

SOUTH DAKOTA BOARD OF EXAMINERS IN OPTOMETRY

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IN THE MATTER OF THE  
DECLARATORY RULING PETITION FROM  
THE SOUTH DAKOTA OPTOMETRIC  
SOCIETY REGARDING INTENSE PULSED  
LIGHT FOR TREATMENT OF DRY EYE  
DISEASE

DECLARATORY  
RULING  
23-01

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The South Dakota Board of Examiners in Optometry (Board) met on August 28th, 2023, pursuant to SDCL § 36-1C-15, to hear a Petition for Declaratory Ruling submitted to the Board from the South Dakota Optometric Society dated August 10th, 2023.

The hearing was public noticed in compliance with open meetings requirements and SDCL chs. 1-26 and 36-1C. Petitioner was noticed on August 15, 2023. A formal hearing was conducted pursuant to SDCL § 36-1C-16 where Petitioner was present and provided testimony in support of the Petition for Declaratory Ruling.

The Board, by unanimous quorum vote, ordered that this Declaratory Ruling Response be issued to the Petitioner and incorporated into a formal Declaratory Ruling of the South Dakota Board of Examiners in Optometry.

**Authority**

SDCL § 1-26-15 provides that “[e]ach agency shall provide by rule for the filing and prompt disposition of petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the agency.”

SDCL § 36-1C-4 provides that “[a] person seeking a ruling as to the applicability to that person of a law, rule, or order of an agency under title 36 may file with the agency a petition for declaratory ruling...”. That statute requires the petitioner to provide information about the petitioner, the specific statutes or rules in question, the facts and circumstances giving rise to the issue to be addressed, and to describe the precise issue to be answered in the declaratory ruling.

Pursuant to SDCL § 36-1C-15, the agency, at its next scheduled meeting or within ninety days, whichever is shorter, shall issue a declaratory ruling and serve

a copy of it by mail or electronic mail upon the petitioner.

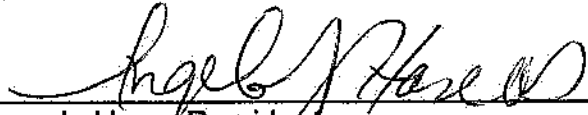
### **Issue and Ruling**

**Regarding the use of Intense Pulsed Light devices to treat dry eye disease by South Dakota optometrists:**

The South Dakota Board of Examiners in Optometry finds that Intense Pulsed Light treatment (IPL) is within the scope of practice for an optometrist in South Dakota for the non-surgical treatment of dry eye disease, pursuant to SDCL § 36-7-1, if the optometrist is educationally qualified and does not rely on laser technology or use any device setting that is outside the scope of practice in South Dakota.

Further, an optometrist may not provide IPL treatment to a patient solely for aesthetic or cosmetic benefit, or after the optometric purpose for the treatment has been achieved. An optometrist utilizing IPL shall be prepared to handle any complications from the treatment.

Dated this 30<sup>th</sup> day of August, 2023.

  
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Angela Hase, President  
South Dakota Board of Examiners in Optometry