

Agency 65

State Board of Examiners in Optometry

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Article 1 to 3.—RESERVED

Article 4.—GENERAL PROVISIONS

65-4-1. Definitions. For the purpose of these rules and regulations the following terms shall have the meanings respectively ascribed to them.

(a) “Advertising” means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services or ophthalmic goods.

(b) “Biomicroscopy” means evaluation of the exterior and interior segments of the eye under highly magnified conditions by use of a biomicroscope.

(c) “Board” means the Kansas board of examiners in optometry.

(d) “Contact lens adaptation” means the period of time from the initial dispensing of contact lenses until a licensee exercising professional judgment determines by follow-up visits that the patient has achieved an acceptable level of wearing time with no indication of eye health- or vision-related problems.

(e) “Contact lens evaluation” means measurement of the anatomical and physiological characteristics of the eyes and lids for designing or determining the fit and effect on the eyes and lids of a therapeutic or cosmetic contact lens, including a plano contact lens.

(f) “Coordination testing” means subjective

and objective far and nearpoint balance test for the investigation of the binocular functions of accommodation and convergence.

(g) “External examination” means objective evaluation of the globe (cornea, aqueous, iris, pupil, conjunctiva), the lids, cilia and lacrimation by use of magnification instruments as required by the licensee.

(h) “License” means a license to practice optometry granted pursuant to the optometry law.

(i) “Licensee” means a person licensed pursuant to the optometry law to practice optometry.

(j) “Medical facility” shall have the meaning ascribed to that term in subsection (c) of K.S.A. 65-411 and amendments thereto.

(k) “Medical care facility” shall have the meaning ascribed to that term in K.S.A. 65-425 and amendments thereto.

(l) “National board examination” means all parts of the examination being then administered by the national board of examiners in optometry and any examination then being administered by the international association of boards on treatment and management of ocular disease.

(m) “Office or practice location” means that address, building, or location, including each location of a mobile facility, where any optometric services or the practice acts are performed and from which a licensee has, maintains, or derives a financial benefit or interest either directly or indirectly.

(n) “Ophthalmic goods” means any goods

which are used, sold or supplied in conjunction with or as a result of optometric services including, but not limited to:

- (1) spectacles;
- (2) any component of spectacles;
- (3) contact lenses; and
- (4) any care products associated with contact lenses.

(o) "Ophthalmic lenses" means any type of spectacle or contact lenses.

(p) "Ophthalmoscopy" means evaluating the interior anatomy of the eye with a selfilluminated magnifying instrument such as an ophthalmoscope.

(q) "Optometric services" means those acts which constitute the practice of optometry as defined in K.S.A. 65-1501.

(r) "Orthoptic or visual training evaluation" means measuring the sensory, motor, and inter-sensory functions related to visual perception and coordination of the two eyes for efficient binocular vision by using instrumentation for measuring deviations of visual axes alignment, retinal correspondence, foveal integrity, perception, form and visual memory testing.

(s) "Person" means an individual, association, partnership, corporation or other entity.

(t) "Prescription" means a verbal or written order from a licensee which designates either the specifications and directions for lenses, prisms, orthoptic exercises or visual training therapy to be used for the aid of any insufficiencies or abnormal conditions of the eyes.

(u) "Prescription for topical pharmaceutical drugs" means a verbal or written order, directly from a licensee expressly certified to prescribe drugs pursuant to the optometry law, authorizing the purchase or use of topical pharmaceutical drugs.

(v) "Refraction" means the determination of the spherical and cylindrical lens powers required for each eye to achieve the state of emmetropia at a specified distance by use of appropriate instruments capable of producing reliable findings.

(w) "Topical pharmaceutical drugs" means drugs administered topically and not by other means for the examination, diagnosis and treatment of the human eye and its adnexae including:

- (1) anesthetics;
- (2) mydriatics;
- (3) cycloplegics;
- (4) anti-infectives; and

(5) anti-inflammatory agents limited to a fourteen day supply.

(x) "Tonometry" means the measurement of the intraocular pressure by use of an indentation, applanation, or non-contact type of tonometer, capable of producing reliable findings. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 65-1501, K.S.A. 65-1501a, K.S.A. 1991 Supp. 65-1502, K.S.A. 65-1504b and K.S.A. 65-1506; effective May 18, 1992.)

65-4-2. Hearings before the board. (a) All hearings and procedures of the board shall be conducted in accordance with the Kansas administrative procedures act, K.S.A. 77-501 et seq.

(b) Summary adjudicative proceedings may be used for:

- (1) a denial of initial licensure;
- (2) a cease and desist order, informal admonishment, warning, reprimand, restriction, or limitation;
- (3) a cancellation of a license for failure to meet the requirements for license renewal; and
- (4) an approval of a trade or assumed name, a declaration that approval to practice under a trade or assumed name has lapsed, or approval of transfer of a trade or assumed name.

(c) Any person subject to a summary adjudicative action may request that the summary proceeding be converted to a conference or formal adjudicative proceeding.

(d) Each order listed in (b) shall contain a notice informing any person subject to the order that a request for review or conversion may be made within 15 days.

(e) Conference adjudicative proceedings may be used for actions in which:

- (1) there is no disputed issue of material fact; or
- (2) the parties agree to a conference adjudicative proceeding.

(f) All proceedings shall be formal adjudicative proceedings except emergency adjudicative proceedings or proceedings which have been initiated as or converted to conference or summary adjudicative proceedings. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 74-1504; effective May 18, 1992.)

