

KENTUCKY BOARD OF OPTOMETRIC EXAMINERS
PUBLIC HEARING

- - -

Holiday Inn Express
Frankfort, Kentucky
April 24, 2026
1:00 p.m.

PRESENT:

Christi LeMay, Kentucky Board of Optometry
Dr. Mary Beth Morris, President of KBOE
Christopher L. Thacker, Office of the Attorney General

BRANDY D. MOWERY, CR
AN/DOR REPORTING & VIDEO TECHNOLOGIES
151 NORTH EAGLE CREEK DRIVE, SUITE 10
LEXINGTON, KENTUCKY 40509
859.254.0568

1 DR. MARY BETH MORRIS: Good afternoon.
2 We will begin in just a minute. This is a public hearing
3 about the Kentucky Board of Optometric Examiners pursuant to
4 KRS 13270, on Friday, April 24th, 2026. The time is 10:00.
5 The purpose of the public hearing is to receive public
6 comments on Regulation 201 KAR 5021, the ordinary reg
7 companion regulation to the emergency regulation. My name
8 is Dr. Mary Beth Morris, and I serve as the President of the
9 Kentucky Board of Optometric Examiners. Thank you for being
10 here today.

11 Pursuant to KRS 13270 and 13280, a statement of
12 consideration will be drafted by the Kentucky Board of
13 Optometric Examiners' staff in response to comments heard
14 today and the written comments received during the comments
15 period. Written comments shall be accepted through
16 April 30th, 2026. KBOE will respond to all comments
17 received through its statement of consideration. After
18 review of the comments received, KBOE will determine whether
19 it will amend this regulation or decline to make any
20 suggestive movements. The statement of consideration will
21 be filed with the Legislative Research Commission
22 Administrative Regulations Compiler.

23 The final statement of consideration will be
24 posted on KBOE's website. The purpose of this hearing is

1 for the agency to hear and record your comments. KBOE will
2 not respond to your comments today but will respond to all
3 comments through the statement of consideration. There's
4 one registered speaker today. And if you have not
5 registered to speak but wish to --

6 MS. LeMAY: Two.

7 DR. MARY BETH MORRIS: We have two.
8 Okay. Okay. So we have one that was registered in advance
9 and one that registered today. So KRS 13A.270 guarantees
10 each person who wishes to speak can make a comment, with a
11 fair and reasonable opportunity to do so. We will limit
12 each person to five minutes to fully raise your comments to
13 the agency.

14 After speaking, you can still file written
15 comments until April 30, 2026. At the conclusion of the
16 registered speakers, any additional time will be allotted
17 for additional comments. When I call your name, please
18 state your name and group or entity.

19 The first speaker that I have registered to speak
20 is Iris Wilburn, representing the National Board of
21 Examiners in Optometry. You have five minutes.

22 MS. WILBURN: Okay. Good afternoon.
23 Iris Wilburn. I'm here speaking on behalf of the National
24 Board of Examiners in Optometry, or NBEO. I'm also a

1 Kentucky resident who relies on optometrist for my own eye
2 healthcare.

3 The mission of the NBEO is straightforward: to
4 protect the public through competence assessment. For
5 years, NBEO has worked successfully with the Kentucky Board
6 of Optometric Examiners to administer licensure exams to
7 ensure that Kentucky patients receive safe, high-quality
8 care for fully-qualified doctors of optometry.

9 That process aligned with nearly every other state
10 in the country by requiring perspective optometrists to pass
11 a three-part licensure exam before being granted a license
12 to practice independent optometry. Each part of the NBOE
13 exam series is one element of a whole. Parts I and II test
14 foundational biomedical science knowledge and concepts
15 needed for clinical decision-making. Then Part III, patient
16 encounters and performance skills, or PES exam, is like the
17 road test element of qualifying for a driver's license. It
18 tests hands-on practical clinical skills on standardized
19 patients in a simulated clinical environment.

20 This exam was carefully developed alongside over
21 200 subject matter experts, including some from here in
22 Kentucky, and utilizes over 90 standardized patients. No
23 written or computerized multiple-choice test can substitute
24 for a performance skills exam like Part III.

