

Phase I: Administrative Rule Inventory for Alabama Board of Optometry

Due date: September 15, 2023 | Inventory current as of September 1, 2023

Rule Citation	Short Description	Regulatory Text	Statutory Authority	# of Discretionary Regulatory Restrictions
630-X-1-.01	Promulgation of Rules and Regulations	No rule or regulation <u>shall</u> be promulgated by the Alabama Board of Optometry except after a complete compliance with the requirements of Chapter 630-X-1 (Rule-Making Procedures).	§ 41-22-1 et. seq.	0
630-X-1-.02	Compliance with Administrative Procedures Act	all rules and regulations and amendments thereto <u>shall</u> be hereafter adopted or promulgated strictly following the rules and procedures set out in the Alabama Administrative Procedure Act	§ 41-22-1 et. seq.	0
630-X-1-.04	Amendments to Rules and Regulations	The above procedure <u>shall</u> be followed in amending existing rules and regulations.	§ 41-22-1 et. seq.	0
630-X-2-.01	Meetings	An annual meeting of the Board shall be held during the month of October each year in the city of Montgomery, or in such place as designated by the president of the Board at a time and place to be specified by the president. This meeting <u>shall be</u> for election and installation of officers and other business deemed appropriate.	§ 34-22-40, 41	0
630-X-2-.01	Meetings	Other meetings of the Board shall be held upon call of the president, <u>or as specified in a resolution of the Board</u> . The president <u>shall</u> call a special meeting of the Board within 30 days of receipt of a petition asking for such a meeting, said petition being signed by a majority of the members of the Board.	§ 34-22-41	1
630-X-2-.02	Officers	The officers of the Board <u>shall</u> consist of a president, a vice president, and a secretary-treasurer. The officers <u>shall be</u> elected at the annual meeting of the Board and until their successors are elected and installed.	§ 34-22-41	0
630-X-2-.02(a)	President	The president <u>shall</u> preside at all meetings of the Board and <u>shall</u> be entitled to vote as any other Board member. He <u>shall</u> call meetings of the Board deemed by him to be necessary to the expeditious handling of Board affairs and upon petition from a majority of the Board as specified in Rule 630-X-2-.01. The president <u>shall</u> countersign all checks drawn by the secretary- treasurer on Board bank accounts. He shall give bond made by a duly authorized company, in such sum as may be fixed by the	§ 34-22-40, 41	3

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		Board, conditioned for the proper accounting for of all monies and property coming into his hands or over which he has control by virtue of his office, the premiums of which <u>shall be paid</u> by the Board.		
630-X-2-.02(a)	Vice President	In the absence, sickness or disability of the president, the vice president <u>shall perform</u> all duties and exercise all authority of the president, and shall perform such duties as the president may assign him.		1
630-X-2-.02(a)	Secretary Treasurer	The secretary-treasurer <u>shall</u> record the proceedings of all the meetings of the Board which record <u>shall be open for public inspection</u> at all reasonable times. He <u>shall perform</u> all duties required of him by other rules and regulations promulgated by the Board from time to time. He <u>shall have charge of all funds</u> of the Board; <u>shall</u> keep books of account; <u>shall</u> be responsible for the accuracy of the same, as well as for all monies and other property coming into his hands or over which he has control by virtue of his office; <u>shall</u> at each meeting of the Board or upon the Board's request report a full and correct statement of the accounts, and disclose the true financial condition of the Board; and shall give bond made by a duly authorized surety company, in such sum as may be fixed by the Board, conditioned for the proper accounting for all monies and property coming into his hands or over which he has control by virtue of his office to the credit of the Board in a bank selected by the Board for the use of the Board as provide by law. All such monies <u>shall</u> be deposited in a timely fashion and in no case shall they be deposited more than three business days after receipt by the secretary- treasurer. All correspondence received by the secretary-treasurer <u>shall</u> be dated by him to reflect the date on which he received it. All applications for licenses <u>shall</u> be filed with the secretary-treasurer. He <u>shall</u> keep a record of and examine and investigate all applicants and all applications for the purpose of determining whether the applicants are qualified to take examination for license and to be issued a license and <u>shall</u> report same	§ 34-22-41(b), (c), (d)	

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		to the Board. He shall notify members of the Board of all meetings; and issue other notices to applicants for license and others required by law or by rules and regulations of the Board.		
630-X-2-.02(a)		He <u>shall</u> keep a record of laws and regulations and a record of all proceedings taken by the Board in connection therewith.	§ 34-22-43(d)	0
630-X-2-.02(a)		The secretary-treasurer <u>shall be custodian</u> of all records and the official seal of the Board.	§ 34-22-43(c)	0
630-X-2-.02(a)	Secretary Treasurer	He <u>shall</u> keep a registry in which <u>shall</u> be entered the names of all persons to whom license certificates, annual registration certificates, and teaching permits have been granted, the serial numbers of such license certificates and annual registration certificates, and relating to continuing education as may be required by the regulations relating thereto.	§ 34-22-43(a)	0
630-X-2-.03	Seal	The Board <u>shall</u> have a seal in the form of two circular metal discs bearing the imprint and inscription around their respective borders the words -- "Alabama Board of Optometry," and in the center the word -- "Seal." The seal <u>shall</u> be impressed upon all instruments executed by the Board and the president, the vice president, and the secretary-treasurer shall severally have like power to impress and attest the seal upon any instrument requiring the seal.	§ 34-22-41(c)	1
630-X-2-.04	Order of Business	the order of business at meetings of the Board <u>shall</u> be as follows:		1
630-X-2-.04(2)(a)	Order of Business	At the annual meeting for giving examinations for licenses or any other meeting called for giving such examinations, the commencing of the examination procedure as set out in the regulation relating thereto <u>shall</u> be inserted into the order of business in a manner deemed appropriate by the president of the Board, and thereafter the above order of business shall be followed.		1
630-X-2-.04(2)(b)	Order of Business	At meetings called for the purpose of conducting public hearings, the first order of business <u>shall</u> be hearing those persons desiring to be heard; the second order of business shall be consideration of the proposition		1

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		giving rise to the public hearing; and thereafter the above order of business <u>shall</u> be followed.		
630-X-2-.04(2)(d)	Order of Business	At the annual meeting the first order of business shall be the election and installation of officers and thereafter the above order of business shall be followed.		
630-X-2-.04(2)(e)	Order of Business	At the annual meeting required by law to be held at least 30 days prior to October 1 in each year for the purpose of selecting five persons to be certified to the Governor from which appointments to the Board will be made, the only order of business <u>shall</u> be the nomination and selection procedures established by the regulations relating thereto and no other business shall be conducted at that meeting	§ 34-22-40	1
630-X-2-.05	Travel Reimbursement	Board members desiring to travel out-of-state on Board business and be reimbursed their expenses therefor <u>shall</u> ask the secretary- treasurer to request approval of the Governor for such travel. Said request <u>shall</u> set out the inclusive dates of such travel and the purpose of such travel.	§34-22-41	1
630-X-2-.06	Expenses of the Board	Extraordinary expenses and those which the secretary-treasurer doubts to be legal, valid or just <u>shall</u> be submitted to the Board for approval prior to payment. The secretary-treasurer <u>shall</u> comply strictly with the state competitive bid laws.	§34-22-41	2
630-X-2-.08	Hiring of Personnel.	From time to time and at its discretion, the Board may employ personnel to aid in carrying out the provisions of this act. Said personnel <u>shall</u> be hired for an amount to be negotiated between said individual and the Board but <u>shall</u> not exceed the resources of the Board.	§ 34-22-42(10)	0
630-X-2-.09	Executive Director	The Executive Director <u>shall</u> be hired for an amount to be negotiated between said individual and the Board but such amount <u>shall</u> not exceed the resources of the Board.	§ 34-22-42(10)	0
630-X-3-.01	Complaints.	Complaints against licensed optometrists for unprofessional, unethical, or illegal conduct and complaints against any other person who may be accused of violating any provision of this act <u>shall</u> be filed with the	§ 34-22-8	5

