



**Testimony of the National Board of Examiners in Optometry on the
Kentucky Board of Optometric Examiners' Ordinary Administrative
Regulation 201 KAR 5:021 and Emergency Regulation 201 KAR 5:010E.**

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The National Board of Examiners in Optometry® (NBEEO®)¹ submits this written testimony to the Administrative Regulation Review Subcommittee of the Kentucky Legislature in connection with its review of two regulations filed by the Kentucky Board of Optometric Examiners (KBOE). NBEEO's testimony reflects its support for a fundamental core principle in occupational licensing: **a state license to engage in the independent practice of optometry should convey to the public that the licensed optometrist has demonstrated the same baseline of qualifications and competencies for safe and effective healthcare practice as other licensed optometrists in the Commonwealth.** The two regulations currently before the Subcommittee – proposed ordinary administrative regulation 201 KAR 5:021 and emergency regulation 201 KAR 5:010E – fall short of that standard. **NBEEO respectfully suggests that the Subcommittee consider amendments to these regulations in furtherance of ensuring that all licensed optometrists in Kentucky have met a single, consistent standard of competency.**

Summary of Proposed Amendments:

1. Regarding 201 KAR 5:021: To ensure that all licensed Kentucky optometrists have met the same standard of competency to practice, NBEEO respectfully suggests that the Subcommittee exercise its authority to amend 201 KAR 5:021 to delete the two loopholes discussed in detail below.
2. Regarding 201 KAR 5:010E:
 - a. To ensure that all licensed Kentucky optometrists have met the same standard of competency to practice, NBEEO respectfully suggests that the Subcommittee exercise its authority to amend 201 KAR 5:010E to delete the loophole on Section 1 and to align the initial licensure provisions of the emergency regulation with those of its companion amended proposed ordinary regulation.
 - b. To ensure that all licensed Kentucky optometrists have met the same standard of competency to practice, NBEEO respectfully requests that the Subcommittee

¹ The NBEEO was established in 1951 by the International Association of Boards of Examiners in Optometry – the precursor of the Association of Regulatory Boards of Optometry (ARBO) – and the Association of Schools and Colleges of Optometry (ASCO) to establish the legitimacy and credibility of the optometry profession. The NBEEO is an independent, 501(c)(3) tax-exempt nonprofit organization. The mission of NBEEO is to protect the public through competence assessment.

consider amending Section 3 of 201 KAR 5:010E to limit licensure by endorsement only to experienced candidates who both hold an active optometry license from another state and have passed the same NBEO examinations that the KBOE requires unlicensed candidates to pass.

1. Proposed Ordinary Administrative Regulation 201 KAR 5:021 (Licensure Compliance Review)

As the Subcommittee is aware, the KBOE voted on at least six dates during the period 2020-2023 to provide waivers of the examination requirements in its own initial licensure regulations (at 201 KAR 5:010). Those regulations required that applicants for a Kentucky license to engage in the independent practice of optometry pass the three-part licensing exam that the NBEO develops, administers, and scores.² However, the KBOE waived the regulatory examination requirements for a total of 34 applicants, according to the KBOE's recent disclosures.³ On October 1, 2025, the Kentucky Attorney General issued a formal opinion, OAG 25-13, concluding that the KBOE lacked statutory authority to grant these waivers, and that the waivers were therefore "null, void and unenforceable."⁴ All of the waivers granted by the KBOE were subject to the Attorney General's instruction that "the Board must 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 response, on December 31, 2025, the KBOE filed an emergency regulation, 201 KAR 5:020E, that exempted the invalidly waived-in individuals – and only these individuals – from passing the NBEO Part III exam. Because the KBOE had on July 30, 2025, amended its initial licensure examination requirements to permit applicants for initial licensure either to pass NBEO Part I or to substitute a passing score on the Optometry Examining Board of Canada (OEBC) online exam,⁵ the emergency regulation also permitted the waived-in individuals to substitute the OEBC exam for NBEO Part I. (On April 15, 2026, KBOE abandoned the OEBC alternative in

