

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**2100 BOARD OF EXAMINERS IN OPTOMETRY**  
Statutory Authority: 24 Delaware Code, Section 2104(a)(1) (24 Del.C. §2104(a)(1))  
24 DE Admin. Code 2100

**FINAL**

**ORDER**

**2100 Board of Examiners in Optometry**

The Delaware Board of Examiners in Optometry pursuant to 24 Del.C. §2104(a)(1), proposed a comprehensive regulatory overhaul that seeks to bring the regulations into conformity with current law and remove outdated and inconsistent provisions. For example, the proposed changes update the ethics section to more succinctly define unprofessional conduct. In addition, the proposed changes remove several regulations which are nothing more than a verbatim recitation of the Board's practice act and thus unnecessary.

**SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Following publication in the Delaware *Register of Regulations* on July 1, 2015 a public hearing was held on July 22, 2015. Written comment periods were held open for thirty days, and an additional fifteen days following the public hearing. At the hearing, the Board accepted as evidence and marked as the Board's Exhibits one and two documentation of publication of the notice of the public hearing in the *News Journal* and the *Delaware State News*; and Board Exhibits three and four correspondence from the Delaware Optometric Association and the Delaware Academy of Ophthalmology.

At the time of the deliberations, the Board considered the following documents:

**Board Exhibit 1** – Affidavit of publication of the public hearing notice in the *News Journal*;

**Board Exhibit 2** – Affidavit of publication of the public hearing notice in the *Delaware State News*;

**Board Exhibit 3** – July 22, 2015 correspondence from the Delaware Optometric Association (DOA) regarding apparent contradictions in the proposed changes and suggestions regarding reciprocity, continuing education and minimum standards of practice;

**Board Exhibit 4** – July 21, 2015 correspondence from the Delaware Academy of Ophthalmology regarding the timing of the proposed regulation change and the removal of regulations pertaining to definitions and standards of practice;

**Board Exhibit 5** – August 1, 2015 correspondence from the Delaware Optometric Association (DOA) regarding continuing education and minimum standards of practice.

The Board also considered the verbal testimony of Ann Farley, a representative for the Delaware Academy of Ophthalmology. Ms. Farley simply read the comments set forth in Board Exhibit four.

**FINDINGS OF FACT AND CONCLUSIONS**

Pursuant to 29 Del.C. §10118, the public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations. Pursuant to 24 Del.C. §2104(a)(1) the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

The proposed changes seek to overhaul the regulations in order to remove outdated and inconsistent provisions; update the ethics section to more succinctly define unprofessional conduct; remove several regulations which are nothing more than a verbatim recitation of the Board's practice act and thus unnecessary; and bring the regulations into conformity with current law.

Prior to the hearing, the Delaware Optometric Association submitted written comments for the Board's review raising five concerns. The first two points raised by the DOA pointed out two technical errors in the proposed regulations regarding the total number of continuing education credits (CEs) the Board will require of licensees going forward as well as the number of practice management CEs the Board will accept going forward.

The Board found these two points from DOA prudent and noted that the Board's intent to increase the total required CEs to thirty and to increase the number of acceptable practice management CEs from zero to six was apparent in the change at proposed regulation 4.1.3, which states the following:

4.1.3 All therapeutically-licensed optometrists shall acquire ~~24~~ 30 hours of continuing education during each biennial licensure period. ~~Twelve Twenty~~ of those ~~24~~ thirty hours must be comprised of education in the areas of therapeutics and management of ocular disease. A maximum of six of the thirty may be in the

area of practice management. All therapeutically-licensed optometrists must also maintain current CPR certifications for both children and adults throughout the licensure period.

As such, the Board found that the inconsistencies noted by DOA were technical errors that should be corrected via this Order pursuant to 29 Del.C. §10113(b)(4). See *Council 81, American Federation of State, County and Municipal Employees, Afl-Cio, v. State Personnel Commission*, 1989 WL 100473 (Del.Super. Aug. 3, 1989). To that end, regulation 10.2.1 currently states the following: “[n]o practice management courses will be accepted as satisfying the continuing education requirement” but will be changed to the following so as to correct a technical error: “~~10.2.1 4.2.1~~ No Six practice management ~~courses~~ hours will be accepted as ~~satisfying~~ toward the continuing education requirement.” Similarly, regulation 10.2.2.2 currently states that “Therapeutically certified licensees - Of the 24 hour biennial requirement for therapeutically certified licensees, a maximum of 4 hours may be fulfilled by self-reported study.” The published proposed change to the regulation changed the four hour maximum to six but left the 24 total in place. Insofar as this was a technical error, the regulation will be changed to the following:

~~10.2.2.2 4.2.2.2~~ Therapeutically certified licensees - Of the ~~24~~ 30 hour biennial requirement for therapeutically certified licensees, a maximum of ~~4~~ six hours may be fulfilled by self-reported study.

The third point raised by DOA was that the Board should not delete the requirement of five years of practice in another state from the reciprocity regulations. The Board noted that the statute currently states that the Board will “waive the internship requirement for an applicant holding a valid license to practice optometry issued by another jurisdiction **and who has practiced for a minimum of 5 years** in such other jurisdiction with standards of licensure which are equal to or greater than those of this chapter and grant a license by reciprocity to such applicant.” As such, the Board found that retaining such a requirement in the regulations would be unnecessary as all reciprocal applicants must meet the statutory requirement of five years of practice in another jurisdiction.

The DOA’s fourth comment requested that the Board consider additional guidance in the continuing education regulations in regard to topics such as acceptable online courses. The Board did not dispute DOA’s point, but stated that it would prefer to address such topics following the passage of the proposed regulations so as not to further delay the revision process, which began more than a year ago, particularly in light of the fact that DOA’s comment does not raise a conflict or flaw in any of the proposed regulations.

Finally, DOA recommended that the Board retain three proposed deletions in regard to optometric standards of practice. The Board disagreed with DOA’s proposal that optometrists should be bound by the three suggested standards. The Board noted that DOA’s proposed standards are actions that may be taken but are not required of optometrists. Further the Board noted that optometric care is more problem focused; therefore, lists are constraining and not necessary as it is up to practitioner to determine what is in the best interest of the patient. Additionally, the Board noted that the statutory definition of the practice of optometry includes an extensive but non-exhaustive list of acceptable treatments for optometrists.

During the hearing, Ann Farley, a representative of the Delaware Academy of Ophthalmology (DAO), read a statement from the DAO into the record. The written statement was then entered into the record as Board Exhibit Four. According to Board Exhibit Four, the DAO believes that the Board’s proposed changes are “premature” in light of the upcoming Joint Sunset Committee (JSC) review and that the Board removed significant areas but did not replace them.

As to the DAO’s first point that regulation changes at this time would be “inefficient and ineffective” as additional changes will likely be required pursuant to review by the JSC, the Board notes several reasons it disagrees with DAO’s position. The Board noted that it began the process of updating the regulations several years ago following Executive Order 36, in which Governor Jack Markell advised “[e]ach Department and Agency within the Executive Branch that is subject to the Administrative Procedures Act, 29 Del. C. § 10111 et seq. ...[to] conduct, in accordance with the procedures set forth below, a periodic review of regulations promulgated by such Agency to determine whether any such regulations should be modified or eliminated.” Executive Order No. 36 – Review and Reform of State Agency Regulations, (January 24, 2012). In addition, to delay changing the regulations until the JSC review is completed would not be sensible as the regulation overhaul proposed by the Board is a noteworthy accomplishment. Moreover, the current regulations are very vague and outdated; thus JSC review of the current regulations would render the review process more difficult and time-consuming. Finally, the current regulations are overly subjective; therefore, it is not in the best interest of the public for the Board to maintain such regulations any longer.