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		secretary-treasurer or other specified agent of the Board in writing and under oath. Said complaints <u>must</u> set out in detail the charge(s) against the accused person and <u>shall</u> contain a telephone number at which the person registering the complaint can be reached by telephone. Upon receipt of a complaint, the secretary-treasurer or the Board's legal counsel <u>shall</u> verify the complaint by making a telephone call to the complainant at the number listed in the complaint. During the telephone call, the secretary- treasurer or legal counsel <u>shall</u> seek details not set out in the complaint and <u>shall</u> make a memorandum thereof. In the event a complaint filed with the Board does not conform to the regulations set out above, the complainant <u>shall</u> be advised in writing by the Board of the proper procedure as set out herein. The Board <u>shall</u> take no action on a complaint until it complies with the procedure set out herein. Any person may file a complaint but if a member or agent of the Board <u>shall</u> file a complaint, said member or agent <u>shall</u> not participate in any hearing (other than to offer evidence), determination, or sanction of the charge(s) in said complaint.		
630-X-3-.02	Notification of Accused Person.	Upon receipt of a complaint conforming to the requirements of Rule 630-X-3- .01, the secretary-treasurer or Board legal counsel <u>shall</u> forward a letter to the accused person advising said person of the complaint and enclosing therewith a copy of the written complaint, any memorandum made during the telephone interview with the complainant, and a copy of this chapter of the Board regulations. The letter <u>shall</u> invite the accused person to respond within 15 days to the charges in writing under oath. The letter to the accused person and the written response of the accused person <u>shall</u> be forwarded by certified mail, return receipt requested.	§ 34-22-8(a)	2
630-X-3-.03	Failure of Accused Person to Respond.	If, at the expiration of 15 days after receipt by the accused person of the letter and other materials required by Rule 630-X-3-.02 above, the accused		

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		person has not responded to the charges in writing under oath, said person <u>shall</u> be deemed to have declined to respond.		
630-X-3-.04	Preliminary Investigation by Board	the Board <u>shall</u> conduct such further discreet preliminary investigation as the Board deems necessary under the circumstances to determine whether or not formal charges should be presented and a hearing held as provided by law.	§ 34-22-8(a)	0
630-X-3-.05	Confidentiality	Unless, and until, a hearing is set by the Board, as hereinafter provided, the Board and each member or agent thereof <u>shall</u> keep the charges and all matters relating thereto completely confidential, and <u>shall</u> release no information in connection therewith to any person other than the Board or an agent thereof, the accused, or the accused's legal counsel, if any.	§41-22-12(g)(7) § 41-22-12(g)(2)	2
630-X-3-.06	Determination by Board of Justification of Charge	After receipt of the complaint, the response of the accused person, and completion of the preliminary investigation specified in Rule 630-X-3-.04, the Board <u>shall</u> meet in executive session with its legal counsel and determine whether or not the complaint is a charge of unprofessional, unethical, or illegal conduct on the part of the accused person, such as to warrant disciplinary action if established by evidence. If a member or agent of the Board filed the complaint to be considered, said member or agent <u>shall</u> take no part in the executive session specified above except to the extent of giving testimony in connection to the charge. If the Board determines the complaint to be unjustified, frivolous, or not under the jurisdiction of the Board, there <u>shall</u> be reference in the minutes of the meeting of the Board only to the fact that a charge was considered and found to not justify a hearing and no mention of the name of the accused person or complainant <u>shall</u> appear in said minutes. If the Board proposes to take no further action on the charges, the accused person and the complainant <u>shall</u> be so notified in writing by the Board or an agent thereof. If, on the other hand, after considering all matters before it, the Board is reasonably satisfied that such charge(s) is/are of such merit as to	§34-22-8(a)	3

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		warrant disciplinary action if established by evidence, then the Board may at its discretion at that meeting set sanctions, as well as adopt a resolution to be reflected in the minutes setting a date, time and place, either within the city of Montgomery, Alabama, or within the county in which the accused person resides, for the hearing of said charges.		
630-X-3-.07	Responsibility of Legal Counsel of Board	The Board's legal counsel <u>shall</u> forthwith, under supervision of the Board, draft a notice of the charge(s) against the accused person that complies with Code of Ala. 1975, S 41- 22-12, which is expressly incorporated herein by reference. Said notice may, at the discretion of the Board, include the opportunity by the accused person to accept specified sanctions administered by the Board. Service of the foregoing material may be made by personal service upon the accused, or by forwarding to the accused person via United States certified mail with a return receipt requested addressed to the accused's last known mailing address. However, if the accused person <u>shall</u> not be a resident of Alabama, or <u>shall</u> have departed from the state of Alabama, then notice of the date, time, and place of such hearing <u>shall</u> be published in a newspaper of general circulation in the county where said accused person <u>shall</u> have been last known to reside, one (1) time, at least three (3) weeks prior to the hearing, setting out the date, time, and place of the hearing.	§34-22-8(a) §41-22-12	0
630-X-3-.08	Answer of Accused Person to Specification of Charges	At least five days before the date of the hearing, the accused person <u>shall</u> either agree that the charges are valid and accept specified sanctions as administered by the Board or <u>shall</u> file with the Board a written answer to the specification of the charges served upon said accused along with a list of the names and post office addresses of witnesses (including any books, records, papers or other documents the accused desires any witness to produce) which the accused desires to be subpoenaed for the hearing. At the same time, the accused <u>shall</u> file with the Board a list of any books, records, papers or other documents in possession of the Board	§34-22-8(a)	3

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		which the accused desires to use in the hearing and the same <u>shall</u> be produced at the hearing by the Board without the necessity of a subpoena. If the accused person fails to file a written answer to the charges within the time set out above, said accused <u>shall</u> be deemed to have denied each and every such charge. If the accused person fails to file a list of witnesses within the time specified above, said accused <u>shall</u> be deemed to have waived the right to have witnesses subpoenaed.		
630-X-3-.09	Discovery	At least five days prior to the date of the hearing, the Board's legal counsel <u>shall</u> prepare a list of the names and post office addresses of any witnesses the Board's legal counsel desires to subpoena for the hearing and <u>shall</u> also prepare a list of books, records, papers, and other documents that counsel desires said witnesses to produce and make available at the hearing. At least five days prior to the hearing, the Board's legal counsel will forward to the accused person and/or said accused person's legal counsel, if known to the Board or its counsel, a list of the witnesses who will testify at the hearing in behalf of the charges.	§41-22-12(a), (e)	1
630-X-3-.10	Subpoenas	Upon the proper filing, by the accused person or the Board's legal counsel, of the lists of witnesses, the Board <u>shall</u> issue a subpoena for the witnesses and a subpoena duces tecum for any requested books, records, papers, or other documents, directed to the sheriff of the respective counties where such witnesses reside.	§ 34-22-8(a) § 34-22-42(9)	0
630-X-3-.11	Hearing; Rules of Procedure	At the date, time, and place previously set for the hearing, the Board <u>shall</u> convene and if there is a quorum present proceed to hear the charges under the following rules of procedure:	§ 34-22-8(a)	0
630-X-3-.11(a)	Hearing; Rules of Procedure	A quorum of the Board <u>must</u> be present at all times during the hearing and only those Board members present for the entire hearing <u>shall</u> vote upon action of the Board at the conclusion of the hearing. The president <u>shall</u> preside or in his or her absence the normal progression to the chair	§ 41-22-3(8)	3

