LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

OPTOMETRY - GENERAL RULES

Filed with the Secretary of State on November 19, 2019

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45(a)(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.333, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 16148, 16174, 16287, and 17431 of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, 333.16174, 333.16287, and 333.17431 and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.301, R 338.303, R 338.305, R 338.309, R 338.313, R 338.319, and R 338.321 are amended, R 338.302, R 338.304, R 338.306, R 338.320 are added, and R 338.323 is rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 338.301 Definitions.

Rule 1. As used in these rules:

(a) “Adverse drug reaction" means an adverse physical or psychological reaction that is experienced by a person resulting from diagnostic therapeutic agents administered by an optometrist and that occurs within 24 hours after the drug is administered. An adverse drug reaction may be indicated by symptoms that include any of the following:

(i) Red eye.

(ii) Painful eye.

(iii) Decrease in vision.

(iv) Pale or red swelling of the periocular or periorbital tissues.

(v) Nausea.

(vi) Vomiting.

(vii) Fainting.

(viii) Mental confusion.

(ix) Cessation of respiration.

(b) "Board" means the Michigan board of optometry.

(c) "Classroom hour," for the purpose of determining whether a course of study meets the requirements of section 17412(2)(a) or 17435(2)(b) of the code, MCL 333.17412(2)(a) or MCL 333.17435(2)(b), means a 50 to 60 minute period of lecture, group discussion, or laboratory directly associated with a course in pharmacology. Time spent working in a clinic other than as part of a laboratory directly associated with a course in pharmacology does not qualify as a “classroom hour.”

(d) “Code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211

(e) "Course of study in general and clinical pharmacology" means a course of study that is completed in a board-approved school or college, in general and clinical pharmacology as it relates to optometry, with the characteristics described in section 17412(2)(a) of the code, MCL 333.17412(2)(a). Not less than 30 of the 60 classroom hours of the course of study must be allocated to ocular pharmacology and must emphasize the systemic effects of, and reactions to, topical ocular diagnostic pharmaceutical agents, including the emergency management and referral of any adverse reactions that may occur.

(f) "Course of study relating to the didactic and clinical use of therapeutic pharmaceutical agents" means a course of study that is comprised of a minimum of 10 quarter hours or 7 semester hours of credit or 100 classroom hours of study, is completed in a board-approved school or college and is in subjects relating to the didactic and clinical use of therapeutic pharmaceutical agents related to optometry.

(g) "Department" means the Michigan department of licensing and regulatory affairs.

(h) “Established patient” means a person who has received a professional service from a provider within the optometrist’s practice group within the preceding 3 years and 1 day of the last professional service received.

(i) "Examination and evaluation,” means that term as defined in section 5553 of the code, MCL 333.5553.

(j) “Informed consent for an established patient” means consent by a patient or his or her legal representative for treatment, medication, or services after there has been full disclosure of the facts needed for a patient or his or her legal representative to make a voluntary decision based on the elements of knowledge, comprehension, and willingness to receive the treatment, medication, or service.

(k) “Informed consent for a new patient” means a written agreement or documentation of a verbal agreement by a patient or his or her legal representative for treatment, medication, or services after there has been full disclosure of the facts needed for a patient or his or her legal representative to make a voluntary decision based on the elements of knowledge, comprehension, and willingness to receive the treatment, medication, or service.

(l) “New patient” means a patient who has not received a professional service from a provider in the optometrist’s practice group within the preceding 3 years and 1 day of the last professional service received.

(m)“Telehealth,” means that term as defined in section 16283 of the code, MCL 333.16283.

R 338.302 Opioid and other controlled substances awareness training for prescribers and dispensers of controlled substances.

Rule 2. An individual who applies for a controlled substance license or who is licensed to prescribe or dispense controlled substances shall complete training in opioid and controlled substances awareness as prescribed in R 338.3135.

R 338.303 Training standards for identifying victims of human trafficking; requirements.

Rule 3. (1) Pursuant to section 16148 of the code, MCL 333.16148, an individual who is licensed or seeking licensure shall complete training in identifying victims of human trafficking that meets the following standards:

(a) Training content that covers all of the following:

(i) Understanding the types and venues of human trafficking in this state or the United States.

(ii) Identifying victims of human trafficking in health care settings.

(iii) Identifying the warning signs of human trafficking in health care settings for adults and minors.

(iv) Identifying resources for reporting the suspected victims of human trafficking.

(b) Acceptable providers or methods of training include any of the following:

(i) Training offered by a nationally recognized or state recognized health-related organization.

(ii) Training offered by, or in conjunction with, a state or federal agency.

