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## **Response to Recent Measures by the Kentucky Board of Optometric Examiners**

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On February 5, 2026, the newly elected President of the Kentucky Board of Optometric Examiners (KBOE) issued a [statement](#) announcing a planned amendment to reverse last year's weakening of its initial licensure regulations (at 201 KAR 5:010) and a planned filing of a new emergency regulation addressing requirements for continued practice of the individuals to whom the KBOE had granted invalid waivers of its licensing exam requirements. The statement also declared that the KBOE is "committed to protecting the public, maintaining transparency, and ensuring a consistent and accountable licensing process moving forward." The [new emergency regulation](#) was filed on February 5<sup>th</sup> and by law is immediately in effect.<sup>1</sup>

The National Board of Examiners in Optometry® (NBEO®)<sup>2</sup> commends the KBOE for taking steps to restore the public's confidence in the competence of doctors of optometry who hold KBOE licenses to practice independently. **These measures, however, continue to allow gaps in public protection, conceal relevant information from patients and the public, and prioritize continued exceptions for waived-in licensees over patient protection without adequate justification or rationale by the KBOE.**

### ***The KBOE Should Restore Kentucky's Full NBEO Examination Requirements for All Licensed Optometrists, Not Just for Some***

The process of obtaining a license to practice optometry entails determining whether a candidate has demonstrated the baseline qualifications of training, knowledge, and competencies to enter into independent practice. The scope of practice of U.S. optometrists overlaps with medical doctors, especially in Kentucky. Like MDs, ODs must practice to the medical standard of care. NBEO assesses candidates for the independent practice of optometry through a three-part licensure exam series that is designed to be parts of a whole, with each exam part measuring unique competencies that provide a comprehensive assessment of competency critical for entry into the profession of optometry. All three parts of the NBEO examination had been required by the KBOE's initial licensure regulations, until last summer.

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<sup>1</sup> Because Kentucky emergency regulations are only effective for a maximum of 270 days, the KBOE also filed a proposed ordinary administrative regulation that contains the same substantive provisions. See <https://apps.legislature.ky.gov/law/kar/titles/201/005/021/REG/>.

<sup>2</sup> NBEO was founded in 1951 to establish the legitimacy and credibility of the optometry profession. The NBEO is an independent, 501(c)(3) tax-exempt nonprofit organization. The mission of the NBEO is to protect the public through competence assessment.

In brief, the NBEO *Part I Applied Basic Science (ABS®)* exam assesses whether optometry candidates demonstrate a baseline of biomedical science knowledge, with a particular focus on the eye and an optics section. NBEO Part I tests applied knowledge in areas like anatomy, physiology, optics, pathology, and pharmacology—critical for informed diagnostic and treatment decisions, as many optometry patients do not present as “textbook cases” or may have other health conditions that impact the safety and effectiveness of optometric eye care. When patients do not present like the textbook examples, optometrists must have the necessary basic science knowledge to solve the clinical problem.

The NBEO *Part II Patient Assessment and Management (PAM®)* exam assesses candidates’ clinical thinking and decision-making, with a particularly heavy emphasis on diagnosis and treatment. It includes a section called the Treatment and Management of Ocular Disease (TMOD®) examination, with an image-intensive, case-based format. Like Part I, Part II is a computer-based, multiple-choice exam administered in secure testing centers throughout the country, including in Kentucky.

The NBEO *Part III Patient Encounters and Performance Skills (PEPS®)* exam is a simulated-live patient encounter examination, unlike Parts I and II. Candidates are presented with a clinical scenario in which they are expected to perform a focused case history, interpret and synthesize clinical data, and generate a management plan for a range of conditions. Importantly for patient safety and proper treatment, candidates are also evaluated on their physical performance of essential optometric skills.

Last year, the KBOE amended its examination requirements to permit applicants for initial licensure to bypass the NBEO Part I examination, which was a critical checkpoint for verifying whether a candidate understands *why* a disease occurs, *how* treatments work at a biochemical level, and *what* the physiological consequences of ocular or systemic pathology may be—knowledge that directly informs effective and safe patient care. Instead, the KBOE’s current regulation allows optometry candidates to substitute a passing score on the Optometry Examining Board of Canada (OEBC) online exam, which is designed based on a different scope of practice in Canada and does not test the foundational biomedical science principles necessary for safe and skilled patient care as required in the United States.

