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Authority

The provisions of this Chapter 23 issued under the act of March 30, 1917 (P. L. 21, No. 10) (63 P. S. §§ 231—242), unless otherwise noted.

Source

The provisions of this Chapter 23 adopted September 16, 1965, unless otherwise noted.

Cross References

This chapter cited in 49 Pa. Code § 25.214 (relating to corporate practice and fictitious names); 49 Pa. Code § 29.27 (relating to permitted business practices); 49 Pa. Code § 41.26 (relating to professional corporations); and 49 Pa. Code § 47.21 (relating to professional corporations).

GENERAL PROVISIONS

§ 23.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicated otherwise:

Act—The Optometric Practice and Licensure Act (63 P. S. § § 244.1—244.12).

Board—The State Board of Optometry of the Commonwealth.

Child abuse—A term meaning any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.

ChildLine—An organizational unit of the Department of Public Welfare which operates a 24-hour a day Statewide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

Clinical Skills Assessment Examination—A clinical skills competency examination developed, prepared, administered and scored by the NBEO, which the Board adopts as the State clinical examination for licensure.

Continuing education hour—Fifty minutes of continuing education.

Continuing education program—A group, self-study, correspondence or other program approved by the Board for which continuing education hours are given.

Inactive status—The status of not having one's license currently registered.

Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.

NBEO—The National Board of Examiners in Optometry.

National Board Examination—A written academic examination developed, prepared, administered and scored by the NBEO, which the Board adopts as the National uniform written examination for licensure.

Perpetrator—A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.

Person responsible for the child's welfare—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.

Recent acts or omissions—Acts or omissions committed within 2 years of the date of the report to the Department of Public Welfare or county agency.

Retired practitioner—One who is no longer engaged in the practice of optometry as defined in section 2 of the act (63 P. S. § 244.2; see the definition of "practice of optometry").

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.

(ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

Serious physical injury—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.

Sexual abuse or exploitation—The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.

TMOD—Treatment and Management of Ocular Disease Examination—An examination developed, prepared, administered and scored by the NBEO, which the Board adopts as the examination for certification in pharmaceutical agents for therapeutic purposes.

Vision therapy—A term meaning any of the following:

- (i) Design of treatment plans for problems of eye teaming, focusing, tracking, sensory adaptation and visual information processing.
- (ii) Prescription of devices and procedures that modify the oculomotor and sensory aspects of the visual process.
- (iii) Orthoptics.

Visual rehabilitation—A term meaning any of the following:

- (i) Diagnosis of a visual impairment.
- (ii) Prescription of lenses, prisms, filters, occluders mirrors, and optical and electrooptical magnification and minification.
- (iii) Design of treatment plans to compensate for central and peripheral visual field defects.

Vision screening—The limited process of surveying an individual for problem areas such as visual acuity, eye muscle coordination and refractive error.

Authority

The provisions of this § 23.1 issued and amended under the Optometric Practice and Licensure Act (63 P. S. §§ 244.1—244.12); section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a); sections 3(a)(2) and (14) and (b)(14), 4.1 and 6(c)(2)(ii) of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(a)(2) and (14) and (b)(14), 244.4a and 244.6(c)(2)(ii)); sections 3(a)(2.1), (3) and (b)(9) and (14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(a)(2.1), (3) and (b)(9) and (14)); and the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2).

Source

The provisions of this § 23.1 adopted September 16, 1965; amended April 16, 1982, effective April 17, 1982, 12 Pa.B. 1231; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3497; amended May 31, 1991, effective June 1, 1991, 26 Pa.B. 2552; amended November 8, 1996, effective November 9, 1996, 26 Pa.B. 5395; amended June 5, 1998, effective June 6, 1998, 28 Pa.B. 2586; amended June 3, 2005, 35 Pa.B. 3220. Immediately preceding text appears at serial pages (305099) to (305100) and (244901).

Cross References

This section cited in 49 Pa. Code § 23.115 (relating to confidentiality—waived).

§ 23.2. Applicability of general rules.

(a) Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure), is applicable to practice and procedure before the Board, except if provided otherwise in the act or in this chapter.

(b) Board meetings will be conducted according to *Robert's Rules of Order*.

(c) If a conflict arises between 1 Pa. Code Part II and *Robert's Rules of Order*, 1 Pa. Code Part II applies.

Authority

The provisions of this § 23.2 amended under section 3 of the Optometric Practice and Licensure Act (63 P. S. § 244.3).

Source

The provisions of this § 23.2 adopted February 13, 1976, effective February 14, 1976, 6 Pa.B. 325; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3497. Immediately preceding text appears at serial page (130199).

§ 23.3. Means and methods for the examination, diagnosis and treatment of conditions of the visual system.

The means and methods for the examination, diagnosis and treatment of conditions of the visual system that may be employed by licensed optometrists include:

- (1) The use of any computerized or automatic refracting device.
- (2) Visual field testing such as manual or automatic perimetry.
- (3) Ophthalmoscopy and gonioscopy.
- (4) Anterior and posterior segment photography.
- (5) Testing for glaucoma.
- (6) Electrodiagnostic testing.
- (7) The use of diagnostic lasers for diagnostic purposes consistent with section 2 of the act (63 P. S. § 244.2), which excludes the use of therapeutic lasers and laser surgery.
- (8) The employment of vision therapy.
- (9) Visual rehabilitation.
- (10) Diagnosis and treatment of the lacrimal system through the use of therapeutic agents, punctal plugs, dilation of the punctum and irrigation of the lacrimal system.
- (11) Epilation of lashes.
- (12) Ultrasound examination of the eye and orbit. An optometrist may perform intraocular lens calculations upon the written order of an ophthalmologist. The ophthalmologist shall make final selection of lens implant power.
- (13) Ordering laboratory work.
- (14) At the request of an ophthalmologist, interpreting and reporting of angiographic studies of ocular vasculature and blood flow.

Authority

The provisions of this § 23.3 issued under section 3(a)(2.1), (3) and (b)(9) and (14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(a)(2.1), (3) and (b)(9) and (14)).

Source

The provisions of this § 23.3 adopted June 3, 2005, effective June 4, 2005, 35 Pa.B. 3220.

Cross References

This section cited in 49 Pa. Code § 23.64 (relating to professional conduct).

LICENSE BY EXAMINATION**§ 23.11. Qualifications for license by examination.**

To obtain a license by examination, a candidate shall meet the following requirements:

(1) A Doctor of Optometry degree from an accredited optometric educational institution in the United States or Canada. A graduate of an unaccredited school of optometry shall also meet the requirements of § 23.14 (relating to graduates of unaccredited schools).

(2) Passing scores on Parts I, II Stage a and II Stage b of the National Board Examination, which the Board adopts as the written examination for licensure.

(3) Satisfaction of the general qualifications of section 4 of the act (63 P. S. § 244.4) and of this chapter.

(4) Passing scores of the Clinical Skills Assessment Examination. A candidate for license by examination will not be eligible to sit for the Clinical Skills Assessment Examination unless the candidate has met the requirements of this section.

Authority

The provisions of this § 23.11 amended under section 3 of the Optometric Practice and Licensure Act (63 P. S. § 244.3).

Source

The provisions of this § 23.11 adopted September 16, 1965; amended June 22, 1990, effective upon publication and retroactively applicable to July 14, 1989, 20 Pa.B. 3497. Immediately preceding text appears at serial page (130200).

