

Mississippi State Board of Optometry Rules and Regulations

Title 30: Professions and Occupations

Part 2901: Mississippi State Board of Optometry Rules and Regulations

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Mississippi State Board of Optometry Rules and Regulations

Title 30: Professions and Occupations

Part 2901: Mississippi State Board of Optometry Rules and Regulations

Part 2901 Chapter 1: Examinations

Rule 1.1 Definitions.

The following words and terms, when used in these Rules and Regulations, shall have the following meanings, unless the context clearly indicates otherwise.

- (a) Open Records Act – Mississippi Public Record Act of 1983.
- (b) NBEO – National Board of Examiners in Optometry
- (c) Counsel – Attorney General’s Office
- (d) Executive Director – The person or entity hired to provide management services for the Board.
- (e) Diagnostic Optometrist – An optometrist certified to use diagnostic pharmaceutical agents.
Therapeutic Optometrist – An optometrist certified to use therapeutic pharmaceutical agents.

Source: *Miss Code Ann.* § 73-19-1; §73-19-101; §73-19-151

Rule 1.2 Applications.

- (a) The applicant shall make application to the Executive Director, on forms to be furnished by the board.
- (b) Such application shall contain references as to good moral character from at least two optometrists licensed by the State of Mississippi and who are actively engaged in the practice of optometry, and in good standing. In the event this is not possible, affidavits from two persons not related to the applicant or to each other, who have known the applicant for at least five years, attesting to the good moral character of the applicant, will be acceptable.
- (c) The applicant shall provide certification of passage of the National Board of Examiners of Optometry examination.
- (d) Such application shall be subscribed and sworn to by the applicant before any officer legally qualified to administer oaths.
- (e) Any person furnishing false information in such application shall be denied the right to take the examination, or if the applicant has been licensed before it is made known to the board of the falseness of such information, such license shall be subject to suspension, revocation, or cancellation.

- (f) Certified copies of the transcript of record from preoptometry and optometry colleges attended by the applicant shall accompany each application, which certified transcript of record shall show the total number of hours of attendance, the subjects studied, the grades or marks given, and the date of graduation of the applicant. All institutions accredited by a regional or professional accreditation organization that is recognized or approved by the Council on Postsecondary Accreditation of the United States Department of Education or its successor, are hereby approved by the board.
- (g) The completed application and examination fee must be filed with the Executive Director not later than 30 days prior to the date of the examination. In the event an applicant intends to retake the examination, the fee therefore and the notice to this intention to retake said examination must also be in the Executive Director's office 30 days prior to the date of the examination.
- (h) The fee for taking the initial examination shall be \$200 for Mississippi residents and \$300 for non-residents.
- (i) No application fee for examination will be returned to any applicant after the application has been approved by the board, because of the decision of the applicant not to stand for the examination or failure for any reason to take the examination.

Source: *Miss Code Ann.* § 73-19-17

Rule 1.3 National Board Examination.

- (a) The board determines that the written examination by the National Board of Examiners in Optometry (NBEO) complies in all material respects with the examination requirements of the Act.
- (b) Each applicant shall submit a true and correct copy of the applicant's score report to the Executive Director, and such other evidence of having achieved a passing grade on each Part of the NBEO examination as the Executive Director may determine.

Source: *Miss Code Ann.* § 73-19-17; §73-19-153

Rule 1.4 Examination Administration.

- (a) The examination administered by the board, shall consist of two sections, one of which shall be the Pharmacology examination, and one shall be a written jurisprudence examination. The passing grade shall be 70.
- (b) Examination for a license to practice optometry in this state shall be conducted in the English language in writing and by such other means as the board shall determine adequate to ascertain the qualifications of the applicant. Each applicant shall be given due notice of the date and place of examination.
- (c) Prior to an examination, the Executive Director or a member of the board designated by the chairman shall prepare a tentative schedule showing the time allotted to each examination and the order in which each will be given, said schedule to meet the approval of a majority of the members of the board. The tentative schedule of examination, and any changes made therein as the examination proceeds, shall be made known to the applicants during each day of the examination.

- (d) Applicants shall not communicate any words or signs with another applicant while the examination is in progress without the permission of the presiding examiner, nor leave the examination room except when so permitted by the presiding examiner. Violations of this rule shall subject the offender to expulsion.
- (e) One member of the board, or delegated proctor, shall at all times be in the exam room while the examination is in progress and no persons except applicants, board members, employees of the board or persons having the express permission of the board shall be permitted in the examination rooms.
- (f) At the beginning of an examination each applicant shall be assigned a number. Applicants shall use the number assigned to them for purposes of identification throughout the examination, and no applicant name or any other identification mark other than the assigned number shall be entered on any paper containing answers to the questions of an examination. Members of the board shall in every way endeavor to avoid identification of an applicant prior to the awarding of the general averages.
- (g) When examination papers are delivered to the presiding examiner, they become the property of the board and shall not be returned to the applicant. Each board member shall be responsible for his own examination papers until after final grading and awarding of general averages. All test papers must, at this point, be retained in the board office to be preserved for a period of 30 days after final grading in order to allow an unsuccessful candidate the opportunity to request an analysis of such person's performance, which request must be made in writing within such 30-day period.

Source: *Miss Code Ann.* § 73-19-9

Rule 1.5 Re-examinations.

- (a) Any applicant taking the board examination for the second time who has failed to pass one or more of the tests will be required to retake all tests which were failed.
- (b) If a candidate has not passed the board after a second examination, the candidate will not be permitted to retake the examination until he has completed a further course of study outlined by the board and paid the examination fee therefor.
- (c) An applicant will be considered to be taking the board examination for the first time regardless of the number of previous examinations taken if the examination is not taken within two years (two consecutive examinations as given by the board) following the last failure.
- (d) In case of failure of any examination, after the expiration of six (6) months, and within two (2) years, the applicant shall have the privilege of retaking the examination without payment of an additional fee. (73-19-17)

Source: *Miss Code Ann.* §73-19-17; §73-19-19

Rule 1.6 Examination review procedure:

- (a) Each individual who takes the examination for licensure as an optometrist and does not pass the examination shall be provided with copies of his/her examination scores upon notification or his/her failure of the examination. In addition, the failing

candidate shall be provided with a copy of this regulation so that she/he will be fully advised of the review procedure.

- (b) If the failing candidate desires to see his/her failing criteria; she/he may make a written request for such information from the board. The board will see to it that contents of the examination are made available for the candidate's review for a period of up to 2 hours. The failing candidate will not be permitted to copy or reproduce anything, however, as the integrity of the examination must be preserved.
- (c) If a failing candidate desires to request a review by this board of his/her examination results, she/he must file a written request for review within ninety (90) days of the date of the notice of the failure of examination. The request must be in writing, sent by certified mail return receipt requested, and must be received in the office of the board on or before five (5) o'clock p.m. on the ninetieth (90) day.
- (d) The written request for review by the board must state with sufficient clarity the reasons why the applicant feels the results of the examination should be changed. If the board determines that the request does not adequately state the reasons for review, the board may either dismiss the review or request additional information from the candidate, and the board may extend the deadline mentioned above in order to permit elaboration by the candidate.
- (e) Upon receipt of the written request for review, the board may conduct a review of the examination results and the written request for review in a closed session. This closed session review by the board may be conducted at a time and place to be determined by the board in its complete discretion.
- (f) If the candidate requests, an informal conference will be scheduled by the board. The informal conference may occur in closed session at a regularly scheduled board meeting and may be attended by the individual board members attending the meeting, the board's legal counsel or a representative or the Attorney General's office, and the candidate. The candidate may choose to be represented by counsel, however, counsel for the candidate will not be permitted to engage in discussions with the board. Counsel for the candidate may advise the candidate, but any questions propounded by the board to the candidate are to be answered by the candidate. The candidate will be afforded the opportunity to discuss his or her examination results with the board, but the board will not be required to answer questions propounded by the candidate.
- (g) The burden will be on the candidate to show substantial cause why the results should be changed. The board will consider the following to be adequate reasons for modification of examination results:
 - (1) A showing of significant procedural error in the examination process
 - (2) Evidence of bias, prejudice, or discrimination in the examination process
 - (3) Clearly erroneous grading
 - (4) Other significant errors which result in substantial disadvantage to the candidate

Source: *Miss Code Ann* § 73-19-9; §73-19-153

Rule 1.7 The Mississippi State Board of Optometry will consider any licensed optometrist

applying for licensure by reciprocity on a case-by-case basis as provided for in Section 73-19-25, Miss. Code Ann. (1972) as amended. The criteria for a license under this provision will include a determination of the following factors:

- (a) Whether or not the person has passed or failed a written examination in another state;
- (b) Whether the other state board similarly accredits the holder of a license issued by the Mississippi State Board;
- (c) Whether the applicant pays a \$50.00 fee, in addition to a prorated licensing fee.
- (d) Whether the applicant causes the other state board to file a true and attested copy of the other state license (certified by the president or secretary of that State Board issuing the license); the license must be mailed directly from the other state licensing board;
- (e) Whether the applicant establishes that the standard requirements adopted and enforced by the other state are equal to that provided by this state;
- (f) Whether or not the applicant has previously failed an examination administered by the Mississippi State Board.
- (g) Whether or not the applicant has taken and passed the examination on Mississippi Law and Rules and Regulations.

Source: *Miss Code Ann.* §73-19-25

Part 2901 Chapter 2. Administration.

Rule 2.1 Open Records.

The following regulation is enacted for the purpose of providing reasonable written procedures concerning the cost, time, place, and method of access, under the provisions of the Mississippi Public Record Act of 1983 (Open Records Act). It is not intended that these procedures shall apply to any public record or other document, which is exempt from the provisions of said Act or not covered by the provisions of the Open Records Act.

- (a). Any individual seeking to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of the board should make a written request, signed by themselves to be mailed to the Executive Director, Mississippi State Board of Optometry, Post Office Box 12370, Jackson, MS 39236.
- (b). The written request must be typed or clearly hand printed on a letter size piece of paper and shall specify in detail the public record sought. The request should include, if possible, a description of the type of record, dates, title of a publication, and other information which may aid in locating the record.
- (c). The written request must specify what the applicant proposes to do with the record, i.e., inspect, copy, etc. state the date and time for the proposed activity; state the number of persons scheduled to participate; and shall provide the name, address, and home and office telephone number of the applicant.

(d). The Executive Director, upon receipt of any such request, shall review same and determine whether the records sought are exempt under the Mississippi Public Records Act, and shall either produce records or access to records or deny access to or production of the records sought within seven (7) working days from the date of the receipt of the request for the production of the record. If the Board is unable to produce a public record by the seventh working day after the request is made, the Board will provide a written explanation to the person making the request stating that the record requested will be produced and specifying with particularity why the records cannot be produced within the seven-day period. Unless there is a mutual agreement of the parties, in no event shall the date for the Board's production of the request records be any later than fourteen (14) working days from the receipt of the original request.

(e.) All inspection, copying or mechanical reproduction shall be done in the offices of the Board or such other reasonable place within the State of Mississippi as may be designated by the Board. It shall be the duty of the applicant to contact the Executive Director by phone before noon of the first working day preceding the proposed date set out in the application to determine if same is acceptable and, if not, what date and/or time will be substituted.

