

Louisiana Revised Statutes

Title 37. Professions and Occupations

Chapter 12. Optometry

§1041. Legislative declaration; statement of purpose; definitions; scope of practice

A. The practice of optometry in the state of Louisiana is declared a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of optometry, as defined in this Chapter, merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of optometry in the state of Louisiana. This Chapter shall be liberally construed to carry out these objectives and purposes.

B. The purpose of this Chapter is to promote, preserve, and protect the public health, safety, and welfare by and through education, as well as effective control and regulation of persons, in or out of the state, that practice optometry within this state.

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

(1) "Board" means the Louisiana State Board of Optometry Examiners.

(2)(a) "Diagnostic and therapeutic pharmaceutical agent" means any prescription or nonprescription drug delivered by any route of administration, used or prescribed for the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics, when used in treatment of disorders or diseases of the eye and its adnexa.

(b) Repealed by Acts 2014, No. 398, §2, eff. June 1, 2014.

(c) "Diagnostic and therapeutic pharmaceutical agent" shall not include any drug or other substance listed in Schedules I and II of the Uniform Controlled Dangerous Substances Law provided in R.S. 40:963 and 964 which shall be prohibited from use by a licensed optometrist.

(d) Repealed by Acts 2014, No. 398, §2, eff. June 1, 2014.

(e) Licensed pharmacists of this state shall fill prescriptions for such pharmaceutical agents of licensed optometrists certified by the board to use such pharmaceutical agents. Licensed optometrists certified by the board to use pharmaceutical agents may direct licensed registered nurses, licensed practical nurses and other healthcare personnel to execute diagnostic and therapeutic orders and administer pharmaceutical agents. Licensed registered nurses, licensed practical nurses and other healthcare personnel shall execute diagnostic and therapeutic orders and administer pharmaceutical agents prescribed by licensed optometrists certified by the board to use pharmaceutical agents.

(3) "Licensed optometrist" means a person licensed and holding a certificate issued under the provisions of this Chapter.

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

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

(5) "Optometry" means that practice in which a person employs primary eye care procedures including ophthalmic surgery such as YAG laser capsulotomy, laser peripheral iridotomy, and laser trabeculoplasty, except for those surgery procedures specifically excluded in Subsection D of this Section; measures the powers and range of vision of the human eye using subjective or objective means, including the use of lenses and prisms before the eye and autorefractors or other automated testing devices to determine its accommodative and refractive state and general scope of function; and the adaptation, sale, and dispensing of frames and lenses in all their forms, including plano or zero power contact lenses, to overcome errors of refraction and restore as near as possible, normal human vision, or for orthotic, prosthetic, therapeutic, or cosmetic purposes with respect to contact lenses. Optometry also includes the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and its adnexa, including the use or prescription of vision therapy, ocular exercises, rehabilitation therapy, subnormal vision therapy, ordering of appropriate diagnostic lab or imaging tests; the dispensing of samples to initiate treatment; and the use or prescription of diagnostic and therapeutic pharmaceutical agents. With respect to frames and lenses, including those containing diagnostic and therapeutic pharmaceutical agents, an optometrist may provide samples or dispense such products to his own patients, provided however that such dispensing activities shall conform to rules relative to packaging, labeling, and recordkeeping promulgated by the board.

D. The following ophthalmic surgery procedures are excluded from the scope of practice of optometry, except for the preoperative and postoperative care of these procedures:

- (1) Retina laser procedures, Laser-Assisted In Situ Keratomileus (LASIK), Photorefractive Keratectomy (PRK), laser epithelial keratomileusis (LASEK), and any form of refractive surgery.
- (2) Penetrating keratoplasty, corneal transplant, or lamellar keratoplasty.
- (3) The administration of general anesthesia.
- (4) Surgery done with general anesthesia.
- (5) Laser or nonlaser injection into the vitreous chamber of the eye to treat any macular or retinal disease.
- (6) The following nonlaser surgical procedures:

- (a) Surgery related to removal of the eye from a living human being.
- (b) Surgery requiring full thickness incision or excision of the cornea or sclera other than paracentesis in an emergency situation requiring immediate reduction of the pressure inside the eye.
- (c) Surgery requiring incision of the iris and ciliary body, including iris diathermy or cryotherapy.
- (d) Surgery requiring incision of the vitreous.
- (e) Surgery requiring incision of the retina.
- (f) Surgical extraction of the crystalline lens.
- (g) Surgical intraocular implants.
- (h) Incisional or excisional surgery of the extraocular muscles.
- (i) Surgery of the eyelid for suspect eyelid malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis, and tarsorrhaphy.
- (j) Surgery of the bony orbit, including orbital implants.
- (k) Incisional or excisional surgery of the lacrimal system other than lacrimal probing or related procedures.
- (l) Surgery requiring full thickness conjunctivoplasty with graft or flap.
- (m) Any surgical procedure that does not provide for the correction and relief of ocular abnormalities.
- (n) Injection or incision into the eyeball.
- (o) Retrobulbar or intraorbital injection.
- (p) Surgery requiring suturing.
- (q) Pterygium surgery.

E. In a public health emergency, the state health officer may authorize therapeutically licensed optometrists to administer inoculations for systemic health reasons.