As to the DAO’s second comment, the Board reiterated some of the points it raised with the DOA in that most if not all of the regulations being removed, particularly in regard to diagnostic and therapeutic drugs, minimum standards of practice and dispensing of contact lenses, are already clearly addressed in the statute and that optometry is problem based and patient dependent such that confining lists and standards in the regulations are neither clarifying nor necessary.

Following the public hearing, the DOA again submitted written public comment reiterating the association’s concern that the regulations should include clarification as to online CE courses and that the regulations should establish standards of practice regarding essential equipment and components of ocular examinations.

In regard to DOA’s August 1, 2015 written submission, the Board noted that the suggested changes, including adding specific standards of practice and clarification of the continuing education requirements could be added to the regulations should the Board determine that is necessary in the future. The Board does not believe that it is necessary to substantively

amend the proposed regulations at this time as it is more important that the proposed regulations go forward so that the problematic regulations are eliminated and unprofessional conduct is more succinctly defined.

## DECISION AND ORDER CONCERNING THE REGULATIONS

Having found that the proposed changes to the regulations are necessary as outlined herein, the Board finds that the regulations shall be adopted as final in the form as proposed with the two noted technical error corrections. The exact text of the regulations, as amended, are attached to this order as Exhibit A. These changes will become effective ten days following publication of this order in the Delaware *Register of Regulations* on September 1, 2015.

**IT IS SO ORDERED** this 12th day of August, 2015 by the Delaware Board of Examiners in Optometry.  
Jeffrey Hilovsky, O.D., President                      Irvin Bowers, Public Member  
Joseph Senall, O.D.    Evelyn Nestlerode, Public Member  
Bryan Sterling, O.D., Secretary

### 2100 Board of Examiners in Optometry

#### 4.0 Definitions

**“Dispensing”** The practice of optometry shall include the dispensing of contact lenses. **“Dispensing”** shall be defined as: **“Contact lens dispensing”** means the fabrication, ordering, mechanical adjustment, dispensing, sale and delivery to the consumer of contact lenses. Contact lenses must be dispensed in accordance with a written contact lens prescription from a licensed physician or optometrist which includes lens curvature, diameter, power, material, manufacturer and an expiration date not to exceed one year, together with appropriate instructions for the care and handling of the lenses. The term does not include the taking of any measurements of the eye or the cornea and evaluating the physical fit of the contact lenses.

**“Duly Licensed”** For purposes of 24 ~~Del.C.~~ §2106(a) and these regulations, the term **“Duly Licensed”** shall be defined as: a person who satisfies the applicable requirements under 24 ~~Del.C.~~ §§2107, 2108, 2110 and 2111 (or alternatively §2109 and §2111), and who has been issued a license in good standing in accordance with §2112. A person holding a valid temporary license shall not be deemed to be duly licensed for purposes of 24 ~~Del.C.~~ Ch. 21 and these regulations, and may only engage in the practice of optometry as outlined in §2110 and Section 3.0 of these regulations.

~~4 DE Reg. 669 (10/1/00)~~

#### 21.0 Qualifications and Examinations

2.1 Every candidate for registration must meet the following qualifications:

- 2.1.1 Have received a degree of “Doctor of Optometry” from a legally incorporated and accredited optometric college or school which has been approved by the appropriate accrediting body of the American Optometric Association.
- 2.1.2 Pass the substantive and clinical examinations required by 2.2 of these regulations.
- 2.1.3 Complete the internship required by 24 ~~Del.C.~~ §2110 and Section 3 of these regulations. An individual is duly licensed after completing the internship requirement as well as all the other requirements in 24 ~~Del.C.~~ §2107 of this statute. (For reciprocal applicants, see Section 4.0 of these regulations.)
- 2.1.4 All applicants for therapeutic licensure must be CPR certified for both children and adults. All therapeutic optometrists must keep their CPR certification for both children and adults current.
- 2.1.5 Has not engaged in conduct that would constitute grounds for disciplinary action, and has no unresolved disciplinary proceedings pending in this or any other jurisdiction. It shall be the responsibility of the candidate to submit to the Board a certified statement of good standing from each jurisdiction where he/she is currently or has been previously licensed.

2.2.1.1 Every candidate shall pass, at a score determined all sections of the examination given by the National Board of Examiners in Optometry, the substantive and clinical portions of the examination given by the National Board of Examiners in Optometry. The clinical examination given by the National Board of Examiners in Optometry may be taken as part of the National Board Examination or as a separate clinical skills and/or TMOD examination given by the National Board of Examiners in Optometry as the State Board shall designate.

#### 32.0 Internship/Temporary Licensee

32.1 An internship is a course of study in which applicants receive part of their clinical training in a Board approved private practice setting in Delaware, or other Board approved setting, under the supervision of a licensed

optometrist or ophthalmologist. An active, licensed Optometrist or Ophthalmologist may act as a supervisor. Any applicant's participation in such an internship program must be approved by the Board and is subject to the following terms and conditions:

- ~~32.1.1~~ A letter from the practitioner with whom the applicant will be interning stating the goals, duties and the number of hours he/she will be working. ~~If the applicant is not doing his/her internship with a therapeutically certified optometrist or ophthalmologist, he/she must also complete an additional one hundred (100) hours of clinical internship with a therapeutically certified Optometrist, Medical doctor or Osteopathic physician.~~
- ~~32.1.2~~ Each applicant ~~who will be participating in the internship program~~ must provide the name and address of the supervisor and the dates of the internship for approval by the Board before the internship may begin provided that, in the event an applicant has made a good faith effort to submit all necessary licensure materials for approval of the internship, and ~~in the event that the Board is unable to meet to review said licensure materials due to the absence of a sufficient number of statutorily appointed Board members, as occurred in July-August, 2003,~~ the Board may approve said internship starting as of the date when the applicant has submitted all licensure materials.
- ~~32.1.3~~ A letter must be received by the Board from the supervisor verifying the completion of the internship.
- ~~32.1.4~~ For purposes of this Section and 29 **Del.C.** §2110, the term "duration" shall be defined as "a period of no less than six (6) months and no greater than the period ending on the date of the next Board meeting following the end of the six (6) month period." No intern may practice on a temporary license beyond the duration of the internship.
- ~~3.2~~ Subject to the approval requirements stated above, a candidate's internship requirements may be satisfied while the candidate is a member of the Armed Forces if he/she:
  - ~~3.2.1~~ Functions as a fully credentialed therapeutically certified optometric practitioner; and (for purposes of this Section equivalent to the Air Force regulations).
  - ~~3.2.2~~ Performs his optometric duties on a full-time basis in a completely equipped eye clinic.
- ~~3.32.2~~ Full-time: minimum of 35 hours per week.
- ~~3.42.3~~ All supervisors must supervise the interns on a one-to-one basis whenever an applicant performs a task which that constitutes the practice of optometry. No supervisor may be a supervisor for more than one intern, or student extern, during the period of the internship or externship.
- ~~3.52.4~~ All acts which that constitute the practice of optometry under 24 **Del.C.** §2101(a) may be performed by the intern only under the following conditions:
  - ~~3.5.42.4.1~~ The supervisor shall be on the premises and immediately available for supervision at all times;
  - ~~3.5.22.4.2~~ All intern evaluations of any patient shall be reviewed by the supervisor prior to final determination of the patient's case before the patient leaves the premises; and
  - ~~3.5.32.4.3~~ A supervisor shall at all times effectively supervise and direct the intern.
- ~~3.62.5~~ A violation of any of the conditions enumerated in this rule may be grounds for the Board to revoke ~~their its~~ approval of an internship program. The Board may also revoke its approval of an internship program if it determines that either the supervising optometrist or the intern has engaged in any conduct described by 24 **Del.C.** §2113(a). Furthermore, any violation of the terms of this rule by a supervising optometrist who is a licensed optometrist shall be considered unprofessional conduct and a violation of 24 **Del.C.** §2113(a)(7).