(f). Where possible, nonexempt material will be separated from exempt material and only the exempt material will be withheld.

(g). If the Executive Director determines that the records requested are exempt or privileged under the law, she shall deny the request and shall send the person making the request a statement of the specific exemption relied upon by the Board for the denial. Such denials shall be kept on file for inspection by any person for three (3) years. This file shall be made available for inspection or copying or both during regular office hours to any person upon written request.

(h) The Executive Director is authorized to calculate the estimated cost of searching, obtaining from storage, reviewing, shipping and/or duplicating records and to require payment in advance of such estimated charges prior to complying with the request. There shall be a charge of \$0.50 per page for each copy. Copies printed on both sides (front & back) shall be considered as two pages for copy charge purposes. Mailing cost shall be calculated at the applicable rate for each such mailing. If request involves notice to be given to a third party, the cost of mailing such notice via certified mail return receipt requested shall be charged to the person requesting such public records. In the event the actual cost of such activity exceeds the estimate, the Executive Director is authorized to withhold mailing or delivery of said documents or to delay the inspection until the difference is paid.

(i). There shall be no charge for inspection of the current Board's records maintained at the Board office. Cost of obtaining records from any state storage facilities and the search for it shall be charged to the applicant.

(j). The Executive Director may waive any or all of the foregoing requirements related to written notice, time, and method of access prepayment of expenses whenever the determination is made that such waiver would be in the public interest.

Source: Miss Code Ann §25-41-3

Rule 2.2 Public Participation in Meetings.

A scheduled time shall be established on each agenda to allow the opportunity for public comment on any issue under the jurisdiction of the board. The time allowed an individual spokesperson may be limited at the discretion of the chair.

Source: *Miss Code Ann.* §25-41-3

Rule 2.3 Organization

- (a). The Board shall consist of five (5) members appointed by the Governor, with advice and consent of the Senate.
- (b). Each member shall be appointed from a list submitted by The Mississippi Optometric Association consisting of its three (3) members, or by appointment by any qualified member of the association, all of whom must be residents of Mississippi.
- (c). Initial appointments to the Board will be for staggered terms. All subsequent appointments to the Board shall be appointed by the Governor for the terms of five (5) years from the expiration date of the previous term. No person shall be appointed for more than two (2) consecutive terms. Each member shall remain in office after the expiration of his term until his successor shall be duly appointed and qualified.
- (d). Board members shall receive the per diem authorized under Section 25-3-69 of the Miss. Code Ann. (1972) as amended for each day actually discharging his official duties, and shall receive reimbursement for mileage and necessary expense incurred, as provided in Section 25-3-41 of the Miss. Code Ann. (1972) as amended.
- (e). No person so appointed shall be a stockholder or a member of the faculty or the board of trustees of any school of optometry.
- (f). The Board shall organize by the election from its members of a president and a secretary, who shall hold their respective offices for one (1) year.
- (g). A majority of the board shall constitute a quorum, but a less number by adjourn from time to time.

Source: *Miss Code Ann.* § 73-19-7

Rule 2.4 Board Operations

- (a). The Board shall make such rules and regulation as may be necessary to carry out the provisions of the statute; provided, however, that it shall require the concurrence of a majority of the member of the board to grant or revoke a license.
- (b). The Board shall hold meetings for examination, beginning on the second week of January and July of each year, and additional meetings at such times and places as the board shall determine, said additional meetings not to exceed ten (10) meeting days annually, but the July meeting shall be held in the City of Jackson.
- (c). Meeting dates, times, and locations are published in the Board's minutes.
- (d). An organizational meeting shall be held in January of even numbered years for the purpose of electing officers.

Rule 2.5 Oral Proceeding.

- (a). The Board will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule.
- (b). Each request must be printed, typewritten, or legibly handwritten. Each request must be submitted on standard business letter-sized paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Board and signed by the requestor(s).
- (c). The date, time, and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with the Secretary of State.
- (d). The Chairman or his designee, who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.
- (e). Public Presentations and Participation
- (1) At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.
 - (2) Persons wishing to make oral presentations at such a proceeding shall notify the Board at least one (1) business day prior to the proceeding and indicate the general subject of their presentations. The presiding officer, in his or her discretion may allow individuals to participate that have not previously contacted the Board.
 - (3) At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
 - (4) The presiding officer may place time limitations on individual oral presentations when necessary to ensure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
 - (5) Persons making oral presentations are encouraged to avoid restating matters that have already been stated or matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceedings.
 - (6) There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion interrupt or end the participant's time where the orderly conduct of the proceeding so requires.
- (f). Conduct of Oral Proceeding

(1) Presiding Officer. The presiding officer shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceedings.

The presiding officer shall:

- (a) call the proceeding to order;
- (b) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by the Board for the proposed rule;
- (c) call on those individuals who have contacted the Board about speaking on or against the proposed rule;
- (d) allow for rebuttal statements following all participant's comments;
- (e) adjourn the proceeding.

(2) Questions. The presiding officer where time permits and to facilitate the exchange of information, may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matters relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding, but no participant shall be required to answer any questions.

(3) Physical and Documentary Submissions. Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Board and are subject to the Board's public records request procedure.

(4) Recording. The Board may record oral proceedings by stenographic or electronic means.

Source: *Miss Code Ann.* § 25-43-2.105 (Rev. 2006)

Rule 2.6 Declaratory Opinions

These rules set forth the Mississippi State Board of Optometry hereinafter "Board", rules governing the form and content of requests for declaratory opinions, and the Board's procedures regarding the requests as required by Mississippi Code 305. These rules are intended to supplement and to be read in conjunction with the provisions of the Mississippi Administrative Procedure Law, which contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between these rules and the Mississippi Administrative Procedure Law, the latter shall govern:

(a) Any person with a substantial interest in the matter may request a declaratory opinion from the Board by following the specified procedures. "Substantial interest in the subject matter" means: an individual, business, group, or other entity that is directly affected by the Board's administration of the law within its primary jurisdiction. "Primary jurisdiction of the Board" means the Board has a constitutional or statutory grant of authority in the subject matter at issue.

(b) The Board will issue a declaratory opinion regarding the applicability to specified facts of:

- (1) a statute administered or enforceable by the Board, or
- (2) a rule promulgated by the Board.

The Board will not issue a declaratory opinion regarding a statute or rule which is outside the primary jurisdiction of the agency.

(c) The Board may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

- (1) lack of clarity;
- (2) there is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make and answer unnecessary;
- (3) the statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
- (4) the facts presented in the request are not sufficient to answer the question presented;
- (5) the request fails to contain information by these rules or the requestor failed to follow the procedure set forth in these rules;
- (6) the request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statutes or rule on which a declaratory opinion is sought;
- (7) no controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute or rule;
- (8) the question presented by the request concerns the legal validity of a statute or rule;
- (9) the request is not based upon facts calculated to aid in the planning of future conduct but is, instead, based on past conduct in an effort to establish the effect of that conduct;
- (10) clear answer is determinable;
- (11) the question presented by the request involves the application of a criminal statute or a set of facts which may constitute a crime;
- (12) the answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
- (13) the question is currently the subject of an Attorney General's opinion request which has been answered by an Attorney General's opinion;
- (14) a similar request is pending before this Board or any agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law;
- (15) where issuance of a declaratory opinion may adversely affect the interest of the State, the Board or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise;
- (16) the question involves eligibility for a license, permit, certificate, or other approval by the Board or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate, or other approval would be determined.

(d). Each request must be printed or typewritten, or legibly handwritten. Each request must be submitted on standard business letter-sized paper (8-1/2 inches by 11 inches). Request may be in the form of a letter addressed to the Board.

(e). All requests must be mailed, delivered, or transmitted via facsimile to the Board. The request shall clearly state that it is a request for a declaratory opinion. No oral telephone requests or e-mail requests will be accepted.

(f) Each request must include the full name, telephone number, and , mailing address of the requestor. All requests shall be signed by the person filing the request, who shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any other administrative or judicial tribunal.

(g). Each request shall contain the following:

(1). a clear and concise statement of all facts on which the opinion is requested;

(2) a citation to the statute or rule at issue;

(3) the question(s) sought to be answered in the opinion, stated clearly;

(4) a suggested proposed opinion from the requestor, stating the answers desired by petitioner and a summary of the reasons in support of those answers;

(5) the identity of all other known persons involved in or impacted by the described factual situation, including their relationship to the facts, name, mailing address, and telephone number; and

(6) a statement to show that the person seeking the opinion has a substantial interest in the subject matter.

(h). Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Board shall, in writing:

(1) issue a declaratory opinion regarding the specific statute or rule as applied to the specific circumstances;

(2) decline to issue a declaratory opinion, stating the reason for its action; or

(3) agree to issue a declaratory opinion by a specific time but not later than ninety (90) days after receipt of the written request.

The forty-five (45) day period shall begin on the first State of Mississippi business day on or after the request is received by the Board, whichever is sooner.

(i). A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the Board may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

(j). The Board may give notice to any person, agency, or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments, and opinions from other persons, agencies or other entities other than the requestor.

(k). Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Public Records Act and the Board's public records request procedure. All declaratory opinions and request shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from the requirements and shall remain confidential.

(l). The Board will not pursue any civil, criminal or administrative action against a person who is issued a declaratory opinion from the Board and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent

jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the Board shall be binding only on the Board and the person to whom the opinion is issued. No declaratory opinion will be used as precedent for any transaction or occurrence beyond that set forth by the requesting person.

Part 2901 Chapter 3. Fees.

Rule 3.1 Licensure and Renewal.

The following schedule of fees for examination, registration and renewal of certificates is hereby established:

- (a) \$200.00 for an examination of an applicant who is a resident of Mississippi
- (b) \$300.00 for an examination of an applicant who is a non-resident of Mississippi
- (c) \$325.00 for every registered optometrist who desires to continue the practice of optometry. Said fee to be collected on an annual basis on or before January 1 for application to the one-year period then beginning.
- (d) Licensing fee via reciprocity Rule 1.7 will be prorated.

Source: *Miss Code Ann.* §73-19-21

Rule 3.2 Failure to Renew, Retired Optometrist Renewal.

In the case of failure to obtain continuing education hours or to neglect to pay the renewal registration fee herein specified, the board may revoke any certificate granted and the holder thereof may be reinstated by complying with the conditions specified in Section 73-19-21 of the Mississippi Code of 1972 as amended and related Code sections. However, no certificate or permit shall be revoked without giving 60 days notice to the delinquent, who, within such period, shall have the right of renewal of such certificate on payment of a renewal fee of \$325.00 together with a penalty of \$15.00, provided, that retirement from practice for a period not exceeding five (5) years shall not deprive the holder of a certificate of the right to renew his certificate on the payment of all lapsed fees and meeting any applicable continuing education requirements. An optometrist shall not be deemed retired unless he in good faith so advises the board in writing prior to his certificate being revoked for failure to pay the fees required by law. Retired individuals seeking to return to the active practice of optometry under this provision shall pay a renewal fee based on \$325.00 per year for the period of his retirement and shall not have the benefit of the reduced fee for restricted practice provided in this rule but he may, upon payment of the above provided fees, apply for a restricted certificate if he is otherwise qualified.