² 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. 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 the *Therapeutic Management of Ocular Disease (TMOD®)* section, with an image-intensive, case-based format. Both Part I and Part II are computer-based, multiple-choice exams. The NBEO *Part III Patient Encounters and Performance Skills (PEPS®)* exam is a simulated-live patient encounter examination; 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 optometry skills. All fifty states require passage of NBEO Part I and Part II; all except for Oklahoma – which substitutes its own practical skills exam – also require applicants to pass NBEO Part III.

³ See <https://www.visionmonday.com/eyecare/article/kentucky-tightens-optometry-licensing-rules-but-debate-continues-over-previously-licensed-ods/>.

⁴ See <https://www.ag.ky.gov/Resources/Opinions/Opinions/OAG%2025-13.pdf>.

⁵ See <https://apps.legislature.ky.gov/law/kar/titles/201/005/010/>.

its pending proposed ordinary initial licensure regulation.⁶) Following considerable public opposition, including by NBEO, the KBOE on February 5, 2026, withdrew 201 KAR 5:020E and filed on the same day an ordinary regulation amendment, 201 KAR 5:021 – which is now under review by the Subcommittee. The KBOE also filed a similar emergency regulation, 201 KAR 5:021E. Both the ordinary and the emergency regulation permitted the invalidly waived-in individuals to substitute a computerized, multiple-choice American Board of Optometry (ABO) board certification exam for the NBEO Part III simulated live patient encounter examination, and specified that the ABO alternative examination would be accepted only for this cohort of individuals. **Unlike NBEO Part III, the ABO examination was never designed for use for licensure decisions, has not been validated for licensure, and includes no practical skills assessment.** Substituting the ABO certification exam for the NBEO Part III licensure exam is like granting a driver’s license to an applicant who failed or never attempted their driving road test, as long as the applicant passes a second written knowledge test.

On April 14, 2026, the KBOE passed a motion to amend the emergency regulation to remove the OEBC written examination as an alternative to NBEO Part I for licensee renewal for any invalidly waived-in individual who takes the exam after April 15, 2026, but it did not remove the ABO alternative to NBEO Part III. Then, at the July 16, 2026, hearing of the Interim Joint Committee on Health Services, the KBOE agreed to adopt a Committee Amendment to 201 KAR 5:021E. The Committee Amendment requires all waived-in individuals to submit passing scores on all three parts of the NBEO exam series as a condition of their license renewal in March 2027, with two loophole exceptions:

- (i) The KBOE would accept the results of the ABO exam instead of NBEO Part III if the ABO exam was taken between February 5, 2026, and July 17, 2026, and
- (ii) The KBOE would accept the results of the OEBC exam as an alternative to NBEO Part I if taken between July 30, 2025, and April 15, 2026, or if test results were submitted to the KBOE during that period.

On August 5, 2026, the KBOE sent this Subcommittee a proposed agency amendment to 201 KAR 5:021 to “mirror the changes made to 201 KAR 5:021E which was approved” in the Committee Amendment.

To ensure that all licensed Kentucky optometrists have met the same standard of competency to practice, NBEO respectfully suggests that the Subcommittee exercise its authority to amend 201 KAR 5:021 to delete the two loopholes above. Just as the KBOE requires new applicants for licensure to pass all three parts of the NBEO exam series, without exception, the renewal requirements for this cohort of individuals that the KBOE invalidly allowed to bypass those requirements should satisfy that same standard. Based on records the

⁶ On February 5, 2026, the KBOE filed a proposed administrative regulation to remove the option for applicants for initial licensure to substitute the OEBC exam for NBEO Part I, as of January 1, 2027; applicants will also be required to pass the NBEO *Injections Skill Exam (ISE®)*. The ISE exam assesses a candidate’s clinical skills in preparing for and performing intravenous and intramuscular injections. On April 15, 2026, the KBOE filed an amended proposed ordinary amendment to the initial licensure regulation that eliminated the OEBC alternative.

