

Arkansas Code Provisions related to the Practice of Optometry (updated 2025)

17-90-101. Definition — Applicability.

(a)

(1) The “practice of optometry” means the examination, diagnosis, treatment, and management of conditions of the human eye, lid, adnexa, and visual system, including the removal of foreign bodies from the cornea, conjunctiva, lid, or adnexa but shall exclude other surgery of the lid, adnexa, or visual system which requires anything other than a topical anesthetic.

(2) “Optometry” shall include utilizing any method or means which the licensed optometrist is educationally qualified to provide, as established and determined by the State Board of Optometry. In administering this chapter, the board shall by rule prescribe those acts, services, procedures, and practices which constitute both primary optometric eye care and the practice of optometry.

(3)

(A) The “practice of optometry” shall include, but not be limited to, the prescribing and sale of eyeglasses and contact lenses, the prescribing and administering of all oral and topical drugs for the diagnosis or treatment only of conditions of the eye, lids, and adnexa, and the prescribing and administering of epinephrine, benadryl, or other comparable medication for the emergency treatment of anaphylaxis or anaphylactic reactions.

(B) All licensed optometrists are prohibited from using ophthalmic lasers for surgical procedures except as permitted in subdivision (a)(3)(D) of this section, performing cataract surgery, performing radial keratotomy surgery, and selling prescription drugs.

(C)

(i) Optometrists are excluded from possessing, administering, or prescribing those pharmaceutical agents listed in Schedules I and II of the Uniform Controlled Substances Act, § 5-64-101 et seq., except hydrocodone combination drugs, regardless of their schedule, in combination with oral analgesic drugs.

(ii) A prescription written by an optometrist for hydrocodone combination drugs, regardless of their schedule, in combination with oral analgesic drugs, shall not exceed seventy-two (72) hours and shall not authorize refills.

(D) The “practice of optometry” includes the following procedures:

- (i)** Injections, excluding intravenous or intraocular injections;
- (ii)** Incision and curettage of a chalazion;
- (iii)** Removal and biopsy of skin lesions with low risk of malignancy, excluding lesions involving the lid margin or nasal to the puncta;
- (iv)** Laser capsulotomy; and
- (v)** Laser trabeculoplasty.

(b) Any person who utilizes any objective or subjective method, including, but not limited to, self-testing devices and computerized or automated refracting devices for the purpose of preparing an optical prescription, to analyze or determine any optical defect, deficiency, deformity, or visual or muscular anomaly of the visual system, who measures the curvature of the human cornea, who prescribes, tints, coats, dispenses, adapts, or duplicates lenses, prisms, ocular exercises, visual therapy, or orthoptics for the correction, relief, or aid of the visual functions, who prescribes, adapts, fits, duplicates, dispenses, modifies, sells, or supplies contact lenses, or who holds himself or herself out as being able to do so, shall be deemed to be engaged in the practice of optometry.

(c) Those licensed optometrists who meet the qualifications and standards established by the board shall be designated “optometric physicians”.

(d) Nothing in this chapter shall apply to physicians and surgeons as defined in the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

(e) Nothing in this chapter shall prevent the performance of those acts, practices, and procedures, including the ordering, application, and sale of tints or coats for spectacle lenses, by legally qualified persons who are specifically authorized and approved by the Ophthalmic Dispensing Act, § 17-89-101 et seq.

(f)

(1) Every licensed optometrist shall within ten (10) days of receipt of written notification of the filing of a claim or lawsuit alleging malpractice against him or her notify the board by registered letter of the lawsuit and provide information or reports as required by the board.

(2) All information and reports shall be exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., and shall be released only upon the order of a court of competent jurisdiction.

17-90-102. Exemptions.

This chapter does not:

- (1) Apply to physicians and surgeons nor to persons who sell eyeglasses, spectacles, lenses, contact lenses, frames, mountings, or prisms at wholesale on individual prescriptions to optometrists, physicians, and surgeons;
- (2) Prohibit the sale of ready-made eyeglasses and spectacles when sold as merchandise at any established place of business where no attempt is made to practice optometry; or
- (3) Apply to the practice of optometry through a program in partnership with federal Innovative Readiness Training if the optometrist has obtained a license to practice from another state, commonwealth, territory, or the District of Columbia.

17-90-103. Status of profession.