§ 23.12. Application procedure.

(a) *National Board Examination.*

(1) The applicant shall apply directly to the NBEO for admission to the National Board Examination and pay the required fees at the direction of the NBEO.

(2) The applicant is responsible for directing that the NBEO send examination results and other information requested to the Board.

(3) Passing scores on the National Board Examination shall be as established by the NBEO for each administration of the National Board Examination.

(b) *Clinical Skills Assessment Examination.*

(1) The applicant shall complete an application approved by and obtained from the Board detailing the applicant's education and experience, and certifying that the applicant has met the requirements for licensure under the act and under this chapter, and return the application to the Board with the license application fee required by § 23.91 (relating to fees) at least 60 days prior to the date of the Clinical Skills Assessment Examination.

(2) The applicant shall apply directly to the NBEO for admission to the Clinical Skills Assessment Examination and pay the required fees at the direction of the NBEO.

(3) The applicant is responsible for directing that the NBEO send examination results and other information requested to the Board.

(4) Passing scores on the Clinical Skills Assessment Examination shall be established by the NBEO for each administration of the Clinical Skills Assessment Examination.

Authority

The provisions of this § 23.12 amended under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a); and sections 3(a)(2) and (14) and 6(c)(2)(ii) of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(a)(2) and (14) and 244.6(c)(2)(ii)).

Source

The provisions of this § 23.12 adopted September 16, 1965; amended June 22, 1990, effective upon publication and retroactively applicable to July 14, 1989, 20 Pa.B. 3497; amended May 31, 1991, effective June 1, 1991, 21 Pa.B. 2552. Immediately preceding text appears at serial pages (148338) to (148340).

§ 23.13. [Reserved].

Source

The provisions of this § 23.13 adopted September 16, 1965; reserved June 22, 1990, effective June 23, 1990, 20 Pa.B. 3497. Immediately preceding text appears at serial page (130200).

§ 23.14. Graduates of unaccredited schools.

To qualify for admission to the Clinical Skills Assessment Examination, graduates of unaccredited schools of optometry shall do the following:

- (1) Submit their credentials to an accredited optometry school for evaluation.
- (2) Make up any deficiencies.
- (3) Obtain certification from the accredited optometry school that the requirements for graduation from the accredited school have been met.

Authority

The provisions of this § 23.14 amended under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.14 adopted September 16, 1965; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3497. Immediately preceding text appears at serial pages (130200) to (130201).

Cross References

This section cited in 49 Pa. Code § 23.11 (relating to qualifications for license by examination).

§ 23.15. Examination.

(a) An applicant who fails one or more of the National Board Examinations is eligible for reexamination in accordance with the rules and regulations of the NBEO.

(b) An applicant who fails the Clinical Skills Assessment Examination is eligible for reexamination, in accordance with the rules and regulations of the NBEO.

Authority

The provisions of this § 23.15 amended under section 3 of the Optometric Practice and Licensure Act (63 P. S. § 244.3); and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a); and sections 3(a)(2) and (14) and 6(c)(2)(ii) of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(a)(2) and (14) and 244.6(c)(2)(ii)).

Source

The provisions of this § 23.15 adopted September 16, 1965; amended June 22, 1990, effective upon publication retroactively applicable to July 14, 1989, 20 Pa.B. 3497; amended May 31, 1991, effective June 1, 1991, 21 Pa.B. 2552. Immediately preceding text appears at serial pages (148340) to (148341).

**LICENSE BY RECIPROCITY AND INTERSTATE
CERTIFICATION****§ 23.21. Reciprocal application.**

(a) An applicant for licensure by reciprocity to practice optometry in this Commonwealth shall submit the following to the Board:

(1) A completed application which has been filed with the Board together with the fee required by § 23.91 (relating to fees), in the form of a check or money order, made payable to “Commonwealth of Pennsylvania—OE.”

(2) A certificate of preprofessional education issued by the Department, showing that the preliminary education requirements are satisfied.

(3) A transcript of subjects and grades from the college or school of optometry from which the applicant has graduated.

(b) Any school or college of optometry from which the applicant for reciprocity has graduated shall be one approved by the Board at the time he was graduated.

Authority

The provisions of this § 23.21 amended under sections 3 and 9 of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3 and 244.9).

Source

The provisions of this § 23.21 adopted September 16, 1965; amended November 11, 1967; amended August 26, 1988, effective August 27, 1988, 18 Pa.B. 3809. Immediately preceding text appears at serial page (9739).

§ 23.22. Prior testing; experience; reciprocal agreements.

An applicant shall furnish the Board with a statement, attested to by the secretary or president of the optometric board in the applicant's state of original licensure which avers that:

- (1) The applicant received a license to practice optometry by passing examinations in subjects stated in the act at the time the applicant was examined.
- (2) The applicant practiced optometry for at least 4 years continuously in the state of licensure, immediately prior to applying for reciprocity in this Commonwealth.
- (3) The board of original licensure recommends the applicant for licensure to the Board.

Authority

The provisions of this § 23.22 amended under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a); and sections 3(a)(2) and (14) and 6(c)(2)(ii) of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(a)(2) and (14) and 244.6 (c)(2)(ii)).

Source

The provisions of this § 23.22 adopted September 16, 1965; amended November 11, 1967; amended May 31, 1991, effective June 1, 1991, 21 Pa.B. 2552. Immediately preceding text appears at serial pages (148341) to (148342).

§ 23.23. Financial statements.

An applicant for license by reciprocity shall furnish this Board with the following:

- (1) A statement of financial responsibility.
- (2) Additional information and sworn statements as may be required and as will satisfy the Board.

Source

The provisions of this § 23.23 adopted September 16, 1965; amended November 11, 1967.

§ 23.24. Clinical examination.

The applicant will be granted a license to practice the profession of optometry in this Commonwealth after the applicant has passed the Clinical Skills Assessment Examination.

Authority

The provisions of this § 23.24 amended under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a); and sections 3(a)(2) and (14) and 6(c)(2)(ii) of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(a)(2) and (14) and 244.6 (c)(2)(ii)).

Source

The provisions of this § 23.24 adopted September 16, 1965; amended November 11, 1967; amended May 31, 1991, effective June 1, 1991, 21 Pa.B. 2552. Immediately preceding text appears at serial pages (148342) and (130203).

§ 23.25. Certification to another state.

The fee required by § 23.91 (relating to fees) shall be paid for certifying the grades of a licensed optometrist to another state.

Authority

The provisions of this § 23.25 amended under sections 3(14) and 9 of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(14) and 244.9).

Source

The provisions of this § 23.25 adopted September 16, 1965; amended November 11, 1967; amended August 26, 1988, effective August 27, 1988, 18 Pa.B. 3809. Immediately preceding text appears at serial page (9740).

§ 23.26. Volunteer license.**(a) Purpose and definitions.**

(1) The following subsections implement the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) and provide for the issuance of a volunteer license to a qualified individual who retires from active practice and seeks to provide professional services as a volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic without remuneration.

(2) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Approved clinic—An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term includes a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

Unrestricted license—A license which is not restricted or limited by order of the Board under its disciplinary power.

(b) *License*. A volunteer license may be issued to a licensee of the Board who documents to the satisfaction of the Board that the applicant will practice without personal remuneration in approved clinics and meets one of the following conditions:

(1) Holds a currently renewed, active, unrestricted license as an optometrist in this Commonwealth and retires from active practice at the time the applicant applies for a volunteer license.