**2 DE Reg 85 (5/1/99)**

**7 DE Reg. 912 (1/1/04)**

**8 DE Reg. 536 (10/01/04)**

**8 DE Reg. 1697 (6/1/05)**

#### **43.0 Reciprocity**

- ~~4.1~~ The Board shall waive the internship requirement for an applicant holding a valid license to practice optometry, issued by another jurisdiction, and who has practiced for a minimum of five years in such other jurisdiction with standards of licensure which are equal to or greater than those of 24 **Del.C.** Ch. 21 and grant a license by reciprocity to such applicant. The five years of practice experience must be obtained in state(s) with licensure standards at least equal to those of Delaware.
- ~~4.23.1~~ Applicants from jurisdictions which that have the same basic qualifications for licensure as this State, but do not have essentially comparable or higher standards to qualify for 'therapeutic' licensing, shall be required to meet the conditions of ~~subsections (a) and (b),~~ 24 **Del.C.** §2108(a) and (b).
- ~~4.33.2~~ The applicant shall include, as part of the application, copies of state licensing and/or practice statutes and regulations pertaining to the practice of Optometry for each jurisdiction through which he/she is seeking reciprocity or claiming qualifying practice experience.

4.43.3 "Standards of licensure," as used in 24 **Del.C.** §2109, shall refer to the qualifications of applicants set forth at §2107.

4.53.4 The "standards to qualify for 'therapeutic' licensing," as used in 24 **Del.C.** §2109 with regard to therapeutic reciprocity, shall refer to the standards of diagnostic and therapeutic practice as set forth in 24 **Del.C.** §2101(b).

4.63.5 An applicant shall not be licensed by reciprocity as a Delaware therapeutically certified optometrist unless:

4.6.43.5.1 He/she demonstrates that the state in which he/she is therapeutically certified allows the use and prescription of diagnostic and therapeutic drugs which is at least equivalent to that permitted under a Delaware therapeutic optometrist license as set forth in §2101(b), OR

4.6.23.5.2 He/she has met the requirements of §2108(a) and (b) and Rule 445.0.

#### **4 DE Reg. 669 (10/1/00)**

### **5.0 Use of Diagnostic Drugs**

5.1 Licensees who have been duly authorized by the Board may, for diagnostic purposes only, make use of the following classes of topical ophthalmic drugs: (1) anesthetics, (2) mydriatics, (3) cycloplegics, and (4) miotics; provided, however, that any such authorization by the Board shall not be construed as authorizing any licensee to dispense or issue a prescription for diagnostic drugs.

5.2 Authorization by the Board under this regulation shall be evidenced by an appropriate designation on the certificate of registration and license.

5.3 The provisions of Section 5.1 shall not preclude a licensee from using: ancillary diagnostic agents including, but not limited to dyes, schirmer strips, etc.

### **6.0 Use of Therapeutic Drugs**

6.1 Therapeutically certified optometrists may use and/or prescribe the following pharmaceutical agents for the treatment of ocular diseases and conditions:

6.1.1 Topical and oral administration:

6.1.1.1 Antihistamines and decongestants

6.1.1.2 Antiglaucoma

6.1.1.3 Analgesics (non-controlled)

6.1.1.4 Antibiotics

6.1.2 Topical administration only:

6.1.2.1 Autonomics

6.1.2.2 Anesthetics

6.1.2.3 Anti-infectives, including antivirals and antiparasitics

6.1.2.4 Anti-inflammatories

6.2 Authorization by the Board under this regulation shall be evidenced by an appropriate designation on the certificate of registration and license.

### **7.0 Minimum Standards of Practice**

7.1 Equipment

7.1.1 Acuity chart

7.1.2 Ophthalmoscope

7.1.2.1 Direct

7.1.2.2 Indirect

7.1.3 Keratometer

7.1.4 Biomicroscope

7.1.5 Tonometer

7.1.6 Gonioscope

7.1.7 Access to Visual Field

7.1.8 Access to Retinal Camera

7.1.9 Phoropter

7.2 Examination and Treatment

7.2.1 General Examination:

7.2.1.1 Case history

- 7.2.1.2 Acuity measure
- 7.2.1.3 Internal tissue health evaluation
- 7.2.1.4 External tissue health evaluation
- 7.2.1.5 Refraction
- 7.2.1.6 Tonometry
- 7.2.1.7 Visual fields (in appropriate cases)
- 7.2.1.8 Retinal photos (in appropriate cases)
- 7.2.1.9 Treatment, recommendations and directions to the patients, including prescriptions
- 7.2.1.10 Name of attending optometrist
- 7.2.2 During a contact lens examination:
  - 7.2.2.1 Assessment of corneal curvature
  - 7.2.2.2 Acuity through the lens
  - 7.2.2.3 Directions for the care and handling of lenses and an explanation of the implications of contact lenses with regard to eye health and vision
  - 7.2.2.4 Name of attending optometrist
  - 7.2.2.5 Assessment of contact lens fit
- 7.2.3 During a follow up contact lens examination:
  - 7.2.3.1 Assessment of fit of lens
  - 7.2.3.2 Acuity through the lens
  - 7.2.3.3 Name of attending optometrist
  - 7.2.3.4 Ocular health assessment
- 7.3 A complete record of examinations and treatment shall be kept in a current manner.

## 8.0 Ethics

- 8.1 It shall be the ideal, the resolve and the duty of all licensees to:
  - 8.1.1 Keep the visual welfare of the patient uppermost at all times.
  - 8.1.2 Promote in every possible way, better care of the visual needs of mankind.
  - 8.1.3 Enhance continuously their educational and technical proficiency to the end that their patients shall receive the benefits of all acknowledged improvements in vision and eye care.
  - 8.1.4 See that no person shall lack for visual care, regardless of his financial status.
  - 8.1.5 Advise the patient whenever consultation with an optometric colleague or reference for other professional care seems advisable.
  - 8.1.6 Hold in professional confidence all information concerning a patient and use such data only for the benefit of the patient.
  - 8.1.7 Conduct themselves as exemplary citizens.
  - 8.1.8 Maintain their offices and their practices in keeping with current professional standards of care.
  - 8.1.9 Promote and maintain cordial and unselfish relations with members of their own profession and other professionals for the exchange of information to the advantage of mankind.
  - 8.1.10 Maintain adequate records on each patient for a period of not less than five years from the date of the most recent service rendered.
- 8.2 A licensee must honor a patient's request to forward the patient's complete prescription and ophthalmic or contact lens specification to another licensed physician of medicine, osteopath, optometrist, or a nationally registered contact lens technician working under the direct supervision of an optometrist, ophthalmologist or osteopathic physician, if all financial obligations to the licensee have been satisfied. It shall be the obligation of a licensee to tender to a patient upon request his/her final prescription for ophthalmic lenses or contact lens(es) specification, if all financial obligations to the licensee have been satisfied. For purposes of this section, a final prescription or specification results when a patient is released to routine follow-up care. No licensee shall be required to tender a contact lens prescription beyond one (1) year from the date the contact lens(es) were dispensed.
- 8.3 It shall be considered unlawful for a licensee to delegate to a lay individual, whether an employee or not, any act or duty which would require, on the part of such individual, professional judgment. The fitting of contact lenses, tonometry, refraction, treatment of eye disease, low vision and vision therapy, etc. shall not be so delegated unless under the direct supervision of the licensee.