The practice of optometry is declared to be a learned profession, and the same rights, powers, and duties are declared to attach thereto as attach to other learned professions.

17-90-104. Unlawful practice.

The following acts are declared to be unlawful:

- (1) The violation of any of the provisions of this chapter;
- (2) For any optometrist, physician, or surgeon to advertise in any manner, either directly or indirectly, any fraudulent, false, or misleading statement as to the skill or method of practicing of himself or herself or of any other optometrist, physician, or surgeon, to advertise in any manner that will tend to deceive, mislead, or defraud the public, or to advertise in any other manner;
- (3) For any person, firm, partnership, or corporation or any optometrist, physician, or surgeon to advertise, either directly or indirectly, free optometric service or examination or to advertise directly or indirectly by any means whatsoever any definite or indefinite amount or terms as a fee for the professional services or materials rendered or furnished by an optometrist, physician, or surgeon;
- (4) For any person, firm, corporation, or partnership not having a license to engage in the practice of optometry;
- (5) For any person, firm, partnership, or corporation to employ any optometrist, physician, or surgeon to assist it in the unlawful practice of optometry. However, a

licensed optometrist or partnership composed of licensed optometrists may employ other licensed optometrists in practicing optometry;

(6) For an optometrist, physician, or surgeon to accept employment from any unlicensed person, firm, partnership, or corporation or in any other manner to assist it or them in the unlawful practice of optometry;

(7) For any person, firm, partnership, or corporation to give or offer to give eyeglasses, spectacles, lenses, or frames to any person as a premium or inducement for the purchase of any goods, wares, or merchandise;

(8) For any person to impersonate a registered optometrist or a registered physician or surgeon or to buy, sell, or fraudulently obtain a certificate of registration;

(9) For any unlicensed person, partnership, firm, or corporation to publicly represent that he or she or it by himself or herself or itself or through agents or employees is engaging in the practice of optometry or is qualified to do so; and

(10) For any optometrist, physician, surgeon, individual, firm, partnership, corporation, wholesaler, jobber, or retailer to:

(A) Solicit the sale of spectacles, eyeglasses, lenses, contact lenses, frames, mountings, prisms, or any other optical appliances or devices, eye examinations, or visual services, including vision training or orthoptics, by radio, window display, television, telephone directory display advertisement, newspaper advertisement, handbills, circulars, prospectuses, posters, motion pictures, stereopticon slides, or any other printed publication or medium or by other means of advertisement; or

(B) Use any method or means of baiting, persuading, or enticing the public into buying spectacles, eyeglasses, lenses, contact lenses, frames, mountings, prisms, or other optical appliances or devices for visual correction or relief of the visual system or to train the visual system.

17-90-105. Penalty — Injunction.

(a)

(1) Any optometrist, physician, or surgeon or individual, firm, or corporation violating any of the provisions of this chapter shall be guilty of a violation and upon conviction shall be fined in any sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

(2) Each day the violation continues shall constitute a separate offense and be punishable as such.

(b)

(1) The violation of any provision of this chapter may be enjoined by the State Board of Optometry in the circuit courts of this state even though the violation may be punishable by fine, the intention of this chapter being to provide a speedy means of protecting the public which has not heretofore existed.

(2) The board shall not be required to execute or give a bond for cost, indemnity, or stay as a condition to the issuance of a restraining order or injunction, either temporary or permanent, in any court of this state.

17-90-106. Service of process on nonresident practitioner.

(a)

(1) The performance by a nonresident person, firm, or corporation within this state of any act prohibited or authorized by the terms of this chapter which constitutes the practice of optometry as defined by this chapter, except when done by persons, firms, or corporations having a designated agent for service of process within this state, shall be deemed equivalent to the appointment by the nonresident of the Secretary of State or his or her successor in office to be the true and lawful attorney and agent of the nonresident.

(2) All lawful process in any action or proceedings against him or her or against any person, firm, or corporation growing out of any action done within this state which may be authorized or prohibited under this chapter may be served upon him or her.

(3) The performance of the act shall be an agreement by the person, firm, or corporation that any such process against the person, firm, or corporation which is so served shall be of the same legal force and validity as if served on the person, firm, or corporation personally.

(b)

(1) Service of process shall be made by serving a copy of the process on the Secretary of State, and the service shall be sufficiently served upon the nonresident.