Source: *Miss Code Ann.* §73-19-21

Part 2901 Chapter 4. Continuing Education.

Rule 4.1 General Requirements.

- (a) Each optometrist licensed shall take 20 hours of continuing education per calendar year. Of these 20 hours, 16 must be either, approved by the Counsel on Optometric Practitioner Education (COPE), must be taken at a National, Regional, or State Conference or at a school of optometry/teaching institution. The calendar year is considered to begin January 1 and run through December 31.
- (b) The board accepts for continuing education credit all courses sponsored by any board-accredited college or school of optometry and such other programs or courses of other organizations as are approved by the board. The board will consider, among other things in its discretion, the following criteria in approving courses:
- (1) all subjects of education must be directly related to optometry;
 - (2) courses sponsored by or given by accredited optometry schools will be granted automatic approval;
 - (3) courses meeting evaluation standards and receiving approval of the Association of Regulatory Boards of Optometry (ARBO) will be granted automatic approval;
 - (4) courses sponsored by optometric organizations may be given approval;
 - (5) courses sponsored by universities or accredited non-optometric schools may be given approval if the subject matter is directly related to optometry;
 - (6) correspondence courses sponsored and graded by accredited optometry schools may be given approval, with a maximum of four hours of continuing education credit per calendar year per licensee;
 - (7) courses sponsored by individual providers may be approved but must supply the board with a synopsis of the lecture material to be presented, as well as resumes of the lecturers.
 - (8) The annual continuing education program of the Mississippi Optometric Association. A detailed summary of the annual continuing education program certified to by the Association's President shall be filed with the board Secretary no later than four (4) weeks prior to the meeting in which the course is offered.
 - (9) Other meetings or seminars either within or without the State of Mississippi that may be approved in advance by the board upon written request for approval made to the board at least thirty (30) days prior to the meeting or seminar. A copy of the program, names of speakers with qualifications, subject matter covered by each speaker and class hours to be offered by each, proof of attendance procedure and the proposed form of the signed attendance certificates procedure and the proposed form of the signed attendance certificates to be used; and the legal name, mailing and the street address and telephone number of the sponsor of such program shall be included as part of the written request and the request application must be signed by the sponsor or a duly authorized officer of the sponsor. The board, in approving may limit the credit hours allowed for any meeting, seminar, or subject under this item.
- In cases of extenuating circumstances, home study materials specified and approved by the board. Such will be allowed only upon submission of satisfactory evidence to the board of such circumstances and inability to

otherwise acquire the required number of study hours. Credit hours to be allowed will be determined upon approval of such course of study.

- (c) No more than four hours of practice or office management courses may be used to satisfy the education requirements of this Rule.
- (d) In regard to hours submitted under items (4), (7), (8), (9) and (10) above, a dated certificate signed by the sponsor or by an authorized officer of the provider or sponsor attesting to the optometrist's actual physical presence during the hours for which credit is requested shall be presented to the board prior to such hours being used for meeting the education requirements of this Rule. In regard to item (10), additional proof of attendance may be required by the board when such course of study is approved. The State board may designate such of its members as it may, from time to time, desire to serve as a screening committee to review and approve applications for approval of proposals and all approvals shall be filed with the Executive Director to be included in the minutes of the next meeting of the board. The burden is upon the sponsor applicant to file sufficient supporting material to show that the course proposed contains optometric educational material of a sufficient quality and value to justify board approval and that such material will be presented in a proper manner by qualified instructors.
- (e) The board shall be notified in writing by the sponsor of any variance between the course as submitted and as actually presented and shall be provided a statement as to the reason for such variance. Any material variance from the course of study and instructors as submitted and approved may result in rejection of credit for such course.
- (f) The board will grant one hour of education credit every year for CPR recertification.
- (g) Approved courses must be available to all licensed optometrists at a fee considered reasonable and nondiscriminatory.
- (h) Summaries of the courses and resumes of those teaching must be submitted to the board for approval or disapproval 60 days prior to the date the course is to take place.
- (i) Written proof of attendance and completion of approved courses must be supplied by the licensed optometrist to the board in conjunction with the renewal application for an optometry license. Information such as the following will be required: sponsoring organizations; location and dates; course names; instructors; names of attendees; number of education hours completed; and any other information deemed necessary by the board. Proof of attendance supplied by the sponsor should contain at least one signature of the sponsor's designee.

Source: *Miss Code Ann.* § 73-19-153

Rule 4.2 Therapeutic Requirements

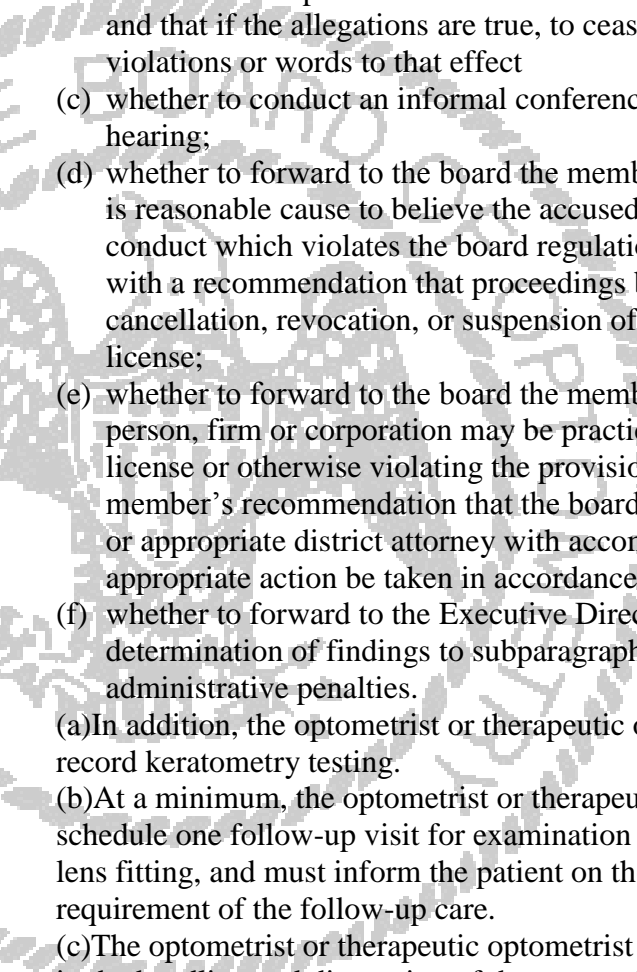
- (a) All therapeutically certified optometrists are required to obtain twenty (20) hours of continuing education (CE) each year for as long as they are in active practice. There shall be no exemption for persons over the age of sixty-five (65). Ten (10) of these hours shall consist of therapeutic subject matter.

Part 2901 Chapter 5. Complaint Procedure.

Rule 5.1. Filing, Investigation and Disposition.

The complaint procedure will be as follows:

- (a) Filing complaints. Complaints shall be filed on the board's complaint form. The board shall adopt the following form as its official complaint form, which shall be maintained at the board's office for use at the request of any complainant. At a minimum, all complaints shall contain information necessary for the proper processing of the complaint by the board, including, but not limited to:
 - (1) Complainant's name, address and phone number
 - (2) Name, address and phone number of the optometrist, therapeutic optometrist, or other person, firm or corporation, if known
 - (3) Date, time and place of occurrence of alleged violation, and
 - (4) Complete description of incident giving rise to the complaint.
- (b) Complaint investigation and disposition.
 - (1) All Complaints received shall be sent to the Executive Director. The board shall distinguish between categories of complaints as follows:
 - (a) consumer and patient complaints against optometrists and therapeutic optometrists regarding alleged violation of the Mississippi Optometry Act or duly promulgated rules or orders.
 - (b) alleged unauthorized practice of optometry or therapeutic optometry by unlicensed individuals or by a licensee while a suspension order or restrictive sanction by the board is in effect.
 - (c) licensure or reinstatement applications
 - (d) alleged advertising violations by optometrists, therapeutic optometrists, persons, firms or corporations and
 - (e) licensee complaints regarding violations of the Act resulting in economic harm
 - (2) In the event of a dismissal the person filing the complaint and the accused optometrist shall be given written notice of the board's determination.
- (c) Investigation Enforcement
 - (1) The chair may appoint an investigator to consider complaints filed with board.
 - (2) The Executive Director shall forward the complaint to the member in charge of enforcement in the area of the complaint unless in the judgement of the President, unusual circumstances exist such that it is more appropriate that the complaint be under another member. The board shall have the power to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records, and documents to issue commissions to take depositions, to administer oaths and to take testimony concerning all matters within the assigned jurisdiction.

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- (3) On receipt of the complaint, the member shall determine:
- (a) whether to recommend dismissal the matter and take no further action.
 - (b) whether to send a letter to the person charged reciting that a complaint has been received and that while the investigating member cannot determine or pass upon the merits of the complaint without conducting further investigation that the subject of the complaint be asked to review the complaint to ensure that the Act is being complied with, and that if the allegations are true, to cease and desist from the alleged violations or words to that effect
 - (c) whether to conduct an informal conference or set the case for a formal hearing;
 - (d) whether to forward to the board the member's determination that there is reasonable cause to believe the accused optometrist is guilty of conduct which violates the board regulations or state laws, together with a recommendation that proceedings be instituted to consider cancellation, revocation, or suspension of a license or refusal to issue a license;
 - (e) whether to forward to the board the member's determination that some person, firm or corporation may be practicing optometry without a license or otherwise violating the provisions of the Act, along with the member's recommendation that the board notify the attorney general or appropriate district attorney with accompanying request that appropriate action be taken in accordance with law, and
 - (f) whether to forward to the Executive Director the member's determination of findings to subparagraph (3) for assessment of administrative penalties.
- (4)
- (a) In addition, the optometrist or therapeutic optometrist shall perform and record keratometry testing.
 - (b) At a minimum, the optometrist or therapeutic optometrist must schedule one follow-up visit for examination within 30 days of the contact lens fitting, and must inform the patient on the initial visit regarding the requirement of the follow-up care.
 - (c) The optometrist or therapeutic optometrist must observe proper hygiene in the handling and dispensing of the contact lenses and in the conduct of the examination. Proper hygiene includes sanitary office conditions, running water in the office where contact lenses are dispensed, and proper sterilization of diagnostic lenses and instruments.
 - (d) The optometrist or therapeutic optometrist, or staff members, must instruct the patient in the proper care of lenses, including proper hygiene.

Source: *Miss Code Ann.* §73-19-33; §73-19-37

Rule 5.2 Disciplinary Proceedings.

- (a) General Statement. In any contested case, opportunity shall be afforded to all parties to respond and present evidence and argument on all issues involved. Unless

precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default, or dismissal.