- 8.4 No licensee shall do anything inconsistent with the professional standards of the optometric and allied health professions.
- 8.5 No licensee shall use unethical, misleading or unprofessional advertising methods, including, but not limited to: baiting patients to purchase materials in exchange for free or reduced fees for professional services.
- 8.6 No licensee when using the doctor title shall qualify it in any other way than by use of the word "optometrist". He/she may, however, when not using the prefix, use after his/her name the "O.D." degree designation, consistent with other provisions of 24 ~~Del.C.~~ Ch. 21.
- 8.7 No licensee shall practice in or on premises where any materials, other than those necessary to render his professional services, are dispensed to the public.
- 8.8 No licensee shall locate in a merchandising store or practice his profession among the public as the agent, employee or servant of, or in conjunction with either directly or indirectly, any merchandising firm, corporation, lay firm or unlicensed individual.
- 8.9 No licensee shall practice his profession in conjunction with, or as an agent or employee of an ophthalmic merchandising business (commonly known as "opticians") either directly or indirectly in any manner. Nor shall any licensee use any name other than the name recorded in the files of the State Board for his optometric registration and licensure.
- 8.10 Corporations, except those allowed under 8 ~~Del.C.~~ Ch. 6, lay firms and unlicensed individuals are prohibited from the practice of optometry directly or indirectly and from employing, either directly or indirectly, registered and licensed optometrists to examine the eyes of their patients. Licensees so employed will be considered guilty of unprofessional conduct, and in violation of 24 ~~Del.C.~~ §2113(a)(3) and (6).
- 8.11 No licensee shall hold himself forth in such a way as to carry the slightest intimation of having superior qualifications or being superior to other optometrists, unless he is qualified by a specialty board approved by the State Board.
- 8.12 No licensee holding an official position in any optometric organization shall use such position for advertising purposes or for self-aggrandizement.
- 8.13 Since the law states that a certificate must be displayed in every office where the profession of optometry is practiced, and since no certificate for branch offices has previously been issued, the State Board shall issue branch office certificates with the words "Branch Office" thereon emblazoned under the registry number, with the certificate being a duplicate of that originally issued.
- 8.14 A violation of any of the provisions of these regulations will be considered to be unprofessional conduct.

## **9.0 Hearings**

- 9.1 All complaints shall be referred to the Division of Professional Regulation for investigation and a contact person from the Board will be appointed at the next meeting.
- 9.2 Hearings are conducted in accordance with the Administrative Procedures Act.

## **404.0 Continuing Education Requirements**

### **404.1 Hours Required**

- 404.1.1 Beginning in 2007, the required CE's shall be completed no later than June 30 of every odd-numbered year. During the 2007 transition period, CE's earned between May 1, 2007 and June 30, 2007 may be used to satisfy the CE requirement for either the licensing period ending June 30, 2007 or the licensing period ending June 30, 2009, but not both.
- 404.1.2 All non-therapeutically-licensed optometrists shall acquire 12 hours of continuing education (CE) during each biennial licensure period.
- 404.1.3 All therapeutically-licensed optometrists shall acquire 24 ~~30~~ hours of continuing education during each biennial licensure period. ~~Twelve~~ Twenty of those ~~24~~ thirty hours must be comprised of education in the areas of therapeutics and management of ocular disease. A maximum of six of the thirty may be in the area of practice management. All therapeutically-licensed optometrists must also maintain current CPR certifications for both children and adults throughout the licensure period.
- 404.1.4 Any new licensee shall be required to complete continuing education equivalent to one hour for each month between the date of licensure and the biennial renewal date. The first twelve (12) hours of pro-rated continuing education must be in the treatment and management of ocular disease.
- 404.1.5 Hardship Exemption. The Board has the power to waive any part of the CE requirement. Exemptions to the CE requirement may be granted due to prolonged illness or other incapacity. Application for exemption shall be made in writing to the Board by the applicant for renewal and must be received by the Board prior to the end of the license renewal period.

## 404.2 Content of Mandatory Continuing Education (CE)

404.2.1 **[No Six]** practice management **[courses hours]** will be accepted **[as satisfying toward]** the continuing education requirement.

### 404.2.2 COPE-Approved Self-Reported Study

404.2.2.1 Non-therapeutically certified licensees - Of the 12 hour biennial requirement for non-therapeutically certified licensees, a maximum of 2 hours may be fulfilled by self-reported study.

404.2.2.2 Therapeutically certified licensees - Of the **[24 30]** hour biennial requirement for therapeutically certified licensees, a maximum of 4 six hours may be fulfilled by self-reported study.

404.2.2.3 Self-reported study may include:

404.2.2.3.1 Reading of Optometric journals

404.2.2.3.2 Optometric tape journals

404.2.2.3.3 Optometric audiovisual material

404.2.2.3.4 Other materials given prior approval by the Board.

404.2.2.3.5 Proof of completion from the sponsoring agency is required for credit.

404.2.3 Continuing Education courses given by the following organizations will receive credit. CE credit will be given for the scientific session portion only of any meetings of these organizations:

404.2.3.1 American Optometric Association

404.2.3.2 Delaware Optometric Association

404.2.3.3 American Academy of Optometry

404.2.3.4 Recognized state regional or national optometric societies

404.2.3.5 Schools and colleges of Optometry

404.2.3.6 Meetings of other organizations as may be approved by the Board.

404.2.3.7 COPE-approved courses (~~with the exception of Practice Management courses~~)

404.3 Failure to Comply with Continuing Education Requirements. Licensees who fail to comply with the required continuing education requirements by the end of the biennial licensing period may be referred for possible disciplinary action pursuant to Section 2113.

404.4 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the requirements of Section 404.0.

404.4.1 Attestation may be completed electronically if the renewal is accomplished online. In the alternative, paper renewal documents that contain the attestation of completion may be submitted.

404.4.2 Licensees selected for random audit will be required to supplement the attestation with attendance verification pursuant to subsection 404.5.

404.5 Random audits will be performed by the Board to ensure compliance with the CE requirements.

404.5.1 The Board will notify licensees within sixty (60) days after June 30 that they have been selected for audit.

404.5.2 Licensees selected for random audit shall be required to submit verification within ten (10) days of receipt of notification of selection for audit.

