

2019 LA REG TEXT 537230 (NS)

Louisiana Regulation Text - Netscan
LAC 46:LI.301, 303, 501, 503, 505, 611

Notices of Intent

October 20, 2019

Professional and Occupational Standards
FULL TEXT OF REGULATION(S)

Optometry

Notice is hereby given, in accordance with the Administrative Procedures Act, R.S. 49:950 et seq., that the Louisiana State Board of Optometry Examiners, pursuant to authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, intends to amend Title 46, Part LI by adopting the following proposed amendments to the rules set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LI. Optometrists

Chapter 3. License

LAC 46:LI.301

LAC 46:LI.301. Continuing Education

A. Each licensed optometrist shall comply with the following continuing education requirements.

1. Standard optometry license holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 hours of continuing education courses, of which a minimum of 10 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners; provided, however, a minimum of 9 of 12 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303.

2. License holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 hours of continuing education courses, of which a minimum of 14 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners, and of which at least eight classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; provided, however, a minimum of 13 of 16 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303. Such certificate holders will be entitled to apply the CPR continuing education to their required annual continuing education, provided that such CPR continuing education shall not count toward the required eight classroom hours related to ocular and system pharmacology and current diagnosis and treatment of ocular disease, and provided further that no more than two hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods. The eight hours of continuing education

relating to ocular and systemic pharmacology and/or current diagnosis and treatment of ocular disease shall be obtained solely from the following sources:

- a. the American Optometric Association;
- b. any state optometric association affiliated with the American Optometric Association;
- c. Great Western Council of Optometry, Mountain West Council of Optometrists, North Central States Optometric Council, and Southern Council of Optometrists;
- d. the American Academy of Optometry; or
- e. schools and colleges of optometry accredited by the American Optometric Association Accreditation Council on Optometric Education.

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), amended by the Department of Health, Board of Optometry Examiners, LR 45:

LAC 46:LI.303

LAC 46:LI.303. Continuing Education Requirement for Controlled Dangerous Substances

A. Scope of Rule. This rule provides for the one-time continuing education (CE) requirement for controlled dangerous substances prerequisite to license renewal of an authorized prescriber, definitions and the procedures applicable to approved/qualifying CE, credit for satisfaction, documentation, non-compliance, an exception and conflict resolution with other CE rules of this Part.

B. Definitions. As used in this §303, the following terms and phrases shall have the meanings specified.

Authorized Prescriber—an optometrist whose scope of practice includes authority to prescribe, dispense, or administer CDS.

Board—the Louisiana State Board of Optometry Examiners, as constituted under R.S. 37:1041 et seq.

Controlled Dangerous Substances or CDS—any substance defined, enumerated or included in federal or state statute or regulations 21 CFR. §§1308.11-.15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

C. Continuing Education Requirements

1. Notwithstanding any other provision, including, but not limited to, §301.A.1 pertaining to the requirement for obtaining a minimum of 10 hours of continuing education credit in a classroom setting, every authorized prescriber seeking the renewal of a license on and after January 1, 2019, shall, as part of the continuing education requirement by this part, and as a condition prerequisite to licensure renewal, successfully complete three credit hours of continuing education approved by the board on CDS prescribing practices, all of which may be taken through online courses approved by the board. Such continuing education shall include instruction relating to drug diversion training, best practices regarding prescribing of CDS, appropriate treatment for addiction and any other matters regarding the prescribing of CDS that are deemed appropriate by the board. The continuing education requirement may be satisfied by completing a continuing education program consisting of at least three credit hours approved by the board. Successful completion of this requirement once shall satisfy the requirement in full.

2. An optometrist with prescription authority in Louisiana for CDS shall be exempt from the continuing education requirement for renewal of his/her license to practice optometry if he/she completes and submits to the board a certification developed by the board attesting that he has not prescribed, administered or dispensed a CDS during the previous calendar year. The board shall verify the attestation of the prescriber through the prescription monitoring program. The exemption from the continuing education requirement of this subsection shall only be valid for the calendar year to which the attestation applies. If an optometrist obtains an exemption from continuing education requirements under this subsection, the optometrist with a renewed optometry license may prescribe, administer or dispense a CDS during a subsequent renewed optometry license term, but shall not be exempt from continuing education requirements for renewal of a optometry license during such period and, as such, shall obtain three hours of continuing education approved by the board on CDS prescribing practices prior to the expiration of such renewed optometry license term as provided in Paragraph 1 above.

3. Information on how to access approved, qualifying continuing education courses will be maintained by the board and made available on its website www.laoptometryboard.com. No license shall be renewed for an individual who fails to comply with the provisions of this Section.

