the charge(s) against the accused person and shall contain a telephone number at which the person registering the complaint can be reached by telephone. Upon receipt of a complaint, the secretary-treasurer or the Board's legal counsel shall verify the complaint by making a telephone call to the complainant at the number listed in the complaint. During the telephone call, the secretary-treasurer or legal counsel shall seek details not set out in the complaint and shall make a memorandum thereof. In the event a complaint filed with the Board does not conform to the regulations set out above, the complainant shall be advised in writing by the Board

of the proper procedure as set out herein. The Board shall take no action on a complaint until it complies with the procedure set out herein. Any person may file a complaint but if a member or agent of the Board shall file a complaint, said member or agent shall not participate in any hearing (other than to offer evidence), determination, or sanction of the charge(s) in said complaint.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

630-X-3-.02 Notification of Accused Person. Upon receipt of a complaint conforming to the requirements of Rule 630-X-3-.01, the secretary-treasurer or Board legal counsel shall forward a letter to the accused person advising said person of the complaint and enclosing therewith a copy of the written complaint, any memorandum made during the telephone interview with the complainant, and a copy of this chapter of the Board regulations. The letter shall invite the accused person to respond within 15 days to the charges in writing under oath. The letter to the accused person and the written response of the accused person shall be forwarded by certified mail, return receipt requested.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

630-X-3-.03 Failure of Accused Person to Respond. If, at the expiration of 15 days after receipt by the accused person of the letter and other materials required by Rule 630-X-3-.02 above, the accused person has not responded to the charges in writing under oath, said person shall be deemed to have declined to respond.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

630-X-3-.04 Preliminary Investigation by Board. Whether the accused person responds or does not respond to the charges, the Board shall conduct such further discreet preliminary investigation as the Board deems necessary under the circumstances to determine whether or not formal charges should be presented and a hearing held as provided by law.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

630-X-3-.05 Confidentiality. Unless, and until, a hearing is set by the Board, as hereinafter provided, the Board and each member or agent thereof shall keep the charges and all matters relating thereto completely confidential, and shall release no information in connection therewith to any person other than the Board or an agent thereof, the accused, or the accused's legal counsel, if any.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

630-X-3-.06 Determination by Board of Justification of Charge. After receipt of the complaint, the response of the accused person, and completion of the preliminary investigation specified in Rule 630-X-3-.04, the Board shall meet in executive session with its legal counsel and determine whether or not the complaint is a charge of unprofessional, unethical, or illegal conduct on the part of the accused person, such as to warrant disciplinary action if established by evidence. If a member or agent of the Board filed the complaint to be considered, said member or agent shall take no part in the executive session specified above except to the extent of giving testimony in connection to the charge. If the Board determines the complaint to be unjustified, frivolous, or not under the jurisdiction of the Board, there shall be reference in the minutes of the meeting of the Board only to the fact that a charge was considered and found to not justify a hearing and no mention of the name of the accused person or complainant shall appear in said minutes. If the Board proposes to take no further action on the charges,

the accused person and the complainant shall be so notified in writing by the Board or an agent thereof. If, on the other hand, after considering all matters before it, the Board is reasonably satisfied that such charge(s) is/are of such merit as to warrant disciplinary action if established by evidence, then the Board may at its discretion at that meeting set sanctions, as well as adopt a resolution to be reflected in the minutes setting a date, time and place, either within the city of Montgomery, Alabama, or within the county in which the accused person resides, for the hearing of said charges.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

630-X-3-.07 Responsibility of Legal Counsel of Board. The Board's legal counsel shall forthwith, under supervision of the Board, draft a notice of the charge(s) against the accused person that complies with Code of Ala. 1975, S 41- 22-12, which is expressly incorporated herein by reference. Said notice may, at the discretion of the Board, include the opportunity by the accused person to accept specified sanctions administered by the Board. Service of the foregoing material may be made by personal service upon the accused, or by forwarding to the accused person via United States certified mail with a return receipt requested addressed to the accused's last known mailing address. However, if the accused person shall not be a resident of Alabama, or shall have departed from the state of Alabama, then notice of the date, time, and place of such hearing shall be published in a newspaper of general circulation in the county where said accused person shall have been last known to reside, one (1) time, at least three (3) weeks prior to the hearing, setting out the date, time, and place of the hearing.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

630-X-3-.08 Answer of Accused Person to Specification of Charges. At least five days before the date of the hearing, the accused person shall either agree that the charges are valid and accept specified sanctions as administered by the Board or shall file with the Board a written answer to the specification of the charges served upon said accused along with a list of the names and post office addresses of witnesses (including any books, records, papers or other documents the accused desires any witness to produce) which the accused desires to be subpoenaed for the hearing. At the same time, the accused shall file with the Board a list of any books, records, papers or other documents in possession of the Board which the accused desires to use in the hearing and the same shall be produced at the hearing by the Board without the necessity of a subpoena. If the accused person fails to file a written answer to the charges within the time set out above, said accused shall be deemed to have denied each and every such charge. If the accused person fails to file a list of witnesses within the time specified above, said accused shall be deemed to have waived the right to have witnesses subpoenaed.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

630-X-3-.09 Discovery. At least five days prior to the date of the hearing, the Board's legal counsel shall prepare a list of the names and post office addresses of any witnesses the Board's legal counsel desires to subpoena for the hearing and shall also prepare a list of books, records, papers, and other documents that counsel desires said witnesses to produce and make available at the hearing. At least five days prior to the hearing, the Board's legal counsel will forward to the accused person and/or said accused person's legal counsel, if known to the Board or its counsel, a list of the witnesses who will testify at the hearing in behalf of the charges.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

630-X-3-.10 Subpoenas. Upon the proper filing, by the accused person or the Board's legal counsel, of the lists of witnesses, the Board shall issue a subpoena for the witnesses and a subpoena duces tecum for any requested books, records, papers, or other documents, directed to the sheriff of the respective counties where such witnesses reside.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

630-X-3-.11 Hearing; Rules of Procedure. At the date, time, and place previously set for the hearing, the Board shall convene and if there is a quorum present proceed to hear the charges under the following rules of procedure:

(a) A quorum of the Board must be present at all times during the hearing and only those Board members present for the entire hearing shall vote upon action of the Board at the conclusion of the hearing. The president shall preside or in his or her absence the normal progression to the chair shall be followed. However, if a member or agent of the Board shall have filed the complaint of charges under consideration at said hearing, then that member or agent of the Board shall not participate in the hearing other than to offer evidence as a witness.

(b) The subpoenaed witnesses shall be called, sworn, and with the exception of the accused person and the complainant shall be excluded from the hearing, except when testifying. If a subpoenaed witness fails to appear, the party subpoenaing the witness may present to the opposing party a written statement of what the witness would testify to if present and, if agreed upon by the other party, the statement shall be given the same weight as if the witness had testified in person.

(c) If any subpoenaed witness fails to appear, refuses to be sworn, refuses to be examined, or refuses to produce any book, record, paper, or other document as ordered by the Board, such facts shall be certified by the Board to the circuit court or the judge thereof in the county where such witness resides for action by such court or judge as is provided by law. Unless a written statement is submitted and agreed to for any such witness as provided above, upon motion of the party subpoenaing the witness, the hearing shall be continued for appropriate action with reference to such witness by the circuit court or judge of the county wherein he or she resides.

(d) The Board's legal counsel shall first present witnesses and other evidence in support of the charges specified. The accused person or counsel thereof shall have the full and free right to cross-examine all witnesses testifying against the accused.