(2) Retires from the active practice of optometry in this Commonwealth in possession of an unrestricted license which was allowed to lapse by not renewing it. A retired licensee shall meet the requirements of the act or the regulations pertaining to continued education or continued competency to be eligible for renewal.

(c) *Applications.* An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice optometry exclusively:

- (i) Without personal remuneration for professional services.
- (ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(d) *Validity of license.* A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the licensee shall notify the Board of any change in clinic or volunteer status within 30 days of the date of a change, or at the time of renewal, whichever occurs first.

(e) *Biennial renewal.* A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license.

(2) The applicant shall be exempt from payment of the biennial renewal fee of § 23.91 (relating to fees).

(f) *Return to active practice.* A volunteer license holder who desires to return to active practice shall notify the Board and apply for biennial registration on forms provided by the Board.

(g) *Disciplinary provisions.* A volunteer license holder shall be subject to the disciplinary provisions of the act and this chapter. Failure of the licensee to comply with the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) or this section may also constitute grounds for disciplinary action.

Authority

The provisions of this § 23.26 issued under section 5 of the Volunteer Health Services Act (35 P. S. § 449.45); and section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.26 adopted November 28, 1997, effective November 28, 1997, 27 Pa.B. 6214.

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BUSINESS PRACTICES**§ 23.31. Advertising.**

(a) Advertising by publication, transmission, posting or distribution is permitted if it is not misleading, deceptive or fraudulent on its face, by inference, or by its effect in actual practice.

(b) Price advertising is permitted if eye examinations and spectacle lenses or contact lenses are priced separately. Advertising a portion of a professional service as “free” is prohibited, when receipt of the “free” service or product is conditioned upon the purchase of an additional service or product, and the terms of this condition are not disclosed.

(c) Lettering used on doors, windows or displays shall comply with subsection (a), and shall conspicuously identify the names and degrees of professionals engaged in the practice.

(d) The listing of an optometrist in a telephone directory may contain the optometrist’s name, title, degrees, addresses, office hours and telephone numbers. This listing may also contain other information which is not in violation of subsection (a) and shall identify the optometrist with the designations “Doctor of Optometry,” “O.D.” or “Dr.” followed by “Optometrist.”

(e) An optometrist listed in the classified section of a phone directory may only be listed under classifications relating to the provision of optometric services at the addresses noted in Board records as the places of practice of that optometrist, after notice has been filed with the Board in compliance with §§ 23.43 and 23.44 (relating to offices; and additional practice locations).

(f) An optometrist listed in a telephone directory may use the term “succeeded by,” “succeeding” or “successor to” and the name of the succeeded optometrist for no longer than 2 years from the date of succession to the practice.

Authority

The provisions of this § 23.31 amended under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.31 adopted September 16, 1965; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863. Immediately preceding text appears at serial page (9740) to (9742).

Cross References

This section cited in 49 Pa. Code § 23.43 (relating to offices).

§ 23.32. Display of license.

(a) An optometrist shall prominently post his display license, or a certified duplicate of that license, at each location at which he practices optometry. This posted license or certified duplicate shall be the license issued for the current renewal period.

(b) [Reserved].

Authority

The provisions of this § 23.32 amended under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.32 adopted September 16, 1965; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863. Immediately preceding text appears at serial page (9742).

Cross References

This section cited in 49 Pa. Code § 23.43 (relating to offices); and 49 Pa. Code § 23.63 (relating to fee sharing).

§ 23.33. Practice.

(a) An optometrist engaged in the active practice of optometry shall practice in a room used exclusively for the practice of optometry when practicing in the optometrist’s office. A change in this address, or the addition of places of practice, shall comply with §§ 23.43 and 23.44 (relating to offices; and additional practice locations).

(b) In compliance with § 23.36 (relating to consultant, advisor, staff or employe optometry), an optometrist may arrange the professional practice to include service to a licensed health care service facility, including in-patient or out-patient hospitals and emergency rooms, nursing homes and long-term care facilities, or any facility with the need for optometric services.

(c) An optometrist may, as a professional courtesy, accept a request to attend the patients of another optometrist in the office of the other optometrist, during a temporary absence from practice, if consistent with other duties.

(d) An optometrist may provide services to a patient who is physically incapable of coming to the optometrist's office, at that patient's residence or location.

(e) An optometrist may provide vision screenings at any location, public or private, within this Commonwealth.

(f) An optometrist shall carry his wallet renewal card on his person as proof of current licensure, for presentation on demand, whenever rendering optometric services outside of his regular practice location.

Authority

The provisions of this § 23.33 amended under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)); amended under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a); and sections 3(a)(2), (2.1), (3) and (14), (b)(9) and (14) and 6(c)(2)(ii) of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(a)(2), (2.1), (3) and (14), (b)(9) and (14) and 244.6(c)(2)(ii)).

Source

The provisions of this § 23.33 adopted September 16, 1965; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863; amended May 31, 1991, effective June 1, 1991, 21 Pa.B. 2552; amended June 3, 2005, effective June 4, 2005, 35 Pa.B. 3220. Immediately preceding text appears at serial pages (222965) to (222966).

Cross References

This section in 49 Pa. Code § 23.44 (relating to additional practice locations); and 49 Pa. Code § 23.63 (relating to fee sharing).

§ 23.34. Professional corporations.

An optometrist licensed by the Board may professionally incorporate with other optometrists, medical doctors, doctors of osteopathy, dentists, psychologists, podiatrists, chiropractors and other health care professionals if this incorporation is authorized by the practice acts of the relevant professions.

Authority

The provisions of this § 23.34 issued under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)); amended under section 3(a)(2.1) and (3) and (b)(9) and (14) of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(a)(2.1) and (3) and (b)(9) and (14)).

Source

The provisions of this § 23.34 adopted October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863; amended June 3, 2005, effective June 4, 2005, 35 Pa.B. 3220. Immediately preceding text appears at serial pages (222966) to (222967).

Cross References

This section cited in 49 Pa. Code § 23.44 (relating to additional practice locations); and 49 Pa. Code § 23.63 (relating to fee sharing).

§ 23.35. Fictitious names.

An optometrist practicing as a sole proprietor, in association with other optometrists, or in a business form other than a professional corporation, may do business under a fictitious name.

Authority

The provisions of this § 23.35 issued under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)); amended under section 3(a)(2.1) and (3) and (b)(9) and (14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(a)(2.1) and (3) and (b)(9) and (14)).

Source

The provisions of this § 23.35 adopted October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863; amended June 3, 2005, effective June 4, 2005, 35 Pa.B. 3220. Immediately preceding text appears at serial page (222967).

§ 23.36. Consultant, advisor, staff or employe optometry.

(a) An optometrist may:

(1) Be engaged as a consultant to businesses implementing industrial vision programs.

(2) Be engaged as a staff optometrist or optometric administrator by municipal, county, State or Federal government agencies, research organizations, educational institutions, insurance companies or licensed health care facilities.

(b) When engaged as set forth in subsection (a), an optometrist shall contract, in writing, to retain the right to the independent exercise of professional judgment.

(c) An optometrist may accept employment with a nonlicensed proprietor, or with a commercial or mercantile concern, if the optometrist complies with § 23.43 (relating to offices).

