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Effective Date: 3/20/2022

## Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

<b>Agency/Board/Commission:</b>	Board of Optometry
<b>Division:</b>	Department of Health
<b>Contact Person:</b>	Eric Winters, Associate General Counsel
<b>Address:</b>	665 Mainstream Drive, Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-7176
<b>Email:</b>	eric.winters@tn.gov

**Revision Type (check all that apply):**☒ Amendment☒ New☐ Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1045-02	General Rules Governing the Practice of Optometry
Rule Number	Rule Title
1045-02-.08	Corporate or Business Names and Advertising
1045-02-.19	Telehealth in the Practice of Optometry

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to

<https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Rule Chapter 1045-02  
General Rules Governing the Practice of Optometry

Amendment

Rule 1045-02-.08 Corporate or Business Names and Advertising is being amended by deleting item (3)(a)(ii)(VI) in its entirety and by substituting instead the following language, so that as amended, the new item shall read:

(VI) Medically necessary follow-up examinations.

Authority: T.C.A. §§ 63-8-112, 63-8-115, and 63-8-107.

New Rule 1045-02-.19  
Telehealth in the Practice of Optometry

Chapter 1045-02 General Rules Governing the Practice of Optometry is being amended by adding new Rule 1045-02-.19, so that as amended, the new table of contents and new rule shall read:

New Table of Contents

1045-02-.01	Fees
1045-02-.02	Licensure Process
1045-02-.03	Examinations
1045-02-.04	License Renewal
1045-02-.05	Continuing Education
1045-02-.06	Board Meetings, Members' Authority and Records
1045-02-.07	Diagnostic and Therapeutic Certification
1045-02-.08	Corporate or Business Names and Advertising
1045-02-.09	Ocular and Contact Lens Prescriptions and Office Equipment
1045-02-.10	Disciplinary Actions, Civil Penalties, Declaratory Orders, Screening Panels, Assessment of Costs, and Subpoenas
1045-02-.11	Scope of Practice
1045-02-.12	Primary Eye Care Procedures
1045-02-.13	Optometric Professional Corporations and Optometric Professional Limited Liability Companies
1045-02-.14	Optometric Records
1045-02-.15	Consumer Right-To-Know Requirements
1045-02-.16	Tamper-Resistant Prescriptions
1045-02-.17	Reserved
1045-02-.18	Minimum Discipline for Opioid Prescribers
1045-02-.19	Telehealth in the Practice of Optometry

1045-02-.19 Telehealth in the Practice of Optometry

(1) Definitions

- (a) Emergency – A situation or condition where failure to provide immediate treatment poses a threat of loss of sight to a person. For the purposes hereof, routine visual care shall not be an emergency.
- (b) In-person patient encounter – A patient encounter conducted by a provider who is at the same physical location as the location of the patient.