NBEO agrees with the Kentucky Optometric Association that the KBOE’s decision to allow the Canadian exam as a substitute “cast doubt” on licensure standards in Kentucky.<sup>3</sup> NBEO appreciates that the KBOE listened to these concerns and understood the importance of restoring the requirement for the full NBEO licensure examination series. The KBOE’s statement, however, indicates that the KBOE will continue to accept the OEBC examination in lieu of NBEO Part I until 2027. The NBEO recognizes that the procedures for amending a

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<sup>3</sup> See <https://kentuckylantern.com/2026/02/05/ky-optometrists-will-again-have-to-pass-us-national-exam-but-not-until-next-year/>.

regulation take time. However, **the KBOE could easily move towards restoring a consistent baseline of measuring competence in fundamental biomedical science for *all* Kentucky optometrists by adopting a requirement that any licensee who has not passed NBEO Part I must do so by their next license renewal date.** An amendment like this would communicate to new candidates for licensure that, although passing the OEBC exam is still temporarily an alternative pathway to initial licensure in Kentucky, optometrists in Kentucky would no longer be permitted to completely bypass the requirement to pass NBEO Part I. Moreover, currently licensed optometrists who gained their license through the OEBC alternative would also need to demonstrate that they in fact have a baseline knowledge of the fundamentals of applied basic science in order to renew their license. **The NBEO urges the KBOE to close this gap in patient protection.**

***The KBOE Should End Loopholes for Invalidly Waived-In Licensees and Restore Transparency for Kentucky Patients***

As described in a prior statement by NBEO,<sup>4</sup> the KBOE had voted on at least six dates during the period 2020-2023 to provide waivers of the then-applicable NBEO examination requirements in its initial licensure regulations to at least 21 optometry graduates who, as of the date of issuance of their initial license to practice optometry, had not passed one or more parts of the NBEO examination. The Kentucky Office of the Attorney General issued a formal opinion, OAG 25-13, on October 1, 2025, about the KBOE's waivers.<sup>5</sup> **The Attorney General's Opinion found that the KBOE had "acted beyond its authority in waiving licensure requirements" and that the waivers were "null, void, and unenforceable."** The Attorney General directed the KBOE to "review the licensure of those optometrists who were licensed under the waiver and alternative testing measures **to ensure they have met the licensure requirements as established in 201 KAR 5:010.**" In other words, the Attorney General made clear that the licenses the KBOE had issued through waivers were not legally valid, and that the KBOE needed to make sure that those individuals met existing examination requirements for licensure.

In response, the KBOE filed a deeply flawed and inadequate emergency administrative regulation on December 31, 2025, that attempted to circumvent the Attorney General's Opinion. That emergency regulation treated the invalidly waived-in individuals as if they held legally valid licenses to practice optometry, even though the Attorney General's Opinion stated that those licenses "were and are invalid as a matter of law." And, rather than taking the steps to ensure that the waived-in individuals met the examination requirements set forth in the initial licensure regulation, the December emergency regulation instead tried to change the examination

<sup>4</sup> See [https://optometry.org/media/documents/news/Response\\_to\\_recent\\_reporting\\_about\\_the\\_Kentucky\\_Board\\_of\\_Optometric\\_Examiners.pdf](https://optometry.org/media/documents/news/Response_to_recent_reporting_about_the_Kentucky_Board_of_Optometric_Examiners.pdf).

<sup>5</sup> See <https://www.ag.ky.gov/Resources/Opinions/Opinions/OAG%2025-13.pdf>.

requirements to again exempt those individuals – and only those individuals – from the standards that all other licensed Kentucky doctors of optometry have had to meet by permitting them to take a currently non-existent alternative test.