Authority

The provisions of this § 23.36 issued under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.36 adopted October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863.

Cross References

This section cited in 49 Pa. Code § 23.33 (relating to practice); and 49 Pa. Code § 23.61 (relating to general).

OFFICE OF OPTOMETRIST**§ 23.41. [Reserved].****Source**

The provisions of this § 23.41 adopted September 16, 1965; reserved October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863. Immediately preceding text appears at serial page (9742).

§ 23.42. Equipment

An office maintained for the practice of optometry shall be fully equipped for the making of a basic optometrical examination including the following:

- (1) Keratometer.
- (2) Ophthalmoscope and retinoscope.
- (3) Trial case and its accessories or a phoropter.
- (4) Visual acuity charts.
- (5) Ophthalmic chair.
- (6) Field testing equipment.
- (7) Slitlamp—Biomicroscope.
- (8) Tonometer.

Authority

The provisions of this § 23.42 amended under section 3(a)(2.1) and (3) and (b)(9) and (14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(a)(2.1) and (3) and (b)(9) and (14)).

Source

The provisions of this § 23.42 adopted September 16, 1965; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863; amended June 3, 2005, effective June 4, 2005, 35 Pa.B. 3220. Immediately preceding text appears at serial page (222968).

§ 23.43. Offices.

(a) An office for the practice of optometry shall consist of a reception area and other rooms required for a complete ocular examination. An optometrist shall notify the Board of the location of this office, within 30 days of securing the premises for this purpose. Display licenses shall be posted in compliance with §§ 23.32 and 23.33 (relating to display of license; and practice).

(b) No optometrist may lease or rent space or accept employment for the practice of optometry in a commercial or mercantile concern unless the following conditions are met:

- (1) The optometrist executes a contract, in writing, with the lessor, landlord or employer, granting the optometrist independence in the exercise of professional judgment.
- (2) Patient files are under the control of the optometrist.
- (3) Advertising, signs and displays are in compliance with §§ 23.31 and 23.32 (relating to advertising; and display of license).

(4) The space occupied by the optometrist is definite and apart from space occupied by other commercial or mercantile concerns occupying proximate space.

(c) Nothing in this section prohibits an optometrist from paying for rental or franchise fees on a percentage of gross receipts basis.

Authority

The provisions of this § 23.43 amended under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.43 adopted September 16, 1965; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863. Immediately preceding text appears at serial page (88257).

Cross References

This section cited in 49 Pa. Code § 23.31 (relating to advertising); 49 Pa. Code § 23.33 (relating to practice); 49 Pa. Code § 23.36 (relating to consultant, advisor, staff or employe optometry); 49 Pa. Code § 23.61 (relating to general); and 49 Pa. Code § 23.63 (relating to fee sharing).

§ 23.44. Additional practice locations.

(a) No optometrist may establish an additional practice location for the practice of optometry until a notice of intention to do so, together with the fee specified at § 23.91 (relating to fees), has been submitted to the Board in compliance with § 23.33(a) (relating to practice), and a certified duplicate of the optometrist's license has been issued by the Board for permanent display at the new practice location. Separate notice and certification is required for each additional location.

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

(e) The notice to the Board shall specify persons who will be practicing optometry at the proposed new location, in addition to the optometrist filing the notice. If the new location will be owned by a professional corporation or established under a fictitious name, this notice shall certify compliance with the conditions specified at §§ 23.34 and 23.35 (relating to professional corporations; and fictitious names).

(f) [Reserved].

(g) [Reserved].

(h) [Reserved].

(i) [Reserved].

(j) [Reserved].

(k) The Board will maintain records noting the practice locations of each optometrist licensed in this Commonwealth.

Authority

The provisions of this § 23.44 amended under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.44 adopted September 16, 1965; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863. Immediately preceding text appears at serial pages (88257) to (88258).

Cross References

This section cited in 49 Pa. Code § 23.31 (relating to advertising); and 49 Pa. Code § 23.33 (relating to practice).

OPTOMETRY SCHOOLS**§ 23.51. Approval.**

The Board will approve schools of optometry which are accredited by the Council on Optometric Education of the American Optometric Association.

Authority

The provisions of this § 23.51 issued under section 3(b)(11) and (14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3 (b)(11) and (14)).

Source

The provisions of this § 23.51 adopted September 16, 1965; amended March 9, 1984, effective March 10, 1984, 14 Pa.B. 834. Immediately preceding text appears at serial pages (9744) to (9745).

UNLAWFUL PRACTICES**§ 23.61. General.**

(a) Corporations, lay firms and individuals which are not licensed or otherwise approved under this chapter are prohibited from the practice of optometry. Nothing in this section prohibits the employment of an optometrist in compliance with §§ 23.36 and 23.43 (relating to consultant, advisor or staff optometry; and offices).

(b) A corporation, lay firm or individual not licensed or otherwise approved under this chapter, practicing in violation of subsection (a) will be cited for the unlicensed practice of optometry.

(c) [Reserved].

Authority

The provisions of this § 23.61 amended under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.61 adopted September 16, 1965; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863. Immediately preceding text appears at serial page (88260).

§ 23.62. Unlawful practices for optometrists.

(a) [Reserved].

(b) [Reserved].

(c) Aiding and abetting an unlicensed corporation, lay firm or individual in the unlicensed practice of optometry will be grounds for the suspension or revocation of a license.

(d) No optometrist may accept employment or association with an optometrist whose license has been suspended or revoked, during the period of this suspension or revocation. Nothing in this section prohibits the continuing practice of an optometrist previously associated with a revoked or suspended practitioner, so long as the revoked or suspended practitioner is disassociated from participation in the practice during the course of his suspension or revocation.

(e) Licensed optometrists may not engage in unethical or illegal practices or conduct which fails to conform to the acceptable and prevailing standards of optometric practice, or violates State or Federal laws.

Authority

The provisions of this § 23.62 amended under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.62 adopted September 16, 1965; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863. Immediately preceding text appears at serial page (88260).

§ 23.63. Fee sharing.

(a) No optometrist shall divide, share, split, or allocate, either directly or indirectly, any fee for optometric services or materials with any lay person, firm or corporation. This rule shall not be interpreted to prevent an optometrist from paying an employe in the regular course of employment.

(b) No optometrist shall divide or share any fee or compensation for optometric services rendered by him with anyone who is not licensed to practice optometry in this Commonwealth. No division of fees for service shall be made except with another optometrist, based upon a division of services or responsibility.

(c) Nothing in this section prohibits association, incorporation, employment or other contractual arrangements authorized by §§ 23.33—23.36 and 23.43.

Authority

The provisions of this § 23.63 amended under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.63 adopted September 16, 1965; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863. Immediately preceding text appears at serial pages (88260) and (69663).

§ 23.64. Professional conduct.

(a) Registered optometrists shall adhere to the standards of professional conduct which are generally accepted by the profession of optometry of this Commonwealth.

(b) The standards of professional conduct for registered optometrists are higher than, and may not partake of the standards and practices of the market place.

(c) Failure of an optometrist to conform to the standards of professional conduct, including those in § 23.3(12) and (14) (relating to means and methods for the examination, diagnosis and treatment of conditions of the visual system) may subject the optometrist to disciplinary action under section 7 of the act (63 P. S. § 244.7).

(d) An optometrist may terminate the optometric care of a patient who, in the professional opinion of the optometrist, is not adhering to appropriate regimens of care and follow-up.

