

The Georgia State Board of Optometry met on **April 28, 2004** at the Professional Licensing Boards Division, 237 Coliseum Drive in Macon, Georgia for the purpose of conducting business.

Members Present:

- Kay F. Royal, O.D., President
- R. Whitman Lord, O.D., Vice President
- Dudley B. Christie, O.D.
- Robin McGhee, O.D.

Others Present:

- Anita O. Martin, Executive Director
- Lea F. Williams, Board Secretary
- Wylencia Monroe, Board Attorney
- Georgianne Bearden, Executive Director, GA Optometric Association
- Gerald Prchal, O.D., President, GA Optometric Association
- Donna Buck, Wal-Mart
- Andrea Clark, Wal-Mart

Dr. Royal established that a quorum was present, and called the Public Hearing to order in at 10:13 A.M.

Comments were heard from the GOA representatives and Dr. Kemp Jones' letter was considered regarding Rule 430-2-.04.

The Public Hearing adjourned at 11:05 A.M., and the meeting was called to order in OPEN SESSION at 11:10 A.M.

Proposed amendments to Rule 430-4-.01, Unprofessional Conduct: Dr. Lord motioned and Dr. McGhee seconded the motion to **adopt** the proposed amendments to Rule 430-4-.01. The motion was approved by the Board with all members in favor. (Attachment #3)

Proposed amendment to Rule 430-10-.03, Approved Therapeutic Drugs: Dr. Christie motioned and Dr. Lord seconded the motion to **adopt** the proposed amendment to Rule 430-10-.03. The motion was approved by the Board with all members in favor. (Attachment #2)

Proposed amendment to Rule 430-2-.04, Requirements, Approval of Educational Programs: Dr. Lord made a motion to **re-post** Rule 430-2-.04 as amended. The motion was seconded by Dr. McGhee and approved by the Board. (Attachment #4)

The Board voted that the formulation and adoption of these rules does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rules cannot be reduced by a less expensive alternative that fully accomplishes the objectives of the applicable laws as provided by the Attorney General's office.

The board also voted that it is not legal or feasible to meet the objectives of the applicable laws to adopt or implement differing actions for businesses as listed in O.C.G.A. §50-13-4(3)(A)(B)(C)(D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed, owned and operated in the field of Optometry.

Roster of New Licensees: Dr. McGhee made a motion to **approve** the roster. The motion was seconded by Dr. Christie and approved by the Board. (Attachment #1)

January 28, 2004 Board Minutes: Dr. Lord made a motion to **approve** the minutes as presented. The motion was seconded by Dr. McGhee and approved by the Board.

E-mail submitted by Todd Schonobrich, O.D.: Dr. Christie made a motion to **advise** Dr. Schonobrich that the Board is precluded from rendering legal opinions or interpretations of the laws and rules, and that the Board does not have jurisdiction over optical chains. The motion was seconded by Dr. McGhee and approved by the Board.

Query submitted by Judith Hendrickson, O.D. regarding on-line CPR courses: Dr. McGhee made a motion to **advise** Dr. Hendrickson on-line CPR courses would be accepted by the Board if the course is provided by the Red Cross or the American Heart Association. The motion was seconded by Dr. Lord and approved by the Board.

Query submitted by “Marcia” regarding notification requirements when closing a practice: Dr. Lord made a motion to **advise** that an announcement in the local paper should suffice, and to refer to Rule 430-4-.01. The motion was seconded by Dr. Christie and approved by the Board.

Query submitted by Laura Sims regarding the selling of patient records: Dr. McGhee made a motion to **advise** Mrs. Sims that patient records must be made available to the patient at a reasonable cost and within a reasonable timeframe. The motion was seconded by Dr. Christie and approved by the Board.

Dr. McGhee moved, Dr. Christie seconded, and the Board voted to enter into **EXECUTIVE SESSION** in accordance with O.C.G.A. §43-1-2(k) and §43-1-19(h) to deliberate on applications, receive enforcement’s, Board attorney’s and cognizants’ reports. Voting in favor of the motion were those present who included Board members Lord and Royal. The Board concluded Executive Session in order to vote on these matters and to continue with **OPEN SESSION**.

OPEN SESSION:

G.S.M.: Dr. Lord made a motion to **approve** the application for Endorsement. The motion was seconded by Dr. McGhee and approved by the Board.

B.G.S.: Dr. Christie made a motion to **approve** the application for licensure. The motion was seconded by Dr. McGhee and approved by the Board.

J.L.S.: Dr. McGhee made a motion to **approve** the application for Endorsement. The motion was seconded by Dr. Lord and approved by the Board.