65-4-3. Fees. The following fees shall be collected by the board:

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|--|----------|
| (a) Fee for initial license examination | \$150.00 |
| (b) Fee for first retaking of license examination .. | \$ 75.00 |

(c) Fee for the second and each subsequent retaking of license examination	\$ 45.00
(d) Fee for license issued by examination	\$ 30.00
(e) Fee for reciprocal license.....	\$150.00
(f) (1) Fee for biennial renewal of license	\$450.00
(2) Additional fee to obtain license renewal upon the first failure to renew license before expiration date.....	\$250.00
(3) Additional fee to obtain license renewal upon the second and each subsequent failure to renew license before expiration date.....	\$500.00
(g) Fee to convert license status from inactive to active, for each year or part of a year of inactive status, up to a maximum of \$450.00	\$100.00

(Authorized by K.S.A. 74-1504; implementing K.S.A. 2003 Supp. 65-1505 and K.S.A. 2003 Supp. 65-1509; effective May 18, 1992; amended June 7, 1993; amended Sept. 4, 1998; amended Feb. 22, 2002; amended June 25, 2004.)

65-4-4. Notice to board. A licensee shall provide notice to the board in writing within 20 days of the following:

- (a) the licensee's conviction of a felony, whether or not related to the practice of optometry;
- (b) the revocation, suspension or limitation of a licensee's license to practice optometry in another state, territory, nation or the District of Columbia;
- (c) the censure of the licensee by the proper licensing authority of another state, territory, nation or the District of Columbia;
- (d) a finding by a court of competent jurisdiction that the licensee is mentally ill, disabled, not guilty by reason of insanity or incompetent to stand trial;
- (e) sanctions or disciplinary actions taken against the licensee by a peer review committee, medical care facility or professional association or society;
- (f) adverse action for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under the optometry law taken against the licensee by another state or licensing jurisdiction, a peer review body, a medical care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court;
- (g) surrender of the licensee's license or authorization to practice optometry in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society;

(h) an adverse judgment, award or settlement against the licensee resulting from a medical liability claim. (Authorized by and implementing K.S.A. 74-1504(a)(6); effective May 18, 1992; amended June 7, 1993.)

65-4-5. Professional judgment. (a) No licensee shall allow any unlicensed person to:

- (1) interfere with the licensee's professional judgment; or
- (2) control, directly or indirectly, the licensee's professional judgment or practice.

(b) A licensee shall be deemed to have allowed an unlicensed person to improperly interfere with the licensee's professional judgment or control, directly or indirectly, the licensee's professional judgment or practice if the licensee enters into any agreement, arrangement or affiliation with any unlicensed person, other than those which occur as part of a practice authorized by the Kansas professional corporation act or through the lawful functioning of a professional partnership or association with other health care providers, which:

- (1) provides for the referral of patients between the licensee and the unlicensed person or entity;
- (2) provides for any type of compensation, rebate, commission or remuneration for the referral of patients between the licensee and the unlicensed person or entity;
- (3) establishes quotas for the number of examinations performed or prescriptions written by a licensee;
- (4) bases any type of compensation, rebate, commission or remuneration to a licensee based on the number of examinations performed or prescriptions written by the licensee;
- (5) results in a practice situation which would indicate or imply that:
 - (A) the unlicensed person is engaged in or maintains an office for the practice of optometry; or
 - (B) the licensee's practice is being carried on as part of or in association with the business enterprise of the unlicensed person;
- (6) prevents all patient prescription files and all records pertaining to the practice of optometry from being the sole property of the licensee and free from involvement with any unlicensed person, firm or corporation;
- (7) permits an unlicensed person to directly or indirectly affect:

(A) the nature, scheduling, pricing or manner of performing optometric services;

(B) the licensee's decisions relating to advertising, patient records or patient communications regarding optometric services or ophthalmic goods.

(8) in the judgment of the board, otherwise constitutes improper interference.

(c) Non-profit benevolent referral services shall not be deemed to be improper interference. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1516; effective May 18, 1992.)

Article 5.—LICENSES

65-5-1. Qualifications for licensure by examination. In addition to other requirements, to be qualified for licensure by examination, an applicant shall:

(a) File a completed application with the secretary-treasurer on a form prescribed by the board;

(b) Advise the board if he or she has ever been the subject of a disciplinary action or, within the preceding 24 months, been the subject of an investigation or proceeding that could lead to disciplinary action by any state professional licensing authority;

(c) Provide sufficient proof that the applicant:

(1) is a graduate of an accredited school or college of optometry;

(2) has never had his or her license to practice optometry revoked;

(3) has never surrendered his or her license to practice optometry as a result of disciplinary action by any state professional licensing authority; and

(4) if the applicant is applying to take any Kansas board examination after January 1, 1993, has successfully completed all parts of the national board examination within the five years preceding application; and

(5) submit the prescribed, non-refundable application fee. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1505; effective May 18, 1992.)

65-5-2. Application for licensure by examination. (a) An application for licensure by examination shall be forwarded to the secretary-treasurer at least 30 days prior to the scheduled examination. The applicant shall submit with the application:

(1) the applicant's academic transcript, proof

of receipt of degree, and proof of completion of an optometric program;

(2) the appropriate, non-refundable fee; and

(3) three written references.

(A) two reference shall be from optometrists familiar with the applicant's work.

(B) if the applicant is a student or a recent graduate, one reference shall be from the academic supervisor. For all other applicants, one reference shall be from the current or most recent work supervisor.

(C) references from individuals other than optometrists may be accepted under extenuating circumstances and shall address the applicant's moral character.