(e) Upon conclusion of all witnesses and other evidence presented by the Board's counsel, the accused person or counsel thereof shall present witnesses and other evidence in the accused's defense to the charges specified. The Board's counsel shall have the full and free right to cross-examine such witnesses.

(f) Upon conclusion of testimony presented by witnesses called for the accused's defense, the Board's counsel shall have the opportunity to offer rebuttal witnesses and testimony.

(g) The rules of evidence as applied in nonjury civil cases in the circuit courts of the state shall be followed.

(h) The Board shall have the hearing proceedings recorded either by mechanical means or by a court reporter. If the accused person desires a transcript of the recorded proceedings, the expense of said transcript shall be borne by the accused person.

(i) Upon completion of all evidence, the Board's counsel and the accused person or counsel thereof shall have the opportunity of presenting closing arguments to the Board as follows: Board's counsel first, accused person or counsel thereof second, and then Board's counsel shall close.

(j) Upon conclusion of all evidence and arguments, the Board shall proceed, in open meeting, to consider the charges and evidence submitted in connection therewith. If a member or agent of the Board shall have filed the complaint of charges under consideration, then said member or agent shall not participate in the consideration of charges specified above. If a majority of the quorum of members of the Board conducting the hearing shall find the charges are untrue, frivolous, or without probable cause as established by evidence, then the Board shall forthwith enter an order dismissing the charges. If, on the other hand, a majority of the quorum of members of the Board conducting the hearing shall find that the charge(s) are of merit and proven to their satisfaction, then the Board shall, within 30 days of the hearing's conclusion, render a final order consistent with Code of Ala. 1975, SS 41-22-15, 41-22-16, which sections are adopted herein by reference.

(k) In all cases of suspension or revocation of licenses, fines, or of other disciplinary sanctions imposed by the Board as provided for by law, the accused person may appeal only to the circuit court of Montgomery County, Alabama. In all cases of suspension or revocation of licenses, the order specifying such sanction shall contain instructions relating the methods and requirements for reinstatement of said licenses. Except as may otherwise be provided herein to the contrary, judicial review of the orders and decisions of the Board shall be governed by the provisions of Code of Ala. 1975, S 41-22-20, which section is adopted herein by reference.

(l) Members of the Board of Optometry, any optometrists impaneled by the Board, and any optometrist or other individual making any report or rendering any opinion or supplying any evidence or information or offering any testimony to the Board in connection with a disciplinary investigation or proceeding as authorized in this chapter shall be immune from suit for any conduct with respect to such investigations, actions, hearings, and proceedings.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-4

NOMINATING AND ELECTING NOMINEES FOR BOARD APPOINTMENT

630-X-4-.01 Time and Place of Annual Meeting

630-X-4-.02 Nominations

630-X-4-.03 Voting

630-X-4-.01 Time and Place of Annual Meeting. On or before June 1 of each year, the Board shall prescribe by resolution duly adopted at a regular or called meeting the exact time and place of the annual meeting to be held at least 30 days prior to October 1 of that year for the purpose of selecting five persons whose names shall be certified to the Governor for appointment to the Board. On no later than July 1 of that year, the secretary-treasurer shall mail to each optometrist holding a current annual registration certificate to practice in Alabama at the address shown on his current registration, notices setting out the exact date, place, and hour of the meeting, the purpose of the meeting, and advising him of his right to attend and vote at the meeting.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-4-.02 Nominations.

(1) Nominations of persons to be selected at the annual meeting shall be made in the manner herein prescribed and no person shall be a nominee eligible to be selected at the annual meeting unless so nominated.

(2) The secretary-treasurer shall enclose with the notice required by Rule 630- X-4-.01 of this regulation to be mailed a brief summary of the qualifications required for appointment to the Board.

(3) Each licensee holding a current annual registration certificate shall have the right to submit the names of two qualified optometrists he would like to be considered for nomination. Each licensee desiring to submit such names shall do so on a form which shall be included with the other material required by this regulation to be mailed. The form shall be acknowledged as deeds of conveyances are required to be acknowledged under the laws of Alabama and shall contain exactly two names to be considered. The form is attached to this regulation as Appendix A.

(4) Said forms shall be forwarded to the secretary-treasurer by certified mail, return receipt requested, in sufficient time for the secretary-treasurer to receive the same at least 14 days prior to the date of the meeting. Forms received by the secretary-treasurer less than 14 days prior to the date of the meeting or listing the name of persons not qualified, or listing more or less than two names shall be void.

(5) Immediately after a date 14 days prior to the date of the meeting, the secretary-treasurer shall then count and tabulate the forms so received and the ten persons qualified for Board membership listed the highest total number of times on valid forms shall be the nominees to be voted on at the annual meeting. In the case of ties, all persons listed a sufficient number of times to create the tie shall be included as a nominee regardless of the number.

(6) Seven days prior to the meeting, the secretary-treasurer shall mail to each licensed optometrist holding a current annual registration certificate a list of persons so nominated to be voted on at the annual meeting.

(7) The secretary-treasurer shall make available at his office and at the annual meeting all such forms received by him (valid and invalid) for inspection by any optometrist licensed in Alabama, in person or by attorney with written authorization, and shall make no disposition thereof until at least March 1 of the following year.

(8) In addition to the method hereinabove prescribed, a qualified person may be nominated at the annual meeting upon the written petition of ten licensed optometrists holding current annual registration certificates and in attendance at the meeting. The form for such petition is attached to this regulation as Appendix B and shall be made available at the meeting by the secretary- treasurer. No vote shall be taken at the annual meeting until 30 minutes after the time specified by the Board for it to convene in order to allow persons to secure and submit the necessary petitions for nominations. In order for such nominations to be valid, the petition must be presented to the secretary- treasurer within 30 minutes after the meeting convenes. Upon the secretary- treasurer verifying that each person signing the petition holds a current annual registration certificate and is in attendance at the meeting and that the nominee is qualified, the name of the person so nominated will be added to those previously nominated.

(9) Only those persons nominated in one of the ways hereinabove provided shall have their names included on the ballot for voting at the annual meeting.

(10) Any Person who is nominated by either method and who does not wish to be considered, may have his name removed from the list of nominees by request made in person at the meeting or by previous written request to the secretary- treasurer.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-4-.03 Voting. Votes at the annual meeting will be cast and counted as herein provided.

(a) Prior to the annual meeting the secretary-treasurer shall cause to be prepared a sufficient number of ballots containing the names of those persons listed the highest number of times on the forms as hereinabove provided and such ballot shall contain blanks for the insertion of the names of persons who may be nominated by petition at the annual meeting.

(b) At the end of the 30 minute period hereinabove provided for the nominations by petition, the secretary-treasurer shall cause the names of all persons so nominated by petition to be inserted on the ballots. The ballots so prepared by the secretary-treasurer shall be the official ballot and shall be used in conduction the election.

(c) As each licensed optometrist holding a current annual registration is given a ballot, said optometrist shall sign a form signifying the receipt of said ballot and also signing his license number next to his signature. Balloting is by secret ballot and the optometrist need not sign the ballot sheet. No ballots will be given out prior to the voting and each optometrist shall be given only one ballot as they sign the form provided for above.

(d) The president shall appoint a committee of ten licensed optometrists in attendance at the meeting to serve as election clerks and it shall be the duty of the election clerks to take up, count, and tabulate the ballots, and to report the tabulation to the president who shall announce the results.

(e) No cumulative or proxy voting shall be permitted and each optometrist voting must vote for five nominees in order for his ballot to be valid. Any ballot indicating votes for more or less than five nominees shall be null and void and shall not be counted.

