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2025
AFOS/SECO
**EDUCATION
DESTINATION**
San Antonio

Course # 116

Florida Jurisprudence:
The Laws and Rules of Florida Optometry

David Rouse, OD

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2025
AFOS/SECO
**EDUCATION
DESTINATION**
San Antonio

David Rouse, OD

Disclosure statements:
No financial relationships to disclose

All relevant relationships have been mitigated.

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Florida Jurisprudence
The Laws and Rules of Florida Optometry

Jurisprudence 2025

David Rouse, OD, FAAO, Dipl. ABO
Chair, Florida Board of Optometry

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Disclosures

- Financial Employee Florida Department of Health
- Conflicts of Interest None

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David Rouse, OD,FAAO, Dipl. ABO

- Private practice for 30 years
- Southern Council of Optometry
President Elect 2025
- BCOA Past President
- FOA Past President
- Chair, Board of Optometry
- AOA-Florida Federal Advocate
- Chairman, Planning & Zoning Board



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Course Objectives

Understand the role of the Board of Optometry

Review the Florida optometry rules and laws

Review paths of licensure

Comprehend the process on how rules can be amended

Recognize professional behaviors and actions resulting in disciplinary consequences

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Board members

Nomination by professional association or apply by questionnaire

- Appointed by governor
- Confirmed by Senate



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Board Composition

Florida Board of Optometry is comprised of 7 members

- 5 Licensed practitioners
- 2 Consumer members
 - Citizens of Florida
 - Non –optometrists
 - No connections with any practice of optometry or vision related business or profession
 - One must be over 60 years of age

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>
Chapter 463.003

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Members of the Board

 Bryan A. Stam O.D. Ponte Vedra Beach Read More →	 David Rouse O.D., FAAO Chair Cooper City, FL Term Ends: 10/31/2025 Read More →	 Katie Gilbert Spear O.D., JD, MPH Vice-Chair Pensacola, FL Term Ends: 10/31/2026 Read More →
 Denise Burns-LeGros O.D., FAAO Indianafelic, FL Term Ends: 10/31/2023 Read More →	 Robert Easton, Jr. O.D., FAAO Oakland Park Term Ends: 10/31/2024 Read More →	 John E. Griffin JD Consumer Tallahassee FL Term Ends: 10/31/2026 Read More →
 Kevin Rollin Consumer Vero Beach Read More →		

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Board Staff

Board Executive Director	Dayle DeCastro Mooney
Program Operations	Evelee Taylor
Board Assigned Council	Deborah Loucks

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Contact Information	
Customer Contact Center <i>Monday – Friday</i> 8:00 a.m. to 6:00 p.m. ET (850) 488-0595	Mailing Address: Department of Health Board of Optometry 4052 Bald Cypress Way Bin C-07 Tallahassee, FL 32399-3252
Board Office 8:00 a.m. to 5:00 p.m. ET (850) 245-4355 FAX: 850-922-8876	Applications and Fees ONLY: Department of Health Board of Optometry P.O. Box 6330 Tallahassee, FL 32314-6330

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A photograph of a large, empty conference room. In the center is a long rectangular table covered with a white cloth, featuring a logo in the middle. Several black chairs are arranged around the table. At the far end of the room, two flags (the United States and Canada) stand on poles. The room has a patterned carpet and two large, circular, crystal-like light fixtures on the ceiling.

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Board Meetings

- Held at least quarterly
- Meetings are audio recorded
- Via virtual or in-person
- Noticed with a public agenda and book

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Board of Optometry

- A regulatory body responsible for protecting the health and safety of the **public**.
- Enforces the laws regarding the practice of optometry.
- Cannot **independently** change Florida Statutes.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Board of Optometry

- * “To ensure that every person engaged in the practice of optometry in this state meets **minimum** requirements for safe practice.”
- * “It is the **legislative** intent that such persons who fall below minimum standards or who otherwise present a danger to the public shall be prohibited from practicing in this state.”

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 463.001 – Purpose

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Board of Optometry

- Is **not** a membership organization for optometrists
- Does **not** make or change regulations independent of oversight or notice
- May as a “quasi judicial” entity with discipline cases

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Key Decision makers in the Florida Department of Health

Joseph A. Ladapo, MD State Surgeon General



Jennifer L. Wenhold MQA Division Director



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Why do we need Regulatory Boards

It is the legislature's intent that health care practitioners should be regulated for the preservation of the health, safety, and welfare of the public.

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-  Rulemaking
-  Protection
-  Enforcement
-  Education
-  Disseminate information

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> Chapter 463.005

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Florida State Statutes

- * Chapter 456 Health Professions and Occupations: —Law
- * Chapter 463 Optometry Practice Act—Law
- * Chapter 120 Administrative Procedure Act—Law
- * Code 64B13 "Board of Optometry"—Rule

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Administrative Procedure Act

Chapter 120 of the Florida Statutes

Provides for the uniform authority of regulatory boards

Governs rulemaking, meetings, judicial review, etc.

Grants the boards authority to govern waivers and variance and declaratory statements

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Chapter 120

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Declaratory Statement

It is a board statement of the applicability of a specific statutory provision or rule as it applies to a person in his or her particular set of circumstances.

A means of resolving controversy.

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Chapter 120

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Declaratory Statements

Example, Is procedure, mode, technique or treatment within our scope or standards of practice?

Previously, September 2014 –Use of Prokera biologic corneal bandage

Must be from a licensee requesting an opinion of the board as to the applicability of a specific provision or rule as it applies to that licensee's particular set of circumstances.

Prospective not retrospective

Opinion of the board may determine a new standard to other licensees

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Requirements of a Declaratory Statement

Petitioner-Certified Optometrist (standing)

Board must determine the usage does not violate Chapter 463 definition of surgery

Board must determine whether the usage for the proposed purpose would violate the scope of practice defined under 463

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> Chapter 120

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On March 26, 2025, the Florida Board of Optometry issued a Final Order approving the Petitioner's use of Lumenis Stellar M22, also known as Optilight, to provide intense pulse light (IPL) therapy for the treatment of dry eye disease caused by Meibomian Gland Dysfunction.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>
Chapter 120

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Standards of Practice

Any optometrist shall not use or perform any technique, function or mode of treatment which the optometrist is not professionally competent to perform.

Professional competence is acquired by the following:

- Formal education
- Supervised training and experience
- Continuing education approved by the board
- Combination of the above

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>
Rule 64B13-3.010 and Chapter 463

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Variances and Waivers:

Sometimes the strict application of a rule can lead to unreasonable and unintended results.

Waivers are granted when application of a rule would create a substantial hardship or would violate principles of fairness.

"substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver.

"principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule

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Chapter 120

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• Examples of Variances and Waivers:

• CE requirements

Inability to travel

Active Duty

Health issues

• Licensure requirements

Part III

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Chapter 463

Definition of optometrist

A primary health care practitioner licensed to engage in the practice of optometry.

Also referenced as:

Licensed practitioner

Certified optometrist

Optometrist

Not as a physician

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Laws are not amendable by the board.

Rules are amendable and further define the law!

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What is the standard of practice and who decided what it is?

- Not one single standard
- Standards are variable and fluid
- Condition dependent (glaucoma, ARMD, PVD)
- Is it national or local?
- Does the majority rule? Respectable minority?
- Standards of practice are collectively determined by practice guidelines, regulatory boards, medical experts and current research

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A licensed practitioner **shall** provide that degree of care which **conforms** to that level of care provided by medical practitioners in the same or similar communities.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 463.0135

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A licensed practitioner **diagnosing** angle closure, infantile, or congenital forms of glaucoma **shall refer** the patient to a physician skilled in diseases of the eye and licensed under chapter 458 or chapter 459.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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When an infectious corneal disease condition has not responded to standard methods of treatment within the scope of optometric practice, the certified optometrist **shall consult** with a physician skilled in diseases of the eye and licensed under chapter 458 or chapter 459.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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A licensed practitioner shall promptly advise a patient to seek evaluation by a physician skilled in diseases of the eye and licensed under chapter 458 or chapter 459 for diagnosis and possible treatment whenever the licensed practitioner is informed by the patient of the sudden onset of spots or “floaters” with loss of **all or part of the visual field**.