(iii) Training obtained in an educational program that has been approved by the board for initial licensure, or by a college or university.

(iv) Reading an article related to the identification of victims of human trafficking that meets the requirements of subdivision (a) of this subrule and is published in a peer review journal, health care journal, or professional or scientific journal.

(c) Acceptable modalities of training may include any of the following:

(i) Teleconference or webinar.

(ii) Online presentation.

(iii) Live presentation.

(iv) Printed or electronic media.

(2) The department may select and audit a sample of individuals and request documentation of proof of completion of training. If audited by the department, an individual shall provide an acceptable proof of completion of training, including either of the following:

(a) Proof of completion certificate issued by the training provider that includes the date, provider name, name of training, and individual's name.

(b) A self-certification statement by an individual. The certification statement shall include the individual's name and either of the following:

(i) For training completed pursuant to subrule (1)(b)(i) to (iii) of this rule, the date, training provider name, and name of training.

(ii) For training completed pursuant to subrule (1)(b)(iv) of this rule, the title of article, author, publication name of peer review journal, health care journal, or professional or scientific journal, and date, volume, and issue of publication, as applicable.

(3) Pursuant to section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply for license renewals beginning with the 2019 renewal cycle and for an initial license issued on or after December 21, 2021.

R 338.304 Minimum English language standard.

Rule 4. (1) Pursuant to section 16174(1)(d) of the code, MCL 333.16174(1)(d) an applicant who applies for initial licensure shall demonstrate a working knowledge of the English language if his or her educational or training program was taught outside the United States, unless exempted under subrule (3) of this rule.

(2) To demonstrate a working knowledge of the English language, an applicant shall submit proof that he or she obtained a total score of not less than 84 on the test of English

as a foreign language internet-based test (TOEFL-IBT) administered by the Educational Testing Service and obtained the following scores:

(a) A score of 21 for the speaking section of the test.

(b) A score of 21 for the writing section of the test.

(c) A score of 21 for the listening section of the test.

(d) A score of 21 for the reading section of the test.

(3) If an applicant's educational or training program was taught in English within one or more of the following countries, he or she is exempted from the requirements of subrule (1) of this rule:

(a) Canada, except Quebec.

(b) England.

(c) Ireland.

(d) New Zealand.

(e) Australia.

R 338.305 Professional optometric degree program; approval standards.

Rule 5. (1) The board approves and adopts by reference the standards of the Accreditation Council on Optometric Education set forth in the publication entitled "Accreditation Manual: Professional Optometric Degree Programs" dated August 2014, and revised July 1, 2017, which provide for the accreditation of professional optometric degree programs.

(2) A professional optometric degree program accredited by the Accreditation Council on Optometric Education is considered approved by the board.

(3) Copies of the Accreditation Manual of the Accreditation Council on Optometric Education are available free of charge from the American Optometric Association, 243 N. Lindbergh Blvd., St. Louis, MO 63141 or from the association's website at http://www.aoa.org. Printed copies also are available for inspection and distribution at cost from the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, Ottawa Building, 611 W. Ottawa, P.O. Box 30670, Lansing, MI 48909.

R 338.306 Telehealth services; requirements.

Rule 6. (1) An optometrist who provides telehealth services shall obtain informed consent for an established patient or informed consent for a new patient before providing a telehealth service pursuant to section 16284 of the code, MCL 333.16284.

(2) An optometrist who provides a telehealth service shall maintain evidence of the informed consent in the patient record and shall retain evidence of the informed consent in compliance with section 16213 of the code, MCL 333.16213.

(3) An optometrist who provides a telehealth service shall comply with section 16285 of the code, MCL 333.16285.

(4) An optometrist providing a telehealth service may prescribe a drug if the optometrist is a prescriber acting within the scope of his or her practice and in compliance with section 16285 the code, MCL 333.16285, if he or she does both of the following:

(a) If medically necessary, refers the patient to a provider that is geographically accessible to the patient.

(b) Makes himself or herself available to provide follow up care services to the patient or to refer the patient to another provider for follow up care.

(5) An optometrist may provide a telehealth service only when he or she complies with all of the following:

(a) Part 174 of the code, MCL 333.17401 to 333.17437.

(b) The eye care consumer protection law, part 55A of the code, MCL 333.5551 to 333.5571, including the duty to perform an examination and evaluation, pursuant to sections 5551 to 5559 of the code, MCL 333.5551 to 333.5559.

(6) An optometrist who provides a telehealth service shall exercise the same standard of care applicable to a traditional, face-to-face health care service, including any necessary face-to-face appointments with a patient to assess, reassess, and update the patient's medical condition and the effectiveness of treatment modalities.