(b) Any application found to be insufficient for lack of qualifications may be held by the board for a period up to one year. If the applicant has not supplemented the application to make it sufficient by the end of that year, the application shall expire. Upon expiration, an application may be renewed through submission of a new application, fee and all supporting documents. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1505; effective May 18, 1992.)

65-5-3. Examinations. (a) Kansas state examinations to determine the qualifications of an applicant may be oral, in writing or both at the board's discretion.

(b) These examinations shall include:

(1) an inquiry into the moral qualifications and general learning of each applicant;

(2) tests of the following:

(A) practical, theoretical, psychological and physiological optics;

(B) orthoptics;

(C) theoretical and practical optometry;

(D) anatomy and physiology of the eye;

(E) ocular pathology; and

(F) pharmacology with emphasis on the use of topical pharmaceutical drugs for diagnostic and therapeutic purposes.

(c) After January 1, 1993, any topic addressed as part of the national board examination may be eliminated from the state examinations by the board. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1505; effective May 18, 1992.)

65-5-4. Approved schools or colleges of optometry. An approved school or college of optometry shall be a school or college that has been determined by the board to at least meet the stan-

dard of the University of Missouri-St. Louis school of optometry as they existed on January 1, 1991. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1505; effective May 18, 1992.)

65-5-5. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1508; effective May 18, 1992; revoked Dec. 3, 2004.)

65-5-6. Continuing education. (a) Except for any licensee who graduated from an approved optometry school within 12 months before the date of the application for license renewal, each licensed optometrist shall earn annually 24 hours of documented and approved continuing education during each license renewal period.

(b) On and after June 1, 2003, no more than eight hours of the 24 annually required hours of documented and approved continuing education may be obtained through courses that do not include a live presentation. Courses including those presented through the internet, by correspondence, in magazines or other publications, and by VCR, tape, or CD shall be subject to the limitation specified in this subsection.

(c) Each academic credit hour shall be equivalent to 15 hours of continuing education. Credit for auditing an academic course shall be given for actual hours attended during which instruction was given and shall not exceed the number of hours allowed for academic credit.

(d) The following educational programs may be used to meet the annual educational requirement:

- (1) Educational meetings of the American optometric association;
- (2) educational meetings of the Kansas optometric association;
- (3) scientific sections of the American academy of optometry;
- (4) postgraduate courses offered at any accredited school of optometry; and
- (5) other educational programs approved by the board.

(e) On and after June 1, 1996, a licensee shall not use the same course to meet the requirements of K.S.A. 65-1505(d)(2) and amendments thereto, and the annual continuing education requirement.

(f) Each provider seeking board approval for a continuing education offering shall submit a copy of the continuing education program, schedule, or

outline to the secretary-treasurer at least 60 days before the date of the program.

(g) Each licensee shall submit a certificate of attendance to the secretary-treasurer with or before the licensee's application for renewal. The certificate of attendance shall contain the following:

- (1) The name of the sponsoring organization;
- (2) the name, signature, and address of the licensee;
- (3) the number of hours attended;
- (4) the subject of the approved education program;
- (5) the date of the educational program; and
- (6) any other evidence of attendance required by the board.

(h) The certificate of attendance shall be on a form approved by the board and shall be signed by the licensee and an appropriate representative of the sponsoring organization. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 65-1509a; effective May 18, 1992; amended March 7, 1997; amended June 9, 2000; amended Oct. 3, 2003.)

65-5-7. Reciprocal licenses. An applicant for reciprocal licensure shall:

(a) file a completed application with the secretary-treasurer on a form prescribed by the board;

(b) submit with the application:

- (1) a certified copy of the current registration or license issued by examination from the reciprocal state;
- (2) proof that the reciprocal state's requirements for the type of license held by the applicant are equivalent to the requirements for licensure in Kansas of the type applied for;
- (3) a sworn statement from the reciprocal state's licensing authority:

(A) stating whether the applicant has ever been the subject of disciplinary action and, if so, the nature thereof; and

(B) stating whether, within the preceding 24 months, the applicant has been the subject of any investigation or proceeding that could lead to disciplinary action;

(4) the prescribed fee;

(5) proof of at least three consecutive years of active practice of optometry in the reciprocal state prior to the date of application for reciprocal licensure; and

(6) a statement that the licensee has not failed

the Kansas examination for licensure by examination within the five year period preceding the date of application for reciprocal licensure. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1505; effective May 18, 1992.)

65-5-8. Reinstatement. (a) Any individual seeking reinstatement of a license revoked by the board shall apply using the form prescribed by the board.

(b) Any applicant for license reinstatement shall present evidence satisfactory to the board of full rehabilitation from the offense or condition for which the license was revoked and any other evidence the board deems necessary to determine the application.

(c) The applicants shall comply with all conditions imposed by the board to prove the extent of rehabilitation.

(d) Conditions or restrictions shall be imposed on the reinstatement of the applicant's license as the board deems appropriate. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1509; effective May 18, 1992.)

65-5-9. Suspension, termination or denial of licensee's authority to practice when found in contempt of court pursuant to subsection (f) of K.S.A. 20-1204a. (a) (1) Within 30 days after receipt of a court-ordered notice and a copy of the court order finding an individual in contempt of court in a child support proceeding, the individual shall be notified by the board in writing of the board's intent to suspend, deny or withhold renewal of a license and of the individual's rights and duties under K.S.A. 1995 Supp. 74-147.

(2) If the notice accompanied by the court order provides inadequate information identifying the person in contempt, the person serving the notice shall be promptly contacted by the board for additional information. The 30-day notice shall commence when sufficient information identifying the person to contact is received.