- (c) Patient encounter – The rendering of a documented optometrist opinion concerning evaluation, diagnosis, and/or treatment of a patient whether the optometrist is physically present in the same room, in a remote location within the state, or across state lines.
  - (d) Telehealth – The definition of telehealth shall be defined as provided in T.C.A. § 63-1-155(a)(2).
- (2) Establishment of an Optometrist-Patient Relationship
- (a) Optometrist-patient relationship. Pursuant to T.C.A. § 63-1-155(b), an optometrist-patient relationship with respect to telemedicine or telehealth is created by mutual consent and mutual communication, except in an emergency, between the patient and the optometrist. The consent by the patient may be expressed or implied consent; however, the optometrist-patient relationship is not created simply by the receipt of patient health information by an optometrist unless a prior optometrist-patient relationship exists. The duties and obligations created by the relationship do not arise until the optometrist:
    - 1. Affirmatively undertakes to diagnose or treat the patient; or
    - 2. Affirmatively participates in the diagnosis or treatment.
  - (b) The optometrist-patient relationship established via telehealth, shall at a minimum, meet the requirements of T.C.A. § 63-1-155(b).
  - (c) An optometrist shall not render telehealth services, ophthalmic prescribing and eye health services, advice and/or care using telehealth technologies without:
    - 1. fully verifying, to the extent possible, the requesting patient's identity;
    - 2. disclosing the optometrist's identity and applicable credential(s) to the patient; and
    - 3. obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telehealth technologies.
  - (d) An appropriate optometrist-patient relationship has not been established when the identity of the optometrist is unknown to the patient.
- (3) The Appropriate Use of Telehealth Technologies in Optometric Practice
- (a) Policy Statement - The Tennessee Board of Optometry has developed these rules to educate licensees as to the appropriate use of telehealth technologies in the practice of optometry. The Tennessee Board of Optometry is committed to ensuring patient access to the convenience and benefits afforded by telehealth technologies, while promoting the responsible practice of optometry by licensees. These rules shall not be construed to alter the scope of practice of any optometrist or authorize the delivery of optometric services in a setting, or in a manner, not otherwise authorized by Tennessee law.
  - (b) Licensure
    - 1. An optometrist is a "healthcare services provider" under Tennessee law and shall be licensed and under the jurisdiction of the Tennessee Board of Optometry when utilizing telehealth technology to provide services to a patient located in the State of Tennessee.
    - 2. Optometrists who treat or prescribe through online services sites are practicing optometry and are under the jurisdiction of the Tennessee Board of Optometry. Optometrists shall possess appropriate licensure through the Tennessee Board of Optometry. The optometrists shall abide by the established requirements for spectacle and contact lens prescription release pursuant to T.C.A. § 63-8-101, et seq.
  - (c) Treatment of the Patient

1. An optometrist who delivers services through the use of telehealth shall be held to the same standard of professional practice as a similar optometrist of the same practice area or specialty that is providing the same healthcare services through in-person encounters, and nothing in this rule is intended to create any new standards of care.

(d) Informed Consent

1. Evidence documenting appropriate patient informed consent for the use of telehealth technologies shall be obtained and maintained. Documentation of informed consent that is signed and dated, including electronic acknowledgement or signature of the patient, establishes a presumption of informed consent. Appropriate informed consent should include the following terms:

- (i) Identification of the patient, the optometrist and the optometrist's credentials;
- (ii) Types of transmissions permitted using telehealth technologies;
- (iii) Necessity of in-person patient encounter. When, for whatever reason, the telemedicine modality in use for a particular patient encounter is unable to provide all pertinent clinical information that an optometrist exercising ordinary skill and care would deem reasonably necessary for the practice of optometry at an acceptable level of safety and quality in the context of that particular encounter, then the distant site optometrist shall make this known to the patient and advise and counsel the patient regarding the need for the patient to obtain an additional in-person patient encounter reasonably able to meet the patient's needs;
- (iv) Limitations of telehealth. A provider who uses telehealth technology, before providing services, shall give each patient notice regarding telehealth services, including the risks and benefits of being treated via telehealth, and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure; and
- (v) Details on security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;

- (e) Continuity of Care. Patients should be able to seek, with relative ease, follow-up care or information from the optometrist who conducts an encounter using telemedicine technologies. Optometrists solely providing services using telehealth technologies with no existing optometrist-patient relationship prior to the encounter shall make documentation of the encounter available using telehealth technologies easily available to the patient, and subject to the patient's consent and request, any identified care provider of the patient within a reasonable time frame after the encounter.

- (f) Optometric Records. The patient's optometric record should include, if applicable, copies of all patient-related electronic communications, including optometrist-patient communication(s), prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telehealth technologies. Informed consents obtained in connection with an encounter involving telehealth technologies should also be filed in the patient's examination record. The patient record established during the use of telehealth technologies shall be accessible and documented for both the optometrist and the patient, consistent with T.C.A. § 63-8-101, et seq.

(g) Privacy and Security of Patient Records and Exchange of Information

1. Optometrists shall meet or exceed applicable federal and state legal requirements of



optometric patient encounters/health information privacy, including compliance with the Health Insurance Portability and Accountability Act (HIPAA) and State of Tennessee privacy, confidentiality, security, and optometric record retention rules.

