

TITLE 852 INDIANA OPTOMETRY BOARD

NOTE: Originally adopted by the Indiana State Board of Registration and Examination in Optometry. Name changed by P.L. 169-1985, SECTION 79, effective July 1, 1985.

ARTICLE 1. GENERAL PROVISIONS

Rule 1. Educational Requirements (Repealed)

(Repealed by Indiana Optometry Board; filed Jul 29, 1980, 9:35 am: 3 IR 1509)

Rule 1.1. Qualifications of Applicants

852 IAC 1-1.1-1 Requirements for taking examination (Repealed)

Sec. 1. (Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)

852 IAC 1-1.1-2 Nonaccredited school graduates; admission to examination (Repealed)

Sec. 2. (Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)

852 IAC 1-1.1-3 Application form

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 3. The application shall be completed on a form furnished by the board and filed with the board. (Indiana Optometry Board; 852 IAC 1-1.1-3; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1220; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)

852 IAC 1-1.1-4 Applicant fees, transcripts, examination scores, and photographs

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 4. (a) Each applicant shall submit the following information:

(1) The examination fee required by 852 IAC 1-10-1.

(2) Official transcripts, certified by the school, recording courses, grades, certificates, and degrees earned in an accredited optometry school.

(3) The official score report from the National Board of Examiners in Optometry with passing scores in all parts, including the treatment and management of ocular disease examination.

(4) One (1) passport-quality photograph taken not earlier than one (1) year prior to the date of application, dated and signed on the back in the applicant's handwriting, "I certify that this is a true photograph of me."

(b) The Indiana optometry board adopts the procedures and standards of the Council on Optometric Education for approval of schools of optometry and will only accept graduates of optometry schools accredited by the council as applicants for licensure, provided all other requirements are met.

(c) The document entitled "Accreditation Manual: Professional Optometric Degree Programs", published by the Council on Optometric Education of the American Optometric Association, Ninth Edition, published in June 1983, is hereby incorporated by reference and made applicable to this title and specifically to this section. A copy of the document may be purchased by contacting the Council on Optometric Education, American Optometric Association, 243 North Lindbergh Boulevard, St. Louis, Missouri 63141 or the bureau. (Indiana Optometry Board; 852 IAC 1-1.1-4; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Sep 1, 1981, 9:15 a.m.: 4 IR 2026; filed Feb 4, 1986, 2:22 p.m.: 9 IR 1373; errata, 9 IR 2064; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1220; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2333; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)

852 IAC 1-1.1-5 Information not received; effect

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 5. (a) An application may be denied or deferred if any of the required information has not been received.

(b) An applicant who applies for licensure under IC 25-24-1-3 bears the burden of proving that the requirements of the state in which the applicant currently is licensed are equivalent to those requirements set forth in section 4 of this rule. The applicant shall submit documentation required by section 4 of this rule, as well as any other documentation required by the board to make a determination as to whether the requirements of the other state are equivalent to those set forth in section 4 of this rule.

(c) An application shall be considered abandoned if the applicant does not complete the requirements for licensure within one (1) year from the date on which the application was filed. An application submitted subsequent to an abandoned application shall be treated as a new application. (*Indiana Optometry Board; 852 IAC 1-1.1-5; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Sep 21, 1992, 9:00 a.m.: 16 IR 724; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-1.1-6 Failure to appear for examination; forfeiture of fees (Repealed)

Sec. 6. (*Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377*)

Rule 2. Reciprocity (Repealed)

(*Repealed by Indiana Optometry Board; filed Jul 29, 1980, 9:35 am: 3 IR 1509*)

Rule 2.1. Reciprocity

852 IAC 1-2.1-1 Requirements for license by reciprocity (Repealed)

Sec. 1. (*Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377*)

852 IAC 1-2.1-2 Application file; contents

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. An applicant for license by endorsement shall submit the following information:

(1) The fee required by 852 IAC 1-10-1.

(2) Official transcripts, certified by the school, recording courses, grades, certificates, and degrees earned in an accredited optometry school.

(3) The official score report from the National Board of Examiners in Optometry with passing scores in all parts, including the treatment and management of ocular disease examination.

(4) One (1) passport-quality photograph taken not earlier than one (1) year prior to the date of application, dated and signed on the back in the applicant's handwriting, "I certify that this is a true photograph of me."

(5) A statement from the appropriate agency in each state where the applicant has been licensed, certifying whether or not disciplinary proceedings have ever been initiated or are presently pending against the applicant.