(f) After all valid ballots are counted, the five persons receiving the greatest number of votes shall be the five persons certified to the Governor for appointment to the Board, without substitution.

(g) Within three days after the meeting, the secretary-treasurer shall notify those licensees whose names shall be certified to the Governor that their names shall be submitted to the Governor. Ten days after the meeting, the secretary- treasurer shall submit the list to the Governor. In order for a person to withdraw from the list to be certified to the Governor, the person must do so in writing and present it to the secretary-treasurer prior to the submission of the list to the Governor. If a person withdraws their name from the list, the list shall be composed solely of those names remaining.

(h) In the event of ties, run-off elections will be conducted using blank ballots furnished by the secrete-treasurer with votes being cast by writing in the name(s) of the nominees involved in the run-off selected by the persons voting.

History: Author, Dr Larry Carter; Filed July 9, 1990

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-5

APPLICATION AND EXAMINATION FOR LICENSING

630-X-5-.01 Application for Examination and Licensing. All applications for examinations and licensing shall be filed with the secretary-treasurer on forms provided by the Board. The application shall include all information required by statute and such other information as the Board may require by resolution, including, without limitation and in the Board's discretion, a history of arrests and convictions, a background check report, information about civil judgments, and other information.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-5-.02 Examination Fee. At the time of filing, the applicant shall pay to the secretary-treasurer a fee equal to the maximum provided by law.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-5-.03 Date, Time, and Place of Examinations. During the month of July each year the Board shall give examinations at a place, date, and time specified by Board resolution. It shall be a prerequisite to the taking of the examination that an applicant make proof satisfactory to the Board prior to the examination the following: 1) applicant is a graduate of at least four years of high school or the equivalent, 2) applicant completed a minimum of three years of pre-optometry or the equivalent at an accredited college or university, 3) applicant has completed a course of study in an accredited school or college of optometry which is approved by the Board and that requires at least four years of professional study, and 4) applicant has passed Parts I and II of the examination administered by the National Board of Examiners in Optometry. Upon passing the standard examination prescribed by the Board, applicants shall submit to the Board proof that said applicant has passed Part III of the examination administered by the National Board of Examiners in Optometry and applicant shall also complete and submit to the Board for approval a protocol furnished by the Board for the use of pharmaceutical agents in the treatment of disease of the eye and its adjacent structures. The secretary-treasurer shall give reasonable notice to each applicant, whose application meets those requirements specified to be met prior to the examination, of the place, date, and time of the examination. If there are no applications on file with the secretary-treasurer as of June 1 of a given year, the annual examinations shall not be conducted in that year.

History: Author, Dr Larry Carter; Filed August 29, 1995. Amended effective February 20, 2008.

630-X-5-.04 Special Examination. At any time the Board deems it to be justified, it can conduct a special examination at a date, time, and place to be specified by Board resolution calling the examination. The secretary-treasurer shall give reasonable notice of such date, time, and place to each applicant whose application is in order.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-5-.05 Conducting and Grading of Examinations. Prior to each examination meeting, the president will assign duties to the respective Board members in conducting and grading the examinations.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-5-.06 Content of Examinations. The examination shall be divided into from one to seven sections, to be established by Board resolution. Content of each section shall be established by Board resolution and may cover the examination areas of practical optics, theoretical optics, physiological optics, theoretical optometry, practical optometry, orthoptics, ocular anatomy, physiology, pharmacology, pathology, diagnosis and treatment of disease of the human eye and its adjacent structures, general anatomy, hygiene, and such other knowledge as the Board deems essential to the practice of optometry, to include testing of knowledge of the laws governing the practice of optometry and of the regulations of the Board. Each applicant making an average score of 75 percent or higher shall be deemed to have passed the examination. The secretary-treasurer shall notify each applicant taking the examination of their final score not later than thirty days after the date of the examination.

History: Author, Dr Larry Carter; Filed August 29, 1995, Amended effective December 8, 2009

630-X-5-.07 Applicants Earning A Passing Score. Each applicant who has earned a passing score on the examination, submitted proof of passing Part III of the examination administered by the National Board of Examiners in Optometry, has completed and submitted the aforementioned protocol and has received approval thereof, and has met any further requirements established by the Board shall be registered as qualified to practice optometry in the state of Alabama and shall be issued a license, a license certificate, and approval by the Board for the use of pharmaceutical agents for the treatment of disease of the eye and its adjacent structures. All requirements for licensing must be completed by applicant no later than twelve months from the date said applicant took the standard examination given by the Board. Failure of an applicant to meet these requirements within said twelve months shall void the results of the standard examination and the application procedure and examination will have to be repeated.

History: Author, Dr Larry Carter; Filed August 29, 1995. Amended effective February 20, 2008.

630-X-5-.08 Application to the Board for Approval to Use Pharmaceutical Agents for Treatment of Disease of the Eye and Adjacent Structures. Optometrists licensed prior to October 1, 1994 may apply to the Board, on a form provided by the Board, for approval to use pharmaceutical agents for the treatment of disease of the eye and its adjacent structures. Prior to approval of such applications, applicant must furnish satisfactory proof to the Board that said applicant has completed at least 72 Board approved clock hours in the diagnosis and management of disease of the eye and its adjacent structures within a three year period preceding said application, must complete and submit for Board approval a protocol furnished by the Board, and meet any further requirements to be established by the Board. When all requirements have been met and approved by the Board, said applicant shall be granted the authority to use pharmaceutical agents for treatment of disease of the eye and adjacent structures. Each licensee so authorized must then fulfill all regulations established by the Board for licensees so authorized, as well as all other Board regulations.

History: Author, Dr Larry Carter; New Rule, Filed Aug 29, 1995. Amended effective February 20, 2008.

630-X-5-.09 Initial Licensing of Military Spouses. Eligible individuals under this section who possess a license or certificate to practice optometry in another state, district, or territory of the United States, or in any branch of the armed forces of the United States may apply for a regular annual license to practice optometry and/or a temporary permit to practice pending regular licensure.

(a) Any eligible individual shall be entitled, upon application, to the issuance of regular license to practice optometry in the state of Alabama if the requirements for licensure or certification to practice optometry relied upon by the applicant for this section are the same as or substantially similar to those requirements for regular licensure to practice optometry set out in these rules or in the Alabama Code.

(b) Any eligible individual shall be entitled to a temporary permit to practice optometry in the state of Alabama for a period not to exceed one hundred eighty (180) days, upon application, if the requirements for licensure or certification relied upon by the applicant for this section are less than or do not include one or more of the requirements for regular licensure to practice optometry set out in these rules or in the Alabama Code. In the event that the applicant does not successfully meet the requirements for regular licensure within the said one hundred eighty (180) days, the temporary permit provided for herein shall automatically expire.

(c) Definitions and Meaning. For the purposes of this section, the following terms and phrases shall have the corresponding meanings:

(1) eligible individual shall mean

(A) either a spouse of an active duty, reserve, or transitioning member of the United States Armed Forces, including the national guard, or a surviving spouse of such a service member who, at the time of such member's death, was serving on active duty; and

(B) has relocated to and been stationed in the state of Alabama with their spouse or deceased spouse under official military orders; and

(C) Possess a valid unrestricted license to practice optometry in another state, district, or territory of the United States, or in any branch of the armed forces of the United States and has not been disciplined or subject to investigation by any licensing agency or authorized entity in relation to their professional license or certificate.

