

STATEMENT OF CONSIDERATION
Relating to 201 KAR 005:021E

General Government Cabinet, Board of Optometric Examiners
(Emergency Amended After Comments)

I. The public hearing on 201 KAR 5:021E, took place on March 25, 2026, at 1:00 p.m. at the Holiday Inn Express in Frankfort, KY 40601. The following people submitted comments or attended the public hearing:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
- Jill Bryant, OD (Executive Director) Optometry	National Board of Examiners in
- Daniel A. Taylor, OD (Secretary-Treasurer) Optometry	National Board of Examiners in
- Lisa Fennell; (Chief Executive Officer) Optometry	Assn of Regulatory Boards of
- Mary Beth Morris, OD; (President) Examiners	Kentucky Board of Optometric
- Letter received from the following OD's: Zachary Walters, OD, Anna Beth Harris, OD, Erica Ballard, OD, Jacob Hillard, OD, Barbara Crutchfield, OD, Erika Johnson, OD, Alexis Showalter D'Arsie, OD, Christina Nguyen Kemp, OD, Matthew D'Arsie, OD, Karen Santos McCloud, OD, Helen Dashti, OD, Breyne Middleton, OD, Robert Donati, OD, Ellen Van Norman, OD, David Eads, OD, Ashley Rone, OD, Tara Foltz, OD, Ryan Rottman, OD, and Jacob R. Webster, OD.	
- Adam Schneider, Esq., (Executive Director)	Nevada State Board of Optometry

II. The following people from the promulgating administrative body responded to the written comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
- Mary Beth Morris, OD; President Examiners	Kentucky Board of Optometric

III. Summary of Comments and Responses

There were seven (7) written or public comments received on the same subject matter. The

KBOE's Response is at the end of the comments listed below.

(1) Subject Matter: Examination Options for Licensure Compliance Review

(a) Comment: Jill Bryant, OD, President, National Board of Examiners in Optometry through comment at public hearing as transcribed:

Dr. Jill Bryant from the National Board of Examiners in Optometry. Thank you for the opportunity to speak to you today regarding the emergency regulation 201 KAR 5:021E.

As stated, I'm Dr. Jill Bryant, and I serve as the executive director of the National Board of Examiners in Optometry. I have worked with the organization for 11 years and have become intrinsically aware of the complexities involved in high stakes licensure testing. I am an optometrist, and prior to joining NBEO, I spent ten years in clinical practice as a faculty member of the ophthalmology department at Duke University Eye Center. I also obtained a master's degree in public health and three fellowships, including the American Academy of Optometry, the Scleral Lens Society, and the American Society of Optometric Surgeons.

More recently, the North Carolina governor appointed me to the North Carolina Commission for Public Health. I have dedicated my career to patients, to public health initiatives, and to patient protection through proper competency assessment. I can tell you that everyone at NBEO lives and breathes by our mission of protecting the public through competence assessment. We take our commitment to this very seriously, and that is why Dr. Taylor and I are here today because licensing laws require passing NBEO exams. They are considered high stakes exams. It is also a high stakes matter for the public and for the profession to assess whether individuals seeking to enter the independent practice of optometry have demonstrated baseline competence in the fundamentals of biomedical science and clinical thinking and decision making with respect to diagnosis and treatment, and in the practical, clinical, and performance skills needed to safely treat patients. Optometry candidates who cannot demonstrate these competencies put patients at risk of serious and potentially permanent harm if they do not properly detect and manage life-threatening or vision-threatening conditions.

For decades, NBEO has successfully worked with the Kentucky Board of Optometric Examiners to ensure Kentucky patients receive safe, high-quality care from qualified, competent optometrists. Unfortunately, the relationship between the KBOE and the NBEO has fractured in recent years. There is no better example of this disconnect than the fact that the KBOE never even attempted to engage us when they began exploring alternative licensure standards, and that the KBOE has repeatedly declined invitations to learn more about the NBEO exams. We are here today to speak to this board, to every optometrist in Kentucky, and to Kentucky residents in need of optometric care, because we believe the KBOE is falling short of its obligation to protect Kentucky's optometric patients. Despite assertions to the contrary, NBEO is here for one reason, because when we see licensure practices that threaten public health, we owe it to patients and the optometric profession to speak up.