Amended by Acts 1975, No. 123, §§1, 2; Acts 1993, No. 202, §1; Acts 1995, No. 1209, §1; Acts 2003, No. 987, §1; Acts 2005, No. 6, §1; Acts 2006, No. 596, §1; Acts 2007, No. 66, §1; Acts 2008, No. 439, §1; Acts 2011, No. 149, §1; Acts 2014, No. 398, §§1, 2, eff. June 1, 2014.

§1042. Louisiana State Board of Optometry Examiners; appointment; terms of members; protected action and communication

A. The Louisiana State Board of Optometry Examiners is created within the Department of Health and Hospitals and is subject to the provisions of R.S. 36:803. This board shall consist of five members who shall be licensed optometrists and shall have practiced optometry in this state for seven years.

B. Each member of the board shall be appointed by the governor from a list of three names submitted to him by the board. For the purpose of preparing the list of three names, the board shall conduct an annual meeting on a date in June set by the board annually, at which all optometrists licensed under the laws of Louisiana shall have the right to attend, nominate and vote. The board shall have the authority to regulate and prescribe the place and hour of the meeting, the method of nomination, and the manner of voting. Each optometrist in attendance shall have the right to vote for those persons duly nominated and no cumulative or proxy voting shall be permitted. Each optometrist voting must vote for three nominees in order for his ballot to be valid, and any ballot indicating votes for more or less than three nominees shall be null and void. The three persons receiving the greatest number of votes of those in attendance at the meeting shall be the three persons whose names shall be submitted to the governor for appointment to the board. At least thirty days prior to the meeting the board shall mail notices to each optometrist licensed under the laws of Louisiana at the address shown in his current registration notifying each optometrist of the exact date, place and hour of the meeting, the purpose of the meeting and of his right to attend and vote.

C. The term of each member shall be five years, but vacancies occurring during the term of a member shall be filled for the unexpired term by an optometrist possessing the qualifications for board membership, nominated by the remaining members of the board and appointed by the governor from that nomination.

D. There shall be no liability on the part of and no action for damages against:

(1) Any member of the board, or its agents or employees, for any action undertaken or performed by such person within the scope of the duties, powers, and functions of the board or such examining committee as provided for in this Chapter when such person is acting without malice and in the reasonable belief that the action taken by him is warranted; or

(2) Any person providing information to the board, its agents or employees, whether a witness, or otherwise, unless such information is false and the person providing it knew that such information was false.

E. In any suit brought against the board, its employees or agents, or any person or entity providing information to the board, when the defendant substantially prevails in such suit, the court shall, at the conclusion of the action, award to the defendant and assess against the claimant the cost of defending the suit attributable to such claim, including reasonable attorney fees, if the claim, or the claimant's conduct during the litigation of the claim, was either frivolous, unreasonable, without foundation, or in bad faith. For the purpose of this Subsection, a defendant shall not be considered to have substantially prevailed when the claimant obtains an award for damages or permanent injunctive or declaratory relief.

Amended by Acts 1974, No. 442, §1; Acts 1977, No. 684, §11; Acts 2003, No. 987, §1; Acts 2011, No. 149, §1.

§1043. Oath of office

All members of the board shall take the oath required of state officers before entering upon the duties of their office.

§1044. Removal of members

The governor may remove any member of the board for inefficiency, neglect of duty or a violation of the provisions of this Chapter.

§1045. Officers; meetings; quorum

A. The board shall choose from its membership a president and a secretary-treasurer. The board shall hold regular semiannual meetings. Three members shall constitute a quorum for the transaction of business.

B. All proceedings of the board are to be conducted in conformity with the provisions of the Administrative Procedure Act (R.S. 49:951 et seq.).

Amended by Acts 1974, No. 443, §1.

§1046. Fees; compensation; expenses; staff

A. Pursuant to the authority of Paragraph A of Section 9 of Article VII of the Constitution of Louisiana, the board shall retain all fees and other monies received by it. Such funds may be expended by the board, without appropriation, for costs of administration of this Chapter and other expenses. Any funds remaining unexpended and unencumbered at the end of each fiscal year shall be retained by the board for expenditure in succeeding years and no part thereof shall revert to the General Fund of the state.

B. Each member of the board shall be reimbursed when actually in attendance of a board meeting or when required to travel for the official authorized business of the board, not more than seventy-five dollars per day plus actual expenses and mileage to and from their domicile to the place of meeting at the same rate of reimbursement set by the division of administration for state employees under the provisions of R.S. 39:231.

C. The secretary-treasurer, who shall be an appointed member of the board, may receive for his services a reasonable salary fixed by the board. The board may also employ such persons as may be necessary to assist the secretary-treasurer or other officers to accomplish the duties and responsibilities of this Chapter.

Amended by Acts 1967, No. 44, §1; Acts 1973, No. 66, §1; Acts 1982, No. 678, §1; Acts 2003, No. 987, §1.

§1047. Records; receipts and disbursements

The secretary-treasurer of the board shall keep a full record of all acts and proceedings of the board. All moneys shall be received by him and disbursed in administering the provisions of this Chapter.