(1) The optometrist shall notify the patient, in writing, that the optometrist is terminating the professional relationship and the reasons for the termination.

(2) The optometrist shall provide the patient with at least 60 days of continued care after the notice of termination is sent and provide reasonable assistance to the patient to find alternative care.

(3) In addition, the optometrist shall make a copy of the patient's medical record available to the patient or successor eye care provider designated by the patient, and may charge a fee for copying the record consistent with the fees in 42 Pa.C.S. § 6152(a)(2)(i) (relating to subpoena of records).

Authority

The provisions of this § 23.64 amended under section 3(a)(2.1) and (3) and (b)(9) and (14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(a)(2.1) and (3) and (b)(9) and (14)).

Source

The provisions of this § 23.64 adopted September 16, 1965; amended June 3, 2005, effective June 4, 2005, 35 Pa.B. 3220. Immediately preceding text appears at serial page (222972).

§ 23.65. Self-reporting of misconduct required.

(a) An applicant or licensee of the Board shall notify the Board, in writing, within 90 days, of one or more of the following:

(1) A criminal conviction, which term shall include a verdict, a finding of guilt, or a plea of guilty or nolo contendere, to a felony, or to a misdemeanor relating to or arising out of the practice of optometry.

(2) The issuance of a disciplinary action taken by a licensing authority in another state, territory or country.

(3) An in-patient admission to a facility for treatment of a mental disease or disability, or for treatment arising out of the use of alcohol or controlled substances.

(4) Testimony in a court under a grant of immunity or otherwise, admitting misconduct in the practice of optometry, or a violation of the act or this chapter.

(b) The notice required in subsection (a) shall specify the particulars of the event triggering the report sufficient to enable the Board to order additional investigation, in its discretion.

(c) If the Board initiates consequent disciplinary action, compliance with this section may be considered a mitigating circumstance. Failure to comply may be considered an aggravating circumstance, and will be an independent ground for disciplinary action against the applicant or licensee.

Authority

The provisions of this § 23.65 issued under section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.65 adopted October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863.

PROFESSIONAL PRACTICE

§ 23.71. Patient records.

(a) An optometrist shall use professional judgment to determine what services are to be provided to his patients. Records of the actual services rendered shall be maintained for a minimum of 7 years after the last consultation with a patient. Records must indicate when a referral has been made to a physician. An examination may include the following:

- (1) Complete history.
- (2) Uncorrected visual acuity.
- (3) Detailed report of the external findings.
- (4) Ophthalmoscopic examination (media, fundus, blood vessels, disc).
- (5) Corneal curvature measurements (dioptral).
- (6) Static retinoscopy.
- (7) Amplitude of convergence and accommodation.
- (8) Ocular muscle balance.
- (9) Subjective refraction test.
- (10) Fusion.
- (11) Stereopsis.
- (12) Color vision.

- (13) Visual fields (confrontation).
- (14) Visual fields including manual or automated perimetry.
- (15) Prescription given and visual acuity obtained.
- (16) Biomicroscopy (slit lamp).
- (17) Tonometry.
- (18) Prognosis, stable or unstable.
- (19) Pharmaceutical agents used or prescribed, including strength, dosage, number of refills and adverse reaction, if applicable.

(b) An optometrist shall provide a patient with a copy of the patient's contact lens prescription in accordance with the Fairness to Contact Lens Consumers Act (15 U.S.C.A. §§ 7601—7610). An optometrist shall provide a patient with a copy of the patient's spectacle prescription in accordance with the Federal Trade Commission Ophthalmic Practice Rules (16 CFR 456.1—456.4).

Authority

The provisions of this § 23.71 issued under section 3(a)(2.1) and (3)(b)(9) and (14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(a)(2.1) and (3)(b)(9) and (14)).

Source

The provisions of this § 23.71 adopted October 28, 1988, effective October 29, 1988, 18 Pa.B. 4863; amended June 3, 2005, effective June 4, 2005, 35 Pa.B. 3220. Immediately preceding text appears at serial pages (305101) to (305102).

§ 23.72. Prescriptions.

- (a) Optometric prescriptions shall bear:
- (1) The name, address, telephone number, facsimile telephone number and license number of the optometrist.
 - (2) The name of the patient.
 - (3) The date the prescription is issued by the licensed practitioner.
 - (4) The expiration date.
- (b) Contact lens prescriptions shall specify the lens type, the specifications necessary for the ordering and fabrication of the lenses, number of refills and expiration date consistent with the type and modality of use of the contact lens being prescribed, but the expiration date may not be greater than 1 year. The prescription may include a statement of caution if the statement is supported by appropriate findings and documented in the patient's medical record.
- (c) Pharmaceutical prescriptions shall specify the name of the drug prescribed, quantity and potency prescribed, expiration date, number of refills allowed, instructions for use and any indicated precautionary statements.
- (d) Spectacle prescriptions shall specify any information that would be relevant to manufacturing glasses including the dioptic value of the sphere, astigmatism, prism, slab off, add power and axis or orientation of the astigmatism correction. The expiration date of a spectacle prescription may not be greater than 2 years.

Authority

The provisions of this § 23.72 issued under section 3(a)(2.1) and (3) and (b)(9) and (14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(a)(2.1) and (3) and (b)(9) and (14)).

Source

The provisions of this § 23.72 adopted June 3, 2005, effective June 4, 2005, 35 Pa.B. 3220.

CONTINUING EDUCATION**§ 23.81. Coverage.**

(a) This section and §§ 23.82—23.89 apply to all optometrists who are required to be licensed under the act; however, any applicant, upon successful completion of the optometric examination for licensure, shall be exempt from the requirements of continuing education for only the biennial period during which the applicant successfully completed such examination if the applicant takes such examination within two years from his graduation from an accredited college or school of optometry.

(b) Any individual who is in an inactive status or is a retired practitioner is not required to meet the continuing education requirements as outlined in this section §§ 23.82—23.89 except to the extent that, upon application for reactivation, such individual shall be required to show proof of continuing education for the biennial period immediately preceding such request for reactivation.

Source

The provisions of this § 23.81 adopted April 16, 1982, effective April 17, 1982, 12 Pa.B. 1231.

Cross References

This section cited in 49 Pa. Code § 23.84 (relating to provider and program registration); and 49 Pa. Code § 23.89 (relating to falsification of information).

§ 23.82. Continuing education hour requirements.

(a) An applicant for biennial license renewal or reactivation of license is required to complete, during the 2 years preceding renewal or reactivation, a minimum of 30 hours of continuing education. For licensees certified in accordance with section 4.1 of the act (63 P. S. § 244.4a), regarding certification to prescribe and administer pharmaceutical agents for therapeutic purposes, at least 6 of the required 30 hours shall concern the prescription and administration of pharmaceutical agents for therapeutic purposes. For licensees certified in accordance with section 4.2 of the act (63 P. S. § 244.4b), regarding additional requirements to prescribe and administer pharmaceutical agents for the treatment of certain types of glaucoma, at least 4 of the 30 hours shall concern the prescription and administration of pharmaceutical agents for the treatment of glaucoma. The 4 hours taken in the treatment of glaucoma may be applied toward the 6 hours required to maintain therapeutic certification; however, all licensees shall com-

plete at least 30 total hours. Completion of a Board-approved course described in section 4.1(a)(2) of the act or continuing education described in section 4.2 of the act shall satisfy the continuing education requirement for the biennial renewal period in which it is completed including the 6-hour requirement in therapeutics and the 4-hour requirement in glaucoma.