N.A.P.: Dr. Christie made a motion to **approve** the application for licensure. The motion was seconded by Dr. McGhee and approved by the Board.

C.S.Y.: Dr. Lord made a motion to **approve** the application for Endorsement upon receipt of proof of passing an “exit” exam. The motion was seconded by Dr. Christie and approved by the Board.

H.H.B.: Dr. Christie made a motion to **approve** the application for licensure. The motion was seconded by Dr. McGhee and approved by the Board.

M.G.: Dr. Lord made a motion to **approve** the reinstatement application. The motion was seconded by Dr. Christie and approved by the Board.

Enforcement Report:

#01-044: Dr. Christie made a motion to **dismiss** the case. The motion was seconded by Dr. McGhee and approved by the Board.

#03-035: Dr. McGhee made a motion to **dismiss** the case. The motion was seconded by Dr. Christie and approved by the Board.

A & K Discount: Dr. Lord made a motion to **accept** the signed Cease & Desist Order, and **close** the case. The motion was seconded by Dr. McGhee and approved by the Board.

Beauty Collection Store: Dr. McGhee made a motion to **accept** the signed Cease & Desist Order and **close** the case. The motion was seconded by Dr. Lord and approved by the Board.

#04-006: Dr. Christie made a motion to **dismiss** the case. The motion was seconded by Dr. Lord and approved by the Board.

Beauty Magic Salon: Dr. Lord made a motion to **accept** the signed Cease & Desist Order and **close** the case. The motion was seconded by Dr. McGhee and approved by the Board.

Tokyo Wigs: Dr. Christie made a motion to **accept** the signed Cease & Desist Order and **close** the case. The motion was seconded by Dr. McGhee and approved by the Board.

#04-020: Dr. McGhee made a motion to **dismiss** the case. The motion was seconded by Dr. Lord and approved by the Board.

#04-021: Dr. Lord made a motion to **dismiss** the case. The motion was seconded by Dr. Christie and approved by the Board.

Cognizant Report:

#04-016: Dr. Lord made a motion to **dismiss** the case. The motion was seconded by Dr. McGhee and approved by the Board.

#04-018: Dr. McGhee made a motion to **dismiss** the case. The motion was seconded by Dr. Christie and approved by the Board.

#02-019: Dr. Christie made a motion to **dismiss** the case. The motion was seconded by Dr. Lord and approved by the Board.

#04-013: Dr. Lord made a motion to **dismiss** the case. The motion was seconded by Dr. Christie and approved by the Board.

#04-019: Dr. Christie made a motion to **dismiss** the case with a strong Letter of Concern. The motion was seconded by Dr. Lord and approved by the Board.

#04-023: Dr. McGhee made a motion to **dismiss** the case. The motion was seconded by Dr. Lord and approved by the Board.

#04-022: Dr. McGhee made a motion to **dismiss** the case. The motion was seconded by Dr. Christie and approved by the Board.

Attorney General's Report:

#02-024: Mrs. Monroe presented the counter-offer from the respondent's counsel. The Board voted unanimously to send a revised consent order to include the following stipulations:

- 30 Days Suspension
- \$2500.00 Fine
- 5 Years Probation
- 8 Extra Hours of Continuing Education
- The Board is to have access to respondent's patient files/records for review during probation period.

Mrs. Monroe presented her advice regarding The Fairness to Contact Lens Consumers Act.

There being no further business to come before the Board, the meeting was adjourned at 1:45 P.M. on April 28, 2004.

April 28, 2004 minutes prepared by Board Secretary, **Lea Williams**, and reviewed by Executive Director, **Anita Martin**.

Kay F. Royal, O.D., Board President

Mollie Fleeman, Division Director

	NEWLY LICENSED OPTOMETRISTS	
	February 3, 2004 through March 8, 2004	
License #	Name	Issue Date
OPT002147	Marzec, Anna	02 / 03 / 2004
OPT002148	Cohen, Michael L.	03 / 03 / 2004
OPT002149	Graves, Lyndon Jay	03 / 08 / 2004

**NOTICE OF INTENT TO ADOPT A PROPOSED
AMENDMENT TO THE GEORGIA STATE BOARD OF OPTOMETRY RULES
RULE 430-10-.03, APPROVED THERAPEUTIC DRUGS,
AND NOTICE OF PUBLIC HEARING**

TO ALL INTERESTED PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia State Board of Optometry (hereinafter "Board") proposes an amendment to the Georgia State Board of Optometry Rules, Rule 430-10-.03, Approved Therapeutic Drugs, (herein after "proposed rule amendment"). The proposed rule amendment adds epinastine to the drug formulary.