(6) A statement from the appropriate agency in each state where the applicant has been licensed by examination, holds an active license, and from which the applicant is endorsing, certifying areas of examination, type of examination, pass-fail criteria, and the applicant's score in each area of examination.

(*Indiana Optometry Board; 852 IAC 1-2.1-2; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Feb 4, 1986, 2:22 p.m.: 9 IR 1374; filed Dec 8, 1987, 9:45 a.m.: 11 IR 1292; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1220; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2334; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-2.1-3 Personal interview (Repealed)

Sec. 3. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-2.1-4 Written examination

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 4. An applicant for license by endorsement must pass a written examination on the Indiana optometry statute (IC 25-24) and rules (852 IAC). A score of 75 or above is passing. *(Indiana Optometry Board; 852 IAC 1-2.1-4; filed Jul 29, 1980, 9:35 am: 3 IR 1508; filed Feb 4, 1986, 2:22 pm: 9 IR 1374; filed Dec 8, 1987, 9:45 am: 11 IR 1293; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)*

852 IAC 1-2.1-5 Failing examination; effect on license by reciprocity (Repealed)

Sec. 5. *(Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881)*

Rule 3. Rules of Practice

852 IAC 1-3-1 Optometric procedures; patient records; "grossly incompetent"

Authority: IC 25-24-1-1

Affected: IC 25-24-1-15.1

Sec. 1. (A) An optometrist will utilize the usual and normal clinical optometric procedures taught in the accredited schools and colleges of optometry approved by the Board and the clinical optometric procedures in which he demonstrated proficiency and mastery in order to obtain a certificate and license to practice optometry in the State of Indiana.

(B) An optometrist will maintain adequate and detailed patient records to describe and document his procedures, observations and the disposition of the case.

(C) The term "Grossly incompetent" as used in IC 25-24-1, Sec. 15 *[Repealed by P.L.222-1981, SECTION 296. See, IC 25-24-1-15.1 concerning standards of practice and disciplinary actions.]* shall include, but not be limited to, the failure to follow the procedures set forth in this rule, Rule No. 1, A and B *[subsections A and B of this rule]*, and shall also include any conduct or practice which does not provide for a comprehensive optometric examination of the patient in a conscientious and diligent manner. *(Indiana Optometry Board; Rule 1; filed Nov 29, 1972, 3:00 pm: Rules and Regs. 1973, p. 685; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)*

Rule 4. Use of Assumed Name (Repealed)

(Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881)

Rule 5. Duty Concerning Prescriptions (Repealed)

(Repealed by Indiana Optometry Board; filed Dec 22, 1987, 2:35 pm: 11 IR 1606)

Rule 5.1. Duty Concerning Prescriptions in Optometric Practice

852 IAC 1-5.1-1 General responsibilities

Authority: IC 25-24-1-1

Affected: IC 25-24-1-1; IC 25-24-1-4

Sec. 1. (a) In the practice of optometry as defined by IC 25-24-1-4, an optometrist has a responsibility to:

- (1) properly examine the patient to determine the patient's ophthalmic needs;
- (2) prepare a proper prescription when indicated to adequately fulfill the patient's needs;
- (3) verify the optical materials resulting from the prescription in order to determine whether or not the optical materials meet the needs of the patient;

(4) verify that any optical materials which have been dispensed as a result of the prescription meet the needs of the patient.

(b) If an optometrist prescribes contact lenses for a patient, the optometrist has a responsibility to:

(1) perform all procedures required by subsection (a);

(2) examine the patient and evaluate the contact lens with the contact lens on the eye;

(3) be personally and directly involved with the follow-up care of the contact lens patient.

(c) Pursuant to IC 16-4-8-2(a) [IC 16-4 was repealed by P.L.2-1993, SECTION 209, effective July 1, 1993.], an optometrist must release contact lens information to a patient upon the patient's written request, but the information may be given in general terms.

For the purposes of IC 16-4-8-2(a) [IC 16-4 was repealed by P.L.2-1993, SECTION 209, effective July 1, 1993.] general terms at the minimum means:

(1) specifying whether the materials are rigid or soft materials;

(2) specifying the spectacle lens prescription.