NBEO issued a [statement](#) setting forth numerous deficiencies in that emergency regulation. At its February 5, 2026, special Board meeting, the KBOE prudently voted to withdraw the December 2025 emergency regulation. **The KBOE’s new emergency administrative regulation, however, still fails to comply with the Attorney General’s directive, creates unjustified and unprecedented loopholes to permit the invalidly licensed optometrists to continue to practice without demonstrating compliance with regulatory requirements, and continues KBOE’s pattern of concealing information that patients need to make informed decisions about their care.**

To be clear, NBEO agrees with the sentiment in the KBOE President’s statement that the invalidly waived-in optometrists were “following the guidance that they were given by” the KBOE. The KBOE’s statement further asserts that “some listed individuals [who had received waivers] have since passed Parts I, II and III of the NBEO” examination. NBEO commends any licensed optometrist who has demonstrated their clinical competence through successfully taking the NBEO examinations even after receiving a waiver. The example those optometrists set should have been adopted by the KBOE as the appropriate path forward for optometrists who have not yet passed all parts of the NBEO examination. Sadly, the KBOE has taken a different and still deficient path with its replacement emergency regulation.

Yet again, the KBOE wrongly treats waived-in individuals as if they hold validly issued licenses, even if they still have not complied with the initial licensure examination requirements. The KBOE is continuing to allow these individuals to practice independently for another year, subject only to a restriction on performance of four specific laser procedures. However, because according to the Attorney General’s Opinion these individuals do not hold legally valid licenses, they should not, since the date of that Opinion, have been continuing to treat patients without legally sufficient supervision. **Until these individuals earn a valid license, they should not independently see patients; they should not perform any procedures on patients, prescribe or dispense medication, provide diagnoses, or perform any of the other functions that require a valid optometry license.** Indeed, KBOE implicitly recognizes this in its Statement of Emergency in the emergency regulation filing, stating that the new emergency regulation “is being promulgated to meet an imminent threat to public health, safety and welfare” – but the KBOE describes the emergency only as an urgent need to notify the waived-in individuals of the exam requirements applicable to them so that they can “complete those requirements in enough time to meeting the upcoming license renewal deadline” in March 2027. That is not the true nature of the urgency here.

Moreover, the KBOE voted at its February 5<sup>th</sup> meeting to create another special loophole for the waiver recipients by authorizing those individuals to opt out of taking the NBEO

Part III exam. The new emergency regulation permits the waived-in individuals – and only the waived-in individuals – to substitute a multiple-choice, computer-based test developed by the American Board of Optometry (ABO) for the NBEO Part III simulated patient live clinical skills examination. The ABO examination was never designed for use for licensure decisions and has not been validated for that purpose, as required by professional testing standards. It is part of an optional certification process that some optometrists choose to pursue; unlike NBEO Part III, it does not purport to evaluate the safe performance of physical skills or how optometrists engage with and diagnose patients in live encounters. That the KBOE will accept the ABO computer-based examination only “for this limited purpose” and for this group of invalidly licensed individuals but requires passage of the live, simulated patient NBEO Part III for all other optometry license applicants speaks for itself: the ABO examination is in no way equivalent to NBEO Part III. **The KBOE also has not explained why they are reaching to introduce an alternative to the straightforward and obvious path of simply requiring the waived-in individuals who have not yet passed Part III to do so. The national standards exist so that patients can have confidence that any optometrist who treats them has met consistent standards of competence.**

NBEO also understands from news reports that the KBOE has refused requests by members of the public to identify all of the optometrists practicing in Kentucky who were granted waivers from regulatory exam requirements.<sup>6</sup> As with the withdrawn emergency regulation, **the new emergency regulation does not give any assurance to Kentucky residents that all licensed optometrists have met consistent standards for licensure, and it provides no mechanism for patients who want to make informed decisions about their care to determine whether a Kentucky optometrist licensed since 2020 has passed all of the required NBEO exams.**

For these reasons, NBEO will be opposing the new emergency regulation. **NBEO urges the KBOE to prioritize patient protection over special treatment of this cohort of individuals and to hold all Kentucky optometrists to the same competency standards.** NBEO has repeatedly sought dialogue with the KBOE and has issued several invitations to the KBOE to learn more about the NBEO’s examinations, but the KBOE has yet to accept those invitations or to consult with NBEO about the KBOE’s rulemakings.

*For more information, contact NBEO at [media@optometry.org](mailto:media@optometry.org).*

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<sup>6</sup> See, e.g., [KY optometrists will again have to pass US national exam but not until next year • Kentucky Lantern](#).