(2) temporary permit shall mean an unrestricted license to practice optometry in the state of Alabama for a period of one hundred and eighty (180) days from the date of issue. The holder of a temporary permit shall be subject to same rules, requirements, and discipline as that of a regularly-licensed optometrist as set out in the Alabama Code and Chapter 630 of the Alabama Administrative Code.

(3) substantially similar licensing requirements shall be deemed to have been met where the applicant can show to the satisfaction of the Board that he or she:

(A) is 19 years of age, or over, a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government, and of good moral character;

(B) has a preliminary education of at least four years of high school or the equivalent and is a graduate thereof,

(C) has at least three years of preoptometry, or the equivalent, at an accredited college or university;

(D) has completed a course of study in an accredited school or college of optometry which is approved by the board and that requires at least four years of professional study;

(E) has passed all examinations prescribed by the board after completion of the educational requirements, which examinations shall include the standard examination given by the Board. Where an eligible individual under this section has taken and passed a standard examination given by another licensing authority, the eligible individual may submit the results of such standardized examination to the Board along with documentation showing the subject matter tested. If the Board determines that the breadth and depth of the subject matter tested on such standard examination is substantially similar

to that standard examination given by the Board, the Board shall accept the results of such examination in lieu of the requirement for passage of the standard examination given by the Board.

History: History: Author, Wallace D. Mills, Dr. Fred Wallace. Filed January 31, 2020

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-6

ACCREDITATION OF SCHOOLS AND COLLEGES OF OPTOMETRY

630-X-6-.01 Accrediting Agency. The accrediting agency recognized by the Alabama Board of Optometry is the American Optometric Association Council of Optometric Education.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-6-.02 Accredited Schools and Colleges. The schools and colleges of optometry accredited from time to time by the hereinabove mentioned agency shall be deemed by the Board to be accredited.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-6-.03 Periodical Board Review of Accredited Schools and Colleges. Periodically, the Board shall review the list of schools and colleges of optometry so accredited and shall conduct such investigations as the Board deems necessary into each such institution. From time to time the Board shall by resolution approve such of said accredited institutions as in the opinion of the Board, after such investigation, should be approved. Withdrawal of Board approval shall be accomplished in the same manner.

History: Author, Dr Larry Carter; Filed July 9, 1990

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-7

CONTINUING EDUCATION

630-X-7-.01 Purpose of Regulation. The purpose of this regulation is to implement the requirement of continuing education as a prerequisite for renewal of license.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-7-.02 Study Compliance Year. The study compliance year shall be the twelve month period from October 1 to September 30, immediately preceding the year of licensure. All study hours shall be obtained during that time period except as otherwise provided for in sections 630-X-7-.05 and 630-X-7-.14 of this chapter.

History: Author, Dr Larry Carter; Filed Aug, 1994

630-X-7-.03 Hours Required. For the study compliance year, 14 hours of continuing education, shall be required for re-licensure the following fiscal year. However, for licensees approved by the Board to use pharmaceutical agents in the treatment of disease of the eye and its adjacent structures, 20 hours of continuing education, of which one half must be in subjects relating to the diagnosis, treatment, and/or management of disease of the eye and its adjacent structures shall be required for re-licensure the following fiscal year. Changes in study requirements may be made by the Board and in the event of a change, each licensed optometrist shall be notified of the changed requirements on or before November 1 of the study compliance year for which the change is effective. Completion of the study requirements for each study compliance year shall qualify the applicant for license renewal for the following calendar year, if the applicant meets all other requirements.

History: Author, Dr Larry Carter; Filed August 29, 1995. Amended effective February 20, 2008.

630-X-7-.04 Required Courses of Study. Courses of study which will be approved by the Board are those which enhance the professional skill in and knowledge of optometry. Study courses in practice management areas will be accepted for re-licensure up to a maximum of 3 hours and distance based study courses will be accepted for re-licensure up to a maximum of 3 hours. For credit, courses must be approved either by an officer of the Board or by a majority of board members in attendance at any scheduled meeting of the Board. Course approval may be decided at such time as application for renewal of licenses is submitted or at any time prior upon request of a licensee or course sponsor.

History: Author, Dr Larry Carter; Filed August, 1994. Amended effective February 20, 2008.

630-X-7-.05 Study Time Requirement. Credit hours for study courses approved by the Board shall be measured in clock hours and shall be equal to the time length of the course rounded to the nearest one-half hour.

History: Author, Dr Larry Carter; Filed Aug 29, 1995. Amended effective February 20, 2008.

630-X-7-.06 Approval of Courses. Application for approval may be submitted either by a licensee or by the course sponsor. The Sponsor of a continuing education course must apply for, and approval before the course is given. A continuing education course previously approved by the Council on Optometric Practitioner Education ("COPE"), or by any other organization recognized for such purpose by Board resolution, does not require separate approval from the Board. A licensee who takes an unapproved continuing education course will bear the burden of establishing that the course satisfied all criteria for Board approval at the time the course was taken. Application for approval of courses shall be in writing and shall set out the course title, brief description of the course content, name of the course sponsor, name(s) of the lecturer(s) and time length of the course. Further information shall be furnished by the applicant upon request of the Board. Course approval may be given by any officer of the board, by a majority of the board members present at any scheduled meeting of the board, or by the executive director of the board. Only courses of study so approved will be credited toward continuing education requirements. Each sponsor or licensee requesting approval of a course of study will be notified of Board action in connection therewith, and if the Board disapproves the application, the sponsor or licensee, upon request in writing, will be given an opportunity to appear before the Board on behalf of the application.

History: Author, Dr Larry Carter; Filed Aug 1994. Amended effective February 6, 2007.

630-X-7-.07 Records of Attendance. Records of attendance at approved continuing education courses shall be maintained by each licensed optometrist on Form CE1, a copy of which is attached hereto as Appendix A. The course and the number of hours must be listed and it must be signed by a representative of the sponsor and by the optometrist certifying attendance. Other forms judged by the Board to be essentially the same as Form CE1 may be accepted in lieu of Form CE1. Each licensee is required to maintain all CE1 forms applicable to a study compliance year for thirty six (36) months following the end of said study compliance year.

History: Author, Dr Larry Carter; Filed July 9, 1990. Amended effective February 6, 2007.

630-X-7-.08 Certification of Completion of Continuing Education Courses. At the time of license renewal, the licensee shall certify in the manner specified by the board that all continuing education hours have been completed.

History: Author, Dr Larry Carter; Filed Aug 1994

630-X-7-.09 Falsification of Forms. Falsification of an attendance form (CE1), or of any application submission, by a sponsor shall be grounds for the Board's withdrawing and/or denying approval of any or all courses sponsored by said sponsor in connection with any future presentation of said courses. Falsification of a Form CE1 by a licensee shall be grounds for the Board to refuse to approve the continuing education requirements for that licensee for the study compliance year in question and for disciplinary action as provided by law.

History: Author, Dr Larry Carter; Filed July 9, 1990. Amended effective February 6, 2007.

630-X-7-.10 Verification/Audit of Continuing Education Requirements. At the request of the Board for verification and/or audit purposes, a licensee shall produce the CE1 forms maintained in accordance with the requirements of 630-X-7-.07. Failure to have maintained said forms or to produce same upon request of the Board shall be grounds for the Board to find that the licensee has failed to satisfy the continuing education requirements for the study compliance year in question. In addition to verifications and audits based on complaints, reports, or other reasonable suspicions of noncompliance, the secretary-treasurer will annually audit a number of licensees selected at random to assure that continuing education requirements have been met. History: Author, Dr Larry Carter; Filed July 9, 1990. Amended effective February 6, 2007.

