

NEWSLETTER

Vermont Board of Optometry

Secretary of State, Office of Professional Regulation

Topics in this newsletter include: Changes in Staff; Chairperson's Report, Changes in Legislation; the Board's Web site; and so on.

Board Members

The members of the Vermont Board of Optometry and their term expiration dates are as follows:

Thomas F. Terry, O.D., Chairperson, White River Junction, Vermont (12/05); **Jon Eriksson, O.D.** Vice-Chair, Richmond, Vermont (12/04); **Lois M. Shiozawa, O.D.**, Essex Junction, Vermont (12/07); and **Claudette Marinelli** (Public Member), East Montpelier, Vermont (12/05). We currently have a vacancy for a public member.

Members are appointed by the Governor to a five-year term and are eligible to serve two terms. Persons who are interested in serving on the Board may contact our Office or the Governor's Office directly at 802-828-3333.

Introduction

The Vermont Board of Optometry is pleased to bring you its first Newsletter. This Newsletter contains information about changes to staff, statutory amendments, continuing education, statistics, and other issues pertaining to the profession.

New Staff

The Board welcomes Carla Preston as its Unit Administrator. You may reach Ms Preston at (802) 828-2875; Fax: (802) 828-2465; or via E-mail: cpreston@sec.state.vt.us.

Larry S. Novins, Esq. serves as the Board's Counsel.

Kara Sanborn is now the Board's Staff Secretary. Ms Sanborn may be reached at (802) 828-1134; Fax: (802) 828-2465; E-Mail: ksanborn@sec.state.vt.us
Our Web site is:
www.vtprofessionals.org

From the Chairperson

Our Newsletter is an excellent source for informing our licensees of current and proposed changes in the profession.

The main purpose of the Board is to protect the public health, safety and welfare. The Board also has a quasi judicial role in which it serves as jury in cases of unprofessional conduct. The Board's roles are accomplished by establishing standards, licensing only qualified applicants, and ensuring compliance with the laws and rules.

The Board's Web site, www.vtprofessionals.org is a great

resource for information. There you may find the current laws and rules. You may check the status of a license. You will also find our updated applications on our Web site.

For your information we currently have 116 Active Optometrists (83 Resident; 33 Non-Resident).

Please note that all of our meetings are public and we encourage you to attend. Meetings begin at 8:30 a.m. and are tentatively scheduled as follows: August 4th; and October 1st. Please contact the Board if you plan to attend a meeting to verify these dates.

Statutory Amendments

S.54 will become effective July 1, 2004. The following sections have been amended.

§ 1703. DEFINITIONS

As used in this chapter:

(1) "Board" means the state optometry board.

(2) The "practice of optometry" means any one or combination of the following practices:

(A) The examination of the human eyes and visual system for purposes of:

(I) diagnosing refractive and functional ability; or

(ii) diagnosing the presence of eye and adnexa disease or injury, treating the disease or injury with the appropriate pharmaceutical agents and procedures in accordance with this chapter, and making referrals to the appropriate health care provider when warranted.

(B) The diagnosis and correction of anomalies of the refractive and functional ability of the visual system and the enhancement of visual performance including, but not limited to, the following:

(I) the prescribing and employment of ophthalmic lenses, prisms, autorefractor or other automatic testing devices, frames, ophthalmic aids, and prosthetic materials as consistent with the health of the eye;

(ii) the prescribing and employment of contact lenses; and

(iii) administering visual training, vision therapy, orthoptics, and pleoptics.

(3) "Disciplinary action" or "disciplinary cases" includes any action taken by a board against a licensee or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, including obtaining injunctions, issuing warnings, reprimands, suspensions or revocations of licenses and other similar sanctions and ordering restitution.

(4) "Financial interest" means being:

(A) a licensed practitioner of optometry; or

(B) a person who deals in goods and services which are uniquely related to the practice of optometry; or

(C) a person who has invested anything of value in a business which

provides optometric services.