4. The continuing education hours required by this section shall be considered among the credit hours required of the prescriber by the board on and after August 1, 2017, and shall not be considered an additional requirement to be met by a prescriber.

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), amended by the Department of Health, Board of Optometry Examiners, LR 45:

Chapter 5. Practicing Optometry

LAC 46:LI.501

LAC 46:LI.501. Professional Conduct

A. The following acts or omissions constitute a failure by the optometrist to abide by the minimal standards of acceptable and prevailing optometry practice, as set forth in R.S. 37:1061(10).

1. - 6. ...

7. Failing to report to the board:

a. any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court; or

b. any other act, event, or occurrence required to be reported pursuant to Louisiana Revised Statute §37:1061, or that would constitute grounds for disciplinary action pursuant to this Section, which report shall be in writing and within 30 days of such adverse action, act, event or occurrence.

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), amended by the Department of Health, Board of Optometry Examiners, LR 45:

LAC 46:LI.503

LAC 46:LI.503. License to Practice Optometry

A. - G. 6. ...

H. Participation in Student Extern Program. An optometrist may participate in student extern programs in accordance with rules and regulations promulgated from time to time by the board.

1. The level of responsibility assigned to a student extern shall be at the discretion of the supervising optometrist who shall be ultimately responsible for the duties, actions or work performed by such student extern.

2. The duties, actions and work performed by a student extern in accordance with the provisions of this §603 and §603 shall not be considered the practice of optometry without a license as set forth in R.S. 37:1061(14).

I. Retirement of License

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be retired. The request to have a license retired must be in writing and delivered to the board. The request for a retired license will be placed on the board agenda for consideration at the next scheduled board meeting and the effective date of retirement determined by the board will be set and may be retroactive. A person who holds a retired license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding a retired license is exempt from the continuing education requirements of §301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of a retired license need not renew the retired license annually nor pay any renewal fees.

2. Re-Activation of Retired License. For an retired license to be re-activated, the license holder must pay the reinstatement fee set forth in §801.A.6 plus any and all license renewal fee(s) and comply with all continuing education requirements. To re-activate a retired license the license holder must show 16 hours of board approved continuing education for each year of retired license status. The required continuing education may be obtained at any time during the retired status period. If the inactive license holder fails to practice optometry in any state for greater than five consecutive years from the date the license was granted retired status, an examination acceptable to the board may be required to re-activate the original license. For holders of a retired license with authorized ophthalmic surgery procedures, if the retired license holder fails to practice authorized ophthalmic surgery procedures in any state for greater than five consecutive years from the date the license was granted retired status, a recertification of advanced procedure proficiency and examination acceptable to the board may be required to re-activate the original license.

J. Inactive Status

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be placed on inactive status. The request to have a license be considered inactive must be in writing and delivered to the board. The request for inactive status will be placed on the board agenda for consideration at the next scheduled board meeting and the effective date of inactive status determined by the board will be set and may be retroactive. A person who holds an inactive license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding an inactive license is exempt from the continuing education requirements of Section 301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of an inactive license must renew the inactive license annually and pay appropriate renewals fees to avoid revocation.

2. Re-Activation of Inactive License. For an inactive license to be re-activated, the license holder must pay the reinstatement fee set forth in §801.A.6 plus any and all license renewal fee(s) and comply with all continuing education requirements. To re-activate an inactive license the license holder must show 16 hours of board approved continuing education for each year

of inactive license status. The required continuing education may be obtained at any time during the inactive status period. If the inactive license holder fails to practice optometry in any state for greater than five consecutive years from the date the license was granted inactive status, an examination acceptable to the board may be required to re-activate the original license. For holders of an inactive license with authorized ophthalmic surgery procedures, if the inactive license holder fails to practice authorized ophthalmic surgery procedures in any state for greater than five consecutive years from the date the license was granted inactive status, a recertification of advanced procedure proficiency and examination acceptable to the board may be required to re-activate the original license.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Optometry Examiners, LR 45:

LAC 46:LI.505

LAC 46:LI.505. Prescriptions for Eyeglasses or Contact Lenses

A. To constitute a valid spectacle prescription, every spectacle prescription for use in correcting errors of refraction and restoring, as near as possible, normal human vision shall contain in a legible form the name, address, telephone number and license number of the provider, the name of the patient, the prescription date, refractive power (including spherical power, cylindrical power, axis, prism, and multifocal addition power, as applicable), and may contain information specifying the physical design (i.e. base curve, material type, and other pertinent measurements such as pupillary distance). Every spectacle prescription shall contain an expiration date and the signature of the provider issuing the prescription. The expiration date may not exceed 18 months, unless the provider documents a valid medical reason in the chart for doing so.