630-X-7-.11 Disapproval of Continuing Education Requirements. If the Board finds that the licensee has not satisfied the continuing education requirements for a study compliance year, the licensee may, upon request in writing, appear before the Board to challenge said finding.

History: Author, Dr Larry Carter; Filed July 9, 1990. Amended effective February 6, 2007.

630-X-7-.12 Hardship. In cases of hardship, or for other good and sufficient reasons, the Board may, in its discretion and upon written request from a licensee, excuse said licensee from the continuing education requirements for license renewal. In such an event, the reasons for such excuse will be set out in detail on the minutes of the meeting of the Board at which such action is taken.

History: Author, Dr Larry Carter; Filed July 9, 1990. Amended effective February 6, 2007.

630-X-7-.13 Failure to Comply. Continuing education requirements shall be completed between October 1 and September 30 of each fiscal year prior to the time for license renewal for the next fiscal year. If a licensee fails to certify compliance with requirements for said fiscal (study compliance) year on or before December 1, the secretary-treasurer shall notify such licensee by certified mail, return receipt requested, addressed to the licensee's last address of record that said certification has not been received and that unless such is received on or before the first day of January, said licensee's license and license certificate shall be automatically suspended. Between October 1 and December 31 of each year, the licensee shall be permitted to complete continuing education requirements which he has failed to complete prior to the end of the fiscal year on September 30. Failure by a licensee to certify to the Board compliance with continuing education requirements on or before January 1 shall result in the automatic suspension of said licensee's license and that individual may not practice optometry in any form in the state of Alabama until his or her license is reinstated as set out below.

History: Author, Dr Larry Carter; Filed Aug 29, 1995. Amended effective February 6, 2007.

630-X-7-.14 Reinstatement After Suspension for Noncompliance with Continuing Education Requirements. A license and/or license certificate suspended for failure to comply with continuing education requirements shall be reinstated only upon the provision of satisfactory evidence to the Board, in the form of proper CE-1 forms, that the continuing education requirements for the one fiscal year next preceding the proposed reinstatement shall have been satisfied and upon payment of all fees required to be paid under this chapter. Said fees shall include, but not necessarily be limited to, all accrued annual registration fees plus a penalty equal to the maximum allowed by this chapter.

History: Author, Dr Larry Carter; Filed Aug 29, 1995. Amended effective February 6, 2007.

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-8

RESERVED

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-9

TEMPORARY LICENSES

630-X-9-.01 Temporary Licenses. Applicants to take the standard examination given by the Board may be issued a temporary license once all prerequisites to taking said examination are fulfilled to the satisfaction of the Board. Such temporary licenses shall be valid from the date of issue until August 31 of the year of issue but in no case shall they be valid for a time longer than three months. Temporary licenses shall not be approved to use pharmaceutical agents for the treatment of disease of the eye and

its adjacent structures. Temporary licenses may only be issued to optometrists who have never been previously licensed to practice optometry in any state in the United States. Applicants to take the examination under reciprocity shall not be eligible for a temporary license.

Persons holding a current license and license certificate issued by the Board may apply to the Board for temporary approval to use pharmaceutical agents to treat disease of the eye and its adjacent structures. Board approval under this regulation shall be limited to a) those licensees who have current therapeutic privileges in any state in the United States or; b) those licensees who have taken a course of at least 72 Board-approved clock hours in the diagnosis and management of disease of the eye and its adjacent structures more than three years preceding application for approval or; c) those licensees who show proof satisfactory that they have passed the exam on Treatment and Management of Ocular Disease (TMOD) given by the National Board of Examiners in Optometry. Proof of registration for a Board approved course of at least 72 clock hours in treatment and management of eye disease will be required prior to granting a temporary approval to use pharmaceutical agents. Temporary therapeutic approvals shall be for a period of six months from the date granted and may not be renewed. A licensee holding a limited license may be granted temporary approval to use pharmaceutical agents for a period not to exceed twelve months if they meet each of the following conditions: a) said licensee is participating in a residency program administered by a school or college of optometry in the state of Alabama, and; b) said licensee furnishes proof of having passed Parts I, II, and III of the exam given by the National Board of Examiners in Optometry.

History: Author, Dr Larry Carter; Filed Aug 29, 1995

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-10

RECIPROCITY

630-X-10-.01 Qualifications. Any person who has a current license to practice optometry in any state in the United States, and who has conducted an ethical professional practice of optometry for at least one year may, at the discretion of the Board, upon payment of the amount of the regular examination fee, take the standard examination provided in the act and upon passing said examination be registered as qualified to practice optometry in this state.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-10-.02 Approval to Use Pharmaceutical Agents to Treat Disease of the Eye and Its Adjacent Structures. Persons licensed to practice optometry in Alabama under this reciprocity chapter may apply to the Board, on a form provided by the Board, for approval to use pharmaceutical agents for the treatment of disease of the eye and its adjacent structures. Such application shall be in the same manner and with the same prerequisites as required for those optometrists licensed prior to October 1, 1994 (630-X-5- .07). Reciprocal licensees so approved shall be subject to the same fees and regulations as holders of regular licenses so approved.

History: Author, Dr Larry Carter; New Rule, Filed Aug 29, 1995

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-11

TEACHING PERMITS

630-X-11-.01 Issuance of Limited Licenses (Teaching Permits). The Board hereby designates the School of Optometry at the University of Alabama in Birmingham as approved by the Board for the issuance of limited licenses (teaching permits) to those qualified faculty members performing professional optometric services in programs of the school.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-11-.02 Duties and Responsibilities of Dean of School. As a condition to continued approval by the Board of this school, the Board imposes the following duties and responsibilities upon the dean of the school relating to those qualified faculty members performing professional optometric services in programs of the school:

- A) He must annually certify to the Board the names and addresses of the members of the school's faculty who are not currently licensed to practice optometry in Alabama.
- B) He shall promptly notify the Board of any changes in personnel on the faculty.
- C) He must furnish each applicant for a limited license a certificate that such applicant is a bona fide member of the faculty of the school.
- D) He must report immediately to the Board any information received by him relating in any way to a member of the faculty holding only a limited license who is performing professional optometric services other than as an adjunct to such faculty member's function at the school. He must also use every reasonable means to prevent such unlawful practice.
- E) He must otherwise cooperate fully and completely with the Board toward the end that the limited license provided hereby will be used only for the purpose for which it is intended.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-11-.03 Application and Fee for Limited License. Each member of the faculty desiring a limited license as provided hereby shall make written application to the secretary- treasurer of the Board and attach to his application the certificate of the dean hereinabove provided and shall enclose therewith the payment of a fee of One Hundred Dollars (\$100.00) for the issuance of the limited license or teaching permit. There shall be an annual renewal fee, equal to that charged for a regular license, for a limited license or teaching permit. Holders of limited licenses shall also be required to meet the same continuing education requirements as holders of regular licenses. Said renewal fee shall be due October 1 and delinquent after December 31 of each year. Failure to pay the renewal fee on or before January 1 shall constitute grounds for suspension of said limited license and license certificate.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-11-.04 Application For Approval to Use Pharmaceutical Agents. Persons holding a limited license under this chapter may apply to the Board, on a form provided by the Board, for approval to use pharmaceutical agents for the treatment of disease of the eye and its adjacent structures. Such application shall be in the same manner and with the same prerequisites as required for those optometrists licensed prior to October 1, 1994 (630-X-5-.07). Limited license holders so approved shall be subject to the same fees and regulations as holders of regular licenses so approved.