404.5.3 Verification shall include such information necessary for the Board to assess whether the course or other activity meets the CE requirements in Section 404.0, which may include, but is not limited to, the following information:

404.5.3.1 Proof of attendance. While course brochures may be used to verify contact hours, they are not considered to be acceptable proof for use of verification of course attendance;

404.5.3.2 Date of CE course;

404.5.3.3 Instructor of CE course;

404.5.3.4 Sponsor of CE course;

404.5.3.5 Title of CE course; and

404.5.3.6 Number of hours of CE course; and

404.5.3.7 Report obtained from the Optometric Education (OE) tracker maintained by ARBO.

404.6 Licensees must maintain all proof of continuing education for at least two licensure periods.

### 404.7 Licensure--Renewal

404.7.1 The biennial licensure period expires on June 30 of every odd-numbered year. A licensee may have his/her license renewed by submitting a renewal application to the Board by the renewal date and upon payment of the renewal fee prescribed by the Division of Professional Regulation along with an attestation of completion of the continuing education requirements.



404.7.2 Any licensee who fails to renew his/her license by the renewal date may reactivate his/her license during the one (1) year period immediately following the license expiration date provided the licensee pays a late fee in addition to the prescribed renewal fee, submits an application on an appropriate form to the Board and provides proof that he/she completed the required continuing education.

**10 DE Reg. 1727 (05/01/07)**

**445.0 Therapeutic Certification**

- 445.1 The examination identified in 24 **Del.C.** §2108(b) is the national examination administered by the ~~Association of Regulatory Boards of Optometry (ARBO)~~ National Board of Examiners in Optometry (NBEO) for treatment and management of ocular disease. A copy of the certificate representing passage of the examination must be submitted with the application for therapeutic licensure.
- 445.2 All applicants for therapeutic licensure must be CPR certified for both children and adults. All optometrists must keep their CPR certification for both children and adults current.
- 445.3 For applicants currently licensed in Delaware and applicants for reciprocal licensure pursuant to the requirements of §2108, 40 hours of treatment and management of ocular disease training may be accumulated with a therapeutically certified optometrist, a medical doctor, or an osteopathic doctor. Proof of 40 hours of treatment and management of ocular disease training must be submitted in writing by the supervising doctor. If an applicant's supervisor is a therapeutically certified optometrist practicing in a state other than Delaware, proof of similar therapeutic practice standards in the other state must be submitted.
- 445.4 Applicants must have completed their forty (40) hours of clinical experience within twenty-four (24) months of their initial application for therapeutic licensure. No clinical experience older than 24 months (prior to application) will be accepted for therapeutic certification.
- 445.5 All newly licensed optometrists shall be required to be therapeutically certified. Their six month internship should be done with a therapeutically certified optometrist, M.D. or D.O. However, if a therapeutically certified optometrist, M.D. or D.O. is not available, the intern may do an internship with a non-therapeutically certified optometrist, provided the intern complete an additional 100 hours of clinical experience in the treatment and management of ocular disease supervised by a therapeutically certified optometrist, M.D. or D.O. during their internship.

**4 DE Reg. 669 (10/1/00)**

**426.0 Unprofessional Conduct**

~~A violation of any of the provisions of these regulations will be considered to be unprofessional conduct.~~

- 6.1 Optometrists who commit unprofessional conduct shall be subject to discipline.
- 6.2 Unprofessional conduct shall include but is not limited to the following:
  - 6.2.1 Performing acts beyond the authorized scope of the level of optometric practice for which the individual is licensed.
  - 6.2.2 Assuming duties and responsibilities within the practice of optometry without adequate preparation, or without maintenance of competency.
  - 6.2.3 Performing new techniques and/or procedures without education and practice.
  - 6.2.4 Inaccurately and willfully recording, falsifying or altering a patient or agency document record related to patient care, employment, or licensure.
  - 6.2.5 Committing or threatening violence, verbal or physical abuse of patients or co-workers or the public.
  - 6.2.6 Violating professional boundaries of the optometrist-patient relationship including but not limited to physical, sexual, emotional or financial exploitation of the patient or patient's significant other(s).
  - 6.2.7 Assigning unlicensed persons to perform the practice of licensed optometrists.
  - 6.2.8 Delegating optometric practice to unqualified persons.
  - 6.2.9 Failing to supervise persons to whom optometric practice has been delegated.
  - 6.2.10 Failing to safeguard a patient's dignity and right to privacy in providing services.
  - 6.2.11 Violating the confidentiality of information concerning a patient.
  - 6.2.12 Failing to take appropriate action to safeguard a patient from incompetent or illegal health care practice.
  - 6.2.13 Practicing optometry when unfit to perform procedures and make decisions in accordance with the license held because of physical or mental impairment or dependence on alcohol or drugs.
  - 6.2.14 Diverting or misappropriating money, drugs, supplies, records or property of an employer, patient, patient agency, or governmental agency.
  - 6.2.15 Practicing optometry with an expired license.

- 6.2.16 Allowing another person to use her/his license or temporary permit.
- 6.2.17 Aiding, abetting and/or assisting an individual to violate or circumvent any law or duly promulgated rule and regulation intended to guide the conduct of an optometrist or other health care provider.
- 6.2.18 Committing fraud, misrepresentation or deceit in taking the licensure exam, or in obtaining a license or temporary permit.
- 6.2.19 Disclosing the contents of the licensing examination or soliciting, accepting or compiling information regarding the examination before, during or after its administration.
- 6.2.20 Failing to report unprofessional conduct by another licensee.
- 6.2.21 Practicing or holding oneself out as an optometrist without a current license.
- 6.2.22 Failing to comply with the requirements for continuing professional education, unless exempt.
- 6.2.23 Failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient.
- 6.2.24 Failing to comply with the terms and conditions set out in a disciplinary action of the Board.
- 6.2.25 Failing to honor a patient's request to forward the patient's complete prescription and ophthalmic or contact lens specifications to another licensed physician of medicine, osteopathy, optometrist, or a nationally registered contact lens technician working under the direct supervision of an optometrist, ophthalmologist or osteopathic physician, if all financial obligations to the licensee have been satisfied.
- 6.2.26 Prescribing contact lenses beyond one year from the date the contact lens(es) prescription was finalized. For purposes of this section, a final prescription results when a patient is released to routine follow-up care.
- 6.2.27 Failing to maintain adequate records on each patient for a period of not less than seven years from the date of the most recent service rendered.
- 6.2.28 Using unethical, misleading or unprofessional advertising methods, including, but not limited to baiting patients to purchase materials in exchange for free or reduced fees for professional services.
- 6.2.29 Practicing in a merchandising store or practicing optometry among the public as the agent, employee, or servant of, or in conjunction with, directly or indirectly, any merchandising firm, corporation, lay firm, or unlicensed individual.
- 6.2.30 Practicing in conjunction with, or as an agent or employee of, an ophthalmic merchandising business (commonly known as "opticians"), directly or indirectly.
- 6.2.31 Corporations, except those allowed under 8 Del.C. Ch. 6, lay firms, and unlicensed individuals are prohibited from the practice of optometry, directly or indirectly, and from employing, directly or indirectly, registered and licensed optometrists to examine the eyes of their patients. Licensees so employed will be considered guilty of unprofessional conduct and in violation of 24 Del.C. §2113(a)(3) and (6).
- 6.2.32 Holding oneself out as having superior qualifications or being superior to other optometrists, unless he/she is qualified by a specialty board approved by this Board.
- 6.2.33 No licensee holding an official position in any optometric organization shall use such position for advertising purposes or for self-promotion.
- 6.2.34 Being Convicted of a crime substantially related to the practice of optometry.