Simply put, the Kentucky Optometry Board has lost its way, putting patient safety at risk and placing a lower priority on public health than on upholding competency standards. We are not alone in this belief. Attorney General Coleman's recent opinion echoed those concerns. The

Association of Regulatory Boards of Optometry, or ARBO, has formally voiced their concerns.

The state of Nevada has gone so far as to rescind automatic licensure reciprocity for Kentucky optometrists. The New Hampshire Optometry Board has requested that Kentucky be removed from their list of reciprocal states due to their acceptance of alternatives to NBEO for licensing. And this is just the beginning.

It is very concerning and confusing that with the introduction of this emergency regulation, the KBOE has chosen to once again introduce another non-equivalent testing alternative for a small subset of optometrists. The creation of a special qualification pathway for a small group of optometrists is both unnecessary and misguided. It will fail to maximize public safety because the American Board of Optometry Exam is not intended for licensure and has never been validated for that purpose. Please ask yourself truly, is the public comfortable with the KBOE replacing the only simulated live patient encounter and clinical skills licensure exam with a multiple choice exam that was not designed to measure competency for licensure? It is incomprehensible that you believe this provides a similar assessment of optometric confidence. The two are simply not comparable. I'm almost finished if you could give me just a little bit longer.

Moreover, this will cast an irreversible shadow of doubt over every practicing optometrist because patients have no way of knowing which optometrist or how many utilized with the loophole to gain licensure without meeting Kentucky's long-established standards. Nevada's revocation of automatic licensure reciprocity reinforces this decision. Despite these concerns, NBEO is committed to working with the KBOE to help the board regain the public trust and to once again work together to serve the people of Kentucky. My sincere hope is that we can begin to heal the fracture and once again work together productively to ensure Kentucky patients can trust that every licensed optometrist is qualified to deliver optometric care.

To that end, we would like to, once again, for at least the 12th time in recent months, extend an invitation for you to visit the NBEO, the National Center of Clinical Testing, to meet our professional staff that includes six optometrists, a Ph.D. psychometrician, and many others regarding the exam development process. Over 200 optometrist subject matter experts, including those in Kentucky, work with us in this development process. We'd like to discuss the great lengths that we go to ensure our exams are aligned with Kentucky's scope of practice.

Thank you for the opportunity to provide these comments to you today.

(2) Subject Matter: Examination Options for Licensure Compliance Review

(a) Comment: Jill Bryant, OD, President, National Board of Examiners in Optometry through written comment stated:

The National Board of Examiners in Optometry® (NBEO®)1 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. NBEO 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).

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 NBEO develops, administers, and grades. Each exam part measures unique competencies that are critical to entry into the profession of optometry.

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 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 NBEO 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 NBEO Part I or to substitute a passing score on the Optometry Examining Board of Canada (OEBC) online exam. NBEO opposed that regulatory change, and the Kentucky Optometrist Association also took the position that the KBOE’s decision to allow the Canadian exam as a substitute “cast doubt” on licensure standards in Kentucky. The KBOE has since filed a proposed administrative regulation to remove the option to substitute the OEBC exam for NBEO Part I. 4 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.⁵ 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:

- (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.

Recommendation:

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.

(3) Subject Matter: Examination Options for Licensure Compliance Review

(a) Comment: Daniel A. Taylor, OD, Secretary-Treasurer, National Board of Examiners in Optometry through comment at public hearing as transcribed:

Good afternoon. Daniel Taylor. In my day job I'm the dean of the Michigan College of Optometry at Ferris State University. My background is receiving a Doctor of Optometry from the Southern College of Optometry. I've also received a Doctor of Education in Instructional Design and Technology from the University of Memphis and a Master of Science in Biomedical Science with a concentration in cancer and cell development biology from the University of Tennessee.

But today I'm speaking as secretary-treasurer of the National Board of Examiners in Optometry Board of Directors, as well as an optometrist who, like many others across our country, is proud to practice at the fullest scope of my competence. My experiences in optometric education and as a volunteer on the NBEO board grant me unique insights into the intricacies of high stakes licensure examinations, and their practical applications to the optometric profession.

I commend the KBOE for reversing its decision to accept the OEBC exam in lieu of NBEO Part 1 beginning in 2027. As the NBEO has shared in previous testimony, that exam is not equivalent to NBEO Part 1, which was created and psychometrically validated to reflect the unique practice of American optometrists. Despite this, the KBOE has failed to take the most important step necessary to protect the public and to regain the public trust, namely to revoke all improperly

provided optometric licenses, excuse me, until their holders have met all licensure requirements established by law. The attorney general's statement made clear that licenses granted through waivers, quote, "were and are invalid as a matter of law," unquote.