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		<u>shall</u> be followed. However, if a member or agent of the Board <u>shall</u> have filed the complaint of charges under consideration at said hearing, then that member or agent of the Board <u>shall</u> not participate in the hearing other than to offer evidence as a witness.		
630-X-3-.11(b)	Hearing; Rules of Procedure	The subpoenaed witnesses <u>shall</u> be called, sworn, and with the exception of the accused person and the complainant <u>shall</u> be excluded from the hearing, except when testifying. If a subpoenaed witness fails to appear, the party subpoenaing the witness may present to the opposing party a written statement of what the witness would testify to if present and, if agreed upon by the other party, the statement <u>shall</u> be given the same weight as if the witness had testified in person.	§ 34-22-8(a)	3
630-X-3-.11(c)	Hearing; Rules of Procedure	If any subpoenaed witness fails to appear, refuses to be sworn, refuses to be examined, or refuses to produce any book, record, paper, or other document as ordered by the Board, such facts <u>shall</u> be certified by the Board to the circuit court or the judge thereof in the county where such witness resides for action by such court or judge as is provided by law. Unless a written statement is submitted and agreed to for any such witness as provided above, upon motion of the party subpoenaing the witness, the hearing <u>shall</u> be continued for appropriate action with reference to such witness by the circuit court or judge of the county wherein he or she resides.	§ 34-22-8(a)	0
630-X-3-.11(d)	Hearing; Rules of Procedure	The Board's legal counsel <u>shall</u> first present witnesses and other evidence in support of the charges specified. The accused person or counsel thereof <u>shall</u> have the full and free right to cross-examine all witnesses testifying against the accused.	§ 34-22-8(a)	0
630-X-3-.11(e)	Hearing; Rules of Procedure	Upon conclusion of all witnesses and other evidence presented by the Board's counsel, the accused person or counsel thereof <u>shall</u> present witnesses and other evidence in the accused's defense to the charges	§ 34-22-8(a)	1

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		specified. The Board's counsel <u>shall</u> have the full and free right to cross-examine such witnesses.		
630-X-3-.11(f)	Hearing; Rules of Procedure	Upon conclusion of testimony presented by witnesses called for the accused's defense, the Board's counsel <u>shall</u> have the opportunity to offer rebuttal witnesses and testimony.	§ 34-22-8(a)	1
630-X-3-.11(g)	Hearing; Rules of Procedure	The rules of evidence as applied in nonjury civil cases in the circuit courts of the state <u>shall</u> be followed.	§ 41-22-12(c)	
630-X-3-.11(h)	Hearing; Rules of Procedure	The Board <u>shall</u> have the hearing proceedings recorded either by mechanical means or by a court reporter. If the accused person desires a transcript of the recorded proceedings, the expense of said transcript <u>shall</u> be borne by the accused person.	§ 34-22-8(a)	1
630-X-3-.11(i)	Hearing; Rules of Procedure	Upon completion of all evidence, the Board's counsel and the accused person or counsel thereof <u>shall</u> have the opportunity of presenting closing arguments to the Board as follows: Board's counsel first, accused person or counsel thereof second, and then Board's counsel <u>shall</u> close.	§ 34-22-8(a)	2
630-X-3-.11(j)	Hearing; Rules of Procedure	Upon conclusion of all evidence and arguments, the Board <u>shall</u> proceed, in open meeting, to consider the charges and evidence submitted in connection therewith. If a member or agent of the Board shall have filed the complaint of charges under consideration, then said member or agent <u>shall</u> not participate in the consideration of charges specified above. If a majority of the quorum of members of the Board conducting the hearing <u>shall</u> find the charges are untrue, frivolous, or without probable cause as established by evidence, then the Board <u>shall</u> forthwith enter an order dismissing the charges. If, on the other hand, a majority of the quorum of members of the Board conducting the hearing <u>shall</u> find that the charge(s) are of merit and proven to their satisfaction, then the Board <u>shall</u> , within 30 days of the hearing's conclusion, render a final order consistent with Code of Ala. 1975, SS 41-22-15, 41-22-16, which sections are adopted herein by reference.	§ 34-22-8(a)	0

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630-X-3-.11(k)	Hearing; Rules of Procedure	In all cases of suspension or revocation of licenses, fines, or of other disciplinary sanctions imposed by the Board as provided for by law, the accused person <u>may appeal only</u> to the circuit court of Montgomery County, Alabama. In all cases of suspension or revocation of licenses, the order specifying such sanction <u>shall</u> contain instructions relating the methods and requirements for reinstatement of said licenses. Except as may otherwise be provided herein to the contrary, judicial review of the orders and decisions of the Board <u>shall</u> be governed by the provisions of Code of Ala. 1975, S 41-22-20, which section is adopted herein by reference.	§ 34-22-8(b)	1
630-X-3-.11(l)	Hearing; Rules of Procedure	Members of the Board of Optometry, any optometrists impaneled by the Board, and any optometrist or other individual making any report or rendering any opinion or supplying any evidence or information or offering any testimony to the Board in connection with a disciplinary investigation or proceeding as authorized in this chapter <u>shall</u> be immune from suit for any conduct with respect to such investigations, actions, hearings, and proceedings.	§ 34-22-8(c)	0
630-X-4-.01	Time and Place of Annual Meeting	On or before June 1 of each year, the Board <u>shall</u> prescribe by resolution duly adopted at a regular or called meeting the exact time and place of the annual meeting to be held at least 30 days prior to October 1 of that year for the purpose of selecting five persons whose names <u>shall</u> be certified to the Governor for appointment to the Board. On no later than July 1 of that year, the secretary-treasurer <u>shall</u> mail to each optometrist holding a current annual registration certificate to practice in Alabama at the address shown on his current registration, notices setting out the exact date, place, and hour of the meeting, the purpose of the meeting, and advising him of his right to attend and vote at the meeting.	§34-22-40	1

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630-X-4-.02(1)	Nominations	Nominations of persons to be selected at the annual meeting <u>shall</u> be made in the manner herein prescribed and no person <u>shall</u> be a nominee eligible to be selected at the annual meeting unless so nominated.	§34-22-40	2
630-X-4-.02(2)	Nominations	The secretary-treasurer <u>shall</u> enclose with the notice required by Rule 630- X-4-.01 of this regulation to be mailed a brief summary of the qualifications required for appointment to the Board.	§34-22-40	1
630-X-4-.02(3)	Nominations	Each licensee holding a current annual registration certificate <u>shall</u> have the right to submit the names of two qualified optometrists he would like to be considered for nomination. Each licensee desiring to submit such names <u>shall</u> do so on a form which <u>shall</u> be included with the other material required by this regulation to be mailed. The form <u>shall</u> be acknowledged as deeds of conveyances are required to be acknowledged under the laws of Alabama and <u>shall</u> contain exactly two names to be considered. The form is attached to this regulation as Appendix A.	§34-22-40	4
630-X-4-.02(4)	Nominations	Said forms <u>shall</u> be forwarded to the secretary-treasurer by certified mail, return receipt requested, in sufficient time for the secretary-treasurer to receive the same at least 14 days prior to the date of the meeting. Forms received by the secretary-treasurer less than 14 days prior to the date of the meeting or listing the name of persons not qualified, or listing more or less than two names <u>shall</u> be void.	§34-22-40	2
630-X-4-.02(5)	Nominations	Immediately after a date 14 days prior to the date of the meeting, the secretary-treasurer <u>shall</u> than count and tabulate the forms so received and the ten persons qualified for Board membership listed the highest total number of times on valid forms <u>shall</u> be the nominees to be voted on at the annual meeting. In the case of ties, all persons listed a sufficient number of times to create the tie <u>shall</u> be included as a nominee regardless of the number.	§34-22-40	3