History: Author, Dr Larry Carter; New Rule, Filed Aug 29, 1995

630-X-11-.05 Validity of Limited Licenses. The limited license provided hereby shall be valid as long as the holder thereof remains a member of the faculty of the school and abides by all regulations of the Board.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-11-.06 Limitation of Limited Licenses. It shall be a violation of this regulation for the holder of a limited license who is not regularly licensed under the law to perform optometric services in any manner except as part of the program of the school and as an adjunct to his teaching functions in the school.

History: Author, Dr Larry Carter; Filed July 9, 1990

630-X-11-.07 Forfeiture and Voiding of Limited Licenses. Those persons granted a limited, or teaching, license shall be subject to the same disciplinary procedures as the holder of a regular license. If, after a disciplinary hearing as set out in a previous regulation, a holder of a limited license is found to be in violation of the regulations of the Board, then the Board may declare said limited license forfeited and void. In such an event, the secretary- treasurer shall promptly notify the limited licensee and the Dean of the School of Optometry at the University of Alabama in Birmingham.

History: Author, Dr Larry Carter; Filed July 9, 1990

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-12

RULES OF CONDUCT

630-X-12-.01 Definition of Unprofessional Conduct. The Board hereby defines unprofessional conduct to consist of any conduct conflicting with the governing statute of the practice of optometry, the rules of this chapter and any other behavior placing at risk the welfare of a patient. Violation of this chapter shall be considered grounds for disciplinary action by the Board under the provisions of these rules. The listing below of any specific events of unprofessional conduct shall not, and is not intended to, limit the generality of this definition.

History: Author, Dr. Larry Carter; Filed July 9, 1990

630-X-12-.02 False or Misleading Advertising. The Board shall deem it unprofessional conduct for a licensee to participate in false or misleading advertising. False or misleading advertisements shall

include those where price, quality, or services are presented in a misleading manner. It shall also be considered misleading advertising for a licensee to advertise or otherwise assume a title not granted by this act or to represent himself as superior to other licensees.

History: Author, Dr. Larry Carter; Filed July 9, 1990

630-X-12-.03 Release of Patient Records. The Board shall deem it unprofessional conduct for a licensee to fail to release information in a patient's record to said patient, provided, however, that no record need be released until all reasonable fees have been paid by said patient to the licensee, and provided further that a reasonable fee may be charged for providing a copy of information to said patient. This rule shall include the release of contact lens prescriptions, sufficient to order replacement lenses, to the patient, provided that a complete contact lens prescription has been determined and evaluated. A reasonable expiration date shall be set forth on all prescriptions. After said expiration date, a licensee shall be required to release said prescription only to a licensed optometrist or ophthalmologist of the patient's choice and said prescription shall be clearly marked with the expiration date and the words "EXPIRED. FOR INFORMATION PURPOSES ONLY." The Board shall deem it unprofessional conduct for a licensee to fail to maintain, in his or her possession, all records pertaining to a patient for a period of not less than seven years from the date of the last service provided to that patient.

History: Author, Dr. Larry Carter; Filed August, 1993

630-X-12-.04 Failure to Render Emergency Care. It shall be deemed unprofessional conduct for a licensee to refuse to render emergency care, within the scope of this act, to one of said licensee's patients. This section shall require a said licensee to render professional services to a patient of said licensee in an emergency regardless of the patient's ability to pay for said services. An emergency shall consist of a potentially sight-threatening situation for the patient and shall not consist of routine visual care.

History: Author, Dr. Larry Carter; Filed July 9, 1990

630-X-12-.05 Practicing Beyond the Scope of License. The Board shall consider it unprofessional conduct for a licensee to practice in a manner inconsistent with this act. This shall include the use of any agents or techniques not within the scope of practice of optometry, as established by the Board or otherwise authorized in this act. From time to time, the Board may issue advisory opinions defining what methods, means, primary eye care procedures, other procedures, or laboratory tests are within the scope of the practice of optometry and/or rational to either the diagnosis or treatment of diseases or disorders of the eye and its adjacent structures or disorders of the visual system. Licensees may also request an advisory opinion from the Board regarding whether a certain procedure is within the scope of optometry. The Board shall mail to all licensees a summary of such advisory opinions in a timely fashion. The Board shall consider it unprofessional conduct for a licensee to treat or attempt to treat any disease of the eye or its adjacent structures in a manner for which that licensee is not adequately trained or does not have adequate equipment as determined by the Board.

History: Author, Dr. Larry Carter; Filed August 28, 1995

630-X-12-.06 Failure to Meet Standard of Care. The Board shall consider it unprofessional conduct for a licensee to provide for a patient care that is less than the generally accepted standard of care. This standard of care shall include , but not be limited to, providing certain minimum testing for the patient

when performing a comprehensive eye exam. A comprehensive eye examination shall include any examination wherein a prescription for glasses or contact lenses, or necessity thereof, is determined. Minimum testing for a comprehensive eye exam shall include a case history, determination of refractive error, binocular vision evaluation, ophthalmoscopy, evaluation of health of external eye and adjacent structures, tonometry or other appropriate glaucoma testing, and such other tests as are necessary under the circumstances. Failure to perform said minimum testing during a comprehensive eye exam shall constitute failure to meet standard of care.

History: Author, Dr. Larry Carter; Filed January 20, 1992

630-X-12-.07 Definition of Invasive Surgery. For the purpose of this act, invasive surgery is defined as any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means except as specifically allowed by this act.

History: Author, Dr. Larry Carter; Filed September 20, 1996

630-X-12-.08 Emergency Services Outside of Normal Practice Hours. The licensee shall have an established and appropriate procedure for the provision of services to patients in the event of an emergency outside of normal practice hours, or when the licensee is not available due to vacation, illness, attendance at professional meetings or continuing education programs, or other absences of a similar nature. The procedure referred to herein may include, but is not limited to, cooperative arrangements with another licensed optometrist or licensed physician, a telephone answering system or pager through which the patient can obtain access to services, or written instructions to patients setting out how reasonable access to services may be obtained.

History: Author, Dr. Fred Wallace; Filed May 10, 2007

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-13

PRACTICE OF OPTOMETRY THROUGH TELEMEDICINE

630-X-13-.01 Definitions: (1) Distant Site Provider. A provider of optometric services through telemedicine from a site other than the patient's then current location. A distant site provider shall hold an active Alabama optometry license as set out in §34-22-20 and §34-22-21 of the Code of Ala. 1975.

(2) Emergency. A situation or condition where failure to provide immediate treatment poses a threat of loss of sight to a person. For the purposes hereof, routine visual care shall not be an emergency.

(3) Established Treatment Site. A location where a patient shall present to seek optometric care (through telemedicine). An established treatment site shall have an optometrist licensed by the Alabama Board of Optometry present on site during the provision of any telemedicine to a patient, and there must exist between said optometrist and patient an optometrist-patient relationship. There shall be sufficient equipment and technology present at any established treatment site to allow for an adequate physical evaluation as appropriate for the patient's presenting complaint. A patient's home is not considered an established treatment site.

(4) Face-to-face Visit. An evaluation or appointment for treatment at which both the provider and patient are at the same physical location, or where the patient is at an established treatment site and the provider is a distant site provider.

(5) In-person Evaluation. A patient evaluation conducted by a provider who is at the same physical location as the location of the client.

(6) Provider. As used in this chapter the term “provider” shall mean an optometrist holding an active license to practice optometry granted by the Alabama Board of Optometry in accordance with §34-22-20 and §34-22-21 of the Code of Ala. 1975.