(b) Notice to licensee. The written notice issued by the board shall inform the licensee of the following:

(1) The board's intent to deny, refuse to renew, or suspend a license commencing six months after the date the notice is issued unless the licensee furnishes to the board a court order releasing the individual from the contempt citation; and

(2) If the individual does not furnish the re-

lease before the expiration of the six-month period, proceedings will be commenced by the board to deny the issuance, refuse to renew, or to suspend the license following the summary procedure stated in K.S.A. 1995 Supp. 77-537 and amendments thereto.

(c) Temporary license.

(1) If an individual has applied for issuance or renewal of a license and is otherwise eligible, a temporary license shall be issued by the board and shall accompany the notice issued pursuant to subsection (b). The temporary license shall be valid for six months after the date of the notice issued pursuant to subsection (b).

(2) If a licensee is eligible to request renewal of a license and has previously received the notice required by subsection (b), the temporary license shall be valid only for the remainder of the six-month period that commenced upon issuance of the notice.

(3) The temporary license shall include a date of issuance and a date of expiration.

(4) A temporary license shall not be extended except that the temporary license may be extended by the board for up to 30 days to prevent extreme hardship for a patient of the licensee.

(5) The licensee shall obtain a release from the court which found the individual in contempt before the permanent license may be issued or renewed by the board.

(6) The release shall be furnished to the board before the expiration of the temporary license. If the release is not furnished within the six-month period of time, the temporary license shall expire and summary proceedings to deny issuance shall be commenced by the board or renewal of the permanent license may be refused by the board.

(d) Hearing.

(1) If the licensee does not provide a copy of the release pursuant to paragraph (c)(5) to the board within the six-month time period, the permanent license shall be denied, refused for renewal or suspended by the board in accordance with the summary proceedings of K.S.A. 1995 Supp. 57-537 and amendments thereto.

(2)(A) The issues at the hearing shall be limited to the following:

(i) the identity of the individual;

(ii) the validity of the notices pursuant to K.S.A. 1995 Supp. 74-147; and

(iii) the validity of any additional conditions imposed by the board if such conditions are otherwise subject to review.

(B) The board shall not have jurisdiction over any issues related to child support.

(3) If the board issues an order denying, refusing to renew, or suspending a permanent license of an individual pursuant to this subsection, the individual may apply for reinstatement of the application or license, as appropriate, if the individual furnishes a court order releasing the individual from the contempt citation and it is determined by the board that the individual is otherwise eligible for a license.

(e) Fees. If a license is denied, refused for renewal or suspended, any fees paid by the individual shall not be refunded. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1995 Supp. 74-146 and K.S.A. 1995 Supp. 74-147; effective Feb. 28, 1997).

65-5-10. Glaucoma licenses. (a) Each applicant for a glaucoma license shall file a completed application with the secretary-treasurer on a form prescribed by the board and shall submit the following information with the application:

(1) Proof that the applicant maintains professional liability insurance in an amount of \$1,000,000.00;

(2) proof that the applicant has completed an approved course of glaucoma instruction;

(3) evidence that the applicant has completed a comanagement period of at least 24 months; and

(4) evidence that the applicant has comanaged no fewer than 20 diagnoses of suspected or confirmed glaucoma, of which no fewer than 10 are confirmed diagnoses of glaucoma.

(b) For the purposes of this article, an “approved course of glaucoma instruction” shall be the 24-hour course in glaucoma management offered by the University of Missouri—Saint Louis School of Optometry, as that course existed on May 9, 1996, and any course that has been determined by the board to have a comparable content.

(c) Comanagement.

(1) Each participating licensee shall file with the board a comanagement treatment plan report, on a form prescribed by the board, as soon as reasonably practical after a diagnosis of suspected or confirmed adult open angle glaucoma is made. For the purposes of this regulation, “participating licensee” means a licensee who participates in comanagement, as defined by K.S.A. 65-1501a(r) and amendments thereto, during a comanagement period, as defined by K.S.A. 65-1501a(s) and amendments thereto.

(2) Each participating licensee’s comanagement period shall begin on the day the board receives the participating licensee’s first comanagement treatment plan report.

(3) During the comanagement period, any participating licensee may prescribe topical ocular pharmaceuticals for treatment of adult open angle glaucoma only in accordance with an approved treatment plan that is signed by the comanaging ophthalmologist.

(4) On or before May 31 of each year, each participating licensee shall file a completed annual report on a form approved by the board, providing all information required by the board regarding each comanaged case.

(5) All documents and information filed with or provided to the board or an interprofessional advisory committee created by the board in connection with comanagement shall be subject to the peer review privilege. Disclosure of comanagement documents and information to the board or an interprofessional advisory committee created by the board shall not operate as a waiver of the optometrist-patient or physician-patient privilege.

(d) The requirement of the comanagement period set forth in subsection (c) above and in K.S.A. 65-1505(d), and amendments thereto, and the requirement of comanaging suspected or confirmed glaucoma cases set forth in paragraph (a)(4) above and in K.S.A. 65-1505(d), and amendments thereto, shall not apply to applicants for glaucoma licensure graduating after July 1, 1998 from approved optometric schools or colleges. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1998 Supp. 65-1501, K.S.A. 1998 Supp. 65-1501a, K.S.A. 1998 Supp. 65-1505, K.S.A. 1998 Supp. 65-4915(b), and K.S.A. 65-1525; effective Feb. 28, 1997; amended Nov. 29, 1999.)