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630-X-4-.02(6)	Nominations	Seven days prior to the meeting, the secretary-treasurer <u>shall</u> mail to each licensed optometrist holding a current annual registration certificate a list of persons so nominated to be voted on at the annual meeting.	§34-22-40	1
630-X-4-.02(7)	Nominations	The secretary-treasurer <u>shall</u> make available at his office and at the annual meeting all such forms received by him (valid and invalid) for inspection by any optometrist licensed in Alabama, in person or by attorney with written authorization, and <u>shall</u> make no disposition thereof until at least March 1 of the following year.	§34-22-40	2
630-X-4-.02(8)	Nominations	In addition to the method hereinabove prescribed, a qualified person may be nominated at the annual meeting upon the written petition of ten licensed optometrists holding current annual registration certificates and in attendance at the meeting. The form for such petition is attached to this regulation as Appendix B and <u>shall</u> be made available at the meeting by the secretary- treasurer. No vote <u>shall</u> be taken at the annual meeting until 30 minutes after the time specified by the Board for it to convene in order to allow persons to secure and submit the necessary petitions for nominations. In order for such nominations to be valid, the petition <u>must</u> be presented to the secretary- treasurer within 30 minutes after the meeting convenes. Upon the secretary- treasurer verifying that each person signing the petition holds a current annual registration certificate and is in attendance at the meeting and that the nominee is qualified, the name of the person so nominated <u>will be</u> added to those previously nominated.	§34-22-40	4
630-X-4-.02(9)	Nominations	Only those persons nominated in one of the ways hereinabove provided <u>shall</u> have their names included on the ballot for voting at the annual meeting.	§34-22-40	1
630-X-4-.03(a)	Voting	Prior to the annual meeting the secretary-treasurer <u>shall</u> cause to be prepared a sufficient number of ballots containing the names of those persons listed the highest number of times on the forms as hereinabove	§34-22-40	2

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		provided and such ballot <u>shall</u> contain blanks for the insertion of the names of persons who may be nominated by petition at the annual meeting.		
630-X-4-.03(b)	Voting	At the end of the 30 minute period hereinabove provided for the nominations by petition, the secretary-treasurer <u>shall</u> cause the names of all persons so nominated by petition to be inserted on the ballots. The ballots so prepared by the secretary-treasurer <u>shall</u> be the official ballot and <u>shall</u> be used in conduction the election.	§34-22-40	3
630-X-4-.03(c)	Voting	As each licensed optometrist holding a current annual registration is given a ballot, said optometrist <u>shall</u> sign a form signifying the receipt of said ballot and also signing his license number next to his signature. Balloting is by secret ballot and the optometrist need not sign the ballot sheet. No ballots will be given out prior to the voting and each optometrist <u>shall</u> be given only one ballot as they sign the form provided for above.	§34-22-40	2
630-X-4-.03(d)	Voting	The president <u>shall</u> appoint a committee of ten licensed optometrists in attendance at the meeting to serve as election clerks and it <u>shall</u> be the duty of the election clerks to take up, count, and tabulate the ballots, and to report the tabulation to the president who <u>shall</u> announce the results.	§34-22-40	3
630-X-4-.03(e)	Voting	No cumulative or proxy voting <u>shall</u> be permitted and each optometrist voting <u>must</u> vote for five nominees in order for his ballot to be valid. Any ballot indicating votes for more or less than five nominees <u>shall</u> be null and void and <u>shall</u> not be counted.	§34-22-40	3
630-X-4-.03(f)	Voting	After all valid ballots are counted, the five persons receiving the greatest number of votes <u>shall</u> be the five persons certified to the Governor for appointment to the Board, without substitution.	§34-22-40	1
630-X-4-.03(g)	Voting	Within three days after the meeting, the secretary-treasurer <u>shall</u> notify those licensees whose names <u>shall</u> be certified to the Governor that their	§34-22-40	6

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		names <u>shall</u> be submitted to the Governor. Ten days after the meeting, the secretary- treasurer <u>shall</u> submit the list to the Governor. In order for a person to withdraw from the list to be certified to the Governor, the person <u>must</u> do so in writing and present it to the secretary-treasurer prior to the submission of the list to the Governor. If a person withdraws their name from the list, the list <u>shall</u> be composed solely of those names remaining.		
630-X-5-.01	Application for Examination and Licensing	All applications for examinations and licensing <u>shall</u> be filed with the secretary-treasurer on forms provided by the Board. The application <u>shall</u> include all information required by statute and such other information as the Board may require by resolution, including, without limitation and in the Board's discretion, a history of arrests and convictions, a background check report, information about civil judgments, and other information.	§34-22-20(b)	2
630-X-5-.02	Examination Fee	At the time of filing, the applicant <u>shall</u> pay to the secretary-treasurer a fee equal to the maximum provided by law.	§34-22-20(b)	1
630-X-5-.03	Date, Time, and Place of Examinations	During the month of July each year the Board <u>shall</u> give examinations at a place, date, and time specified by Board resolution. It <u>shall</u> be a prerequisite to the taking of the examination that an applicant make proof satisfactory to the Board prior to the examination the following: 1) applicant is a graduate of at least four years of high school or the equivalent, 2) applicant completed a minimum of three years of pre-optometry or the equivalent at an accredited college or university, 3) applicant has completed a course of study in an accredited school or college of optometry which is approved by the Board and that requires at least four years of professional study, and 4) applicant has passed Parts I and II of the examination administered by the National Board of Examiners in Optometry. Upon passing the standard examination prescribed by the Board, applicants <u>shall</u> submit to the Board proof that	§ 34-22-20(a) §34-22-20(c)	3

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		said applicant has passed Part III of the examination administered by the National Board of Examiners in Optometry and applicant <u>shall</u> also complete and submit to the Board for approval a protocol furnished by the Board for the use of pharmaceutical agents in the treatment of disease of the eye and its adjacent structures. The secretary-treasurer <u>shall</u> give reasonable notice to each applicant, whose application meets those requirements specified to be met prior to the examination, of the place, date, and time of the examination. If there are no applications on file with the secretary-treasurer as of June 1 of a given year, the annual examinations <u>shall</u> not be conducted in that year.		
630-X-5-.04	Special Examination	At any time the Board deems it to be justified, it can conduct a special examination at a date, time, and place to be specified by Board resolution calling the examination. The secretary-treasurer <u>shall</u> give reasonable notice of such date, time, and place to each applicant whose application is in order.	§34-22-20(d)	1
630-X-5-.06	Content of Examinations	The examination <u>shall</u> be divided into from one to seven sections, to be established by Board resolution. Content of each section <u>shall</u> be established by Board resolution and may cover the examination areas of practical optics, theoretical optics, physiological optics, theoretical optometry, practical optometry, orthoptics, ocular anatomy, physiology, pharmacology, pathology, diagnosis and treatment of disease of the human eye and its adjacent structures, general anatomy, hygiene, and such other knowledge as the Board deems essential to the practice of optometry, to include testing of knowledge of the laws governing the practice of optometry and of the regulations of the Board. Each applicant making an average score of 75 percent or higher <u>shall</u> be deemed to have passed the examination. The secretary-treasurer <u>shall</u> notify each applicant taking the examination of their final score not later than thirty days after the date of the examination.	§34-22-20	5

