

## Virginia Board of Optometry

### Guidance for Continuing Education (CE) Audits and Sanctioning for Failure to Complete CE

#### Applicable Law, Regulation and Guidance

##### Code of Virginia

##### **§ 54.1-3219. Continuing education.**

A. As a prerequisite to renewal of a license or reinstatement of a license, each optometrist shall be required to complete 20 hours of continuing education relating to optometry, as approved by the Board, each year. A licensee who completes more than 20 hours of continuing education in a year shall be allowed to carry forward up to 10 hours of continuing education for the next annual renewal cycle. The courses shall include, but need not be limited to, the utilization and application of new techniques, scientific and clinical advances, and new achievements of research. The Board shall prescribe criteria for approval of courses of study. The Board may approve alternative courses upon timely application of any licensee. Fulfillment of education requirements shall be certified to the Board upon a form provided by the Board and shall be submitted by each licensed optometrist at the time he applies to the Board for the renewal of his license. The Board may waive individual requirements in cases of certified illness or undue hardship.

B. Of the 20 hours of continuing education relating to optometry required pursuant to subsection A:

1. At least 10 hours shall be obtained through real-time, interactive activities, including in-person or electronic presentations, provided that during the course of the presentation, the licensee and the lecturer may communicate with one another;
2. No more than two hours may consist of courses related to recordkeeping, including coding for diagnostic and treatment devices and procedures or the management of an optometry practice, provided that such courses are not primarily for the purpose of augmenting the licensee's income or promoting the sale of specific instruments or products; and
3. For TPA-certified optometrists, at least 10 hours shall be in the areas of ocular and general pharmacology, diagnosis and treatment of the human eye and its adnexa, including treatment with new pharmaceutical agents, or new or advanced clinical devices, techniques, modalities, or procedures.

C. Nothing in this subsection shall prevent or limit the authority of the Board to require additional hours or types of continuing education as part or in lieu of disciplinary action.

##### Regulations of the Virginia Board of Optometry

##### **18VAC105-20-60. Renewal of licensure; reinstatement; renewal fees.**

A. Every person authorized by the board to practice optometry shall, on or before December 31 of 2018, submit a completed renewal form and pay the prescribed annual licensure fee. Beginning with calendar year 2020, the renewal of licensure deadline shall be March 31 of each year. For calendar year 2019, no renewal is required.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current address of record and the public address, if different from the address of record. All changes of address or name shall be furnished to the board within 30 days after the change occurs. All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address of record given and shall not relieve the licensee of the obligation to comply.

C. The license of every person who does not complete the renewal form and submit the renewal fee each year may be renewed for up to one year by paying the prescribed renewal fee and late fee, provided the requirements of [18VAC105-20-70](#) have been met. After the renewal deadline, a license that has not been renewed is lapsed.

*Practicing optometry in Virginia with a lapsed license may subject the licensee to disciplinary action and additional fines by the board.*

*D. An optometrist whose license has been lapsed for more than one year and who wishes to resume practice in Virginia shall apply for reinstatement. The executive director may grant reinstatement provided that:*

- 1. The applicant can demonstrate continuing competence;*
- 2. The applicant has satisfied current requirements for continuing education for the period in which the license has been lapsed, not to exceed two years; and*
- 3. The applicant has paid the prescribed reinstatement application fee.*

*E. The board may require an applicant who has allowed his license to expire and who cannot demonstrate continuing competency to pass all or parts of the board-approved examinations.*

**18VAC105-20-70. Requirements for continuing education.**

*A. Each license renewal shall be conditioned upon submission of evidence to the board of 20 hours of continuing education taken by the applicant during the previous license period. A licensee who completes more than 20 hours of continuing education in a year shall be allowed to carry forward up to 10 hours of continuing education for the next annual renewal cycle.*

- 1. The 20 hours may include up to two hours of recordkeeping for patient care, including coding for diagnostic and treatment devices and procedures or the management of an optometry practice, provided that such courses are not primarily for the purpose of augmenting the licensee's income or promoting the sale of specific instruments or products.*
- 2. For optometrists who are certified in the use of therapeutic pharmaceutical agents, at least 10 of the required continuing education hours shall be in the areas of ocular and general pharmacology, diagnosis and treatment of the human eye and its adnexa, including treatment with new pharmaceutical agents, or new or advanced clinical devices, techniques, modalities, or procedures.*
- 3. At least 10 hours shall be obtained through real-time, interactive activities, including in-person or electronic presentations, provided that during the course of the presentation, the licensee and the lecturer may communicate with one another.*
- 4. A licensee may also include up to two hours of training in cardiopulmonary resuscitation (CPR).*
- 5. Two hours of the 20 hours required for annual renewal may be satisfied through delivery of professional services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic.*

*B. Each licensee shall attest to fulfillment of continuing education hours on the required annual renewal form. All continuing education shall be completed prior to the renewal deadline unless an extension or waiver has been granted by the Continuing Education Committee. A request for an extension or waiver shall be received prior to the renewal deadline each year.*

*C. All continuing education courses shall be offered by an approved sponsor or accrediting body listed in subsection G of this section. Courses that are not approved by a board-recognized sponsor in advance shall not be accepted for continuing education credit. For those courses that have a post-test requirement, credit will only be given if the optometrist receives a passing grade as indicated on the certificate.*

*D. Licensees shall maintain continuing education documentation for a period of not less than three years. A random audit of licensees may be conducted by the board, which will require that the licensee provide evidence substantiating participation in required continuing education courses within 14 days of the renewal date.*