- (b) Informal Disposition of Contested Case. Prior to the imposition of disciplinary sanctions against a license, the licensee may be offered an opportunity to attend an informal conference and show compliance with all requirements of law.
- (1) Informal conferences shall be attended by an attorney employed by the board, a board member and other representatives of the board as the President and legal counsel may deem necessary for the proper conduct of the conference. The licensee and/or the licensee's authorized representative may attend the informal conference and shall be provided an opportunity to be heard.
 - (2) In any case where charges are based upon information provided by a person who filed a complaint with the board (complainant), the complainant may attend the informal conference, and shall be provided with an opportunity to be heard with regard to charges based upon the information provided. Nothing herein requires a complainant to attend an informal conference.
 - (3) Informal conferences shall not be deemed to be meetings of the board and no formal record of the proceedings at the conferences shall be made or maintained.
 - (4) Any proposed order shall be presented to the board for its review. At the conclusion of its review, the board shall approve, amend, or disapprove the proposed order. Should the board approve the proposed order, the appropriate notation shall be made in the minutes of the board and the proposed order shall be entered as an official action of the board. Should the board amend the proposed order, the Board Attorney shall contact the respondent to seek concurrence. If the respondent does not concur, the provisions of the next sentence shall apply. Should the board disapprove the proposed order, the case shall be rescheduled for purposes of reaching an agreed order, or in the alternative forwarded to the State Office of Administrative Hearings for formal action.
- (c) Formal Disposition of a Contested Case. All contested cases not resolved by informal conference, shall be referred for Hearing.
- (1) Notice. The respondent shall be entitled to reasonable notice of not less than 20 days. Notice shall include:
 - (a) a statement of the time and place of the hearing;
 - (b) a statement of the offense or offenses for which the licensee is charged;
 - (c) a copy of the complaint
 - (2) Service of notice. The notice of hearing and a copy of the formal complaint shall be served by mailing a copy thereof by certified mail, postage prepaid to the respondent's last known residence or business address at least twenty (20) days prior to the hearing. Service on the respondent shall be complete and effective if the document to be served is sent by registered or certified mail to the respondent at the address shown on the respondent's annual renewal certificate.
 - (3) Filing of documents. All pleadings and motions relating to any contested case pending before the board shall be filed at the board

office and shall be deemed filed only when actually received. Copies of all pleadings and motions shall be served on board counsel.

(4) Motion for Continuance. Continuances may be granted by the board President.

(5) Transcription. All proceedings shall be transcribed by a court reporter. The agency may pay the cost of the transcript or assess the cost to one or more parties.

Source: *Miss Code Ann.* §73-19-35;§73-19-41

(d) An individual may appeal the decision of the Board to the Chancery Court of the county of residence of the licensee. The appeal shall be taken within thirty (30) days after notice of action of the Board. See §73-19-45.

Source: *Miss Code Ann.* § 73-19-9; §73-19-35; §73-19-41; §73-19-45

Rule 5.3 Probation.

(a) The board shall have the right and may upon majority vote rule that an order denying an application for license or any order canceling, suspending, or revoking any license be probated so long as the probated practitioner conforms to such orders and rules as the board may set out in the terms of the probation. The board, at the time of its decision to probate the practitioner, shall set out the period of time which shall constitute the probationary period; provided, however, that the board may at any time while the practitioner remains on probation upon majority vote rescind the probation and enforce the board's original action denying, suspending, or revoking such license for violation of the terms of the probation or for other good cause as the board in its discretion may determine.

(b) The Executive Director shall maintain a chronological and alphabetical listing of licensees who have had their license canceled, suspended, or revoked, and shall monitor each consent order in respect to each license holder's specific sanction. Any noncompliance observed as a result of monitoring shall be referred to the board.

Source: *Miss Code Ann.* §73-19-43

Rule 5.4 Reinstatement.

Any practitioner whose license to practice has been suspended, revoked, or restricted may apply to the Board within a year unless an order from the Board says otherwise. In considering the reinstatement, the Board shall consider all factors it deems relevant, including, but not limited to, payment of applicable fees, proof of rehabilitation, and current passing scores on the Mississippi Rules & Regulations/Law examination. The applicant must appear before the Board to apply for reinstatement. After consideration of the proposal for decision, the board in its discretion may:

(a) deny reinstatement of a lapsed, revoked, or suspended license;

(b) reinstate a revoked or suspended license and probate the practitioner for a specified period of time under specified conditions;

(c) authorize reinstatement of the lapsed, revoked, or suspended license.

Source: *Miss Code Ann.* §73-29-9; §73-19-23

Rule 5.5 Administrative Fines and Penalties.

- (a) In accordance with Section 73-19-43 of the Act, penalties may be assessed for violations of the Act or rule or order of the board.
- (b) The amount of the penalty shall include, but not be limited to:
 - (1) the seriousness of the violation, including nature, circumstances, extent and gravity of any prohibited act, and hazard or potential hazard created to the health, safety, or economic welfare of the public;
 - (2) the economic harm to property or the environment caused by the violation;
 - (3) the history of previous violations;
 - (4) the amount necessary to deter future violations;
 - (5) efforts to correct the violation; and
 - (6) any other matter that justice may require.
- (c) Penalties imposed by the board pursuant to subsections (a) and (b) of this section may be imposed for each violation subject to the following limitations:
 - (1) imposition of an administrative penalty not to exceed the limits set forth in Section 73-19-43 of the Act.
 - (2) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

Source: *Miss Code Ann.* §73-19-23; § 73-19-43(c)

Part 2901 Chapter 6. Requirements for prescriptions.

Rule 6.1 Contact Lens Prescriptions

- (a) No person, other than persons licensed or regulated by Section 73-19-61 shall sell, dispense, or serve as a conduit for the sale or dispensing of contact lenses to the ultimate user of such contact lenses in the state through the mail or any other means other than direct in-person delivery, to such ultimate user by such person after having personally ascertained by reliable means the identity of the deliverer.
- (b) The written contact lens prescription of a licensed optometrist is the same as mentioned in Section 73-19-61 of the Act shall include the name of the patient, the date the prescription is written, and the expiration date of the prescription written in letter form. The foregoing information is necessary to assist any party filling the prescription in identifying the party for whom the prescription has been written and to ensure the prescription is current.
- (c) In order to fill contact lens prescriptions the original current prescription or a copy of the current original prescription signed by the licensed practitioner is required in hard copy form.
- (d) A contact lens prescription is valid for one (1) year. The Mississippi State Board of Optometry does not require the release of contact lens prescriptions unless requested by the patient.

- (e) The prescribing doctor or the entity filling the prescription is required to arrange for appropriate follow-up care within thirty (30) days.
- (f) The written prescription for hard contact lenses may include in addition to the foregoing, the following:
 - (1) Base curve
 - (2) Sphere power with cylinder and axis, as necessary
 - (3) Diameter
 - (4) Optical zone size
 - (5) Secondary curve-radius and width
 - (6) Lens size
 - (7) Material to be used
 - (8) Degree of Blend (light, medium, heavy)
 - (9) Center Thickness
 - (10) Color
- (g) The written prescription for soft contact lens may include the following:
 - (1) Base curve
 - (2) Sphere power with cylinder and axis, as necessary
 - (3) Manufacturer's name or Brand
 - (4) The prescribing doctor or the entity filling the prescription is responsible for arranging appropriate follow-up care and any other information needed to adequately fill the prescription.
 - (5) Diameter, when appropriate

Source: §73-19-61

Rule 6.2 Spectacle prescriptions

- (a) The written spectacle prescription of a licensed optometrist shall include the name of the patient, the date the prescription is written, and the expiration date of the prescription.
- (b) Spectacle prescriptions are defined as follows:
 - (1) sphere power
 - (2) cylinder and axis power, if necessary
 - (3) prism and base amount, if necessary
 - (4) bifocal power, if necessary
- (c) A spectacle prescription is valid for no more than two (2) years.

Source: *Miss Code Ann.* §73-19-61

Part 2901 Chapter 7. Delegation of professional responsibility to laymen prohibited.

Rule 7.1 Delegation prohibited

- (a) No optometrist shall delegate authority to a lay person to perform any act requiring the exercise of professional knowledge and judgment on any patient whose visual welfare is the responsibility of the licensed optometrist.

- (b) Non- licensed supportive personnel may not delegate diagnosis or treatment duties under any circumstances.
- (c) To ensure patient confidentiality of examination records, a non-employee shall not be allowed to perform any task or function which would require or give them access to patient records or examination reports of any person without prior written authorization of that patient. (This provision shall not be applicable to restrict access to patient records of staff members who are paid through employee leasing plans.)
- (d) The licensed practitioner shall be responsible for all delegated acts performed by persons under his/her direct and general supervision.

Source: *Miss Code Ann.* §73-19-3; § 73-19-9

Part 2901 Chapter 8. Professional responsibility.

Rule 8.1. Optometrists shall remain free of control.

- (a) The provisions of this section are adopted in order to protect the public in the practice of optometry or therapeutic optometry, better enable members of the public to fix professional responsibility, and further safeguard the doctor-patient relationship.
No optometrist or therapeutic optometrist shall divide, share, split, or allocate, either directly or indirectly, any fee for optometric or therapeutic optometric services or materials with any lay person, firm or corporation, provided that this rule shall not be interpreted to prevent an optometrist or therapeutic optometrist from paying an employee in the regular course of employment, and provided further, that it shall be construed as a violation of this rule for any optometrist or therapeutic optometrist to lease space from an establishment, or to pay for franchise fees or other services, on a percentage or gross receipts basis.

Source: *Miss Code Ann.* § 73-19-3

Rule 8.2 Lease of premises from mercantile establishment.

- (a) In order to safeguard the visual welfare of the public and the doctor-patient relationship, fix professional responsibility, establish standards of professional surroundings, more nearly secure to the patient the optometrist's or therapeutic optometrist's undivided loyalty and service, and carry out the prohibitions of this Rule against placing an optometric or therapeutic optometric license in the service or at the disposal of unlicensed persons. No optometrist or therapeutically certified optometrist shall conduct his profession in a room or part of a room in or on the premises where commercial or mercantile establishment is the primary business being conducted.
- (b) The practice must be owned by a Mississippi-licensed optometrist or therapeutic optometrist. Every phase of the practice and the leased premises shall be under the exclusive control of a Mississippi-licensed optometrist or therapeutic optometrist.

- (c) The prescription files and all business records of the practice shall be the sole property of the optometrist or therapeutic optometrist and free from involvement with the mercantile establishment or any unlicensed person.
- (d) The lease space shall be definite and apart from the space occupied by other occupants of the premises. It shall be separated from space used by other occupants of the premises by solid, opaque partitions or walls from floor to ceiling. Railings, curtains, doors (locked or unlocked), and other similar arrangements are not sufficient to comply with this requirement.
- (e) The lease space shall have a patient's entrance opening on a public street, hall, lobby, corridor, or other public thoroughfare. The aisle of a mercantile establishment does not comply with this requirement.
- (f) No phase of the optometrist's or therapeutic optometrist's practice shall be conducted as a department or concession of the mercantile establishment; and there shall be no legends or signs such as "Optical Department," "Optometrical Department," or others of similar import, displayed on any part of the premises or in any advertising.
- (g) The optometrist or therapeutic optometrist shall not permit his name or his practice to be directly or indirectly used in connection with the mercantile establishment in any advertising, displays, signs, or in any other manner.
- (h) All credit accounts for patients shall be established with the optometrist or therapeutic optometrist and not the credit department of the mercantile establishment. However, nothing in this subsection prevents the optometrist or therapeutic optometrist from thereafter selling, transferring, or assigning any such account.