This notice, together with an exact copy of the proposed rule amendment and a synopsis of the proposed rule amendment, is being mailed to all persons who have requested, in writing, that they be placed on a mailing list. A copy of this notice, an exact copy of the proposed rule amendment, and a synopsis of the proposed rule amendment may be reviewed during normal business hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, except official State holidays, at the Office of the Secretary of State, Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia 31217. Copies may also be requested by contacting the Board office at (478) 207-1686.

A public hearing will be held at 10:00 a.m. on April 14, 2004, at the Secretary of State's Professional Licensing Boards Division, 237 Coliseum Drive in Macon, Georgia 31217 to provide the public an opportunity to comment upon and provide input into the proposed rule amendment.

At the public hearing anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for official record. Oral statements should be presented in writing. Written comments are welcome. Such written comments must be legible and signed, should contain contact information from the maker (address, telephone number and/or facsimile number, etc.) and be actually received in the office prior to the close of business (5:00 P.M.) on April 7, 2004. Written comments should be addressed to Mollie L. Fleeman, Division Director, Secretary of State, Professional Licensing Boards Division, Georgia State Board of Optometry, 237 Coliseum Drive, Macon, Georgia 31217. Telephone (478) 207-1686 or fax (478) 207-1699.

The Board will consider the proposed rule amendment for adoption at a meeting via conference call scheduled to begin at 10:05 a.m. on April 14, 2004 at the Secretary of State's Professional Licensing Boards Division, 237 Coliseum Drive in Macon, Georgia 31217. According to the Department of Law, State of Georgia, the Georgia State Board of Optometry has the authority to adopt a proposed rule amendment to Rule 430-10-.03 pursuant to authority contained in O.C.G.A. §§ 43-30-5, 43-30-1(2)(B).

At its meeting on January 28, 2004 the Georgia State Board of Optometry voted that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.G.C.A. §§ 43-30-5, 43-30-1(2)(B).

Additionally, at the meeting, the Board voted that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-30-5, 43-30-1(2)(B) to adopt or implement differing actions for businesses as listed in

O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed, owned and operated in the field of optometry.

For further information, contact the Board office at (478) 207-1686.

This notice is given in compliance with O.C.G.A. § 50-13-4.

This the **9th** day of **March**, 2004.

Mollie L. Fleeman
Division Director
Professional Licensing Boards Division

Posted: **March 10, 2004**

**SYNOPSIS OF PROPOSED REVISIONS TO THE
GEORGIA STATE BOARD OF OPTOMETRY RULES
RULE 430-10-.03, APPROVED THERAPEUTIC DRUGS.**

PURPOSE: The purpose of the proposed rule amendment is to add the drug epinastine to the drug formulary.

MAIN FEATURES: The main feature of the proposed rule amendment is to add the drug epinastine to the drug formulary.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED
AMENDMENTS TO THE GEORGIA STATE BOARD OF OPTOMETRY RULES RULE 430-
10-.03, APPROVED THERAPEUTIC DRUGS.**

NOTE: Underlined text is proposed to be added; lined through text is proposed to be deleted.

Rule 430-10-.03, Approved Therapeutic Drugs, is hereby revised as follows:

**RULES OF
GEORGIA STATE BOARD OF OPTOMETRY
CHAPTER 430-10
CERTIFICATION FOR USE OF THERAPEUTIC AGENTS**

TABLE OF CONTENTS

430-10-.03 Approved Therapeutic Drugs.

(1) The following pharmaceutical agents may be used for treatment purposes, including ocular pain, by any doctor of optometry who has been certified pursuant to O.C.G.A. § 43-30-1(2)(A) to use pharmaceutical agents for treatment purposes:

- (a) acetaminophen;
- (b) acyclovir;
- (c) antazoline;
- (d) atropine;
- (e) apraclonidine;
- (f) aspirin;
- (g) azelastine;
- (h) bacitracin - in ophthalmic compounds;
- (i) betaxolol;
- (j) bichloroacetic acid;
- (k) bimatoprost;
- (l) brinzolamide;
- (m) brimonidine;
- (n) caffeine;
- (o) calcium chloride
- (p) carbachol;
- (q) carboxymethylcellulose
- (r) carteolol;