(b) Persons failing to meet the continuing education requirements for any biennial renewal period will be disciplined in accordance with section 7(e) of the act (63 P. S. § 244.7(e)).

(c) The Board may waive the requirements of continuing education in cases of certified illness or undue hardship. It is the duty of each licensee seeking waiver to notify the Board in writing and request the waiver prior to the end of the biennial renewal period for which the waiver is sought. The waiver will be granted, denied or granted in part.

Authority

The provisions of this § 23.82 amended under sections 3(b)(12) and (14), 4.1 and 4.2 of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(b)(12) and (14) 244.4a and 244.4b).

Source

The provisions of this § 23.82 adopted April 16, 1982, effective April 17, 1982, 12 Pa.B. 1231; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1331; amended June 5, 1998, effective June 6, 1998, 28 Pa.B. 2586; amended March 12, 2004, effective March 13, 2004, 34 Pa.B. 1453; amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4147. Immediately preceding text appears at serial pages (302878) and (302879).

Cross References

This section cited in 49 Pa. Code § 23.81 (relating to coverage); and 49 Pa. Code § 23.89 (relating to falsification of information).

§ 23.83. Continuing education subject matter.

(a) Acceptable courses of study are limited to those pertaining to the use of means or methods for examination, diagnosis and treatment of conditions of the human visual system and may include examination for and adapting and fitting of all types of lenses. The Board will not accept courses of study which do not relate to the actual practice of optometry such as studies in office management and financial procedures.

(b) Courses that will meet the requirements for certification in the prescription and administration of pharmaceutical agents for therapeutic purposes in accordance with section 4.1 of the act (63 P. S. § 244.4a) shall concern the treatment and management of ocular or oculo-systemic disease.

(c) Courses that will meet the requirements for certification to treat glaucoma in accordance with section 4.2 of the act (63 P. S. § 244.4b) shall concern the treatment and management of primary open angle glaucoma, exfoliation glaucoma and pigmentary glaucoma.

Authority

The provisions of this § 23.83 amended under section 3(b)(12) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(12)).

Source

The provisions of this § 23.83 adopted April 16, 1982, effective April 17, 1982, 12 Pa.B. 1231; amended March 12, 2004, effective March 13, 2004, 34 Pa.B. 1453. Immediately preceding text appears at serial page (288941).

Cross References

This section cited in 49 Pa. Code § 23.81 (relating to coverage); 49 Pa. Code § 23.84 (relating to provider and program registration); and 49 Pa. Code § 23.89 (relating to falsification of information).

§ 23.84. Provider and program registration.

(a) An agency, organization, institution, association or center seeking to offer an organized program for continuing education may apply to the Board as a provider.

(b) Providers seeking Board approval of continuing education programs shall complete and submit an application as a provider of continuing education.

(c) An application for program approval shall include, but not be limited to, the following information:

- (1) Full name and address of the eligible provider.
- (2) Title of the program.
- (3) Dates and location of the program.
- (4) Faculty names, titles, affiliations, degrees.
- (5) Schedule of program—title of subject, lecturer, time allocated and the like.
- (6) Total number of credit hours requested.
- (7) Method of certifying and assuring attendance.
- (8) Provider number where applicable.
- (9) Provider category.
- (10) Objectives.
- (11) Admission requirements.
- (12) Core subjects.
- (13) Program coordinator.
- (14) Instruction and evaluation methods.

(d) Statements made in the application shall be sworn to be true and correct to the best of the provider's information, knowledge and belief.

(e) Upon approval of a qualified provider, a provider number will be assigned; and upon approval of any program, a program number will be assigned except for those providers listed in § 23.81(a) (relating to coverage).

(f) Programs will be approved only in demonstrated areas of expertise. A change in the area of expertise shall be recorded and communicated to the Board within 60 days of that change. The Board will accept a designation that the particular provider is qualified to provide continuing education in all subject matter as set forth in § 23.83 (relating to continuing education subject matter) so long as expertise can be shown.

(g) Disapproval of program will include a statement setting forth reasons. Applicants may submit new applications within 10 days after receipt of disapproval. New applications shall document alterations in program to meet Board requirements. Notification will occur as soon as possible within the Board's capability on action taken on new applications.

(h) Each approved provider shall request reregistration each biennium, and each application for reregistration shall be accompanied by a statement outlining any major changes in the information previously submitted.

(i) Programs approved to grant continuing education hours in therapeutics or glaucoma shall indicate the number of credits approved in each area on the certificate of attendance. Preapproved providers shall also indicate on the certificate of attendance how many credits will apply toward the requirement for renewal of therapeutic or glaucoma certification.

Authority

The provisions of this § 23.84 amended under section 3(b)(12) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(12)).

Source

The provisions of this § 23.84 adopted April 16, 1982, effective April 17, 1982, 12 Pa.B. 1231; amended March 12, 2004, effective March 13, 2004, 34 Pa.B. 1453. Immediately preceding text appears at serial pages (288942) and (244909).

Cross References

This section cited in 49 Pa. Code § 23.81 (relating to coverage); and 49 Pa. Code § 23.89 (relating to falsification of information).

§ 23.85. Standards for providers.

(a) Prior to approval, each provider is required to do the following:

- (1) Establish a mechanism measuring the quality of the program being offered.
 - (2) Establish criteria for selecting and evaluating faculty.
 - (3) Establish criteria for the evaluation of each program upon completion.
- (b) The provider shall provide adequate facilities and appropriate instructional materials to carry out continuing education programs.
- (c) The provider shall ensure that instructors have suitable qualifications and are of good reputation and character.

Source

The provisions of this § 23.85 adopted April 16, 1982, effective April 17, 1982, 12 Pa.B. 1231.

Cross References

This section cited in 49 Pa. Code § 23.81 (relating to coverage); 49 Pa. Code § 23.86 (relating to sources of continuing education hours); and 49 Pa. Code § 23.89 (relating to falsification of information).

§ 23.86. Sources of continuing education hours.

(a) In addition to another provider which wishes to secure approval from the Board, the Board finds that the following providers have currently met the standards for provider approval for all acceptable courses of continuing education; accordingly, the following providers have program approval in all allowable areas for continuing education: the American Optometric Association, the Pennsylvania Optometric Association, all Board-accredited schools and colleges of optometry, the College of Optometrists in Vision Development (COVD), the Council on Optometric Practitioner Education (COPE), eye and vision-related continuing education courses offered by accredited medical colleges, as defined in section 2 of the Medical Practice Act of 1985 (63 P. S. § 422.2), the Optometric Extension Program, the American Academy of Optometry and its state affiliates, the American Academy of Ophthalmology and its state affiliates, and eye and vision-related courses offered by the American Medical Association and its state affiliates. The approval given to these providers is subject to reevaluation. A rescission of provider or program approval will be made only in accordance with 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

(b) Courses which are provided by providers not indicated in subsection (a) will count as continuing education hours provided that the provider and subject matter are approved by the Board prior to implementation of the course. In addition, credits may be obtained on an individual basis for attendance at programs which have not had prior approval of the Board so long as the individual submits proper application for program approval and supporting documentation and verification of attendance; however, in this instance, the licensee cannot guarantee himself proper credit from the Board unless the Board finds such course to be in compliance with the subject matter and the provider to be qualified.