Source: *Miss Code Ann.* §73-19-3; § 73-19-9

Rule 8.3 Relationships of optometrists and therapeutic optometrists with dispensing opticians.

- (a) The purpose of this section is to insure that the practices of optometry and therapeutic optometry shall be carried out in such a manner that they are completely and totally separated from the business of any dispensing optician, with no control of one by the other and no solicitation for one by the other, except as hereinafter set forth.
- (b) If an optometrist or therapeutic optometrist occupies space for the practice of optometry or therapeutic optometry in a building or premises in which any person, firm, or corporation engages in the business of a dispensing optician, the space occupied by the optometrist or therapeutic optometrist shall be separated from the space occupied by the dispensing optician by solid partitions or walls from floor to ceiling. The space occupied by the optometrist or therapeutic optometrist shall have a patient's entrance opening on a public street, hall, lobby, corridor, or other public thoroughfare.
- (c) An optometrist or therapeutic optometrist may engage in the business of a dispensing optician, own stock in a corporation engaged in the business of a dispensing optician, or be a partner in a firm engaged in the business of a dispensing optician, but the books, records, and accounts of the firm or corporation must be kept separate and distinct from the books, records, and accounts of the practice of the optometrist or therapeutic optometrist.

- (d) An optometrist shall not allow a person, firm, or corporation engaged in the business of a dispensing optician, other than a licensed optometrist, therapeutic optometrist, or physician, to have, own, or acquire any interest in the practice, books, records, files, equipment, or materials of a licensed optometrist or therapeutic optometrist, or have, own, or acquire any interest in the premises or space occupied by a licensed optometrist or therapeutic optometrist for the practice of optometry or therapeutic optometry other than a lease for a specific term without retention of the present right of occupancy on the part of the dispensing optician. In the event an optometrist, therapeutic optometrist, or physician who is also engaged in the business of a dispensing optician (whether as an individual, firm, or corporation) does own an interest in the practice, books, records, files, equipment or materials of another licensed optometrist or therapeutic optometrist, he shall maintain a completely separate set of books, records, files, and accounts in connection therewith. Provided however, this shall not require an optometrist practicing under his own name and dispensing, repairing or duplicating lenses or frames in his own office as a part of his practice to maintain separate records.

Source: *Miss Code Ann.* § 73-19-3

Rule 8.4 Ownership of records.

- (a) No optometrist shall permit ownership of his prescription files, patient records, and business records, by any individual or entity other than himself, with the exception set forth on §73-29-103.
- (b) A patient may, upon written request, obtain a report of the patient's optometric records, or may have a copy of it forwarded to his treating optometrist or physician.

Source: *Miss Code Ann.* § 73-19-3

Rule 8.5 Other Provisions.

No optometrist shall enter into an arrangement:

- (a) allowing, permitting, encouraging, forbearing, or condoning any advertisement, including those placed in a newspaper, magazine, brochure, flier, telephone directory, or on television or radio, which implies or suggests that the licensed practitioner is professionally associated or affiliated with an entity which itself is not a licensed practitioner;
- (b) occupying or otherwise using professional office space in any manner which does not clearly and sufficiently indicate to the public that his/her practice of optometry is independent of and not associated or affiliated with an entity which itself is not a licensed practitioner;
- (c) using or employing office staff in any manner that implies or suggests that the licensed practitioner is professionally associated or affiliated with an entity which itself is not a licensed practitioner;
- (d) failing to have a telephone listing and number that is separate and distinct from that of an entity which itself is not a licensed practitioner;

- (e) answering the telephone, or allowing the telephone to be answered, in a manner that does not clearly and distinctly identify his/her independent optometric practice, or in a manner that implies or suggests that the licensed practitioner is professionally associated or affiliated with an entity which itself is not a licensed practitioner;
- (f) accepting reduced rent or lease payments based upon the number of patients examined or treated or based upon the number of prescriptions written;
- (g) agreeing to any arrangement for the furnishing of equipment, supplies, or office staff that in any way impairs, limits, or restricts the licensed practitioner's full and independent professional judgement and responsibility;
- (h) failing to maintain full and independent control and discretion over fees charged to patients for optometric services and materials, including billing methods, except in the case of an association, partnership, or employment relationship which is permitted under the rules.
- (i) Accepting a commission for the writing or filling of any optometric prescription.
- (j) Nothing in these rules shall prevent a licensed practitioner from associating with a multidisciplinary group of licensed health care professionals, the primary objective of which is the diagnosis and treatment of the human body. A licensed practitioner may also employ, or form a partnership or professional association with, other licensed practitioners, or with other licensed health care professionals, the primary objective of whom is the diagnosis and treatment of the human body. A licensed practitioner may also be a contract provider for health maintenance organizations.

Source: Miss Code Ann. §73-19-1; § 73-19-3; § 73-19-9

Rule 8.6 Confidentiality.

- (a) Confidential Information; Disclosure.
 - (1) An optometrist shall keep in confidence whatever he or she may learn about a patient in the discharge of his or her professional duties. All reports and records relating to the patient, including those records relating to the identity, examination, and treatment of the patient, shall constitute "patient records." Except upon written authorization of the patient or as otherwise provided by law, such records may not be furnished to and the condition of the patient may not be discussed with any person other than the patient or his legal representative or other health care providers who are involved in the diagnosis and treatment of that patient. Provided, however, that this shall not prohibit an optometrist from providing copies of a patient prescription.
 - (2) It is the responsibility of an optometrist to insure that his/her employees, as well as any personnel who are not his/her employees but who are performing assigned ministerial duties, tasks, and functions, do not violate the confidentiality of patient records.
- (b) Responsibility to patient.
 - (1) An optometrist shall have an established procedure appropriate for the provision of eye care to his/her patients in the event of an emergency outside of normal professional hours, and when the optometrist is not personally available.

(2) An optometrist shall give notice to the patient when he/she relocates his/her practice or withdraws his/her services so that the patient may make other arrangements for his/her eye care. Notice to the patient shall specifically identify the new location of the optometrist's practice or the location at which the patient may obtain his or her patient record.

(c) Patient Records; Transfer or Death of Optometrist.

- (1) An optometrist shall maintain full and independent responsibility and control over all records relating to his/her patients and his/her optometric practice. All such records shall remain confidential except as otherwise provided by law and shall be maintained by the optometrist in compliance with Section (a) above. For the purposes of this rule, "maintain full and independent responsibility and control" means that the records shall be maintained in the optometrist's office or solely in the possession of the optometrist, and that the optometrist shall not share, delegate, or relinquish either possession of the records or his/her responsibility or control over those records with or to any entity which is not itself an optometrist.
- (2) The records relating to the patients of a multi-disciplinary group of optometrist professionals, or relating to the patients of a partnership or professional association, may be maintained by the group practice, partnership, or professional association on behalf of all optometrists employed by the group practice, partnership, or professional association.
- (3) For the purposes of this rule, "entity which itself is not an optometrist" shall refer to any corporation, lay body, organization, individual, or commercial or mercantile establishment which is not an optometrist or which is not comprised solely of licensed health care professionals, the primary objective of whom is the diagnosis and treatment of the human body.
- (4) For the purpose of this rule, "commercial or mercantile establishment" shall include an establishment in which the practice of opticianry is conducted, and an establishment in which optical goods are sold.
- (5) An optometrist shall keep patient records for a period of at least two years. Upon the discontinuance of his/her practice, the optometrist shall either transfer all patient records which are less than two years old to an eye care practitioner where they may be obtained by patients, or he/she shall keep them in his/her possession and make them available to be obtained by patients.
- (6) An optometrist who retires or otherwise discontinues his/her practice shall cause to be published in the newspaper of greatest general circulation in each county where the optometrist practiced, a notice indicating to his/her patients that the optometrist's patient records are available from a specified optometrist at a certain location. The notice shall be published once during each week for four (4) consecutive weeks. A copy of the published notice shall be delivered to the board office for filing.
- (7) (a) Optometrists shall arrange for his/her executor, administrator, personal representative or survivor of a deceased optometrist to retain patient records concerning any patient of the deceased optometrist for at least one (1) year from the date of death of the optometrist.

- (d) The executor or administrator shall arrange, within one (1) month from the date of death of the optometrist, the executor, administrator, personal representative or survivor of the deceased optometrist to cause to be published in the newspaper of greatest general circulation in each county where the optometrist practiced, a notice indicating to the patients of the deceased optometrist the location at which whose patients may obtain their patient records. The notice shall be published once during each week for four (4) consecutive weeks. A copy of the published notice shall be delivered to the board office for filing.

Source: *Miss Code Ann.* § 73-19-9

Rule 8.7 Standards for doctor/patient relationship established, duty to report lawsuits and claims to the board.

Every optometrist will refrain from any exaggeration of the patient's visual disturbances. Any optometrist presented with a claim against him involving his professional services, by letter or lawsuit, shall the same day as received report the same in writing to the Executive Director of the State board of Optometry, together with copies of any such demand.

Source: *Miss Code Ann.* § 73-19-9

Rule 8.8 Specific guarantee prohibited.

No deceptive, false or misleading guarantee or claim of curative results or professional abilities shall be made by any optometrist related to his professional services or any ophthalmic material.

Source: *Miss Code Ann.* § 73-19-9

Rule 8.9 Proper use of the title Doctor and O.D. degree designation.

No registered optometrist when using the doctor title shall qualify it in any other way than by the use of the "Optometrist" or "Therapeutic Optometrist". He may, however, when not using the prefix, use after his/her name the "O.D." degree designation.

- (a) In the event of the death or retirement of an optometrist who was practicing optometry in a partnership, or with a professional corporation or professional association, the surviving members of the professional corporation or association, may, with the written permission of the retiring optometrist, or the deceased optometrist's legal representative, continue to use the name of the deceased or retired optometrist.
- (b) The fact that such optometrist is retired or deceased shall clearly be displayed in such manner that such facts will be clearly visible to the public prior to entry of the optometrist's office or reception area. By way of example, an appropriate professional identifying sign might be as follows:

SMITH, JONES & BROWN, INC. OPTOMETRISTS

Jim Smith, O.D. (1912-1981)
Jim Jones, O.D., Retired
Paul Brown, O.D.

Source: *Miss Code Ann.* § 73-19-9

Rule 8.10 Restriction on commissions and secret divisions of fee to secure patients.

No optometrist shall give or receive a commission or make a secret division of fees, by whatever permit may be called, or under guise or any pretext whatsoever from any unlicensed optometrist, person, firm or corporation to secure optometric patients.

Source: *Miss Code Ann.* § 73-19-9

Rule 8.11 Signs on office doors, windows and buildings.

The name of each optometrist practicing at each main or branch office shall be clearly posted in public view on or near each entrance used by the public or in each public waiting facility of such location.

