

CLARIFICATION OF OPIOID CONTINUING EDUCATION REQUIREMENT UNDER ABC-MAP*

Section 9.1(a)(2) of Act 191 of 2014, Achieving Better Care by Monitoring All Prescriptions Program Act (ABC-MAP) generally requires that all prescribers and dispensers applying for the renewal of a license complete at least two (2) hours of continuing education in pain management, the identification of addiction or the practices of prescribing or dispensing of opioids (the Opioid CE) during each biennial period. However, the ABC-MAP contains an exception from the Opioid CE requirement for certain individuals. To ensure that the relevant health licensing boards within the Bureau of Professional and Occupational Affairs uniformly review and apply the Opioid CE exceptions, on October 29, 2018 the Commissioner of Professional and Occupational Affairs, in consultation with the legal counsel and health licensing divisions, established the following uniform policy to determine if an individual is required to demonstrate compliance with the Opioid CE requirement:

PERSONS WHO MUST COMPLETE THE OPIOID CE

- Individuals who have a current DEA registration, and
- Individuals who do not have a current DEA registration, but who utilize the DEA registration number of another person or entity, as permitted by law, to prescribe controlled substances in any manner.

If you do not have a DEA registration and do not use another person or entity's DEA registration to prescribe any controlled substances, you do not need to complete the Opioid CE.

Please note the continuing education requirements of ABC-MAP count towards the total number of continuing education credits required for renewal; however, the opioid continuing education may not be applied toward the six hours required to maintain therapeutic certification. The opioid continuing education must be taken from a Board-approved continuing education provider listed in Section 23.86(a) of the Board's regulations.

*The Achieving Better Care by Monitoring All Prescriptions Program Act (ABC-MAP) (also known as Act 124 of 2016), 35 P.S. § 872.3, is available on the Legislature's website at:

<http://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2016&sessInd=0&act=124>

CONTINUING EDUCATION INFORMATION FOR OPTOMETRISTS

As a requirement for optometry license renewal, licensees must complete at least **30 hours of Board approved continuing education** in each biennial renewal period. See 49 Pa. Code § 23.82. Optometry licenses expire on November 30th of even-numbered years. The following chart explains the requirements at each licensure level:

Licensed optometrist with an "L" license	Licensed for diagnostics only. "P" license	Licensed for therapeutics only. "T" license	Licensed for therapeutics and glaucoma. "G" license
Must take 30 hours of continuing education.	Must take 30 hours of continuing education.	Must take 30 hours of continuing education, at least 6 hours must be in therapeutics.	Must take 30 hours of continuing education. At least 4 hours must be in glaucoma, and at least an additional 2 hours must be in therapeutic pharmaceutical agents.

All courses, including pre-approved courses, must comply with the Board's regulations regarding continuing education course content. 49 Pa. Code § 23.83.

§ 23.83. Continuing education subject matter.

(a) Acceptable courses of study are limited to those pertaining to the use of means or methods for examination, diagnosis and treatment of conditions of the human visual system and may include examination for and adapting and fitting of all types of lenses. **The Board will not accept courses of study which do not relate to the actual practice of optometry such as studies in office management and financial procedures.**

(b) Courses that will meet the requirements for certification in the prescription and administration of pharmaceutical agents for therapeutic purposes in accordance with § 4.1 of the act (63 P. S. § 244.4a) shall concern the treatment and management of ocular or oculo-systemic disease.

(c) Courses that will meet the requirements for certification to treat glaucoma in accordance with § 4.2 of the act (63 P. S. § 244.4b) shall concern the treatment and management of primary open angle glaucoma, exfoliation glaucoma and pigmentary glaucoma.

At a minimum, 50% of Continuing Education credits must be obtained from attendance at live, in person courses.

Online Courses and Webinars

Up to a maximum of twenty-five percent of the required continuing education (7½ hours) may be in approved "online or correspondence" courses. This includes webinars.