(Indiana Optometry Board; 852 IAC 1-5.1-1; filed Dec 22, 1987, 2:35 pm: 11 IR 1605; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)

Rule 6. Professional Identification

852 IAC 1-6-1 Misleading identification as to license status

Authority: IC 25-24-1-1

Affected: IC 25-24-1-15.1

Sec. 1. With the exception of a not for profit corporation approved by the Board and/or optometric clinic operated in conjunction with and by an accredited optometry school approved by the Board, no optometrist shall practice in any office, location or place of practice where any name, names or professional identification on or about the door, window, wall, directory, or any sign or listing whatsoever, or in any manner used in connection therewith, shall indicate or tend to indicate by location or otherwise or give the impression to the public that an optometrist is directly or indirectly employed by or connected with or indicates that such office, location, or place of practice is owned, operated, supervised, staffed, directed or attended by any firm, person or corporation not certified and licensed to practice optometry in the State of Indiana. (Indiana Optometry Board; Rule 4; filed Nov 29, 1972, 3:00 pm: Rules and Regs. 1973, p. 686; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)

Rule 7. Continuing Education for Renewal of License

852 IAC 1-7-1 Establishment of number of hours required (Repealed)

Sec. 1. (Repealed by Indiana Optometry Board; filed Jul 13, 1982, 9:38 am: 5 IR 1848)

852 IAC 1-7-1.1 Number of hours required (Repealed)

Sec. 1.1. (Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738)

852 IAC 1-7-2 Recognition of certificate (Repealed)

Sec. 2. (Repealed by Indiana Optometry Board; filed Jul 13, 1982, 9:38 am: 5 IR 1848)

852 IAC 1-7-2.1 Verification of attendance by licensee on state form 2758; sponsor verification (Repealed)

Sec. 2.1. (Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881)

852 IAC 1-7-3 Exemptions (Repealed)

Sec. 3. *(Repealed by Indiana Optometry Board; filed Jul 13, 1982, 9:38 am: 5 IR 1848)*

852 IAC 1-7-3.1 Deadline for reporting credits by licensee (Repealed)

Sec. 3.1. *(Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738)*

852 IAC 1-7-4 Approval of programs (Repealed)

Sec. 4. *(Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738)*

852 IAC 1-7-5 Penalty for noncompliance (Repealed)

Sec. 5. *(Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738)*

Rule 8. Board Examination

852 IAC 1-8-1 Definitions

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Board" means the Indiana optometry board.

(c) "Examination" means the examination for licensure given by the board. *(Indiana Optometry Board; 852 IAC 1-8-1; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1508; filed Feb 4, 1986, 2:22 p.m.: 9 IR 1376; filed Nov 10, 1987, 9:33 a.m.: 11 IR 1293; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1221; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)*

852 IAC 1-8-2 Written board examination; contents (Repealed)

Sec. 2. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-8-3 Clinical board examination; contents (Repealed)

Sec. 3. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-8-4 Interview (Repealed)

Sec. 4. *(Repealed by Indiana Optometry Board; filed Sep 1, 1981, 9:15 am: 4 IR 2027)*

852 IAC 1-8-5 Written examination; passing score (Repealed)

Sec. 5. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-8-5.1 Written examination; passing score

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 5.1. An applicant for license by examination must pass a written examination on the Indiana optometry statute (IC 25-24) and rules (852 IAC). A score of 75 or above is passing. *(Indiana Optometry Board; 852 IAC 1-8-5.1; filed Feb 4, 1986, 2:22 pm: 9 IR 1376; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)*

852 IAC 1-8-6 Examination; passing score; failure for second time; fee (Repealed)

Sec. 6. *(Repealed by Indiana Optometry Board; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1221)*

852 IAC 1-8-7 Appeals (Repealed)

Sec. 7. *(Repealed by Indiana Optometry Board; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1221)*

Rule 9. Notification of Practice Location (Repealed)

(Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881)

Rule 10. Fees

852 IAC 1-10-1 Fees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3; IC 25-24-2-3

Sec. 1. The following fees shall apply to all licensed optometrists and candidates:

Application/issuance	\$200
License renewal (April 1 of each even-numbered year)	\$100 biennially
Inactive license renewal (April 1 of each even-numbered year)	\$50 biennially
Renewal fees due Indiana University	\$34 biennially
Verification of licensure	\$10
Duplicate wall license	\$10
Reinstatement of inactive license	\$50