2. Optometrists shall ensure that sufficient privacy and security measures shall be in place and documented to assure confidentiality and integrity of patient-identifiable information.

(h) Prescribing

1. Telehealth technologies, where prescribing medications and ophthalmic materials may be contemplated, shall require an optometrist to implement measures to uphold patient safety in the absence of a traditional in-person patient encounter. Such measures shall guarantee that the identity of the patient and provider is clearly established and that detailed documentation for the clinical patient encounter and resulting prescription is both enforced and independently kept.
2. Prescribing medications, in-person or via telehealth, is at the professional discretion of the optometrist based on licensure. The indication, appropriateness, and safety considerations for each telehealth visit prescription shall be evaluated by the optometrist in accordance with current standards of practice and consequently carry the same professional accountability as prescriptions delivered during an in-person patient encounter. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, optometrists may exercise their judgment and prescribe medications as part of telehealth encounters.
3. Pursuant to Tenn. Comp. R. & Regs. 1045-02-.09(3), all therapeutic prescriptions written by a Tennessee optometrist certified to practice therapeutics shall include:
  - (i) Tennessee license number; and
  - (ii) "T" designation preceding license number, i.e. OD-T000.
4. For telehealth ophthalmic prescriptions, the same requirements exists as for fixed fee in-person services as outlined in Tenn. Comp. R. & Regs. 1045-02-.08(3).

Authority: T.C.A. §§ 63-8-112(1) and 63-1-155.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Christopher Cooper, O.D.	X				
Linda Tharp, O.D.	X				
Kurt Steele, O.D.				X	
Tonya Reynoldson, O.D.	X				
Kenneth Young, O.D.	X				
Nancy Strawn				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Optometry on 10/06/2021, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/29/2021

Rulemaking Hearing(s) Conducted on: (add more dates). 10/06/2021

Date: October 8, 2021

Signature: 

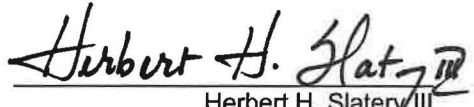
Name of Officer: Eric Winters

Title of Officer: Associate General Counsel, Department of Health

Agency/Board/Commission: Board of Optometry

Rule Chapter Number(s): 1045-02

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

  
Herbert H. Slatery III  
Attorney General and Reporter  
12/13/2021  
Date

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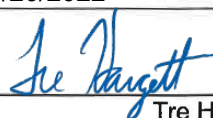
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Secretary of State  
Division of Publications

Filed with the Department of State on: 12/20/2021

Effective on: 3/20/2022

  
Tre Hargett  
Secretary of State

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no public comments regarding the rule.

## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

### **REGULATORY FLEXIBILITY ANALYSIS**

- (1) **The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

T.C.A. § 63-1-155 and T.C.A. § 56-7-1002 are state statutes on telehealth. Additionally, 42 C.F.R. § 410.78 is the federal regulation on telehealth in Medicare. The rules do not conflict with other federal, state, or local government rules.

- (2) **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

These rule amendments establish clarity, conciseness, and lack of ambiguity.

- (3) **The establishment of flexible compliance and/or reporting requirements for small businesses.**

These rule amendments do not establish any reporting requirements for small businesses. Optometric small businesses can choose if they would like to participate in optometric telehealth.

- (4) **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

There are no such requirements contained in the rule amendments.

- (5) **The consolidation or simplification of compliance or reporting requirements for small businesses.**

There are no such requirements contained in the rule amendments.

- (6) **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

These rule amendments do not establish any standards that apply to small businesses.

- (7) **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

These rule amendments create no entry barriers or other effects that would stifle legitimate entrepreneurial activity, curb innovation, or increase costs for legitimate businesses.



**Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The proposed rule amendments should not have a financial impact on local governments.

### **Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Board is implementing specific telehealth rules for optometrists, since T.C.A. § 63-1-155 is more general and applies to all of the health related boards.

Additionally, the Board is amending Rule 1045-02-.08(3)(a)(2)(ii)(VI) because it is outdated and not the current standard of care for contact lens examinations.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There is not a federal law or regulation or any state law or regulation mandating promulgation of the rule.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This rule affects optometry licensees, employers, and the public. Currently, there are one thousand three hundred sixty-one (1,361) licensees. There are no known persons, organizations, corporations, or governmental entities who urge adoption or rejection of the rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the attorney general and reporter or any judicial ruling which relate to the rule or the necessity to promulgate the rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The rule is not estimated to increase or decrease state and local government revenues and expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Linda Tharp, O.D., Board Chair; Eric Winters, Associate General Counsel; Kimberly Wallace, Board Administrative Director

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Linda Tharp, O.D., Board Chair; Eric Winters, Associate General Counsel; Kimberly Wallace, Board Administrative Director

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Linda Tharp, O.D., 9390 Mayfield Road South, Collierville, TN 38017, (901) 487-4547, [lintharp60@gmail.com](mailto:lintharp60@gmail.com)  
Eric Winters, 665 Mainstream Drive, 2<sup>nd</sup> Floor, Nashville, TN 37243, (615) 532-7176, [eric.winters@tn.gov](mailto:eric.winters@tn.gov)  
Kimberly Wallace, 665 Mainstream Drive, 2<sup>nd</sup> Floor, Nashville, TN 37243, (615) 253-3447, [kimberly.wallace@tn.gov](mailto:kimberly.wallace@tn.gov)

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A
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**RULES  
OF  
TENNESSEE BOARD OF OPTOMETRY**

**CHAPTER 1045-02  
GENERAL RULES GOVERNING THE PRACTICE OF OPTOMETRY**

**TABLE OF CONTENTS**

1045-02-.01	Fees	1045-02-.11	Scope of Practice
1045-02-.02	Licensure Process	1045-02-.12	Primary Eye Care Procedures
1045-02-.03	Examinations	1045-02-.13	Optometric Professional Corporations and
1045-02-.04	License Renewal		Optometric Professional Limited Liability
1045-02-.05	Continuing Education		Companies
1045-02-.06	Board Meetings, Members' Authority and	1045-02-.14	Optometric Records
	Records	1045-02-.15	Consumer Right-To-Know Requirements
1045-02-.07	Diagnostic and Therapeutic Certification	1045-02-.16	Tamper-Resistant Prescriptions
1045-02-.08	Corporate or Business Names and Advertising	1045-02-.17	Reserved
1045-02-.09	Ocular and Contact Lens Prescriptions and	1045-02-.18	Minimum Discipline for Opioid Prescribers
	Office Equipment	<a href="#">1045-02-.19</a>	<a href="#">Telehealth in the Practice of Optometry</a>
1045-02-.10	Disciplinary Actions, Civil Penalties, Declaratory		
	Orders, Screening Panels, Assessment of Costs,		
	and Subpoenas		



(Rule 1045-02-.08, continued)

## (3) Advertising Fees and Services.

## (a) Fixed Fees. Fixed fees may be advertised for any service.

1. It is presumed unless otherwise stated in the advertisement that a fixed fee for a service shall include the cost of all professionally recognized components within generally accepted standards that are required to complete the service.
2. If an optometrist advertises an examination fee or includes an examination as a service provided in an advertised fixed fee the examination findings shall include all pertinent tests and observations necessary to satisfy the standard of care. The following shall constitute the professionally recognized components to be included in the examination provided for the advertised fee and before the prescription requested is issued:

## (i) Spectacles

- (I) Visual acuity testing of each eye far and near point; and
- (II) External examination including extra ocular motility and confrontation fields, and
- (III) Refraction (objective and subjective); and (IV) Co-ordination testing; and
- (V) Ophthalmoscopy; and
- (VI) Biomicroscopy; and
- (VII) Tonometry.