Other Methods of Continuing Education

Up to a maximum of twenty-five percent of the required continuing education (7½ hours) may also be credited for service as a teacher, preceptor, lecturer, or speaker and for publications, articles, books, and research relating to the practice of optometry. Applicants should apply to the Board prior to the performance of the above services to ensure that the service is creditable.

Child Abuse Recognition and Reporting and Continuing Education Requirements

Child Abuse Recognition and Reporting Continuing Education

Per Act 31 of 2014, 23 Pa. C.S.A. § 6383(b)(3)(ii), at least **two (2) hours of Board-approved continuing education in child abuse recognition and reporting** requirements must be completed for renewal or reactivation of a license. Details regarding the requirements of this continuing education and a list of Board-approved providers can be found at www.dos.pa.gov. **Verification of completion must be sent electronically and directly from the course provider. It may take up to seven days for the provider to submit the records to the Board's office.** The continuing education requirements of Act 31 count towards the total number of continuing education credits required for renewal. If a three-hour Board-approved course is taken, the additional hour may also be applied towards the 30 hours of Board required continuing education.

Exemption and Waiver of Continuing Education Requirements

Exemption

If you are a new licensee who graduated from optometry school during your first biennial renewal period, you are exempt from optometric continuing education requirements for your first renewal period. See 49 Pa. Code § 23.81(a). **Please note that this exemption does not apply to the Act 31 child abuse recognition and reporting continuing education and Act 124 opioid continuing education, which are required for every renewal.**

Waiver

Under 49 Pa. Code § 23.82 (c), waiver of the continuing education requirements may be permitted as follows:

- The Board may grant a hardship waiver of all or a part of the continuing education requirement in cases of certified illness or undue hardship.
- A request for waiver must be made in writing, with appropriate documentation, and include a description of circumstances sufficient to show why compliance is impossible.

- Waiver requests will be evaluated by the Board on a case-by-case basis. The Board will send written notification of its approval or denial of a waiver request.
- **The waiver request should be submitted to the Board prior to the end of the biennial renewal period for which the waiver is being sought.**

Certificates of Attendance

Be sure to obtain official Certificates of Attendance from the sponsor of the course that comply with the requirements of 49 Pa. Code § 23.87(c), and which indicate: the name of the sponsor; name of attendee; title and date of the course; number of clock hours; signature of person authenticating attendance; **which courses are designated as therapeutic and/or Glaucoma; and the PA Board Approval number (if applicable), as follows:**

1. A Pennsylvania Board Approval Number must be indicated on the Certificate. Please note that it is your responsibility to verify the PA Board Approval number with the sponsor **prior to taking the course.**
2. Pre-approved courses do not have a Pennsylvania Board Approval Number. Instead, through its regulations, the Board has granted pre-approval to the following providers: American Optometric Association; PA Optometric Association; accredited colleges of optometry; College of Optometrists in Vision Development; Council on Optometric Practitioner Education (COPE# required); eye and vision related continuing education courses offered by accredited medical colleges as defined in Section 2 of the Medical Practice Act of 1985 (63 P.S. Section 422.2); Optometric Extension Program; American Academy of Optometry and its state affiliates; American Academy of Ophthalmology and its state affiliates; eye and vision-related courses offered by the American Medical Association and its state affiliates.

All licensee's, at the time of application for, or renewal or reactivation of their license, are required to sign a statement certifying that they have met all continuing education requirements. 49 Pa. Code § 23.87. **It is the licensee's responsibility to maintain and track personal continuing education credit hours.** Licensees must keep official Certificates of Attendance for six years after the biennial expiration date because the Board will conduct a random audit. **Do not send any Certificates of Attendance to the Board unless you are selected for the audit.**

Failure to Comply with Continuing Education Requirements

**FAILURE TO COMPLY WITH CONTINUING EDUCATION REQUIREMENTS
MAY RESULT IN DISCIPLINARY ACTION WHICH MUST BE REPORTED TO
THE NATIONAL PRACTITIONER DATA BANK.**

Licenses are advised that continuing education requirements continue to be updated and that there are currently pending proposed regulations may alter/revise/clarify the current requirements.

