

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

PROPOSED

PUBLIC NOTICE

2100 Board of Examiners in Optometry

The Delaware Board of Examiners in Optometry, pursuant to 24 **Del.C.** §2104(a)(1), proposes to revise its regulations. The proposed regulations seek to clarify and provide more detailed information regarding the use of telehealth services for the provision of optometry services.

The Board will hold a public hearing on the proposed rule change on April 12, 2018 at 4:30 p.m., in the Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Lisa Smith, Administrator of the Delaware Board of Examiners in Optometry, Cannon Building, 861 Silver Lake Blvd, Dover, DE 19904. Written comments will be accepted until April 27, 2018.

2100 Board of Examiners in Optometry

1.0 Examinations

Every candidate shall pass all sections of the examination given by the National Board of Examiners in Optometry.

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

2.0 Internship/Temporary Licensee

2.1 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:

- 2.1.1 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.
- 2.1.2 Each applicant 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 the Board is unable to meet to review said licensure materials the Board may approve said internship starting as of the date when the applicant has submitted all licensure materials.
- 2.1.3 A letter must be received by the Board from the supervisor verifying the completion of the internship.
- 2.1.4 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.

2.2 Full-time: minimum of 35 hours per week.

2.3 All supervisors must supervise the interns on a one-to-one basis whenever an applicant performs a task 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.

2.4 All acts that constitute the practice of optometry under 24 **Del.C.** §2101(a) may be performed by the intern only under the following conditions:

- 2.4.1 The supervisor shall be on the premises and immediately available for supervision at all times;
- 2.4.2 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
- 2.4.3 A supervisor shall at all times effectively supervise and direct the intern.

- 2.5 A violation of any of the conditions enumerated in this rule may be grounds for the Board to revoke 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 (05/01/99)

7 DE Reg. 912 (01/01/04)

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

8 DE Reg. 1697 (06/01/05)

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

3.0 Reciprocity

- 3.1 Applicants from jurisdictions 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 24 **Del.C.** §2108(a) and (b).
- 3.2 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.
- 3.3 "Standards of licensure," as used in 24 **Del.C.** §2109, shall refer to the qualifications of applicants set forth at §2107.
- 3.4 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).
- 3.5 An applicant shall not be licensed by reciprocity as a Delaware therapeutically certified optometrist unless:
- 3.5.1 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
- 3.5.2 He/she has met the requirements of §2108(a) and (b) and Rule 5.0.

4 DE Reg. 669 (10/01/00)

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

4.0 Continuing Education Requirements

- 4.1 Hours Required
- 4.1.1 Beginning in 2007, the required CE's shall be completed no later than June 30 of every odd-numbered year.
- 4.1.2 All non-therapeutically-licensed optometrists shall acquire 12 hours of continuing education (CE) during each biennial licensure period.
- 4.1.3 All therapeutically-licensed optometrists shall acquire 30 hours of continuing education during each biennial licensure period. Twenty of those 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.
- 4.1.4 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.
- 4.1.5 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.
- 4.2 Content of Mandatory Continuing Education (CE)
- 4.2.1 Six practice management hours will be accepted toward the continuing education requirement.
- 4.2.2 COPE-Approved Self-Reported Study
- 4.2.2.1 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.
- 4.2.2.2 Therapeutically certified licensees - Of the 30 hour biennial requirement for therapeutically certified licensees, a maximum of six hours may be fulfilled by self-reported study.
- 4.2.2.3 Self-reported study may include:

- 4.2.2.3.1 Reading of Optometric journals
- 4.2.2.3.2 Optometric tape journals
- 4.2.2.3.3 Optometric audiovisual material
- 4.2.2.3.4 Other materials given prior approval by the Board.
- 4.2.2.3.5 Proof of completion from the sponsoring agency is required for credit.
- 4.2.3 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:
 - 4.2.3.1 American Optometric Association
 - 4.2.3.2 Delaware Optometric Association
 - 4.2.3.3 American Academy of Optometry
 - 4.2.3.4 Recognized state regional or national optometric societies
 - 4.2.3.5 Schools and colleges of Optometry
 - 4.2.3.6 Meetings of other organizations as may be approved by the Board.
 - 4.2.3.7 COPE-approved courses
- 4.3 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.
- 4.4 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the requirements of Section 4.0.
 - 4.4.1 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.
 - 4.4.2 Licensees selected for random audit will be required to supplement the attestation with attendance verification pursuant to subsection 4.5.
- 4.5 Random audits will be performed by the Board to ensure compliance with the CE requirements.
 - 4.5.1 The Board will notify licensees within sixty (60) days after June 30 that they have been selected for audit.
 - 4.5.2 Licensees selected for random audit shall be required to submit verification within ten (10) days of receipt of notification of selection for audit.
 - 4.5.3 Verification shall include such information necessary for the Board to assess whether the course or other activity meets the CE requirements in Section 4.0, which may include, but is not limited to, the following information:
 - 4.5.3.1 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;
 - 4.5.3.2 Date of CE course;
 - 4.5.3.3 Instructor of CE course;
 - 4.5.3.4 Sponsor of CE course;
 - 4.5.3.5 Title of CE course; and
 - 4.5.3.6 Number of hours of CE course; and
 - 4.5.3.7 Report obtained from the Optometric Education (OE) tracker maintained by ARBO.
- 4.6 Licensees must maintain all proof of continuing education for at least two licensure periods.
- 4.7 Licensure--Renewal
 - 4.7.1 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.
 - 4.7.2 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)