PART 2. LICENSURE

R 338.309 Licensure by endorsement.

Rule 9. (1) An applicant for a Michigan optometry license by endorsement shall submit a completed application on forms provided by the department, together with the requisite fee. In addition to meeting the requirements of the code and the administrative rules promulgated under the code, an applicant shall have graduated from a professional optometric degree program approved by the board, pursuant to R 338.305, and satisfy the requirements of this rule.

(2) An applicant shall be an optometrist who is engaged in the practice of optometry, holds a doctor of optometry degree, and is currently licensed at the highest level authorized in another state of the United States or province of Canada that has licensure requirements that are equivalent to those required in this state, as determined by the board. This subrule does not grant license authority that exceeds the level of privileges granted to individuals who are licensed under the code to engage in the practice of optometry.

(3) An applicant shall have achieved a passing score on parts I, II, and III of the NBEO examinations, including a passing score on the TMOD examination, in a state of the United States or province of Canada for his or her initial licensure.

(4) An applicant who was first licensed in another state of the United States or province of Canada is presumed to have met the requirements of section 16186(1)(a) and (b) of the code, MCL 333.16186(1)(a) and (b), if he or she meets all of the following requirements:

(a) Provides verification of his or her license by the licensing agency of another state of the United States or province of Canada in which the applicant holds a current license or ever held a license as an optometrist, which includes, but is not limited to, showing proof of any disciplinary action taken or pending disciplinary action imposed upon the applicant.

(b) Achieves a minimum scaled score of 75 on the examination of Michigan laws and rules related to the practice of optometry that is developed and administered by the department, or an entity approved by the department.

(5) An applicant shall hold a license granting therapeutic prescriptive certification at the highest level authorized in the state of the United States or province of Canada where he or she currently practices.

R 338.313 Relicensure.

Rule 13. An applicant whose Michigan license has lapsed, under the provisions of section 16201(3) or (4) of the code, MCL 333.16201(3) or (4), as applicable, may be relicensed by complying with the following requirements as noted by (√):

		Lapsed 3 years or less.	Lapsed more than 3 years, but less than 6 years.	Lapsed 6 years or more.
(1)	Application and fee: submit a completed application on a form provided by the department, together with the required fee.	√	√	√
(2)	Good moral character: establish that he or she is of good moral character as defined under 1974 PA 381, MCL 338.41 to MCL 338.47.	√	√	√
(3)	Fingerprints: submit fingerprints as required under section 16174(3) of the code, MCL 333.16174(3).		√	√
(4)	Continuing education: submit proof of having completed 40 hours of continuing education as required under R 338.321, which was earned within the 2-year period immediately preceding the date of relicensure, subject to both of the following: (a) At least 2 of the 40 hours of continuing education must be in pain and symptom management, as provided under R 338.321(3). (b) If certified to administer therapeutic pharmaceutical agents, at	√	√	√

	least 20 of the 40 hours of continuing education must be in pharmacological management of ocular conditions, as provided in R 338.321(2).			
(5)	Examination: achieve a minimum scaled score of 75 on the examination of Michigan laws and rules related to the practice of optometry that is developed and administered by the department, or an entity approved by the department.	√	√	√
(6)	Examination: achieve a passing score on parts I, II, and III of the NBEO examination, including a passing score on the Continued Professional Development in Optometry (CPDO) examination given by NBEO or its successor organization, unless he or she holds a current, valid, unrestricted license in another state or a province of Canada.			√
(7)	Proof of license verification from another state or province of Canada: An applicant's license shall be verified by the licensing agency of each state of the United States or province of Canada in which the applicant holds or has ever held a license as an optometrist.	√	√	√

	Verification must include the record of any disciplinary action taken or pending against the applicant.			

PART 3. CONTINUING EDUCATION

R 338.319 Adoption of standards and criteria by reference; board approval by application.

Rule 19. (1) The board approves and adopts by reference the standards and criteria of the Council on Optometric Practitioner Education (COPE) that are set forth in the publication entitled "Criteria for COPE Qualification of Continuing Education," revised July 2015. A copy of the publication may be obtained at no cost from the Association of Regulatory Boards of Optometry, 200 South College St., Suite 2030 Charlotte, NC 28202, or from the council's website at http://www.arbo.org. Printed copies also are available for inspection and distribution at cost from the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, Ottawa Building, 611 W. Ottawa, P.O. Box 30670, Lansing, MI 48909.

(2) A continuing education program that has been accredited by COPE is considered approved by the board.