(Indiana Optometry Board; 852 IAC 1-10-1; filed Jul 12, 1985, 3:48 p.m.: 8 IR 2038; filed May 11, 1987, 9:00 a.m.: 10 IR 1876; filed Oct 28, 1988, 2:10 p.m.: 12 IR 592; filed Apr 19, 1991, 3:05 p.m.: 14 IR 1728; filed May 20, 1996, 3:00 p.m.: 19 IR 2880; readopted filed Jan 7, 2002, 10:00 a.m.: 25 IR 1732)

852 IAC 1-10-2 Biennial renewal fees; used for university support

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3; IC 25-24-2-3

Sec. 2. Thirty-four dollars (\$34) of the biennial renewal fee for an active and an inactive license is submitted by the health professions bureau to the Indiana University School of Optometry as provided by IC 25-24-2-3. *(Indiana Optometry Board; 852 IAC 1-10-2; filed Oct 28, 1988, 2:10 p.m.: 12 IR 592; readopted filed Dec 4, 2001, 10:15 a.m.: 25 IR 1732)*

Rule 11. Competent Practice of Optometry; Standards

852 IAC 1-11-1 Duties and responsibilities of optometrists

Authority: IC 25-24-1-1

Affected: IC 25-24-1-4

Sec. 1. An optometrist shall conduct his practice in accordance with the following standards, including but not limited to:

(1) A licensed optometrist is professionally competent if in the practice of optometry, he/she exercises the reasonable care and diligence ordinarily exercised by members of his/her profession in similar cases under like conditions.

(2) A practitioner has a duty and responsibility to employ the necessary means in order to obtain a complete optometric diagnosis of the human eye, visual system, or associated structures as specified by IC 25-24-1-4.

(3) A practitioner has a duty and responsibility as part of a complete optometric diagnosis to maintain comprehensive patient records including, but not limited to, systemic and ocular health, medications, allergies, family history, prior eye care, systemic

and ocular problems, examination results, optometric treatments, drugs, agents or other devices administered, prescribed and/or dispensed, including all follow-up examinations and treatments.

(Indiana Optometry Board; 852 IAC 1-11-1; filed May 11, 1987, 9:00 am: 10 IR 1876; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)

Rule 12. Professional Conduct; Standards

852 IAC 1-12-1 Duties of optometrist

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. An optometrist in the conduct of his practice of optometry shall abide by, and comply with, the following standards of professional conduct: (a) An optometrist shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's diagnosis, treatment and prognosis, and of all records relating thereto, about which the optometrist may learn or otherwise be informed during the course of, or as a result of, the patient-optometrist relationship. Information about a patient shall be disclosed by an optometrist when required by law or when authorized by the patient or those responsible for the patient's care.

(b) An optometrist shall give a truthful, candid and reasonably complete account of the patient's condition to the patient or to those responsible for the patient's care, except where an optometrist reasonably determines that the information is or would be detrimental to the physical or mental health of the patient, or in the case of a minor or incompetent person, except where an optometrist reasonably determines that the information would be detrimental to the physical or mental health of those responsible for the patient's care.

(c)(1) The optometrist shall give reasonable written notice to an active patient or those responsible for the patient's care when the optometrist withdraws from a case so that another optometrist may be employed by the patient or by those responsible for the patient's care. An optometrist shall not abandon a patient. As used in this section, "active patient" means a person whom the optometrist has examined, cared for, or otherwise consulted with, during the two-year period prior to retirement, discontinuation of practice of optometry, or leaving or moving from the community.

(2) An optometrist who withdraws from a case, except in emergency circumstances, shall, upon written request, make available to his patient all records, test results, histories, diagnoses, files and information relating to said patient which are in the optometrist's custody, possession or control, or copies of such documents hereinbefore described.

(d) An optometrist shall exercise reasonable care and diligence in the diagnosis and treatment of patients based upon approved scientific principles, methods, treatments, professional theory and practice.

(e) An optometrist shall not represent, advertise, state or indicate the possession of any degree recognized as the basis for licensure to practice optometry unless the optometrist is actually licensed on the basis of such degree in the state(s) in which he practices.

(f) An optometrist shall obtain consultation whenever requested to do so by a patient or by those responsible for a patient's care.

(g) An optometrist who has personal knowledge based upon a reasonable belief that another optometrist has engaged in illegal, unlawful, incompetent or fraudulent conduct in the practice of optometry shall promptly report such conduct to the board. Further, an optometrist who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of optometry shall promptly report such conduct to the board. *(Indiana Optometry Board; 852 IAC 1-12-1; filed May 11, 1987, 9:00 am: 10 IR 1876; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)*

852 IAC 1-12-2 Fees for services

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) Fees charged by an optometrist for his professional services shall compensate the optometrist only for the services actually rendered.