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630-X-5-.07	Applicants Earning A Passing Score	Each applicant who has earned a passing score on the examination, submitted proof of passing Part III of the examination administered by the National Board of Examiners in Optometry, has completed and submitted the aforementioned protocol and has received approval thereof, and has met any further requirements established by the Board <u>shall</u> be registered as qualified to practice optometry in the state of Alabama and <u>shall</u> be issued a license, a license certificate, and approval by the Board for the use of pharmaceutical agents for the treatment of disease of the eye and its adjacent structures. All requirements for licensing <u>must</u> be completed by applicant no later than twelve months from the date said applicant took the standard examination given by the Board. Failure of an applicant to meet these requirements within said twelve months <u>shall</u> void the results of the standard examination and the application procedure and examination will have to be repeated.	§34-22-20	4
630-X-5-.08	Application to the Board for Approval to Use Pharmaceutical Agents for Treatment of Disease of the Eye and Adjacent Structures	Optometrists licensed prior to October 1, 1994 may apply to the Board, on a form provided by the Board, for approval to use pharmaceutical agents for the treatment of disease of the eye and its adjacent structures. Prior to approval of such applications, applicant <u>must</u> furnish satisfactory proof to the Board that said applicant has completed at least 72 Board approved clock hours in the diagnosis and management of disease of the eye and its adjacent structures within a three year period preceding said application, <u>must</u> complete and submit for Board approval a protocol furnished by the Board, and meet any further requirements to be established by the Board. When all requirements have been met and approved by the Board, said applicant <u>shall</u> be granted the authority to use pharmaceutical agents for treatment of disease of the eye and adjacent structures. Each licensee so authorized <u>must</u> then fulfill all regulations established by the Board for licensees so authorized, as well as all other Board regulations.	§34-22-20(f)	3

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Rule Citation	Short Description	Regulatory Text	Statutory Authority	# of Discretionary Regulatory Restrictions
630-X-6-.02	Accredited Schools and Colleges	The schools and colleges of optometry accredited from time to time by the hereinabove mentioned agency <u>shall</u> be deemed by the Board to be accredited.	§34-22-20(a)	1
630-X-6-.03	Periodical Board Review of Accredited Schools and Colleges	Periodically, the Board <u>shall</u> review the list of schools and colleges of optometry so accredited and <u>shall</u> conduct such investigations as the Board deems necessary into each such institution. From time to time the Board <u>shall</u> by resolution approve such of said accredited institutions as in the opinion of the Board, after such investigation, should be approved. Withdrawal of Board approval <u>shall</u> be accomplished in the same manner.	§34-22-20(a)	4
630-X-7-.02	Study Compliance Year	The study compliance year <u>shall</u> be the twelve month period from October 1 to September 30, immediately preceding the year of licensure. All study hours <u>shall</u> be obtained during that time period except as otherwise provided for in sections 630-X-7-.05 and 630-X-7-.14 of this chapter.	§34-22-22(h)	0
630-X-7-.03	Hours Required	For the study compliance year, 14 hours of continuing education, <u>shall</u> be required for re-licensure the following fiscal year. However, for licensees approved by the Board to use pharmaceutical agents in the treatment of disease of the eye and its adjacent structures, 20 hours of continuing education, of which one half <u>must be</u> in subjects relating to the diagnosis, treatment, and/or management of disease of the eye and its adjacent structures <u>shall</u> be required for re-licensure the following fiscal year. Changes in study requirements may be made by the Board and in the event of a change, each licensed optometrist <u>shall</u> be notified of the changed requirements on or before November 1 of the study compliance year for which the change is effective. Completion of the study requirements for each study compliance year <u>shall</u> qualify the applicant for license renewal for the following calendar year, if the applicant meets all other requirements.	§34-22-22(h)	2

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Rule Citation	Short Description	Regulatory Text	Statutory Authority	# of Discretionary Regulatory Restrictions
630-X-7-.05	Study Time Requirement	Credit hours for study courses approved by the Board shall be measured in clock hours and shall be equal to the time length of the course rounded to the nearest one-half hour.	§34-22-22(h)	0
630-X-7-.06	Approval of Courses	Application for approval may be submitted either by a licensee or by the course sponsor. The Sponsor of a continuing education course <u>must</u> apply for, and approval before the course is given. . . Application for approval of courses shall be in writing and shall set out the course title, brief description of the course content, name of the course sponsor, name(s) of the lecturer(s) and time length of the course. Further information shall be furnished by the applicant upon request of the Board.	§34-22-22(h)	4
630-X-7-.07	Records of Attendance	Records of attendance at approved continuing education courses shall be maintained by each licensed optometrist on Form CE1, a copy of which is attached hereto as Appendix A. The course and the number of hours must be listed and it must be signed by a representative of the sponsor and by the optometrist certifying attendance. Each licensee is required to maintain all CE1 forms applicable to a study compliance year for thirty six (36) months following the end of said study compliance year.	§34-22-22(h)	4
630-X-7-.08	Certification of Completion of Continuing Education Courses	At the time of license renewal, the licensee shall certify in the manner specified by the board that all continuing education hours have been completed.	§34-22-22(h)	1
630-X-7-.09	Falsification of Forms	Falsification of an attendance form (CE1), or of any application submission, by a sponsor shall be grounds for the Board's withdrawing and/or denying approval of any or all courses sponsored by said sponsor in connection with any future presentation of said courses. Falsification of a Form CE1 by a licensee shall be grounds for the Board to refuse to approve the continuing education requirements for that licensee for the study compliance year in question and for disciplinary action as provided by law.	§34-22-22(h)	2

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630-X-7-.10	Verification/ Audit of Continuing Education Requirements	At the request of the Board for verification and/or audit purposes, a licensee <u>shall</u> produce the CE1 forms maintained in accordance with the requirements of 630-X-7-.07. Failure to have maintained said forms or to produce same upon request of the Board <u>shall</u> be grounds for the Board to find that the licensee has failed to satisfy the continuing education requirements for the study compliance year in question.	§34-22-22(h)	2
630-X-7-.13	Failure to Comply	Continuing education requirements <u>shall</u> be completed between October 1 and September 30 of each fiscal year prior to the time for license renewal for the next fiscal year. If a licensee fails to certify compliance with requirements for said fiscal (study compliance) year on or before December 1, the secretary-treasurer <u>shall</u> notify such licensee by certified mail, return receipt requested, addressed to the licensee's last address of record that said certification has not been received and that unless such is received on or before the first day of January, said licensee's license and license certificate <u>shall</u> be automatically suspended. Between October 1 and December 31 of each year, the licensee <u>shall</u> be permitted to complete continuing education requirements which he has failed to complete prior to the end of the fiscal year on September 30. Failure by a licensee to certify to the Board compliance with continuing education requirements on or before January 1 <u>shall</u> result in the automatic suspension of said licensee's license and that individual may not practice optometry in any form in the state of Alabama until his or her license is reinstated as set out below	§34-22-22(b) §34-22-22(h)	2
630-X-7-.14	Reinstatement After Suspension for Noncompliance with Continuing Education Requirements	A license and/or license certificate suspended for failure to comply with continuing education requirements <u>shall</u> be reinstated only upon the provision of satisfactory evidence to the Board, in the form of proper CE-1 forms, that the continuing education requirements for the one fiscal year next preceding the proposed reinstatement <u>shall</u> have been satisfied and upon payment of all fees required to be paid under this chapter. Said	§34-22-22(h)	3