§1048. Powers of the board

The board shall be responsible for the control and regulation of the practice of optometry and may:

- (1) Adopt by-laws and regulations for the management of the board and define the duties of its officers.
- (2) Promulgate and publish rules and regulations for the purpose of administering the provisions of this Chapter.
- (3) Employ the necessary persons, including an attorney, to administer this Chapter.
- (4) Summon witnesses and compel the attendance of witnesses. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. A summons may order a person to appear and/or produce at the hearing, books, papers, documents or any other tangible things in his possession or under his control, if a reasonably accurate description thereof is given.
- (5)(a) Conduct hearings on proceedings, and generally enforce those provisions of this Chapter, relating to conduct and competence, including but not limited to revocation, summary suspension, suspension, probation, reprimand, fines and warnings, when evidence has been presented showing violation of any of the provisions of this Chapter.
- (b) In addition to the power and duties granted in Subparagraph (a) of this Paragraph, the board may, in its discretion, impose a fine against any person licensed under this Chapter when evidence has been presented showing the person is in violation of any of the provisions of this Chapter and may assess costs and attorney fees against the person found to have been in violation of any of the provisions of this Chapter.
- (6)(a) Issue a subpoena to any person or persons who the board has probable cause to believe has engaged in the practice of optometry without a current valid license or permit and conduct hearings when evidence has been presented showing that the person or persons have been engaged in the practice of optometry without a current valid license or permit.
- (b) Levy a civil penalty of no more than five thousand dollars per offense upon any unlicensed person who, after a hearing or informal resolution in accordance with all provisions of the Administrative Procedure Act and this Chapter, is found to have practiced optometry without benefit of a current valid license having been issued by the board pursuant to the provisions of this Chapter and assess costs and attorney fees against the unlicensed person found to have been practicing optometry without a current valid license.
- (c) Levy a civil penalty not to exceed one thousand dollars upon any person who fails to attend a hearing as a witness, or otherwise, after timely service of a summons or subpoena.
- (7) Establish and enforce compliance with professional standards and rules of conduct of optometrists engaged in the practice of optometry.
- (8) Inspect during hours of operation any licensed, permitted, certified, or registered person including, but not limited to, pertinent records for the purpose of determining if any provisions of law governing the legal distribution of drugs or devices or the practice of optometry is being violated.

- (9) Cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to drugs, devices or the practice of optometry.
- (10) Compel a person applying for or holding any license, registration, certificate, permit, or any other designation deemed necessary to engage or assist in the practice of optometry to submit to an evaluation by such persons as the board may designate.
- (11) Permit optometrists to join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of optometry for the protection of the health, safety, and welfare of the public or whose activities facilitate the work of the board.
- (12) Educate the public and optometrists on issues of public health, safety and welfare by sponsoring, promoting, managing, operating or improving health related education services, programs or facilities in the state.
- (13) Place under seal all drugs or devices that are owned by or in the possession, custody, or control of a licensee at the time his license is suspended or revoked or at the time the board refused to renew his license. Except as otherwise provided in this Section, drugs or devices so sealed shall not be disposed of until appeal rights under the Administrative Procedure Act have expired, or an appeal filed pursuant to that Act has been determined.
- (14) Establish minimum standards for maintaining the integrity and confidentiality of prescription information and other patient health care information.
- (15) Require that any therapeutically licensed optometrist licensed to practice pursuant to this Chapter meet the educational and competence criteria established by the board in order to perform expanded therapeutic procedures. Evidence of proof of continuing competency shall be determined by the board.

Acts 2003, No. 987, §1; Acts 2006, No. 596, §1; Acts 2009, No. 289, §1; Acts 2014, No. 398, §1, eff. June 1, 2014.

§1049. Qualifications and requirements of applicants

All persons desiring to become licensed to practice optometry shall:

- (1) Be citizens of the United States, of good moral character.
- (2) Have graduated from an approved high school or school maintaining a similar standard.
- (3) Have graduated from a school or college of optometry approved by the board and hold the graduate level Doctor of Optometry degree.
- (4) File with the secretary of the board upon the form furnished an application under oath stating that he fulfills each requirement of this Section and include with the application the papers required by R.S. 37:1050.
- (5) Pass the examination required by R.S. 37:1051.
- (6) Have reached the required level of performance on those parts of the examination administered by the National Board of Examiners in Optometry required by the board and cause to be furnished to the secretary of the board a true written copy of the score report of such national board examination.
- (7) Have demonstrated that they have reached the qualification level necessary to become certified to treat abnormal conditions and pathology of the human eye and its adnexa as set forth in R.S. 37:1051, and the rules and regulations established, published, and administered by the board.
- (8) Meet the credentialing requirements of the board to perform authorized ophthalmic surgery procedures.

Acts 2003, No. 987, §1; Acts 2009, No. 289, §1; Acts 2014, No. 398, §1, eff. June 1, 2014.

§1050. Application requirements

A. The application required by R.S. 37:1049 shall be accompanied by a certificate under oath of the applicant's credits from the schools of his graduation, by a photostatic copy of his diploma or certificate of graduation, by a true copy of the score report of the examination administered by the National Board of Examiners in Optometry required by the board, by the applicant's fee required by R.S. 37:1058, and by a photograph of the applicant. Failure to comply with these requirements shall constitute sufficient grounds to refuse the applicant the right to take the examination.