Right now, there are practicing optometrists in Kentucky who have not passed the licensure examinations required by state law. The KBOE should require them to refrain from independent practice unless and until they pass the licensing examinations that are required by law of every other applicant. The KBOE has not made public who these optometrists are.

Despite the obvious risks to public safety and the attorney general's statement, the KBOE has not taken the straightforward and obvious path to ensure public safety, requiring that all Kentucky optometrists pass all parts of the NBEO licensure examination series in order to engage in independent practice. National standards exist so the patients can have confidence that any optometrist who treats them has met consistent standards of competency. And nearly every other state in the country follows this standard. This morning, we learned that New Hampshire has just revoked licensure reciprocity for Kentucky optometrists. ARBO recently sent a letter to this board reiterating that, quote, "public protection is best served when regulatory requirements are uniform and validated," unquote.

The KBOE's recent decision to have all candidates meet the NBEO examination standard required by state law in 2027 demonstrates your agreement with the reasoning behind ARBO's statement. As mentioned previously, I applaud you for the decision to revoke acceptance of the OEBC examination beginning in 2027. However, I echo the comments from ARBO and the state of Nevada, and urge the KBOE to prioritize patient protection rather than creating a specialized substandard licensure process for a small cohort of optometrists.

Recommendation: I urge the KBOE to withdraw its emergency regulation and instead hold all optometrists to the same nationally accepted and locally appropriate competency standards. Continuing on the current path puts patient safety at risk and casts unfair doubt on every other appropriately licensed Kentucky optometrist.

(4) Subject Matter: Examination Options for Licensure Compliance Review

(a) Comment: Lisa Fennell, Chief Executive Officer, Association of the Regulatory Board of Optometry through written comment:

The Association of Regulatory Boards of Optometry (ARBO) is a not-for-profit, 501(c)(3), membership organization whose mission is to represent and assist member licensing agencies in regulating the practice of optometry for the public welfare. ARBO's members consist of the governmentally created boards in the United States, Canada, Australia and New Zealand, that regulate the profession of optometry.

ARBO submits this letter to provide comments on the Kentucky Emergency Administrative Regulation 201 KAR 5:021E. As noted in the public notice, Kentucky statutes authorize the Board of Optometric Examiners (Kentucky Board) to promulgate administrative regulations for the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists. ARBO recognizes the importance of statutory compliance and respects the legislative

processes and content of the statutes and regulations designed to regulate the profession in the interest of public protection.

The Emergency Regulation provides a mechanism for a limited number of licensees who were licensed during 2020-2023 without compliance with the statutory requirements, to meet such criteria as part of the license renewal process and imposes restrictions on specific laser procedures until the licensing requirements are met. The Emergency Regulation identifies the examinations that must be passed to qualify for optometric licensure renewal. ARBO has several comments and regulatory concerns regarding the Emergency Regulation.

1. The Use of Alternative Examinations

Section 1, subpart (3) identifies the American Board of Optometry (ABO) Board Certification Examination as one of the acceptable examinations that must be passed to renew their improperly issued licenses. The introduction of the ABO examination provides an option to the National Board of Examiners in Optometry (NBEO) Part III Patient Encounters and Performance Skills (PEPS) Examination. ARBO suggests that multiple issues are at stake and offers the following comments.

- Licensure Validity and Defensibility: The NBEO three-part licensure examination is designed and validated for optometrists to demonstrate the minimum competence to practice optometry in a manner consistent with industry testing standards. The ABO Exam is a voluntary exam for Board Certification of optometrists and has not been psychometrically validated for use as a high-stakes licensure exam.
- Consistency of Licensure Standards: By allowing this limited use of the ABO Examination, the Kentucky Board ignores the decades' long use of the NBEO examination program in Kentucky and across the US and allows select candidates to be licensed without demonstrating the same skills as other Kentucky licensed optometrists. All other optometrists in Kentucky were required to pass the NBEO Part III Exam, yet now the introduction of the ABO treats specific renewal candidates in a manner inconsistent with other licensed optometrists. This disparate treatment likely raises legal concerns that should be addressed via the Kentucky Board's legal counsel.
- Interjurisdictional Mobility: The use of alternative examinations by the Kentucky Board destroys the uniformity of the licensure process. Uniformity in testing using licensure examinations that are validated nationwide promotes mobility and portability while respecting states' rights to govern. Uniform competence examinations are ubiquitous in the health professions in promoting mobility and portability. This lack of uniformity may undermine the legal defensibility of the Kentucky Board's standards if challenged by future applicants or licensees.
- Concerns and Confusion: Many of ARBO's members have expressed concerns about the Kentucky Board's decision to allow alternate examinations in addition to the NBEO Exam universally utilized in the US States, Territories, and the District of Columbia. These decisions will create unnecessary confusion among licensure candidates and add significant barriers for licensees who may seek licensure in another state. Deviation from the nationally recognized