(c) It shall be permissible to attend clinical conferences, clinical rounds, or training under a preceptor through clinical hospitals, medical centers, schools, and colleges which are acceptable at the rate of one continuing education hour for every 50 minutes.

(d) Credit hours will be given for correspondence programs, taped study programs, and other individual study programs at the rate of 1 continuing education hour for every 50 minutes. However, proper credit being given for such program is dependent upon the licensee proving, to the satisfaction of the Board, that the program meets the provisions of § 23.85 (relating to standards for providers).

(e) Credit hours will be credited for service as a teacher, preceptor, lecturer, or speaker and for publications, articles, books, and research relating to the practice of optometry. Application should be made prior to the service to assure that approval will be given by the Board to the program. Otherwise, the licensee will be required to secure retroactive approval as set forth in subsection (b).

(f) Each licensee is required to fulfill the continuing education hours using the following allocations:

(1) Subsections (a) and (b) count for a minimum of 50%. Continuing education hours may be completed from subsections (a) and (b).

(2) Subsections (c), (d) or (e) may be used up to a maximum of 25% of the required biennial credit hours. In no case may the combined total from these three subsections exceed 50% of the total biennial requirement of 30 hours.

Authority

The provisions of this § 23.86 amended under sections 3(b)(12) and (14) and 4.2 of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(b)(12) and (14) and 244.4b).

Source

The provisions of this § 23.86 adopted April 16, 1982, effective April 17, 1982, 12 Pa.B. 1231; amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4147. Immediately preceding text appears at serial pages (302883) to (302884).

Cross References

This section cited in 49 Pa. Code § 23.81 (relating to coverage); and 49 Pa. Code § 23.89 (relating to falsification of information).

§ 23.87. Reporting of continuing education credit hours.

Applicants for a license or license renewal shall provide, at a time prescribed and on forms approved by the Board, a signed statement certifying that they have met the continuing education requirements set forth in section 5(b) of the act (63 P. S. § 244.5(b)) by providing information which shall include the following:

- (1) Dates attended.
- (2) Continuing education hours claimed.

(3) Title of course, including the course number assigned by the Board, if applicable, and description of content. For those courses which are approved to meet the requirements for therapeutic or glaucoma certification, the licensee claiming credit shall ensure that the certificate of attendance includes the course number and number of hours that apply toward the requirement for therapeutic or glaucoma certification.

(4) School, clinical hospital, medical center, optometric center or organization sponsoring course, clinical conference, clinical rounds or preceptor training.

(5) Instructor.

(6) Name of licensee.

Authority

The provisions of this § 23.87 amended under section 3(b)(12) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(12)).

Source

The provisions of this § 23.87 adopted April 16, 1982, effective April 17, 1982, 12 Pa.B. 1231; amended March 12, 2004, effective March 13, 2004, 34 Pa.B. 1453. Immediately preceding text appears at serial pages (222978) and (266007).

Cross References

This section cited in 49 Pa. Code § 23.81 (relating to coverage); and 49 Pa. Code § 23.89 (relating to falsification of information).

§ 23.88. Retention of continuing education records.

Primary responsibility for documenting the continuing education requirements rests with the licensees. The evidence to support fulfillment of those requirements shall be maintained for 6 years after the completion of educational courses. Satisfactory documentation of the necessary information, including the retention of attendance records and written outlines, may be accomplished as follows:

- (1) For courses delivered by an approved sponsor or provider, the provider is required to provide each registrant with certification or documented evidence of attendance and satisfactory completion of the courses. The provider is also required to retain records for a minimum of 4 years. The records shall be made available to the Board, upon request.
- (2) To qualify, all other continuing education hours shall receive written approval from the Board, which approval shall be retained by the applicant for 6 years.

Source

The provisions of this § 23.88 adopted April 16, 1982, effective April 17, 1982, 12 Pa.B. 1231; corrected August 14, 1992, effective August 14, 1982, 22 Pa.B. 4228. Immediately preceding text appears at serial page (171203).

Cross References

This section cited in 49 Pa. Code § 23.81 (relating to coverage); and 49 Pa. Code § 23.89 (relating to falsification of information).

§ 23.89. Falsification of information.

Falsification of information required under §§ 23.81—23.88 may result in the suspension or revocation of one’s license or the withdrawal of program approval.

Source

The provisions of this § 23.89 adopted April 16, 1982, effective April 17, 1982, 12 Pa.B. 1231.

Cross References

This section cited in 49 Pa. Code § 23.81 (relating to coverage).

FEES

§ 23.91. Fees.

The following is the schedule of fees for services charged by the Board:

License application	\$25
Certified copy of license for each additional practice location	\$20
Certification of scores or licensure, or both	\$25

Verification of licensure	\$15
Biennial renewal—optometrist license	\$135
Biennial renewal—certified copy of license for each additional practice location	\$20
Application for certification to prescribe and administer pharmaceutical agents for therapeutic purposes	\$25
Application for continuing education program approval	\$45
Application for certification to treat glaucoma	\$25

Authority

The provisions of this § 23.91 issued under the Optometric Practice and Licensure Act (63 P. S. §§ 244.1—244.12); amended under sections 3(b)(12) and (14), 4.2 and 9 of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(b)(12) and (14), 244.4b and 244.9).

Source

The provisions of this § 23.91 adopted October 15, 1982, effective October 16, 1982, 12 Pa.B. 3737; amended August 26, 1988, effective August 27, 1988, 18 Pa.B. 3809; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3497; amended May 23, 1997, effective May 24, 1997, 27 Pa.B. 2543; amended May 12, 2000, effective May 13, 2000, 30 Pa.B. 2355; corrected May 19, 2000, effective May 13, 2000, 30 Pa.B. 2475; amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4147. Immediately preceding text appears at serial pages (266007) to (266008).

Cross References

This section cited in 49 Pa. Code § 23.12 (relating to application procedure); 49 Pa. Code § 23.21 (relating to reciprocal application); 49 Pa. Code § 23.25 (relating to certification to another state); 49 Pa. Code § 23.26 (relating to volunteer license); 49 Pa. Code § 23.44 (relating to additional practice locations); 49 Pa. Code § 23.202 (relating to application procedure); and 49 Pa. Code § 23.205 (relating to application procedure).

DISCLOSURE

§ 23.101. Disclosure of financial or ownership interest—statement of policy.

(a) *Purpose.* This section implements the act of May 26, 1988 (P. L. 403, No. 66) (35 P. S. §§ 449.21—449.23).

(b) *Requirement.* A licensee of the Board referring a patient for health-related services, devices or products to a business, service provider, facility or entity in which the licensee or a member of the licensee’s family has a financial or ownership interest to any extent or degree, shall disclose that interest prior to making the referral, and shall notify the patient of his freedom to choose an alternate provider.

(c) *Guidelines for disclosure.*

(1) *Posting notice of disclosure requirement.* It is recommended that compliance with the disclosure requirement include the prominent posting of a printed notice at least 8 1/2" x 11", legible from 3 feet, posted in the patient waiting area, as follows:

“Treatment in this office may include a referral for further health-related services, devices or products. Pennsylvania law requires any health-care

practitioner to disclose to you any financial interest he has in any health-care facility in which he recommends further health-related services, devices or products. (Act 66-1988)”

(2) *Written notice.* When a licensee of the Board makes such a referral, the licensee or a delegate should advise the patient and retain the following document in the patient’s file:

“I have been referred to _____. I understand that my (licensee’s profession) has a financial interest in this business, and that I am free to choose an alternate provider.”