Visual Fields?????

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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A licensed practitioner who **believes** a patient may have glaucoma shall promptly advise the patient of the serious nature of glaucoma. The licensed practitioner shall place in the patient’s permanent record that the practitioner provided such advice to the patient.

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A certified optometrist is **authorized** to perform any eye examination, including a dilated examination...

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Co-management of postoperative care shall be conducted pursuant to the requirements of this section and a patient-specific **transfer of care letter** that governs the relationship between the physician who performed the surgery and the licensed practitioner.

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CODIFIED IN 2012

PATIENT SPECIFIC TRANSFER OF CARE LETTER

PATIENT CHOOSES TO BE CO-MANAGED

PATIENT CONSENTS TO FEE ARRANGEMENT

MUST BE IN WRITING

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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OPTOMETRY 463.0001

- 463.001 Purpose; intent.
- 463.002 Definitions.
- 463.003 Board of Optometry.
- 463.004 Board headquarters.
- 463.005 Authority of the board.
- 463.0055 Administration and prescription of ocular pharmaceutical agents.
- 463.0057 Optometric faculty certificate.
- 463.006 Licensure and certification by examination.
- 463.007 **Renewal of license; continuing education.**
- 463.008 Inactive status.
- 463.009 Supportive personnel.
- 463.011 Exhibition of license.
- 463.012 Prescriptions; filing; release; duplication.
- 463.013 Optometric services for certain public agencies.
- 463.0135 Standards of practice.
- 463.014 Certain acts prohibited.
- 463.0141 Reports of adverse incidents in the practice of optometry.
- 463.015 Violations and penalties.
- 463.016 Grounds for disciplinary action; action by the board.
- 463.018 Reciprocity.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Requirements of Re-licensure

- 30 hours of CE courses every 2 years
- 6 hours of TQ courses
- 2 hours may be practice management
- 2 hours may be on-line approved opioid course
- 2 hours mandatory Florida jurisprudence
- 2 hours mandatory medical errors
- 1 hour of AIDS in optional for re-licensees
- Human trafficking no longer required or approved

Exemptions

Armed Forces and School Volunteers

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>



Inactive Status 64B13-11.001

This is a request of the licensee.

Renew license at any time when the following is met:

- Pay the reactivation fee (\$300.00)
- Satisfy all CE requirements for each biennium
- Disclose any disciplinary action

Do not see patients if your license is inactive!

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Delinquent Status

Definition:

Failure to renew the license or elect inactive status before the expiration date.

Options:

- Either apply for inactive status or active status within the same biennium when it went delinquent.
- Failure to change the delinquent status before the biennium expiration will cause the license to be null and void.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 64B13-11.004

E-Licensing 2023

Electronic licenses replaced the of mailing paper-based licenses.

- Licenses will be able to be retrieved through the MQA Online Services Portal.
- Licenses will be available 2 days after application approval
- Licensees must print out and display their new license according to Chapter 463
- Free of charge
- New licenses will have a QR code attached

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Background Screening Requirements

Passed in the 2024 legislative session

Beginning July 1, 2025 all applicants must submit electronic fingerprints before an initial license is issued.

All renewals will need to be fingerprinted before the next biennium.

No screening= No license

Start early...process takes time

<https://www.floridaoptommetry.gov> and <https://www.flhealthsource.gov>

New Application Requirement

Introduction

- House Bill 975, Background Screening and Certifications, passed during the 2024 Legislative Session, establishing background screening requirements for health care professions regulated by the Florida Department of Health, Division of Medical Quality Assurance.
- Beginning July 1, 2025**, all applicants must submit electronic fingerprints before an initial license is issued.



How It Works

Act Now – Don't Delay!

Know Your Timeline.

- The background screening process **takes time** due to multiple steps and processing delays.
- Waiting too long can result in **licensing delays**.

What Happens if You Don't Comply?

- No background screening = No license.
- You cannot obtain your license without completing this requirement.

Start the process early to avoid disruptions!



Get Started Here

- Register with the CHAI system.**
 - Go to chai.flclearinghouse.com/
- Create or update your profile.**
 - If you're a **new user**, complete the registration process.
 - If you've **registered before**, ensure your profile is up to date.

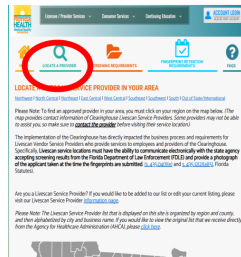


3. Schedule an appointment with a Livescan provider.

- Use the **CHAI system** or visit the Locate a Provider page at <https://flhealthsource.gov/background-screening/bgs-providers/>

Important:

You are responsible for screening costs – fees vary by provider. Check pricing and availability in advance to avoid delays!

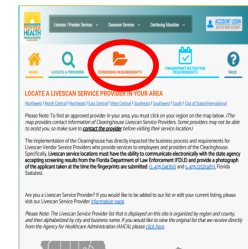


4. Bring your ORI Number to your Fingerprinting Appointment.

- ORI Numbers can be found at flhealthsource.gov/background-screening/bgs-requirements/.

5. Request your Transaction Control Number (TCN).

- Before you leave, ask the Livescan provider for your TCN to track your results.
- Important:** The Department cannot retrieve your TCN if you lose it.



Track the submission of your prints by entering your TCN at the **Florida Department of Law Enforcement TCN Lookup:**
cchinet.fdle.state.fl.us/search/app/tcnlookup?2.



Privacy Statement

Acknowledge the Privacy Statement

- When applying for or renewing your license, you **must** agree to the privacy statement regarding electronic fingerprinting within the application.

Important:

- If the privacy statement is not received, your fingerprinting results **CANNOT** be shared with the Department.
- This will delay your application for initial licensure or renewal**



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Optometric Faculty Certificates 463.057

Authorizes certificate holders to practice only in **conjunction** with their faculty position of the Florida based optometry school and its affiliated clinics.

Expires after relationship with the school ends OR after 2 years whichever comes first.

Must pass the oral drug course to prescribe oral medications

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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How many current categories of optometric licensure exist in Florida?

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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1. Licensed practitioner
2. Faculty Certificate
3. Certified Optometric Physician
4. Certified Optometric Physician with oral prescriptive authority
5. Certified Optometric Physician with oral prescriptive authority and controlled substances
6. Dispensing Practitioner

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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What is a dispensing practitioner?

Dispensing – is defined as selling medicinal drugs to patients in the office.

A practitioner who writes prescriptions or provides complimentary professional samples is not a "dispensing practitioner".

If in doubt, register!

