



What's Inside

California Law Exam 1

Glaucoma Certification 2

Inactive Licenses 3

Disciplinary and Enforcement Actions 4

Enforcement Update 5

Closing Practice Doors 6

Board Meetings 7

Keep Up with the News 7

Enforcement Program Seeks Experts 7

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California Law Exam to be Administered by New Vendor April 2010

Effective April 1, 2010, the Board will be contracting with Psychological Services, LLC, (PSI) to administer the California Laws and Regulations Exam (CLRE). The last time the National Board of Examiners in Optometry administered the CLRE was August 28, 2009.

At this time, this new testing format is still in development and we appreciate your cooperation and patience during this transition period. Once the exam is computer-based, candidates will be able to access PSI's Web site and schedule their exam Monday through Friday between the hours of 8 a.m. and 5 p.m. on whatever date they choose. There will be multiple test sites available statewide, saving many candidates a trip to a particular state or distant location within their state.

To participate, just submit an "Application for Licensure as an Optometrist" with the required fee to receive an invitation in the mail with instructions on how to sign up. Locate the application at www.optometry.ca.gov under the "Forms and Publications" tab.

The Board is pleased to be able to provide a more convenient and accessible way for optometrists to become licensed in California.

Listed below are the cities where PSI will administer the examination:

CALIFORNIA	NATIONWIDE
• Anaheim	• Albuquerque, NM
• Atascadero	• Atlanta, GA
• Bakersfield	• Boston, MA
• Carson	• Charlotte, NC
• El Monte	• Cranberry Township, PA
• Fresno	• Houston, TX
• Hayward	• Las Vegas, NV
• Redding	• Portland, OR
• Riverside	• Southfield, MI
• Sacramento	• West Des Moines, IA
• San Diego	
• Santa Clara	
• Santa Rosa	

To learn more about PSI, please visit www.psiexams.com. For additional questions regarding the exam, please contact the Board at (916) 575-7170.

Glaucoma Certification: Next Steps

The legislature mandated that the process for the development of glaucoma certification requirements be completed by January 1, 2010, and directed the Board to meet specific dates for certain steps of the process. These dates did not take into consideration the rule-making time line. Therefore, although all the mandated dates were met, the Board was not able to meet the January 1, 2010, deadline. Below is a brief time line of the Board's progress so far:

** Dates and procedures mandated by SB 1406*

September 26, 2008 – Governor Arnold Schwarzenegger signs Senate Bill 1406 (Chapter 352, Statutes 2008) making significant changes to Business and Professions Code Section 3041 regarding the scope of practice for optometrists.

*** November 20, 2008** – The Board appoints the Glaucoma Diagnosis Treatment and Advisory Committee (GDTAC).

January 1, 2009 – Senate Bill 1406 becomes effective.

February 5, 2009 – GDTAC public meeting.

February 26, 2009 – GDTAC public meeting.

March 5, 2009 – GDTAC public meeting.

*** April 1, 2009** – GDTAC submits its recommendations via two separate reports, one from the optometrists and one from the ophthalmologists, to the Office of Professional Examination Services (OPES) for review.

*** July 1, 2009** – The final report from OPES is submitted to the Board.

*** July 16, 2009** – The Board approves the Report of the OPES pertaining to the recommended curriculum and case management requirements in order for optometrists to treat glaucoma.

July 31, 2009 – Representatives from the three California schools and colleges of optometry meet to discuss and develop a curriculum for glaucoma certification and potential regulations based on the recommendations in the report by OPES.

August 24, 2009 - The Board reviews, makes edits and approves the proposed language for California Code of Regulations 1571, the requirements for glaucoma certification. The Board also makes a motion directing Board staff to begin the rule-making file.

September 21, 2009 – Board staff submits the rule-making file to the Department of Consumer Affairs Division of Legislative and Policy Review and Legal Affairs to begin the internal review process.

October 22, 2009 – Staff presents the glaucoma regulation proposed language for the Board's approval one more time due to a few nonsubstantial changes made to the language. The Board approves language and directs staff to continue on with the rule-making package.

October 27, 2009 – Staff submits the rule-making package for publication.

November 6, 2009 – The Notice and Initial Statement of Reasons is published for notification of the regulatory action in the California Regulatory Notice Register. This prompts the beginning of the 45-day comment period where the public has the opportunity to provide input on the proposed regulation.

December 21, 2009 – The 45-day comment period ends.

December 22, 2009 – The Board holds a hearing to receive comments from the public regarding the proposed glaucoma regulations.

Next Steps: The Board must reconvene to respond to the comments received in the hearing. A Board meeting date is yet to be determined. At this time, there is no completion date due to the controversial nature of this issue.

Visit the Board's Web site at www.optometry.ca.gov/faqs/glaucoma_cert.shtml to see additional frequently asked questions regarding glaucoma certification.