Sec. 2. 26 V.S.A. § 1719(b) is amended to read:

(b) Unprofessional conduct means:

(1) Conduct which evidences moral unfitness to practice the occupation.

(2) Any of the following except when reasonably undertaken in an emergency situation in order to protect life, health or property:

(A) Practicing or offering to practice beyond the scope permitted by law.

(B) Performing treatments or providing services which a licensee is not qualified to perform or which are beyond the scope of the licensee's education, training, capabilities, experience, or scope of practice.

(C) Performing occupational services which have not been authorized by the consumer or his or her legal representative.

Sec. 3. 26 V.S.A. § 1723 is amended to read:

§ 1723. USE OF DIAGNOSTIC PHARMACEUTICAL AGENTS

An optometrist licensed under this chapter, and pursuant to the further limitations of this subchapter may procure and use certain drugs topically applied to the eye and known as mydriatics, cycloplegics, and topical anesthetics.

Sec. 4. 26 V.S.A. § 1724 is amended to read:

§ 1724. FORMULARY COMMITTEE

(a) A formulary committee is established which is comprised of the following members:

(1) two ophthalmologists licensed in this state appointed by the commissioner of health;

(2) two optometrists licensed in this state appointed by the state board of

optometry; and

(3) two doctors of pharmacology appointed by the director of the office of professional regulation.

(b) Upon the request of the board, the formulary committee shall define the specific drugs or classes of drugs and the concentrations and strengths thereof which optometrists shall be allowed to use pursuant to this subchapter and subchapter 6 of this title. The formulary committee shall meet within 30 days of receiving a written request to change the optometry formulary and shall render a decision on the request within 30 days of meeting. The board shall adopt the optometry formulary and notify the state board of pharmacy of the board's actions. In deciding whether to include a particular drug in the formulary, the committee shall seek to balance, among other factors, the drug's utilization frequency and alternatives to the proposed drug with its potential systemic or other risks.

(c) The formulary committee shall receive administrative assistance from the state board of optometry.

Sec. 5. 26 V.S.A. § 1728 is amended to read:

§ 1728. USE OF THERAPEUTIC PHARMACEUTICAL AGENTS

(a) An optometrist licensed under this chapter who possesses the endorsement required under section 1729 of this title, may:

(1) prescribe all pharmaceutical agents for the appropriate diagnosis, management, and treatment of the eye and adnexa.

(2) remove superficial foreign bodies from the eye and adnexa, perform epilation of the eyelashes including electrolysis, punctal dilation, and lacrimal irrigation, and insert punctal plugs.

(b) Nothing in this subchapter shall

be construed to permit:

(1) the use of therapeutic ultrasound, the use of injections except for the appropriate emergency stabilization of a patient, or the performance of surgery. "Surgery" means any procedure in which human tissue is cut, penetrated, thermally or electrically cauterized except when performing electrolysis, or otherwise infiltrated by mechanical or laser means in a manner not specifically authorized by this act;

(2) the use of lasers for any procedure other than diagnostic testing; or

(3) a licensee to perform indocyanine green angiography, removal of benign skin lesions involving subcutaneous injections, sub tenons injections, retrobulbar injections, intraocular injections, ketamine (IM) for an infant's examination under anesthesia, management of skin and conjunctival neoplasms, and botox injections.

* * *

Sec. 6. 26 V.S.A. § 1728a is added to read:

§ 1728a. PERMISSIBLE TREATMENTS; GLAUCOMA TYPES

(a) A licensee may treat the following types of glaucoma on patients who are 16 years of age or older:

(1) adult primary open angle glaucoma;

(2) exfoliative glaucoma;

(3) pigmentary glaucoma;

(4) low tension glaucoma;

(5) inflammatory (uveitic) glaucoma; and

(6) emergency treatment of angle closure glaucoma.

(b) This section shall not prohibit a licensee from administering

appropriate emergency stabilization treatment to a patient.