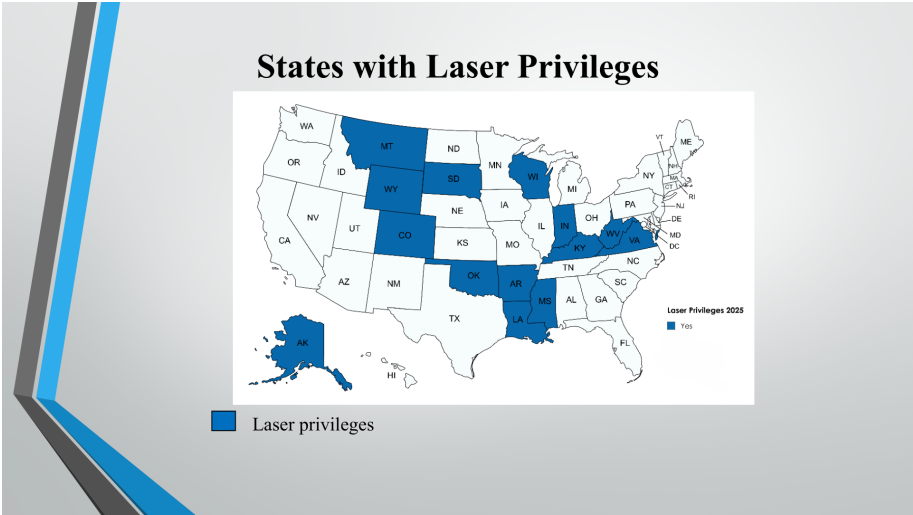
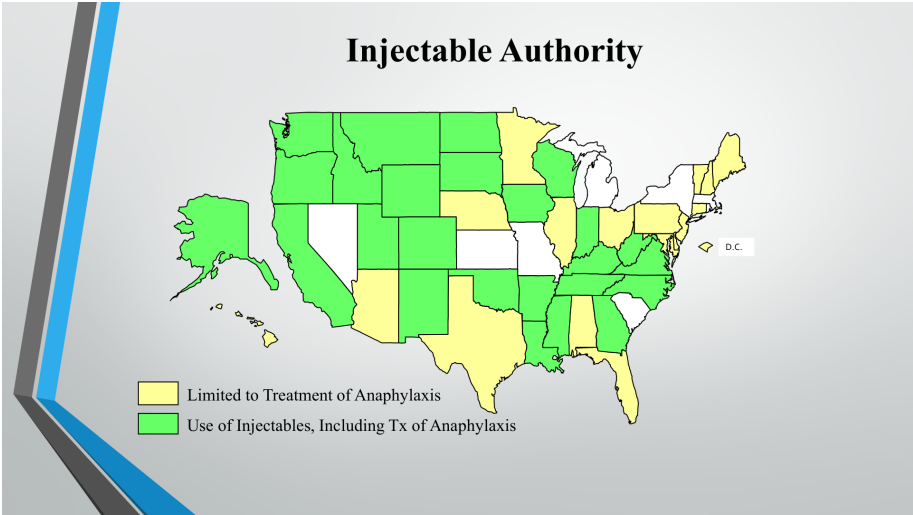
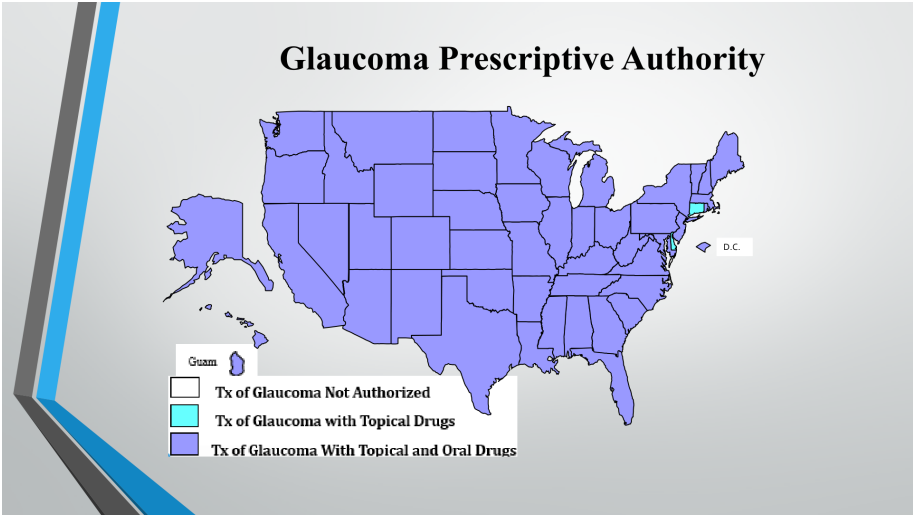
<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

SB 1600 Interstate Mobility

Requirements

- Active license in another state
- Substantially equivalent scope of practice
- Passed all parts of NBEO examination
- Passage of the Florida Laws and Rules exam
- No disciplinary action on record

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>



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HB 21

2018 Florida legislative session

HB 21 passed and mandated that all health care providers take a 2 -hour continuing education course focused on the current opioid epidemic.

A "one and done" requirement for all licensees

The course is continued requirement for those licensee that are registered with the DEA

An optometrist may complete the on-line opioid CE course for 2 hours of CE.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>



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Consolidated Appropriations Act of 2023

One-time, 8-hour training requirement for all DEA registered practitioners

Beginning June 27, 2023

Deadline is the registrant's registration submission regardless of whether its an initial or renewal.

Past ACCME training counts toward the eight hours

Does not have to be in one setting. The 8 hours are cumulative.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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CS for CS for SB 1808

408.12 Patient overpayments; refunds.— (1) A licensee who tenders charges for reimbursement shall refund to the patient the amount of any overpayment made by the patient to the licensee no later than 30 days after the date that the licensee determines that such overpayment was made.

For purposes of this section, the term "tenders charges for reimbursement" means the licensee files a claim for reimbursement with any government-sponsored program or private health insurer or health maintenance organization for services

A health care practitioner's violation of this section constitutes grounds for disciplinary action under s. 456.072.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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OPTOMETRY 463.0001

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Summary of Oral Drug Bill

- Created a 5th category of licensure
- Complete on-line course
- Created an oral drug formulary
- DEA numbers and requirements
- Remo committee
- CLIA
- Boxin



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Oral Drug Bill Summary

Need to complete on-line course

Satisfies a 20-hour CE requirement only once



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Oral Ocular Medications Formulary

(7) Antibiotics

(2) Analgesics

(3) Antivirals

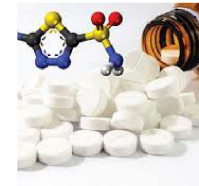
(2) Anti-glaucoma agents

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 463.0055

Oral Ocular Glaucoma Medications

- May not be administered or prescribed for more than 72 hours:

Acetazolamide
Methazolamide



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 463.0553(jd)

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Oral Ocular Antiviral Medications

Antivirals or their generic or therapeutic equivalents:

- Acyclovir
- Famciclovir
- Valacyclovir



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 463-0553(j)(c)

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Oral Ocular Analgesic Medications

May not be administered or prescribed for more than 72 hours without consultation with a physician licensed under chapter 458 or chapter 459 who is skilled in diseases of the eye:

Tramadol hydrochloride (Schedule IV)

Acetaminophen 300 mg with No. 3 codeine 30 mg

- Tylenol #3 (Schedule III)



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 463-0553(j)(a)

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Schedule III

The drug or other substance has less potential for abuse than the drugs or other substances in Schedules I and II.

The drug or other substance has a currently accepted medical use in treatment in the United States.

Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

Anabolic steroids, codeine products with aspirin or acetaminophen, and some barbiturates are examples of Schedule III substances.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Oral Ocular Antibiotic Medications

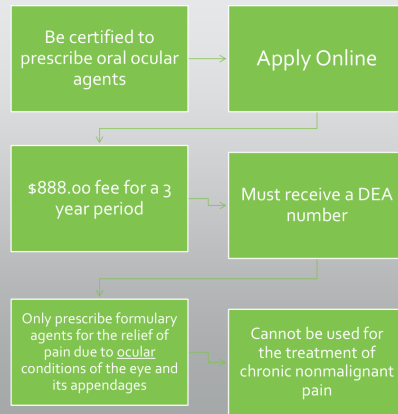
- Amoxicillin with or without clavulanic acid
- Azithromycin
- Erythromycin.
- Dicloxacillin
- Doxycycline/Tetracycline
- Keflex
- Minocycline



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 463-0553(j)(b)

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Who can prescribe oral ocular analgesics in Florida?



<https://www.floridaoptometry.gov> and <https://www.fhealthsource.gov>

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Formulary

- The formulary can be expanded
- The oral formulary is determined by the Florida legislature.
- Consideration for a "negative" formulary



<https://www.floridaoptometry.gov> and <https://www.fhealthsource.gov>

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Can the formulary be reduced?

Yes, If the United States Food and Drug Administration deems a drug to be **unsafe** for administration or prescription, it shall be deleted from the formulary of oral ocular pharmaceutical agents.