Source: *Miss Code Ann.* § 73-19-9

Rule 8.12 Incorporating under professional corporation laws.

An optometrist may incorporate under current Mississippi Professional Corporation Laws. Any optometrist so incorporated or employed by a Professional Corporation shall abide by all of the optometry laws and the rules, regulations and orders of the Mississippi State board of Optometry.

Source: *Miss Code Ann.* § 73-19-9

Rule 8.13 Dissemination of optometric consumer information. Standards, restrictions and required disclosures.

- (a) No optometrist shall by any means or method disseminate to his/her patients or the public information that is false, fraudulent, deceptive, misleading, or unfair; or information which contains any unverifiable statement or claim relating to the quality of the optometric services to be delivered or which contains any other claim which cannot be verified. Dissemination of optometric information offering delivery of professional services or ophthalmic materials of any kind, delivery of which generally required additional professional services or other services, must state whether the offer includes such additional or other services.
- (b) A copy of each public dissemination of information shall be retained in the office of the dissemination optometrist for a period of 18 months following the date of last dissemination. During such period a record of the date and manner of dissemination shall also be maintained. The copy and related information concerning dissemination

shall be furnished, within seven (7) days of a written request, to the State board of its designated agent.

Source: *Miss Code Ann.* § 73-19-9

Rule 8.14 Effect of failure to follow established rules and laws related to practice of Optometry.

Any optometrist who willfully violates the Optometry Law of Mississippi, any of the rules and regulations of the State board of Optometry, or other lawfully adopted laws or regulations related to the practice of optometry, shall upon the filing of charges and after hearing before the board be subject to having his license revoked or suspended. Such violations are deemed to be unprofessional and unethical conduct. The establishment by these rules of certain acts as being unprofessional and/or unethical shall not limit the right and power of the board to determine what other acts or omissions on the part of a licensee may constitute unprofessional and/or unethical conduct.

Source: *Miss Code Ann.* § 73-19-9

Rule 8.15 Notice of address and telephone number changes required to be given to State board.

Any person licensed to practice optometry in this State shall, and at least fourteen (14) days prior to the change, send written notice to the board of any change in floor plan his/her office telephone number, his/her business street address, and/or mailing address for any office (including branch office) in which he practices and the effective date of such change.

Source: *Miss Code Ann.* § 73-19-9

Part 2901 Chapter 9. Standards.

Rule 9.1 Adequate Examination.

- (a) In order to insure an adequate examination in the initial examination of the patient, the optometrist or therapeutic optometrist shall make and record, if possible, the following findings of the condition of the patient:
- (1) case history (ocular, physical, occupational, and other pertinent information);
 - (2) visual acuity;
 - (3) biomicroscopy slit lamp examination (lids, cornea, sclera, etc.);
 - (4) internal ophthalmoscopic examination (media, fundus, etc.);
 - (5) static retinoscopy, O.D., O.S., or autorefractor;
 - (6) subjective findings, far point and near point;
 - (7) assessment of binocular function;
 - (8) amplitude or range of accommodation;
 - (9) tonometry;

- (10) field of vision, to right and to left.
- (b) In order to insure an adequate contact lens exam, the optometrist or therapeutic optometrist shall perform following items in addition to 9.1 (a).
- (1) perform and record keratometry testing.
 - (2) must schedule one follow-up visit for examination within 30 days of the contact lens fitting, and must inform the patient on the initial visit regarding the requirement of the follow-up care.
 - (3) must observe proper hygiene in the handling and dispensing of the contact lenses and in the conduct of the examination. Proper hygiene includes sanitary office conditions, running water in the office where contact lenses are dispensed and proper sterilization of diagnostic lenses and instruments.
 - (4) must instruct the patient in the proper care of lenses, including proper hygiene.
- (c) Basic Competence Violations.
- (1) The omission of a single, essential finding shall be reason for an investigational hearing or informal conference. The following findings are essential in the initial examination of a patient:
 - (a) Biomicroscopy slit lamp examination (lids, cornea, sclera, etc.);
 - (b) Internal ophthalmoscopic examination (media, fundus, etc.);
 - (c) Subjective findings, far point and near point;
 - (d) Tonometry.
 - (2) The omission of a total of four significant findings in the initial examination of a patient shall be reason for an investigational hearing or informal conference. The following findings are significant in the initial examination of a patient:
 - (a) Case history (ocular, physical, occupational and other pertinent information);
 - (b) Visual acuity;
 - (c) Static retinoscopy, O.D., O.S., or autorefractor;
 - (d) Assessment of binocular function;
 - (e) Amplitude or range of accommodation;
 - (f) Angle of Vision, to right and to left.
 - (3) All other omissions or combination of omissions of findings shall be reason to send noncompliance letters. The absence of the optometrist's or therapeutic optometrist's signature on the prescription shall be considered an omission.
 - (4) An investigational hearing or informal conference is required when a second alleged violation has occurred. Likewise, if a licensee has had a previous investigational hearing or informal conference, a subsequent complaint may result in a formal disciplinary hearing.

Source: *Miss Code Ann.* § 73-19-3

Rule 9.2 Standards for office.

Each Optometrists must have the equipment to practice to the current standard of care to include but not limited to the following: An Ophthalmoscope, a retinoscope; an

Ophthalmometer or Keratometer and a Refractor, or a trial frame with trial case auxiliary prisms and lenses, test objects of Stereopsis and fusion charts for distance and near visual acuity, Pseudoisochromatic charts for color vision, Tangent screen or Perimeter, Tonometer and a Biomicroscope (slit lamp). Every such examination must be made in an optometric office, and in a room of such office used exclusively for the practice of optometry. Provided that if a person desiring optometric services informs an optometrist that by reason of sickness or other cause he or she is confined to his or her place of abode, said optometrist may make said examination at the place of abode of said person. Provided, further, that said optometrist must have available at said place of abode for said examination the following minimum equipment, to include but not limited to: An Ophthalmoscope, a Retinoscope, a suitable astigmatic test and a reliable trial frame and lenses adequate for determining proper diagnosis.

Source: *Miss Code Ann.* § 73-19-3

Rule 9.3 Designation of Main and Branch office location for board records.

Every optometrist in active practice in this State shall designate in writing on his license application or renewal form one fixed location as his main office and shall identify any branch office location then existing. A branch office is defined as any fixed location where the optometrist may practice other than his main office. Any change in office location or new opening of any office (main or branch) shall be reported in writing to the board, including change in ownership, the starting of a practice in the same physical location where any other optometrist is already in practice. The provisions of this Rule shall apply without regard to the optometrist's ownership interest, or lack thereof, in the office facility or the practice located where any licensed optometrist may practice under his license granted by this board.

Source: *Miss Code Ann.* § 73-19-3

Rule 9.4 Registration of main and branch offices.

Each office shall be registered with the Mississippi State Board of Optometry. Such registration shall be renewed annually with the optometrists license renewal. The registration certificate must be displayed in each office location and shall be furnished by the board at a fee to be determined by the board.

Source: *Miss Code Ann.* § 73-19-3

Rule 9.5 Timely Notice to board of Opening of office or branch office, inspection of newly opened office or branch office.

No optometrist shall open an office or branch office for the practice of optometry in this State without first providing the board with a scale drawing of the floor plan of such proposed office showing the location of instruments and equipment and a dated certificate signed by the optometrist that the proposed office conforms to the rules of the board

related to equipment, instruments and configuration required for such office. Such certificate and floor plan shall be delivered to the board in person or by registered mail no less than 14 days prior to the scheduled opening of the office. This Rule is in addition to all other rules governing establishment of an office or branch office and in no way restricts the power of the board or its designated agent to inspect at anytime to determine if the office and licensed individual conform to the rules of the board and the laws of this State.

Source: *Miss Code Ann* §73-19-9

Part 2901 Chapter 10. Current Procedural Terminology (CPT) Codes

Rule 10.1 CPT Codes

The Mississippi State Board of Optometry approves the current procedural codes as determined by the American Medical Association for the individual's level of licensure, to include but not limited to the following. As a service to the general public, the third party payment providers and to the optometrists holding Certificates of Licensure from the State of Mississippi, the Mississippi State Board of Optometry, having carefully considered the current procedural terminology code (CPT) as used for Medicare services, finds and determines that the attached listed services which are not marked appear to be services which can be lawfully rendered by all optometrists licensed by this board. A code number with a (D) indicates a service, which in the board's opinion, requires the optometrist providing such service to also hold a Certificate from this Board authorizing use of diagnostic pharmaceutical agents. A code number with a (T) indicates a service, which in the board's opinion, requires the optometrist providing such service to also hold a Certificate from this Board authorizing use of Therapeutic Pharmaceutical agents. This Rule is not intended to, nor shall it be construed to, limit in any manner the authority of an optometrist to practice to the full extent authorized by law and the license and/or certificate held by the optometrist nor shall this rule be constructed to extend such authority beyond that authorized by law. The list attached is incorporated by reference as part of this rule.

OFFICE OR OTHER OUTPATIENT SERVICES

NEW PATIENT

- 99201 - a problem focused history;
- a problem focused examination; and
- straightforward medical decision making.
Physician typically spends 10 minutes face-to-face with patient and/or family
- 99202 - a problem focused history;
- a problem focused examination; and
- straightforward medical decision making.

Physician typically spends 20 minutes face-to-face with patient and/or family.

99203 - a detailed history;
- a detailed examination; and
- medical decision making of low complexity.
Physician typically spends 30 minutes face-to-face with patient and/or family.

99204 - a comprehensive history;
- a comprehensive examination; and
- medical decision making of moderate complexity.
Physician typically spends 45 minutes face-to-face with patient and/or family.

99205 - a comprehensive history;
- a comprehensive examination; and
- medical decision making of high complexity.
Physician typically spends 60 minutes face-to-face with patient and/or family.

ESTABLISHED PATIENT

99211 Office or other outpatient visit for the evaluation and management of an established patient, that may not require the presence of a physician.

Usually, the presenting problem(s) are minimal. Typically, 5 minutes are spent performing or supervising these services.

99212 - a problem focused history;
- a problem focused examination;
- straightforward medical decision making.
Physician typically spends 10 minutes face-to-face with patient and/or family.

99213 - a problem focused history;
- a problem focused examination; and
- medical decision making of low complexity
Physician typically spends 15 minutes face-to-face with patient and/or family.

99214 - a detailed history;
- a detailed examination;
- medical decision making of moderate complexity.
Physician typically spends 25 minutes face-to-face with patient and/or family.

- 99215 - a comprehensive history;
- a comprehensive examination;
- medical decision making of high complexity.
Physician typically spends 40 minutes face-to-face with patient and/or family.

SUBSEQUENT HOSPITAL CARE

- 99231 - a problem focused interval history;
- a problem focused examination;
- medical decision making that is straightforward or of low complexity.
Physician typically spends 15 minutes at the bedside and on the patient's hospital floor or unit.

- 99232 - an expanded problem focused interval history;
- an expanded problem focused examination;
- medical decision making of moderate complexity.
Physician typically spends 25 minutes at the bedside and on the patient's hospital floor or unit.