*E. Documentation of hours shall clearly indicate the name of the continuing education provider and its affiliation with an approved sponsor or accrediting body as listed in subsection G of this section. Documents that do not have the required information shall not be accepted by the board for determining compliance. Correspondence courses*

*shall be credited according to the date on which the post-test was graded as indicated on the continuing education certificate.*

*F. A licensee shall be exempt from the continuing competency requirements for the first renewal following the date of initial licensure by examination in Virginia.*

*G. An approved continuing education course or program, whether offered by correspondence, electronically or in person, shall be sponsored, accredited, or approved by one of the following:*

- 1. The American Optometric Association and its constituent organizations.*
- 2. Regional optometric organizations.*
- 3. State optometric associations and their affiliate local societies.*
- 4. Accredited colleges and universities providing optometric or medical courses.*
- 5. The American Academy of Optometry and its affiliate organizations.*
- 6. The American Academy of Ophthalmology and its affiliate organizations.*
- 7. The Virginia Academy of Optometry.*
- 8. Council on Optometric Practitioner Education (COPE).*
- 9. State or federal governmental agencies.*
- 10. College of Optometrists in Vision Development.*
- 11. The Accreditation Council for Continuing Medical Education of the American Medical Association for Category 1 credit.*
- 12. Providers of training in cardiopulmonary resuscitation (CPR).*
- 13. Optometric Extension Program.*

*H. In order to maintain approval for continuing education courses, providers or sponsors shall:*

- 1. Provide a certificate of attendance that shows the date, location, presenter or lecturer, content hours of the course and contact information of the provider or sponsor for verification. The certificate of attendance shall be based on verification by the sponsor of the attendee's presence throughout the course, either provided by a post-test or by a designated monitor.*
- 2. Maintain documentation about the course and attendance for at least three years following its completion.*
- I. Falsifying the attestation of compliance with continuing education on a renewal form or failure to comply with continuing education requirements may subject a licensee to disciplinary action by the board, consistent with § [54.1-3215](#) of the Code of Virginia.*

## **Guidance**

### **Q: How many CE hours are required at renewal time?**

**A:** The Regulations require the completion of 20 CE hours that meet the regulatory requirements per licensure year.

### **Q: Does the Board approve CE courses or programs?**

**A:** No, the Board does not approve CE courses or programs. The Board accepts CE courses or programs sponsored, accredited, or approved by the list of entities found in 18VAC105-20-70(G).

### **Q: Does the Board require documentation of CE to be provided at renewal time?**

**A:** No, CE documentation is not to be submitted at renewal. A licensee will be notified if he/she is chosen for a CE audit. The directions for submission of documentation during an audit are provided in the notification.

### **Q: Are TPA certified optometrists required to have any specific type of CE?**

**A:** Yes, the Code of Virginia and the Regulations require that at least 10 hours of the required 20 shall be in the following areas:

- Ocular and general pharmacology

- Diagnosis and treatment of the human eye and its adnexa, including treatment with new pharmaceutical agents
- New or advanced clinical devices, techniques, modalities, or procedure.

**Q: Does the Board have a requirement for in-person CE attendance?**

**A:** The Code of Virginia and the Regulations require that at least 10 hours of the required 20 hours be obtained through real-time, interactive activities that include in-person or electronic attendance provided that during the course of the presentation the licensee and the lecturer may communicate with one another.

**Q: Will the Board accept attendance at a webinar that was recorded to satisfy the 10 hour of real-time CE requirement?**

**A:** No, the Code of Virginia and the Regulations require that a real-time presentation be one at which the lecturer and the licensee are able to communicate with one another. However, a recorded webinar may be accepted if it is not being used to satisfy the 10-hour real-time requirement.

**Q: Does the Board grant CE extensions or waivers?**

**A: The Board may choose to grant an extension or waiver.** Per the Regulations, requests must be received by the Board prior to the renewal deadline each year. A request for an extension or waiver will not be granted for requests received on or after the renewal deadline. Failure to complete required CE may subject a licensee to disciplinary action.

**Q: Will the Board grant a CE waiver for a long-standing illness?**

**A:** According to the Code of Virginia, the Board may waive individual requirements in cases of certified illness or undue hardship.

**Q: What is the Board's process for conducting CE audits?**

**A:** The following outlines the Board's procedures for conducting CE audits:

- After each renewal cycle, the Board may choose to conduct a CE audit. A statistically valid audit sample is determined by a method that ensures randomness of those selected.
- Board office notifies selected licensees.
- Once notified, licensees are to submit a completed Continuing Education Form with copies of certificates.
- Board reviews documentation for compliance with the Regulations.
- Board office notifies licensees when compliance is determined. Board office refers licensees determined to be non-compliant for possible disciplinary action.

The Board adopted the following guidelines for resolution of cases of non-compliance with CE requirements:

Cause	Possible Action
First offense; short 1 – 5 hours <u>or failure to respond prior to initiation of board action</u>	Confidential Consent Agreement; 45 days to make up missing hours
First offense; short 6 – 20 hours	Consent Order; Monetary Penalty of \$500; 45 days to make up missing hours
Second offense; short 1 – 20 hours	Consent Order; Reprimand; Monetary Penalty of \$250 <b>per missing hour</b> ; 45 days to make up missing hours
Three or more offenses	Informal Fact-Finding Conference

<u>First Offense: Failure to respond with CE documentation prior to initiation of board action</u>	<u>Confidential Consent Agreement</u>
<u>Second Offense: Failure to respond with CE documentation prior to initiation of board action</u>	<u>Consent Order; Monetary Penalty of \$500</u>

Note: The Board may offer a pre-hearing consent order or hold an informal fact finding conference when probable cause is found that a licensee has falsely certified completion of the required CE for renewal of his license.