Inactive Licenses: The Pros and Cons

California licensed optometrists have the option of keeping their license current by renewing as either *active* or *inactive*. Optometrists who are not currently practicing within the State usually keep their license current by obtaining an inactive license. When a license is inactive, licensees are not required to complete the continuing optometric education requirement unless they wish to reactivate it. Many optometrists have the misconception that if they allow their license to lapse it will automatically be placed in an inactive status. This is not the case! If no action is taken during the renewal period and the licensee has the intention of making his or her license inactive, the license will be placed in a delinquent status. There have been instances where, after many years of license inactivity, an optometrist seeking to renew his or her license has learned that they are required to request a restoration of the license which includes payment of all accrued renewal and delinquent fees from the license's expiration date. For example:

An optometrist has let his or her license lapse for four years (two full renewal cycles), has not paid any renewal fees, and is delinquent. To reactivate he or she must pay:

2009 renewal cycle fee (\$425) + 2009 delinquent fee (\$50) = \$475
2007 renewal cycle fee (\$300) + 2007 delinquent fee (\$25) = \$325
Total = \$800

10 years:

2009 renewal cycle fee (\$425) + delinquent fee (\$50) = \$475
2007 renewal cycle fee (\$300) + delinquent fee (\$25) = \$325
2005 renewal cycle fee (\$300) + delinquent fee (\$25) = \$325
2003 renewal cycle fee (\$300) + delinquent fee (\$25) = \$325
2001 renewal cycle fee (\$300) + delinquent fee (\$25) = \$325
1999 renewal cycle fee (\$300) + delinquent fee (\$25) = \$325
Total: \$2,100



In addition to fees, you may also need to submit additional items that the Board may require for restoration of a license which can sometimes prove to be problematic for all parties involved. For example, if your license has expired for more than three years and you cannot show proof that you have been practicing in another state, you must retake and pass the clinical portion of the National Board of Examiners in Optometry Exam and the California Laws and Regulations Exam. Therefore, for those of you who currently have an expired license, it may be in your best interest to reconsider your license status.

In order to put a license in an “INACTIVE” status, a licensee must:

1. Submit a signed written request to have the license placed into an “INACTIVE” status. Typically, it is best to send this request to the Board when a license is due to be renewed.
2. Have the request approved by the Board.

The holder of an “INACTIVE” license:

1. May not engage in the practice of optometry in California.
2. Need not comply with continuing optometric education requirements as a condition of renewal of the license.
3. Shall pay a license renewal fee of \$425 prior to the expiration date of the license.

Disciplinary and Enforcement Actions

The following is a list of disciplinary and enforcement actions taken by the Board in 2009:

Citations

Bronge, Matthew Richard (OPT 9473) **Brentwood, CA**

Practiced optometry without a valid license and failed to post a conspicuous consumer notice regarding corrective lens prescriptions at the business site. Issued a citation and ordered to cease and desist said violations. Effective July 23, 2009.
Fine - \$2,250, payment not fulfilled

Kim, Sooyoun (OPT 10349) **Chino, CA**

Failed to obtain a fictitious name permit resulting in fraud and misrepresentation via misleading advertisement of products and services. Issued a citation and ordered to cease and desist said violations. Effective February 9, 2009.
Fine - \$750, paid in full

Probation

Jenkins, Gregory Roy (OPT 7233) **Chico, CA**

Convicted of driving with a blood-alcohol level at or greater than 0.08 percent and demonstrated unprofessional conduct by using alcohol in a manner that is dangerous to himself or others. License is revoked. Effective March 27, 2009.



Mann, Paul Clark (OPT 5090)Clive, IA

Stipulated decision. Disciplined in Iowa for incompetence related to the practice of optometry. License is revoked; revocation is stayed and Dr. Clark is placed on three years probation with various terms and conditions. Effective September 24, 2009.

Matson, Christine Ann (OPT 7990) **Yorba Linda, CA**

Stipulated decision. Convicted of driving with a blood-alcohol level at or greater than 0.08 percent and demonstrated unprofessional conduct by self-administering controlled substances and/or dangerous drugs. License is revoked; revocation is stayed and Dr. Matson is placed on

four years probation with various terms and conditions. Effective August 16, 2009.

Tom, Gregory Lawrence (OPT 10427) **San Ramon, CA**

On April 3, 2008, Dr. Tom's license was surrendered to the Board of Optometry on the grounds of insurance fraud. Dr. Tom petitioned for reinstatement of his license and his petition was granted. License is revoked; revocation is stayed and Dr. Tom is placed on five years probation with various terms and conditions. Effective January 1, 2010.

Enforcement Update

CONTINUING EDUCATION AUDIT

In December 2009, the Board of Optometry reinstated its Continuing Education Audit Program and mailed out the first batch of audit letters. Licensees are chosen at random. A review of responses is currently being conducted and the Board of Optometry anticipates conducting the Continuing Education Audit monthly. Please make sure to keep up with your education and save all certificates of completion from each course, as you will be asked to provide this information.