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		fees <u>shall</u> include, but not necessarily be limited to, all accrued annual registration fees plus a penalty equal to the maximum allowed by this chapter.		
630-X-9-.01	Temporary Licenses	Applicants to take the standard examination given by the Board may be issued a temporary license once all prerequisites to taking said examination are fulfilled to the satisfaction of the Board. Such temporary licenses <u>shall</u> be valid from the date of issue until August 31 of the year of issue but in no case <u>shall</u> they be valid for a time longer than three months. Temporary licenses <u>shall</u> not be approved to use pharmaceutical agents for the treatment of disease of the eye and its adjacent structures. Temporary licenses may only be issued to optometrists who have never been previously licensed to practice optometry in any state in the United States. Applicants to take the examination under reciprocity <u>shall</u> not be eligible for a temporary license.	§34-22-20(d)	
630-X-9-.01	Temporary Licenses	Persons holding a current license and license certificate issued by the Board may apply to the Board for temporary approval to use pharmaceutical agents to treat disease of the eye and its adjacent structures. Board approval under this regulation <u>shall</u> be limited to a) those licensees who have current therapeutic privileges in any state in the United States or; b) those licensees who have taken a course of at least 72 Board-approved clock hours in the diagnosis and management of disease of the eye and its adjacent structures more than three years preceding application for approval or; c) those licensees who show proof satisfactory that they have passed the exam on Treatment and Management of Ocular Disease (TMOD) given by the National Board of Examiners in Optometry. Proof of registration for a Board approved course of at least 72 clock hours in treatment and management of eye disease will be required prior to granting a temporary approval to use	§34-22-20(f)	3

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		pharmaceutical agents. Temporary therapeutic approvals <u>shall</u> be for a period of six months from the date granted and may not be renewed. A licensee holding a limited license may be granted temporary approval to use pharmaceutical agents for a period not to exceed twelve months if they meet each of the following conditions: a) said licensee is participating in a residency program administered by a school or college of optometry in the state of Alabama, and; b) said licensee furnishes proof of having passed Parts I, II, and III of the exam given by the National Board of Examiners in Optometry.		
630-X-10-.02	Approval to Use Pharmaceutical Agents to Treat Disease of the Eye and Its Adjacent Structures	Persons licensed to practice optometry in Alabama under this reciprocity chapter may apply to the Board, on a form provided by the Board, for approval to use pharmaceutical agents for the treatment of disease of the eye and its adjacent structures. Such application <u>shall</u> be in the same manner and with the same prerequisites as required for those optometrists licensed prior to October 1, 1994 (630-X-5- .07). Reciprocal licensees so approved <u>shall</u> be subject to the same fees and regulations as holders of regular licenses so approved.	§34-22-21	1
630-X-11-.02(A)	Duties and Responsibilities of Dean of School	He <u>must</u> annually certify to the Board the names and addresses of the members of the school's faculty who are not currently licensed to practice optometry in Alabama.	§34-22-5	0
630-X-11-.02(B)	Duties and Responsibilities of Dean of School	He <u>shall</u> promptly notify the Board of any changes in personnel on the faculty.	§34-22-5	1
630-X-11-.02(C)	Duties and Responsibilities of Dean of School	He <u>must</u> furnish each applicant for a limited license a certificate that such applicant is a bona fide member of the faculty of the school.	§34-22-5	1
630-X-11-.02(D)	Duties and Responsibilities of Dean of School	He <u>must</u> report immediately to the Board any information received by him relating in any way to a member of the faculty holding only a limited license who is performing professional optometric services other than as	§34-22-5	2

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		an adjunct to such faculty member's function at the school. He <u>must</u> also use every reasonable means to prevent such unlawful practice.		
630-X-11-.02(E)	Duties and Responsibilities of Dean of School	He <u>must</u> otherwise cooperate fully and completely with the Board toward the end that the limited license provided hereby will be used only for the purpose for which it is intended.	§34-22-5	1
630-X-11-.03	Application and Fee for Limited License	Each member of the faculty desiring a limited license as provided hereby <u>shall</u> make written application to the secretary- treasurer of the Board and attach to his application the certificate of the dean hereinabove provided and <u>shall</u> enclose therewith the payment of a fee of One Hundred Dollars (\$100.00) for the issuance of the limited license or teaching permit. There <u>shall</u> be an annual renewal fee, equal to that charged for a regular license, for a limited license or teaching permit. Holders of limited licenses <u>shall</u> also be required to meet the same continuing education requirements as holders of regular licenses. Said renewal fee <u>shall</u> be due October 1 and delinquent after December 31 of each year. Failure to pay the renewal fee on or before January 1 <u>shall</u> constitute grounds for suspension of said limited license and license certificate.	§34-22-5	6
630-X-11-.04	Application For Approval to Use Pharmaceutical Agents	Persons holding a limited license under this chapter may apply to the Board, on a form provided by the Board, for approval to use pharmaceutical agents for the treatment of disease of the eye and its adjacent structures. Such application <u>shall</u> be in the same manner and with the same prerequisites as required for those optometrists licensed prior to October 1, 1994 (630-X-5-.07). Limited license holders so approved <u>shall</u> be subject to the same fees and regulations as holders of regular licenses so approved.	§34-22-5	2
630-X-11-.05	Validity of Limited Licenses	The limited license provided hereby <u>shall</u> be valid as long as the holder thereof remains a member of the faculty of the school and abides by all regulations of the Board.	§34-22-5	0

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630-X-11-.06	Limitation of Limited Licenses	It <u>shall</u> be a violation of this regulation for the holder of a limited license who is not regularly licensed under the law to perform optometric services in any manner except as part of the program of the school and as an adjunct to his teaching functions in the school.	§34-22-5	1
630-X-11-.07	Forfeiture and Voiding of Limited Licenses	Those persons granted a limited, or teaching, license <u>shall</u> be subject to the same disciplinary procedures as the holder of a regular license. If, after a disciplinary hearing as set out in a previous regulation, a holder of a limited license is found to be in violation of the regulations of the Board, then the Board may declare said limited license forfeited and void. In such an event, the secretary- treasurer <u>shall</u> promptly notify the limited licensee and the Dean of the School of Optometry at the University of Alabama in Birmingham.	§34-22-5	1
630-X-12-.01	Definition of Unprofessional Conduct	The Board hereby defines unprofessional conduct to consist of any conduct conflicting with the governing statute of the practice of optometry, the rules of this chapter and any other behavior placing at risk the welfare of a patient. Violation of this chapter <u>shall</u> be considered grounds for disciplinary action by the Board under the provisions of these rules. The listing below of any specific events of unprofessional conduct shall not, and is not intended to, limit the generality of this definition.	§34-22-23(17)	0
630-X-12-.02	False or Misleading Advertising	The Board <u>shall</u> deem it unprofessional conduct for a licensee to participate in false or misleading advertising. False or misleading advertisements <u>shall</u> include those where price, quality, or services are presented in a misleading manner. It <u>shall</u> also be considered misleading advertising for a licensee to advertise or otherwise assume a title not granted by this act or to represent himself as superior to other licensees.	§34-22-23(17)	3
630-X-12-.03	Release of Patient Records	The Board <u>shall</u> deem it unprofessional conduct for a licensee to fail to release information in a patient's record to said patient, provided, however, that no record need be released until all reasonable fees have	§34-22-23(17)	6