- 99233 - a detailed interval history;
- a detailed examination;
- medical decision making of high complexity.
Physician typically spends 35 minutes at the bedside and on the patient's hospital floor or unit.

OFFICE OR OTHER OUTPATIENT CONSULTATIONS

NEW OR ESTABLISHED PATIENT

- 99241 - a problem focused history;
- a problem focused examination; and
- straightforward medical decision making.
Physician typically spends 15 minutes face-to-face with patient and/or family.

- 99242 - a problem focused history;
- a problem focused examination; and
- straightforward medical decision making.
Physician typically spends 30 minutes face-to-face with patient and/or family.

- 99243 - a detailed history;
- a detailed examination; and
- medical decision making of low complexity.

Physician typically spends 40 minutes face-to-face with patient and/or family.

99244 - a comprehensive history;
- a comprehensive examination; and
- medical decision making of moderate complexity.
Physician typically spends 60 minutes face-to-face with patient and/or family.

99245 - a comprehensive history;
- a comprehensive examination; and
- medical decision making of high complexity.
Physician typically spends 80 minutes face-to-face with patient and/or family.

INITIAL PATIENT CONSULTATIONS

NEW OR ESTABLISHED PATIENT

99251 - a problem focused history;
- a problem focused examination; and
- straightforward medical decision making.
Physician typically spends 20 minutes at the bedside and on the patient's hospital floor or unit.

99252 - a problem focused history;
- a problem focused examination; and
- straightforward medical decision making.
Physician typically spends 40 minutes at the bedside and on the patient's hospital floor or unit.

99253 - a detailed history;
- a detailed examination, and
- medical decision making of low complexity.
Physician typically spends 55 minutes at the bedside and on the patient's hospital floor or unit.

99254 - a comprehensive history;
- a comprehensive examination; and
- a medical decision making of moderate complexity. Physician typically spends 80 minutes at the bedside and on the patient's hospital floor or unit.

99255 - a comprehensive history;
- a comprehensive examination; and
- medical decision making of high complexity.
Physician typically spends 110 minutes at the bedside and on the patient's hospital floor or unit.

FOLLOW-UP INPATIENT CONSULTATIONS

ESTABLISHED PATIENT

- 99261 - a problem focused interval history;
- a problem focused examination; and
- medical decision making that is straightforward or of low complexity.
Physician typically spends 10 minutes at the bedside and on the patient's hospital floor or unit.
- 99262 - an expanded problem focused interval history;
- an expanded problem focused examination; and
- medical decision making of moderate complexity.
Physician typically spends 20 minutes at the bedside and on the patient's hospital floor or unit.
- 99263 - a detailed interval history;
- a detailed examination; and
- medical decision making of high complexity.
Physician typically spends 30 minutes at the bedside and on the patient's hospital floor or unit.

CONFIRMATORY CONSULTATIONS

NEW OR ESTABLISHED PATIENT

- 99271 - a problem focused history
- a problem focused examination; and
- straightforward medical decision making.
Usually, the presenting problem(s) are self limited or minor.
- 99272 - a problem focused history;
- a problem focused examination; and
- straightforward medical decision making.
Usually, the presenting problem(s) are of low severity.
- 99273 - a detailed history;
- a detailed examination; and
- medical decision making of low complexity.
Usually, the presenting problem(s) are of moderate severity.
- 99274 - a comprehensive history;
- a comprehensive examination; and
- medical decision making of moderate complexity.
Usually, the presenting problem(s) are of moderate to high severity.
- 99275 - a comprehensive history;
- a comprehensive examination; and

- medical decision making of high complexity.
- Usually, the presenting problem(s) are of moderate to high severity.

EMERGENCY DEPARTMENT SERVICES

NEW OR ESTABLISHED PATIENT

- 99281 - a problem focused history;
- a problem focused examination;
- straightforward medical decision making.
Usually, the presenting problem(s) are self limited or minor.
- 99282 - a problem focused history;
- a problem focused examination; and
- medical decision making of low complexity.
Usually, the presenting problem(s) are of low to moderate severity.
- 99283 - a problem focused history;
- a problem focused examination; and
- a medical decision making of moderate complexity.
Usually, the presenting problem(s) are of moderate severity.
- 99284 - a detailed history;
- a detailed examination; and
- medical decision making of moderate complexity
Usually, the presenting problem(s) are of high severity, and require urgent evaluation by the physician but do not pose an immediate significant threat to life or physiologic function.
- 99285 - a comprehensive history;
- a comprehensive examination; and
- medical decision making of high complexity.
Usually, the presenting problem(s) are of high severity and pose an immediate significant threat to life or physiologic function.

COMPREHENSIVE NURSING FACILITY ASSESSMENTS

NEW OR ESTABLISHED PATIENT

- 99301 - a detailed interval history;
- a comprehensive examination; and
- medical decision making that is straightforward or of low complexity.
Physician usually spends 30 minutes at the bedside and on the patient's facility floor or unit.
- 99302 - a detailed interval history;
- a comprehensive examination; and

- medical decision making of moderate to high complexity.
Physician usually spends 40 minutes at the bedside and on the patient's facility floor or unit.

99303 - a comprehensive history;
- a comprehensive examination; and
- medical decision making of moderate to high complexity.
Physician usually spends 50 minutes at the bedside and on the patient's facility floor or unit.

SUBSEQUENT NURSING FACILITY CARE

NEW OR ESTABLISHED PATIENT

99311 - a problem focused interval history;
- a problem focused examination; and
- medical decision making that is straightforward or of low complexity.
Physician usually spends 15 minutes at the bedside and on the patient's facility floor or unit.

99312 - an expanded problem focused interval history;
- an expanded problem focused examination; and
- medical decision making of moderate complexity.
Physician usually spends 25 minutes at the bedside and on the patient's facility floor or unit.

99313 - a detailed interval history;
- a detailed examination; and
- medical decision making of moderate to high complexity
Physician usually spends 35 minutes at the bedside and on the patient's facility floor or unit.

DOMICILIARY, REST HOME (E.G. BOARDING HOME), OR

CUSTODIAL CARE SERVICES

NEW PATIENT

99321 - a problem focused history;
- a problem focused examination; and
- medical decision making that is straightforward or of low complexity.
Usually, the presenting problem(s) are of low severity.

99322 - a problem focused history;
- a problem focused examination; and
- medical decision making of moderate complexity.

Usually, the presenting problem(s) are of moderate severity.

- 99323 - a detailed history;
- a detailed examination; and
- medical decision making of high complexity.
Usually, the presenting problem(s) are of high complexity.

ESTABLISHED PATIENT

- 99331 - a problem focused interval history;
- a problem focused examination; and
- medical decision making that is straightforward or of low complexity.
Usually, the patient is stable, recovering or improving.

- 99332 - an expanded problem focused history;
- an expanded problem focused examination; and
- medical decision making of moderate complexity.
Usually, the patient is responding inadequately to therapy or had developed a minor complication.

- 99333 - a detailed interval history;
- a detailed examination; and
- medical decision making of high complexity.
Usually, the patient is unstable or has developed a significant complication or a significant new problem.

HOME SERVICES

NEW PATIENT

- 99341 - a problem focused history;
- a problem focused examination; and
- medical decision making that is straightforward or of low complexity.
Usually, the presenting problem(s) are of low severity.

- 99342 - a problem focused history;
- a problem focused examination; and
- medical decision making of moderate complexity.
Usually, the presenting problem(s) are of moderate severity.

- 99343 - a detailed history;
- a detailed examination; and
- medical decision making of high complexity.
Usually, the presenting problem(s) are of high severity.

ESTABLISHED PATIENT

- 99351 - a problem focused interval history
- a problem focused examination; and

- medical decision making that is straightforward or of low complexity.
Usually, the patient is stable, recovering or improving.

99352 - an expanded problem focused interval history;
- an expanded problem focused examination; and
- medical decision making of moderate complexity.
Usually, the patient is responding inadequately to therapy or has developed a minor complication.

99353 - a detailed interval history;
- a detailed examination; and
- medical decision making of high complexity.
Usually, the patient is unstable or has developed a significant complication or a significant new problem.

GENERAL OPHTHALMOLOGICAL SERVICES

NEW PATIENT

92002 Ophthalmological services; medical examination and evaluation with initiation of diagnostic and treatment program; intermediate, new patient.

D 92004 Comprehensive, new patient, one or more visits

ESTABLISHED PATIENT

92012 Ophthalmological services; medical examination and evaluation, with initiation or continuation of diagnostic and treatment program; intermediate, established patient.

D 92014 Comprehensive, established patient, One or more visits

SPECIAL OPHTHALMOLOGICAL SERVICES

D 92020 Conioscopy with medical diagnostic evaluation (separate procedure).

92060 Sensorimotor examination with medical diagnostic evaluation (separate procedure).

92065 Orthoptic and/or pleoptic training, with continuing medical direction and evaluation

T 92070 Fitting of contact lens for treatment of disease, including supply of lens

92081 Visual field examination with medical diagnostic evaluation; tangent screen; autoplott or equivalent

92082 Quantitative perimetry, e.g., several isopters on Goldmann perimeter, or equivalent

92083 Static and kinetic perimetry, or equivalent

Routine tonometry is part of general and special ophthalmological services whenever indicated. It is not reported separately.

92100 Serial tonometry with medical diagnostic evaluation (separate procedure), one or more sessions, same day

D 92120 Tonography with medical diagnostic evaluation, recording indentation tonometer method or perilimbal suction method

D 92130 Tonography with water provocation

92140 Provocative tests for glaucoma, with medical diagnostic evaluation, without tonography

OPHTHALMOSCOPY

D 92225 Ophthalmoscopy, extended as for retinal detachment (may include use of contact lens, drawing or sketch, and/or fundus biomicroscopy), with medical diagnostic evaluation; initial

D 92226 Subsequent

D 92250 With fundus photography

D 92260 With ophthalmodynamometry

OTHER SPECIALIZED SERVICES

92270 Electro-oculography, with medical diagnostic evaluation

D 92275 Electroretinography, with medical diagnostic evaluation

92280 Visually evoked potential (response) study, with medical diagnostic evaluation

(For electronystagmography for vestibular function studies, see 92541 et seq.)

(For ophthalmic echography (diagnostic ultrasound), See 76511-76529.)

92283 Color vision examination, extended, e.g., anomaloscope or equivalent

(Color vision testing with pseudoisochromatic plates (such as HRR or Ishihara) is not reported separately. It is included in the appropriate general or ophthalmological service.)

- 92284 Dark adaptation examination, with medical diagnostic evaluation
- 92285 External ocular photography for documentation of medical progress
- 92286 Specular endothelial microscopy with photographic documentation, medical evaluation and report

REMOVAL OF OCULAR FOREIGN BODY

- 65205 Removal of foreign body, external eye; conjunctival superficial
- 67820 Correction trichiasis; epilation, forceps only

CONTACT LENS SERVICES

The prescription of contact lenses includes specifications of optical and physical characteristics (such as power, size, curvature, flexibility, gas-permeability) it is not a part of the general ophthalmological services.

The fitting of contact lenses includes instruction and training of the wearer and incidental revision of the lens during the training period.