<https://www.floridaoptometry.gov> and <https://www.fhealthsource.gov>

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- Certified optometrists may **administer and prescribe ocular pharmaceutical agents** as provided in this section for the diagnosis and treatment of ocular conditions of the human eye and its appendages **without the use of surgery or other invasive techniques**.
- The board shall establish a formulary of **topical** ocular pharmaceutical agents that may be prescribed and administered by a certified optometrist.
- Changes in the topical formulary rule becomes prescriptible **60 days** from the adoption date .
- Any person who requests an addition, deletion, or modification of an authorized topical ocular pharmaceutical agent shall have **the burden of proof to show cause why** such addition, deletion, or modification should be made.

<https://www.floridaoptometry.gov> and <https://www.fhealthsource.gov>, [463.055\(4\), 64B13-18](#)

Additions to the topical formulary

Mebo	12/12/2023
Xdemvy	12/12/2023
LNZ100	07/11/2025
Tryptyr	07/11/2025

- Newer medication in the same or lower concentrations do not have to go through the waiting period

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 64B13-18.002

Additions of Topical Ocular Pharmaceutical Agents

- Request for changes to the formulary must be filed with the Board
- Must be in writing
- Brand name, chemical name and concentration
- The FDA approved information sheet
- The date the FDA approved for sale
- Explanation of the usefulness

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>, 64B13-18.003

Any new approved medication cannot be in effect until 60 days **after** adopted by the state.

- ✔ Rule approved by board
- 📬 Sent to OFARR
- ⚠ Unnecessarily restrict entry into a profession or occupation;
- 👤 Adversely affects job creation or job retention;
- 👤 Place unreasonable restrictions on individuals attempting to find employment;
- 💰 Impose unjustified costs on business;
- 📄 Rule Development published
- 📰 Notice Published
- 📁 Filed with the Secretary of State for adoption; Adoption +60

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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- 463.006 Licensure and certification by examination.
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- 463.008 Inactive status.
- 463.009 Supportive personnel.
- 463.011 Exhibition of license.
- 463.012 Prescriptions; filing; release; duplication.
- 463.013 Optometric services for certain public agencies.
- 463.0135 Standards of practice.
- 463.014 Certain acts prohibited.
- 463.0141 Reports of adverse incidents in the practice of optometry.
- 463.015 Violations and penalties.
- 463.016 Grounds for disciplinary action; action by the board.
- 463.018 Reciprocity.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Pathways to licensure

1. Initial licensure

- New graduates
- States not significantly similar in scope

2. Licensure by endorsement

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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What exactly did HB 7059 do?

Established a 3-year lookback for all board scores

Allows 3 years to complete testing of Part II, III and IV

Eliminated the Part I requirement within 3 years, but still requires passage at some point.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Requirements for Initial Licensure

- Graduate from an accredited school or college
- Passage of NBEO Part I, II
- Passage of NBEO PEPS both Encounters and Skills portion
- IV Florida Laws and Rules

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Florida Laws and Rules Part IV

- Currently scheduled in Charlotte, NC
- Computerized test
- 25 questions
- 90-minute open book
- Administered by the NBEO
- Requires an 84% or better to pass

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

OPTOMETRY 463.0001

- 463.001 Purpose; intent.
- 463.002 Definitions.
- 463.003 Board of Optometry.
- 463.004 Board headquarters.
- 463.005 Authority of the board.
- 463.0055 Administration and prescription of ocular pharmaceutical agents.
- 463.0057 Optometric faculty certificate.
- 463.006 Licensure and certification by examination.
- 463.007 Renewal of license; continuing education.
- 463.008 Inactive status.
- 463.009 Supportive personnel.
- 463.011 Exhibition of license.
- 463.012 Prescriptions; filing; release; duplication.
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- 463.0141 Reports of adverse incidents in the practice of optometry.
- 463.015 Violations and penalties.
- 463.016 Grounds for disciplinary action; action by the board.
- 463.018 Reciprocity.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Certain Acts Prohibited

463.014

No licensed practitioner shall engage in the practice of optometry with any corporation, organization, group, or lay individual.

Corporate Practice Act (possible new legislation)

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Certain Acts Prohibited

463.014

No rule of the board shall forbid the practice of optometry in or on the premises of a commercial or mercantile establishment.



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Rule 64B13

Overview

- a) 64B13-3.002 Responsibility to Patient
- b) 64B13-3.003 Patient Records
- (c) 64B13-3.004 Minimum equipment.
- (d) 64B13-3.005 Entrance Signs
- (e) 64B13-3.007 Minimum Procedures for Comprehensive examinations
- (f) 64B13-3.008 Corporate Lay, and Unlicensed Practice of Optometry
- g) 64B13-3.009 False advertising
- H) 64B13-3.010 Standards of Practice
- I) 64B13-3.012 Prescriptions
- J) 64B13-3.015 Performance of Delegated Tasks by non-licensed personnel
- K) 64B13-3.019 Address of Record
- L) 64B13-3.100 Standards for prescribing controlled substances

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64B13-3.004 Minimum Equipment Requirements.

The following shall constitute the minimum equipment which a licensed practitioner must **possess** in each office in which he or she engages in the practice of optometry:

- (1) Ophthalmoscope;
- (2) Tonometer;
- (3) Retinoscope;
- (4) Ophthalmometer, keratometer or corneal topographer;
- (5) Biomicroscope;
- (6) Phoropter or trial frame, trial lenses and prisms;
- (7) Standard charts or other standard visual acuity test;
- (8) **Field testing equipment (other than that used for a confrontation test).**

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Make sure your equipment follows the standard of care, not just the minimum requirements!

Pachymeter
B scan
OCT

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Standards of Practice

The certified optometrist shall have available, and be proficient in the use of, the following instrumentation:

1. Goldman-type applanation tonometer
2. Visual fields instrumentation capable of threshold perimetry.
3. Gonio lens
4. Fundus Camera or detailed sketch of optic nerve head
5. Biomicroscope
6. **Binocular indirect ophthalmoscope and non-contact fundus lens to provide stereoscopic view of the optic nerve and fundus.**

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 64B13-3.010(3)(c)

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Standards of Practice

New Language

The certified optometrist shall perform a **pharmacologic**, dilated fundus examination during the patient's initial presentation, and thereafter whenever medically indicated. **Fundus imaging is not a substitute for a pharmacologic dilated fundus examination.**

Language passed FSB 09/11/2020

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>, 64B13-3.010(6)(a)

Standards of Practice

If, in the certified optometrist's sound professional judgment, dilation is not performed because of the patient's age, physical limitations, or conditions, the reason(s) shall be noted in the patient's medical record.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>, 64B13-3.010(6)(a)

What can get you in trouble?

What really happens if you do?

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Types of complaints prosecuted

- Failure to dilate
- Failure to diagnose glaucoma
- Delays of care, failure to timely refer
- Failure to practice to the standard of care

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Who files complaints?

- Patients
- Family member of patient
- Ophthalmologists
- Optometrists

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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- Citizen files a complaint through the Florida Health Care Form
- DOH reviews complaint and investigation is started if:

- The complaint is in writing
- Signed by the complainant
- Can be anonymous if legally sufficient

Complaint Process 456.073, disciplinary proceeding



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Health Care Provider Complaint Form
This information MUST be completed to investigate your complaint, as we correspond via U.S. mail. Incomplete forms CANNOT be processed.

Florida Statute 456.073, Disciplinary proceeding: (1) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. For investigation of any subject is submitted, the Department will forward to the subject in the subject's attorney's copy of the complaint or document that resulted in the initiation of the investigation.

Health Care Provider Information:

Name: Last First MI Profession License Number
Address: Number & Street City State Zip
Phone Number(s) Website

Complainant Information:

Your Name: Last First MI
Address: Number & Street City State Zip
Home Phone: Work Phone: Best Time to Call:
Patient Information:

Name: Last First MI
Address: Number & Street City State Zip
Phone Number: Date of birth:

Your relationship to the patient:
☐ Parent ☐ Son/Daughter ☐ Spouse ☐ Brother/Sister ☐ Friend ☐ Legal Guardian ☐ Other
Please provide documentation indicating your appointment as the Legal Authority/Guardianship or Personal Representative.