1 The original intent of Kentucky's licensing
2 standards was that every optometrist in the Commonwealth had
3 to pass all three parts of the licensure exam.
4 Unfortunately, we are here today because of what went wrong.
5 It has been publically stated that between 2020 and '23, the
6 Kentucky board voted at least six times to waive these vital
7 licensing exam requirements for at least 21 optometry
8 graduates, allowing them to practice independently without
9 having passed the required exams.

10 The Kentucky Attorney General issued a formal
11 opinion October 25 that this board lacked legal authority to
12 waive regulatory requirements and declared these waivers
13 invalid, making the license null, void and unenforceable.
14 The AG directed the KBOE to fix this situation.

15 But rather than require these individuals to
16 simply pass exams, as the law intended, the KBOE has created
17 a special unprecedented loophole that permits the
18 individuals who received invalid waivers to avoid ever
19 having to demonstrate that they can pass a practical skills
20 assessment on the NBOE, Part III exam.

21 Allowing these individuals to substitute the
22 American Board of Optometry board certification exam for
23 NBOE, Part III has major dangerous flaws. The NBOE exam is
24 for voluntary credentials for people who are already

1 licensed. It was never designed for initial licensing.

2 Furthermore, because the AG made it clear that
3 these individual's licenses are currently invalid, they
4 technically do not even qualify to take the ABO exam. More
5 importantly, the ABO is a multiple-choice test that does not
6 assess hands-on patient skills. Meaning, the two exams are
7 patently not equivalent.

8 There's no reason to create a special one-time
9 exception for these individuals. Many of them have been
10 practicing optometry for years by now. If they are truly
11 qualified to practice optometry safely and competently,
12 passing the Part III performance skills exams should be easy
13 for them; just like any experienced driver should be able to
14 pass a driver's license road test unless they have unsafe
15 habits.

16 This is not just a bureaucratic issue. It has
17 gray patient-safety consequences. Shortly after the KBOE
18 issued its emergency regulation, a Louisville TV station
19 recorded that one of these invalidly-licensed optometrists
20 who had not passed any parts of the NBOE exam series was
21 being sued for allegedly causing a permanent eye injury to a
22 patient by using incorrect settings during laser surgery.
23 And the risk is not just limited to laser procedures. For
24 example, poor examination techniques can lead to failure to

1 properly diagnose retinal detachment, glaucoma or tumors.
2 Mistakes like these can cause patients their vision or even
3 be a life-threatening error.

4 The alarm regarding this issue is wide spread
5 across the profession. The Association of Regulatory Boards
6 of Optometry stated that treating this group differently
7 raises serious legal concerns. At least 19 Kentucky
8 optometrists have formally warned that this undermines
9 competence in the optometric profession, and that uniform
10 standards are essential for patient safety. The Nevada
11 State Board of Optometry noted that Nevada's legislature
12 unanimously passed a law barring Kentucky optometrists from
13 getting a Nevada license unless they have passed all three
14 NBOE exams.

15 Compounding all of this is a consistent lack of
16 transparency by the KBOE. Meeting minutes are not publicly
17 posted. The key decisions appear to be made privately
18 without open public discussion, potentially violating
19 Kentucky's Open Meetings Act. When the AG asked for
20 information, the KBOE only disclosed a fraction of the votes
21 and falsely blamed COVID for waivers that continued long
22 after the emergency ended.

23 Worst of all, the public does not know which
24 optometrists who graduated in 2020 through '23 received

1 waivers of exam requirements. Patients are in the dark
2 about whether their doctor of optometry has passed required
3 licensure exams, and that Kentucky optometrists who
4 graduated during that period unfairly have to practice under
5 a cloud of suspicion about the qualifications.

6 In closing, the solution is simple and
7 straightforward. The KBOE must require these individuals to
8 pass the exact same exam every other Kentucky optometrist
9 has had to pass, including Part III. We urge the KBOE to
10 return to a single, consistent standard for all Kentucky
11 optometrists.