Licenses are further advised that in addition to being reported to the National Practitioner Data Bank, any violation of the Boards Laws or Regulations may also subject the violator to the imposition of costs of Prosecution, as well as a Civil Penalty not to exceed ten thousand dollars (\$10,000.00) per violation, under ACT 48, 63 P.S. §2205(b).

COMPLAINT PROCESS

The Pennsylvania Department of State receives complaints concerning the licensees and registrants of the 29 professional and occupational licensing boards & commissions regulated by the Department's Bureau of Professional and Occupational Affairs.

If you believe the practice or the service provided by a licensee or registrant of a board or commission to be unethical, immoral, below an acceptable standard of practice or out of the scope of the profession, you are urged to file a Statement of Complaint Form with the Department of State. Also, if you suspect someone of unlicensed practice, please file a complaint. Additionally, The Optometry Practice Act, at § 7.1(f), requires that a licensee who has substantial evidence that a Board licensed professional has an active addictive disease for which they are not receiving treatment, or is diverting a controlled substance or is mentally or physically incompetent to practice the profession, must make a report to the Board within a reasonable time period, or be subject to a fine not to exceed \$1,000.00.

Please note the following guidelines before completing and submitting the Statement of Complaint Form:

- The Department will not involve itself in a monetary dispute unless it involves an allegation that services were billed for but were not rendered -- or if there is evidence of other billing or insurance fraud.
- The Department cannot act as a court of law to impose prison sentences or to order a person to make monetary restitution. This can only be achieved through the services of an attorney in a civil or criminal court proceeding.
- Decisions about whether or not to prosecute cases are constrained by the applicable licensing laws, rules and regulations, which set forth specifically enumerated offenses for which the licensing boards and commissions may impose discipline on a licensee. If offensive conduct or activity does not fit within any specifically enumerated offense, disciplinary action cannot be filed against the licensee because the activity is not within the applicable board or commission's jurisdiction
- If you file a complaint, you may be required to attend a formal hearing and provide testimony in support of your complaint should a decision be made to file formal charges against a licensee.

There are several ways in which to file your complaint

- You may submit a complaint online at www.pals.pa.gov. Be sure to include any attachments and supporting documents that you wish to provide in support of your complaint.

- You may request a Statement of Complaint Form by mail or by calling the Professional Compliance Office Hotline at 1-800-822-2113 (if you are calling from within Pennsylvania) or at 1-717-783-4854 (if you are calling from outside Pennsylvania). Return the completed form to the Professional Compliance Office at: Department of State, Professional Compliance Office, PO Box 69522, 2601 North Third Street, Harrisburg, PA 17106-9522. Be sure to include any attachments and supporting documents (legible copies, no originals) that you wish to provide in support of your complaint.

If you require special accommodation in downloading or viewing the form, please e-mail us at RA-BPOA@pa.gov or call the Complaint's Hotline.

Upon receipt of your Statement of Complaint form, it will be reviewed to ensure that the complaint is within the Department's jurisdiction. A written acknowledgment of having received your complaint will be mailed to you using the name and address provided on your submittal. Unfortunately, due to the large number of cases processed, the Professional Compliance Office is unable to provide regular status reports or updates. You will be notified of the final disposition of your complaint. Please be aware, however, that pursuant to Act 25 of 2009, 63 P.S. §2205.1, if you submit a complaint anonymously, the Department will not be able to share any information pertaining to the complaint with anyone, including you.

How Complaints are Handled

When a completed Statement of Complaint Form within our jurisdiction is received, a file is opened and forwarded to a legal assistant who reviews it and determines whether or not an investigation is required. In making this determination, the legal assistant may confer with a prosecuting attorney in the Department's Legal Office.