The department does not investigate complaints regarding the amount charged for a procedure, broken or missed appointments, customer service, bedside manner, rudeness, professionalism or personality conflicts.

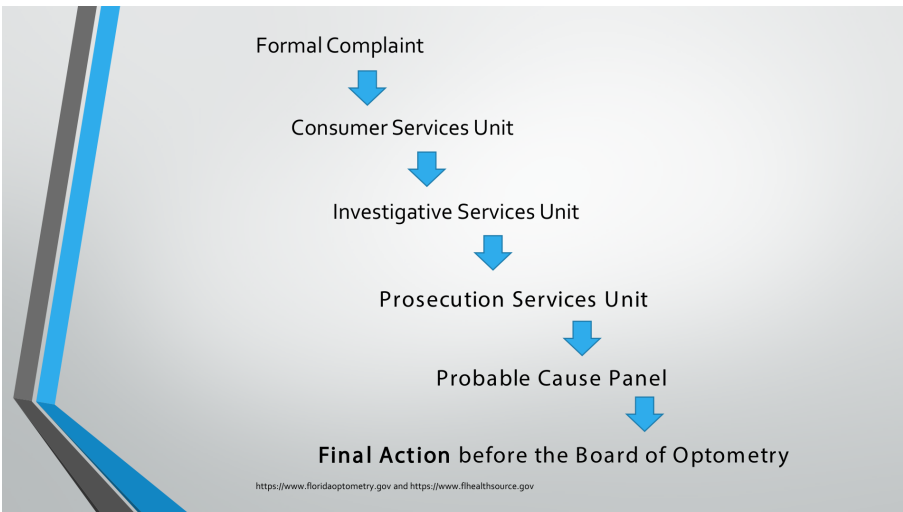
What is the reason for your complaint? Please check all that apply.

☐ Quality of care ☐ Unlicensed ☐ Misdiagnosis ☐ Impaired provider ☐ Patient abandonment/neglect ☐ Failure to release patient records ☐ Substance abuse ☐ Sexual contact ☐ Inappropriate prescribing ☐ Insurance fraud ☐ Excessive testing/treatment ☐ Other

Date of Incident: 1 of 4

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PROBABLE CAUSE PANEL

The determination as to whether probable cause exists shall be made by the probable cause panel of the Board.

The probable cause panel shall be composed of at least two (2) persons

At least one member of the panel must be a current Board member. The other member shall be a previous member authorized by the Chair.



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>, 64B13-2.008

- A **Closing Order** is recommended if the investigation and/or the expert opinion does not support the allegation(s). The subject and the complainant are notified of the results.

- The complainant may appeal the decision within sixty (60) days of notification by providing additional information for reconsideration.

Note: Cases closed with no finding of probable cause are generally confidential and are not available through a public records request.

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An **Administrative Complaint (AC)** is recommended when the investigation and/or the expert opinion **supports** the allegation(s).

The subject is entitled to a copy of the complete case prior to the probable cause panel meeting.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Determining Formality

Formal Hearing (Hearings Involving Disputed Issues of Material Fact)

The subject disputes the facts in the Administrative Complaint and elects to have a hearing before the Division of Administrative Hearings (DOAH). If this occurs, all parties may be asked to testify.

Informal Hearing (Hearings Not Involving Disputed Issues of Material Fact)

The subject of the complaint does not dispute the facts in the Administrative Complaint.

PLEASE SELECT ONLY 1 OF THE 2 OPTIONS.

OPTION 1: ☒ I do not dispute the allegations of material fact in the Administrative Complaint. I request a hearing be conducted pursuant to Section 120.57(2), Florida Statutes, where I will be permitted to appear, if I so choose, and submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2: ☐ I do dispute the allegations of material fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.56(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. Pursuant to the requirement of Uniform Rule 28-186.201(5), Florida Administrative Code, I specifically dispute the following material facts (identified by paragraph number and fact disputed) in the Administrative Complaint:

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Settlement Agreement - The subject enters into an agreement to be presented before the board or department. Terms of this agreement may impose penalties negotiated between the subject or the subject's attorney and the department's attorney.

Voluntary Relinquishment of License - The subject of the Administrative Complaint elects to surrender the license and to cease practice.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Case Study- Informal Hearing

MOTION FOR HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT AND FINAL ORDER

Petitioner, the Florida Department of Health, by and through the undersigned counsel, hereby moves the Board of Optometry (Board) to conduct a hearing not involving disputed issues of material fact regarding the pending Administrative Complaint and to enter a Final Order. As grounds therefore, Petitioner states:

Setting the discipline is the sole objective

Respondent can provide testimony for mitigating factors that may lessen the discipline

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

If the incident involved criminal conduct, contact local law enforcement. Have you contacted local law enforcement?
☐ Yes ☒ No
If Yes, Name of Contact: _____ Date: _____ Case Number: _____
Agency Name: _____

Provide a complete description of the complaint/report.
Include facts, details, dates, locations, etc. (who, what, when and where)
Attach additional sheets if necessary.

Please make and attach copies of medical records, correspondence, contracts and any other documents that will help support your complaint. Failure to attach records will delay the investigation.

Date of Incident: 5/5/2020

1. Spectacle Prescription wrong
2. Contact Lens Prescription wrong
3. NO CONTACT INFORMATION BECAUSE MANN'S gave me headaches. Would NOT Refund or Reschedule eye exam.

The complaint form must be signed and returned to the Department.
<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>



STATE OF FLORIDA
DEPARTMENT OF HEALTH
INVESTIGATIVE REPORT



Office: JACKSONVILLE	Date of Complaint: 05/21/2020	Case Number: OP 2020-15188
Subject: JASON SCOTT MANN, OD 23 NE 44 th Street Oakland Park, FL 33334 (954-592-3093)	Source: M.L.	
Profession: OPTOMETRIST	License Number and Status: OP5187	CLEAR/ACTIVE
Related Case(s): NONE	Period of Investigation and Type of Report: 05/28/2020 through 08/21/2020	FINAL
Alleged Violation: S.S. 456.035(1) F.S., 456.072(1)(k)(d) F.S. and 463.016(1)(g)(m)(i) F.S. Rule 64B13-3.010 F.A.C.		
Synopsis: This investigation is predicated upon receipt of a complaint submitted by patient M.L., a 45-year-old male, in regard to JASON SCOTT MANN, OD. This complaint alleges that on or about 05/05/2020, M.L. presented for a scheduled eye exam at My Eye Lab, located at 13529 Beach Boulevard #102, Jacksonville, FL 32224 with MANN. It is alleged that MANN provided an inaccurate contact lens and eyeglass prescription to M.L. which resulted in headaches. It is further alleged that MANN refused to provide a refund or reschedule an eye exam for M.L. MANN is still employed with My Eye Lab and treating patients at this time. No other patients were harmed as a result of the incident.		

