

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 42 - BOARD OF EXAMINERS IN OPTOMETRY

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC State Board of Examiners in Optometry intends to repeal the rules cited as 21 NCAC 42B .0104; and 42D .0103-.0106, .0108.

Link to agency website pursuant to G.S. 150B-19.1(c):

Proposed Effective Date: *May 1, 2012*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): A public hearing may be demanded by contacting: John D. Robinson, O.D., Executive Director, NC State Board of Examiners in Optometry, 109 North Graham Street, Wallace, NC 28466; phone (910) 285-3160 or (800) 426-4457; email exdir@ncoptometry.org.*

Reason for Proposed Action: *The rules are no longer necessary or they are obsolete.*

Procedure by which a person can object to the agency on a proposed rule: *Persons may object to the proposed rule changes by contacting: John D. Robinson, O.D., Executive Director, NC State Board of Examiners in Optometry, 109 North Graham Street, Wallace, NC 28466; phone (910) 285-3160 or (800) 426-4457; or email exdir@ncoptometry.org.*

Comments may be submitted to: *John D. Robinson, O.D., Executive Director, NC State Board of Examiners in Optometry, 109 North Graham Street, Wallace, NC 28466; phone (910) 285-3160 or (800) 426-4457; email exdir@ncoptometry.org*

Comment period ends: *March 9, 2012*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
- Environmental permitting of DOT affected
- Analysis submitted to Board of Transportation
- Local funds affected
- Date submitted to OSBM:
- Substantial economic impact (\geq \$500,000)
- Approved by OSBM
- No fiscal note required

SUBCHAPTER 42B - LICENSE TO PRACTICE OPTOMETRY

SECTION .0100 - LICENSE BY EXAMINATION

21 NCAC 42B .0104 APPLICATION FOR LICENSURE BY RECIPROCIDY

~~Requests for application for licensure under the provisions of G.S. 90-118.5 shall be accompanied by the appropriate fee and shall be made on Form BEO-1 supplied by the Board. The application and supporting documents required by G.S. 90-118.5 must be received in the Board office 60 days prior to the date of the clinical practicum examination for which the application is being made.~~

Authority G.S. 90-117.5; 90-118.5.

SUBCHAPTER 42D - OPTOMETRIC ASSISTANT AND TECHNICIAN

21 NCAC 42D .0103 APPLICATION

~~Application for registration of an optometric assistant or an optometric technician shall be made upon Form BEO-6 supplied by the Secretary and shall be submitted by the prospective registrant or the optometrist for whom the optometric assistant or optometric technician will work.~~

Authority G.S. 90-115.1(6); 90-117.5.

21 NCAC 42D .0104 REGISTRATION

~~Before being approved for registration by the Board to perform as an optometric assistant or as an optometric technician an applicant must submit an application, the registration fee, and give evidence of qualification of training as recognized by the Board under Rule .0006 of this Subchapter. Registration will be effective until January 31 of the year following approval and thereafter be annually renewed.~~

Authority G.S. 90-115.1(6); 90-117.5.

21 NCAC 42D .0105 ANNUAL RENEWAL

~~Registered optometric assistants and optometric technicians will be required to apply for annual renewal of registration not later than January 31 of each year. Renewal will be made by application on Form BEO 10 supplied by the Secretary and accompanied with the annual renewal fee.~~

Authority G.S. 90-115.1(6); 90-117.5.

21 NCAC 42D .0106 ACCREDITATION OF TRAINING PROGRAMS

~~Application for recognition of an optometric technician or optometric assistant training program by the Board shall be made by letter with supporting documents from the director of the program. The training program must be sponsored by an institute, college, university recognized by the American Optometric Association, the North Carolina Optometric Society, or by an entity affiliated with one of the foregoing. There must be evidence that the program has education as its primary orientation and objective. The program must be under the supervision of a qualified director, who has at his disposal the resources of competent personnel adequately trained in the optometric field. The prescribed program must provide adequate instruction in the field of optometry as related to an optometric assistant or a prescribed course in optometric technicianry. Recognition of a program may be withdrawn when, in the opinion of the Board, the program fails to maintain the educational standards recommended by the Council on Optometric Education.~~

Authority G.S. 90-115.1(6); 90-117.5.

21 NCAC 42D .0108 TERMINATION OF REGISTRATION

~~The approval of an optometric assistant or an optometric technician shall be terminated by the Board when, after due notice and hearing, it shall find:~~

- ~~(1) that the assistant or technician has held himself out or permitted another to represent him to be an optometrist;~~
- ~~(2) that the assistant or technician in fact has performed otherwise than at the direction or under the supervision of an optometrist licensed by the Board or has been delegated and has performed a task or tasks beyond his competence;~~
- ~~(3) that the assistant or technician is a habitual user of intoxicants or drugs to such an extent that he is unable to perform as an assistant or technician to an optometrist;~~
- ~~(4) that the assistant or technician has been convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude;~~
- ~~(5) that the assistant or technician has been adjudicated as mentally incompetent, or suffers from a mental condition rendering him unable to safely perform as an assistant or technician to an optometrist;~~
- ~~(6) that the assistant or technician failed to pay the registration fee or renewal fee.~~

Authority G.S. 90-115.1(6); 90-117.5.