(3) A continuing education program that is not accredited by COPE or approved as provided in R 338.320 may apply for board approval by submitting an application to the department. The application must be received not less than 90 days before the program presentation. The application must be reviewed by the board's continuing education subcommittee. After review and recommendation of the program by the board's continuing education subcommittee, approval of the continuing education program may be granted after a vote of the full board.

(4) Applications for approval of a continuing education program must include all the following:

(a) The sponsor's name.

(b) The sponsor's address.

(c) The program name.

(d) The program date.

(e) The program location.

(f) The program outline, including all of the following:

(i) An explanation of how the program is designed to further educate the licensee through acquisition and application of knowledge which results in improved patient outcomes.

(ii) The topics and the name of the speaker of each topic.

(iii) The times of the specific topics and breaks included in the program.

(g) The résumé of each speaker or instructor for the program.

(h) A description of the delivery method, or methods to be used, and the techniques that will be employed to assure active participation.

(i) A brief description of the sponsoring organization.

(j) The name, title, and address of the program director and a description of his or her qualifications to direct the program.

(k) A description of how participants will be notified that continuing education credit has been earned.

(l) A description of the physical facilities or laboratory available to assure a proper learning environment.

(m) A description of how attendance is monitored and the name of the person monitoring attendance.

(n) The number of hours of course instruction including all of the following:

(i) The number of hours related to clinical optometry, which may include any of the following COPE categories:

(A) Contact lenses (CL).

(B) Functional vision/pediatrics (FV).

(C) General optometry (GO).

(D) Low vision/vision impairment & rehabilitation (LV).

(E) Public health (PB).

(ii) The number of hours related to practice management, which may include the following COPE categories:

(A) Practice management (PM).

(B) Ethics/jurisprudence (EJ).

(iii) The number of hours related to pharmaceutical management, which may include any of the following COPE categories:

(A) Glaucoma (GL).

(B) Injection skills (IS).

(C) Laser procedures (LP).

(D) Peri-operative management of ophthalmic surgery (PO).

(E) Refractive surgery management (RS).

(F) Surgery procedures (SP).

(G) Treatment and management of ocular disease: anterior segment (AS).

(H) Treatment and management of ocular disease: posterior segment (PS).

(I) Neuro-optometry (NO).

(J) Oral pharmaceuticals (OP).

(K) Pharmacology (PH).

(L) Principles of diagnosis (PD).

(M) Systemic/ocular disease (SD).

(iv) The number of hours related to pain management, which may include any of the following COPE categories:

(A) Oral pharmaceuticals (OP).

(B) Pharmacology (PH).

(C) Treatment and management of ocular disease: anterior segment (AS).

(D) Treatment and management of ocular disease: posterior segment (PS).

(E) Functional vision/pediatrics (FV).

R 338.320 Approved continuing education; limitations; documentation

Rule 20. The board approves all of the following as continuing education if the subject matter falls within an approved COPE category as listed in R 338.319(4)(n):

	Activity and Proof of Completion	Number of Continuing Education Hours Granted or Permitted for Activity
(1)	Successful completion of a course or courses offered for credit by an accredited optometry school or college approved by the board under R 338.305. If audited, a licensee shall submit an official transcript documenting successful completion of the course.	Ten hours of continuing education may be earned for each academic quarter credit hour earned. Fifteen hours of continuing education may be earned for each academic semester credit hour earned. Hours may be earned without limitation.
(2)	Successful completion of a continuing education program offered by an accredited optometry school or college approved by the board under R 338.319. If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee's name, number of credits earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date or dates on which the program was held or activity completed.	One continuing education hour may be granted for each 50 to 60 minutes of program attendance, without limitation.
(3)	Attendance at a continuing education program related to the practice of optometry offered by an educational program approved by the board under R 338.319(3) or approved by another state board of optometry. If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee's name, number of credits earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date or dates on which the program was held or activity completed.	One continuing education hour may be granted for each 50 to 60 minutes of program attendance, without limitation.
(4)	Initial presentation of or at a continuing education program approved by the board. If audited, a licensee shall submit a letter from the program's sponsor, verifying the licensee's presentation of educational	One continuing education in the appropriate COPE category may be granted for each 50 to 60 minutes of program presentation, without limitation.