(s) chlortetracycline;
 (t) ciprofloxacin;
 (u) codeine;
 (v) cromolyn sodium;
 (w) cyclopentolate;
 (x) cyclosporine;
 (y) dapiprazole;
 (z) demecarium;
 (aa) dexamethasone;
 (bb) dextran
 (cc) diclofenac;
 (dd) dihydrocodeine;
 (ee) dipivefrin;
 (ff) dorzolamide;
 (gg) echothiophate;
 (hh) emedastine;
 (ii) epinastine;
 (iii) epinephrine;
 (jjkk) epinephryl borate;
 (kkll) erythromycin;
 (llmm) fenoprofen;
 (mmnn) fluorometholone;
 (nnoo) gatifloxacin;
 (oopp) gentamicin;
 (ppqq) glycerin;
 (qqrr) gramicidin;
 (rrss) homatropine;
 (sstt) hydrocodone;
 (ttuu) hydrocortisone - in ophthalmic compounds;
 (uuvv) hydroxyethylcellulose
 (vwxx) hydroxypropyl methylcellulose;
 (wwxx) ibuprofen;
 (xyyy) idoxuridine;
 (yyzz) isofluorophate;
 (zzaaa) ketoprofen;
 (aaabbb) ketorolac tromethamine;
 (bbbccc) ketotifen fumarate;
 (eedddd) latanoprost;
 (dddeee) levobetaxolol;
 (eeffff) levobunolol;
 (ffgggg) levofloxacin;
 (ggghhh) levocabastine HCl;
 (hhhhh) lodoxamide;
 (iiiiii) loteprednol;
 (jjkkkk) medrysone;
 (kkkkll) mafenamic acid;
 (llmmmm) methylcellulose
 (mmmmnn) metipranolol;
 (nnnooo) metronidazole;
 (ooppoo) mineral oil;
 (ppppqq) moxifloxacin;
 (qqqqrr) naloxone;
 (rrssss) naphazoline;
 (sssttt) naproxen;
 (ttuuuu) naproxen sodium;
 (uuvvvv) natamycin;
 (vvvwww) nedocromil;
 (wwwxxx) neomycin;
 (xxxyyy) norfloxacin;

(~~yyy~~zzz) ofloxacin;
 (~~zzz~~aaaa) olopatadine;
 (~~aaa~~bbb) oxytetracycline;
 (~~bbb~~ccc) pemirolast;
 (~~eee~~ddd) pentazocine;
 (~~ddd~~eee) pheniramine;
 (~~eee~~fff) physostigmine;
 (~~fff~~ggg) pilocarpine;
 (~~ggg~~hhh) polycarbophil
 (~~hhh~~iii) polysorbate 80
 (~~iii~~jjj) Polymyxin B;
 (~~jjj~~kkk) polyvinyl alcohol
 (~~kkk~~lll) prednisolone;
 (~~lll~~mmm) proethylene glycol
 (~~mmm~~nnn) propoxyphene;
 (~~nnn~~ooo) pyriformin - in ophthalmic compounds;
 (~~ooo~~ppp) propylene glycol
 (~~ppp~~qqq) rimexolone;
 (~~qqq~~rrr) scopolamine;
 (~~rrr~~sss) sodium chloride;
 (~~sss~~ttt) sulfacetamide sodium;
 (~~ttt~~uuu) sulfisoxazole diolamine;
 (~~uuu~~vvv) suprofen;
 (~~vvv~~www) tetracycline;
 (~~www~~xxx) timolol;
 (~~xxx~~yyy) tobramycin;
 (~~yyy~~zzz) tramadol;
 (~~zzz~~aaaa) travoprost;
 (~~aaaa~~bbb) trifluoridine;
 (~~bbb~~ccc) trimethoprim;
 (~~ccc~~ddd) unoprostone;
 (~~ddd~~eee) vidarabine;
 (~~eee~~fff) white petrolatum.

(2) An optometrist certified to use therapeutic agents pursuant to O.C.G.A. § 43-30-1(2)(A), shall only use those agents as authorized under O.C.G.A. § 43-30-1(2)(D)(E) and (F). A doctor of optometry shall not administer any pharmaceutical agent by injection.

(3) The therapeutic agents listed in subparagraph (1) above to be used as an oral analgesic for ocular pain may include Schedule III or Schedule IV.

Authority: O.C.G.A. §§ 43-30-1(2)(B) and 43-30-5.

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At the public hearing anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for official record. Oral statements should be presented in writing. Written comments are welcome. Such written comments must be legible and signed, should contain contact information from the maker (address, telephone number and/or facsimile number, etc.) and be actually received in the office prior to the close of business (5:00 P.M.) on April 7, 2004. Written comments should be addressed to Mollie L. Fleeman, Division Director, Secretary of State, Professional Licensing Boards Division, Georgia State Board of Optometry, 237 Coliseum Drive, Macon, Georgia 31217. Telephone (478) 207-1686 or fax (478) 207-1699.