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

INTERVIEW OF M.L. (SOURCE)

On 08/17/2020, this Investigator telephonically interviewed M.L., who essentially stated:

- On or about 05/05/2020, he presented for an eyeglass and contact examination at My Eye Lab, located at 13529 Beach Boulevard #102, Jacksonville, FL 32224.
- He chose to present to this location for his eye exam due to the advertised cost of \$79.
- He also cited that he had previously been in an automobile accident, which resulted in nerve damage, causing headaches and neck pain.
- He wanted to complete an eye exam to rule out his vision being a source of the headaches.
- He presented to his appointment and cited that he never personally saw JASON MANN, OD.
- "I didn't know who I was dealing with."
- "They were telecommuting using an optometrist."
- "I never saw a real doctor."
- He completed the exam and received sample contacts to wear home.
- Additionally, he purchased some boxes of contacts from the My Eye Lab store.
- After completing the exam and paying for the service and contact lenses, he noticed that he had not been charged correctly.
- Instead of charging him \$79 for the exam, he was charged \$95.
- Additionally, at the end of the day after wearing the sample contact lenses, he reported having a headache.
- He took out the contacts and never wore them again.
- Upon looking at the prescription, he noted that it was a little different than his normal prescription.
- "It was off half a sphere."
- He contacted the My Eye Lab store regarding his complaint, and voiced that they were "dismissive."
- "They probably have a history of complaints."
- "I had to schedule a time to speak with the manager."
- "They made me wait an hour and a half. I sat in the lobby the entire time waiting for someone to come out and talk to me."
- My Eye Lab allowed him to return the contact lenses and gave him his money back.
- However, they did not refund the cost of his examination, which was \$95.
- They did not offer to retest his eyesight.
- He made an appointment the following week with Costco Wholesale Optical, located at 4901 Gate Parkway, Jacksonville, FL 32246.
- After receiving his prescription from Costco, he compared the two and noted that they were different.
- He has purchased new contacts through Costco.
- Additionally, he filed a complaint with his bank regarding the eye examination at My Eye Lab.
- He received his money back during the week prior to this interview.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

6. Subject's optometric records for Patient M.L.'s May 5, 2020, new patient examination did not include documentation of Patient M.L.'s visual acuity with present correction, the results of the external examination, the results of the pupillary examination, the results of visual field-testing, the results of the internal examination, the results of the biomicroscopy, the results of the extraocular muscle balance assessment, and/or a diagnosis and treatment plan for Patient M.L.

8. Section 463.016(1)(k), Florida Statutes (2019), states, in pertinent part, that failing to keep written optometric records about the examinations, treatments, and prescriptions for a patient, constitutes grounds for disciplinary action.

9. Respondent failed to keep written optometric records about the examinations, treatments, and/or prescriptions for Patient M.L. when Respondent failed to create written optometric records of:

- a. Patient M.L.'s visual acuity with present correction;
- b. The external examination of Patient M.L.
- c. The pupillary examination of Patient M.L.;
- d. The visual field-testing of Patient M.L.;
- e. The internal examination of Patient M.L.;

<https://www.floridaoptometry.gov>

463.016 Grounds for disciplinary action; action by the board.

(k) Failing to keep written optometric records about the examinations, treatments, and prescriptions for patients.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Autorefractor
Exam Date: Tuesday 5th of May 2020 11:32:24 AM

	Sphere	Cylinder	Axis	Acuity
O.D.	-4.25	-0.50	085	
O.S.	-3.50	0.00	080	

Keratometer
Exam Date: Tuesday 5th of May 2020 11:32:24 AM

	Flat	Axis	Steep	Axis
O.D.	44.50	135	44.75	075
O.S.	44.25	180	44.50	090

Tonometer Readings
Exam Date: Tuesday 5th of May 2020 11:32:24 AM

Tonometry: Pressure:

O.D.	16	mmHg
O.S.	17	mmHg

Health Notes:
See old notes

Manifest Refraction
Exam Date: Tuesday 5th of May 2020 11:43:55 AM

	Sphere	Cylinder	Axis	Add	Acuity
O.D.	-4.50	-0.25	082	+1.50	20/20
O.S.	-5.00	0.00	180	+1.50	20/20

O.A. 20/20
Data Source: Auto-Refractor

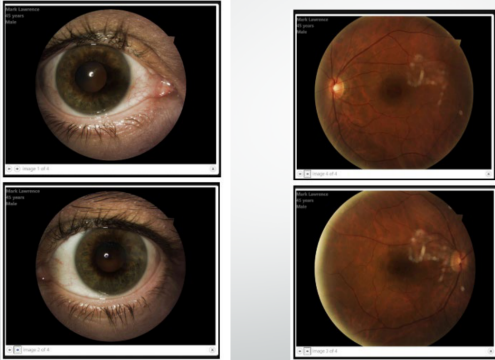
RX Status
Signed-off

Final Spectacle RX

	Sphere	Cylinder	Axis	Add	Acuity
O.D.	-4.50	-0.25	082	+1.50	20/20
O.S.	-5.00	0.00	180	+1.50	20/20

O.I.R. 20/20

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>



<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Contacts

First

Gender	Brand	Optometer	Base Curve
			14
			0.4

Q1: 2000

Sphere	Cylinder	Axis	Add	Color
0.00	0.00	0	0.00	

Q2: 2000

Gender	Brand	Optometer	Base Curve
			14
			0.4

Q3: 2000

Sphere	Cylinder	Axis	Add	Color
0.00	0.00	0	0.00	

Q4: 2000

Follow Up

Q1: 2000

Q2: 2000

Q3: 2000

Q4: 2000

Patient Recommendations:

- Refraction
- Add Refraction Counseling
- CR Counseling
- Contact Lens Counseling
- Progressive Lenses
- Contact Lenses
- Transition Lenses

Patient Notes:

- Progression

Patient Education:

- Contact Lenses (Do's and Don'ts)

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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STIPULATED LAW

1. Respondent admits that, in his capacity as a licensed optometrist, he is subject to the provisions of chapters 456 and 463, Florida Statutes; the rules of the Board at 64B13, Florida Administrative Code; and the jurisdiction of the Department and the Board.
2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of chapter 463, Florida Statutes, as alleged in the Administrative Complaint.
3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate, and acceptable to Respondent.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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STIPULATED DISPOSITION

1. **Letter of Concern** – The Board shall issue a Letter of Concern
2. **Fine** – The Board shall impose an administrative fine of **one thousand dollars and no cents (\$1,000.00)** against Respondent, to be paid by Respondent to the Department of Health, Compliance Management Unit, Bin C-76, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Optometry Compliance Officer, within **one (1) year** from the date of filing of the Final Order accepting this Agreement. All fines shall
3. **Reimbursement of Costs** – Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for costs not to exceed **eight thousand dollars and no cents (\$8,000.00)** incurred in the investigation and prosecution of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality
4. **Continuing Education** – Respondent will enroll in and successfully complete **three (3) hours** of continuing education in record keeping. This shall be in addition to other normally required continuing education courses. Verification of course content and course completion

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Who files complaints?

- Patients
- Family member of patient
- Ophthalmologists
- Optometrists
- Insurance companies

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

Case Study- Informal Hearing

5. On or about July 23, 2019, Patient E.B. presented to My Eye Dr and was examined by Respondent.

6. Respondent diagnosed Patient E.B. with blepharitis¹ and prescribed Patient E.B. Tobradex eye drops to be administered four times per day.

7. Tobradex eye drops contain an antibiotic along with the steroid dexamethasone.

8. Dexamethasone can raise Interocular pressure (IOP).

9. Respondent scheduled a follow-up visit twelve months later to check Patient E.B.'s blepharitis symptoms.

10. Respondent failed to schedule a timely follow-up visit to monitor Patient E.B.'s IOP.

11. On or about September 3, 2019, Patient E.B. returned to My Eye

¹ Blepharitis commonly occurs when tiny oil glands near the base of the eyelashes become clogged, causing irritation and redness.

Dr and was again examined by Respondent.

12. Respondent failed to perform a visual acuity test on Patient E.B. at this visit.

13. Respondent failed to perform an IOP test at this visit.

14. Respondent provided Patient E.B. with another prescription for Tobradex along with Maxitrol ointment.

15. Maxitrol ointment contains an antibiotic along with the steroid dexamethasone.

16. Respondent scheduled a follow-up visit for Patient E.B. twelve months later.

17. Respondent failed to schedule a timely follow up visit to monitor Patient E.B.'s IOP.

18. On or about September 18, 2019, Patient E.B. presented to an ophthalmologist and was diagnosed with dangerously high IOP levels that had caused irreversible damage to his eyes.