B. The application, together with the supporting documents, shall be filed with the secretary-treasurer of the board on or before thirty days prior to the date set for examination unless, in the opinion of the board, the documents, through no fault of the applicant, are not available at this time.

Acts 2003, No. 987, §1; Acts 2011, No. 149, §1.

§1051. Examinations and educational requirements

A. Examinations given by the board shall be based upon subjects taught in approved schools and colleges of optometry, such as general anatomy, physics, chemistry, biology, physiology, anatomy, and physiology of the eye, general physiology, general pathology, ocular pathology, ocular neurology, ocular myology, psychology, physiological optics, optometrical mechanics, vision therapy, visual field charting, orthoptics, clinical optometry, contact lenses, primary eye care procedures, general pharmacology and ocular pharmacology with emphasis on the use of ocular diagnostic and therapeutic pharmaceutical agents, and the applications of the general law of optics and refraction and such other materials and subjects as are essential in the practice of optometry. Examinations shall be conducted at least once annually on dates fixed by the board.

B. All written examinations held by the board and the answers of applicants shall be kept as records by the board for at least one year.

C.(1) Under regulations established, published, and administered by the board, optometrists who graduated from optometry school prior to 1993 desiring to qualify for certification to treat abnormal conditions and pathology of the human eye and its adnexa, including employment of therapeutic pharmaceutical agents, shall be required to qualify for such certification from the board by furnishing proof of satisfactory completion of additional studies with particular emphasis on the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and its adnexa. No optometrist shall carry out such treatment or employ such pharmaceutical agents without such certification. He shall have current certification that he has completed a basic course in cardiopulmonary resuscitation, and proof that he possesses in his office an automatic epinephrine injector that is operable and on which the expiration date has not passed.

(2) Such studies shall be provided by an educational institution accredited by a regional or professional accreditation organization which is recognized or approved by the Council of Postsecondary Accreditation of the United States Office of Education and approved by the board.

(3) The required additional studies shall include a minimum of forty-six clock hours of didactic education and thirty-four clock hours of approved supervised clinical training which shall be the equivalent of at least five semester hours of postgraduate education in the examination, diagnosis, and treatment of abnormal conditions and pathology of the human eye and its adnexa. Courses of study shall include but not be limited to the following areas: pharmacological principles, pharmacological antibiotics, pharmacological principles of the autonomic nervous system, systemic drugs, anterior segment disease of the adnexa, anterior segment disease of the cornea, anterior segment disease of the conjunctiva, anterior segment disease of the uvea, posterior segment disease, the eye in systemic disease, glaucoma, and postoperative care. If the applicant passes the Treatment and Management of Ocular Disease examination administered by the National Board of Examiners in Optometry or other examination as approved by the board pertaining to the use of pharmaceutical agents and the treatment and management of ocular disease, the applicant shall be deemed to have met the requirement for additional studies in didactic education.

Amended by Acts 1969, No. 116, §1; Acts 1974, No. 444, §1; Acts 1975, No. 123, §1; Acts 1993, No. 202, §1; Acts 2003, No. 987, §1; Acts 2009, No. 289, §1.

§1052. Certificate to practice; registering; evidence

A. If the applicant successfully passes the examination required in R.S. 37:1051, he shall, within ninety days of the examination date, pay all applicable fees including the original license fee and the original therapeutic pharmaceutical agent certificate fee and shall receive from the board under its seal certificates entitling him to practice optometry in this state. No certificate to practice optometry or therapeutic optometry in this state shall be issued to an applicant who fails to pay all applicable fees within the ninety-day period; provided, however, such applicant may file a new application as provided for in R.S. 37:1049 and retake the examination provided for in R.S. 37:1051. These certificates or renewals thereof shall be the only evidence of the right of a person to practice optometry or therapeutic optometry.

B. The certificates shall be registered in a record book to be kept by the board for that purpose. A copy of the certificates certified by the secretary of the board shall be received as evidence in all the courts of this state.

Acts 2009, No. 289, §1.

§1053. Right to re-take examination

If an applicant fails to pass the examination provided in R.S. 37:1051, he may, after the expiration of six months, take a second examination without paying an additional fee, if this examination is held within two years after the failure.

§1054. Applicants from other states; waiver of examination

The board may waive the examination provided in R.S. 37:1051 if the applicant presents to the board a satisfactory certificate of registration from a board of optometry examiners of another state, and if the standard of requirements adopted and enforced by such board is equal to that provided in this Chapter.

§1055. Recording of certificate

Every person before beginning the practice of optometry in this state shall record the certificate issued to him by the board in the parish in which he desires to practice.

Acts 2011, No. 149, §1.

§1056. Annual renewal of license to practice

All licensed optometrists shall annually:

1. Pay to the board the annual renewal fee provided in R.S. 37:1058 on or before the first day of March of each year; and
2. Accompany the payment of the annual renewal fee with evidence satisfactory to the board of attendance and completion of twelve hours of continuing education pertaining to subjects required for licensing as set forth in R.S. 37:1051 and/or subjects pertaining to current visual and health care practices as are applicable to the practice of optometry. All licensed optometrists who have attained the age of sixty years as of March 1, 1969 shall be exempt from this continuing education requirement.