#### **437.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals**

- 437.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.
- 437.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.
- 437.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).
- 437.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated

professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

- 437.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection 13.8 of this section.
- 437.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
- 437.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
- 437.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.
- 437.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
- 437.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.
- 437.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.
- 437.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 437.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 437.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- 437.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 437.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 437.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

437.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

**448.0 Crimes substantially related to the practice of optometry:**

448.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of optometry in the State of Delaware without regard to the place of conviction:

- 448.1.1 Aggravated menacing. 11 **Del.C.** §602 (b).
- 448.1.2 Reckless endangering in the first degree. 11 **Del.C.** §604.
- 448.1.3 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605.
- 448.1.4 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.
- 448.1.5 Assault in the third degree. 11 **Del.C.** §611.
- 448.1.6 Assault in the second degree. 11 **Del.C.** §612.
- 448.1.7 Assault in the first degree. 11 **Del.C.** §613.
- 448.1.8 Abuse of a sports official; felony. 11 **Del.C.** §614.
- 448.1.9 Assault by abuse or neglect. 11 **Del.C.** §615.
- 448.1.10 Terroristic threatening; felony. 11 **Del.C.** §621.
- 448.1.11 Unlawfully administering drugs. 11 **Del.C.** §625.
- 448.1.12 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626.
- 448.1.13 Vehicular assault in the first degree. 11 **Del.C.** §629.
- 448.1.14 Vehicular homicide in the second degree. 11 **Del.C.** §630.
- 448.1.15 Vehicular homicide in the first degree. 11 **Del.C.** §630A.
- 448.1.16 Criminally negligent homicide. 11 **Del.C.** §631.
- 448.1.17 Manslaughter. 11 **Del.C.** §632.
- 448.1.18 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.
- 448.1.19 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
- 448.1.20 Murder in the second degree; class A felony. 11 **Del.C.** §635.
- 448.1.21 Murder in the first degree. 11 **Del.C.** §636.
- 448.1.22 Promoting suicide. 11 **Del.C.** §645.
- 448.1.23 Abortion. 11 **Del.C.** §651.
- 448.1.24 Incest. 11 **Del.C.** §766.
- 448.1.25 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.
- 448.1.26 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.
- 448.1.26 Rape in the fourth degree. 11 **Del.C.** §770.
- 448.1.27 Rape in the third degree. 11 **Del.C.** §771.
- 448.1.28 Rape in the second degree. 11 **Del.C.** §772.
- 448.1.29 Rape in the first degree. 11 **Del.C.** §773.
- 448.1.30 Sexual extortion. 11 **Del.C.** §776.
- 448.1.31 Bestiality. 11 **Del.C.** §777.
- 448.1.32 Continuous sexual abuse of a child. 11 **Del.C.** §778.
- 448.1.33 Dangerous crime against a child. 11 **Del.C.** §779.
- 448.1.34 Female genital mutilation. 11 **Del.C.** §780.
- 448.1.35 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.
- 448.1.36 Kidnapping in the second degree. 11 **Del.C.** §783.
- 448.1.37 Kidnapping in the first degree. 11 **Del.C.** §783A.
- 448.1.38 Arson in the third degree. 11 **Del.C.** §801.
- 448.1.39 Arson in the second degree. 11 **Del.C.** §802.
- 448.1.40 Arson in the first degree. 11 **Del.C.** §803.
- 448.1.41 Criminal mischief. 11 **Del.C.** §811.
- 448.1.42 Burglary in the third degree. 11 **Del.C.** §824.

448.1.43 Burglary in the second degree. 11 **Del.C.** §825.

448.1.44 Burglary in the first degree. 11 **Del.C.** §826.

448.1.45 Possession of burglar's tools or instruments facilitating theft. 11 **Del.C.** §828.

448.1.46 Robbery in the second degree. 11 **Del.C.** §831.

448.1.47 Robbery in the first degree. 11 **Del.C.** §832.

448.1.48 Carjacking in the second degree. 11 **Del.C.** §835.

448.1.49 Carjacking in the first degree. 11 **Del.C.** §836.

448.1.50 Shoplifting; felony. 11 **Del.C.** §840.

448.1.51 Use of illegitimate retail sales receipt or Universal Product Code Label; felony. 11 **Del.C.** §840A.

448.1.52 Extortion. 11 **Del.C.** §846.

448.1.53 Use, possession, manufacture, distribution and sale of unlawful telecommunication and access devices; felony. 11 **Del.C.** §850.

448.1.54 Receiving stolen property; felony. 11 **Del.C.** §851.

448.1.55 Identity theft. 11 **Del.C.** §854.

448.1.56 Possession of shoplifters tools or instruments facilitating theft. 11 **Del.C.** §860.

448.1.57 Forgery; felony; misdemeanor. 11 **Del.C.** §861.

448.1.58 Possession of forgery devices. 11 **Del.C.** §862.

448.1.59 Falsifying business records. 11 **Del.C.** §871.

448.1.60 Tampering with public records in the second degree. 11 **Del.C.** §873.

448.1.61 Tampering with public records in the first degree. 11 **Del.C.** §876.

448.1.62 Offering a false instrument for filing. 11 **Del.C.** §877.

448.1.63 Issuing a false certificate. 11 **Del.C.** §878.

448.1.64 Issuing a bad check; felony. 11 **Del.C.** §900.

448.1.65 Unlawful use of credit card; felony. 11 **Del.C.** §903.

448.1.66 Reencoder and scanning devices. 11 **Del.C.** §903A.

448.1.67 Deceptive business practices. 11 **Del.C.** §906.

448.1.68 Criminal impersonation. 11 **Del.C.** §907.

448.1.69 Criminal impersonation, accident related. 11 **Del.C.** §907A.

448.1.70 Criminal impersonation of a police officer. 11 **Del.C.** §907B.

448.1.71 Securing execution of documents by deception. 11 **Del.C.** §909.

448.1.72 Fraudulent conveyance of public lands. 11 **Del.C.** §911.

448.1.73 Fraudulent receipt of public lands. 11 **Del.C.** §912.

448.1.74 Insurance fraud. 11 **Del.C.** §913.

448.1.75 Health care fraud. 11 **Del.C.** §913A.

448.1.76 Use of consumer identification information. 11 **Del.C.** §914.

448.1.77 Home improvement fraud. 11 **Del.C.** §916.

448.1.78 New home construction fraud. 11 **Del.C.** §917.

448.1.79 Unauthorized access. 11 **Del.C.** §932.

448.1.80 Theft of computer services. 11 **Del.C.** §933.

448.1.81 Interruption of computer services. 11 **Del.C.** §934.

448.1.82 Misuse of computer system information. 11 **Del.C.** §935.

448.1.83 Destruction of computer equipment. 11 **Del.C.** §936.

448.1.84 Dealing in children. 11 **Del.C.** §1100.

448.1.85 Abandonment of child. 11 **Del.C.** §1101.

448.1.86 Endangering the welfare of a child. 11 **Del.C.** §1102.

448.1.87 Endangering the welfare of an incompetent person. 11 **Del.C.** §1105.

448.1.88 Sexual exploitation of a child. 11 **Del.C.** §1108.

448.1.89 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.