(b) An optometrist shall not divide a fee for professional services with another practitioner who is not a partner, employee, or shareholder in a professional corporation, unless:

(1) the patient consents to the employment of the other practitioner after a full disclosure that a division of fees will be made, and

(2) the division of fees is made in proportion to actual services performed and responsibility assumed by each practitioner.

(c) An optometrist shall not pay or accept compensation from a practitioner for referral of a patient. (*Indiana Optometry Board; 852 IAC 1-12-2; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-3 Responsibility for employees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 3. An optometrist shall be responsible for the conduct of each and every person employed by the optometrist for every action or failure to act by said employee or employees in the course of said employee(s) relationship with said optometrist; provided, however, that an optometrist shall not be responsible for the action of persons he may employ whose employment by the optometrist does not relate directly to the optometrist's practice of optometry. (*Indiana Optometry Board; 852 IAC 1-12-3; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-4 Referral

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 4. An optometrist may, whenever the optometrist believes it to be beneficial to the patient, send or refer a patient to a qualified specific health care provider. Prior to any such referral, however, the optometrist shall examine and/or consult with the patient to reasonably determine that a condition exists in the patient which would be within the scope of practice of the specific health care provider to whom the patient is referred. (*Indiana Optometry Board; 852 IAC 1-12-4; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-5 Discontinuation of practice

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 5. (a) An optometrist, upon his retirement or upon discontinuation of the practice of optometry, or upon leaving or moving from a community, shall notify all of his active patients in writing, or by publication once a week for three (3) consecutive weeks, in a newspaper of general circulation in the community, that he intends to discontinue his practice of optometry in the community, and shall encourage his patients to seek the services of another licensed practitioner. The optometrist discontinuing his practice shall make reasonable arrangements with his active patients for the transfer of his records, or copies, thereof, to the succeeding practitioner or an optometric association approved by the board.

(b) Nothing provided in this section shall preclude, prohibit or prevent an optometrist from selling, conveying or transferring for valuable consideration, the optometrist's patient records to another licensed practitioner who is assuming his practice, provided that written notice is given to patients as provided in this section. (*Indiana Optometry Board; 852 IAC 1-12-5; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-6 Advertising

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 6. (a) An optometrist shall not, on behalf of himself, a partner, associate, shareholder in a professional corporation, or any other practitioner or specific health care provider affiliated with the optometrist, use, or participate in the use of, any form of public communication containing a false, fraudulent, materially misleading, deceptive statement or claim.

(b) In order to facilitate the process of informed selection of an optometrist by the public, an optometrist may advertise services through the public media including, but not limited to, a telephone directory, optometrists' directory, newspaper or other periodical, radio or television, or through a written communication not involving personal contact.

(c) If the advertisement is communicated to the public by radio, cable, or television, it shall be prerecorded, approved for broadcast by the optometrist, and a recording and transcript of the actual transmission shall be retained by the optometrist for a period of three (3) years from the last date of broadcast.

(d) If the optometrist advertises a fee for ophthalmic material, service, treatment, consultation, examination, or other procedure, the optometrist must provide that ophthalmic material, service, or procedure for no more than the fee advertised.

(e) Unless otherwise conspicuously specified in the advertisement, an optometrist who publishes or communicates fee information in a publication that is published more than one (1) time per month shall be bound by any representation made therein for a period of thirty (30) days after the publication date. An optometrist who publishes or communicates fee information in a publication that is published once a month or less frequently shall be bound by any representation made therein until the publication of the succeeding issue unless a shorter time is conspicuously specified in the advertisement. An optometrist who publishes or communicates fee information in a publication which has no fixed date for publication for a succeeding issue shall be bound by any representation made therein for one (1) year, unless a shorter period of time is conspicuously specified in the advertisement.

(f) Unless otherwise specified in the advertisement, an optometrist who broadcasts fee information by radio, cable or television shall be bound by any representation made therein for a period of ninety (90) days after such broadcast.