(2) Notice of the service and a copy of the process must be forthwith sent by registered mail by the plaintiff or his or her attorney to the defendant at his or her last known address.

(3) The defendant's return receipt or the affidavit of the plaintiff or his or her attorney of compliance therewith must be appended to the writ of process and entered and filed in the office of the circuit court wherein the cause is brought.

(c) The court in which the action is pending may order such continuance as may be necessary to afford the defendant reasonable opportunity to defend the action.

(d) Service of summons when obtained upon a nonresident person, firm, or corporation as provided in this section, shall be deemed sufficient service of summons and process to give to any of the courts of this state jurisdiction over the cause of action and over the nonresident defendant and shall warrant and authorize personal judgment against the nonresident person, firm, or corporation if the plaintiff prevails in the action.

17-90-107. Subpoenas.

A subpoena is to be directed to the sheriff of any county where a witness resides or is found. It shall be served and returned in the same manner as subpoenas in civil actions in the circuit courts are served and returned.

17-90-108. Requirement to provide eyeglass prescription.

(a)

(1) If at the completion of an ophthalmic examination by any licensed optometrist or by any physician who practices as an ophthalmologist in this state the practitioner recommends as a result of the examination that the patient needs eyeglasses of common availability within the state, then the optometrist or physician practicing as an ophthalmologist shall upon request of the patient provide to the patient a complete and accurate written prescription at no additional charge.

(2)

(A) Contact lens prescriptions, written and signed, shall be released without additional charge upon request of the patient after the completion of the fitting and upon payment for the examination and fitting.

(B) Contact lens prescriptions released and filled shall be dispensed, sold, and supplied only after positive verification in accordance with the laws of the State of Arkansas and the rules promulgated and administered by the State Board of Optometry.

(3) A written contact lens prescription shall expire one (1) year after the date of the completion of the contact lens fitting unless there is a medical reason that warrants a prescription for less than one (1) year.

(b) The respective licensing boards of optometry and physicians who practice as ophthalmologists and oculists shall provide for the revocation, suspension, or refusal to renew the license of an optometrist, or of a physician who practices as an ophthalmologist or oculist, licensed by them, who repeatedly or flagrantly violates the provisions of this section.

(c) The provisions of this section shall be supplemental to the laws of this state pertaining to the licensing of optometrists and the practice of optometry and the laws pertaining to physicians and surgeons who practice as ophthalmologists and oculists.

17-90-109. Regulation of contact lenses.

(a) No person, firm, corporation, or other legal entity located outside the State of Arkansas shall fill, ship, mail, or deliver through electronic mail, the internet, alternative channels, or other means contact lenses, vision correcting contact lenses that have been medicated with legend drugs approved by the United States Food and Drug Administration as of January 1, 2009, or prescriptions for contact lenses to a resident of Arkansas without first having:

(1) Registered and paid all applicable fees required by the State Board of Optometry;

(2) Possession of a positively verified written, signed, and unexpired contact lens prescription issued, dispensed, sold, or supplied by a licensed optometrist or ophthalmologist in compliance with the laws of the State of Arkansas and all rules promulgated by the board; and

(3) Registered to do business with the Secretary of State and designated a registered agent for service of process.

(b)

(1) If a nonresident person, firm, corporation, or legal entity fails to comply with the requirements of subsection (a) of this section, service of process may be perfected in accordance with the provisions of § 17-90-106.

(2) Alternatively, the optometrist or ophthalmologist dispensing, selling, or supplying the contact lenses shall be deemed a valid agent for service of process for the nonresident person, firm, corporation, or legal entity.

(c)

(1) Optometrists and ophthalmologists licensed to practice in Arkansas and a person, firm, corporation, or other legal entity outside the State of Arkansas authorized under

subsection (a) of this section may sell, prescribe, or dispense vision correcting contact lenses that have been medicated with legend drugs approved by the United States Food and Drug Administration as of January 1, 2009.

(2) This subsection does not authorize any optometrist, person, firm, or other legal entity to dispense:

(A) Contact lenses medicated with drugs listed in Schedules I and II of the Uniform Controlled Substances Act, § 5-64-101 et seq.;

(B) Medicated contact lenses that are not vision correcting; or

(C) Medicated contact lenses for any purpose other than the diagnosis or treatment of diseases and conditions of the eye, lids, and adnexa.