(7) Telemedicine. As used in these regulations, a health service that is delivered by a licensed optometrist acting within the scope of his or her license and that requires the use of telecommunications technology other than telephone or facsimile. Telecommunications technology as used herein shall include, but not be limited to:

(a) compressed digital interactive video, audio, or data transmission;

(b) clinical data transmission using computer imaging by way of still image capture and store and forward;

(c) other technology that facilitates access to health care services or optometric specialty services.

History: Author, Dr. Fred Wallace; Filed March 13, 2015

630-X-13-.02 Optometric Telemedicine.

(1) The provision of optometric diagnosis, treatment, or other services to a patient through telemedicine at an established treatment site may be used for all patient visits, including initial evaluations to establish an optometrist-patient relationship between a provider and a patient.

(2) A distant site provider who provides telemedicine services to a patient that is not present at an established treatment site shall ensure that a proper provider-patient relationship is established, which shall include at least the following:

(a) Having had at least one face-to-face meeting, either in person, or at an established treatment site via telecommunications technology as set out in 630 x 13.01 (7);

(b) Confirming the identity of the person requesting treatment by establishing that the person requesting the treatment is in fact whom he or she claims to be.

(3) Evaluation, treatment, and consultation recommendations made via telemedicine, including, but not limited to the issuance of prescriptions, shall be held to the same standards of practice as those in traditional in-person clinical settings. The provision of optometric diagnosis, treatment, or other services through telemedicine shall comply with the requirements of the Alabama Code, this chapter, and these regulations. Failure to comply with such requirements shall be considered a failure to meet standard of care as required by 630-X-12-.06 herein.

(4) Distant site providers shall obtain an adequate and complete medical history for the patient before providing treatment and shall document the medical history in the patient record.

History: Author, Dr. Fred Wallace; Filed March 13, 2015

630-X-13-.03 On-Site Optometrists. A provider may delegate tasks and activities at an established treatment site to an assistant who is properly trained, supervised, and directed. There shall be, however, an Alabama-licensed optometrist present and available to assist with the provision of care at any established treatment site during the provision of optometric telemedicine.

History: Author, Dr. Fred Wallace; Filed March 13, 2015

630-X-13-.04 Security Measures For Electronic Mail. Adequate measures shall be taken to ensure the security of all patient communications through electronic mail, and that said information remains confidential. Electronic mail includes any type-written communication that is transferred via the internet, telephone or cable line, or cellular telephone service, but shall not include facsimile, or “fax” communications. Providers of optometric telemedicine shall, prior to providing optometric telemedicine services, establish and adopt written policies and procedures to ensure the security of patient communications, recordings, and records transferred by electronic mail. Policies shall be evaluated periodically so that they remain up-to-date. The written policies and procedures for such security measures for electronic mail shall address all of the following:

- (1) Confidentiality and integrity of patient-identifiable information;
- (2) The identity—by position or title—of health care personnel who will process or otherwise have access to information sent by electronic mail;
- (3) Hours of operation and availability of the provider and distant site provider;
- (4) Types of transaction which shall be permitted electronically;
- (5) The type of information to be included in the communication, such as patient name, identification number, and type of transaction;
- (6) How and when electronic mail will be archived and retrieved;
- (7) Mechanisms for the oversight of the processing, handling, storage, and archival of electronic mail.

History: Author, Dr. Fred Wallace; Filed March 13, 2015

630-X-13-.05 Communication In Patient Records. All relevant provider-patient electronic communications, including recordings and electronic mail shall be stored and filed in or with the patient’s record in addition to any other storage methods.

History: Author, Dr. Fred Wallace; Filed March 13, 2015

630-X-13-.06 Alternative Forms Of Communication. All patients who are served through optometric telemedicine shall be informed of alternative forms of contacting their provider for urgent matters. Conventional telephone numbers used by a provider for traditional on-site optometry shall be sufficient.

History: Author, Dr. Fred Wallace; Filed March 13, 2015

630-X-13-.07 Patient Records.

- (1) Patient records shall be maintained for all telemedicine services. The provider or distant site provider shall maintain the records created at any site where treatment or evaluation is provided.
- (2) Patient records shall include copies of all relevant patient-related electronic communications, including relevant provider-patient email, prescriptions, laboratory and rest results, evaluations and consultation, records of past care, medical histories, and instructions. If possible, telemedicine encounters that are recorded electronically shall also be included in the patient record. Where means of storage will not allow for the storage of electronically recorded encounters with or in the patient record,

the patient record shall include a notation or entry that the recording exists and the location and means of storage of such recording.

History: Author, Dr. Fred Wallace; Filed March 13, 2015

630-X-13-.08 Emergency Telemedicine.

(1) An optometrist who is licensed by another state to practice optometry, but who is not licensed in the state of Alabama pursuant to §§ 34-22-20 or 34-22-21, who utilizes telemedicine to provide optometric services in the state of Alabama from a distant site outside of the state of Alabama during a state of emergency is not subject to the requirements of this article. For the purposes of this section 13.08(1), a state of emergency means a natural or man-made disaster for which the Governor of the State of Alabama has declared or proclaimed a state of emergency or where the President of the United States has declared a disaster in accordance with the Disaster Relief and Emergency Assistance Act of 1988 as amended. For the exemption contained in this section to apply, the patient receiving telemedicine services from the distant site must be located within the geographical boundaries established in the governor's declaration of a state of emergency or the president's disaster declaration.

(2) A provider who is contacted in an emergency shall not be subject to the notice and security provisions of this article. The provisions of this section 13.08(2) shall not apply to any non-emergency optometric services provided to the patient as a continuation of treatment initiated in the emergency or for a different condition or issue which arises later. For the purposes of this section 13.08(2), an emergency shall have the meaning and definition set out in section 13.01(2) above.

History: Author, Dr. Fred Wallace; Filed March 13, 2015

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-14

IMPAIRED DOCTOR OF OPTOMETRY TREATMENT PROGRAM

630-X-14-.01 Board Implementation

630-X-14-.02 Self Reporting

630-X-14-.03 Complaint of Impairment

630-X-14-.04 Confidentiality of Records

630-X-14-.05 Monitoring After-Care Agreements

630-X-14-.06 Notice of Program Requirements

630-X-14-.07 Treatment and Rehabilitation Expense

630-X-14-.01 Board Implementation.

In implementing the Impaired Doctor of Optometry Treatment Program ("the Program"), the Alabama Board of Optometry may act as a body or through any designated committee or other designee ("the Board"). The Board may also expend such funds as it determines appropriate and reasonably necessary to implement and publicize the program and the provisions of Code of Ala. 1975, Section 3422100 et seq.

History: Author, Dr. Fred Wallace; Filed June 14, 2007

630-X-14-.02 Self Reporting.

The following Rules will apply to doctors of Optometry who voluntarily report an impairment to the Board for the purpose of seeking Board assistance.

(a) It is the purpose and intent of the Board that the Program be a confidential, nonpunitive alternative to disciplinary sanction for impaired optometrists who voluntarily seek medical intervention, treatment, counseling or rehabilitation for their impairment.