Amended by Acts 1969, No. 116, §1.

§1057. Renewals; requirements

A. Where the annual renewal fee required by R.S. 37:1056(1) is not paid on or before the first day of March, a delinquency fee of one hundred fifty dollars shall be imposed. Failure to pay the annual renewal fee and delinquency fee on or before the first day of July will provide a basis for the temporary suspension of a Louisiana optometry license. Payment of the license renewal fee made after the first day of July of each renewal year where the license has been suspended shall be accompanied by the one hundred fifty dollar delinquency fee, the one hundred fifty dollar reinstatement fee, as well as any costs or expenses, including attorney fees, which may be caused by the need for the institution of disciplinary proceedings, fines imposed in disciplinary proceedings, and all other applicable fees, including a license reinstatement fee. Failure to pay the annual renewal fee, delinquency fee or reinstatement fee on or before the first day of January of the year following the delinquency shall be cause for the board to revoke a Louisiana optometry license.

B. Where satisfactory evidence of compliance with the continuing education requirement, as required by R.S. 37:1056(2) is not submitted to the board on or before the first day of March, a delinquency fee of one hundred fifty dollars shall be imposed. Failure to submit satisfactory evidence of compliance with the continuing education requirement on or before the first day of July shall provide a basis for the temporary suspension of a Louisiana optometry license. Satisfactory evidence of compliance with the continuing education requirement provided to the board after the first day of July of each renewal year where the license has been suspended shall be accompanied by the one hundred fifty dollar delinquency fee, the one hundred fifty dollar reinstatement fee, as well as any cost or expenses, including attorney fees, which may be caused by the need for the institution of disciplinary proceedings, fines imposed in disciplinary proceedings, and all other applicable fees, including a license reinstatement fee. Failure to submit satisfactory evidence of compliance with the continuing education requirement on or before the first day of January of the year following the delinquency shall be cause for the board to revoke a Louisiana optometry license.

Amended by Acts 1969, No. 116, §1; Acts 2003, No. 987, §1; Acts 2006, No. 596, §1.

§1058. Fees

The board shall, by rule, establish a reasonable fee schedule for the issuance or renewal of any license, permit, or certificate, for administration of examinations for licensure, or for any other administrative function provided for in this Chapter, and the receipts from the payment of such fees shall be used to carry out the purpose of this Chapter. Such fee schedule may be modified from time to time as deemed necessary by the board. The fees shall be established and payable by rule adopted in accordance with the Administrative Procedure Act. However, the board may, by a majority vote, reduce the amount of or waive the collection of any such fees.

Amended by Acts 1962, No. 96, §1; Acts 1969, No. 116, §1; Acts 1974, No. 446, §1; Amended by Acts 1982, No. 678, §1; Acts 2003, No. 987, §1.

§1059. Display of certificate

Every licensed optometrist shall display in his place of business the certificate issued by the board.

§1060. List of licensed optometrists

The secretary-treasurer of the board shall, under the signature of the president under oath, file annually with the governor a complete list of all licensed optometrists.

§1061. Violations and causes for refusal, suspension, or revocation of certificate

A. The board may, after due notice and hearing, assess a fine not to exceed the sum of five thousand dollars for each offense, refuse to license, register, certify, or permit any applicant, refuse to renew the license or permit of any person, or may revoke, summarily suspend, suspend, place on probation, reprimand, issue a warning against the person who was issued the license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of optometry upon proof that the person:

(1) Practiced or assisted in the practice of optometry, or knowingly permitted or has permitted anyone in his employ or under his supervision to practice or assist in the practice of optometry, in violation of the provisions of this Chapter and any rules and regulations promulgated thereto in accordance with the Administrative Procedure Act.

(2) Attempted to or obtained a license, registration, certificate, permit or any other designation deemed necessary to engage in the practice of optometry by fraud or misrepresentation.

(3) Committed repeated occasions of negligence or incompetence in the practice or assistance in the practice of optometry.

(4) Has been convicted of a felony or other public offense involving moral turpitude in the courts of any state, territory or country. Conviction, as used in this Paragraph, shall include a finding or verdict of guilty, an admission of guilt, or plea of nolo contendere.

(5) Is habitually intemperate or is addicted to the use of alcohol or habit-forming drugs.

(6) Has had his license, permit, certification, registration or any other designation deemed necessary to engage in the practice of optometry revoked or suspended, or has had other disciplinary action taken, or has had his application for licensure refused, revoked, or suspended by the proper authorities of another state, territory, or country based upon conduct by the licensee similar to conduct that would constitute grounds for action as defined in this Section.

(7) Has failed to report to the board any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that would constitute grounds for action as defined in this Section.

(8) Has failed to report to the board the surrender of a license, permit, certification, registration, or any other designation deemed necessary to engage in the practice of optometry in another state or jurisdiction while under disciplinary investigation by any of those authorities or bodies for conduct that would constitute grounds for action as defined in this Section.

(9) Has failed to report to the board any adverse judgment, settlement, or award arising from a malpractice claim related to conduct that would constitute grounds for action as defined in this Section.