licensure examination requirement also places an undue burden on other State Regulatory Boards to determine equivalency where none may exist.

Recommendation: To ensure due process and administrative clarity, ARBO recommends that the regulation explicitly define the status of a license should a practitioner fail to meet these requirements by the 2027 deadline.

At a minimum, the communication should include:

- The process by which examination results will be reviewed and verified;
- The specific actions that will be taken for non-compliance; and
- The timeline for the restoration of full privileges (including laser procedures).

(5) Subject Matter: Examination Options for Licensure Compliance Review

(a) Comment: Mary Beth Emmick Morris, OD, President, Kentucky Board of Optometric Examiners through written comment:

Protecting the public remains the top priority of the Kentucky Board of Optometric Examiners (KBOE). KBOE has listened to and greatly respects the opinions received during the public comment period. As a result, KBOE believes that it should further evaluate whether the Optometry Examining Board of Canada (OEBC) written examination and/or the American Board of Optometry (ABO) board certification exam should be included in 201 KAR 5:021E moving forward.

(6) Subject Matter: Examination Options for Licensure Compliance Review

(a) Comment: Letter received and signed by the following ODs: Zachary Walters, OD, Anna Beth Harris, OD, Erica Ballard, OD, Jacob Hillard, OD, Barbara Crutchfield, OD, Erika Johnson, OD, Alexis Showalter D’Arsie, OD, Christina Nguyen Kemp, OD, Matthew D’Arsie, OD, Karen Santos McCloud, OD, Helen Dashti, OD, Breyne Middleton, OD, Robert Donati, OD, Ellen Van Norman, OD, David Eads, OD, Ashley Rone, OD, Tara Foltz, OD, Ryan Rottman, OD, Jacob R. Webster, OD

We are writing to respectfully express our opposition to the Kentucky Board of Optometric Examiners’ (KBOE) recent emergency regulation (201 KAR 5:021E) and its companion ordinary regulation (201 KAR 5:021REG) that allows certain waiver-receiving individuals to substitute the Optometry Examining Board of Canada (OEBC) in place of National Board of Examiners in Optometry (NBEO) Part I and American Board of Optometry (ABO) in place of NBEO Part III for relicensure in 2027. We appreciate that the KBOE listened to concerns of transparency and understood the importance of restoring the requirement for the full NBEO licensure examination series starting in 2027, however, this should be extended to those that received licensure waivers from 2021-2023 and anyone applying for licensure from 2024-2026.

The full NBEO examination series represents the nationally recognized standard for demonstrating competency to safely practice optometry. The OEBC and ABO are not recognized by any other state in the country as legitimate for optometric licensure and should not be in Kentucky. The OEBC exam is not equivalent to NBEO Part I and the ABO exam is not equivalent to NBEO Part

III. Creating an alternate pathway for a select group undermines the uniform standard that has long protected Kentucky patients.

This emergency regulation risks further casting doubt on the qualifications of those receiving waivers by signaling that a different, potentially less rigorous pathway is sufficient for some. A consistent licensure standard is essential not only for patient safety, but also for maintaining confidence in the profession.

If the goal is to strengthen optometric practice and improve public safety in Kentucky, the solution should be to uphold uniform national examination requirements for all candidates seeking licensure or relicensure—without exceptions.

Recommendation: We respectfully urge you to review this regulation carefully and oppose any measure that lowers or fragments the established licensure standard.