65-5-11. Biennial renewal. (a)(1) Commencing with license renewals occurring in 2004, the first license renewal for a licensee whose birth month is in the period of July through December shall be for a period ending on the first May 31 following the renewal date. The licensee shall pay a license renewal fee equal to one-half the amount of the biennial license renewal fee specified in K.A.R. 65-4-3 (f)(1) and any applicable additional fees.

(2) Each subsequent license renewal for the licensee specified in paragraph (a)(1) shall be for a period ending on the second May 31 following the

renewal date. The licensee shall pay the biennial license renewal fee specified in K.A.R. 65-4-3 (f)(1) and any applicable additional fees.

(b) Commencing with license renewals occurring in 2004, the first and each subsequent license renewal for a licensee whose birth month is in the period of January through June shall be for a period ending on the second May 31 following the renewal date. The licensee shall pay the biennial license renewal fee specified in K.A.R. 65-4-3 (f)(1) and any applicable additional fees. (Authorized by and implementing K.S.A. 74-1504 and K.S.A. 2003 Supp. 65-1509; effective June 25, 2004.)

65-5-12. Reinstatement of license. Each applicant who applies for reinstatement of a license more than 12 months after the license was canceled for failure to renew it shall be required to pass the examination given by the board to applicants for licensure or any other competency examination that the board may specify. (Authorized by K.S.A. 74-1504; implementing K.S.A. 2003 Supp. 65-1509; effective Dec. 3, 2004.)

Article 6.—GENERAL PROVISIONS

65-6-1 to 65-6-5. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

65-6-6. (Authorized by K.S.A. 1978 Supp. 65-1501, 65-1502, 65-1506; effective Jan. 1, 1966; amended Jan. 1, 1971; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; amended, E-80-1, Jan. 18, 1979; amended May 1, 1979; revoked May 1, 1988.)

65-6-7. (Authorized by K.S.A. 65-1503; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; revoked May 1, 1976.)

65-6-8. (Authorized by K.S.A. 74-1504; implementing K.S.A. 65-1505, as amended by L. 1987, Ch. 235, Sec. 3; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; amended May 1, 1988; revoked May 18, 1992.)

65-6-9. (Authorized by K.S.A. 1975 Supp. 65-1509a; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked, E-76-40, Aug. 1, 1975; revoked May 1, 1976.)

65-6-10. (Authorized by K.S.A. 1976 Supp.

65-1505; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

65-6-11. (Authorized by K.S.A. 74-1504; implementing K.S.A. 65-1505, as amended by L. 1987, Ch. 235, Sec. 3; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; modified, L. 1976, Ch. 270, May 1, 1976; amended May 1, 1988; revoked May 18, 1992.)

65-6-12. (Authorized by K.S.A. 74-1504; implementing K.S.A. 65-1505, as amended by L. 1987, Ch. 235, Sec. 3; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; amended May 1, 1988; revoked May 18, 1992.)

65-6-13. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; revoked Feb. 15, 1977.)

65-6-14. (Authorized by K.S.A. 1976 Supp. 65-1505; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

65-6-15. (Authorized by K.S.A. 1976 Supp. 65-1505; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked Feb. 15, 1977.)

65-6-16. (Authorized by K.S.A. 1978 Supp. 65-1501, 65-1502, 65-1505; effective Jan. 1, 1966; amended Jan. 1, 1971; amended, E-80-1, Jan. 18, 1979; amended May 1, 1979; revoked May 18, 1992.)

65-6-17. (Authorized by K.S.A. 74-1504, K.S.A. 1978 Supp. 65-1501, 65-1505; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; amended May 1, 1979; revoked May 1, 1988.)

65-6-18 to 65-6-20. (Authorized by K.S.A. 74-1504, K.S.A. 1978 Supp. 65-1501, 65-1509; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; revoked May 1, 1979.)

65-6-21 to 65-6-23. (Authorized by K.S.A. 1976 Supp. 65-1509; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

65-6-24. (Authorized by K.S.A. 74-1504, K.S.A. 1975 Supp. 65-1509; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; modified, L. 1976, ch. 270, May 1, 1976; revoked May 1, 1988.)

65-6-25. (Authorized by and implementing K.S.A. 74-1504, K.S.A. 65-1509a, as amended by

L. 1987, Ch. 235, Sec. 4; effective Jan. 1, 1966; amended Jan. 1, 1971; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; amended May 1, 1979; amended May 1, 1988; revoked May 18, 1992.)

65-6-26. (Authorized by K.S.A. 1978 Supp. 65-1509a; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; revoked May 1, 1979.)

65-6-27. (Authorized by K.S.A. 1976 Supp. 65-1509a; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked Feb. 15, 1977.)

65-6-28. (Authorized by K.S.A. 1976 Supp. 65-1509a; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

65-6-29. (Authorized by K.S.A. 1976 Supp. 65-1502; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked Feb. 15, 1977.)

65-6-30. (Authorized by K.S.A. 74-1504; implementing K.S.A. 65-1501, 65-1501a, as amended by L. 1987, Ch. 235, Sec. 1 and 2, 65-1502, 65-1504b, K.S.A. 1986 Supp. 65-1506; effective Jan. 1, 1966; amended Jan. 1, 1971; amended, E-76-40, Aug. 1, 1975; modified, L. 1976, Ch. 270, May 1, 1976; amended, E-80-1, Jan. 18, 1979; amended May 1, 1979; amended May 1, 1988; revoked May 18, 1992.)

65-6-31. (Authorized by K.S.A. 65-1504a, K.S.A. 1975 Supp. 65-1504, 65-1509; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Jan. 1, 1971; amended, E-76-40, Aug. 1, 1975; modified, L. 1976, ch. 270, May 1, 1976; revoked May 1, 1988.)