Follow up of successfully fitted extended wear lenses is reported as part of a general ophthalmological service (92012 etc.).

The supply of contact lenses may be reported as part of the service of fitting. It may also be reported separately by using 92391 or 92396 and modifier 26 or 09926 for the service of fitting without supply.

- 92310 Prescription of optical and physical characteristics of and fitting of contact lens, with medical supervision of adaptation; corneal lens, both eyes, except for aphakia.
- (For prescription and fitting on one eye, see modifier -52)
- 92311 corneal lens for aphakia, one eye
- 92312 corneal lens for aphakia, both eyes
- 92313 corneoscleral lens
- 92314 Prescription of optical and physical characteristics of contact lens, with medical supervision of adaptation and direction of fitting by independent technician; corneal lens, both eyes, except for aphakia.

(For prescription and fitting of one eye, see modifier -52 or 09952)

- 92315 corneal lens for aphakia, one eye
- 92316 corneal lens for aphakia, both eyes
- 92317 corneoscleral lens

- 92325 Modification of contact lens (separate procedure), with medical supervision of adaptation
- 92326 Replacement of contact lens

OCULAR PROSTHETICS, ARTIFICIAL EYE

- 92330 Prescription, fitting, and supply of ocular prosthesis (artificial eye), with medical supervision of adaptation
(If supply is not included, see modifier -26; to report supply separately, see 92393)
- 92335 Prescription of ocular prosthesis (artificial eye) and direction of fitting and supply of independent technician with medical supervision of adaptation.

OCULAR SERVICES (INCLUDING PROSTHESIS FOR APHAKIA)

- 92340 spectacles, except for aphakia; monofocal
- 92341 Bifocal
- 92342 Multifocal, other than bifocal

- 92352 Fitting of spectacle prosthesis for aphakia; monofocal
- 92353 Multifocal

- 92354 Fitting of spectacle mounted low vision aid; single element system
- 92355 Telescopic or other compound lens system

- 92358 Prosthesis service for aphakia, temporary (disposable or loan, including materials)

- 92370 Repair and fitting spectacles; except for aphakia
- 92371 Spectacle prosthesis for aphakia

SUPPLY OF MATERIALS

- 92390 Supply of spectacles, except prosthesis for aphakia and low vision aids
- 92391 Supply of contact lenses, except prosthesis for aphakia
- (For supply of contact lenses reported as part of the service of fitting, See 92310-92313)
- 92392 Supply of low vision aids (A low vision aid is any lens or device used to aid or improve visual function in a person whose vision cannot be normalized by conventional spectacle correction. Conventional spectacle correction includes reading additions up to 4D).
- 92393 Supply of ocular prosthesis (artificial eye)
(For supply reported as part of the service of fitting, see 92330)
- 92395 Supply of permanent prosthesis for aphakia; spectacles (For temporary spectacle correction, see 92358)
- 92396 Contact Lenses
(For supply reported as part of the service of fitting, see 92311, 92312) (See 99070 for the supply of other materials, drugs, trays, etc.)
- 65205* Removal of foreign body, external eye; conjunctival superficial
- T 65210* Conjunctival embedded (includes concretions), subconjunctival, or scleral nonperforating)
- T 65220* Corneal, without slit lamp
- T 65222* Corneal, with slit lamp (For repair of corneal laceration with foreign body, see 65275) (65230 has been deleted). To report, use 65235.
- T 65275 Repair of laceration; cornea, nonperforating, with or without removal foreign body
- T 65430* Scraping of cornea, diagnostic for smear and/or culture
- T 65435* Removal of corneal epithelium; with or without chemo cauterization (abrasion, cutterage)
- T 68020 Incision of conjunctiva, drainage of cyst
- T 68040 Expression of conjunctival follicles, e.g., for trachoma
- T 68761 Closure of the lacrimal punctum; by plug, each

- T 68800* Dilation of lacrimal punctum, with or without irrigation, unilateral or bilateral
- T 68840 * Probing of lacrimal canaliculi, with or without irrigation
- T 82947 Glucose, Quantitative
- T 82948 Blood, reagent strip
- D 76511 Ophthalmic ultrasound, echography, diagnostic; A-scan only, with amplitude quantification
- D 76512 Contact B-scan (with or without simultaneous A-scan)
- D 76516 Ophthalmic biometry by ultrasound echography, A-scan
- D 76519 With intraocular lens power calculation
- D 76529 Ophthalmic untrasonic foreign body localization
- T 87070 Culture, bacterial, definitive; any other source
- T 87164 Dark field examination, any source (e.g., penile, vaginal, oral, skin); includes specimen collection
- T 87181 Sensitivity studies, antibiotic; agar diffusion method per antibiotic
- T 87205 Smear, primary source with interpretation, routine stain for bacteria, fungi, or cell types
- T 99025 Initial (new patient) visit when starred (*) surgical procedure constitutes major service at that visit
- T 99050 Services requested after hours in addition to basic service
- T 99052 Services requested between 10:00 p.m. and 8:00 a.m., in addition to basic service
- T 99054 Services requested on Sundays and holidays in addition to basic service
- T 99056 Services provided at request of patient in a location other than the physician's office which are normally provided in the office.
- T 99058 Office services provided on an emergency basis
- T 99070 Supplies and materials (except spectacles), provided by the physician over and above those usually included with the office visit or other services rendered (list drugs, trays,

supplies, or materials provided)

T 99071 Educational supplies, such as books, tapes, and pamphlets, provided by the physician for the patients education at cost to physician

T 99075 Medical testimony

T 99080 Special reports such as insurance forms, more than information conveyed in the usual communications or standard reporting form

T 92499 Unlisted ophthalmological service or procedure

STARRED (*) PROCEDURES OR ITEMS: Certain relatively small surgical services involve a readily identifiable surgical procedure but include variable preoperative and postoperative services (e.g., incision and drainage of an abscess, injection of a tendon sheath, manipulation of a joint under anesthesia, dilation of the urethra). Because of the indefinite pre- and postoperative services, the usual "package" concept for surgical services (See above) cannot be applied. Such procedures are identified by a star (*) following the procedure code number.

When a star (*) follows a surgical procedure code number, the following rules apply:

- a. The service as listed includes the surgical procedure only. Associated pre- and postoperative services are not included in the service as listed.
- b. Preoperative services are considered as one of the following:
 - (1) When the starred (*) procedure is carried out at the time of an initial visit (new patient) and this procedure constitutes the major service at that visit, procedure number 99025 is listed in lieu of the usual initial visit as an additional service.
 - (2) When the starred (*) procedure is carried out at the time of an initial or other visit involving significant identifiable services (e.g., removal of a small skin lesion at the time of a comprehensive history and physical examination), the appropriate visit is listed in addition to the starred (*) procedure and its follow-up care.
 - (3) When the starred (*) procedure is carried out at the time of a follow-up (established patient) visit and this procedure constitutes the major service at that visit, the service visit is usually not added.
 - (4) When the starred (*) procedure requires hospitalization, an appropriate hospital visit is listed in addition to the starred (*) procedure and its follow-up care.
- c. All postoperative care is added on a service-by-service basis (e.g., office or hospital visit, cast change).

- d. Complications are added on a service-by-service basis (as with all surgical procedures).

MODIFIERS

- 21 When the face-to-face or floor/unit service(s) provided is prolonged or otherwise greater than that usually required for the highest level of evaluation and management service within a given category, it may be identified by adding modifier '21' to the evaluation and management code number or by use of the separate five digit modifier code 09921. A report may also be appropriate.
- 22 Unusual services: When the service(s) provided is greater than that usually required for the listed procedure, it may be identified by adding modifier '-22' to the usual procedure number or by use of the separate five digit modifier code 09922.
- 24 In the case of E & M Visits, unrelated to the diagnosis for which the surgical procedure is performed, use Modifier 24 with the appropriate E & M visit code. (MCM 4821.B)
- 25 Visits on the day of a procedure are presumed to be for the purpose of routine pre- and postoperative care related to the procedure, the visit will not be paid (regardless of the charge for the procedure) unless it is for a separate and identifiable Evaluation and Management (E & M) which is above and beyond the usual pre- and postoperative service provided on the day of the procedure. In using this modifier on the E & M service, the physician is certifying that the additional services meet the requirements for modifier 25. (MCM 4822.A.7)
- 26 Professional Component: Certain procedures (e.g., laboratory, radiology, electrocardiogram, specific diagnostic Services) are a combination of a physician component is reported separately, the service may be identified by adding the modifier '-26' to the usual procedure number or the service may be reported by the use of the five digit modifier code 09926.
- 50 Bilateral Procedure: Unless otherwise identified in the listings, bilateral procedures that are performed at the same operative session, should be identified by the appropriate five digit code describing the first procedure. The second (bilateral) procedure is identified either by adding modifier '-50' to the procedure number or by use of the separate five digit modifier code 09950.
- 51 Multiple Procedures: When multiple procedures are performed on the same day or at the same session, the major procedure or service may be reported as listed. The secondary additional, or lesser procedure(s) or Service(s) may be identified by adding the modifier '-51' to the secondary procedure or service code(s) or by use of the separate five digit modifier code 09951. This modifier may be used to report multiple medical procedures performed at the same session, as well as a combination of medical and surgical procedures, or several surgical procedures

performed at the same operative session.

- 52 **Reduced Services:** Under certain circumstances a service or procedure is partially reduced or eliminated at the physicians election. Under these circumstances the service provided can be identified by its usual procedure number and the addition of the modifier '-52' signifying that the service is reduced. This provides a means of reporting reduced services without distributing the identification of the basic service. Modifier code 09952 may be used as an alternative to modifier '-52.
- 55 **Postoperative Management Only:** When one physician performs the postoperative management and another physician has performed the surgical procedure, the postoperative component may be identified by adding the modifier '-55' to the usual procedure number or by use of the separate five digit modifier code 09955.
- 56 **Preoperative Management Only:** When one physician performs the preoperative care and evaluation and another physician performs the surgical procedure, the preoperative component may be identified by adding the modifier '-56' to the usual procedure number or by use of the separate five digit modifier code 09956.
- 75 **Concurrent Care, Services Rendered by More than One Physician:** When the patient's condition requires the additional services of more than one physician, each physician may identify his or her services by adding the modifier '-75' to the basic service performed or the service may be reported by using the five digit modifier code 09975.
- 76 **Repeat Procedure by Same Physician:** The physician may need to indicate that a procedure or service was repeated subsequent to the original service. This circumstance may be reported by adding the modifier '-76' to the repeated service or the separate five digit modifier code 09976 may be used.
- 77 **Repeat Procedure by Another Physician:** The physician may need to indicate that a basic procedure performed by another physician had to be repeated. This may be reported by adding modifier '-77' to the repeated service or the separate five digit modifier code 09977 may be used.
- 79 **Unrelated Procedure or Service by the Same Physician During the Postoperative Period;** The physician may need to indicate that the performance of a procedure or service during the postoperative period was unrelated to the original procedure. This circumstance may be reported by using the modifier '-79' or by using the separate five digit modifier 09979. (For repeat procedures on the same day, See -76).

Source: *Miss Code Ann.* § 73-19-3