(g) An optometrist who places an advertisement using a corporation name or tradename is required to identify the location or locations at which the optometric service will be provided. The name of the optometrist who will provide the optometric services must be identified at that location. (*Indiana Optometry Board; 852 IAC 1-12-6; filed May 11, 1987, 9:00 am: 10 IR 1878; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-7 Failure to comply

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 7. Failure to comply with the standards of professional conduct and competent practice of optometry specified in 852 IAC 1-11 and 852 IAC 1-12 may result in disciplinary proceedings against the offending optometrist. All optometrists licensed in Indiana shall be responsible for having knowledge of the standards of conduct and competent practice established by IC 25-24 and 852 IAC 1. (*Indiana Optometry Board; 852 IAC 1-12-7; filed May 11, 1987, 9:00 am: 10 IR 1878; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

Rule 13. Revocation or Suspension of License

852 IAC 1-13-1 License revocation; duties of licensees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. In any case where a practitioner's license has been revoked, said person shall:

(1) Promptly notify, or cause to be notified in the manner and method specified by the board, all patients then in the care of the practitioner, or those persons responsible for the patient's care, of the revocation and of the practitioner's consequent inability to act for or on their behalf in the practitioner's professional capacity. Such notice shall advise all patients to seek the services of another practitioner in good standing of their own choice.

(2) Promptly notify, or cause to be notified, all health care facilities where such practitioner has privileges, of the revocation accompanied by a list of all patients then in the care of such practitioner.

(3) Notify in writing, by first class mail, the following organizations and governmental agencies of the revocation of licensure:

(A) Indiana department of public welfare;

(B) social security administration;

(C) the boards or equivalent agency of each state in which the person is licensed to practice optometry;

(D) the International Association of Boards of Examiners in Optometry, Inc.

(4) Make reasonable arrangements with said licensee's active patients for the transfer of all patient records, studies and test results, or copies thereof, to a succeeding practitioner employed by the patient or by those responsible for the patient's care.

(5) Within thirty (30) days after the date of license revocation, the practitioner shall file an affidavit with the board showing compliance with the provisions of the revocation order and with 852 IAC 1-13, which time may be extended by the board.

Such affidavit shall also state all other jurisdictions in which the practitioner is still licensed.

(6) Proof of compliance with this section shall be a condition precedent to any petition for reinstatement.

(Indiana Optometry Board; 852 IAC 1-13-1; filed May 11, 1987, 9:00 am: 10 IR 1878; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)

852 IAC 1-13-2 License suspension; duties of licensees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) In any case where a person's license has been suspended, said person shall, within thirty (30) days from the date of the order of suspension, file with the board an affidavit that:

(1) All active patients then under the practitioner's care have been notified in the manner and method specified by the board of the practitioner's suspension and consequent inability to act for or on their behalf in a professional capacity. Such notice shall advise all such patients to seek the services of another practitioner of good standing of their own choice.

(2) All health care facilities where such practitioner has privileges have been informed of the suspension order.

(3) Reasonable arrangements were made for the transfer of patient records, studies and test results, or copies thereof, to a succeeding practitioner employed by the patient or those responsible for the patient's care.

(b) Proof of compliance with this section shall be a condition precedent to reinstatement. *(Indiana Optometry Board; 852 IAC 1-13-2; filed May 11, 1987, 9:00 am: 10 IR 1879; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)*

Rule 14. Reinstatement

852 IAC 1-14-1 Reinstatement

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. No person whose license to practice optometry in Indiana has been suspended shall be eligible for reinstatement unless that person establishes by clear and convincing evidence before the board that:

(1) the person desires in good faith to obtain restoration of such license;

(2) the term of suspension prescribed in the order of suspension has elapsed or seven (7) years have elapsed since the revocation;

(3) the person has not engaged in the practice of optometry or has attempted to do so from the date discipline was imposed;

(4) the person has complied fully with the terms, if any, of the order for suspension or revocation;

(5) the person's attitude with regard to the misconduct, violation of law or rule, or incompetent practice for which the person was disciplined is one of genuine remorse;

(6) the person has a proper understanding of an attitude toward the standards that are imposed by statute or rule upon persons holding such license as had been suspended and the person can be reasonably expected to conduct himself in conformity with such standards;

(7) the person can be safely recommended to the public and applicable profession as a person fit to be reinstated and is able to practice his profession with reasonable skill and safety to patients;

(8) the disability has been removed, corrected or otherwise brought under control if the suspension or revocation was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs;

(9) the person has successfully taken and completed such written examinations and tests as may be required by the board, and has completed such professional training or education under a preceptorship as may be required.