## (ii) Contact Lenses:

- (I) All of the components required for spectacles prescriptions; and
- (II) Keratometer reading of cornea curves; and
- (III) Biomicroscopic evaluation of lid health, tear film integrity and corneal integrity; and
- (IV) Application of known diagnostic lenses to each eye to include evaluation of acuity, over refraction and biomicroscopic evaluation of lens fit with use of chemical dyes as indicated; and
- (V) Adequate patient training in lens care, solutions, application and removal along with proper wearing schedule, warning signs, and recall intervals; and

~~(VI) — A minimum of two follow up visits over a minimum period of 2-months which shall occur prior to determining the contact lens prescription. At each visit visual acuity and biomicroscopic evaluation of the eyes with and without lenses will be performed.~~

(VI) Medically necessary follow-up examinations.

1045-02-.19 Telehealth in the Practice of Optometry(1) Definitions

- (a) Emergency – A situation or condition where failure to provide immediate treatment poses a threat of loss of sight to a person. For the purposes hereof, routine visual care shall not be an emergency.
- (b) In-person patient encounter – A patient encounter conducted by a provider who is at the same physical location as the location of the patient.
- (c) Patient encounter – The rendering of a documented optometrist opinion concerning evaluation, diagnosis, and/or treatment of a patient whether the optometrist is physically present in the same room, in a remote location within the state, or across state lines.
- (d) Telehealth – The definition of telehealth shall be defined as provided in T.C.A. § 63-1-155(a)(2).

(2) Establishment of an Optometrist-Patient Relationship

- (a) Optometrist-patient relationship. Pursuant to T.C.A. § 63-1-155(b), an optometrist- patient relationship with respect to telehealth is created by mutual consent and mutual communication, except in an emergency, between the patient and the optometrist. The consent by the patient may be expressed or implied consent; however, the optometrist-patient relationship is not created simply by the receipt of patient health information by an optometrist unless a prior optometrist-patient relationship exists. The duties and obligations created by the relationship do not arise until the optometrist:
  - 1. Affirmatively undertakes to diagnose or treat the patient; or
  - 2. Affirmatively participates in the diagnosis or treatment.
- (b) The optometrist-patient relationship established via telehealth, shall at a minimum, meet the requirements of T.C.A. § 63-1-155(b).
- (c) An optometrist shall not render telehealth services, ophthalmic prescribing and eye health services, advice and/or care using telehealth technologies without:
  - 1. fully verifying, to the extent possible, the requesting patient's identity;
  - 2. disclosing the optometrist's identity and applicable credential(s) to the patient; and
  - 3. obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telehealth technologies.
- (d) An appropriate optometrist-patient relationship has not been established when the identity of the optometrist is unknown to the patient.

(3) The Appropriate Use of Telehealth Technologies in Optometric Practice

- (a) Policy Statement - The Tennessee Board of Optometry has developed these rules to educate licensees as to the appropriate use of telehealth technologies in the practice of optometry. The Tennessee Board of Optometry is committed to ensuring patient access to the convenience and benefits afforded by telehealth technologies, while promoting the responsible practice of optometry by licensees. These rules shall not be construed to alter the scope of practice of any optometrist or authorize the delivery of optometric services in a

setting, or in a manner, not otherwise authorized by Tennessee law.

(b) Licensure

1. An optometrist is a “healthcare services provider” under Tennessee law and shall be licensed and under the jurisdiction of the Tennessee Board of Optometry when utilizing telehealth technology to provide services to a patient located in the State of Tennessee.
2. Optometrists who treat or prescribe through online services sites are practicing optometry and are under the jurisdiction of the Tennessee Board of Optometry. Optometrists shall possess appropriate licensure through the Tennessee Board of Optometry. The optometrists shall abide by the established requirements for spectacle and contact lens prescription release pursuant to T.C.A. § 63-8-101, et seq.