KBOE has provided in response to Open Records Act requests, a number of individuals in that cohort who still have not passed one or more parts of the NBEO licensure exam series are relying on the OEBC and/or ABO exams to bypass demonstrating the baseline level of competence that Kentucky requires other licensed optometrists to demonstrate.

2. Emergency Regulation 201 KAR 5:010E (Application for Licensure; Endorsement)

As noted above, on April 15, 2026, the KBOE filed an amended proposed ordinary regulation, [201 KAR 5:010](#), that abandoned the KBOE's short-lived experiment with accepting the OEBC exam in lieu of NBEO Part I, for initial licensure applicants. NBEO commends the KBOE for amending Section 1 of that proposed regulation to restore the requirement that all applicants for initial licensure as a doctor of optometry demonstrate that they have the required knowledge to pass all parts of the NBEO three-part licensure examination series. However, 201 KAR 5:010E,⁷ the emergency regulation filed the same day, which is before the Subcommittee and remains in effect, still contains a loophole in effect through January 1, 2027, that permits applicants for initial licensure to substitute the results of the OEBC exam for NBEO Part I if the OEBC exam was taken between July 30, 2025, and April 15, 2026. **To ensure that all licensed Kentucky optometrists have met the same standard of competency to practice, NBEO respectfully suggests that the Subcommittee exercise its authority to amend 201 KAR 5:010E to delete the loophole on Section 1 and to align the initial licensure provisions of the emergency regulation with those of its companion amended proposed ordinary regulation.**

In addition, NBEO respectfully requests that the Subcommittee consider amending Section 3 of 201 KAR 5:010E to limit licensure by endorsement only to experienced candidates who both hold an active optometry license from another state and have passed the same NBEO examinations that the KBOE requires unlicensed candidates to pass.

Under Kentucky's licensing application structure in 201 KAR 5:010 and 201 KAR 5:010E, any unlicensed applicant and any applicant who has been a licensed optometrist in active practice in another state or territory for less than five years must submit passing scores on the Kentucky's required licensure exams, as well as evidence of other qualifications (e.g., certified transcripts from their college and their optometry school, two letters of recommendation, a criminal record check). For licensed optometrists in active practice for the past five years seeking to relocate to Kentucky, similar proof of qualifications are required, except that they can present a certificate of good standing from all optometry boards where they are or have been licensed, rather than score reports from the NBEO. Unfortunately, it has now come to light that at least one other state optometry board permanently waived at least its NBEO exam requirements for a cohort of applicants, dating back to a period in which those licensees would now qualify for licensure by endorsement.⁸ **Because Kentucky can no longer rely on the optometry license of an out-of-**

⁷ On August 5, 2026, the KBOE proposed an agency amendment to 201 KAR 5:010E. The agency amendment includes only minor changes to the wording regarding the deadlines for applicants to submit license application materials to the KBOE.

⁸ See <https://oklahomavoice.com/2026/06/22/waived-exam-requirements-for-oklahoma-optometrists-cause-grave-concern-to-national-testing-group/> (reporting that the Oklahoma optometry board granted waivers to all applicants for an Oklahoma optometry license that exempted them from taking or passing the required NBEO exams in at least 2020).

state licensee to indicate that the licensee has demonstrated competence to practice, NBEO recommends that proof of passage of NBEO examinations should be a requirement for candidates for licensure by endorsement, just as it is for applicants for an initial license. It does not promote patient protection to hold out-of-state applicants to a lower standard. This is the only way to ensure a single, consistent standard of clinical competence for all Kentucky optometrists.

By making these amendments, the Subcommittee can protect the health and vision of Kentucky residents and restore public confidence in Kentucky optometrists.