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At its meeting on January 28, 2004 the Georgia State Board of Optometry voted that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.G.C.A. §§ 43-1-19, 43-1-25, 43-30-5 and 43-30-9.

Additionally, at the meeting, the Board voted that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-1-19, 43-1-25, 43-30-5 and 43-30-9 adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed, owned and operated in the field of optometry.

For further information, contact the Board office at (478) 207-1686.

This notice is given in compliance with O.C.G.A. § 50-13-4.

This the **9th** day of **March**, 2004.

Mollie L. Fleeman
Division Director
Professional Licensing Boards Division

Posted: **March 10, 2004**

**SYNOPSIS OF PROPOSED REVISIONS TO THE
GEORGIA STATE BOARD OF OPTOMETRY RULES
RULE 430-4-.01, UNPROFESSIONAL CONDUCT.**

PURPOSE: The purpose of the proposed rule amendment is to provide guidelines pertaining to the release of patient records.

MAIN FEATURES: The main feature of the proposed rule amendment is to provide guidelines pertaining to the release of patient records.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED
AMENDMENTS TO THE GEORGIA STATE BOARD OF OPTOMETRY RULES RULE 430-
4-.01,
UNPROFESSIONAL CONDUCT.**

NOTE: Underlined text is proposed to be added; lined through text is proposed to be deleted.

**Rule 430-4-.01, Unprofessional Conduct is hereby revised as follows:
430-4-.01 Unprofessional Conduct. Amended.**

- (1) By the authority granted under Section 43-30-5 of the Official Code of Georgia Annotated, the Georgia Board of Examiners in Optometry has the authority to adopt, establish, enforce, and maintain rules and regulations applicable to the practice of optometry adequate to put O.C.G.A. Chapter 30, Title 43 into effect and to regulate the practice of optometry as a profession in conformity with and in compliance with accepted professional standards.
- (2) Any one or all of the following acts committed by a doctor of optometry licensed in Georgia are in violation of the accepted professional standards for the practice of optometry in this State and shall constitute "unprofessional conduct" within the meaning of the O.C.G.A. Section [43-30-9](#), as amended:
 - (a) Continuing to practice optometry while suffering from any physical or mental disease or disability which renders the further practice of optometry dangerous to patients or the public;
 - (b) Habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to render the licensed doctor of optometry unfit for the careful performance of his professional duties;
 - (c) The intentional making of any fraudulent, misleading, or deceptive statement in any form of advertising connected with the practice of optometry, including but not limited to the tactic of 'bait and switch', whereby a product or service is advertised for a specific price but the consumer must in fact purchase additional products or product or service previously advertised;
 - (d) Making untruthful or improbable statements or flamboyant or extravagant claims concerning the licensed doctor of optometry's skills which are likely to deceive the public;
 - (e) Assisting any person other than another licensed doctor of optometry or a doctor of medicine skilled in diseases of the eyes in the prescribing or fitting of a contact lens for a patient, unless the person so assisted is under his direct, personal supervision while upon the same premises. In releasing a prescription for contact lens all parameters necessary for fabrication of the lens must be included;
 - (f) Practicing or continuing to practice optometry under, or use in connection with his practice of optometry, any assumed name, corporate name, trade name, or any name other than the name under which he is licensed to practice optometry in Georgia except under the following conditions:

1. When doctors of optometry are practicing as partners, they may practice under the full or last names of the partners. Doctors of optometry who are employed by other doctors of optometry shall practice in their own names, but may practice in an office listed under the name of the individual or partnership of doctors of optometry by whom they are employed, provided, however, that their names shall be displayed in a manner similar to the other doctors of optometry in the practice. In the event of the death or retirement of a doctor of optometry or sale of the optometric practice, the surviving doctor or doctors or the purchaser of the practice may continue to use the name of the predecessor in addition to his own name for a period not to exceed two (2) years from the death or retirement of said predecessor. This rule shall not be construed to authorize conduct otherwise prohibited by the Patient Self-Referral Act, codified at O.C.G.A. 43-1B-1 et seq.

(g) Publicly displaying of the licensed doctor of optometry's name upon or in any premises used for the practice of optometry, unless a licensed doctor of optometry is actually present at times optometric services are provided and unless such licensed doctor of optometry is in the practice of optometry at such premises for a minimum of four (4) hours per week;

(h) Failing to advise each patient whenever consultation with an optometric colleague or referral for other professional care seems advisable;

(i) Failing to hold in professional confidence all information concerning a patient;

(j) Exaggerating the patient's condition for the purpose of prescribing or dispensing unnecessary optometric services;

(k) Performing any dishonorable, unethical or unprofessional conduct likely to deceive, defraud or harm the public;

(l) Consistently misdiagnosing or consistently prescribing improper therapy;

(m) Violating, attempting to violate, or conspiring to violate any provision of the laws or rules pertaining to the practice of optometry in this State;

(n) Failing to provide adequate safeguards against patient abandonment. For purposes of this Rule, an optometrist shall be deemed to have provided such safeguards if he/she:

1. makes himself/herself available for twenty-four (24) hour access;

2. arranges alternative coverage by a licensed practitioner or other appropriate healthcare facility; or

3. advises prospective patients, in writing, at the time of their first visit that it is his/her policy not to be available during non-office hours;

(o) Assisting, allowing, or permitting an unlicensed person, firm, association or corporation to practice optometry in this State;

(p) Accepting any direct or indirect payment, gift, or other remuneration of any optometric service not actually rendered;

(q) Placing his license at the disposal or in the service or control of any person, firm, association or corporation not licensed to practice optometry in this State;

(r) Entering into any agreement that allows an unlicensed person, firm, association, or corporation to control or attempt to control the professional judgment, the manner of practice, or the practice of a doctor of optometry. For purposes of this section, "control or attempt to control the professional judgment, the manner of practice, or the practice of the doctor of optometry" shall include but not be limited to:

1. setting or attempting to influence the professional fees of a doctor of optometry;
2. restricting or attempting to restrict a doctor of optometry's freedom to see patients on an appointment basis;
3. terminating or threatening to terminate any lease, agreement, or other relationship in an effort to control the professional judgment, manner of practice, or practice of a doctor of optometry;
4. making or guaranteeing a loan to a doctor of optometry in excess of the value of the collateral securing the loan;
5. agreeing to divide or split fees received for professional services with any person, firm, association, or corporation for the solicitation or referral of a patient, provided that the following acts shall not be construed as unprofessional conduct under this regulation unless the person, firm, association, or corporation controls or attempts to control the practice of the doctor of optometry:
 - (i) entering into a bona fide lease or rental agreement based upon a percentage of gross income;
 - (ii) advertising in a truthful, non-deceptive manner, or paying for such advertising based upon a percentage of gross income, as long as such advertising otherwise complies with Rules [430-4-.01](#)(2)(c), (d) and (f) and other applicable statutes and regulations.
 - (iii) nothing in this rule shall be construed to prohibit professional relationships between optometrists, medical doctors, health maintenance organizations and/or hospitals. This rule shall not be construed to authorize conduct otherwise prohibited by the Patient Self-Referral Act, codified at O.C.G.A. [43-1B-1](#) et seq.
- (s) It is the intent of subsection (r) to prevent manufacturers, wholesalers, or retailers of optical goods from controlling or attempting to control the professional judgment, manner of practice or the practice of a doctor of optometry, and the provisions of this section shall be liberally construed to carry out this intent.
- (t) Subsection (r) shall not apply where the manufacturer, wholesaler, or retailer of ophthalmic goods is a licensed doctor of optometry or a licensed physician or legal entity 100 percent owned and controlled by one or more licensed doctors of optometry or licensed physicians; however, the exception set forth in this subsection shall not apply where the doctor of optometry or legal entity has offices at more than three (3) locations.
- (u) Failing to release patient records within a reasonable period of time to a Physician or another Doctor of Optometry upon written authorization from the patient.
 1. The patient shall be responsible to pay the costs of search, retrieval, copying and mailing the patient record.
- (3) No optometrist, or employee or agent thereof acting on his behalf, shall offer, agree to accept, or receive compensation in any form for the referral of professional services to or from another health care provider or entity. This prohibition includes any form of fee division or charging of fees for the referral of a patient.

O.C.G.A. §§ 43-1-19, 43-1-25, 43-30-5, and 43-30-9

**NOTICE OF INTENT TO ADOPT A PROPOSED
AMENDMENT TO THE GEORGIA STATE BOARD OF OPTOMETRY RULES
RULE 430-2-.04, REQUIREMENTS; APPROVAL OF EDUCATIONAL PROGRAMS AND
NOTICE OF PUBLIC HEARING**

TO ALL INTERESTED PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia State Board of Optometry (hereinafter "Board") proposes an amendment to the Georgia State Board of Optometry Rules, Rule 430-2-.04, Requirements; Approval of Educational Programs, to be titled Continuing Education Requirements; Approval of Educational Programs (herein after "proposed rule amendment").