(Indiana Optometry Board; 852 IAC 1-14-1; filed May 11, 1987, 9:00 am: 10 IR 1879; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)

852 IAC 1-14-2 Petitions for reinstatement; filing fee

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) Any person whose license has been suspended may apply for reinstatement by filing with the board a petition stating that the requirements of 852 IAC 1-14-1 have been satisfied or complied with. Ten (10) copies of such petition shall be filed with the board together with a filing fee of four hundred dollars (\$400).

(b) Upon the filing of such petition and payment of the filing fee, the board shall schedule a hearing. After the hearing, the board shall determine whether the petitioner has met the requirements set forth in the disciplinary order, and shall determine whether, as a condition to reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training or postgraduate education, or a preceptorship, should be imposed. The board shall thereafter, upon satisfactory compliance with 852 IAC 1-12-1 and of any and all disciplinary and corrective measures which may be imposed, enter an order continuing the suspension or reinstating the license to the petitioner.

(c) Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the board in conducting a hearing upon said petition for reinstatement which exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the board. In no event will there be any refund or rebate of any part of the filing fee. (*Indiana Optometry Board; 852 IAC 1-14-2; filed May 11, 1987, 9:00 am: 10 IR 1879; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

Rule 15. Notification of Practice Location

852 IAC 1-15-1 Professional sign; notification of public; facility requirements

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. (a) A practitioner has a duty and responsibility in the establishment of an office for the practice of optometry to maintain a sign clearly visible to the public indicating the name or names of all practitioner(s) practicing at that location. The minimum requirements on the sign are practitioner's name and O.D. or optometrist. The sign may contain information to identify the area of practice within optometry, including low vision, contact lenses, family practice optometry, pediatric optometry, geriatric optometry, sports vision, industrial vision or other optometric specialties. A sign may not be misleading to the public as to the practitioner actually present and performing the services.

(b) A practitioner has a duty and responsibility in the establishment of an office for the practice of optometry to maintain a safe and hygienic [*sic.*] facility adequately equipped to provide optometric services. (*Indiana Optometry Board; 852 IAC 1-15-1; filed May 11, 1987, 9:00 am: 10 IR 1880; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-15-2 Notification to board of practice location

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) A practitioner has a duty and responsibility to notify the board within thirty (30) days of the establishment or discontinuation of an office for the practice of optometry. An office will be considered any location where the practitioner regularly provides optometric services or any location where his name is presented to the public as practicing optometry.

(b) A practitioner may practice optometry in a hospital, health maintenance organization, licensed health care facility, public health clinic, clinic affiliated with a school of optometry or as a consultant to industry or educational facilities without the display of a professional sign, provided the practitioner has notified the board within thirty (30) days of initiating such services.

(c) A practitioner may provide optometric services outside his office or other location reported to the board whenever the best interests of the patient require services which cannot be delivered at a previously designated location. When services are regularly delivered at the same location, it must be reported to the board as a practice location. (*Indiana Optometry Board; 852 IAC 1-15-2; filed May 11, 1987, 9:00 am: 10 IR 1880; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-15-3 Corporate practice; out of office

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 3. A practitioner may not be employed by a nonprofessional corporation for the purpose of practicing optometry but may

contract with a hospital, school of optometry, health maintenance organization, licensed health care facility, public health clinic, industry, educational facility or insurance company to provide independent optometric services. (*Indiana Optometry Board; 852 IAC 1-15-3; filed May 11, 1987, 9:00 am: 10 IR 1880; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

Rule 16. Continuing Education for Renewal of License

852 IAC 1-16-1 Continuing education requirements

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1; IC 25-26-15

Sec. 1. (a) Thirty (30) hours of continuing education are required for license renewal.

(b) An optometrist who holds an optometric legend drug certificate issued under IC 25-26-15 may apply ten (10) hours of continuing education approved under 857 IAC 1-2 to renew an optometry license.

(c) Programs that have not been approved under this article will not be accepted as credit for license renewal.

(d) A licensee is not required to complete continuing education requirements for the year in which the initial license is issued.

(e) Continuing education credit units or clock hours must be obtained within the biennial renewal period and may not be carried over from one (1) licensure period to another.