(7) Subject Matter: Examination Options for Licensure Compliance Review

- (a) Comment: Adam Schneider, Esq., Executive Director, Nevada State Board of Optometry through written comment:

The Nevada State Board of Optometry (NSBO) has been made aware of 201 KAR 5:021E. On behalf of the Nevada State Board of Optometry as its Executive Director, I am writing to advise that any Kentucky licensee who does not pass National Board and Examiners in Optometry (NBEO) Part III, regardless if he or she passed the American Board of Optometry (ABO) board certification exam, will not be eligible for licensure in Nevada.

As you may recall about 2025's KAR 5:010, this kind of issue was of such significance to avoid this false equivalence between types of national testing that in the best interests of the public the Nevada State Board of Optometry proposed and sponsored a bill to add an additional section to its license by endorsement statute (NRS 636.206). Eligibility for a Nevada license can only occur if the applicant/non-Nevada optometrist "[h]as passed each part of the comprehensive national optometry examination administered by the National Board of Examiners in Optometry or its successor as a prerequisite to the issuance [of a Nevada license]." This proposal passed 42-0 in the Assembly and 21-0 in the Senate, and became Nevada law in 10/2025. The same principles stated NSBO's 5/2025 letter regarding KAR 5:010 hold true here as to 201 KAR 5:021E.

The NBEO is a widely respected organization that is recognized across all states and territories in the United States for optometric licensure. Use of the NBEO Exams ensures uniformity and consistency in the qualification of optometrists to enter practice and allows for license mobility across the country. The NBEO Part III Exam and the ABO are simply not equivalent, and one should not be substituted for the other to assess the competency of optometric students and/or requisite eligibility for a State or Commonwealth license to practice optometry.

Please kindly advise the above to any decision-maker, or any person who inquires about any potential national impact of KAR 5:021E.

- (b) Response:

The Kentucky Board of Optometric Examiners (KBOE) greatly appreciates all comments and opinions that have been given and/or submitted to it regarding examination options for licensure compliance review. On October 1, 2025, the Commonwealth of Kentucky, Office of the Attorney General issued an opinion that directed KBOE to review the licensure of optometrists who were licensed under waiver and alternative testing measures to ensure they met the licensure requirements as established in regulations under KRS 13A. See 25-OAG-13. In accordance with the Attorney General Opinion, KBOE began an investigation into licenses previously issued and filed 201 KAR 5:021E.

Under 201 KAR 5:010, which was filed on April 14, 2025 and has been in effect since July 30, 2025, the Optometry Examining Board of Canada (OEBC) has been a legal alternative to the NBEO Part 1 for initial licensure applicants. As a result, it was also included as an option within 201 KAR 5:021E to be consistent with current law. KBOE understands various people and organizations have voiced opposition to the utilization of the OEBC written examination as an alternative to the NBEO Part 1. To address these concerns, along with the filing of 201 KAR 5:021E, KBOE had also filed an ordinary regulation amendment on February 5, 2026 that removed the OEBC as an option for initial licensure in 2027.

Due to the continuing concerns and comments expressed by individuals and organizations, KBOE agrees to amend the emergency regulation to remove the OEBC written examination as an alternative to NBEO Part 1 for licensee renewal for any licensee that takes the exam after April 15, 2026. The amendment shall state that “A licensee may submit a passing score of the Optometry Examining Board of Canada (OEBC) Part 1 to satisfy the requirements of Section 1(1) of this emergency regulation if the OEBC Part 1 test was taken by the licensee or test results were submitted by the licensee to the Kentucky Board of Optometric Examiners between July 30, 2025 and April 15, 2026.”

In response to requests for removal of the ABO certification exam as an alternative to the NBEO Part 3, KBOE has determined it will not amend its emergency regulation. The ABO certification examination provides an unbiased review of the licensee’s current standard of competency with transparent scoring criteria. The ABO exam is a practice-based, peer-developed, psychometrically validated assessment, meant to evaluate ongoing clinical competence. The KBOE has great confidence in the quality of the test that is administered. If an existing licensee chooses the rigorous path to meet the ABO qualifications to take the exam and successfully passes the exam, the KBOE feels strongly that any concerns of competency are addressed.

KBOE has listened, reviewed and researched all comments received and it has determined that it will not make any further amendments to 201 KAR 5:021E, except those as outlined in this section. In addition, KBOE has determined it will not withdraw 201 KAR 5:021E. KBOE believes 201 KAR 5:021E is an important step and provides clear guidance regarding its licensure compliance review while ensuring public safety is its top priority.