



# Board of Examiners in Optometry

## February 2018 Newsletter

### Board Basics Part II

Being a Board member means routinely getting asked questions with the most common one being, “Why doesn’t the Board do something about that?” This Board Basics is not intended to specifically answer any particular question, but to give you an understanding as to what answering a question entails.

Most questions come to the Board via email, some by phone, and a few directly to a Board member. If you have asked a question in person, Board members might not answer right away and instead contact you later. The reason for this is simple; the answer must be accurate. Kansas Rules and Regulations (guidance written by KSSBEO) and Kansas statutes (laws passed by the state government) are specific and need to be referenced before responding to a question. Email or phone questions go through the same process of review and may take the same amount of time for a response.

It is important to remember that KSSBEO does not have sole regulatory authority in all matters related to optometry. Some aspects of contact lenses and prescription medications are under the purview the Board of Healing Arts or the Kansas Board of Pharmacy respectively. Questions posed to the Board that require inter-agency review will take longer for an answer. Since additional agencies are involved, the process slows down; all Board members eventually learn that the wheels of government turn slowly, except when they don’t.

Is there a pothole on a road near your home? How long has it been there? Have you reported it to the appropriate federal, state, county, or city government? If not, the pothole will remain and that represents the wheels of government turning slowly. Compare that to the morning I approached a bend in a highway where several cars were parked on the side while their driver’s walked around them. As I moved towards the left lane to avoid the activity, I noticed that all of the cars had a flat tire. Apparently a pothole had suddenly enlarged flattening the tire of any car that struck it. A few days later, I drove on the same highway, but no road hazard was visible. What likely happened is that the Kansas Highway Patrol came to the scene and contacted the Kansas Department of Transportation which immediately made the repair; those are the wheels of government turning quickly.

What do potholes and asking questions to Board members have in common? Both are part of the government and only situations that get their attention get the wheels to turn. Many licensees have experienced problems worthy of a complaint to the FDA, Kansas Attorney General, Kansas Board of Healing Arts, or KSSBEO, but might not send one. Perhaps it is time involved, not wanting to list their name, or believing that someone else has probably already submitted a complaint, but either way, agencies capable of responding to a problem, that are unaware of them, will not take action; the wheels turn slowly. Meanwhile situations generating attention are more likely to have regulatory agencies use their resources to address them and the

wheels turn quickly.

Gerard Lozada, O.D.  
KSSBEO Vice President

## Paperless Renewals

Beginning in 2018, Renewals will be paperless. The Board paid for a year subscription to the OE tracker for everyone. All CE should be in the OE tracker which is automatically downloaded into the Board's licensing portal. All renewal certificates will be emailed to the email address we have on file in the database. If you need a renewal certificate mailed to you, you will need to contact the office.

## Updates to the Licensing Program

The Education page in the licensing portal is also being updated. It will now total live and non-live CE. Remember, 16 hours of the required 24 hours each year must be 'LIVE'. Live hours are those that you can reach out and touch the instructor, live webinars do not count towards the live hours.

## Patients Needed

If your practice is in Lawrence or close: The Board is looking for interesting patient cases for the annual practical exam which will be held on June 9, 2018, at Lawrence Family Vision Clinic, 3111 W 6<sup>th</sup> St, Lawrence. The Board compensates each patient \$150 for their time, and provides a continental breakfast and lunch the day of the exam. Approximate hours will be 7:30 am – 12:00 pm.

We encourage you to consider patients who have either a commonplace or rare/atypical

condition. If you have any patients you think would be a good fit, please email the Board at [kssbeo@ks.gov](mailto:kssbeo@ks.gov), and include the diagnosis in the email. If the Board selects your patient, we will ask for your patient's name and address at that time.

## Contact Lens Verification Requests

The Fairness In Contact Lens Consumers Act (FCLCA) was passed by Congress in 2004. At the time, the intent was to provide patients with the option to purchase contact lenses, from any distributor of their choosing, and to regulate that process. The act set up how a distributor would verify a patient's prescription and how doctors were to respond. In an attempt to promote additional regulation to the market, Kansas statute 65-4967 was passed. For the purpose of this bulletin, section b) below is applicable:

**KSA 65-4967 b)** *No person dispensing contact lenses as defined under subsection (a) may dispense contact lenses to Kansas residents unless such person meets the criteria of this section, is registered under this section and pays the annual registration fee set by the state board of healing arts. Registration fees shall not exceed the annual fee for an initial or renewal permit to practice optometry in this state as provided in K.S.A. 65-1505, and amendments thereto.*

When a contact lens verification is received, the practice has 8 business hours to respond to the request. If no response is sent, FCLCA allows the distributor to assume that the information is correct and to fill the prescription. This means that any practice receiving a request for a patient with an expired prescription, or even for someone who is not a patient of the

practice, that does not reply allows the distributor to legally fill that prescription. The key point is that all verification requests must be given a response within 8 business hours.

Before responding, it is important to completely read the entire verification request. Some contact lens distributors have sent requests that once verified, extends the expiration date by an additional year, allow providing colored contact lenses, or permit a brand change should the prescribed lens not be in stock. If such a verification is authorized and a patient is refit in a poorly fitting contact lens that produces an ocular complication, the doctor could legally become responsible for the complication because the change was authorized. When such requests are received, the practice must deny changes that are not in the best interest of the patient’s ocular health.

KSSBEO recommends that all doctors review this information with staff members so they know how to complete the forms correctly.

## Internet Contact Lens Providers

Before sending the verification for contact lenses to an internet contact lens provider, be sure to verify that the provider is registered by the Kansas Board of Healing Arts (BOHA) to distribute contact lenses in the state. That list can be found here: <http://www.ksbha.org/departments/licensing/contactlens.shtml> If you find a company that is not on BOHA’s registered list, please file a complaint with BOHA – the complaint

form can be found here:

<http://www.ksbha.org/forms/complaint.pdf>.

## Public Service Announcement

October 2017, the Board sent out over 650 posters to Kansas Middle and High Schools to educate the reader about the dangers associated with contact lenses not evaluated by a licensed eye care provider – particularly ‘cosmetic’ or ‘theatrical’ contact lenses obtained through illegal means.

The poster was also posted on the Board’s Facebook page and was shared over 70 times and reached over 10,000 Facebook users.

The Board plans on sending the posters out again in 2018.

## Disciplinary Actions in 2017

The license of Michael Gordon, OD of Derby, KS was suspended by the Board for professional incompetence.

## Licenses Retired and Expired

### *Licenses retired in 2017*

Thomas A Bottoms	Susan K Bullano
Brandon J Dahl	George R Gage
Rex W Gibson	Andrea R Keele
John L Murphy	Sean M Powell
Steve R Shook	

### *Licenses Expired 2017*

John G Goertz	David A Hackett
Kreg D Harper	Stacey L Hoins
Mallory Kuchem	Natalie N Nguyen
Toan A Nguyen	Lawrence J Sieve III
Andrew D Warren	Kasey W Warren
Jennifer L Zierlein	Erik B Zingler