17-90-110. Limitation on liability.

Any optometrist or ophthalmologist who releases a contact lens prescription in accordance with § 17-90-108(a)(2) shall not be liable for any damages for injury resulting from the purchasing, manufacturing, or dispensing of the contact lenses unless the contact lens seller and the contact lens prescriber are the same person.

17-90-111. Loans to optometry students.

(a) The Division of Higher Education shall provide a loan from the Higher Education Grants Fund Account that is in excess of the Southern Regional Education Board grant funds to any optometry student:

(1) Who is a bona fide resident of the state;

(2) Who is enrolled in an optometry professional program outside the state; and

(3) For whom any part of the out-of-state tuition is paid by the State of Arkansas through the Southern Regional Education Board grant funds.

(b) A loan authorized by this section:

(1) Shall not exceed five thousand dollars (\$5,000) annually;

(2) Shall be made:

(A) On an annual basis not to exceed the combined total of four (4) years; and

(B) At a rate of interest determined by the division, but not to exceed four percent (4%);

- (3) May be forgiven at the rate of one (1) year's loan for one (1) year's practice in Arkansas;
- (4) May be deferred, but for no longer than five (5) years, for the following reasons:
 - (A) Military service;
 - (B) Special training; or
 - (C) Extraordinary circumstances as determined by the division; and
- (5) Shall be in addition to Southern Regional Education Board grant funds.

17-90-201. Appointment of members.

The State Board of Optometry shall consist of seven (7) members appointed by the Governor subject to confirmation by the Senate for terms of five (5) years:

- (1) After consulting The Arkansas Optometric Association, Inc., the Governor shall appoint five (5) members who are licensed optometrists and who have been engaged in the regular practice of optometry in this state for a period of three (3) years; and
- (2) Two (2) members shall not be actively engaged in or retired from the profession of optometry. One (1) shall represent consumers, and one (1) member shall be sixty (60) years of age or older and shall represent the elderly. Both shall be appointed from the state at large, subject to confirmation by the Senate. The two (2) positions may not be held by the same person. Both shall be full voting members but shall not participate in the grading of examinations. All vacancies shall be filled in a like manner.

17-90-202. Compensation of members and secretary-treasurer.

- (a) Members of the State Board of Optometry may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.
- (b) Expense reimbursement and stipends in accordance with § 25-16-901 et seq. shall be paid from the fees collected by the board.
- (c) The Secretary-treasurer of the State Board of Optometry shall receive such additional salary as may be fixed by the board, and approved by the Secretary of the Department of Health.

17-90-203. Meetings — Officers — Records.

(a) The State Board of Optometry shall meet at least two (2) times each year. At the first regular meeting, the board members shall elect a president, a vice president, and a secretary-treasurer.

(b) A record of its proceedings shall be kept which shall be open for public inspection at reasonable times.

(c) The board shall make a report annually to the Secretary of the Department of Health showing all receipts and disbursements of moneys and a summary of all business transacted during the year.

17-90-204. Powers and duties.

The State Board of Optometry shall have the following powers in addition to those conferred elsewhere within this chapter:

(1) To make rules for the administration and enforcement of this chapter;

(2) To revoke, suspend, or refuse to renew any certificate of license in the manner and for the causes set forth in this chapter;

(3) To determine what acts on the part of any person licensed under this chapter shall constitute unprofessional conduct;

(4) To bring suit in its proper name to enforce or restrain the violation of any provision of this chapter;

(5) To administer oaths, to have an official seal, or to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, papers, or documents pertinent to any matters coming before the board;

(6)

(A) To levy civil penalties, after providing notice and a hearing, in an amount not to exceed one thousand dollars (\$1,000) for each violation against those individuals, firms, or corporations found to be in violation of this chapter or rules promulgated thereunder.

(B) These penalties shall be used for the purposes of defraying the expenses of the board and as required for carrying out the provisions of this chapter.

(C) These penalties shall be in addition to other penalties which may be imposed by the board pursuant to this chapter.

(D) Unless the penalty assessed under this section is paid within fifteen (15) days following the date for an appeal from the order, the board shall have the power to

file suit in the Pulaski County Circuit Court to obtain a judgment for the amount of penalty not paid;

(7) To promulgate rules limiting the amount of Schedule II narcotics that may be prescribed and dispensed by licensees of the board; and

(8) To establish credentialing requirements for a licensee to administer or perform procedures as listed in § 17-90-101(a)(3)(D).