448.1.90 Possession of child pornography. 11 **Del.C.** §1111.

448.1.91 Sexual offenders; prohibitions from school zones. 11 **Del.C.** §1112.

448.1.92 Sexual solicitation of a child. 11 **Del.C.** §1112A.

448.1.93 Bribery. 11 **Del.C.** §1201.

448.1.94 Receiving a bribe; class E felony. 11 **Del.C.** §1203.

448.1.95 Improper influence. 11 **Del.C.** §1207.

448.1.96 Official misconduct. 11 **Del.C.** §1211.

448.1.97 Perjury in the second degree. 11 **Del.C.** §1222.

448.1.98 Perjury in the first degree. 11 **Del.C.** §1223.

448.1.99 Making a false written statement. 11 **Del.C.** §1233.

448.1.100 Wearing a disguise during the commission of a felony. 11 **Del.C.** §239.

448.1.101 Terroristic threatening of public officials or public servants. 11 **Del.C.** §1240.

448.1.102 Hindering prosecution. 11 **Del.C.** §1244.

448.1.103 Abetting the violation of driver's license restrictions. 11 **Del.C.** §1249.

448.1.104 Abetting the violation of driver's license restrictions. 11 **Del.C.** §1249.

448.1.105 Offenses against law-enforcement animals. Felony. 11 **Del.C.** §1250.

448.1.106 Escape in the second degree. 11 **Del.C.** §1252.

448.1.107 Escape after conviction. 11 **Del.C.** §1253.

448.1.108 Assault in a detention facility. 11 **Del.C.** §1254.

448.1.109 Promoting prison contraband; felony; misdemeanor. 11 **Del.C.** §1256.

448.1.110 Use of an animal to avoid capture; felony. 11 **Del.C.** §1257A.

448.1.111 Misuse of prisoner mail; felony. 11 **Del.C.** §1260.

448.1.112 Bribing a witness. 11 **Del.C.** §1261.

448.1.113 Bribe receiving by a witness. 11 **Del.C.** §1262.

448.1.114 Tampering with a witness. 11 **Del.C.** §1263.

448.1.115 Interfering with child witness. 11 **Del.C.** §1263A.

448.1.116 Bribing a juror. 11 **Del.C.** §1264.

448.1.117 Bribe receiving by a juror. 11 **Del.C.** §1265.

448.1.118 Tampering with a juror. 11 **Del.C.** §1266.

448.1.119 Misconduct by a juror. 11 **Del.C.** §1267.

448.1.120 Tampering with physical evidence. 11 **Del.C.** §1269.

448.1.121 Riot. 11 **Del.C.** §1302.

448.1.122 Hate crimes; misdemeanor; felony. 11 **Del.C.** §1304.

448.1.123 Aggravated harassment. 11 **Del.C.** §1312.

448.1.124 Stalking. 11 **Del.C.** §1312A.

448.1.125 Cruelty to animals; felony. 11 **Del.C.** §1325.

448.1.126 Animals; fighting and baiting prohibited; felony. 11 **Del.C.** §1326.

448.1.127 Maintaining a dangerous animal; felony. 11 **Del.C.** §1327.

448.1.128 Abusing a corpse. 11 **Del.C.** §1332.

448.1.129 Trading in human remains and associated funerary objects. 11 **Del.C.** §1333.

448.1.12930 Violation of privacy; misdemeanor; felony. 11 **Del.C.** §1335.

448.1.1301 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 **Del.C.** §1338.

448.1.1342 Adulteration. 11 **Del.C.** §1339.

448.1.1323 Prostitution. 11 **Del.C.** §1342.

448.1.1334 Patronizing a prostitute prohibited. 11 **Del.C.** §1343.

448.1.1345 Promoting prostitution in the third degree. 11 **Del.C.** §1351.

448.1.1356 Promoting prostitution in the second degree. 11 **Del.C.** §1352.

448.1.1367 Promoting prostitution in the first degree. 11 **Del.C.** §1353.

448.1.1378 Permitting prostitution. 11 **Del.C.** §1355.

448.1.1389 Carrying a concealed deadly weapon. 11 **Del.C.** §1442.

448.1.13940 Carrying a concealed dangerous instrument. 11 **Del.C.** §1443.

448.1.1401 Possessing a destructive weapon. 11 **Del.C.** §1444.

448.1.1442 Unlawfully dealing with a dangerous weapon. 11 **Del.C.** §1445.

448.1.1423 Possession of a deadly weapon during commission of a felony. 11 **Del.C.** §1447.

448.1.1434 Possession of a firearm during commission of a felony. 11 **Del.C.** §1447A.

448.1.1445 Possession and purchase of deadly weapons by persons prohibited. 11 **Del.C.** §1448.

448.1.1456 Criminal history record checks for sales of firearms; felony. 11 **Del.C.** §1448A.

448.1.1467 Wearing body armor during commission of felony. 11 **Del.C.** §1449.

448.1.1478 Receiving a stolen firearm. 11 **Del.C.** §1450.

448.1.1489 Theft of a firearm. 11 **Del.C.** §1451.

448.1.1495 Giving a firearm to person prohibited. 11 **Del.C.** §1454.

448.1.1501 Engaging in a firearms transaction on behalf of another. 11 **Del.C.** §1455.

448.1.1512 Unlawfully permitting a minor access to a firearm. 11 **Del.C.** §1456.

448.1.1523 Possession of a weapon in a Safe School and Recreation Zone. 11 **Del.C.** §1457.

448.1.1534 Removing a firearm from the possession of a law enforcement officer. 11 **Del.C.** §1458.

448.1.1545 Possession of a weapon with a removed, obliterated or altered serial number. 11 **Del.C.** §1459.

448.1.1556 Prohibited acts. cheating devices (a)-(e), second or subsequent offense. 11 **Del.C.** §1471.

448.1.1567 Organized Crime and Racketeering. 11 **Del.C.** §1504.

448.1.1578 Victim or Witness Intimidation 11 **Del.C.** §3532 & 3533.

448.1.1589 Abuse, neglect, mistreatment or financial exploitation of residents or patients. 16 **Del.C.** §1136(a), (b) and (c).

448.1.1596 Prohibited acts A under the Uniform Controlled Substances Act. 16 **Del.C.** §4751(a), (b) and (c).

448.1.1601 Prohibited acts B under the Uniform Controlled Substances Act. 16 **Del.C.** §4752(a) and (b).

448.1.1612 Unlawful delivery of noncontrolled substance. 16 **Del.C.** §4752A.

448.1.1623 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 **Del.C.** §4753A (a)(1)-(9).

448.1.1634 Possession and delivery of noncontrolled prescription drug. 16 **Del.C.** §4754A.

448.1.1645 Prohibited acts E under the Uniform Controlled Substances Act. 16 **Del.C.** §4755(a)(1) and (2).

448.1.1656 Prohibited acts under the Uniform Controlled Substances Act. 16 **Del.C.** §4756(a)(1)-(5) and (b).

448.1.1667 Hypodermic syringe or needle; delivering or possessing; disposal; 16 **Del.C.** §4757.

448.1.1678 Keeping drugs in original containers. 16 **Del.C.** §4758.

448.1.1689 Distribution to persons under 21 years of age. 16 **Del.C.** §4761.

448.1.1697 Purchase of drugs from minors. 16 **Del.C.** §4761A.

448.1.1701 Distribution, delivery, or possession of controlled substance within 1,000 feet of school property; penalties; defenses. 16 **Del.C.** §4767.

448.1.1712 Distribution, delivery or possession of controlled substance in or within 300 feet of park, recreation area, church, synagogue or other place of worship. 16 **Del.C.** §4768.

448.1.1723 Drug paraphernalia. 16 **Del.C.** §4771 (a) and (b).

448.1.1734 Possession, manufacture and sale, delivery to a minor and advertising of drug paraphernalia. 16 **Del.C.** §4774(a), (b), (c) (d).