	materials and lecture at the continuing education program.	
(5)	Attendance at a continuing education program related to optometric topics approved for category 1 continuing education by the Michigan board of medicine or the Michigan board of osteopathic medicine and surgery. If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee's name, number of credits earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date or dates on which the program was held or activity completed.	One continuing education hour in clinical optometry may be granted for each 50 to 60 minutes of program attendance, limited to 8 hours per renewal cycle.
(6)	Attendance at a continuing education program related to optometric pharmacological topics approved for continuing education by the Michigan board of pharmacy. If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee's name, number of credits earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date or dates on which the program was held or activity completed.	One continuing education hour in pharmacological management may be granted for each 50 to 60 minutes of program attendance, limited to 8 hours per renewal period. Applicants for renewal who hold certification to administer topical ocular diagnostic pharmaceutical agents or certification to administer and prescribe therapeutic pharmaceutical agents, or both, may earn hours without limitation.
(7)	Initial presentation of a scientific exhibit, poster, or paper to a professional optometric organization. If audited, the licensee shall submit a copy of the document presented with evidence of presentation or a letter from the program sponsor verifying the date of the presentation.	Two hours of continuing education in clinical optometry shall be granted for each presentation. No additional credit shall be granted for preparation of the presentation.
(8)	Initial publication of either of the following: (a) A scientific article relating to the	Six hours of continuing education in clinical optometry shall be granted for serving as the primary author. Three hours of continuing education in clinical optometry shall be

	practice of optometry in a peer-reviewed journal or periodical. (b) A chapter or a portion of a chapter related to the practice of optometry in either a professional health care textbook or peer-reviewed textbook. If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author or a publication acceptance letter and documentation of the peer-review process.	granted for serving as a secondary author.
(9)	Participating on either of the following: (a) A peer review committee dealing with quality of patient care as it relates to the practice of optometry. (b) A national or state committee, board, council, or association related to the practice of optometry. Participation on a committee, board, council or association is considered acceptable by the board if it enhances the participant's knowledge and understanding of the field of optometry. If audited, the licensee shall submit a letter from an organization official verifying the licensee's participation in at least 50% of the regularly scheduled meetings of the committee, board, council or association.	Six hours of continuing education in clinical optometry shall be granted for participating on a committee. A maximum of 6 hours of continuing education may be earned for this activity in each renewal period.
(10)	Taking and passing any nationally recognized advanced competency examination in optometry.	Every 2 years, 12 hours of continuing education in pharmacology management or clinical optometry shall be granted.

R 338.321 License renewal; continuing education, requirements, limitations.

Rule 21. (1) An applicant for license renewal shall accumulate not less than 40 continuing education hours approved by the board pursuant to R 338.319 or R 338.320 during the 2 years immediately preceding the expiration date of the license.

(2) An applicant for license renewal who holds certification to administer topical ocular diagnostic pharmaceutical agents or certification to administer and prescribe therapeutic pharmaceutical agents, or both, shall accumulate not less than 20 hours of board-

approved continuing education in pharmacological management of ocular conditions. The 20 required hours are part of, and not in addition to, the 40 hours required in subrule (1) of this rule. A continuing education program that falls within the COPE categories listed in R 338.319(4)(n)(iii)(A) to (M) meets the requirements of this subrule.

(3) An applicant for license renewal shall accumulate not less than 2 hours of board approved continuing education in pain and symptom management related to the practice of optometry. A continuing education program that falls within the COPE categories listed in R 338.319(4)(n)(iv)(A) to (E) meets the requirements of this subrule. Continuing education hours in pain and symptom management, as they relate to the practice of optometry, may include, but are not limited to, the following:

(a) Ethics and health policy related to pain.

(b) Pain definitions.

(c) Basic sciences related to pain, including pharmacology, psychology, sociology, and anthropology.

(d) Clinical sciences related to pain, including specific pain conditions and pain in special contexts and settings.

(e) Clinician-patient communications related to pain.

(f) Management of pain, including evaluation and treatment; non-pharmacological and pharmacological management.

(g) Ensuring quality pain care.

(h) Michigan programs and resources relevant to pain.

(4) A minimum of 20 of the required continuing education hours must be completed in a face-to-face real-time learning format. The remaining hours may be completed in any other format including but not limited to self-evaluation journal tests, multimedia education, real time webinars, video conferencing, webcasts, and podcasts.

(5) An applicant for license renewal may earn a maximum of 9 continuing education hours per licensure cycle in practice management. A continuing education program that falls within the COPE categories listed in R 338.319(4)(n)(ii)(A) and (B) meets the requirements of this subrule.

(6) Submission of an application for renewal constitutes the applicant's certificate of compliance with the requirements of this rule. An optometrist shall retain documentation of meeting the requirements of this rule for a period of 4 years from the date of applying for license renewal. The board may require an applicant or licensee to submit evidence to demonstrate compliance with this rule. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221(h).

(7) A request for a waiver under section 16205 of the code, MCL 333.16205, must be received by the department before the expiration date of the license.

R 338.323 Rescinded.