17-90-205. Disposition of funds — Secretary-treasurer's bond.

(a) All renewal fees and all examination and application fees shall be used by the State Board of Optometry to pay its expenses in administering this chapter.

(b)

(1) All moneys received by the board shall be disbursed by the Secretary-treasurer of the State Board of Optometry, who shall furnish a surety bond.

(2) The secretary-treasurer shall keep a true and faithful account of all moneys received and all moneys expended and shall file annually with the Secretary of the Department of Health a report of all financial transactions duly audited by an independent accountant.

(c) All moneys not expended or used by the board to pay expenses in administering this chapter shall be retained by the board from year to year to be expended for the purposes and intentions expressed in this chapter.

(d) The secretary-treasurer shall execute a bond for the state in a sum to be fixed by the board conditioned on the faithful performance of the duties of his or her office.

17-90-206. Reporting requirements.

(a) The State Board of Optometry shall require every optometrist who meets the requirements for certification to perform authorized laser procedures to report to the board regarding the outcome of the procedures performed in a format as required or directed by the board.

(b) Reports under subsection (a) of this section shall also be sent to the Department of Health.

17-90-301. Examinations — Fees.

(a) No person except those already licensed by the State Board of Optometry shall practice optometry until he or she has:

- (1) Successfully passed all examinations as the State Board of Optometry may require in the rules of the State Board of Optometry, to include, but not be limited to, clinical examinations if required; and
 - (2) Registered and received a certificate of registration which shall have conspicuously printed on its face the definition of optometry set forth in § 17-90-101.
- (b) Every applicant for examination shall present satisfactory evidence that he or she is:
- (1) At least twenty-one (21) years of age;
 - (2) A successful candidate having passed all parts of the National Board of Examiners in Optometry examination since January 1, 1997; and
 - (3) A graduate of a college of optometry that has been accredited by the Accreditation Council on Optometric Education.
- (c) All persons making application for examination and for registration shall be required to pay to the Secretary-treasurer of the State Board of Optometry a fee in a reasonable amount to be fixed by the State Board of Optometry.
- (d)
- (1) Beginning July 1, 2003, the State Board of Optometry will issue licenses only for optometric physicians to persons who meet:
 - (A) The requirements of this section;
 - (B) The requirements of § 17-90-401; and
 - (C) The requirements of rules of the State Board of Optometry.
 - (2) A person who was licensed as an optometrist before July 1, 2003, and who does not meet the standard for licensure as an optometric physician may continue to renew the license as an optometrist but may only practice in the manner prescribed by the rules of the State Board of Optometry.

17-90-302. Licensure by endorsement.

- (a) Any person from another state desiring to engage in the practice of optometry in this state may be issued licensure by endorsement at the sole discretion of the State Board of Optometry upon satisfactory proof that he or she:
- (1) Is qualified under this chapter;

(2) Has been issued a certificate or license to practice optometry by a state, territory, the District of Columbia, or Canada having standards of proficiency at least equal to the standards of Arkansas;

(3) Has engaged in the lawful practice of optometry for a period of three (3) years of the past four (4) years in the other state, territory, the District of Columbia, or Canada and has complied with all the requirements of the Arkansas licensure law at the time of application; and

(4) Has passed an Arkansas jurisprudence examination.

(b) The applicant shall pay a fee to the Secretary-treasurer of the State Board of Optometry for registration in a reasonable amount to cover the administrative costs of the application process as determined by the State Board of Optometry.

(c) An application for licensure by endorsement shall be accompanied by:

(1) The fee described in subsection (b) of this section;

(2) Certification from all other states or territories in which the applicant has practiced;

(3) A certificate of good standing from each authority which issued the license, setting forth the applicant's history with the authority, professional ability, continuing education compliance, and other information or data as the State Board of Optometry may deem necessary or expedient;

(4) A copy of the therapeutic license held by the applicant;

(5) A copy of the cardiopulmonary resuscitation certification held by the applicant;

(6) Transcripts from:

(A) All colleges or universities attended by the applicant; and

(B) An accredited school or college of optometry;

(7) Proof of completion of all parts of the National Board of Examiners in Optometry examination required at the time of graduation for initial licensure sent directly to the State Board of Optometry;

(8) Information on past medical malpractice claims and any disciplinary actions; and

(9) Application to the Identification Bureau of the Division of Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation, which shall include the taking of fingerprints.