Some complaints contain within themselves all the information that is necessary to determine whether a violation of the licensing law has occurred, and those complaints do not require investigation. Most complaints, however, involve issues of credibility, require that witnesses be interviewed, and/or require that documents, including medical records or contracts, be obtained for review by the Legal Office. Those complaints will be forwarded to the Department's Bureau of Enforcement and Investigation with a request that our investigators obtain the necessary information to enable us to determine whether disciplinary charges should be filed against the licensee against whom the complaint was made. Investigations can take anywhere from a few days to several months, depending on the complexity of the case.

Once the investigation is complete, the Bureau of Enforcement and Investigation forwards the investigation report to the Professional Compliance Office, which sends the matter to a prosecuting attorney for review and determination as to whether or not formal disciplinary charges should be filed. If there is not enough evidence to warrant the filing of a disciplinary action, the case is closed. The prosecuting attorney sends a letter to the Complainant notifying the Complainant of that action.

If the evidence supports the filing of formal disciplinary charges against the licensee, the prosecuting attorney initiates the action by preparing an Order to Show Cause. The Order to

Show Cause sets forth allegations and directs the licensee (Respondent) to file a written Answer to those allegations within 30 days.

After the Respondent files an Answer, the matter is generally scheduled for hearing. If the matter is scheduled for hearing, the case is heard and a decision, known as an Adjudication and Order, is rendered, usually within six (6) months after the evidentiary record has been closed. If the Respondent is unhappy with the outcome, he or she may appeal the decision to Commonwealth Court.

Some matters are amenable to settlement by means of a legal document known as a Consent Agreement and Order. Either party, the Commonwealth or the Respondent, may approach the other about a possible settlement. In reaching a settlement, the parties negotiate the facts to which they will agree for the purposes of settlement and also negotiate an agreed-upon penalty that they believe will be acceptable to the applicable licensing board or commission. All Consent Agreements and Orders must be presented to and approved by the applicable licensing board or commission in order to become final.

Final Adjudications and Orders and board-approved Consent Agreements and Orders generally represent disciplinary action of some sort against a licensee or an unlicensed individual. All disciplinary actions become a permanent part of the licensee's record on file with the respective board or commission. Disciplinary actions are a matter of public record and are subject to release by the Department of State's Office of Communications and Press to various news agencies in the Commonwealth.

PATIENT RECORDS

49 Pa. Code § 23.71. Patient records.

(a) An optometrist shall use professional judgment to determine what services are to be provided to his patients. Records of the actual services rendered shall be maintained for a minimum of 7 years after the last consultation with a patient. Records must indicate when a referral has been made to a physician. An examination may include the following:

- (1) Complete history.
- (2) Uncorrected visual acuity.
- (3) Detailed report of the external findings.
- (4) Ophthalmoscopic examination (media, fundus, blood vessels, disc).
- (5) Corneal curvature measurements (dioptral).
- (6) Static retinoscopy.

- (7) Amplitude of convergence and accommodation.
- (8) Ocular muscle balance.
- (9) Subjective refraction test.
- (10) Fusion.
- (11) Stereopsis.
- (12) Color vision.
- (13) Visual fields (confrontation).
- (14) Visual fields including manual or automated perimetry.
- (15) Prescription given and visual acuity obtained.
- (16) Biomicroscopy (slit lamp).
- (17) Tonometry.
- (18) Prognosis, stable or unstable.
- (19) Pharmaceutical agents used or prescribed, including strength, dosage, number of refills and adverse reaction, if applicable.

(b) An optometrist shall provide a patient with a copy of the patient's contact lens prescription in accordance with the Fairness to Contact Lens Consumers Act (15 U.S.C.A. § § 7601—7610). An optometrist shall provide a patient with a copy of the patient's spectacle prescription in accordance with the Federal Trade Commission Ophthalmic Practice Rules (16 CFR 456.1—456.4).