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Kansas State Board of Examiners in Optometry Source Control Guidance Update June 21, 2022

Beginning in March of 2020, with the advent of the novel coronavirus and associated COVID-19 pandemic, the Centers for Disease Control (CDC) released recommendations for measures designed to reduce the risk of the spread of infection. These measures have been amended over the course of the last two years to account for increasing knowledge and experience with this virus. Shortly after the issuance of the CDC's initial guidance, the Kansas State Board of Examiners in Optometry (KSSBEO) in turn released guidance designed to protect the safety and well-being of Kansas licensees, as well as their staff and patients. This guidance was echoed by both the Kansas Optometric Association and American Optometric Association. The KSSBEO has continually updated its guidance to licensees, taking into consideration any changes to the CDC guidance, in furtherance of its purpose to protect the public.

As of the date of this guidance, the CDC's guidance for healthcare providers has not changed since the most recent update of February 2, 2022.¹ Notably, the CDC cautions healthcare providers to continue to use community transmission rates,² rather than COVID-19 community levels, in evaluating source control measures and should continue to follow the CDC's infection prevention and control recommendations for healthcare settings. As a result, the KSSBEO's guidance remains unchanged. The KSSBEO continues to strongly recommend that all licensees abide by the CDC's guidance.

The KSSBEO recognizes there have been misunderstandings and misinformation circulated regarding its efforts to provide for the protection of the well-being of the public through advocating for the use of source control in optometric practices throughout Kansas. Comments have been received from both licensees and members of the public characterizing the KSSBEO's guidance as a "mask mandate" or as requiring licensees and patients to wear masks in optometric practices in Kansas. While the KSSBEO *has not issued a mandate or order* requiring the use of masks by licensees in an optometric practice, the KSSBEO continues to strongly endorse the use of source control (including face masks) by licensees in their clinical settings, in accordance with the CDC guidance.

The KSSBEO also continues to advise all licensees that the failure to follow CDC guidance may form the basis for disciplinary action pursuant to K.S.A. 65-1516 and 65-1517. Licensees are required to adhere to the applicable standard of care. Subject to consideration of all circumstances, the failure to follow the CDC guidance may not conform to the applicable standard of care. The KSSBEO and its individual members have continually received complaints and comments regarding licensees, their staff or patients not utilizing source control in a clinical

¹ The Centers for Disease Control reference "Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic" can be found at the following link:
<https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html>

² Community Transmission Rates are available at: https://covid.cdc.gov/covid-data-tracker/#county-view?list_select_state=all_states&list_select_county=all_counties&data-type=Risk.

setting and anticipates that such complaints will continue. This Board has historically placed the health and well-being of Kansans as their *first and most important consideration* and will continue to do so.

The KSSBEO pledges to continue to review the information provided by the CDC and other healthcare agencies in advance of each Board meeting for consideration of changes to this guidance. All licensees should continue to closely monitor the information provided by the CDC and state and local authorities.

UPDATE 09/07/2022:

KSSBEO has the duty to enforce the standard of care statutes found in KSA 65-1516(a) in order to protect the public from gross, or ordinary, negligence based on the principal of what would a reasonable practitioner do in a given situation. For example, would a group of reasonable licensees agree that determining the ocular health status of a patient is the standard of care during a comprehensive eye examination? Would a group of reasonable licensees agree on the importance of hygiene after a patient with Epidemic Keratoconjunctivitis (EKC) is evaluated? In each of these examples, the legal duty to follow the standard of care affects only the one licensee involved. KSSBEO does have the responsibility to review concerns regarding standard of care compliance through investigation and the adjudicative process.