(d) Upon furnishing satisfactory proof of fitness as contemplated in this section, the State Board of Optometry in its discretion may issue a license to practice optometry to the applicant without further cost except as otherwise provided in this chapter for the renewal of licenses.

17-90-303. License — Registration and display — Statement of services.

- (a) Any optometrist practicing in any county in this state shall display his or her license in a conspicuous place in his or her office.
- (b) Any optometrist practicing away from his or her office shall deliver to each person obtaining services from the optometrist a statement dated and signed by the optometrist setting forth the amount charged, the optometrist's address, and the number of the optometrist's certificate.

17-90-304. Renewal — Failure to renew.

(a)

(1) Except as provided in subdivision (a)(2) of this section, a registered optometrist shall pay annually a reasonable sum, to be fixed by the State Board of Optometry, to the Secretary-treasurer of the State Board of Optometry as a license renewal fee on or before February 1 each year.

(2) The board shall waive the annual renewal fee for all registered optometrists if the registered optometrist:

(A) Holds a license to practice optometry in the State of Arkansas; and

(B) Is an active duty member of the United States Armed Forces or a member of the Arkansas National Guard on state active duty.

(b) The failure to pay the license renewal fee by any licensee may cause his or her license to be revoked or suspended, or other such penalties as provided in § 17-90-305, after thirty (30) days' notice.

17-90-305. Revocation, suspension, or refusal to renew — Grounds.

(a) The State Board of Optometry shall have the power to revoke, suspend, place a license on probation for such time as the board shall order and under such conditions as the board may impose, to ensure the health and safety of the citizens of Arkansas, impose a fine of up to one thousand dollars (\$1,000) per violation, refuse to renew a license or reprimand the licensee, or any combination thereof, if the board finds that the individual has committed any of the following offenses:

- (1)** Perpetrating a fraud on the public;
 - (2)** Presenting false information or documentation to the board in an attempt to obtain or to retain a license;
 - (3)** Conviction of a felony listed under § 17-3-102 or the conviction of a misdemeanor, if the misdemeanor conduct would denote an impairment in the ability to practice optometry;
 - (4)** Habitual drunkenness;
 - (5)** Habitual or excessive use of schedule medication or other habit-forming or mind-altering drugs that would impair the ability to practice optometry;
 - (6)** Violation of the laws of the United States or the State of Arkansas regulating the possession, distribution, and prescribing of schedule medication;
 - (7)** Flagrant overcharging or billing;
 - (8)** False representation of materials;
 - (9)** False or misleading advertising;
 - (10)** Gross incompetency in the treatment of patients;
 - (11)** Unprofessional conduct;
 - (12)** Suffering from mental disease or defect rendering the licensee incompetent to practice optometry as a result of proof given by a licensed medical psychiatrist in the State of Arkansas and in combination with testimony of a licensed optometrist;
 - (13)** Violation of any provision of the laws of Arkansas regulating the practice of optometry;
 - (14)** Violation of any rule of the board;
 - (15)** Violation of any term of probation or order rendered by the board; or
 - (16)** Having been found in violation of a statute or a rule or regulation governing the practice of optometry by the optometry licensing authority or agency of another state.
- (b)** In addition to those acts which may be prescribed by the board as unprofessional conduct, the following shall be deemed by the board to be unprofessional:
- (1)** The violation of any provision of this chapter; or
 - (2)** The acceptance of employment either directly or indirectly by a licensed optometrist from an optometrist not licensed in Arkansas or from an unlicensed person, firm, or

corporation engaged in any business or profession to assist it, him or her, or them, in practicing optometry in this state.

17-90-306. Revocation, suspension, or refusal to renew — Procedures.

- (a) No certificate of license shall be rejected for renewal, suspended, or revoked for any cause, unless the person accused has been given at least thirty (30) days' notice in writing setting forth the nature of the charges against him or her.
- (b) The accused person must also be afforded a public hearing at which time the person accused shall have the right to appear with or without counsel, to confront witnesses who appear against him or her, and to adduce testimony in his or her own behalf.
- (c) A record of the charges filed and the action taken thereon shall be prepared.
- (d) All hearings of the State Board of Optometry and appeals from decisions or orders of the board will be subject to the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

17-90-401. State Board of Optometry — Powers and duties.