(c) Treatment of the Patient

1. An optometrist who delivers services through the use of telehealth shall be held to the same standard of professional practice as a similar optometrist of the same practice area or specialty that is providing the same optometric services through in-person patient encounters, and nothing in this rule is intended to create any new standards of care.

(d) Informed Consent

1. Evidence documenting appropriate patient informed consent for the use of telehealth technologies shall be obtained and maintained. Documentation of informed consent that is signed and dated, including electronic acknowledgement or signature of the patient, establishes a presumption of informed consent. Appropriate informed consent should include the following terms:
  - (i) Identification of the patient, the optometrist and the optometrist’s credentials;
  - (ii) Types of transmissions permitted using telehealth technologies;
  - (iii) Necessity of in-person patient encounter. When, for whatever reason, the telemedicine modality in use for a particular patient encounter is unable to provide all pertinent clinical information that an optometrist exercising ordinary skill and care would deem reasonably necessary for the practice of optometry at an acceptable level of safety and quality in the context of that particular encounter, then the distant site optometrist shall make this known to the patient and advise and counsel the patient regarding the need for the patient to obtain an additional in-person patient encounter reasonably able to meet the patient’s needs;
  - (iv) Limitations of telehealth. A provider who uses telehealth technology, before providing services, shall give each patient notice regarding telehealth services, including the risks and benefits of being treated via telehealth, and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure;
  - (v) Details on security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks

- to privacy notwithstanding such measures;
- (e) Continuity of Care. Patients should be able to seek, with relative ease, follow-up care or information from the optometrist who conducts an encounter using telemedicine technologies. Optometrists solely providing services using telehealth technologies with no existing optometrist-patient relationship prior to the encounter shall make documentation of the encounter available using telehealth technologies easily available to the patient, and subject to the patient's consent and request, any identified care provider of the patient within a reasonable time frame after the encounter.
- (f) Optometric Records. The patient's optometric record should include, if applicable, copies of all patient-related electronic communications, including optometrist-patient communication(s), prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telehealth technologies. Informed consents obtained in connection with an encounter involving telehealth technologies should also be filed in the patient's examination record. The patient record established during the use of telehealth technologies shall be accessible and documented for both the optometrist and the patient, consistent with T.C.A. § 63-8-101, et seq.
- (g) Privacy and Security of Patient Records and Exchange of Information
1. Optometrists shall meet or exceed applicable federal and state legal requirements of optometric patient encounters/health information privacy, including compliance with the Health Insurance Portability and Accountability Act (HIPAA) and State of Tennessee privacy, confidentiality, security, and optometric record retention rules.
  2. Optometrists shall ensure that sufficient privacy and security measures shall be in place and documented to assure confidentiality and integrity of patient- identifiable information.
- (h) Prescribing
1. Telehealth technologies, where prescribing medications and ophthalmic materials may be contemplated, shall require an optometrist to implement measures to uphold patient safety in the absence of a traditional in-person patient encounter. Such measures shall guarantee that the identity of the patient and provider is clearly established and that detailed documentation for the clinical patient encounter and resulting prescription is both enforced and independently kept.
  2. Prescribing medications, in-person or via telehealth, is at the professional discretion of the optometrist based on licensure. The indication, appropriateness, and safety considerations for each telehealth visit prescription shall be evaluated by the optometrist in accordance with current standards of practice and consequently carry the same professional accountability as prescriptions delivered during an in-person patient encounter. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, optometrists may exercise their judgment and prescribe medications as part of telehealth encounters.
  3. Pursuant to Tenn. Comps. Rules & Regulations 1045-02-.09(3), all therapeutic prescriptions written by a Tennessee optometrists certified to practice therapeutics shall include:
    - (i) Tennessee license number; and
    - (ii) "T" designation preceding license number, i.e. OD-T000.
  4. For telehealth ophthalmic prescriptions, the same requirements exists as for fixed



fee in-person services as outlined in Tenn. Comps. Rules & Regulations 1045- 02-.08(3).

Authority: T.C.A. §§ 63-8-112(1) and 63-1-155