SALE OF COSMETIC CONTACT LENSES

The Board has recently been receiving calls from concerned licensees and consumers regarding the sale and distribution of cosmetic contact lenses at flea markets, gas stations, costume and accessory stores, and via the Internet. This type of activity is illegal in California. Many teens, young adults, and parents are not aware that all contact lenses, whether decorative or not, must be obtained with a prescription written by a licensed optometrist or ophthalmologist, and must be dispensed by a licensed optometrist, ophthalmologist, or registered dispensing optician.

If you are aware of businesses selling cosmetic contact lenses without a prescription, please contact the Board's Enforcement unit at (916) 575-7170.



HELPFUL TIPS: Staying in compliance with the Board is easy if you follow the tips below:

1. If you have a fictitious name permit (FNP), remember to use it in its entirety verbally and in all publications distributed to the public, including:
 - Letterhead
 - Business cards
 - Signage
 - Web sites

When answering the phone you may not “nickname” or shorten your FNP in any way as it may cause confusion to the public or infringe upon another licensed name in your area.

2. Don't forget to register your FNP with the Board, not just your city and/or county. Although you are required to review the County Clerk's Index of registered fictitious business

names to determine if there is a similar one already in use in your county, you must submit a completed application to the Board as well. The Board has the final approval on your FNP and your FNP permit license must be issued to you before you begin operating with the name or posting signage.

3. Business and Professions Code Section 3102, “Price Advertisements,” now reads:

“It is unlawful to advertise as being free or without cost the furnishing of optometric services where these services are contingent upon payment or other exchange of consideration for goods or other services offered by the provider, unless that contingency is fully disclosed in the same advertisement.”

Failure to comply with the above tips may result in disciplinary action by the Board.

Closing Your Practice's Doors? Don't Forget About the Patient Records

If you are planning on closing your practice, whether it is temporary or permanent, your patients' records continue to be your responsibility. Patient records are sensitive information and cannot be kept in a garage or simply shredded. By law, a person has the right to have access to complete information respecting his or her condition and care provided (Business and Professions Code (BPC) Section 123100). Also, an optometrist must retain a patient's records for a minimum of seven years from the date he or she completes treatment of the patient. For a minor, the patient's record must be retained for a minimum of seven years from the date he or she completes treatment of the patient and at least until the patient reaches 19 years of age (BPC Section 3007).



If you are selling the practice and transferring your fictitious name permit to the new owner, the acquisition of the ownership includes the active patient records and prescription files of the practice (BPC Section 1518).

In order to obtain patient records, a patient or patient's representative must provide a request in writing, specifying the records to be copied, together with a fee to defray the cost of copying that will not exceed:

- * One page = \$.25 per page
- * Microfilm = \$.50 per page
- * Any additional clerical costs incurred in making the records available.

Copies must be provided to the individual within 15 days of receiving the written request. In all circumstances, patients must be notified as to where their records will be kept! Failure to do so may result in a disciplinary action by the Board (BPC Sections 123110 and 123120).



2010 Board Meeting Dates

March 25-26 San Diego
July 26-28..... Sacramento
August (TBD)..... Teleconference
October 21-22..... San Francisco

For the most current board meeting dates and locations, log on to www.optometry.ca.gov and go to the "Board Meetings" link under "Quick Hits."



Keep up with the news

Are you interested in the Board of Optometry's latest actions? If so, join our subscribers list to get e-mail updates of:

- > Meeting agendas
- > Regulation and/or law changes
- > Newsletters (coming soon!)
- > Subject matter expert workshops

To sign up, go to www.optometry.ca.gov and click on the green "Join our Mailing List" icon in the middle of our home page!

Coming Soon...

... the ability to pay your license renewal fees online! Updates about this new feature will be available on the Board's Web site at www.optometry.ca.gov under the "What's New" section, so check back frequently.

Board of Optometry Enforcement Program Seeks Experts

The Board of Optometry Enforcement Program is seeking qualified optometrists with the professional and educational background required to review case materials, prepare written reports, and possibly testify at administrative hearings as an expert witness on behalf of the Board. Expert witnesses must meet the following requirements:

- Possess a current and active California optometric license
- Have five or more years of experience and expertise in one of the areas listed above AND current employment in that setting.
- No prior or current charges or discipline against any healthcare related license in California or in any other place of licensure.
- No criminal convictions, including any that were expunged or dismissed.

If you meet the requirements and are interested in serving as an expert witness for the Board, please complete the application which can be obtained at <http://www.optometry.ca.gov/consumers/expert.shtml> and follow the instructions carefully.

Send the application and your curriculum vitae (resume) including your practice history to:

Board of Optometry
Enforcement Program
2420 Del Paso Road, Suite 255
Sacramento, CA 95834

For more information, please contact the Board at 916-575-7170 and ask for the Enforcement Unit.



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