This notice, together with an exact copy of the proposed rule amendment and a synopsis of the proposed rule amendment, is being mailed to all persons who have requested, in writing, that they be placed on a mailing list. A copy of this notice, an exact copy of the proposed rule amendment, and a synopsis of the proposed rule amendment may be reviewed during normal business hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, except official State holidays, at the Office of the Secretary of State, Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia 31217. Copies may also be requested by contacting the Board office at (478) 207-1686.

A public hearing will be held at 10:00 a.m. on July 7, 2004, at the Secretary of State's Professional Licensing Boards Division, 237 Coliseum Drive in Macon, Georgia 31217 to provide the public an opportunity to comment upon and provide input into the proposed rule amendment.

At the public hearing anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for official record. Oral statements should be presented in writing. Written comments are welcome. Such written comments must be legible and signed, should contain contact information from the maker (address, telephone number and/or facsimile number, etc.) and be actually received in the office prior to the close of business (5:00 P.M.) on June 30, 2004. Written comments should be addressed to Mollie L. Fleeman, Division Director, Secretary of State, Professional Licensing Boards Division, Georgia State Board of Optometry, 237 Coliseum Drive, Macon, Georgia 31217. Telephone (478) 207-1686 or fax (478) 207-1699.

The Board will consider the proposed rule amendment for adoption at a meeting scheduled to begin at 10:05 a.m. on July 7, 2004 at the Secretary of State's Professional Licensing Boards Division, 237 Coliseum Drive in Macon, Georgia 31217. According to the Department of Law, State of Georgia, the Georgia State Board of Optometry has the authority to adopt a proposed rule amendment to Rule 430-2-.04 pursuant to authority contained in O.C.G.A. §§ _____.

At its meeting on April 28, 2004 the Georgia State Board of Optometry voted that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.G.C.A. §§ _____.

Additionally, at the meeting, the Board voted that it is not legal or feasible to meet the objectives of O.C.G.A. §§ _____ to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed, owned and operated in the field of optometry.

For further information, contact the Board office at (478) 207-1686.

This notice is given in compliance with O.C.G.A. § 50-13-4.

This the _____ day of _____, 2004.

Mollie L. Fleeman
Division Director
Professional Licensing Boards Division

Posted: _____

**SYNOPSIS OF PROPOSED REVISIONS TO THE
GEORGIA STATE BOARD OF OPTOMETRY RULES
RULE 430-2-.04, REQUIREMENTS; APPROVAL OF EDUCATIONAL PROGRAMS TO BE
TITLED CONTINUING EDUCATION REQUIREMENTS;
APPROVAL OF EDUCATIONAL PROGRAMS.**

PURPOSE: The purpose of the proposed rule amendment is to change the title, provide additional blanket approval for continuing education programs provided at Georgia medical colleges, limit the number of lasik-related courses, and make an address correction.

MAIN FEATURES: The main feature of the proposed rule amendment is to change the title, provide additional blanket approval for continuing education programs proved at Georgia medical colleges, limit the number of lasik-related courses, and make an address correction.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED
AMENDMENTS TO THE GEORGIA STATE BOARD OF OPTOMETRY RULES RULE 430-
2-.04, REQUIREMENTS; APPROVAL OF EDUCATIONAL PROGRAMS TO BE TITLED
CONTINUING EDUCATION REQUIREMENTS;
APPROVAL OF EDUCATIONAL PROGRAMS.**

NOTE: Underlined text is proposed to be added; lined through text is proposed to be deleted.

Rule 430-2-.04, Requirements; Approval of Educational Programs is hereby revised as follows:

430-2-.04 Continuing Education Requirements; Approval of Educational Programs.

(1) The Board has pre-approved continuing education (post-graduate) courses from schools and colleges of optometry accredited by the Council on Optometric Education of the American Optometric Association; a maximum of four (4) hours in ophthalmically related courses taught by the Medical College of Georgia, Emory University, Mercer University and Morehouse College; any courses offered by the American Optometric Association or its regional or state affiliates; the Society of Professional Optometrists of Georgia; the Council on Optometric Practice Education (C.O.P.E.) and any courses approved by C.O.P.E. All pre-approved continuing education providers must give notification of their courses on a timely basis to all Georgia Optometrists. Any other individual or organization desiring Board approval of an educational program sponsored by the individual or organization, or particular segments of such a program shall submit a request for approval to the State Board of Optometry, ~~466 Pryor Street, SW, Atlanta, Georgia 30303,~~ 237 Coliseum Drive, Macon, Georgia 31217 not later than thirty (30) days prior to the scheduled date of such program. The Board will act on such request within thirty (30) days after receipt of the request for approval. Any request for Board approval of an educational program must include the following information:

(a) The identity of the sponsor, including:

1. The name and address of the sponsoring individual(s) or organization and a description of any organizational form (e.g., unincorporated association, non-profit corporation, etc.) and the date of organization;
2. The name and address of the principal officers of the sponsor.