B. Contact lenses may not be sold or dispensed without a signed, unexpired prescription. Every contact lens prescription shall contain, in a legible form, the name, address, telephone number and license number of the provider, the name of the patient, the prescription date, brand or material, curvature and lens diameter (if more than one base curve and diameter is available), refractive power (including spherical power, cylindrical power, axis, and multifocal addition power, as applicable), the number of lenses/boxes to be dispensed,. An optometrist, when issuing a prescription for contact lenses, shall also include the number of refills allowed and the expiration date of the prescription. The expiration date may not exceed 12 months, unless the provider documents a valid medical reason in the chart for doing so.

C. An optometrist, when filling a prescription for eyeglasses or contact lenses, shall be required to keep the original prescription, copy, or electronic facsimile of the original prescription. An optometrist may not refuse to release to a patient a copy of the patient's prescription if requested by the patient; provided, however, an optometrist shall not be required to release a prescription that has expired.

D. A spectacle prescription shall not be construed to be or substituted for a contact lens prescription nor shall a contact lens prescription be construed to be or substituted for a spectacle prescription.

E. No owner, employer, or agent of any business establishment that buys, sells, offers to sell, dispenses, or gives away prescription or non-prescription contact lenses, or prescription spectacle lenses may fill a contact lens or spectacle prescription after the expiration date, or if the information specified in Subsections A and B of this Section is not included on the prescription.

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), amended by the Department of Health, Board of Optometry Examiners, LR 45:

Chapter 6. Dispensation of Medication

LAC 46:LI.611

LAC 46:LI.611. Mandatory Access and Review of Prescription Monitoring Program Data; Exceptions

A. Scope of Rule. The rules for this §611 provide for prescriber mandatory access and review of the Louisiana Prescription Monitoring Program, R.S. 40:100 et seq., as from time to time may be amended (PMP), and for exceptions and non-compliance.

B. As used in this §611, the following terms and phrases shall have the meanings specified.

Administer—with respect to a medication provided or dispensed by a prescriber for use by a patient, the term *administer* means directly or through an agent to give, provide or supply for immediate oral ingestion, insertion or topical application by the patient, or to insert, apply topically, or inject intravenously, intramuscularly, subcutaneously, intrathecally, or extrathecally.

Board—the Louisiana State Board of Optometry Examiners, as constituted under R.S. 37:1041 et seq.

Controlled Dangerous Substance (CDS)—any substance defined, enumerated or included in federal or state statute or regulations 21 CFR §§1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

Delegate—an individual authorized by a prescriber or dispenser who is also authorized to access and retrieve prescription monitoring program data for the purpose of assisting the prescriber or dispenser, and for whose actions the authorizing prescriber or dispenser retains accountability.

Prescribe—to issue a request or order for a drug or medical device by an individual licensed under this Part for a legitimate medical purpose. The act of prescribing must be in good faith and in the usual course of the licensee's professional practice.

Prescriber—an optometrist or other health care provider as may hereafter be licensed by the board under this Part, whose scope of practice includes authority to prescribe opioids.

Prescription—an order from a practitioner authorized by law to prescribe for a drug or device that is patient specific and is communicated by any means to a pharmacist in a permitted pharmacy.

Prescription Monitoring Program or PMP—the electronic system for the monitoring of controlled substances and other drugs of concern established by the Prescription Monitoring Program Act, R.S. 40:1001 et seq., as may from time to time be amended.

C. Mandatory Access and Review

1. Prior to initially prescribing any opioid to a patient, a prescriber or his/her delegate shall access and review the patient's record in the PMP; and

2. If opioids are prescribed to the patient for more than 90 days, the prescriber or his/her delegate shall access and review the record in the PMP at least every 90 days.

3. This Section shall not apply if:

a. the drug is prescribed or administered to a hospice patient or any other patient who has been diagnosed as terminally ill;

b. the drug is prescribed or administered for the treatment of cancer-related chronic or intractable pain;

- c. the drug is ordered or administered to a patient being treated in a hospital;
- d. the PMP is not accessible or not functioning properly due to an electronic issue. However, the prescriber shall check the PMP after electronic accessibility has been restored and note the cause for the delay in the patient's chart; or
- e. no more than a single seven-day supply of the drug is prescribed or administered to a patient.

D. Action against Optometry License. Violation or failure to comply with the provisions set forth in §§303 or 611, or providing false or misleading statements in connection with any application required by this Chapter may be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice optometry in the state of Louisiana or applied for by an optometrist culpable of such violation, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under 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 32:630 (April 2006), amended LR 35:1111 (June 2009), LR 45: