



STATE BOARD OF OPTOMETRY

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Letter From the President



The 2007 legislative session was a very good year for optometry. With the support of the Missouri Optometric Association, Senate Bill 16 was signed into law requiring comprehensive eye examinations for children entering kindergarten or first grade in Missouri public schools. The new law also requires vision screenings for students before the completion of first grade and again before the completion of third grade. Students identified as needing further care will be required to see an eye doctor for a comprehensive eye exam. The law takes effect July 1, 2008, requiring eye exams for students starting school in the fall.

There were also several changes made to the optometry practice act with the passage of House Bill 780 and Senate Bill 308. Both bills are identical and the new laws went into effect on August 28, 2007. There is no expansion in the scope of optometric practice; but some of the highlights include a re-write of Sections 336.010, RSMo, which defines the practice of optometry, and Section 336.220, RSMo, which relates to an optometrist's ability to prescribe pharmaceutical agents. It is not uncommon for insurance companies, medical malpractice providers, pharmacists, and others to reference the definition section of the optometry law for answers to scope of practice questions. The old definition section of the optometry law said that optometrists could not use drugs or medicines, when in fact optometrists have been able to prescribe diagnostic pharmaceutical agents since 1981. In 1986, the law changed again to allow optometrists to ability to prescribe therapeutic pharmaceutical agents and in 1995, optometrists were given the authority to treat glaucoma. With each revision, Section 336.220, RSMo was amended with no reference being made to the definition of the practice of optometry, Section 336.010, RSMo. The new laws, as re-written, are included in this newsletter. Complete copies of all the Board's rules and statutes may also be found on the Board's website, www.pr.mo.gov/optometrists.asp.

The new law also increases the continuing education requirement for license renewal. The details of these changes are explained more fully in another section of this newsletter.

The Board recently completed its continuing education audit for the 2006-2008 renewal. The Board reviewed twenty (20) cases of non-compliance when it met on July 27th, 2007. Two (2) cases have been referred on to the Board's legal counsel for discipline and in two (2) more cases the Board will seek voluntary surrender of the license. Letters of concern were issued in the other sixteen (16) cases. The most common area of non-compliance is not earning at least eight (8) hours of approved continuing education during each year of the two-year reporting period. In almost every case, the licensee answered "yes" to the question on the renewal application which states, "I have earned eight (8) hours of approved continuing education units (CEU's) during the time period of September 1, 2004 through August 31, 2005, and eight (8) hours of approved CEU's during the

IN THIS ISSUE...

Letter From The President.....	1-2
Introducing New Board Member.....	2
Letter From Division Director.....	3-4
Message From BNDD.....	4
Chemical Dependency Treatment.....	5
Changes to the Continuing Education Requirements.....	5-6
New Executive Director.....	7
New Optometry Laws.....	7-15
Next Board Meeting.....	15
Moving?.....	16

Governor

The Honorable Matt Blunt

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(Letter From the President continued...)

time period of September 1, 2005 through August 31, 2006, for a total of sixteen (16) hours during the two-year reporting period.” When asked during the audit to produce the documentation of the required hours, in the sixteen (16) cases referenced the licensee may have had the sixteen (16) hours, but not eight (8) hours in each year of the reporting period, or some may have earned hours during the grace period between September 1 through December 31, but did not pay the continuing education penalty fee that is required.

The Board is currently in the process of updating its rules so that they will be compatible with these statute changes. The Board hopes to have completed this process by mid-2008.

The Board does not publish a newsletter on a regular basis and generally when a newsletter is published, the information contained therein is important and newsworthy. So I encourage all licensees to read and understand all of the articles printed in this newsletter and contact the Board office with any questions.

Sincerely,

Michael L. Nichols, O.D.

Introducing New Board Member



On July 3, 2007, Governor Matt Blunt appointed Dr. James E. Bureman to the Missouri State Board of Optometry. Dr. Bureman is a managing member of Missouri Eye Institute, LLC, with offices located in Springfield, Branson, and Joplin. Dr. Bureman served a prior term on the Board from 1991-1997. Dr. Bureman was named the Missouri Optometric Association's "Optometrist of the Year" in 2000. Dr. Bureman replaces Dr. Don Vanderfeltz from California, Missouri. We welcome Dr. Bureman back and thank Dr. Vanderfeltz for his years of service to the State Board of Optometry.

Letter From Division Director



The Division of Professional Registration has had a busy and successful 2007. It was a year of significant and beneficial accomplishments, not the least of which was a legislative session where 14 of our 16 proposals were truly agreed to and finally passed and signed into law by the Governor Matt Blunt.

Legislation also signed into law by the Governor created the Board of Private Investigator Examiners which went into effect August 28, 2007. This board consists of 5 members; three private investigators and two public members appointed by the Governor with advice and consent of the Senate.

With the addition of the Private Investigator Examiners, the Division of Professional Registration now houses 18 administrative boards, 13 non-administrative (autonomous) boards and 8 advisory boards:

18 Administrative Boards

- State Committee of Interpreters
- Office of Athletics
- Endowed Care Cemeteries
- State Committee of Dietitians
- Board of Geologist Registration
- Board of Examiners for Hearing Instruments Specialists
- Interior Design Council
- Marital & Family Therapists
- Board of Therapeutic Massage
- Board of Occupational Therapy
- Committee for Professional Counselors
- State Committee of Psychologists
- Missouri Real Estate Appraisers Commission
- Missouri Board for Respiratory Care
- State Committee for Social Workers
- Office of Tattooing, Body Piercing & Branding
- Missouri Office of Athletic Agents
- Board of Private Investigator Examiners

13 Non-Administrative Boards

- Board of Accountancy
- Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects
- Board of Chiropractic Examiners
- Board of Cosmetology & Barber Examiners
- Missouri Dental Board
- State Board of Embalmers & Funeral Directors
- State Board of Registration for the Healing Arts
- Missouri State Board of Nursing
- State Board of Optometry
- Missouri Board of Pharmacy
- State Board of Podiatric Medicine
- Missouri Real Estate Commission
- Missouri Veterinary Medical Board

(Letter From Division Director continued...)

8 Advisory Boards

- Advisory Commission for Dental Hygienists
- Advisory Commission for Anesthesiology Assistants
- Missouri Acupuncturist Advisory Commission
- Athletic Trainer Advisory Commission
- Advisory Commission for Clinical Perfusionists
- Advisory Commission for Physical Therapists
- Advisory Commission for Registered Physician Assistants
- Advisory Commission for Speech Pathologists & Clinical Audiologists

On September 26, 2007, the Division held a board orientation and update. The Honorable Jay Wasson, District 141, Missouri House of Representatives headlined the state officials and Division staff who participated in the day-long event. Representative Wasson is Chairman of the House Professional Registration Committee and offered considerable insight on the legislation process. Special thanks to Representative Wasson for joining us during the afternoon session. We were also pleased to have participation from staff members of the Governor's Office, Secretary of State's Office, and the Joint Committee on Administrative Rules.

The Division Mission is...

- Protect the Public ...
from incompetence, misconduct, gross negligence, fraud, misrepresentation and dishonesty.
- License only "qualified" professionals...
by examination and evaluation of minimum competency.
- Enforce standards...
by implementing legislation and administrative rules.

I am proud to be associated with a team of dedicated employees who take this mission seriously.

Message from BNDD

Frequently, the Missouri State Board of Optometry receives notification from the Missouri Bureau of Narcotics and Dangerous Drugs (BNDD) that a Missouri licensed optometrist has violated Missouri controlled substance laws by failing to inform the BNDD that they have changed practice locations. If a Missouri licensed optometrist is going to conduct any activities with controlled substances, he or she must have a registration from the BNDD and the federal Drug Enforcement Administration (DEA). The BNDD registration is valid for the specific address which appears on the registration. A registration is issued for the optometrist's primary practice location. If an optometrist has a BNDD registration and changes to a different practice location that registration terminates if the optometrist does not notify the BNDD of the change of practice address. Any prescriptions written for controlled substances or any other controlled substance activities conducted without a valid BNDD registration are a violation of Missouri controlled substance laws as well as federal controlled substance laws. If an optometrist is going to be changing a practice address, he or she must notify the BNDD prior to or within 30 days subsequent to the effective date of the address change. For example, if an optometrist with a BNDD registration for a practice located at 123 Main St., Suite 101 is going to move his practice across the hallway to 123 Main St., Suite 125, he or she needs to notify the BNDD within 30 days of moving the practice or else that optometrist's BNDD registration will automatically terminate and that optometrist will not have any controlled substance authority at the new practice location.

This same rule would apply in rare situations where the United States Post Office changes the assigned address for a location. The optometrist would still need to notify the BNDD of the address change.

The Board would like to remind licensees that violations of state or federal drug laws are cause for discipline against a licensee's license.

Chemical Dependency Treatment

The Missouri State Board of Optometry has recently added information to its web site for optometrists and/or their families to seek help who may be struggling with an alcohol and/or drug addiction. If you struggling with an addiction problem, the Board strongly encourages you to seek help on your own. There are many treatment centers in Missouri, but only a few that specialize in addiction treatment for professionals. A few of the programs specializing in treating professionals with addictions are:

<u>Name of Agency</u>	<u>Location</u>	<u>Telephone No.</u>
Farley Center	Williamsburg, VA	800-582-6066
Talbot Recovery Campus	Atlanta, GA	800-445-4232
Healthcare Connection	Tampa, FL	800-444-4434
Palmentto Addiction Recovery Center	Rayville, LA	800-203-6612
Professional Renewal Center	Lawrence, KS	877-978-4772
Betty Ford Center	Rancho Mirage, CA	800-434-7365

*Programs located in Missouri but **not** specialized to professionals include:*

<u>Name of Agency</u>	<u>Location</u>	<u>Telephone No.</u>
Kansas City Community Center	Kansas City	816-842-1805
Harris House	St. Louis	314-631-4299
Valley Hope	Booneville	800-544-5101
Sigma House	Springfield & Branson	417-335-5946
Salem Treatment Center	Salem	800-455-5749
Crossroads	Columbia	573-256-8020
Sober Living	Midwest	314-909-0125

Changes to the Continuing Education Requirements

With the passage of House Bill 780 and Senate Bill 308, the continuing education requirements for all optometrists were increased from eight (8) hours a year to thirty-two (32) hours for the two-year biennial renewal period. The Board will begin enforcement of the new continuing education requirements with the renewal period that begins November 1, 2008 and ends on October 31, 2010.

When optometrists renew their license in 2008, the renewal requirements will be the same as the renewal in 2006. The optometrist must earn at least sixteen (16) hours of Board approved continuing education, eight (8) hours during September 1, 2006 through August 31, 2007, and eight (8) hours during September 1, 2007 through August 31, 2008. It is very important that optometrists earn a minimum of eight (8) hours during each year of the reporting period to avoid any potential for disciplinary action. Too often in the past the Board has seen cases where the licensee has earned all sixteen (16) hours in the two-year reporting period but the minimum number of eight (8) hours was not earned in each year of the two-year reporting period. This will be the last reporting period where at least eight (8) hours of continuing education must be earned each year.

(Continuing Education Requirements continued...)

The Board is also implementing a change in the continuing education reporting period. The reporting period will change from September 1 – August 31 every two years to match the licensing period, which is November 1 – October 31 every two years. This change will start in 2008 with the implementation of the increase in the number of continuing education hours required for re-licensure.

When renewing an optometry license in 2010, all optometrists will be required to have at least thirty-two (32) hours of Board approved continuing education. Those hours can be earned at any time during the period of November 1, 2008 through October 31, 2010. If the optometrist wants to earn all thirty-two (32) hours in October of 2010 to renew in 2010, that will be acceptable. However, the Board would not encourage such a practice. For instance, if the licensee waits until October 2010 to earn all the continuing education hours needed for re-licensure (32 hours), the licensee runs the risk of not finding the approved programs before the license expires on October 31, 2010. Secondly, the renewal application, wherein the licensee attests to having earned the continuing education hours required for re-licensure, and the renewal fee must be post-marked on or before October 31, 2010, to avoid a penalty fee. Lastly, the licensee should renew his/her license in plenty of time to allow for processing and for the new license to be issued before the old license expires on October 31, 2010.

The Board is maintaining the sixty (60) day grace period for renewal in the new rule. This allows an optometrist to renew the license between November 1 and December 31 with payment of the renewal fee and the late fee. Continuing education hours can also be earned during this sixty (60) day grace period but the licensee must pay the continuing education penalty fee as well as the renewal fee and the late fee. For example, if a licensee earns their continuing education hours during November 1, 2010 to December 31, 2010 for renewal that is due by October 31, 2010, the continuing education penalty fee would apply and the licensee would not be able to use those same hours to renew their license in 2012. The late fee for renewal would not apply if the optometrist submitted his/her renewal application, renewal fee, and continuing education penalty fee on or before October 31, 2010. The applicant would not be able to attest on the renewal application that s/he has met the continuing education requirements but instead would need to mark that question with a “no” and explain that the hours required for renewal will be earned before December 31, 2010.

There will be a period of adjustment when the Board changes the continuing education reporting period to match the renewal period. In 2008, the continuing education reporting period will end on August 31st. If the optometrist has not met his/her continuing education requirement by August 31, 2008 to renew in 2008, the licensee can earn hours needed from that second year of the reporting period in September and October of 2008, but the licensee will be required to pay the continuing education penalty fee. By the same token, if the optometrist did earn the hours required for re-licensure before September 1, 2008 for renewal in 2008, and wanted to begin accumulating hours in September and October of 2008 for the 2010 renewal, that will be perfectly acceptable and no penalty fee will apply for accumulating the continuing education hours for the 2010 renewal in September and October of 2008.

The new law does not change the time period to renew an inactive license. The law allows an optometrist to renew his/her license at any time within five (5) years of the license expiration date. However, the minimum number of approved continuing education hours required for reactivation increased from twenty-four (24) hours to forty-eight (48) hours. The continuing education hours can be earned at any time during the inactive period. If a license is not renewed within five (5) years, it becomes void.

New Executive Director



Brian Barnett

On September 30, 2007, Sharlene Rimiller, Executive Director of the Missouri State Board of Optometry, retired after over two decades of dedicated service to the Board. Brian Barnett has been hired as the new Executive Director of the Missouri State Board of Optometry. Mr. Barnett has worked for the Board for several years as an investigator. The Board wishes the best of luck to Ms. Rimiller in her future endeavors and thanks her for her many years of service.

New Optometry Laws

336.010 Defining practice of optometry--other definitions.

1. The "practice of optometry" is the examination, diagnosis, treatment, and preventative care of the eye, adnexa, and vision. The practice includes, but is not limited to:

- (1) The examination of the eye, adnexa, and vision to determine the accommodative and refractive states, visual perception, conditions, and diseases;
- (2) The diagnosis and treatment of conditions or diseases of the eye, adnexa, and vision;
- (3) The performance of diagnostic procedures and ordering of laboratory and imaging tests for the diagnosis of vision and conditions and diseases of the eye and adnexa;
- (4) The prescription and administration of pharmaceutical agents, excluding injectable agents, for the purpose of examination, diagnosis, and treatment of vision and conditions or diseases of the eye and adnexa;
- (5) The removal of superficial foreign bodies from the eye or adnexa;
- (6) The employment of objective or subjective mechanical means to determine the accommodative or refractive states of the human eye;

(7) The prescription or adaptation of lenses, prisms, devices, or ocular exercises to correct defects or abnormal conditions of the human eye or vision or to adjust the human eye to special conditions;

(8) The prescription and fitting of ophthalmic or contact lenses and devices;

(9) The prescription and administration of vision therapy; and

(10) The prescription and administration of low vision care.

2. An optometrist may not perform surgery, including the use of lasers for treatment of any disease or condition or for the correction of refractive error.

3. As used in this chapter, except as the context may otherwise require, the following terms mean:

(1) "Eye", the human eye;

(2) "Adnexa", all structures adjacent to the eye and the conjunctiva, lids, lashes, and lacrimal system;

(3) "Board", the Missouri state board of optometry;

(4) "Diagnostic pharmaceutical agents", topically applied pharmaceuticals used for the purpose of conducting an examination of the eye, adnexa, and vision;

(5) "Low vision care", the examination, treatment, and management of patients with visual impairments not treatable by conventional eyewear or contact lenses and may include a vision rehabilitation program to enhance remaining vision skills;

(6) "Pharmaceutical agents", any diagnostic and therapeutic drug or combination of drugs that assist the diagnosis, prevention, treatment, or mitigation of abnormal conditions or symptoms of the human eye, adnexa, and vision;

(7) "Therapeutic pharmaceutical agents", those pharmaceuticals, excluding injectable agents, used for the treatment of conditions or diseases of the eye, adnexa, and vision;

(8) "Vision therapy", a treatment regiment to improve a patient's diagnosed visual dysfunctions, prevent the development of visual problems, or enhance visual performance to meet the defined needs of the patient.

336.020 Unlawful to practice optometry without license.

It shall be unlawful for any person to practice, to attempt to practice, or to offer to practice optometry, or to be employed by any person, corporation, partnership, association, or other entity that practice or attempts to practice without a license as an optometrist issued by the board. Nothing in this section shall be construed to prohibit a person licensed or registered under chapter 334, RSMo, whose license is in good standing from acting within the scope of his or her practice or a person licensed as an optometrist in any state to serve as an expert witness in a civil, criminal, or administrative proceeding.

336.030 Persons qualified to receive certificate of registration.

1. A person is qualified to receive a license as an optometrist:

(1) Who is at least twenty-one years of age;

(2) Who is of good moral character;

(3) Who has graduated from a college or school of optometry approved by the board; and

(4) Who has met either of the following conditions:

(a) Has passed an examination satisfactory to, conducted by, or approved by the board to determine his or her fitness to receive a license as an optometrist with pharmaceutical certification and met the requirements of licensure as may be required by rule and regulation; or

(b) Has been licensed and has practiced for at least three years in the five years immediately preceding the date of application with pharmaceutical certification in another state, territory, country, or province in which the requirements are substantially equivalent to the requirements in this state and has satisfactorily completed any practical examination or any examination on Missouri laws as may be required by rule and regulation.

2. The board may adopt reasonable rules and regulations providing for the examination and certification of optometrists who apply to the board for the authority to practice optometry in this state.

336.040 Applications, form, contents, fees.

Every person who desires to obtain a license to practice optometry shall apply to the board, in writing, on forms prepared and furnished by the board. The application shall state the required qualifications of the applicant, that the representations are made under oath or affirmation and are true and correct to the applicant's best knowledge, subject to the penalties of making a false affidavit or declaration and shall be accompanied by the examination fee.

336.050 Examinations to be held--to include what.

The board shall hold examinations of applicants for a license as an optometrist at such times and places as it may determine. The examination of applicants for a license as an optometrist may include both practical demonstrations and written and oral tests, and shall embrace the subjects normally taught in schools of optometry approved by the board.

336.060 Licenses to be issued, when.

Whenever the provisions of this chapter have been complied with, and upon payment of the license fee, the board shall issue a license as an optometrist.

336.070 License to be displayed.

Every holder of an optometry license shall display the license in a conspicuous place in his or her principal office, place of business or employment. Whenever a licensed optometrist practices optometry away from his or her principal office, the licensee shall obtain a duplicate renewal license from the board and display it in clear view of the public.

336.080 Renewal of license--requirements.

1. Every licensed optometrist who continues in active practice or service shall, on or before the renewal date, renew his or her license and pay the required renewal fee and present satisfactory evidence to the board of his or her attendance for a minimum of thirty-two hours of board-approved continuing education, or their equivalent during the preceding two-year continuing education reporting period as established by rule and regulation. The continuing education requirement may be waived by the board upon presentation to it of satisfactory evidence of the illness of the optometrist or for other good cause as defined by rule and regulation. The board shall not reject any such application if approved programs are not available within the state of Missouri. Every license which has not been renewed on or before the renewal date shall expire.

2. Any licensed optometrist who permits his or her license to expire may renew it within five years of expiration upon payment of the required reactivation fee and presentation of satisfactory evidence to the board of his or her attendance for a minimum of forty-eight hours of board-approved continuing education, or their equivalent, during the five years.

336.110 Denial, revocation, or suspension of license, grounds for.

1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed. False, misleading or deceptive advertisements or solicitations shall include, but not be limited to:

(a) Promises of cure, relief from pain or other physical or mental condition, or improved physical or mental health;

(b) Any self-laudatory statement;

(c) Any misleading or deceptive statement offering or promising a free service. Nothing herein shall be construed to make it unlawful to offer a service for no charge if the offer is announced as part of a full disclosure of routine fees including consultation fees;

(d) Any misleading or deceptive claims of patient cure, relief or improved condition; superiority in service, treatment or materials; new or improved service, treatment or material; or reduced costs or greater savings. Nothing herein shall be construed to make it unlawful to use any such claim if it is readily verifiable by existing documentation, data or other substantial evidence. Any claim which exceeds or exaggerates the scope of its supporting documentation, data or evidence is misleading or deceptive;

(15) Violation of the drug laws or rules and regulation of this state, any other state or the federal government;

(16) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

336.115 Injunction or restraining order issued, when--venue of action --order in addition to any other penalty.

1. Upon application by the board, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required, upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee.

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought pursuant to this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

336.120 Persons exempt from operation of law.

The following persons, firms and corporations are exempt from the operation of the provisions of this chapter except the provisions of section 336.200:

(1) Physicians or surgeons of any school lawfully entitled to practice in this state;

(2) Persons, firms and corporations, not engaged in the practice of optometry, who sell eyeglasses or spectacles in a store, shop or other permanently established place of business on prescription from persons authorized under the laws of this state to practice either optometry or medicine and surgery;

(3) Persons, firms and corporations who manufacture or deal in eyeglasses or spectacles in a store, shop or other permanently established place of business, and who neither practice nor attempt to practice optometry, and who do not use a trial case, trial frame, test card other than that used by the customer or customers alone, vending machine or other mechanical means to assist the customer in selecting glasses.

336.130 Board of optometry created--members, qualifications, terms, vacancies --officers, election, duties--rulemaking.

1. The governor, with the advice and consent of the senate, shall appoint six members, five persons from among such practicing optometrists of the state as have had not less than five years' practical experience in optometry as defined in section 336.010 and one voting public member, who shall constitute "The State Board of Optometry". Each member shall be a United States citizen and a resident of Missouri for one year. No member of any optical school or college, or instructor in optometry, or person connected in any way therewith, nor any person who as owner, stockholder or employee is connected with any manufacturing, wholesale, dispensing or jobbing house dealing in spectacles or optical supplies or instruments used by optometrists shall be eligible to appointment upon the state board of optometry. The term of all members shall be for a period of five years and until their successors shall be appointed and qualified. If any person, other than the public member, so appointed shall discontinue the active practice of optometry during the period of his or her appointment, such person's term shall thereupon cease and the person shall be at once removed by the governor. All vacancies, however occurring, shall be filled by appointment by the governor, with the advice and consent of the senate, and appointments

made when the senate is not in session shall be confirmed at its next ensuing session. The members of the state board of optometry, before entering upon the discharge of their duties, shall make and file with the secretary of state, the constitutional oath of office.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The members of said board shall meet and organize by electing a president, a vice president, and a secretary.

4. The board shall prescribe the duties of its officers and adopt rules and regulations, not inconsistent with this chapter, to govern its proceedings; and also shall adopt a seal.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

336.140 Board meetings--compensation of board members--fund created, use, transferred to general revenue, when.

1. The board shall hold meetings for the examination of applicants for registration and the transaction of other business pertaining to its duties at least once in six months. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties. All fees payable under this chapter shall be collected by the division of professional registration, which shall transmit the same to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "Optometry Fund". All costs and expenses incurred in administering the provisions of this chapter shall be appropriated and paid from this fund.

2. The provisions of section 33.080, , to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

336.150 Duties of board--rulemaking, procedure, generally, this chapter.

1. It shall be the duty of the board to examine all applications for registration submitted in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this chapter; to cause the prosecution of all persons violating its provisions; to report annually to the governor the condition of optometry in the state of Missouri, which said report shall also furnish a record of the proceedings of the board for the year and an itemized statement of all moneys received and disbursed, with the names of all optometrists registered under this chapter, and shall contain a copy of all rules adopted by said board of optometry; and to do all other things necessary to carry out the provisions of this chapter. The board shall have the power to make bylaws for the proper fulfillment of its duties under this chapter and shall keep a book of registration in which shall be entered the names and places of practice or business of all persons registered under this chapter, which book shall also specify such facts as said persons shall claim to justify their registration. The president of the board may call a special meeting at any time. Three members shall constitute a quorum and the records of the board shall at all times be open to public inspection.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

336.160 Board may promulgate rules and employ personnel--fees, amount, how set.

1. The board may adopt reasonable rules and regulations within the scope and terms of this chapter for the proper administration and enforcement thereof. It may employ such board personnel, as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as it deems necessary within appropriations therefor.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

336.190 Violation of law, penalty.

Any person who shall violate or aid in the violation of any of the provisions of sections 336.010 to 336.220 shall upon conviction be deemed guilty of a class A misdemeanor.

336.210 Discrimination in recommending or requiring professional services prohibited.

No official, employee, board, commission or agency of the state of Missouri, county, municipality, school district or any other political subdivision of the state shall discriminate between persons licensed under this chapter and chapter 334, RSMo, when requiring or recommending services which legally may be performed by persons licensed under this chapter and by persons licensed under chapter 334.

336.220 Pharmaceuticals, certification for administering required--referral to physician required, when--standard of care--rulemaking authority.

1. Notwithstanding the provisions of subsection 1 of section 336.010, any optometrist who is not certified to use either diagnostic or therapeutic pharmaceutical agents shall continue to be prohibited from administering, dispensing, or prescribing the respective pharmaceutical agents unless the optometrist has completed an approved course of study and has been certified by the board. Such status shall be noted on the license at each renewal.

2. Any optometrist authorized by the board to administer only diagnostic pharmaceutical agents shall refer a patient to a physician licensed under chapter 334, RSMo, if an examination of the eyes indicates a condition, including reduced visual acuity, which requires medical treatment, further medical diagnosis, or further refrac-

tion. This referral is not required on known or previously diagnosed conditions. The record of the referral in the optometrist's notes shall have the standing of any business record. Any optometrist violating this section shall be subject to the provisions of section 336.110.

3. An optometrist's prescriptions for therapeutic pharmaceutical agents shall be dispensed by a pharmacist licensed under chapter 338, RSMo. When therapeutic pharmaceutical agents are dispensed by an optometrist, the provisions of section 338.059, RSMo, shall apply.

4. An optometrist certified to use pharmaceutical agents shall be held to the standard of care in the use of pharmaceutical agents in the optometrist's diagnosis and treatment as are physicians licensed by the Missouri state board of registration for the healing arts, who exercise that degree of skill and learning ordinarily used under the same or similar circumstances by physicians and surgeons engaged in the practice of medicine.

5. The board may adopt reasonable rules and regulations providing for the examination and certification of optometrists who apply to the board for authority to administer and prescribe pharmaceutical agents in the practice of optometry.

336.225 Advertising requirements.

Any optometrist or any person, firm, or corporation employing or associated with an optometrist may advertise the availability of optometric service. The optometrist shall be responsible for ensuring that his or her name is prominently displayed at all of his or her practice locations. All eye examination services shall be provided by a person in accordance with the provisions of section 336.030.

Next Board Meeting

The next Board meetings of the Missouri State Board of Optometry is scheduled on June 13, 2008. The meeting will be held in Lake Ozarks, Missouri.

For information regarding meeting location, please feel free to contact the Board's Central office as it gets closer to the meeting date, or visit our web site. The address is on the inside cover of this newsletter.

Division of Professional Registration
STATE BOARD OF OPTOMETRY
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Jefferson City, MO 65102-1335

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MOVING?

**PLEASE NOTIFY THE
BOARD OFFICE OF
YOUR NEW ADDRESS.**

The rules and regulations require all licensees to notify the Division of all such changes by sending a letter to the office in Jefferson City, Missouri. Please include a street address to facilitate any express mail deliveries.

NAME: _____

PROFESSION: _____ LICENSE NUMBER: _____

(P.O. BOX MUST BE ACCOMPANIED BY YOUR PHYSICAL ADDRESS)

OLD ADDRESS: _____

NEW ADDRESS: _____

SIGNATURE: _____

DATE: _____



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