(b) An optometrist who voluntarily seeks the assistance of the Board for treatment of an impairment, who successfully completes the recommended course of treatment and therapy and who continues to abide by the terms and conditions of the Board's aftercare agreements for the period of time specified and thereafter continues to practice optometry with reasonable skill and safety and free from impairment will not be disciplined by the Board for violation of Code of Ala. 1975, Section 342223(5). However, an optometrist participating in programs of treatment and/or rehabilitation and aftercare must always truthfully answer all inquiries concerning such treatment made by employers, state or federal licensing and/or regulatory agencies, hospital medical staff credentialing bodies, and malpractice insurance carriers. In appropriate circumstances and in its sole discretion, the Board will provide information and related assistance to optometrists participating in programs sponsored or recommended by the Board before such agencies and organizations.

(c) An optometrist who voluntarily seeks assistance of the Board in connection with a perceived impairment shall execute all medical and other authorizations and releases necessary for, and requested by, the Board to enable it to receive all medical and other records considered by the Board to be relevant, or potentially relevant, to the said perceived impairment or to treatment related to the perceived impairment.

(d) Any optometrist who has voluntarily sought the assistance of the Board for treatment of a perceived impairment, but

1. who has failed or refused to follow the recommendations of the Board for evaluation, treatment and/or rehabilitation;

2. who has discontinued such treatment or rehabilitation against medical advice;

3. who has failed to abide by the terms and conditions of an aftercare agreement with the Board; or

4. whose continuation in practice, in the opinion of the Board, constitutes a threat to the safety or well being of his or her patients or to the public, shall be subject to a complaint of impairment, and the procedures pertaining to such a complaint and any discipline that may arise from such a complaint shall be fully applicable.

History: Author, Dr. Fred Wallace; Filed June 14, 2007

630-X-14-.03 Complaint of Impairment

Should the Board receive a complaint alleging that an optometrist suffers from an impairment as defined in Code of Ala. 1975, Section 3422101, the Board shall follow the procedures set forth in Chapter 630X3 of these Rules, and shall also adhere to the following procedures.

(a) Upon receiving such a complaint, the Board may require the allegedly impaired optometrist to execute all medical and other authorizations and releases necessary for, and requested by, the Board to enable it to receive all medical and other records considered by the Board to be relevant to the allegations of the complaint. The Board may also issue subpoenas for any such records.

(b) The Board may direct the allegedly impaired optometrist, at his or her own expense, to submit to an evaluation by any health provider, professional association or nonprofit corporation as shall be designated by the Board.

(c) Upon a finding of impairment by the Board, it may direct the impaired optometrist to complete such program or programs of treatment, rehabilitation and aftercare as shall be designated by the Board.

(d) In connection with such treatment, rehabilitation and aftercare programs, the Board may also require the impaired optometrist to execute all medical and other authorizations and releases necessary for the Board to receive all medical and other records considered by the Board to be relevant, or potentially relevant, to the impairment or to the said treatment, rehabilitation or aftercare programs.

(e) Any optometrist who fails to submit to, or cooperate with, an evaluation, or who fails to comply with treatment, rehabilitation or aftercare requirements, or fails to otherwise complete any designated treatment, rehabilitation or aftercare program, shall be subject to such limitation, restriction, suspension or revocation of his or her license as the Board may determine appropriate after the conduct of a due process hearing of the kind set forth in Chapter 630X3 of these Rules. Should the impaired condition of the optometrist, in the opinion of the Board, constitute an immediate threat to the safety or well being of his or her patients or to the public, the Board may limit, restrict or suspend the optometrist's license pending the conduct of the said hearing and the rendering of a final decision by the Board.

History: Author, Dr. Fred Wallace; Filed June 14, 2007

630-X-14-.04 Confidentiality of Records

All records of an impaired, or allegedly impaired, optometrist received by the Board in connection with the Program, shall be privileged and confidential, but may be used by the Board in the course of any investigation that may arise and may be introduced as evidence in administrative hearings conducted by the Board and may otherwise be used by the Board in the exercise of the proper function of the Program. Said records shall not be public records and shall not be available by court subpoena or other discovery method from the Board. Nothing contained herein, however, shall preclude a subpoena for, or other discovery with respect to, said records from their original sources.

History: Author, Dr. Fred Wallace; Filed June 14, 2007

630-X-14-.05 Monitoring After-Care Agreements

With respect to any optometrist who is required to enter into and comply with an aftercare agreement, either as part of a disciplinary sanction or in connection with voluntary participation in the Program, the Board shall establish a mechanism through which it will be informed on a prescribed basis of the progress of the optometrist in complying with the agreement, including of any violation by the optometrist of the terms and conditions of the agreement.

History: Author, Dr. Fred Wallace; Filed June 14, 2007

630-X-14-.06 Notice of Program Requirements

The Board or its designee will provide participants in the Impaired Doctor of Optometry Treatment Program a written statement outlining program requirements. In addition, all such participants will be provided a copy of these regulations so that the optometrist will understand the importance of complying with all program requirements and the potential consequences of noncompliance. Any optometrist who, as part of his or her participation in the Impaired Doctor of Optometry Treatment Program, enters a treatment or rehabilitation program designated by the Board shall be responsible for ascertaining and complying with all requirements necessary to successfully complete said treatment or rehabilitation program at his or her own expense.

History: Author, Dr. Fred Wallace; Filed June 14, 2007

630-X-14-.07 Treatment and Rehabilitation Expense

Any optometrist who, as part of his or her participation in the Impaired Doctor of Optometry Treatment Program, enters a treatment or rehabilitation program designated by the Board shall be responsible for ascertaining and complying with all requirements necessary to successfully complete said treatment or rehabilitation program at his or her own expense.

History: Author, Dr. Fred Wallace; Filed June 14, 2007

ALABAMA BOARD OF OPTOMETRY

CHAPTER 630-X-15

PATIENT OPIATE RISK EDUCATION

630-X-15-.01 Mitigating Abuse of Controlled Substances

630-X-15-.02 Education

630-X-15-.03 Written Acknowledgement or Agreement

630-X-15-.01 Mitigating Abuse of Controlled Substances.

The Board recognizes that opioid and other medications carry an inherent risk of addiction and abuse. In an effort to educate patients on those inherent risks, the Board adopts the following rules.

History: Author, Wallace D. Mills and Dr. Fred Wallace. Filed January 31, 2020.

630-X-15-.02 Education

In any case when a licensed optometrist shall prescribe a pharmaceutical agent containing Codeine, Codeine Phosphate, Dihydrocodeine, ethylmorphine, opium or any derivative thereof, morphine, buprenorphine, or any Schedule III narcotic, the optometrist shall provide to the patient opiate risk education counseling and literature setting out the following:

(a) Information on the risks of addiction and overdose associated with opioid drugs and the dangers of taking opioid drugs and alcohol, benzodiazepines, and other central nervous system depressants;

(b) The reasons why the prescription given is necessary;

(c) Alternative treatment that may be available, if applicable;

(d) Information on the risks associated with the use of the drugs being prescribed, specifically that opioids are highly addictive, even when taken as prescribed; that there is a risk of developing a physical or psychological dependence on the controlled substance, and that the risks of taking more opioids than prescribed, or mixing sedatives, benzodiazepines, or alcohol with opioids may result in fatal respiratory depression.

History: Author, Wallace D. Mills and Dr. Fred Wallace; Filed January 30, 2020

630-X-15-.03 Written Acknowledgement or Agreement Education

An optometrist prescribing a pharmaceutical agent described in 630-X-15-.02 may require a written acknowledgement or agreement from the patient, or the parent or guardian of the patient if the patient is under 18 years of age and is not an emancipated minor, that the patient understands the risks of developing a physical or psychological dependence on the controlled substance prescribed.

History: Author, Wallace D. Mills and Dr. Fred Wallace. Filed January 31, 2020.