Sec. 7. 26 V.S.A. § 1728b is added to read:

§ 1728b. DISCLOSURE OF INFORMATION

(a) A licensee permitted to treat glaucoma shall provide to patients diagnosed with glaucoma a disclosure statement, printed or typed in easily readable format, which includes the following information:

(1) the licensee's professional qualifications and experience, including postgraduate education and training received relevant to the treatment of glaucoma, including special courses;

(2) the name or names of postsecondary educational institutions attended, dates attended, and degrees awarded;

(3) the title of the glaucoma treatment training program, and the name and address of the provider or sponsoring entity of the program;

(4) beginning and ending dates of the glaucoma treatment training program;

(5) a description of the content of the glaucoma treatment training program;

(6) any credentials awarded;

(7) the following statement:

"All patients have the right to choose to be treated by either an optometrist or an ophthalmologist. I have just described my training as an optometrist. Ophthalmologists go to medical school for four years after college, then engage in supervised practice in a three-year residency. Their further training allows them to perform surgery and treat the most complex cases. Optometrists and ophthalmologists

often work together treating diseases of the eye. When collaboration is not enough to provide adequate care, I will refer you to an ophthalmologist."

(b) The signed disclosure of information form shall be filed in the patient's records, and a copy shall be provided to the patient.

Sec. 8. 26 V.S.A. § 1728c is added to read:

§ 1728c. USE OF ORAL THERAPEUTIC PHARMACEUTICAL AGENT; COMMUNICATION WITH PRIMARY CARE PROVIDER

A licensee who employs an oral therapeutic pharmaceutical agent, as identified by the formulary committee established in section 1724 of this title, which might prove to have significant systemic adverse reactions or systemic side effects shall, in a manner consistent with Vermont law, ascertain the risk of systemic side effects through either a case history or by communicating with the patient's primary care provider. The licensee shall also communicate with the patient's primary care provider, or with a physician skilled in diseases of the eye, when in the professional judgment of the licensee, it is medically appropriate. The communication shall be noted in the patient's permanent record. The methodology of communication shall be determined by the licensee.

Sec. 9. 26 V.S.A. § 1728d is added to read:

§ 1728d. DURATION OF TREATMENT WITHOUT REFERRAL

(a) If a glaucoma patient does not respond to up to three topically administered pharmaceutical agents within a reasonable time, the

licensee shall refer the patient to a licensed ophthalmologist. No glaucoma patient shall be treated by an optometrist with more than three topically administered agents at any given time.

(b) If an oral medication is required to obtain an adequate clinical response, the licensee shall consult with a licensed ophthalmologist as soon as clinically prudent following initiation of the oral medication. This section shall not require that the licensee transfer care of the patient to the consulting ophthalmologist, but does require that the patient be seen by the consulting ophthalmologist.

Sec. 10. 26 V.S.A. § 1729 is amended to read:

**§ 1729. APPLICATION;
EXAMINATION**

(a) Upon application, the board shall certify eligible licensees to use therapeutic drugs and to perform procedures as authorized by subdivision 1728(a)(2) of this title, if the applicant meets the requirements of section 1715 of this chapter for licensure by examination or meets the requirements of section 1716 of this chapter for licensure by endorsement, and is authorized under the license of another jurisdiction to use therapeutic pharmaceutical agents.

* * *

(d) A licensee who is certified to use therapeutic pharmaceutical agents shall demonstrate proof of current cardiopulmonary resuscitation certification as a condition of initial certification and of license renewal. Acceptable courses shall include:

(1) courses in external cardiopulmonary resuscitation which are approved by the Vermont Heart Association or the American

Red Cross; and

(2) courses which include a review of diseases or conditions which might produce emergencies such as anaphylactic shock, diabetes, heart condition, or epilepsy.

(e) A licensee certified to use therapeutic pharmaceutical agents shall, as part of required continuing education, receive not less than 50 percent of his or her continuing education in the use of pharmaceuticals, including treating possible complications arising from their use, and the treatment of glaucoma.