(Signature of Patient)

Source

The provisions of this § 23.101 adopted June 26, 1992, effective June 27, 1992, 22 Pa.B. 3187.

CHILD ABUSE REPORTING REQUIREMENTS

§ 23.111. Suspected child abuse—mandated reporting requirements.

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), optometrists who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Optometrists who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the optometrist, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d).

(c) *Reporting procedure.* Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.

- (2) *Written reports.* Written reports shall be made within 48 hours after the oral report is made by telephone. Written reports shall be made on forms available from a county children and youth social service agency.
- (d) *Written reports.* Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available:
- (1) The names and addresses of the child and the parents or other person responsible for the care of the child, if known.
 - (2) Where the suspected abuse occurred.
 - (3) The age and sex of the subjects of the report.
 - (4) The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or siblings of the child.
 - (5) The name and relationship of the persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by those persons.
 - (6) Family composition.
 - (7) The source of the report.
 - (8) The person making the report and where that person can be reached.
 - (9) The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.
 - (10) Other information which the Department of Public Welfare may require by regulation.

Authority

The provisions of this § 23.111 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(b)(14) of the Optometric Practice and Licensure Act (63 P.S. § 244.3(b)(14)).

Source

The provisions of this § 23.111 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5395.

Cross References

This section cited in 49 Pa. Code § 23.116 (relating to noncompliance).

§ 23.112. Photographs, medical tests and X-rays of child subject to report.

An optometrist may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

Authority

The provisions of this § 23.112 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(b)(14) of the Optometric Practice and Licensure Act (63 P.S. § 244.3(b)(14)).

Source

The provisions of this § 23.112 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5395.

Cross References

This section cited in 49 Pa. Code § 28.116 (relating to noncompliance).

§ 23.113. Suspected death as a result of child abuse—mandated reporting requirement.

An optometrist who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner of the county where the injuries were sustained.

Authority

The provisions of this § 23.113 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(b)(14) of the Optometric Practice and Licensure Act (63 P.S. § 244.3(b)(14)).

Source

The provisions of this § 23.113 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5395.

Cross References

This section cited in 49 Pa. Code § 23.116 (relating to noncompliance).

§ 23.114. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability), an optometrist who participates in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs shall have immunity from civil and criminal liability that might result by reason of the optometrist's actions. For the purpose of any civil or criminal proceeding, the good faith of the optometrist shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of an optometrist's actions in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs.

Authority

The provisions of this § 23.114 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(b)(14) of the Optometric Practice and Licensure Act (63 P.S. § 244.3(b)(14)).

Source

The provisions of this § 23.114 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5395.

§ 23.115. Confidentiality—waived.

To protect children from abuse, the reporting requirements of this chapter take precedence over provisions of the act as defined in § 23.1 (relating to definitions) and other ethical principles or professional standards that might otherwise apply to optometrists.

Authority

The provisions of this § 23.115 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.115 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5395.

§ 23.116. Noncompliance.

(a) *Disciplinary action.* An optometrist who willfully fails to comply with the reporting requirements in §§ 23.111—23.113 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 7(8), (10) and (11) of the act (63 P. S. § 244.7(8), (10) and (11)).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), an optometrist who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

Authority

The provisions of this § 23.116 issued under the Child Protective Services Law, 23 Pa.C.S. § 6383(b)(2); and section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.116 adopted November 8, 1996, effective November 9, 1996, 26 Pa.B. 5395.

**CERTIFICATION IN PHARMACEUTICAL AGENTS FOR
THERAPEUTIC PURPOSES**

§ 23.201. [Reserved].

Source

The provisions of this § 23.201 adopted June 5, 1998, effective June 8, 1998, 28 Pa.B. 2586; amended June 14, 2002, effective June 15, 2002, 32 Pa.B. 2886. Immediately preceding text appears at serial pages (244914) to (244915).

§ 23.202. Application procedure.

(a) An applicant for certification under section 4.1(a)(1) of the act (63 P. S. § 244.4a(a)(1)) shall submit the following to the Board:

(1) A completed application obtained from the Board together with the certification fee required by § 23.91 (relating to fees).

(2) Certification on a form provided by the Board from an accredited optometric educational institution in the United States or Canada that the applicant graduated from the institution and that a condition for the applicant's graduation was the successful completion of a minimum of 100 hours in the prescription and administration of pharmaceutical agents for therapeutic purposes.

(3) Certification from the NBEO that the applicant obtained a passing score on the licensure examination to practice optometry which examination included the prescription and administration of pharmaceutical agents for therapeutic purposes.

(b) An applicant for certification under section 4.1(a)(2) of the act shall submit the following to the Board:

(1) A completed application obtained from the Board together with the certification fee required by § 23.91.

(2) Certification on a form provided by the Board from an accredited optometric educational institution in the United States or Canada that the applicant has successfully completed its course consisting of a minimum of 100 hours in the prescription and administration of pharmaceutical agents for therapeutic purposes.

(3) Certification from the NBEO that the applicant has obtained a passing score on an examination on the prescription and administration of pharmaceutical agents for therapeutic purposes, which examination was prepared and administered by a qualified and approved testing organization.

(c) On and after June 6, 1998, applicants for licensure as optometrists by examination who meet the qualifications set forth in the act shall be certified to prescribe and administer pharmaceutical agents for therapeutic purposes without further application.

Authority

The provisions of this § 23.202 issued under sections 3(b)(14) and 4.1 of the Optometric Practice and Licensure Act (63 P. S. §§ 2443(b)(14) and 244.4a).

Source

The provisions of this § 23.202 adopted June 5, 1998, effective June 6, 1998, 28 Pa.B. 2586; amended June 14, 2002, effective June 15, 2002, 32 Pa.B. 2886. Immediately preceding text appears at serial pages (244915) to (244916).

CERTIFICATION TO TREAT GLAUCOMA**§ 23.205. Application procedure.**

An applicant for certification to treat glaucoma under section 4.2 of the act (63 P. S. § 244.4b) shall submit to the Board a completed application obtained from the Board together with the certification fee required by § 23.91 (relating to fees), and one of the following.

(1) A signed verification attesting that the licensee obtained therapeutic certification by passing the licensure examination to practice optometry. The examination shall have included the prescription and administration of pharmaceutical agents for therapeutic purposes (the examination required for therapeutic certification under section 4.1(a)(1) of the act (63 P. S. § 244.4a(a)(1)). The verification shall state the month and year the licensee passed this examination.

(2) A signed verification attesting that the licensee obtained therapeutic certification by passing an examination on the prescription and administration of pharmaceutical agents for therapeutic purposes (the examination required for therapeutic certification under section 4.1(a)(2) of the act) and certificates of attendance from Board-approved continuing education courses demonstrating at least 18 hours in glaucoma, completed since December 19, 2002.

Authority

The provisions of this § 23.205 issued under sections 3(b)(12) and (14) and 4.2 of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(b)(12) and (14) and 244.4b).

Source

The provisions of this § 23.205 adopted August 6, 2004, effective August 7, 2004, 34 Pa.B. 4147.

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