12 DR. MARY BETH MORRIS: Thank you for
13 your comments.

14 Next on our sign-in sheet, we have one person
15 listed to speak, and it is Dr. Erica Ballard. If you would
16 just introduce yourself and say who -- what organization
17 you're representing.

18 DR. ERICA SMITH-BALLARD: Thank you. So
19 as she said, I'm Dr. Erica Smith-Ballard. And I'm here
20 speaking -- not on behalf of any agencies, any organizations
21 or regulatory bodies, but on behalf of myself, many
22 colleagues, who could not attend today because of busy
23 clinic schedules, and the patients and the general public of
24 the Commonwealth of Kentucky. I'm a lifelong Kentuckian

1 with family, friends and neighbors who all have deep roots
2 here; and do or will need some pretty intensive eye and
3 vision care in the coming years.

4 Over the past few months, I have been very
5 frustrated with the lack of transparency and accountability
6 within the KBOE regarding these matters of licensure for
7 these optometrists. Without any input from the community,
8 alternatives to the national accepted standard has been
9 permitted by this administration to obtain a Kentucky
10 license to practice optometry, which has possibly the widest
11 scope of practice in the country.

12 Though the current national accepted standard is
13 not perfect, it is a standard by which all optometrists in
14 the country are judged, and is one of the foundational
15 structures that promote patient safety.

16 As daughter of a teacher and a state employee from
17 South Eastern Kentucky, it's also disheartening on so many
18 levels to see the KBOE give special privileges to those who
19 did not earn them on their own merit but, rather, had close
20 family and political connections within the state profession
21 and the regulatory boards.

22 I hope to see, moving forward, accountability
23 taken by the KBOE and true increased transparency as it
24 relates to these matters that ultimately impact our

1 patients. Easily-accessible meeting minutes, frequent
2 public notification of board activities and some form of
3 official virtual options for those of us who cannot attend
4 weekday meetings are just a few places to start.

5 Acknowledgement of what has happened is irresponsible and
6 puts patients at risk for personal gain would also be a
7 great step.

8 I love Kentucky. I love optometry in Kentucky. I
9 also, most importantly, love the patients that I serve day
10 in and day out and only wish to see what's best for them.
11 Because in the long run, what is best for our patients is
12 also what's best for us. Thank you for your time.

13 DR. MARY BETH MORRIS: Thank you.

14 Thank you both for your comments. So that
15 concludes all the people who have registered and have their
16 name on their sign-in sheet. I don't think there's anyone
17 else here that would like to speak at this time.

18 On behalf of the Kentucky Board of Optometrist
19 Examiners and staff, I want to thank you for taking the time
20 to participate in the hearing and the public comment
21 process. Your public comments is an essential part of the
22 regulatory process and ensures that KBOE has access to
23 important information that it will consider when deciding
24 whether to alter or amend the regulation in question.

I'm going to end and close the meeting now.

Again, all comments received, whether during this hearing or by written comment, will be addressed through a statement of consideration that will also be posted on KBOE's website.

Thank you-all so much.

(The public hearing concluded at the approximate hour of 1:16 p.m.)

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

REPORTER'S CERTIFICATE

STATE OF KENTUCKY)
) SS.
COUNTY OF FRANKLIN)

I, Brandy D. Mowery, CR and Notary Public in and for the Commonwealth of Kentucky at Large, do hereby certify that the facts as stated by me in the caption hereto are true, to the best of my knowledge and belief and as provided to me in the Notice of Public Hearing; that all parties appeared before me; that the foregoing proceedings were taken by me in stenotype and were reduced to transcript format by computer-aided transcription; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am not employed by, related to, nor of counsel for any of the parties herein, nor otherwise interested in the outcome of this action.

No party to the action nor counsel for said parties requested that the foregoing deposition transcript be read and signed by the deponent.

IN WITNESS WHEREOF, I have affixed my signature and seal this 5th day of May, 2026.

AN/DOR REPORTING & VIDEO TECHNOLOGIES, INC.

Brandy D. Mowery, CR
Notary Public for the State of Kentucky at
Large

My Commission Expires: April 28, 2030
Kentucky Notary Public ID No. KYNP49700

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24