Sec. 11. 26 V.S.A. § 1729a is added to read:

**§ 1729a. PREREQUISITES TO
TREATING GLAUCOMA**

A licensee who is already certified to use therapeutic pharmaceutical agents and who graduated from a school of optometry prior to 2003 and is not certified in another jurisdiction having substantially similar prerequisites to treating glaucoma shall, in addition to being certified to use therapeutic pharmaceutical agents, provide to the board verification of successful completion of an 18-hour course and examination offered by the State University of New York State College of Optometry or similar accredited institution. Successful completion shall include passing an examination substantially equivalent to the relevant portions on glaucoma and orals of the examination given to current graduates of optometry school and shall require the same passing grade. The course shall cover the diagnosis and treatment of glaucoma and the use of oral medications and shall be taught by both optometrists and ophthalmologists. In addition, the licensee shall collaborate with an ophthalmologist regarding his or her

current glaucoma patients for six months and at least five new glaucoma patients before treating glaucoma patients independently. These five new glaucoma patients shall be seen at least once by the collaborating ophthalmologist.

Sec. 12. SUNSET; REPORT

(a) 26 V.S.A. § 1724 (formulary committee) shall be repealed in its entirety on December 31, 2005. Any formulary in effect on this date shall remain in effect unless or until a process for adopting a new formulary is authorized by law.

(b) On or before December 1, 2005, the director of the office of professional regulation shall submit a report to the general assembly which evaluates the strengths and weaknesses of the amendments to 26 V.S.A. § 1724 (formulary committee) contained in this act.

The following statutes have been amended or added within the last two years.

Proposed Changes to 3 V.S.A.

These changes affect all professions regulated by the Secretary of State's Office.

3 V.S.A. § 127(b) is amended to read:

(b) A person practicing a regulated profession without authority may, upon the complaint of the attorney general or a state's attorney or an attorney assigned by the Office of Professional Regulation, be enjoined there from by the superior court and may be assessed a civil penalty of not more than \$1,000.00.

The attorney general or an attorney assigned by the Office of Professional Regulation may elect to bring an action seeking only a civil penalty of not more than

\$1,000.00 for practicing a regulated profession without authority before the board having regulatory authority over that profession. Such hearings will be conducted in the same manner as disciplinary hearings.

3 V.S.A. § 129a(a) is amended to read:

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items, or any combination of items, whether or not the conduct at issue was committed within or outside the state, shall constitute unprofessional conduct:

* * *

(9) Failing to retain client records for a period of seven years, unless laws specific to the profession allow for a shorter retention period. When other laws or agency rules require retention for a longer period of time, the longer

retention period shall apply.

(10) Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession.

(11) Failing to report to the office a conviction of any offense in a Vermont district court, a Vermont superior court, or a court outside Vermont within 30 days of a conviction of any offense related to the practice of the profession.

Continuing Education

4.3 CONTINUING EDUCATION REQUIREMENTS

All persons licensed to practice optometry must earn a minimum of 20 hours of continuing education during the two-year renewal period and must report these hours at the time of license renewal. An applicant who holds a special license endorsement for the use of therapeutic drugs must complete at least an additional 20 hours for a total of at least **40** hours of continuing education during the two-year renewal period. At least 20 of the 40 hours must be related to the use of therapeutic drugs and treatment of ocular disease.

"Continuing education" means the direct participation of an optometrist in a structured educational format. Continuing education credits are calculated in the following manner:

- one contact hour equals one continuing education credit.
- one semester credit equals fifteen continuing education credits.
- one quarter credit equals ten continuing education credits.
- one workshop hour equals one continuing education credit.

Every licensed optometrist must complete at least 20 continuing education credits (at least 40 continuing education credits for licensees holding a special license endorsement for use of therapeutic drugs) in a two-year renewal period in order to renew licensure. The continuing education requirement does not apply for the renewal period during which a person initially obtained licensure. It will begin with the first full two-year renewal period following initial licensure.