65-6-32. (Authorized by K.S.A. 1975 Supp. 65-1506; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; revoked May 1, 1988.)

65-6-33. (Authorized by K.S.A. 74-1504; implementing K.S.A. 74-1504 and K.S.A. 1986 Supp. 65-1506; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; amended May 1, 1988; revoked May 18, 1992.)

65-6-34. (Authorized by K.S.A. 1976 Supp. 74-1504g; effective Jan. 1, 1966; revoked Feb. 15, 1977.)

65-6-35. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; revoked May 1, 1979.)

65-6-36. (Authorized by K.S.A. 74-1504,

K.S.A. 1978 Supp. 65-1501, 65-1502, 65-1504, 65-1504b; effective, E-80-1, Jan. 18, 1979; effective May 1, 1979; revoked May 18, 1992.)

65-6-37. (Authorized by and implementing K.S.A. 65-1505, as amended by L. 1987, Ch. 235, Sec. 3 and 74-1504; effective May 1, 1988; revoked May 18, 1992.)

Article 7.—CODE OF ETHICS

65-7-1. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; amended May 1, 1979; revoked May 18, 1992.)

65-7-2. (Authorized by K.S.A. 75-1504; effective Jan. 1, 1966; amended May 1, 1979; revoked May 18, 1992.)

65-7-3. (Authorized by K.S.A. 75-1504; effective Jan. 1, 1966; amended May 1, 1979; revoked May 1, 1988.)

65-7-4. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; amended May 1, 1979; revoked May 18, 1992.)

65-7-5. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; revoked May 1, 1979.)

65-7-6. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; revoked May 1, 1979.)

65-7-7. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; revoked May 1, 1979.)

65-7-8. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1979; revoked May 18, 1992.)

65-7-9. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1979; revoked May 18, 1992.)

65-7-10. (Authorized by K.S.A. 75-1504; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1979; revoked May 1, 1988.)

65-7-11. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; amended Jan. 1, 1971; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; amended May 1, 1979; revoked May 18, 1992.)

65-7-12. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Jan. 1, 1971; amended, E-76-40, Aug. 1,

1975; amended May 1, 1976; amended May 1, 1979; revoked May 18, 1992.)

65-7-13. (Authorized by K.S.A. 75-1504, K.S.A. 1978 Supp. 65-1510; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Jan. 1, 1971; amended, E-76-40, Aug. 1, 1975; amended May 1, 1976; amended May 1, 1979; revoked May 18, 1992.)

65-7-14. (Authorized by K.S.A. 74-1504; effective Jan. 1, 1966; amended May 1, 1979; revoked May 18, 1992.)

Article 8.—MINIMUM STANDARDS FOR OPHTHALMIC SERVICES

65-8-1. Examination and adaptation procedures. (a) The following minimum standards for examination procedures shall be performed by a licensee during any examination conducted to determine if a prescription for corrective lenses should be provided:

- (1) visual acuity testing of each eye at far and nearpoint;
- (2) external examination;
- (3) refraction (objective and subjective);
- (4) coordination testing;
- (5) ophthalmoscopy;
- (6) biomicroscopy; and
- (7) Tonometry (if the patient is age 25 or over).

(b) In addition to the minimum standards in (a), the following additional minimum standards for procedures shall be performed during any contact lens evaluation:

- (1) measurement to determine anterior curvatures of the cornea by use of an instrument capable of producing and providing reliable findings;
- (2) evaluation of appropriate eye variables and biomicroscopic evaluation of lid health and corneal integrity;
- (3) application of known diagnostic lenses to each eye to include evaluation of acuity, over-refraction, and biomicroscopic evaluation of lens fit with use of chemical dyes, as indicated; and
- (4) discussion with the patient of the probable success and risks of contact lens wear.

(c) In addition to the minimum standards for examination and evaluation procedures set out in (a) and (b), the following are additional minimum standards for procedures to be performed during any contact lens adaptation to determine a patient's first contact lens prescription:

(1) provide patient adequate training in lens care, lens application and removal, lens wear, lens care solutions and products, and proper disinfection procedures;

(2) provide patient adequate training in proper wearing schedule, warning signs and recall intervals;

(3) provide for a minimum of two follow-up visits over a minimum period of the two months prior to determining the contact lens prescription; and

(4) visual acuity testing and biomicroscopic evaluation of each eye with and without lenses at each follow-up visit. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1501; effective May 18, 1992.)

65-8-2. Instruments. (a) Commonly accepted instrumentation and methods designed to produce accurate and reliable findings shall be utilized to perform the minimum standard requirements in K.A.R. 65-8-1.

(b) The result of each performed procedure shall be recorded.

(c) Commonly accepted measuring units and nomenclature shall be used. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1501; effective May 18, 1992.)

65-8-3. Records. (a) The records of all patients shall contain at least the following information:

- (1) the patients's full name, address, phone number and date of birth;
- (2) a case history including all complaints;
- (3) all objective and subjective findings taken;
- (4) a diagnosis;
- (5) the treatment plan given, including any ophthalmic or medical prescriptions;
- (6) the final disposition, including any follow-up requirements or any patient referral;
- (7) the date and location of the examination; and
- (8) the name and signature of the licensee performing the examination.

(b) Any and all patient records required by these rules and regulations shall be maintained for at least five years.

(c) All findings and recordings entered into the patient records shall be made using normally accepted nomenclature and units of measure. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1502; effective May 18, 1992.)

65-8-4. Content of prescription. (a) Any prescription issued by a licensee for spectacle lenses shall include:

- (1) the sphere power;
- (2) the cylinder power;
- (3) the axes location;
- (4) the prism power and base direction;
- (5) the type, size, and power of multifocal; and
- (6) the interpupillary distance, far and near.

(b) No prescription for spectacle lenses shall include instructions to obtain the specifications from existing lenses without examination.

(c) Any prescription issued by a licensee for rigid contact lenses shall include:

- (1) the lens material;
- (2) the base curve;
- (3) the back vertex power;
- (4) the prism power;
- (5) the overall diameter;
- (6) the optic zone diameter;
- (7) peripheral curve radii and widths;
- (8) the center thickness;
- (9) the tint; and
- (10) the edge shape.

(d) Any prescription issued by a licensee for flexible contact lenses shall include:

- (1) the base curve;
- (2) the power;
- (3) the diameter, when necessary;
- (4) the manufacturer;
- (5) the water content, where necessary;
- (6) the type, spherical, toric, or extended wear;
- (7) the color; and
- (8) the manufacturer's suggested sterilization method.

(e) No prescription issued by a licensee for rigid or flexible contact lenses shall include instructions to obtain the specifications from:

- (1) existing lenses, without examination; or
- (2) conversion of a spectacle lens prescription.

(f) In addition, the following information shall be included on any prescription issued by a licensee for any ophthalmic lenses:

- (1) the printed name and license registration number of the prescribing licensee;
- (2) the address and telephone number at which the patient's records are maintained and at which the prescribing licensee can be reached for consultation;
- (3) the name of the patient;
- (4) the signature of the prescribing licensee;
- (5) the date the prescription was issued, the

date of the examination, and expiration date, if appropriate;

- (6) any instructions necessary for the fabrication or use of the ophthalmic lenses; and
- (7) any special instructions.

(g) Any prescription issued by a licensee for spectacle lenses which does not include the requirements for flexible or rigid contact lens prescriptions shall not become an adequate prescription for contact lenses by any comment on the prescription indicating it can be used for contact lenses.

(h) Any prescription issued by a licensee for a topical pharmaceutical drug shall include:

- (1) the printed name and license registration number of the prescribing licensee;
- (2) the address and telephone number at which the patient's records are maintained and at which the prescribing licensee can be reached for consultation;
- (3) the name and address of the patient;
- (4) the name and quantity of the drugs prescribed;
- (5) directions for use;
- (6) the number of refills permitted;
- (7) the date of issue and expiration; and
- (8) the signature of the prescribing licensee. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1501; effective May 18, 1992.)

65-8-5. (Authorized by K.S.A. 74-1504; implementing K.S.A. 65-1504b; effective June 22, 2001; revoked June 25, 2004.)

Article 9.—TRADE NAMES

65-9-1. Use. No licensee, including any licensee who practices in a partnership, association, professional corporation, limited liability company, or other group practice, shall engage in the practice of optometry under a trade or assumed name until an application to use that name at a specific location or locations has been approved by the board. (Authorized by and implementing K.S.A. 1997 Supp. 65-1522; effective May 18, 1992; amended April 9, 1999.)

65-9-2. Application. (a) To request approval of a trade or assumed name, one or more of the licensees associated with the optometric office at which the trade or assumed name will be used shall file a fully completed application with

the secretary-treasurer on a form prescribed by the board.

(b) As part of the application, each applicant shall certify that the applicant:

(1) has personally made a diligent search and is unaware of any other person or entity using the trade or assumed name or a name so similar as to create a potential for confusion; and

(2) intends to actively engage in the practice of optometry under the trade or assumed name upon obtaining approval from the board.

(c) If any applicant desires to use the trade or assumed name at any practice location other than the one approved by the board, an additional application for approval shall be made to the board. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1509; effective May 18, 1992.)

65-9-3. Approval. (a) No trade or assumed name which, in the judgment of the board, is false, misleading, deceptive or for which it deems there is good reason for disapproval shall be approved by the board.

(b) Except in cases of transfer under 65-10-4, the approval to use a trade or assumed name shall lapse and become invalid if the applicant fails to actively engage in the practice of optometry under that trade or assumed name for a period of six months, unless the applicant can establish to the satisfaction of the board that the failure was due to a temporary mental or physical disability or for any other reason as the board finds to be sufficient justification.

(c) Approval to use a trade or assumed name may be revoked by the board for:

(1) making any false statement on the application;

(2) the failure of an applicant to comply with these rules and regulations;

(3) a determination by the board that continued use of the trade or assumed name would be false, misleading or deceptive, or any other good cause. (Authorized by K.S.A. 74-1504(a)(6); K.S.A. 1991 Supp. 65-1509; effective May 18, 1992.)

65-9-4. Transfer. (a) The approval to use a trade or assumed name shall not be transferable except with the approval of the board.

(b) Any applicant seeking to transfer the approval for the use of a trade or assumed name to another licensee which is authorized to engage in the practice of optometry in this state shall file a

completed application with the secretary-treasurer on a form prescribed by the board.

(c) If the transfer is approved, the transferee shall become responsible for compliance with the applicable requirements of K.A.R. 65-9-1, et seq. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1509; effective May 18, 1992.)

65-9-5. Practice under a trade or assumed name. (a) Each licensee who has obtained approval to use a trade or assumed name shall notify the board in writing:

(1) of all licensees who will practice under that name; and

(2) within 30 days if there is a change in the licensees practicing under the name.

(b) In the entrance or reception area of the optometric or practice office where a trade or assumed name is used, a chart or directory listing the names of all licensees practicing at that particular location shall be kept prominently and conspicuously displayed at all times.

(c) The names of all licensees who have practiced under the trade or assumed name shall be maintained in the optometric office for five years following their departure from the practice.

(d) In any practice where a trade or assumed name is used subsequent to the administration of any optometric service, the licensee providing the service shall be placed in the patient's record following a description of the service rendered. If the treatment is rendered by a licensee other than the licensee of record, the name of that licensee shall be placed in the record of the patient.

(e) In any practice where a trade or assumed name is used, the name of the licensee providing care shall appear on the initial statement of charges and on the receipt given to the patient.

(f) No trade or assumed name may be used which contains the name of an inactive, retired, removed or deceased licensee, except that, for a period of no more than one year from the date of succession to a practice, a licensee may list the name of the inactive, retired, removed or deceased licensee with the words "succeeded by," "succeeding," or "successor to" and the licensee's own name.

(g) Each licensee who has obtained approval to use a trade or assumed name shall be personally responsible for compliance with K.A.R. 65-9-1, et seq. (Authorized by K.S.A. 74-1504(a)(6); imple-

menting K.S.A. 1991 Supp. 65-1509; effective May 18, 1992.)

Article 10.—MAINTAINING AN OFFICE

65-10-1. Practice locations. (a) No licensee shall perform any optometric services at any office or practice location unless the licensee has displayed at that office or practice location an original license issued to the licensee by the board. A licensee shall display a separate original license at each office or practice location.

(b) Practice in a governmental institution shall not be considered an office or practice location, but practice in a medical facility or medical care facility shall be considered an office or practice location.

(c) No licensee shall maintain an office or practice location in a manner that indicates or implies either of the following.

(1) An unlicensed person is engaged in or maintains an office for the practice of optometry.

(2) The licensee's practice is being carried on as part of or in association with the business enterprise of the unlicensed person. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 65-1502; effective May 18, 1992; amended Aug. 1, 1997.)

65-10-2. Unlawfully maintaining an office. Except as authorized by the Kansas professional corporation act or the Kansas limited liability company act or through the lawful functioning of a professional partnership or association with other health care providers, an unlicensed person shall be deemed to be maintaining an office for the practice of optometry if either of the following conditions is met:

(a) That person bears any expense for this office by having entered into any rental arrangement, lease arrangement, or debt arrangement with a licensee regarding the licensee's practice whereby the cost or terms allow the unlicensed person to exert influence on the professional judgment or practice of the licensee.

(b) The licensee's office, location, or place of practice indicates or implies, by location, advertising, or otherwise, that the licensee is practicing as a part of or in association with the business of an unlicensed person. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 65-1502; effective May 18, 1992; amended April 9, 1999.)

65-10-3. Licensee ownership of fran-

chised business of optical dispensing. (a) If a licensee obtains any beneficial interest in a franchise or equivalent relationship to engage in the business of marketing ophthalmic goods or contact lenses, all operations of that franchise or equivalent relationship shall be separate and apart from any and all offices or locations at which the licensee, or any entity in which the licensee has a beneficial interest, provides optometric services.

(b) For the purposes of this section, "separate and apart" shall include:

(1) being physically separated; and

(2) the totally independent functioning of the franchise business of optical dispensing and any optometric office or practice location. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1502; effective May 18, 1992.)

Article 11.—ADVERTISING

65-11-1. Responsibility. (a) Each licensee shall be responsible for any advertising which is designed to benefit the licensee, directly or indirectly, whether or not the licensee authored it or caused it to be published.

(b) Each licensee whose name, trade name, assumed name, office address, phone number or place of practice appears or is mentioned in any advertisement of any kind or character shall be presumed to have caused, allowed, permitted, approved, or sanctioned the advertisement and shall be personally and professionally responsible for its content and character. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1991 Supp. 65-1517; effective May 18, 1992.)

65-11-2. Fraudulent advertisement. Advertisements which will be deemed to be fraudulent shall include, but are not limited to, those which:

(a) use language that is likely to be misunderstood;

(b) contain qualifying statements in small type which are likely to be overlooked by the casual reader;

(c) exaggerate the quality of goods or services;

(d) contain any promise of improved condition;

(e) contain any information which would misrepresent the scope of the licensee's license or indicate that the licensee is able to render services the licensee is not qualified or licensed to do;

(f) do not contain a full breakdown and itemization of professional services versus ophthalmic

goods when advertising the cost and availability of optometric goods and services;

(g) indicate or imply that the licensee is engaged in or maintains an office for the practice of optometry as part of, or in association with, the business or operation of an unlicensed person or entity, except as authorized by the Kansas professional corporation act or through the lawful functioning of a professional partnership or association with other health care providers;

(h) contain a licensee's name that is not accompanied by the designation O.D., Optometrist or Doctor of Optometry; and

(i) contain statements or claims of superiority over other licensees or other health care professionals. (Authorized by K.S.A. 74-1504(a)(6); im-

plementing K.S.A. 1991 Supp. 65-1517; effective May 18, 1992.)

65-11-3. Associated advertising. Except when practicing as authorized by the Kansas professional corporation act, the Kansas limited liability company act, or through the lawful functioning of a professional partnership, or in association with other health care providers, all signs, advertising, and displays of any licensee shall be separate and distinct from those of any other person, firm, or corporation and shall not in any way suggest that the licensee is associated with any other person, firm, or corporation with which the licensee is not associated. (Authorized by K.S.A. 74-1504(a)(6); implementing K.S.A. 1997 Supp. 65-1517; effective May 18, 1992; amended April 9, 1999.)