The State Board of Optometry shall have the following rights and responsibilities:

- (1) To enforce, amend, or repeal the rules promulgated by the board;
- (2)
 - (A) To approve those optometrists who shall be authorized to possess, administer, and prescribe those drugs approved by this subchapter.
 - (B)
 - (i) No optometrist shall be so approved until he or she has:
 - (a) Exhibited his or her qualifications by passing an examination prepared or approved by the board; and
 - (b) Served an internship program established by the board, supervised and certified by a board-certified ophthalmologist, which internship includes at least one hundred (100) hours of supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa.
 - (ii)

(a) The examination shall include, but not be limited to, written questions designed to test knowledge of the proper use and characteristics of the drugs approved by the board.

(b) The examination shall be offered not less often than annually;

(3) To promulgate educational standards, which shall be used as prerequisites to authorization to use those drugs approved in this subchapter. Educational standards shall cover only the area of the proper use and characteristics of the drugs approved by the board and emergency first aid techniques;

(4) To approve, consistent with the rules promulgated by the board, those acts, services, procedures, and practices which may be performed by a licensed optometrist and, before authorization, by appropriate examination, establish the competence of every optometrist to perform the approved acts, services, procedures, and practices;

(5)

(A) To prohibit any optometrist who is a graduate of a school or college of optometry as of July 20, 1987, who has not already successfully completed a postgraduate course of study of transcript quality in ocular therapy and pharmacology from an accredited school or college of optometry, which complies with all the prerequisites and requirements of the board and this subchapter, from being approved to perform any of the additional acts, services, procedures, and practices which are specifically authorized in § 17-90-101(a) and § 17-90-403 until he or she has successfully complied with all the prerequisites and requirements of the board and this subchapter.

(B) The express purpose of this subdivision (5) is to prohibit the “grandfathering” of currently licensed optometrists unless and until they have completed the prerequisites and requirements of the board and this subchapter established by this subdivision (5). Nothing in this subdivision (5) shall be construed to prohibit any optometrist currently licensed from continuing to practice optometry and be relicensed, but until he or she has met the requirements of this subchapter and the rules of the board, he or she shall not be allowed to utilize the additional treatments provided for in this subchapter;

(6) To promulgate rules governing the prescribing, administering, and use of all drugs authorized in this chapter by all licensed and board-certified primary care optometrists in the diagnosis, treatment, or management only of conditions of the human eye, lid, adnexa, or visual system; and

(7) To promulgate rules which authorize board-certified primary care optometrists to order any procedure or laboratory test necessary in the examination, diagnosis, treatment, or management of diseases or conditions of the human eye, lid, adnexa, or visual system.

17-90-402. Standards — Noncompliance.

- (a) Reasonable standards applicable only to those optometrists who are authorized to use drugs for referral of eye patients with eye pathology discoverable by the use of drugs shall be promulgated only if the State Board of Optometry finds that the standards are required to protect the health of the citizens of the state.
- (b) The standards shall not require referral in cases in which an optometrist is aware that a condition has been previously diagnosed by a physician.
- (c) If these standards are promulgated, they shall be enforced by the board.
- (d) Any violation of these standards shall be deemed unprofessional conduct under this chapter.
- (e) If the board finds that an optometrist has habitually violated the standards of referral, then the board shall withdraw the authority to use drugs from that optometrist.

17-90-403. Authority to possess, administer, and prescribe.

- (a) A person may possess, administer, and prescribe pharmaceutical agents for the diagnosis or treatment of conditions involving only the eye, lids, or adnexa if the person:

- (1) Is engaged in the practice of optometry as defined in § 17-90-101;
- (2) Has the education and professional competence as determined by the State Board of Optometry;
- (3) Has satisfied the educational requirements established by the State Board of Optometry from a college or university accredited by a regional or professional accreditation organization that is recognized or approved by the Council for Higher Education Accreditation, the United States Department of Education, or the Arkansas Higher Education Coordinating Board; and
- (4) Has met the requirements of § 17-90-401.