The Office will provide a form upon which all credits must be recorded. The name and date of the activity, the number of credits requested, and the name of the instructors and

sponsor must be clearly indicated on the form. The form must be submitted with the biennial renewal forms.

Credits will be granted only for actual time spent as a learner. Breaks and lunches must be deducted.

Credits cannot be granted for time spent in activities as an instructor, presenter, or supervisor.

Each licensee must maintain records showing attendance and participation in the continuing education activities claimed, such as pamphlets, certificates of attendance received during the instruction, receipt of registration, program announcement, signature of facilitator or brief summary of the work content. Those records are subject to inspection and verification by the Office upon request during reasonable business hours.

The Board may require a licensee who cannot produce satisfactory documentation of continuing education, as set forth above, to develop and complete a specific corrective action plan within 90 days. The Office will extend the license during the 90-day corrective period but will not renew it if the licensee fails to complete the plan.

Joint Meeting with the Board of Opticians

Members of the boards of Optometry and Opticians have met to discuss duties performed by individuals in optometrists' offices, level of training received, accountability, and possible unlicensed practice situations.

As a result of these meetings the Board of Optometry sent out the Bulletin listed below.

BULLETIN**“Attention employees of
Optometrists and
Ophthalmologists”**

The Board of Optometry met with members of the Board of Opticians to discuss licensure opportunities for our employees while performing your regular duties. The Board of Opticians has asked the Board of Optometry to make you aware of the process to become licensed as an optician if you so desire. Once the appropriate paperwork is filed, individuals could qualify and be registered as optician trainees which means that the hours you work can count toward meeting the optician’s licensure requirement. The steps are outlined below.

Completed application and (\$70 fee)

Completed Supervisor/Apprentice Notification form

Completed Verification of Apprentice Opticians form

Benefits of licensure include improving your skills, career advancement, becoming recognized as a licensed professional in a field you enjoy, and the increased public confidence in what you do.

This profession is part of the rapidly changing health field. Keeping up-to-date with regard to new equipment, techniques, procedures, etc. has never been more important. Employers and the consumers benefit, and the general public is better served as a result.

Reminders

1) It is your responsibility to report changes of name and/or address to this Office. You may do so via phone, fax, or E-mail.

2) You must now report within 30 days convictions, felonies, or other

criminal offenses related to the profession (26 V.S.A. 129a (a) (11)).

3) If you have Optician Trainees working under your direct supervision, you have several responsibilities in that role and are required to follow the laws and rules governing this practice. See the Web site for additional information at www.vtprofessionals.org (Under Pick a Profession, click on Opticians, Board Rule 2.6).

Complaints

What follows is a composite of some of the issues that may result in the filing of a complaint against a practitioner. Having a complaint filed against you can be extremely disruptive and upsetting. If a case alleges unprofessional conduct, as defined by the Board’s laws and rules, the Office will order an investigation.

Although many complaints do not result in disciplinary action, they are still investigated. Many of those complaints that are closed might have been avoided altogether if the practitioner had better communicated with the patient. Many insurance carriers, and many states now ask if you are, or have ever been the subject of an investigation.

If a complaint is filed and the Investigative Team finds unprofessional conduct, the Board may take disciplinary action after a hearing. We hope that you will read this carefully, it does not cover every possible scenario, but it may help you avoid common pitfalls that result in a complaint, and/or disciplinary action.

1) Poor communication. Be sure to communicate well between yourself and your clients, between yourself

and your colleagues, and between yourself and your employees.

2) Attitude. The Investigative Teams find that many cases are brought to the Office of Professional Regulation because the professional had an “attitude” that was flippant or perhaps condescending.

3) Unauthorized Practice. Working without proper registration or license to do so, or allowing unlicensed or unregistered persons to practice.

Contact us

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Office of Professional Regulation**

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