19. At all times material to this complaint, the prevailing standard of care required Respondent when treating a patient similar to Patient E.B. to do the following:

10. Perform IOP measurements at every visit for patients prescribed

Exam:
An examination was performed
OD External: normal lid position, nasolacrimal and orbital exam
OD Lid Margin: vascularization of meibomian orifices, meibomian inspissation, and collarettes
OD Conjunctiva: white and quiet
Slit lamp examination OD:
OD Cornea: clear cornea
OD Anterior Chamber: deep and quiet anterior chamber
OD Iris: normal iris without rubeosis
OD Lens: clear lens
Ophthalmoscopic examination of optic disc OD:
OD CD ratio 0.35
OD Optic Disc: flat and normal disc
Lens Used: 7890D

OS External: normal lid position, nasolacrimal and orbital exam
OS Lid Margin: vascularization of meibomian orifices, meibomian inspissation, and collarettes
OS Conjunctiva: white and quiet
Slit lamp examination OS:
OS Cornea: clear cornea
OS Anterior Chamber: deep and quiet anterior chamber
OS Iris: normal iris without rubeosis
OS Lens: clear lens
Ophthalmoscopic examination of optic disc OS:
OS CD ratio 0.35
OS Optic Disc: flat and normal disc
Lens Used: 7890D

Impression/Plan:
1. Blepharitis OU
squamous (H01.03, H01.02, H01.03A, and H01.03B)
Plan: Counseling - Blepharitis:
I counseled the patient regarding the following:
Eye care: Blepharitis may improve with warm compresses, lid scrubs, and ophthalmic antibiotics. The patient should apply warm compress to affected eyes for 5 minutes at a time, 3 to 4 times a day. The patient should perform lid scrubs every night following the warm compress. The patient can use artificial tears as needed for ocular irritation.
Expectations: Blepharitis is inflammation of the eyelids that is not contagious. It is a chronic condition that will flare up periodically if you do not treat it on a regular basis.
Contact Office if: eyelid redness, crusting, discharge, or blurry vision does not improve or gets worse.
Plan: Fit for New Visit
The patient should be scheduled for the following in 12 Months:
- CHECK SYMPTOMS AND LESIONS OU -
- MONITOR - OS
Exam: IOP check, Slit lamp exam, and Visual acuity.

2. Blepharitis
squamous (H01.03)

Plan: Prescription:
Tobradex 0.3 %/1 % Eye Drops Ophthalmic (eye) Frequency: QID Slit Apply one drop to OU eye, four times a day, Location: OU

Chief Complaint: Eye Irritation

HPI: This is a 49 year old male who comes in for a chief complaint of Eye Irritation, involving the left eye. The eye irritation is constant and aching. The eye irritation is mild to severe. The irritation has been present for days. The patient denies currently being treated. The patient has a history of contact lens wear. The patient presents today for further evaluation and management.

OD External: normal lid position, nasolacrimal and orbital exam
OD Lid Margin: vascularization of meibomian orifices
OD Conjunctiva: white and quiet
Slit lamp examination OD:
OD Cornea: clear cornea
OD Anterior Chamber: deep and quiet anterior chamber
OD Iris: normal iris without rubeosis
OD Lens: clear lens
Ophthalmoscopic examination of optic disc OU:
OD Optic Disc: flat and normal disc
Lens Used: 7890D
Ophthalmoscopic examination of retina and vessels OD:
OD Vitreous: vitreous clear without hemorrhage, cells or pigment
OD Vessels: vessels with normal contour, caliber without neovascularization
OD Macula: macula normal contour without hema, edema, drusen or exudate
OD Periphery: no view
Lens Used: 7890D
I offered the patient a dilated ophthalmoscopic exam OD, patient declines.
Orientation: alert and oriented x 3.

OS External: normal lid position, nasolacrimal and orbital exam
OS Lid Margin: vascularization of meibomian orifices
OS Conjunctiva: white and quiet
Slit lamp examination OS:
OS Cornea: clear cornea
OS Anterior Chamber: deep and quiet anterior chamber
OS Iris: normal iris without rubeosis
OS Lens: clear lens
Ophthalmoscopic examination of optic disc OU:
OS Optic Disc: flat and normal disc
Lens Used: 7890D
Ophthalmoscopic examination of retina and vessels OS:
OS Vitreous: vitreous clear without hemorrhage, cells or pigment
OS Vessels: vessels with normal contour, caliber without neovascularization
OS Macula: macula normal contour without hema, edema, drusen or exudate
OS Periphery: no view
Lens Used: 7890D
I offered the patient a dilated ophthalmoscopic exam OS, patient declines.

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Impression/Plan:
1. Buphthalmia OU
exacerbated (H01.021, H01.022, and H01.028)

Plan: Prescription.
betamethasone 0.1% eye drops, suspension Ophthalmic (eye) Frequency: QID
Sig: 1 DROP QID OU Location: OU
Mauve 3.5 mg/10.000 units/0.1% eye ointment Ophthalmic (eye) Frequency: QHS OU Sig: 14"
RUBBON QHS OU X 1 WK Location: OU

Plan: Counseling - Buphthalmia.
I counseled the patient regarding the following:

Eye care: Buphthalmia may improve with warm compresses, lid scrubs, and ophthalmic antibiotics. The patient should apply warm compresses to affected eyes for 5 minutes at a time, 3 to 4 times a day. The patient should perform lid scrubs every night following the warm compress. The patient can use artificial tears as needed for ocular irritation.

Expectations: Buphthalmia is inflammation of the eyelids that is not contagious. It is a chronic condition that will flare up periodically if you do not treat it on a regular basis.

Contact Office if: eyelid redness, crusting, discharge, or blurry vision does not improve or gets worse.

Plan: FUJ for Next Visit.
The patient should be scheduled for the following in 12 Months:
- MONITOR - CO
- MONITOR - OS

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07/23/19, utilized non-Contact tonometry as opposed to GOLDMANN Tonometry to measure E.B.'s IOP and failed to address EB's complaint of blurred vision, failed to perform a dilated fundus exam on any occasion and prescribed an additional topical drop containing Tobradex that further raises IOP and causes glaucoma. It is hereby alleged that combined use of Dexamethasone and Tobradex and the lack of proper monitoring caused irreversible damage to E.B.'s eyes in the form of advanced glaucoma and profound vision loss in the left eye and profound visual field loss in the left eye, as well as significant visual field loss in the right eye.

On 03/09/22, a closed claim indemnity totaling \$2,950,000 (paid as follows: \$2,950,000 - indemnity paid by insurer on behalf of insured, \$79,367 - loss adjust expense paid to defense counsel) was paid on behalf of E.B.

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Steroid-Induced Glaucoma

General population, 5-6% high steroid responders (IOP elevation >15 mmHg)

29-36% are moderate responders (IOP elevation 6-15 mmHg)

Approximately 50% have no significant IOP response ^{1,2}

In one study, 0.1% dexamethasone was associated with an average increase of 22 mm Hg from baseline IOP. ³

Prednisolone acetate, a commonly used postoperative medication, demonstrated an average IOP elevation of 10 mm Hg in patients who were previously identified as steroid responders.³

Upon cessation of steroids, IOP usually normalizes within one to four weeks.

¹ Becker B, Mills DW. JAMA. 1963;185(11):884-886.
² Kersey JP, Broadway DC. Eye (Lond). 2006;20(4):407-416
³ Cantrill HL et al. Am J Ophthalmol. 1975;79(6):1012-1017.

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Is there a time limit for filing a complaint?

- Incidents occurring before July 1, 2006 – **no time limit**
- Incident occurring after July 1, 2006 – **six (6) years**
- If fraud, concealment or intentional misrepresentation of facts prevented the discovery of the alleged violation – **12 years**.
- If criminal actions, diversion of controlled substances, sexual misconduct, or impairment by a licensee – **no limit**.

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Types of Violations

Administrative

- Minor
- Major

Patient Care

- Minor
- Major

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Administrative Violation

- Does not involve the diagnosis or treatment of a patient
- May or may not directly endanger the public health safety, and welfare of the citizens of State of Florida.
- Direct endangerment is classified as a major violation

Patient Care Violation

- Does involve the diagnosis or treatment of a patient

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Who files complaints?