(10) Has departed from or failed to conform to the minimal standards of acceptable and prevailing optometry practice, whether or not actual injury to a patient has occurred.

(11) Continued practice knowingly having a contagious or infectious disease.

(12) Has committed fraud by a licensee in connection with the practice of optometry, including, but not limited to, Medicaid fraud, Medicare fraud, or insurance fraud.

- (13) Deceived or defrauded the public.
- (14) Has engaged, or aided and abetted a person to engage in the practice of optometry without a license, registration, certificate, permit or any other designation deemed necessary to engage in the practice of optometry. The practice of optometry includes, but is not limited to, providing optometric services to a client or patient in this state through telephonic, electronic, or other means, regardless of the location of the optometrist, and shall require licensure within this state.
- (15) Permitted another to use his certificate of registration.
- (16) Has failed to pay fines, penalties, fees, or other costs assessed in a disciplinary hearing.
- (17) Has engaged in any conduct that subverts or attempts to subvert any evaluation, investigation, hearing, fact finding, or other examination, or the administration of any evaluation, investigation, hearing, fact finding, or other examination authorized under this Chapter.
- (18) Has evaded or assisted, directly or indirectly, another person in evading any local, state or federal laws or regulations pertaining to the practice of optometry.
- (19) Has divulged or revealed confidential information or personally identifiable information to a person other than as authorized by state or federal law or the rules of the board.
- (20) Has engaged in false, misleading, or fraudulent advertising as defined by the board.
- (21) Advertised or held himself out to be an optometrist without having a valid certificate issued by the board.
- (22) Solicited business from house to house or door to door either directly or indirectly.
- (23) Has advertised by including any reference, direct or indirect, to any controlled dangerous substances as provided for in Schedules III, IV, or V of the Uniform Controlled Dangerous Substances Law.
- (24) Has failed to furnish to the board, its investigators, or representatives any information legally requested by the board.
- (25) Used the title of "Doctor" or "Dr." as a prefix to his name without using the term "Optometrist" as a suffix to his name or in connection with it; or used the title "Doctor of Optometry", "O.D.", "Opt. D.", or "D.O.S." without holding a diploma from an accredited school of optometry.
- (26) Has had a professional connection with or loaned his name to an illegal practitioner.
- (27) Failed to record his certificate as provided in R.S. 37:1055.
- (28) Employed or used "cappers" or "steerers" to obtain business.
- (29) Repealed by Acts 2014, No. 398, §2, eff. June 1, 2014.
- (30) Refused or neglected to display his certificate to practice as required by R.S. 37:1059.
- (31) Purchased or procured by barter any certificate issued by the board with intent to use it as evidence of his qualification to practice optometry.
- (32) Altered materially, with fraudulent intent, a certificate issued by the board.

(33) Used or attempted to use any certificate issued by the board which has been purchased, fraudulently issued, counterfeited, or materially altered.

(34) Conspired with any other person to violate this Section or any provisions of this Chapter, or in any way facilitated the violation of this Section or any provision of this Chapter by any other person.

(35) Violated any provision of R.S. 37:1051(C), 1063, or 1063.1.

(36) For those who are certified by the board to treat abnormal conditions and pathology of the human eye, failed to complete not less than sixteen clock hours annually of continuing education, at least fifty percent of the content of which shall be comprised of subjects relative to ocular therapy and pharmacology.

B. In addition to the disciplinary action or fine assessed by the board, the board may assess all costs incurred in connection with the proceedings, including but not limited to investigator, stenographer, and attorney fees.

C. Each day on which a violation occurs is a separate violation for the purposes of this Part.

D. The board may, by regulation, defer action with regard to an impaired licensed, registered, or certified person who voluntarily signs an agreement, in a form satisfactory to the board, agreeing not to practice optometry and to enter an approved treatment and monitoring program in accordance with this Section, provided that this Section should not apply to a licensee who has been convicted of, pleads guilty to, or enters a plea of nolo contendere to a felonious act or a conviction relating to a controlled substance in a court of law of the United States or any state, territory, or country.

E. The board retains jurisdiction over all such unlicensed, uncertified, or unpermitted persons relative to violations of and enforcement of the provisions of this Chapter.

F.(1) The fact that any person engages in or performs or offers to engage in or perform any of the practices, acts, or operations set forth in R.S. 37:1041(C)(4) is prima facie evidence that such person is engaged in the illegal practice of optometry.

(2) No person practicing optometry without a current, valid license or temporary permit shall have the right to receive any compensation for services so rendered. In addition to any other penalties imposed under this Chapter, any person who practices optometry without a license shall return any fees collected for optometry and shall be liable for any damages resulting from their negligence.

Amended by Acts 1952, No. 127, §12; Acts 1975, No. 123, §3; Acts 1993, No. 202, §1; Acts 2006, No. 596, §1; Acts 2014, No. 398, §2, eff. June 1, 2014.

§1062. Hearing; appeal

Before any certificate may be revoked or suspended, the board shall grant the holder a public hearing of the charges against him. He shall be given notice in writing of these charges at least fifteen days prior to the date of the hearing, the date of which shall be specified in the notice. He shall be given an opportunity to produce testimony in his favor and to cross examine any witnesses against him.