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

5.0 Therapeutic Certification

- 5.1 The examination identified in 24 **Del.C.** §2108(b) is the national examination administered by the 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.

- 5.2 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.
- 5.3 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.
- 5.4 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.
- 5.5 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 (10/01/00)

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

6.0 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.

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

7.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

- 7.1 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.
- 7.2 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.
- 7.3 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).
- 7.4 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.
- 7.5 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 7.8 of this section.

- 7.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
- 7.6.1 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.
 - 7.6.2 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.
 - 7.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
 - 7.6.4 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.
 - 7.6.5 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.
 - 7.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 7.7 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.
- 7.8 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.
- 7.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 7.10 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.
- 7.11 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.
- 7.12 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.

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

8.0 Crimes substantially related to the practice of optometry:

- 8.1 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:

- 8.1.1 Aggravated menacing. 11 **Del.C.** §602 (b).
- 8.1.2 Reckless endangering in the first degree. 11 **Del.C.** §604.
- 8.1.3 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605.
- 8.1.4 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.
- 8.1.5 Assault in the third degree. 11 **Del.C.** §611.
- 8.1.6 Assault in the second degree. 11 **Del.C.** §612.
- 8.1.7 Assault in the first degree. 11 **Del.C.** §613.
- 8.1.8 Abuse of a sports official; felony. 11 **Del.C.** §614.
- 8.1.9 Assault by abuse or neglect. 11 **Del.C.** §615.
- 8.1.10 Terroristic threatening; felony. 11 **Del.C.** §621.
- 8.1.11 Unlawfully administering drugs. 11 **Del.C.** §625.
- 8.1.12 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626.
- 8.1.13 Vehicular assault in the first degree. 11 **Del.C.** §629.
- 8.1.14 Vehicular homicide in the second degree. 11 **Del.C.** §630.
- 8.1.15 Vehicular homicide in the first degree. 11 **Del.C.** §630A.
- 8.1.16 Criminally negligent homicide. 11 **Del.C.** §631.
- 8.1.17 Manslaughter. 11 **Del.C.** §632.
- 8.1.18 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.
- 8.1.19 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
- 8.1.20 Murder in the second degree; class A felony. 11 **Del.C.** §635.
- 8.1.21 Murder in the first degree. 11 **Del.C.** §636.
- 8.1.22 Promoting suicide. 11 **Del.C.** §645.
- 8.1.23 Abortion. 11 **Del.C.** §651.
- 8.1.24 Incest. 11 **Del.C.** §766.
- 8.1.25 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.
- 8.1.26 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.
- 8.1.26 Rape in the fourth degree. 11 **Del.C.** §770.
- 8.1.27 Rape in the third degree. 11 **Del.C.** §771.
- 8.1.28 Rape in the second degree. 11 **Del.C.** §772.
- 8.1.29 Rape in the first degree. 11 **Del.C.** §773.
- 8.1.30 Sexual extortion. 11 **Del.C.** §776.
- 8.1.31 Bestiality. 11 **Del.C.** §777.
- 8.1.32 Continuous sexual abuse of a child. 11 **Del.C.** §778.
- 8.1.33 Dangerous crime against a child. 11 **Del.C.** §779.
- 8.1.34 Female genital mutilation. 11 **Del.C.** §780.
- 8.1.35 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.
- 8.1.36 Kidnapping in the second degree. 11 **Del.C.** §783.
- 8.1.37 Kidnapping in the first degree. 11 **Del.C.** §783A.
- 8.1.38 Arson in the third degree. 11 **Del.C.** §801.
- 8.1.39 Arson in the second degree. 11 **Del.C.** §802.
- 8.1.40 Arson in the first degree. 11 **Del.C.** §803.
- 8.1.41 Criminal mischief. 11 **Del.C.** §811.
- 8.1.42 Burglary in the third degree. 11 **Del.C.** §824.
- 8.1.43 Burglary in the second degree. 11 **Del.C.** §825.
- 8.1.44 Burglary in the first degree. 11 **Del.C.** §826.
- 8.1.45 Possession of burglar's tools or instruments facilitating theft. 11 **Del.C.** §828.
- 8.1.46 Robbery in the second degree. 11 **Del.C.** §831.
- 8.1.47 Robbery in the first degree. 11 **Del.C.** §832.
- 8.1.48 Carjacking in the second degree. 11 **Del.C.** §835.
- 8.1.49 Carjacking in the first degree. 11 **Del.C.** §836.
- 8.1.50 Shoplifting; felony. 11 **Del.C.** §840.

- 8.1.51 Use of illegitimate retail sales receipt or Universal Product Code Label; felony. 11 **Del.C.** §840A.
- 8.1.52 Extortion. 11 **Del.C.** §846.
- 8.1.53 Use, possession, manufacture, distribution and sale of unlawful telecommunication and access devices; felony. 11 **Del.C.** §850.
- 8.1.54 Receiving stolen property; felony. 11 **Del.C.** §851.
- 8.1.55 Identity theft. 11 **Del.C.** §854.
- 8.1.56 Possession of shoplifters tools or instruments facilitating theft. 11 **Del.C.** §860.
- 8.1.57 Forgery; felony; misdemeanor. 11 **Del.C.** §861.
- 8.1.58 Possession of forgery devices. 11 **Del.C.** §862.
- 8.1.59 Falsifying business records. 11 **Del.C.** §871.
- 8.1.60 Tampering with public records in the second degree. 11 **Del.C.** §873.
- 8.1.61 Tampering with public records in the first degree. 11 **Del.C.** §876.
- 8.1.62 Offering a false instrument for filing. 11 **Del.C.** §877.
- 8.1.63 Issuing a false certificate. 11 **Del.C.** §878.
- 8.1.64 Issuing a bad check; felony. 11 **Del.C.** §900.
- 8.1.65 Unlawful use of credit card; felony. 11 **Del.C.** §903.
- 8.1.66 Reencoder and scanning devices. 11 **Del.C.** §903A.
- 8.1.67 Deceptive business practices. 11 **Del.C.** §906.
- 8.1.68 Criminal impersonation. 11 **Del.C.** §907.
- 8.1.69 Criminal impersonation, accident related. 11 **Del.C.** §907A.
- 8.1.70 Criminal impersonation of a police officer. 11 **Del.C.** §907B.
- 8.1.71 Securing execution of documents by deception. 11 **Del.C.** §909.
- 8.1.72 Fraudulent conveyance of public lands. 11 **Del.C.** §911.
- 8.1.73 Fraudulent receipt of public lands. 11 **Del.C.** §912.
- 8.1.74 Insurance fraud. 11 **Del.C.** §913.
- 8.1.75 Health care fraud. 11 **Del.C.** §913A.
- 8.1.76 Use of consumer identification information. 11 **Del.C.** §914.
- 8.1.77 Home improvement fraud. 11 **Del.C.** §916.
- 8.1.78 New home construction fraud. 11 **Del.C.** §917.
- 8.1.79 Unauthorized access. 11 **Del.C.** §932.
- 8.1.80 Theft of computer services. 11 **Del.C.** §933.
- 8.1.81 Interruption of computer services. 11 **Del.C.** §934.
- 8.1.82 Misuse of computer system information. 11 **Del.C.** §935.
- 8.1.83 Destruction of computer equipment. 11 **Del.C.** §936.
- 8.1.84 Dealing in children. 11 **Del.C.** §1100.
- 8.1.85 Abandonment of child. 11 **Del.C.** §1101.
- 8.1.86 Endangering the welfare of a child. 11 **Del.C.** §1102.
- 8.1.87 Endangering the welfare of an incompetent person. 11 **Del.C.** §1105.
- 8.1.88 Sexual exploitation of a child. 11 **Del.C.** §1108.
- 8.1.89 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.
- 8.1.90 Possession of child pornography. 11 **Del.C.** §1111.
- 8.1.91 Sexual offenders; prohibitions from school zones. 11 **Del.C.** §1112.
- 8.1.92 Sexual solicitation of a child. 11 **Del.C.** §1112A.
- 8.1.93 Bribery. 11 **Del.C.** §1201.
- 8.1.94 Receiving a bribe; class E felony. 11 **Del.C.** §1203.
- 8.1.95 Improper influence. 11 **Del.C.** §1207.
- 8.1.96 Official misconduct. 11 **Del.C.** §1211.
- 8.1.97 Perjury in the second degree. 11 **Del.C.** §1222.
- 8.1.98 Perjury in the first degree. 11 **Del.C.** §1223.
- 8.1.99 Making a false written statement. 11 **Del.C.** §1233.
- 8.1.100 Wearing a disguise during the commission of a felony. 11 **Del.C.** §239.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8.1.121 Riot. 11 **Del.C.** §1302.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 8.1.152Unlawfully permitting a minor access to a firearm. 11 **Del.C.** §1456.
- 8.1.153Possession of a weapon in a Safe School and Recreation Zone. 11 **Del.C.** §1457.
- 8.1.154Removing a firearm from the possession of a law enforcement officer. 11 **Del.C.** §1458.
- 8.1.155Possession of a weapon with a removed, obliterated or altered serial number. 11 **Del.C.** §1459.
- 8.1.156Prohibited acts. cheating devices (a)-(e), second or subsequent offense. 11 **Del.C.** §1471.
- 8.1.157Organized Crime and Racketeering. 11 **Del.C.** §1504.
- 8.1.158 Victim or Witness Intimidation 11 **Del.C.** §3532 & 3533.
- 8.1.159Abuse, neglect, mistreatment or financial exploitation of residents or patients. 16 **Del.C.** §1136(a), (b) and (c).
- 8.1.160Prohibited acts A under the Uniform Controlled Substances Act. 16 **Del.C.** §4751(a), (b) and (c).
- 8.1.161Prohibited acts B under the Uniform Controlled Substances Act. 16 **Del.C.** §4752(a) and (b).
- 8.1.162Unlawful delivery of noncontrolled substance. 16 **Del.C.** §4752A.
- 8.1.163Trafficking 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).
- 8.1.164Possession and delivery of noncontrolled prescription drug. 16 **Del.C.** §4754A.
- 8.1.165Prohibited acts E under the Uniform Controlled Substances Act. 16 **Del.C.** §4755(a)(1) and (2).
- 8.1.166Prohibited acts under the Uniform Controlled Substances Act. 16 **Del.C.** §4756(a)(1)-(5) and (b).
- 8.1.167Hypodermic syringe or needle; delivering or possessing; disposal; 16 **Del.C.** §4757.
- 8.1.168Keeping drugs in original containers. 16 **Del.C.** §4758.
- 8.1.169Distribution to persons under 21 years of age. 16 **Del.C.** §4761.
- 8.1.170Purchase of drugs from minors. 16 **Del.C.** §4761A.
- 8.1.171Distribution, delivery, or possession of controlled substance within 1,000 feet of school property; penalties; defenses. 16 **Del.C.** §4767.
- 8.1.172Distribution, 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.
- 8.1.173Drug paraphernalia. 16 **Del.C.** §4771 (a) and (b).
- 8.1.174Possession, manufacture and sale, delivery to a minor and advertising of drug paraphernalia. 16 **Del.C.** §4774(a), (b), (c) (d).
- 8.1.175Operation 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).
- 8.1.176Attempt to evade or defeat tax. 30 **Del.C.** §571.
- 8.1.177Failure to collect or pay over tax. 30 **Del.C.** §572.
- 8.1.178Failure to file return, supply information or pay tax. 30 **Del.C.** §573.
- 8.1.179Fraud and false statements. 30 **Del.C.** §574.
- 8.1.180Obtaining benefit under false representation. 31 **Del.C.** §1003.
- 8.1.181Reports, statements and documents. 31 **Del.C.** §1004(1), (2), (3), (4), (5).
- 8.1.182Kickback schemes and solicitations. 31 **Del.C.** §1005.
- 8.1.183Conversion of payment. 31 §1006.
- 8.1.184Unlawful possession or manufacture of proof of insurance. 21 **Del.C.** §2118A.
- 8.1.185Temporary registration violations related to providing false information. 21 **Del.C.** §2133(a) (1)-(3).
- 8.1.186False statements. 21 **Del.C.** §2315.
- 8.1.187Altering 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.
- 8.1.188False statements; incorrect or incomplete information. 21 **Del.C.** §2620.
- 8.1.189License to operate a motorcycle, motorbike, etc. 21 **Del.C.** §2703.
- 8.1.190Issuance of a Level 1 Learner's Permit and Class D operator's license to persons under 18 years of age. 21 **Del.C.** §2710.
- 8.1.191Unlawful application for or use of license or identification card. 21 **Del.C.** §2751.
- 8.1.192False statements. 21 **Del.C.** §2752.
- 8.1.193Driving vehicle while license is suspended or revoked. 21 **Del.C.** §2756.
- 8.1.194Duplication, reproduction, altering, or counterfeiting of driver's licenses or identification cards. 21 **Del.C.** §2760(a) and (b).
- 8.1.195Driving after judgment prohibited. 21 **Del.C.** §2810.

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

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

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

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

8.1.200 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).

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

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

8.1.203 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).

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

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

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

8.1.207 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8.1.231 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).

8.1.232 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.

8.1.233 Operation of a Vessel or Boat while under the Influence of Intoxicating Liquor and/or Drugs. 23 **Del.C.** §2302 (3) and (4).

8.1.234 License Requirements. 24 **Del.C.** §901.

8.1.235 Sale to Persons under 21 or Intoxicated Persons. 24 **Del.C.** §903.

8.1.236 Failure to make Reports of Persons who are Subject to Loss of Consciousness. 24 **Del.C.** §1763.

8.1.237 [Interference] Relating to the Blind and "Seeing Eye Dogs". 31 **Del.C.** §2117.

8.1.238 Abuse, neglect, exploitation or mistreatment of infirm adult. 31 **Del.C.** §3913(a), (b) and (c).

- 8.2 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 (01/01/05)

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

9.0 Telehealth

- 9.1 Telehealth is the use of electronic communications to provide and deliver a host of health-related information and health-care services, including optometry-related information and services, over large and small distances. Telehealth encompasses a variety of health care and health promotion activities, including education, advice, reminders, interventions, and monitoring of interventions.

- 9.2 The Optometrist or Optometry Intern (referred to as "licensee" for the purpose of this Board Rule) who provides treatment through telehealth shall meet the following requirements:

9.2.1 Location of patient during treatment through telehealth

- 9.2.1.1 The licensee shall have an active Delaware license in good standing to practice telehealth in the state of Delaware.
- 9.2.1.2 Licensees understand that this rule does not provide licensees with authority to practice telehealth in service to clients located in any jurisdiction other than Delaware, and licensees bear responsibility for complying with laws, rules, or policies for the practice of telehealth set forth by other jurisdictional boards of optometry.
- 9.2.1.3 Licensees practicing telehealth shall comply with all of these rules of professional conduct and with requirements incurred in state and federal statutes relevant to the practice of optometry.

9.2.2 Informed consent

- 9.2.2.1 Before services are provided through telehealth, the licensee shall obtain written, informed consent from the patient, or other appropriate person with authority to make health care treatment decisions for the patient. At minimum, the informed consent shall inform the patient and document acknowledgment of the risk and limitations of:
- 9.2.2.1.1 The use of electronic communications in the provision of care;
- 9.2.2.1.2 The potential breach of confidentiality, or inadvertent access, of protected health information using electronic communication in the provision of care; and
- 9.2.2.1.3 The potential disruption of electronic communication in the use of telehealth.

- 9.2.3 Confidentiality: The licensee shall ensure that the electronic communication is secure to maintain confidentiality of the patient's medical information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws. Confidentiality shall be maintained through appropriate processes, practices and technology, including disposal of electronic equipment and data.

9.2.4 Competence and scope of practice

- 9.2.4.1 The licensee shall be responsible for determining and documenting that telehealth is an appropriate level of care for the patient.
- 9.2.4.2 The licensee shall comply with the Board's law and rules and regulations and all current standards of care requirements applicable to on-site care.
- 9.2.4.3 The licensee shall limit the practice of telehealth to the area of competence in which proficiency has been gained through education, training, and experience.
- 9.2.4.4 All evaluations, including initial evaluations, examination and refraction, and re-evaluations and scheduled discharges shall be performed face to face and not through telehealth or internet.
- 9.2.4.5 Telehealth does not include email message or facsimile transmission between the provider and patient, or an automated computer program or algorithm used to diagnose or treat ocular or refractive conditions. The means by which a patient receives a contact lens or eyeglass prescription must take place face-to-face in an exam room by the health care professional.

- ~~9.2.4.5~~ 9.2.4.6 The licensee shall document in the file or record which services were provided by telehealth.

2 DE Reg 85 (05/01/99)

4 DE Reg. 669 (10/01/00)

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

8 DE Reg. 1002 (01/01/05)

8 DE Reg. 1697 (06/01/05)

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

19 DE Reg. 204 (09/01/15)
20 DE Reg. 822 (04/01/17)
21 DE Reg. 690 (03/01/18) (Prop.)