- Patients
- Family member of patient
- Ophthalmologists
- Optometrists
- Insurance companies

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SOURCE OF INFORMATION

Name: The Medical Protective Company
Address: PO Box 15021
Fort Wayne, IN 46885
Home Phone: 800-463-3776

REPORTED INFORMATION

Receive Date: 11/20/2023	Source Code: 45	Form Code: 1
Responsible Party: ha52	Status Code: 10	
Classification Code: 2	Incident Date: 10/04/2021	Complexity: Regular

Summary:
Possible violation of SS. 456.072(1)(k)(dd) F.S., 463.016(1)(g)(m)(i) F.S. and Rule 64B13-3.010 F.A.C. failing to perform statutory obligation/violate any statute or rule of the board/misconduct in the practice of optometry/practice below the standard of care/standards of practice==

Received information regarding a malpractice payment. On 10/04/2021 L.B. presented for eye exams. Eye examinations performed. Lost field vision in left eye due to alleged failure to timely diagnose and treat glaucoma. Payment is made to resolve a disputed claim and is not an admission of negligence. This was settled before trial (in pre-suit) with no admission of liability. \$75,000 settlement on 07/13/2023.

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Formal Hearing was Requested

4. On or about October 4, 2021, Patient L.B. presented to Respondent for a checkup and Respondent examined Patient L.B.
5. On or about November 5, 2021, Patient L.B. presented to Respondent for a follow up examination.
6. Respondent failed to keep optometric records about Patient L.B.'s examination, treatments, and/or prescriptions on or about October 4, 2021 and/or on or about November 5, 2021.
7. Section 463.016(1)(k), Florida Statutes (2021), provides that failing to keep optometric records about examinations, treatments, and prescriptions for patients constitutes grounds for discipline.
8. Respondent failed to keep optometric records about the examination, treatments, and/or prescriptions for Patient L.B.
9. Based upon the foregoing, Respondent violated section 463.016(1)(k).

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Formal Hearing (Hearings Involving Disputed Issues of Material Fact)

Formal hearing must be requested within 10 days of notification of complaint

Failure to notify the department in writing results in an informal hearing

A waiver can be requested

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DO YOU OR ANYONE IN YOUR IMMEDIATE FAMILY HAVE ANY OF THE FOLLOWING EYE PROBLEMS?

CATARACTS	SELF	FAMILY	CIRCLE ANY OF THE FOLLOWING SYMPTOMS
GLAUCOMA	_____	_____	YOU ARE CURRENTLY HAVING:
MACULAR DEGENERATION	_____	_____	ITCHING OR BURNING
RETINAL DETACHMENT	_____	_____	DOUBLE VISION
CORNEAL DISEASE	_____	_____	BURRED VISION
BITES	_____	_____	LIGHT SENSITIVITY
COLOR BLINDNESS	_____	_____	BLIND SPOTS
NIGHT BLINDNESS	_____	_____	DRY EYES
LACRY EYE	_____	_____	TWITCHING
CROSSED EYE	_____	_____	FLOATERS
EYE LID GROWTHS	_____	_____	TEMPORARY VISION LOSS
			FLAMES OF LIGHT

ASSIGNMENT OF BENEFITS AND PATIENT RELEASE: _____ other *partial vision peripheral vision in left eye*

Exam- 10/04/2021
Pressures- Normal
Field Study- Inconclusive
Rescheduled Follow-up

Follow up- 11/05/2021
Pressures- No Change
Field Study Recheck Scheduled

NO FURTHER CONTACT FROM PATIENT

01/2023
Patient instigated litigation.
Due to field study non follow up insurance company decided to settle.

Office policy changed per doing field studies in more detail.

First litigation case against me in 43 years of practice.

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Case Studies

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov>

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Types of Mitigating or Aggravating Factors

- A danger to the public
- Length of time since the violation
- Previous discipline
- Length of time practicing
- Actual damage caused
- Any rehabilitation performed
- Any attempts to correct or stop the violation
- Showing up for a hearing

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How long must a healthcare practitioner maintain a patient's record?

According to Rule 64B8-10.002(3), FAC : A licensed physician shall keep adequate written medical records, as required by Section 458.331(1)(m), Florida Statutes, for a period of at least **five** years from the last patient contact;

However, medical malpractice law requires records to be kept for at least **seven** years.

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Final Action

Cases are presented before the professional board or department for final agency action.

The subject may be required to appear before the board or department.

The complainant is notified of the date and location where the case will be heard and may attend.

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If the practitioner is found to have violated the law, the board may impose one or more of the following penalties:

- Letter of guidance
- Formal notice (citation) on the national practitioner database
- Reprimand
- Fine
- Restriction of practice
- Continuing education probation (additional hours in a subject matter)
- License suspension
- License revocation

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Formal Notice to the National Practitioner Database

- Practitioner is reported to database even with reprimand
- A formal report of action taken by the board or insurance carrier

A notice may impact practitioner by:

- Restricting licensure in other states
- Reducing insurance panel participation
- Raising malpractice rates
- Restriction of employment

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Court File Number:	
Description of Settlement and Any Conditions, Including Terms of Payment:	Settled before trial (in presuit), no admission of liability
PAYMENTS BY THIS PAYER FOR OTHER PRACTITIONERS IN THIS CASE	
Total Amount Paid or to Be Paid by This Payer for All Practitioners in This Case:	
Number of Practitioners for Whom This Payer Has Paid or Will Pay in This Case:	
PAYMENTS BY OTHERS FOR THIS PRACTITIONER	
Did (or will) a State Guaranty or Excess Fund Make a Payment for This Practitioner in This Case?:	
Amount Paid or Expected to Be Paid by the State Fund:	
Did (or will) a Self-Insured Organization and/or Other Insurance Company Make a Payment for This Practitioner in This Case?:	
Amount Paid or Expected to Be Paid by Self-Insured Organization(s) and/or Other Insurance Company/Companies:	
CLASSIFICATION OF ACT(S) OR OMISSION(S)	
Patient's Age at Time of Initial Event:	73 YEARS
Patient's Gender:	MALE
Patient's Type:	OUTPATIENT
Description of the Medical Condition With Which the Patient Presented for Treatment:	Patient presents for eye exams
Description of the Procedure Performed:	Eye examinations performed
Nature of Allegation:	DIAGNOSIS RELATED (001)
Specific Allegation:	FAILURE TO DIAGNOSE (101)
Date of Event Associated With Allegation or Incident:	10/04/2021
Outcome:	SIGNIFICANT PERMANENT INJURY (06)
Description of the Allegations and Injuries or Illnesses Upon Which the Action or Claim Was Based:	Lost field vision in left eye due to alleged failure to timely diagnose and treat glaucoma. Payment is being made to resolve a disputed claim and is not an admission of negligence.

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463.016 Grounds for disciplinary action;

Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

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463.016 Grounds for disciplinary action;

Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensed practitioner knows or has reason to know she or he is not competent to perform.

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Grounds for disciplinary action; action by the board.

Willfully failing to report any person who the licensee knows is in violation of this chapter or of rules of the department or the board.

<https://www.floridaoptometry.gov> and <https://www.flhealthsource.gov> 463.016

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463.016 Grounds for disciplinary action;

Knowingly employing unlicensed persons in the practice of optometry, except as specifically authorized by this chapter.

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Malpractice versus Board Action

Board Action

- Medical board action is after a complaint is filed
- Independent investigation
- Formal hearing
- Ruling from the board determining final outcome
- Primary function is the protection of the public

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Malpractice Lawsuit

Civil procedure

- Determines whether or not malpractice has occurred
- Compensation not discipline is determined
- Generally, has no bearing on licensure
- Often settled out of court by insurance carrier
- Not always an accurate measures of competence or violation of law

Stay off the Radar!

- Practice good customer service
- Practice to standard of care or above
- Practice sober [Professionals Resource Network](https://www.flprn.org) www.flprn.org
- Maintain good patient records *Not documented=Not Done*
- Do your CE requirements

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Florida Jurisprudence 2025

Thank You!