

NEWSLETTER

Vermont Board of Optometry

Secretary of State, Office of Professional Regulation

Topics in this newsletter include: Chairman's Report, the new licensing system (eLicense), Online Renewals, Changes in Legislation (2009 and 2010); CPR and CE Requirements, Prescriber Information, Reminders, Statistics, and more.

Board Members

The members of the Vermont Board of Optometry and their term expiration dates follow:

Jon D. Eriksson, O.D., Chairman, Richmond, Vermont (12/14)

Lois M. Shiozawa, O.D., Vice-Chair, Essex Junction, Vermont (12/12)

Daniel M. DaPolito, O.D., Secretary, Middlebury, Vermont (12/10)

Bonnie Liberty, (Public Member), South Burlington, Vermont (12/14)

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 latest Newsletter. This Newsletter contains information about staff, statutory amendments, continuing education, statistics, and other issues pertaining to the profession.

Staff

Kristy Kemp is the Board's Administrative Assistant. Ms. Kemp may be reached at (802) 828-2373; Fax: (802) 828-2465; or via E-Mail at: kkemp@sec.state.vt.us
Our Web site is: www.vtprofessionals.org

Carla Preston is the Board's Unit Administrator. You may reach Ms. Preston at (802) 828-2875 or via E-mail: cpreston@sec.state.vt.us

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

Christopher D. Winters, Esq., is the Director of the Office of Professional Regulation

From the Chairman

Jon Eriksson, O.D.

I would like to review the happenings at the Board since our last newsletter (2006). We have been busy auditing the cases sent in to qualify for independent glaucoma treatment. There are still some questions as to what qualifies as an appropriate patient. To qualify, the patient has to be newly diagnosed with glaucoma, it cannot be an "inherited" patient already on treatment. The patient must be sent to a collaborating Ophthalmologist. Verification may

include a copy of the letter received back from the Ophthalmologist or a list of patients with the collaborating Ophthalmologist's signature. The Board recommends that you submit all five cases as soon as they are complete. You do not have to wait until the biennial renewal. The Board and OPR are working on ways to clarify the endorsement. The endorsement issued in March of 2005 reflected those optometrists who completed the specific training course and were eligible to begin to co-manage five new patients. The Board wants to further clarify those practitioners who are now eligible to treat glaucoma independently (receiving approval from the Board, or having graduated in 2003 or later).

In 2009, the Board approved two new drugs for the formulary, minocycline and oral eurthromycin. We found this to be an extremely long process and after discussions with leaders of the Vermont Optometrists Association, the Board agreed that the formulary had outlived its usefulness. The Board is very pleased to announce that effective July 1, 2010, the formulary will be repealed!

I, as Chair, and the full Board wish to thank Doctors Johnson, Mawhinney and Shippee for attending Board meetings in 2009

to discuss uniform licensure, the scope of practice, the formulary, and other concerns pertaining to the practice of optometry. We will continue to work together to address these issues. The 2010 statutory changes reflect their input.

The Board welcome's Kristy Kemp as its new Administrative Assistant and offers a special thank you to Kara Shangraw for her assistance in the past.

You will see several statutory changes below. Many of the changes were housekeeping and needed updating.

The fee structure for OPR was explained in detail in your 2006 Newsletter when the fees were significantly increased. For more information about the Board's budget, statistics regarding complaints, new licenses, etc. go to the web site to review OPR's Annual Report.

The Board encourages you to attend meetings or contact the Office if you would like to discuss an issue or concern. Meetings are typically held in March, June and September. See our Web site or call the office for more details.

*Jon D. Eriksson, O.D.,
Chairman*

eLicense
from Director Chris Winters

I am pleased to give you an update on a major project all of us at OPR have been involved with over the last few years. For well over a decade, we have struggled with our two existing electronic databases for licensing and discipline. As our business has grown, it has become increasingly apparent that these databases are

inadequate for our changing needs. We continue to see rising numbers of licensees and disciplinary complaints, with very little in the way of increased staffing. We need to leverage new technology to help us do our jobs in a more efficient manner as we serve the public. Because of this, we have long been planning a replacement of our existing computer system with a new one called "eLicense."

eLicense is a highly customizable product that allows the client to configure its functions to reflect its business practices. So before we started configuring the new system, we went through a lengthy self-analysis of our business processes, including a step-by-step review of each and every license we offer, cross-checking it with the laws for that profession and the forms we currently use. We did this for nearly 400 license types! We've also reviewed all of the correspondence that leaves this office to build certain standard letters into the system with merge tags so that they can be automatically generated. We've produced about 50 letters so far, with many more to go. On the discipline side, we have configured "actions" into the system (each one being an electronic footprint of a step in the case) so that the electronic record will be detailed and complete and anyone can know the status of a case at a glance.

The new system incorporates our two legacy databases into one, allowing for more complete information in one place about each licensee. Electronic checklists have reduced paper files and encouraged consistency. In eLicense, applicants are entered into the system as soon as they file an application, rather

than when they are finally licensed. Any OPR employee from any desk can pull up a file on their computer desktop to answer questions about the applicant or licensee.

All of this has lead to more reliable and accessible information, better accounting practices, and more timely deposits. Standard letters can be automatically generated from the system and attached to the electronic licensee file. More advanced reporting functions have allowed managers to glean detailed information about workloads, timelines, and the status of applications and cases. These reporting functions also translate into additional information available to the public through our website.

Other eLicense features include the ability for applicants to look up the status of their pending applications online, greatly reducing the number of phone calls to OPR. The general public can search for licensees by a variety of search criteria.

Online license renewals have been the latest phase of the project which saw a successful launch in March. You should expect your profession to renew online this cycle, saving both you and our office staff time and money.

As you might imagine, this ambitious undertaking, on top of our regular everyday workloads, was a real challenge. The beauty of eLicense is its adaptable nature. Every day we discover new ways to harness its power and improve upon what we do. Although it has been a long and painful journey to get to this point, it has been well worth it. Along the way, we have discovered many ways to improve

our business processes. It has been a great team-building exercise and has helped us to think critically and innovate around our long-standing ways of doing things here at OPR.

The OPR staff deserves a large amount of the credit for the parts they played in making this a reality. They took on a rather large extra workload and embraced this difficult change. With a year of eLicense now under our belts, I am excited for what is in store for us next as we strive to uphold our reputation as a responsive and innovative state agency.

Online Renewals

As mentioned above, you will have the ability to renew your license online. You will be sent a Notice with your User ID and Password which you should have already received.

Please note that to renew you must state that you possess current CPR certification if you use therapeutic pharmaceuticals and hold that endorsement and well as compliance with continuing education requirements. (See more information below)

Statutory Amendment *Effective July 1, 2009*

Sec. 27. 26 V.S.A. § 1703(1) is amended to read:

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

Sec. 28. 26 V.S.A. § 1708 is amended to read:

§ 1708. POWERS AND DUTIES

(a) The board shall:

(1) Adopt rules under chapter 25 of Title 3 necessary for the performance of its duties, ensuring that at least the following are established by statute or rule:

(A) A definition of the behavior for which a license is required;

(B) Explanations of appeal and other significant rights given by law to licensees, applicants and the public; and

~~(C) Rules of practice in disciplinary cases, including provisions regarding representation and evidence at hearings and provisions regarding subpoenas and witness fees.~~

~~(2) Conduct any necessary hearings in connection with the issuance, renewal, suspension or revocation of a license or otherwise related to the disciplining of a licensee;~~

~~(3) Receive complaints and charges of unprofessional conduct against any holder of a license. The board shall investigate all complaints in which there are reasonable grounds to believe that unprofessional conduct has occurred.~~

(b) The board may:

~~(1) Issue subpoenas and administer oaths in connection with any authorized investigation, hearing, or disciplinary proceeding exercise authority granted under chapter 5 of Title 3;~~

~~(2) Take or cause depositions to be taken as needed in any investigation, hearing or proceeding use the administrative services provided by the office of professional regulation under chapter 5 of Title 3;~~

* * *

Sec. 29. 26 V.S.A. § 1715 is amended to read:

§ 1715. QUALIFICATIONS FOR EXAMINATION LICENSURE BY EXAMINATION

(a) ~~Upon payment of the fee required by section 1718 of this title, an applicant shall be examined by the board to determine his qualifications. The board may grant a license to an applicant shall be a person who:~~

(1) has attained the age of majority;

(2) who is a graduate of an optometric school or college accredited by a regional or professional accreditation organization approved by the board;

(3) If the applicant passes the has successfully completed an examination, he shall receive a biennial license approved by the board; and

(4) upon payment of the has paid the fee required by section 1718 of this title.

(b) Any person duly licensed and of record before July 1, 1980, shall not be required to pass the standard examination in order to retain his license.

(c) A failed examination may be retaken once free of charge and each examination thereafter shall be subject to payment of a fee.

Sec. 30. 26 V.S.A. § 1716 is amended to read:

§ 1716. LICENSURE WITHOUT EXAMINATION BY ENDORSEMENT

The board may issue a license without a written examination to a qualified an applicant who is licensed and currently in good standing in a state, territory or district of the United States jurisdiction having license requirements which are substantially equivalent to the requirements of this chapter, provided the applicant has been engaged in the licensed practice of optometry for at least 500 hours during each of the two years immediately preceding application. At its discretion, the board may give an oral or practical examination to any person qualifying for licensure under this section. The provisions of this section shall apply regardless of whether an applicant comes from a state which does not grant a

~~similar privilege to Vermont applicants.~~
 Sec. 31. 26 V.S.A. § 1716a is amended to read:
 § 1716a. RENEWAL
 Licenses shall be renewed every two years upon payment of the required fee, provided that the person applying for renewal completes at least 20 hours of continuing education, approved by the board, during the preceding two-year period. If the applicant has a special endorsement for the use of pharmaceutical agents as provided in section 1729 of this title, the applicant shall, during the preceding two-year period, complete at least 40 hours of continuing education, approved by the board, of which at least 20 hours shall be related to the use of therapeutic pharmaceutical agents. The board may specify particular areas of study which must be completed to satisfy the requirements of this section. The board may, by rule, adopt continuing education requirements for those who renew their licenses after less than a full two-year period.
 Sec. 32. 26 V.S.A. § 1729 is amended to read:
 § 1729. APPLICATION; EXAMINATION ENDORSEMENTS AND REQUIREMENTS
 Sec. 41. REPEAL
(a) 26 V.S.A. § 72a(c) (provision for applicants for accountant license who have good character and meet the education requirements or who expects to meet them within 60 days following the examination); chapter 17 (regulation of embalmers); §§ 1163(e) (temporary practice for professional engineers); 1709(f) (per diems for members of the state board of optometry); 1714 (procedures for examination of

optometrists); 1721 (remedies; appeals of disciplinary actions for optometrists); 1725 (applications and examinations for optometrist use of diagnostic pharmaceutical agents); 2427 (temporary licenses for veterinarians); and 2595(d) (temporary permits for land surveyors) are repealed.
(b) 26 V.S.A. § 71a(a)(2)(A)(i) shall be repealed on July 1, 2014.
(c) Sec. 26a of this act shall be repealed on July 1, 2013.
 Approved: May 23, 2009

Statutory Amendment
Effective July 1, 2010

Act 103, Effective July 1, 2010
 Sec. 11. 26 V.S.A. § 1703(5) is added to read:
(5) "Contact lenses" means those lenses with prescription power and those lenses without prescription power which are worn for cosmetic purposes.
 Sec. 12. 26 V.S.A. § 1719(b)(3)(E) is added to read:
(E) Failure to comply with prescription-released requirements established in the Federal Ophthalmic Practice Rule (CFR Part 456) or the Fairness to Contact Lens Consumers Act (USCA §§ 7601-7610).
 Sec. 13. 26 V.S.A. § 1728(a) is amended to read:
 (a) An optometrist licensed under this chapter who possesses the endorsement required under section 1729 of this title, may: (1) use and prescribe all appropriate pharmaceutical agents for the appropriate diagnosis, management, and treatment of the eye and adnexa.
 * * *
 Sec. 14. 26 V.S.A. § 1728c is amended 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 established in section 1724a of this title, which that~~ 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. 15. 26 V.S.A. § 1729 is amended to read:
 § 1729. ENDORSEMENTS AND REQUIREMENTS
 (a) Upon application, the board shall certify eligible licensees to use and prescribe therapeutic drugs and to perform those 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.
 * * *
 (c) ~~Annually, the board shall notify the state board of pharmacy, in writing, of the optometrists certified under this section in the use of 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)(d) 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. 53. REPEAL

26 V.S.A. §§ 1187 (secretary of state as agent for process for professional engineers); 1723 (use of diagnostic pharmaceutical agents by optometrists); 1724a (annual update of formulary for optometrists by the director of the office of professional regulation); and 3178b (reinstatement of private investigator or security guard license) are repealed.

Statutory Amendments to Title 3

Please note that there were changes made to Title 3, §§ 129 - 129b that affect all professions. Those changes may be viewed via our Web site at www.vtprofessionals.org.

Cardiopulmonary Resuscitation (CPR) Requirement

Title 26 V.S.A. § 1729 (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. This law is not new, it has been in effect for several years!

Continuing Education

OPTOMETRISTS applying for licensure renewal must have completed 20 hours of continuing education related to the practice of optometry during the two-year period immediately preceding renewal, August 1, 2008 through July 31, 2010.

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. (See Board Rule 4.3)

If you have a special endorsement for the use of therapeutic pharmaceutical agents (TPA) as provided in 26 V.S.A. § 1729, you must have completed an additional 20 hours of continuing education, approved by the Board, related to the use of therapeutic pharmaceutical agents. It is your responsibility to accurately document and/or track

your continuing education credit hours. Such documentation should be retained for a period of seven (7) years after the completion of the program.

To assist you in documenting your continuing education, please download the Continuing Education Record from our web site at:

<http://vtprofessionals.org/opr1/optometrists>

The Board of Optometry plans on verifying information stated by applicants for renewal (CE and CPR) through an audit process.

The Board accepts CE approved by the Council on Optometric Practitioner Education (COPE) without prior approval. If the program you plan to offer or in which you wish to participate is COPE-approved, you do not need to obtain prior approval from the Board.

Online programs approved by COPE will be accepted. Other online courses may be accepted provided they meet the criteria stated in Board Rule 4.4. You must submit a request to the Board for consideration.

The Board will develop a Continuing Education Request form for licensees and others seeking approval of a course or program.

Board's Rule re CE

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:

A one contact hour equals one continuing education credit.

A one semester credit equals fifteen continuing education credits.

A one quarter credit equals ten continuing education credits.

A 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.

Additional Continuing Education Pursuant to 26 V.S.A. 1729a (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.

Tamper Resistant Prescription Pads

On September 8, 2009, the Vermont Legislature's Legislative Committee on Administrative Rules approved the Rules

proposed by the Pharmacy Board. Most of the rules become effective on October 1, 2009. The Rules are at the Pharmacy Board's section of the OPR web site, <http://vtprofessionals.org>

Prescribers, please note: As of January 1, 2010 all written Vermont prescriptions must be written on tamper resistance prescription pads.

Vermont's Prescription Confidentiality Law Prescriber Data-Sharing Program

Title 18 V.S.A. Ch 91, § 4631 (c)(1) states, The department of health and the office of professional regulation, in consultation with the appropriate licensing boards, shall establish a prescriber data-sharing program to allow a prescriber to give consent for his or her identifying information to be used for the purposes described under section (d) of this section. The department and office shall solicit the prescriber's consent on licensing applications or renewal forms and shall provide a prescriber a method for revoking his or her consent. The department and office may establish rules for this program. <http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=18&Chapter=091&Section=04631>

The form mentioned to opt in to this program will be mailed with your notice about renewing online. The forms to opt in or to revoke consent are also available online at: <http://vtprofessionals.org/opr1/optometrists/>

Reminders

(Worth Repeating)

1) It is your responsibility to report changes of name and/or address to this Office (See 3 V.S.A. § 129a). With your User ID and Password you may update your address online or send us a fax or E-mail with the information. You must provide evidence of your name change (i.e., copy of marriage license, divorce decree, or other court documents) to the Office.

2) You must 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 3.3).

Complaints

(Worth Repeating)

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 with your patients, colleagues, 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.

4) Failure to provide a prescription once the patient (buyer) has paid for such services (See 26 V.S.A. § 1719 and 3 V.S.A. 129a for unprofessional conduct).

Miscellaneous Fees

1) \$20 fee for verification of your licensure status to be sent to another state.

2) \$20 fee for replacement license.

Disciplinary Actions

The Office issues Press Releases of disciplinary actions taken during the month. The full text of decisions can be accessed for reading or printing from the OPR Web site noted below. The direct link to the search page is: <http://vtprofessionals.org/opr1/searchdiscipline.htm>

Disciplinary actions range from warnings, a finding of no unprofessional conduct with an administrative penalty, to revocation. The Board took action against one licensee since July of 2006.

Web Site

The Board's Web site, **www.vtprofessionals.org** is a great resource for information. There you may find the current statutes and rules. You may check the status of your application, look up a licensee, review disciplinary actions, etc. You will find our updated applications and forms on our Web site. You will also find important announcements such as the ability to renew online!

Statistics

For your information we currently have 113 Active Optometrists (95 Resident; 18 Non-Resident).

Please note that all of our meetings are public and we encourage you to attend. Meetings are typically held during the months of March, June and September. The next meeting is scheduled for September 29th. Please contact the Office if you plan to attend a meeting to verify the date and time.

Contact us

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