Any person aggrieved by the decision of the board shall have the right to appeal to the courts of the state.

§1063. Authorization to obtain criminal history record information

A. As used in this Section, the following terms shall have the following meaning:

(1) "Applicant" means an individual who has made application to the board for the issuance or reinstatement of any license, registration, certificate, permit, or any other designation deemed necessary to engage or assist in the practice of optometry that the board is authorized by law to issue.

(2) "Bureau" means the Louisiana Bureau of Criminal Identification and Information or the office of state police within the Department of Public Safety and Corrections.

(3) "Criminal history record information" means information collected by state and federal criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising therefrom, including sentencing, criminal correctional supervision, and release, but does not include intelligence for investigatory purposes, nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

(4) "FBI" means the Federal Bureau of Investigation of the United States Department of Justice.

(5) "Licensure" means any license, permit, certification, or registration that the board is authorized to issue.

B. In addition to any other requirements established by regulation, the board may require an applicant as a condition for eligibility for licensure:

(1) To submit a full set of fingerprints, in a form and manner prescribed by the board.

(2) To permit the board to request and obtain state and national criminal history record information on the applicant.

C. In accordance with the provisions and procedures prescribed by this Section, the board may request and obtain state and national criminal history record information from the bureau and the FBI relative to any applicant for licensure whose fingerprints the board has obtained pursuant to this Section for the purpose of determining the applicant's suitability and eligibility for licensure.

D. Upon request by the board and upon the board's submission of an applicant's fingerprints, and such other identifying information as may be required, the bureau shall conduct a search of its criminal history record information relative to the applicant and report the results of its search to the board within sixty days from receipt of any request. The bureau may charge the board a processing fee pursuant to R.S. 15:587 for conducting and reporting on any such search.

Amended by Acts 1977, No. 488, §1; Acts 1982, No. 677, §1; Acts 2003, No. 987, §§1 and 3; Acts 2006, No. 596, §1.

§1063.1. Authorization to compel evaluation

A. As used in this Section, the following terms shall have the following meaning:

- (1) "Evaluation" means a diagnostic assessment for impairment by a board-approved addictionist.
- (2) "Impaired" or "impairment" means a condition that causes an infringement on the ability of a person to practice, or assist in the practice of, optometry sufficient to pose a danger to the public. Impairment may be caused by, but is not limited to, alcoholism, substance abuse or addiction, mental illness, or physical illness.
- (3) "Licensee" means an applicant for or a person renewing any license, registration, certificate, permit, or any other designation deemed necessary to engage in or assist in the practice of optometry.

B. In determining whether or not an impairment exists, the board, upon reasonable suspicion of such impairment, shall have the authority to compel a licensee to submit to an evaluation, by such persons as the board may designate either in the course of an investigation or a disciplinary proceeding.

C. Reasonable suspicion of impairment shall be presumed based upon preliminary evidence that the licensee is impaired based on specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. For purposes of this Section, facts and inferences may be based upon, but not limited to any of the following:

- (1) Observable phenomena while practicing or assisting in the practice of optometry such as direct observation of alcohol or drug use or abuse or of the physical symptoms or manifestations of being impaired due to alcohol or other drug use.
- (2) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
- (3) A report of alcohol or other drug use provided by a reliable and credible source.
- (4) Evidence that a licensee has received a positive result from any drug or alcohol test during the individual's employment with an employer.
- (5) Evidence that a licensee has tampered with any drug or alcohol test during the individual's employment with an employer.
- (6) Evidence that a licensee has illegally manufactured, sold, distributed, solicited, possessed, used, or transferred drugs.

D. Information submitted pursuant to this Section shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such evaluation.

E. A licensee shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice or assistance in the practice of optometry with reasonable skill and safety to patients.

F. For the purpose of this Section, a licensee shall be deemed to have consented to submit to an evaluation when directed in writing by the board and further to have waived all objections to the admissibility of the

testimony of the person conducting any evaluation at any proceeding or hearing before the board on the grounds that such testimony or evaluation constitutes a privileged communication.

G. In any proceeding by the board pursuant to the provisions of this Section, the record of such board proceedings involving the evaluation shall not be used in any other administrative or judicial proceeding outside of the board's jurisdiction.

H. When the board directs a licensee to submit to an evaluation, the time from the date of the board's directive until the submission to the board of the report of the evaluation shall not be included in the computation of the time limit for any hearing that may occur in the matter.

Acts 2006, No. 596, §1; Acts 2009, No. 289, §1.

§1064. Enforcement; penalty; attorney fees; costs

A. The board may employ or retain legal counsel to represent the state and the board and to appear in the courts and before agencies of this state, or the courts and agencies of the United States, and of other states to carry out the purposes of this Chapter.

