

FORM 10

MINUTES OF PUBLIC HEARING South Dakota Board of Examiners in Optometry

The South Dakota Board of Examiners in Optometry convened at 8:00 A.M. CT on April 7, 2025, in Fort Pierre, South Dakota at the AmericInn Conference Room, located at 312 Island Drive in Fort Pierre, South Dakota.

The purpose of the meeting was to conduct a public hearing on the proposed rules of The South Dakota Board of Examiners in Optometry numbered §§ 20:50:02:04.03; 20:50:02:06; 20:50:04:13; 20:50:04:14; 20:50:06:01; 20:50:06:01.01; 20:50:06:02; 20:50:06:02.01; 20:50:11:01; and 20:50:11:03, adopted under the authority of SDCL 36-7-15 and 47-11B-23.

Hearing Officer: Board President Angela Hase

Members of the Board in Attendance: Jamie Farmen; Brian Gill; Shane Hartman; Scott Schirber

Others in Attendance: Executive Secretary Deni Martin; Counsel Megan Borchert; Executive Director of the South Dakota Optometric Society Deb Mortenson; Deputy Division Director of Licensure and Accreditation South Dakota Department of Health Kaitlin Sherer

Written Testimony

- Joseph B. Neville, Executive Director
 - National Association of Retail Optical Companies
 - Opponent
 - Cincinnati, Ohio
 - Letter dated April 1, 2025; received via email April 1, 2025, 2:52 PM
 - 20:50:04:14
 - Agree that providing clarity on how to establish patient provider relationship and confirming patient consent to the use of telehealth are admirable objectives. Object to requirement of in-person consultation within the previous 3 years. Believe decision should be left to optometrist and violations of professional judgment be addressed through discipline only.
 - The Board acknowledged the letter and reaffirmed its commitment to promulgating rules that support telehealth while prioritizing patient safety. Over the course of two years, the Board collaborated with the state medical associations and the South Dakota Optometric Society to draft rules, which included a thorough review of laws from other states. As a result of this collaborative effort, the three-year requirement for an in-person examination, along with an emergency care provision, was deemed appropriate to ensure patient safety and enhance access to care through telehealth optometry.
 - No action taken.
- Kyle Zebley, Executive Director
 - American Telemedicine Association Action
 - Opponent
 - Arlington, Virginia
 - Letter dated April 4, 2025; received via email April 4, 2025, 1:03 PM
 - 20:50:04:14
 - Supportive of many elements that seek to clarify requirements for use of

telehealth. Object to requirement of in-person consultation within the previous 3 years. Believe requirement adversely impacts patients, limits patient choice, takes decisions away from licensed providers.

- The Board acknowledged the letter and reaffirmed its commitment to promulgating rules that support telehealth while prioritizing patient safety. Over the course of two years, the Board collaborated with the state medical associations and the South Dakota Optometric Society to draft rules, which included a thorough review of laws from other states. As a result of this collaborative effort, the three-year requirement for an in-person examination, along with an emergency care provision, was deemed appropriate to ensure patient safety and enhance access to care through telehealth optometry.
- No action taken.

Oral Testimony

- Deb Mortenson, Executive Director
 - South Dakota Optometric Society (SDOS)
 - Proponent
 - Pierre, South Dakota
 - 20:50:02:04.03; 20:50:02:06; 20:50:04:13; 20:50:04:14; 20:50:06:01; 20:50:06:01.01; 20:50:06:02; 20:50:06:02.01; 20:50:11:01; and 20:50:11:03
 - Expressed gratitude to the Board for allowing the SDOS to help shape the packet over a span of two years. That the Board of Directors for the SDOS was in support of the proposed packet as presented.
 - The Board thanked Deb and the SDOS for their contributions and support.
 - No action taken.

Summary of Changes to Proposed Rules Because of the Public Hearing or Comment

- No changes made because of the public hearing or comment, based on board response to letters and overall general support from the South Dakota medical associations and the SDOS.

Adjournment: 8:14 A.M. CT April 7

Respectfully submitted,



Deni Martin

Executive Secretary

South Dakota Board of Examiners in Optometry