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		been paid by said patient to the licensee, and provided further that a reasonable fee may be charged for providing a copy of information to said patient. This rule <u>shall</u> include the release of contact lens prescriptions, sufficient to order replacement lenses, to the patient, provided that a complete contact lens prescription has been determined and evaluated. A reasonable expiration date <u>shall</u> be set forth on all prescriptions. After said expiration date, a licensee <u>shall</u> be required to release said prescription only to a licensed optometrist or ophthalmologist of the patient's choice and said prescription <u>shall</u> be clearly marked with the expiration date and the words "EXPIRED. FOR INFORMATION PURPOSES ONLY." The Board <u>shall</u> deem it unprofessional conduct for a licensee to fail to maintain, in his or her possession, all records pertaining to a patient for a period of not less than seven years from the date of the last service provided to that patient.		
630-X-12-.04	Failure to Render Emergency Care	It <u>shall</u> be deemed unprofessional conduct for a licensee to refuse to render emergency care, within the scope of this act, to one of said licensee's patients. This section <u>shall</u> require a said licensee to render professional services to a patient of said licensee in an emergency regardless of the patient's ability to pay for said services. An emergency <u>shall</u> consist of a potentially sight-threatening situation for the patient and shall not consist of routine visual care.	§34-22-23(17)	3
630-X-12-.05	Practicing Beyond the Scope of License	The Board <u>shall</u> consider it unprofessional conduct for a licensee to practice in a manner inconsistent with this act. This <u>shall</u> include the use of any agents or techniques not within the scope of practice of optometry, as established by the Board or otherwise authorized in this act. . . The Board <u>shall</u> mail to all licensees a summary of such advisory opinions in a timely fashion. The Board <u>shall</u> consider it unprofessional conduct for a licensee to treat or attempt to treat any disease of the eye or its adjacent	§34-22-23(17)	4

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		structures in a manner for which that licensee is not adequately trained or does not have adequate equipment as determined by the Board.		
630-X-12-.06	Failure to Meet Standard of Care	The Board <u>shall</u> consider it unprofessional conduct for a licensee to provide for a patient care that is less than the generally accepted standard of care. This standard of care <u>shall</u> include, but not be limited to, providing certain minimum testing for the patient when performing a comprehensive eye exam. A comprehensive eye examination <u>shall</u> include any examination wherein a prescription for glasses or contact lenses, or necessity thereof, is determined. Minimum testing for a comprehensive eye exam <u>shall</u> include a case history, determination of refractive error, binocular vision evaluation, ophthalmoscopy, evaluation of health of external eye and adjacent structures, tonometry or other appropriate glaucoma testing, and such other tests as are necessary under the circumstances. Failure to perform said minimum testing during a comprehensive eye exam <u>shall</u> constitute failure to meet standard of care.	§34-22-23(17)	5
630-X-12-.08	Emergency Services Outside of Normal Practice Hours	The licensee <u>shall</u> have an established and appropriate procedure for the provision of services to patients in the event of an emergency outside of normal practice hours.	§34-22-23(17)	1
630-X-13-.01	Definitions: (1) Distant Site Provider	A provider of optometric services through telemedicine from a site other than the patient's then current location. A distant site provider <u>shall</u> hold an active Alabama optometry license as set out in §34-22-20 and §34-22-21 of the Code of Ala. 1975.	§34-22-87	0

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630-X-13-.01	Definitions: (2) Emergency	A situation or condition where failure to provide immediate treatment poses a threat of loss of sight to a person. For the purposes hereof, routine visual care <u>shall</u> not be an emergency.	§34-22-87	
630-X-13-.01	Definitions: (3) Established Treatment Site	A location where a patient <u>shall</u> present to seek optometric care (through telemedicine). An established treatment site <u>shall</u> have an optometrist licensed by the Alabama Board of Optometry present on site during the provision of any telemedicine to a patient, and there <u>must</u> exist between said optometrist and patient an optometrist-patient relationship. There <u>shall</u> be sufficient equipment and technology present at any established treatment site to allow for an adequate physical evaluation as appropriate for the patient's presenting complaint. A patient's home is not considered an established treatment site.	§34-22-87	0
630-X-13-.01	Definitions: (6) Provider	As used in this chapter the term "provider" <u>shall</u> mean an optometrist holding an active license to practice optometry granted by the Alabama Board of Optometry in accordance with §34-22-20 and §34-22-21 of the Code of Ala. 1975.	§34-22-87	0
630-X-13-.01	Definitions: (7) Telemedicine	As used in these regulations, a health service that is delivered by a licensed optometrist acting within the scope of his or her license and that requires the use of telecommunications technology other than telephone or facsimile. Telecommunications technology as used herein <u>shall</u> include, but not be limited to:	§34-22-87	0
630-X-13-.02(2)	Optometric Telemedicine	A distant site provider who provides telemedicine services to a patient that is not present at an established treatment site <u>shall</u> ensure that a	§34-22-87	0

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		proper provider-patient relationship is established, which <u>shall</u> include at least the following:		
630-X-13-.02(3)	Optometric Telemedicine	Evaluation, treatment, and consultation recommendations made via telemedicine, including, but not limited to the issuance of prescriptions, <u>shall</u> be held to the same standards of practice as those in traditional in-person clinical settings. The provision of optometric diagnosis, treatment, or other services through telemedicine <u>shall</u> comply with the requirements of the Alabama Code, this chapter, and these regulations. Failure to comply with such requirements <u>shall</u> be considered a failure to meet standard of care as required by 630-X-12-.06 herein.	§34-22-87	0
630-X-13-.02(4)	Optometric Telemedicine	Distant site providers <u>shall</u> obtain an adequate and complete medical history for the patient before providing treatment and <u>shall</u> document the medical history in the patient record.	§34-22-87	0
630-X-13-.03	On-Site Optometrists	A provider may delegate tasks and activities at an established treatment site to an assistant who is properly trained, supervised, and directed. There <u>shall</u> be, however, an Alabama-licensed optometrist present and available to assist with the provision of care at any established treatment site during the provision of optometric telemedicine.	§34-22-87	0
630-X-13-.04	Security Measures For Electronic Mail	Adequate measures <u>shall</u> be taken to ensure the security of all patient communications through electronic mail, and that said information remains confidential. Electronic mail includes any type-written communication that is transferred via the internet, telephone or cable line, or cellular telephone service, but <u>shall</u> not include facsimile, or "fax" communications. Providers of optometric telemedicine <u>shall</u> , prior to providing optometric telemedicine services, establish and adopt written	§34-22-87	0

