



**Testimony of the National Board of Examiners in Optometry to the Kentucky Board of Optometric Examiners on 201 KAR 5:021E.**

The National Board of Examiners in Optometry® (NBEEO®)<sup>1</sup> submits this written testimony in advance of appearing before the Kentucky Board of Optometric Examiners (KBOE) at its March 25, 2026, public hearing on the emergency administrative regulation it filed on February 6, 2026. **NBEEO urges the KBOE to withdraw the emergency regulation, [201 KAR 5:201E](#), and instead, at a minimum, require that any individual to whom the KBOE granted an invalid license must pass the examination requirements set forth in 201 KAR 5:010 in order to lawfully practice as a licensed optometrist in the Commonwealth of Kentucky.** This is a necessary step to support patient protection and to comply with the direction and intent of the October 1, 2025, Opinion of the Attorney General (OAG 25-13).<sup>2</sup>

As is well known, the KBOE has for decades mandated by regulation that graduates of accredited optometry programs applying for initial licensure to practice independently as optometrists in Kentucky must pass all parts of the three-part licensure examination series that NBEEO develops, administers, and grades. Each exam part measures unique competencies that are critical to entry into the profession of optometry.

In brief, the NBEEO *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 NBEEO Part I exam functions as 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. The knowledge tested in the NBEEO Part I exam directly informs effective and safe patient care, especially when patients do not present as “textbook cases” or may have other health conditions that impact the safety and effectiveness of optometric eye care.

Last year, the KBOE amended its examination requirements to permit applicants for initial licensure either to pass NBEEO Part I or to substitute a passing score on the Optometry Examining Board of Canada (OEBC) online exam. NBEEO opposed that regulatory change, and the Kentucky Optometrist Association also took the position that the KBOE’s decision to allow

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<sup>1</sup> 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. NBEEO is an independent, 501(c)(3) tax-exempt nonprofit organization. The mission of NBEEO is to protect the public by developing, administering, scoring, and reporting results of valid examinations that assess competency in optometry.

<sup>2</sup> See <https://www.ag.ky.gov/Resources/Opinions/Opinions/OAG%2025-13.pdf>.

the Canadian exam as a substitute “cast doubt” on licensure standards in Kentucky.<sup>3</sup> The KBOE has since filed a proposed administrative regulation to remove the option to substitute the OEBC exam for NBEO Part I.<sup>4</sup> Once that regulation goes into effect, as of January 1, 2027, all applicants for initial licensure as doctors of optometry in Kentucky will again have to pass all three parts of the NBEO examination series – as well as the NBEO *Injection Skills Exam (ISE®)*.

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 (required by Kentucky’s initial licensure regulation) 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 optometry skills.

It is a matter of public record that the KBOE 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.<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 KBOE has not identified these individuals publicly or stated whether there are also other individuals to whom the KBOE granted invalid waivers. **The KBOE provides no way for members of the public or employers to identify whether an optometrist practicing in Kentucky has passed all three parts of the NBEO examination series.**

In OAG 25-13, 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.

Unfortunately, the KBOE’s emergency regulation:

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

<sup>4</sup> See <https://apps.legislature.ky.gov/law/kar/titles/201/005/010/REG/>.

<sup>5</sup> According to a statement by the President of the KBOE issued on February 5, 2026, “some [of the waived-in individuals have since passed Parts I, II and III of the NBEO.” See <https://optometry.ky.gov/Documents/PRESIDENT%20STATEMENT%202.5.26.pdf>.

- (i) wrongly pretends that the invalidly waived-in individuals hold a valid license, despite the Attorney General’s statement that their licenses “were and are invalid as a matter of law,”
- (ii) attempts to circumvent the clear directive of the Attorney General that the KBOE take measure to “ensure they have met the licensure requirements as established in 201 KAR 5:010,” by exempting these individuals – and only these individuals – from passing the NBEO Part III exam, and
- (iii) permits these individuals to continue practicing optometry independently and without supervision for another year before passing the NBEO exams, except for restricting them from performing four specific laser procedures.

The KBOE characterizes the new emergency regulation as necessary to “protect against any imminent threat to public health, safety, and welfare,” but the provisions of the emergency regulation fail utterly to protect public health. Under the emergency regulation, any invalidly licensed individual who never took or even repeatedly failed the NBEO Part III Patient Encounters and Performance Skills is given a permanent exemption from ever demonstrating that they possess these clinical competencies.

Rather, the KBOE has created another special loophole for the waiver recipients by authorizing 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. 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 emergency regulation specifies 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.** 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.

**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.** At a minimum, the KBOE should bar the invalidly licensed individuals from practicing optometry independently until they meet all the current licensure exam requirements in 201 KAR 5:010. (Given the KBOE’s planned roll-back of the OEBC option, however, it

would be a sensible course for the KBOE to require these individuals now to pass all parts of the NBEO examination series.)

For all of these reasons, the NBEO urges the KBOE to exercise its authority under KRS 13A.310(5)(a) to withdraw the emergency regulation. The KBOE should also notify the invalidly licensed individuals that their licenses are null and void and require them to demonstrate that they qualify for an initial license under 201 KAR 5:010 before undertaking again to practice optometry independently in Kentucky.