448.1.1745 Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs; third and fourth offenses. 23 **Del.C.** §2302(a) and §2305 (3) and (4).

448.1.1756 Attempt to evade or defeat tax. 30 **Del.C.** §571.

448.1.1767 Failure to collect or pay over tax. 30 **Del.C.** §572.

448.1.1778 Failure to file return, supply information or pay tax. 30 **Del.C.** §573.

448.1.1789 Fraud and false statements. 30 **Del.C.** §574.

448.1.1798 Obtaining benefit under false representation. 31 **Del.C.** §1003.

448.1.1801 Reports, statements and documents. 31 **Del.C.** §1004(1), (2), (3), (4), (5).

448.1.1812 Kickback schemes and solicitations. 31 **Del.C.** §1005.

448.1.1823 Conversion of payment. 31 §1006.

448.1.1834 Unlawful possession or manufacture of proof of insurance. 21 **Del.C.** §2118A.

448.1.1845 Temporary registration violations related to providing false information. 21 **Del.C.** §2133(a) (1)-(3).

448.1.1856 False statements. 21 **Del.C.** §2315.

448.1.1867 Altering or forging certificate of title, manufacturer's certificate of origin, registration card, vehicle warranty or certification sticker or vehicle identification plate. 21 **Del.C.** §2316.

448.1.1878 False statements; incorrect or incomplete information. 21 **Del.C.** §2620.

448.1.1889 License to operate a motorcycle, motorbike, etc. 21 **Del.C.** §2703.

448.1.1890 Issuance of a Level 1 Learner's Permit and Class D operator's license to persons under 18 years of age. 21 **Del.C.** §2710.

448.1.1901 Unlawful application for or use of license or identification card. 21 **Del.C.** §2751.

448.1.1942 False statements. 21 **Del.C.** §2752.

448.1.1923 Driving vehicle while license is suspended or revoked. 21 **Del.C.** §2756.

448.1.1934 Duplication, reproduction, altering, or counterfeiting of driver's licenses or identification cards. 21 **Del.C.** §2760(a) and (b).

448.1.1945 Driving after judgment prohibited. 21 **Del.C.** §2810.

448.1.1956 False statements. 21 **Del.C.** §3107.

448.1.1967 Driving a vehicle while under the influence or with a prohibited alcohol content. 21 **Del.C.** §4177 (3) and (4).

448.1.1978 Duty of driver involved in accident resulting in injury or death to any person. 21 **Del.C.** §4202.

448.1.1989 Duty to report accidents; evidence. 21 **Del.C.** §4203.

448.1.199200 Possession of motor vehicle master keys, manipulative keys, key-cutting devices, lock picks or lock picking devices and hot wires. 21 **Del.C.** §4604(a).

448.1.2001 Tampering with vehicle. 21 **Del.C.** §6703.

448.1.2042 Receiving or transferring stolen vehicle. 21 **Del.C.** §6704.

448.1.2023 Removed, falsified or unauthorized identification number on vehicle, bicycle or engine; removed or affixed license/registration plate with intent to misrepresent identity. 21 **Del.C.** §6705(a)-(e).

448.1.2034 Possession of blank title; blank registration card; vehicle identification plate; warranty sticker and registration card. 21 **Del.C.** §6708(a) and (b).

448.1.2045 Removal of warranty or certification stickers; vehicle identification plates; confidential vehicle identification numbers. 21 **Del.C.** §6709(a).

448.1.2056 Unlawful possession of assigned titles, assigned registration cards, vehicle identification plates and warranty stickers. 21 **Del.C.** §6710(a).

448.1.2067 Offenses [involving meat and poultry inspection including bribery or attempted bribery or assaulting or impeding any person in the performance of his duties] (felony). 3 **Del.C.** §871.

448.1.2078 Fraudulent Written Statements. 3 **Del.C.** §10049.

448.1.2089 Fraudulent Certificate of Registration or Eligibility Documents. 3 **Del.C.** §10050.

448.1.20910 Prohibited trade practices against infirm or elderly. 6 **Del.C.** §2581.

448.1.2101 Auto Repair Fraud victimizing the infirm or elderly. 6 **Del.C.** §4909A.

448.1.2142 Possession or use of false weights. 6 **Del.C.** §5134.

448.1.2123 Violations of the Securities Act. 6 **Del.C.** §7322.

448.1.2134 Unauthorized Acts against a Service Guide or Seeing Eye Dog. 7 **Del.C.** §1717.

448.1.2145 Interception of Communications Generally; Divulging Contents of Communications. 11 **Del.C.** §2402.

448.1.2156 Manufacture, Possession or Sale of Intercepting Device. 11 **Del.C.** §2403.

448.1.2167 Breaking and Entering, Etc. to Place or Remove Equipment. 11 **Del.C.** §2410.

448.1.2178 Obstruction, Impediment or Prevention of Interception. 11 **Del.C.** §2412.

448.1.2189 Obtaining, Altering or Preventing Authorized Access. 11 **Del.C.** §2421.

448.1.24920 Divulging Contents of Communications. 11 **Del.C.** §2422.

448.1.2201 Installation and Use Generally [of pen trace and trap and trace devices]. 11 **Del.C.** §2431.

448.1.2242 Aggravated Act of Intimidation. 11 **Del.C.** §3533.

448.1.223 Attempt to Intimidate. 11 **Del.C.** §3534.

448.1.224 Disclosure of Expunged Records. 11 **Del.C.** §4374.

448.1.225 Violation of reporting provisions re: SBI. 11 **Del.C.** §8523.

448.1.226 Failure of child-care provider to obtain information required under §8561 or for those providing false information. 11 **Del.C.** §8562.

448.1.227 Providing false information when seeking employment in a public school. 11 **Del.C.** §8572.

448.1.228 Filing False Claim [under Victims' Compensation Fund]. 11 **Del.C.** §9016.

448.1.229 Alteration, Theft or Destruction of Will. 12 **Del.C.** §210.

448.1.230 Violation of reporting requirements involving abuse under §903. 16 **Del.C.** §914.



- 448.1.231 Coercion or intimidation involving health-care decisions and falsification, destruction of a document to create a false impression that measures to prolong life have been authorized. 16 **Del.C.** §2513(a) and (b).
- 448.1.232 Violations related to the sale, purchase, receipt, possession, transportation, use, safety and control of explosive materials other than 16 **Del.C.** §7103. 16 **Del.C.** §7112.
- 448.1.233 Operation of a Vessel or Boat while under the Influence of Intoxicating Liquor and/or Drugs. 23 **Del.C.** §2302 (3) and (4).
- 448.1.234 License Requirements. 24 **Del.C.** §901.
- 448.1.235 Sale to Persons under 21 or Intoxicated Persons. 24 **Del.C.** §903.
- 448.1.236 Failure to make Reports of Persons who are Subject to Loss of Consciousness. 24 **Del.C.** §1763.
- 448.1.237 [Interference] Relating to the Blind and "Seeing Eye Dogs". 31 **Del.C.** §2117.
- 448.1.238 Abuse, neglect, exploitation or mistreatment of infirm adult. 31 **Del.C.** §3913(a), (b) and (c).
- 448.2 Crimes substantially related to the practice of optometry shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

**8 DE Reg. 1002 (1/1/05)**

**19 DE Reg. 204 (09/01/15) (Final)**