B. The board, through its president, may bring an action in the court having jurisdiction whenever the board has evidence that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of this Chapter or of any rule, regulation, or order of the board issued thereunder to enjoin such acts or practices, or to enforce compliance with this Chapter or any rule, regulation, decision or order of the board. The relief sought by the board may include a mandatory injunction commanding any person to comply with this Chapter or any rule, regulation, decision or order of the board, and to make restitution of money received in violation of any such rule, regulation, decision or order, and for all costs of enforcement, including court costs, deposition, and other discovery costs, and reasonable attorney fees incurred by the board to enjoin such acts or practices and to enforce compliance with this Chapter or any rule, regulation, decision or order of the board. Upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. In a suit for an injunction, the board, through its president, may demand and the court may assess, in addition to the injunction, a penalty of not more than five thousand dollars, which may be rendered in the same judgment in which the injunction is made absolute and shall be made payable to the board. A trial of this proceeding shall be summary, with preference over ordinary proceedings, and tried by a judge without a jury. A violation of an injunction shall be considered contempt of court and shall be punished accordingly.

C. The board, through its president, may file civil proceedings to collect civil penalties imposed by the board as a result of an investigation or other administrative proceeding which indicates that a violation of this Chapter or of any rule or regulation of the board has occurred which is subject to civil penalties, or upon the failure of any person, firm, association, corporation, limited liability company, or trust to timely pay any civil penalty imposed by the board when due. The board shall be authorized to and shall be entitled to recover, from such party all costs of collection, including court costs, deposition, and other discovery costs, and reasonable attorney fees incurred by the board in collecting such civil penalty. A judgment of a district court assessing civil penalties may be appealed suspensively to the appropriate court of appeal according to the provisions of the Louisiana Code of Civil Procedure. A judgment assessing civil penalties shall become executory when all delays for appeal have expired according to the Louisiana Code of Civil Procedure, and may be enforced as any other money judgment and shall be payable to the board. A trial of this proceeding shall be summary, with preference over ordinary proceedings, and tried by a judge without a jury.

D. The board, through its president, may transmit such evidence as may be available concerning acts or practices or concerning apparent violations of this Chapter or of any rule, regulation, decision or order of the board, to the district attorney having jurisdiction over such acts, practices, and violations, who, in his or her discretion, may institute criminal proceedings.

E. Any action brought pursuant to this Section shall be in addition to and not in lieu of any penalty provided by this Chapter and may be brought concurrently with other actions to enforce this Chapter.

Amended by Acts 1982, No. 677, §1; Acts 2003, No. 987, §1; Acts 2009, No. 289, §1.

§1065. Exemptions

A. The provisions of this Chapter shall not apply to physicians or surgeons licensed to practice in this state. But it is unlawful for any person, except those licensed to practice under the provisions of this Chapter, to have in their possession any trial lenses, trial frames, graduated test cards, or other appliances or instruments for the purpose of rendering assistance to their patrons in the selection of lenses, spectacles, or eyeglasses, or use any device, appliances, or instruments in testing the eyes for the sale of spectacles or eyeglass lenses other than the lenses actually sold, or sell or replace broken lenses in spectacles or eyeglasses except upon prescription of a licensed optometrist; or to examine for the fitting of, prescribe for, fit, adapt to, place on or remove, or direct the placing on or the removal from the human eye, contact lenses in any of their forms, including plano or zero-power contact lenses; or to sell any eyeglasses or spectacles other than those with plano power except upon the prescription of a licensed optometrist or physician, or to sell, offer for sale, dispense or distribute any contact lenses, including plano or zero-power contact lenses, except upon a valid and unexpired prescription of a licensed optometrist or physician.

B. No retail dealer shall directly or indirectly peddle, solicit, sell, or offer for sale glasses from door to door, or house to house, or away from his permanent place of business; however, nothing contained herein shall be construed to prohibit advertising for the furnishing of or the sale of eyeglass lenses, spectacles, eyeglasses, or the frames or fittings thereof nor to prohibit a retail dealer from engaging in the sale of a lens, lenses, eyeglasses, or spectacles on prescription from a licensed optometrist or physician.

Amended by Acts 1977, No. 488, §1; Acts 2006, No. 596, §1.

§1066. Freedom of choice

Every person shall have complete freedom of choice to use the services of optometrists licensed under this Chapter where such services are permitted by law, and no state, parish or municipal board or agency, or any officer or employee thereof, shall either directly or indirectly limit or restrict the freedom of any person to choose the services of either an optometrist, a physician or a surgeon.

Added Acts 1966, No. 402, §1.

§1067. Chemical agents used in examination, board authorization required

Prior to the employment of topical ocular diagnostic pharmaceutical agents by a licensed optometrist, that licensed optometrist must submit to the Louisiana State Board of Optometry Examiners, satisfactory evidence that the optometrist has successfully completed courses approved by the board, in pharmacology as they apply to optometry, with particular emphasis on topical application of diagnostic pharmaceutical agents to the eye.

Added by Acts 1975, No. 123, §2.

§1068 Criminal penalties§1068. Criminal penalties

Whoever violates any provision of this Chapter shall be enjoined from the practice of optometry and may:

- (1) On first conviction, be fined not less than three hundred dollars nor more than two thousand dollars, and shall be imprisoned for not less than thirty days nor more than one hundred fifty days.
- (2) On a second or subsequent conviction, regardless of whether the first offense occurred before or after the first conviction, be fined not less than six hundred dollars nor more than five thousand dollars, and shall be imprisoned for not less than ninety days nor more than one hundred fifty days.

Added by Acts 1982, No. 677, §1; Acts 2006, No. 596, §1.