(b)

- (1) Optometrists shall not possess, administer, or prescribe the pharmaceutical agents listed in Schedules I and II of the Uniform Controlled Substances Act, § 5-64-101 et seq., except hydrocodone combination drugs, regardless of their schedule, in combination with oral analgesic drugs.
- (2) A prescription written by an optometrist for hydrocodone combination drugs, regardless of their schedule, in combination with oral analgesic drugs, shall not exceed seventy-two (72) hours and shall not authorize refills.

17-90-501. Title.

This subchapter shall be known as the “Impaired Optometrist Treatment Program”.

17-90-502. Purpose.

The purpose of this subchapter is to provide for the identification and treatment of optometrists licensed under the Arkansas Optometry Law, § 17-90-101 et seq., who suffer from impairment, in order to promote the public health and safety and to ensure the continued availability of the skills of highly trained optometric professionals for the benefit of the public.

17-90-503. Definitions.

As used in this subchapter:

- (1) “Impaired” or “impairment” means the presence of the diseases of alcoholism, drug abuse, or mental illness;
- (2) “Impaired Optometrist Treatment program” means the State Board of Optometry-approved or sponsored program for the detection, intervention, and monitoring of impaired providers;
- (3)
 - (A) “Professional incompetence” means the inability or failure of an optometrist to practice his or her profession with reasonable skill and safety.
 - (B) Impairment in and of itself shall not give rise to a presumption of professional incompetence; and
- (4) “Treatment program” means a plan of care and rehabilitation services provided by those organizations and persons authorized to provide such services for impaired providers taking part in the programs provided under this subchapter.

17-90-504. Authority.

The State Board of Optometry may undertake the functions and responsibilities to carry out the purposes of this subchapter, which may include any of the following:

- (1) Contracting with providers of treatment programs;
- (2) Receiving and evaluating reports of suspected impairment from any source;

- (3) Intervening in cases of verified impairment;
- (4) Referring impaired optometrists to treatment programs;
- (5) Monitoring the treatment and rehabilitation of impaired optometrists;
- (6) Providing posttreatment monitoring and support of rehabilitated impaired optometrists;
- (7) Suspending, limiting, or restricting the optometrist's license for the duration of the impairment; and
- (8) Performing such other activities as the board deems necessary to accomplish the purposes of this subchapter.

17-90-505. Procedures.

The State Board of Optometry shall develop procedures for:

- (1) Informing each participant in the Impaired Optometric Treatment program of the program procedures, responsibilities of program participants, and the possible consequences of noncompliance with the program; and
- (2) Voluntary self-reporting and treatment program participation by an optometrist.

17-90-506. Evaluation.

- (a) If the State Board of Optometry has reason to believe that an optometrist is impaired, the board may cause an evaluation of the optometrist to be conducted for the purpose of determining if there is an impairment.
- (b) If the board finds after examination and hearing that a licensee is impaired, it may take one (1) or more of the actions specified in this subchapter.

17-90-507. Request for restricted license.

- (a) An impaired optometrist may request in writing to the State Board of Optometry a restriction of his or her license to practice.
- (b) The board may grant such a request for restriction and shall have the authority to attach conditions to the licensure of the optometrist to practice optometry within specified limitations.

17-90-508. Confidentiality of records.

(a)

(1) Notwithstanding any provision of state law, records of the State Board of Optometry pertaining to an impaired optometrist shall be exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., shall be kept confidential and shall not be subject to discovery or subpoena.

(2) No person in attendance at any meeting of the board concerning an impaired optometrist shall be required to testify as to any discussions or proceedings.

(b) However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such action merely because they were presented during the proceedings of the board meeting on an optometrist, nor shall any person who testifies before the board meeting on an optometrist, or who is a member of the board, be prevented from testifying as to matters within his or her knowledge, but the witness shall not be asked about his or her testimony before the board or about opinions formed by him or her as a result of the board hearings.

17-90-509. Participation in treatment program.

An impaired optometrist who is participating in or has successfully completed a treatment program pursuant to this subchapter shall not be limited or restricted in his or her professional practice or excluded from any hospital staff solely because of such participation.

17-90-510. Limitation on liability.

(a) Notwithstanding any other provisions of law, the State Board of Optometry and committees and members thereof shall not be held liable in damages to any person within the scope of their responsibilities pursuant to this subchapter.

(b) No person who in good faith and without malice makes a report pursuant to this subchapter to the board shall be liable for damages to any person.