(b) A description of the program, including:

1. With respect to each course for which approval is sought:

(i) the name and address of the instructor;

- (ii) the title of the course;
 - (iii) a brief biographical sketch of the instructor including a detailed description (curriculum vitae) of his/her academic qualifications and a listing of prior publications including published speeches, which relates to the subject matter of the course;
 - (iv) an outline of the proposed content;
 - (v) the number of hours for which approval is requested, including a specification of those hours relating to practice management.
2. The scheduled time and place of the course;
 3. A description of the method by which course attendance is to be monitored;
 4. The amount of any registration fee, tuition or other charge for attendance, including a statement of any difference in such charges, which depend on membership in the sponsoring organization;
 5. A sample of any advertisement or announcement intended to be employed concerning the program.
- (c) Such additional information as the Board may request in the course of its deliberations concerning the application for approval.
- (2) The following course content will not satisfy the continuing education requirement:
- (a) Courses dealing with social and health trends;
 - (b) Any course unrelated to or not designed to enhance the professional skill of the practitioner;
 - (c) Courses conducted by any individual who is the owner of or is directly connected with any optical wholesale concern unless approved by the Board.
- (3) A doctor of optometry is expected to ascertain in advance that the courses, which he/she attends, have received prior Board approval and do not fall within the exceptions of sub-part (2).
- (4) Board approval of any educational program under this section relates to the program as proposed to the Board. In the event the actual program does not substantively correspond to the proposed program approved by the Board, the board will not give credit for that program under Code Section 43-30-8. The Board will not consider for approval the program as modified.
- (5) Minimum hours required. Unless the Board gives written notice to each licensed doctor of Optometry prior to February 1 of the applicable year, the minimum number of hours of attendance at Board approved education programs required for biennial renewal of license shall be 36. However, new licensees shall be required to obtain the following number of hours: none (0) in the first calendar year of licensure, 18 in the second calendar year of licensure, 36 per biennium beginning in the third calendar year of licensure. After the first calendar year of licensure, courses related to practice management shall be restricted to 4 hours biennially and must be related to patient care. After the first calendar year of licensure, of the total hours required, licensees practicing within the State shall obtain one (1) hour biennially of prior approved Georgia Optometric Jurisprudence ethics and jurisprudence. A maximum of 8 hours per biennium will be allowed as continuing education credit for grand rounds. One hour credit will be allowed for every 2 hours spent in grand rounds.
- (a) Within the 36 or 18 hours, whichever is required, licensees practicing within the State shall obtain one (1) hour biennially of prior approved ethics and jurisprudence. ~~Georgia Optometric Jurisprudence. Georgia Optometric Jurisprudence required by these rules must be presented by a current Board Member~~

~~or someone designated by the Board.~~ Georgia licensed optometrists that are not practicing within the state are not required to earn the one hour of Georgia Optometric Jurisprudence.

(b) A maximum of ~~eight (8)~~(8) hours per biennium will be allowed as continuing education credit for grand rounds. One (1) hour credit will be allowed for every two (2) hours spent in grand rounds. A maximum of four (4) hours per biennium will be allowed for continued education credit for lasik-related courses.

(c) A maximum of six (6) hours of continuing education credit will be allowed per biennium for any coursework that is offered by correspondence or electronic medium, which coursework is approved or sponsored by any provider identified in subparagraph (1) of this Rule.

(d) A maximum of three (3) hours of continuing education credit will be allowed per biennium for any Georgia licensed optometrist who works as an examiner with the National Board of Examiners in Optometry or its successor organization.

(6) Reporting and Auditing. The method of reporting and auditing continuing education shall be:

(a) At the time of license renewal, each Optometrist shall certify to the Board that he/she has completed the continuing education required for license renewal.

(b) The staff of the Professional Licensing Boards shall audit the continuing education of a percentage of licensees for compliance with all rules and regulations. This percentage shall not exceed 20% of the licensed Optometrist, randomly selected, in the State per biennium.

(c) Each licensed Optometrist shall maintain records of attendance and supporting documents for continuing education for a period of three (3) years from the date of attendance.

(d) Deferral of the requirement for education program hours may be considered by the Board. Requests for deferral must be submitted to the Board in writing and should include complete documentation of the reasons for the request. Deferral will be considered for the following reasons:

1. certified illness; and

2. hardship.

O.C.G.A. §§ _____.