(f) If a licensee is licensed in Indiana and any other state with a mandatory continuing education requirement, the Indiana optometry board will accept that requirement of the other state, provided the number of clock hours or credit units and the quality of the continuing education equal or exceed the Indiana requirement. (*Indiana Optometry Board; 852 IAC 1-16-1; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Feb 21, 1992, 4:00 p.m.: 15 IR 1221; filed Jan 26, 1995, 4:30 p.m.: 18 IR 1477; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1106; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238*)

852 IAC 1-16-2 Responsibilities of licensees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1

Sec. 2. (a) A licensee must certify completion of continuing education required by this rule at the time of license renewal on a form provided by the bureau.

(b) A licensee must retain verification of completion of continuing education required by this rule for four (4) years after the last renewal date.

(c) A licensee must present verification of completion of continuing education required by this rule at the request of the board. (*Indiana Optometry Board; 852 IAC 1-16-2; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1106; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238*)

852 IAC 1-16-3 Application for approval

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1

Sec. 3. (a) The sponsoring organization or the attendee must file an application provided by the bureau. The application may contain the following information:

(1) Name of lecturer.

(2) Academic and professional background of lecturer.

(3) Brief summary of content of program.

(4) Date and location of program.

(5) Number of clock hours of continuing education requested.

(6) Name of the person or persons who will monitor attendance and the manner in which attendance will be monitored.

(7) Any other pertinent information required by the board.

(b) As a condition to approval of programs, the sponsoring organization must agree to provide participants with a record of attendance and to retain records of attendance by participants for four (4) years from the date of the program. (*Indiana Optometry Board; 852 IAC 1-16-3; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Mar 26, 1993, 5:00 p.m.: 16 IR 1954; readopted filed Jul*

10, 2001, 2:59 p.m.: 24 IR 4238)

852 IAC 1-16-4 Standards for approval

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1

Sec. 4. The board will approve a course if it determines that the course will make a significant contribution to the professional competency of optometrists who enroll. In determining if a course meets this standard, the board will consider whether the following requirements are met:

- (1) The course has substantial content.
- (2) The course content directly relates to the professional practice of optometry. Practice management courses will not be approved by the board.
- (3) Each faculty member or lecturer who has teaching responsibility in the course is qualified by academic work or practical experience to teach the assigned subject.
- (4) The physical setting for the course is suitable.
- (5) High quality written materials, including notes and outlines, are available to all optometrists who enroll at or prior to the time the course is offered.
- (6) The course is of sufficient length to provide a substantial educational experience. Courses of less than one (1) hour will be reviewed carefully to determine if they furnish a substantial educational experience.
- (7) Appropriate educational methodology is used, including, but not limited to, the following:
 - (A) Prepared library packages.
 - (B) Courses of programmed instruction.
 - (C) Active participation and demonstration.
 - (D) Audio-visual materials.
- (8) An adequate number of instructors is provided for the course. If audio-visual tapes are used as teaching materials, live presentations or discussion leaders must accompany the replaying of the tapes.

(Indiana Optometry Board; 852 IAC 1-16-4; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1106; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238)

852 IAC 1-16-5 Penalty for noncompliance

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14; IC 25-24-1-14.1

Sec. 5. The board will not issue a renewal license to a licensee who fails to comply with 852 IAC 1-16, except for an inactive license as provided by IC 25-24-1-14. (Indiana Optometry Board; 852 IAC 1-16-5; filed Jul 23, 1987, 9:15 am: 10 IR 2738; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238)

852 IAC 1-16-6 Continuing education sources

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14; IC 25-24-1-14.1

Sec. 6. (a) The continuing education requirement may be satisfied by participating in the following activities upon approval of the board:

- (1) Educational programs presented by professional optometric organizations.
- (2) University courses taken beyond those required for initial licensure if the course content pertains to the professional practice of optometry.
- (3) Educational programs approved by the Council on Optometric Practitioner Education.
- (4) Other educational seminars, lectures, and workshops.
- (5) Self-study, including the following:
 - (A) Journals and books.
 - (B) Audio tapes.

- (C) Films and video tapes.
- (D) Writing articles for publication.
- (E) Internet on-line.

(b) In order to be accepted as continuing education for license renewal, self-study methods of presentation must include a written examination or postevaluation.

(c) Self-study continuing education shall be limited to three (3) hours biennially unless the practitioner provides evidence to the board that such a limitation poses an undue burden upon the practitioner or that the practitioner may not otherwise satisfy his or her continuing education requirements. (*Indiana Optometry Board; 852 IAC 1-16-6; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1107; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238*)

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