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		policies and procedures to ensure the security of patient communications, recordings, and records transferred by electronic mail. Policies <u>shall</u> be evaluated periodically so that they remain up-to-date. The written policies and procedures for such security measures for electronic mail <u>shall</u> address all of the following:		
630-X-13-.04(4)	Security Measures For Electronic Mail	Types of transaction which <u>shall</u> be permitted electronically;	§34-22-87	0
630-X-13-.05	Communication In Patient Records	All relevant provider-patient electronic communications, including recordings and electronic mail <u>shall</u> be stored and filed in or with the patient's record in addition to any other storage methods.	§34-22-87	0
630-X-13-.06	Alternative Forms Of Communication	All patients who are served through optometric telemedicine <u>shall</u> be informed of alternative forms of contacting their provider for urgent matters. Conventional telephone numbers used by a provider for traditional on-site optometry <u>shall</u> be sufficient	§34-22-87	0
630-X-13-.07(1)	Patient Records	Patient records <u>shall</u> be maintained for all telemedicine services. The provider or distant site provider <u>shall</u> maintain the records created at any site where treatment or evaluation is provided.	§34-22-87	0
630-X-13-.07(2)	Patient Records	Patient records <u>shall</u> include copies of all relevant patient-related electronic communications, including relevant provider-patient email, prescriptions, laboratory and test results, evaluations and consultation, records of past care, medical histories, and instructions. If possible, telemedicine encounters that are recorded electronically <u>shall</u> also be included in the patient record. Where means of storage will not allow for	§34-22-87	0

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		the storage of electronically recorded encounters with or in the patient record, the patient record <u>shall</u> include a notation or entry that the recording exists and the location and means of storage of such recording.		
630-X-13-.08(1)	Emergency Telemedicine	For the exemption contained in this section to apply, the patient receiving telemedicine services from the distant site <u>must</u> be located within the geographical boundaries established in the governor's declaration of a state of emergency or the president's disaster declaration.	§34-22-87	0
630-X-13-.08(1)	Emergency Telemedicine	A provider who is contacted in an emergency <u>shall</u> not be subject to the notice and security provisions of this article. The provisions of this section 13.08(2) <u>shall</u> not apply to any non-emergency optometric services provided to the patient as a continuation of treatment initiated in the emergency or for a different condition or issue which arises later. For the purposes of this section 13.08(2), an emergency <u>shall</u> have the meaning and definition set out in section 13.01(2) above.	§34-22-87	0
630-X-14-.02(b)	Self Reporting	However, an optometrist participating in programs of treatment and/or rehabilitation and aftercare <u>must</u> always truthfully answer all inquiries concerning such treatment made by employers, state or federal licensing and/or regulatory agencies, hospital medical staff credentialing bodies, and malpractice insurance carriers.	§34-22-110 §34-22-102(8) §34-22-103	1
630-X-14-.02(c)	Self Reporting	An optometrist who voluntarily seeks assistance of the Board in connection with a perceived impairment <u>shall</u> execute all medical and other authorizations and releases necessary for, and requested by, the Board to enable it to receive all medical and other records considered by	§34-22-110 §34-22-102(8) §34-22-103	1

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		the Board to be relevant, or potentially relevant, to the said perceived impairment or to treatment related to the perceived impairment.		
630-X-14-.02(d)(4)	Self Reporting	whose continuation in practice, in the opinion of the Board, constitutes a threat to the safety or well being of his or her patients or to the public, <u>shall</u> be subject to a complaint of impairment, and the procedures pertaining to such a complaint and any discipline that may arise from such a complaint <u>shall</u> be fully applicable.	§34-22-110 §34-22-102(8) §34-22-103	2
630-X-14-.03	Complaint of Impairment	Should the Board receive a complaint alleging that an optometrist suffers from an impairment as defined in Code of Ala. 1975, Section 3422101, the Board <u>shall</u> follow the procedures set forth in Chapter 630X3 of these Rules, and <u>shall</u> also adhere to the following procedures.	§34-22-110 §34-22-102(8) §34-22-103	2
630-X-14-.03(a)	Complaint of Impairment	Upon receiving such a complaint, the Board <u>may require</u> the allegedly impaired optometrist to execute all medical and other authorizations and releases necessary for, and requested by, the Board to enable it to receive all medical and other records considered by the Board to be relevant to the allegations of the complaint. The Board may also issue subpoenas for any such records.	§34-22-110 §34-22-102(8) §34-22-103	1
630-X-14-.03(b)	Complaint of Impairment	The Board <u>may direct</u> the allegedly impaired optometrist, at his or her own expense, to submit to an evaluation by any health provider, professional association or nonprofit corporation as <u>shall</u> be designated by the Board.	§34-22-110 §34-22-102(8) §34-22-103	1
630-X-14-.03(c)	Complaint of Impairment	Upon a finding of impairment by the Board, it may direct the impaired optometrist to complete such program or programs of treatment, rehabilitation and aftercare as <u>shall</u> be designated by the Board.	§34-22-110 §34-22-102(8)	1

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			§34-22-103	
630-X-14-.03(d)	Complaint of Impairment	In connection with such treatment, rehabilitation and aftercare programs, the Board <u>may</u> also require the impaired optometrist to execute all medical and other authorizations and releases necessary for the Board to receive all medical and other records considered by the Board to be relevant, or potentially relevant, to the impairment or to the said treatment, rehabilitation or aftercare programs.	§34-22-110 §34-22-102(8) §34-22-103	1
630-X-14-.03(e)	Complaint of Impairment	Any optometrist who fails to submit to, or cooperate with, an evaluation, or who fails to comply with treatment, rehabilitation or aftercare requirements, or fails to otherwise complete any designated treatment, rehabilitation or aftercare program, <u>shall</u> be subject to such limitation, restriction, suspension or revocation of his or her license as the Board may determine appropriate after the conduct of a due process hearing of the kind set forth in Chapter 630X3 of these Rules. Should the impaired condition of the optometrist, in the opinion of the Board, constitute an immediate threat to the safety or well being of his or her patients or to the public, the Board <u>may limit, restrict or suspend</u> the optometrist's license pending the conduct of the said hearing and the rendering of a final decision by the Board.	§34-22-110 §34-22-102(8) §34-22-103	2
630-X-14-.04	Confidentiality of Records	All records of an impaired, or allegedly impaired, optometrist received by the Board in connection with the Program, <u>shall</u> be privileged and confidential, but may be used by the Board in the course of any investigation that may arise and may be introduced as evidence in administrative hearings conducted by the Board and may otherwise be used by the Board in the exercise of the proper function of the Program. Said records <u>shall</u> not be public records and <u>shall</u> not be available by	§34-22-110 §34-22-102(8) §34-22-103	0

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		court subpoena or other discovery method from the Board. Nothing contained herein, however, <u>shall</u> preclude a subpoena for, or other discovery with respect to, said records from their original sources.		
630-X-14-.05	Monitoring After-Care Agreements	With respect to any optometrist who is required to enter into and comply with an aftercare agreement, either as part of a disciplinary sanction or in connection with voluntary participation in the Program, the Board <u>shall</u> establish a mechanism through which it will be informed on a prescribed basis of the progress of the optometrist in complying with the agreement, including of any violation by the optometrist of the terms and conditions of the agreement.	§34-22-110 §34-22-102(8) §34-22-103	1
630-X-14-.06	Notice of Program Requirements	The Board or its designee will provide participants in the Impaired Doctor of Optometry Treatment Program a written statement outlining program requirements. In addition, all such participants <u>will</u> be provided a copy of these regulations so that the optometrist will understand the importance of complying with all program requirements and the potential consequences of noncompliance.	§34-22-110 §34-22-102(8) §34-22-103	1
630-X-14-.07	Treatment and Rehabilitation Expense	Any optometrist who, as part of his or her participation in the Impaired Doctor of Optometry Treatment Program, enters a treatment or rehabilitation program designated by the Board <u>shall</u> be responsible for ascertaining and complying with all requirements necessary to successfully complete said treatment or rehabilitation program at his or her own expense.	§34-22-110 §34-22-102(8) §34-22-103	1

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