

# **Administrative Rules of the Board of Optometry**

Effective September 9, 2013

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## **Administrative Rules of the Board of Optometry**

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### **Part 1. General Information**

#### **1.1 The Board's Purpose**

(a) The State Board of Optometry (“the Board”) is created by the Vermont Legislature. Chapter 30 of Title 26 of the Vermont Statutes Annotated confers the Board with specific powers and duties. The Board has adopted these rules to aid applicants, licensees, and the general public in understanding the requirements for this profession.

(b) The Board is created to protect the public health, safety, and welfare by setting standards for issuing licenses, licensing qualified applicants, and regulating the practice of license holders.

(c) The Board maintains a website at <http://vtprofessionals.org/>. Practitioners should periodically consult the website for matters of interest to the profession.

#### **1.2 Definitions** As used in these rules:

(a) “Board” or “The Board” means the Vermont Board of Optometry.

(b) “C.O.P.E.” means Council on Optometric Practitioner Education;

(c) “Office” means Office of Professional Regulation

(d) “V.S.A.” means Vermont Statutes Annotated, the authorized compilation of Vermont legislative enactments.

#### **1.3 Laws That Govern the Board**

The Board is created by Chapter 30, Title 26, Vermont Statutes Annotated, which establishes the Board’s responsibilities for setting standards, issuing licenses, and regulating the profession. The statutes are online at <http://www.leg.state.vt.us/statutes/chapters.cfm?Title=26>. Board powers are also conferred by subchapter III of Chapter 5 of Title 3 “Professional Regulation,” the statutes creating and governing the Office of Professional Regulation ( 3 V.S.A. §§ 121-132). In addition to the “Professional Regulation” statutes, the Board is subject to other state laws including the “Administrative Procedure Act” (3 V.S.A. §§ 801-849), the “Open Meeting Law” (1 V.S.A. §§ 310-314), and the “Access to Public Records Law” (1 V.S.A. §§ 315-320). In contested cases, the Board follows the Vermont Rules of Evidence, as amended by the Administrative Procedure Act. These laws set forth the rights of applicants, license holders, and members of the public.

The Office provides legal counsel to help the Board comply with all laws affecting Board business. Applicants and licensees should be aware that Chapter 5 of Title 3 of the Vermont Statutes contains several statutes which govern regulation of licensed professionals. See among them, 3 V.S.A. § 129a which defines unprofessional conduct.

#### **1.4 Business Address**

(a) The Board's business location is in the Office of the Secretary of State, Office of Professional Regulation, (the "Office") in the City Center in Montpelier. Its mailing address is:

Vermont Board of Optometry  
Vermont Secretary of State  
Office of Professional Regulation  
89 Main Street, Fl. 3  
Montpelier, VT 05620-3402

(b) Copies of these rules and more information about the Board and its requirements and procedures may be obtained by contacting the Office at 802-828-1505. This information may also be obtained from the Board's website at <http://vtprofessionals.org/>.

**1.5 Board Rules** The Board is authorized to make these rules by Chapter 30 of Title 26. In making or revising rules, the Board must follow the Administrative Procedure Act ("Act"). These rules were approved by the Vermont Legislative Committee on Administrative Rules before adoption and are presumed valid. These rules have the force of law. 3 V.S.A. § 845(a).

**1.6 Advisory Opinions** Interpretation of the meaning of Board Rules and statutes often occurs when the Board is deciding an unprofessional conduct case. The Board is not authorized to issue advisory opinions.

**1.7 Legislative Changes Affecting Rules** Legislative changes from time to time may create inconsistencies between statutes and administrative rules. When a rule and statute are inconsistent, the statute governs.

#### **1.8 Regular, Special, and Emergency Meetings**

(a) The Board holds at least one regular annual meeting. The chair or two members may call a special or emergency meeting if it is necessary. A majority of Board members constitutes a quorum for all meetings. Formal action may be taken at a meeting if a majority of those present and voting are in favor of the action.

(b) Information on meeting times and location can be obtained from the Office or online at <http://vtprofessionals.org/>.

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## **Part 2 Information for Applicants**

**2.1 Need for a License** According to the Optometry Act, 26 V.S.A. § 1712, No person may practice optometry in this state who is not licensed under this chapter, and no person may use the title “doctor of optometry,” “optometrist,” or any substantially equivalent title unless he or she is licensed by the Board.

## **2.2 Application**

An applicant must submit a completed application form with all supporting documentation and applicable fee to the Office. Applications and information about license requirements are available from the Office or online at <http://vtprofessionals.org/>.

**2.3 Licensure by Examination** To be eligible for licensure as an optometrist by examination an applicant must:

(a) have reached the age of majority;

(b) be a graduate of an optometric school or college accredited by a regional or professional accreditation organization approved by the Board; and

(c) successfully complete all parts of the National Board of Examiners in Optometry Examination.

**2.4 Recent Examination Required** Applicants who have not previously been licensed must successfully have completed the examination no more than 2 years before applying for licensure.

**2.5 License by Endorsement** An applicant who is licensed and in good standing in another United States jurisdiction whose licensing requirements are substantially equivalent to Vermont’s may apply for a license without written examination.

**2.6 Unprofessional Conduct - Effect on Licensure** A license may be denied, limited, or conditioned if the applicant has engaged in unprofessional conduct.

## **2.7 Right to a Written Decision**

(a) The Board will notify applicants in writing of all decisions to either grant or deny a license or license renewal. If a license or renewal is denied, the Board will give the applicant specific reasons and will also inform the applicant of the right to appeal the Board’s decision. This is called a “preliminary denial.”

(b) The Board, or the Office on behalf of the Board, most often issues a preliminary denial of licensure or renewal when it appears from the application and accompanying documents that the applicant does not meet all of the requirements for licensure. When this occurs, the applicant is notified of the right to file an appeal which is heard as a formal hearing by the Board. At the hearing the burden of proof is on the applicant to show that the preliminary denial was in error. After that hearing the Board issues a final decision in writing. If the decision affirms the preliminary denial of a license, the decision informs the applicant of his or her appellate rights.

**2.8 Right to Appeal** A person who is not satisfied with a final decision of the Board may appeal to an appellate officer within 30 days of being sent notice of the Board’s decision. The

appellate process is governed by Vermont law, 3V.S.A. § 130a, and has its own procedural rules. Information about the appellate process is available from the Office.

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## **Part 3 Information for Licensed Optometrists**

### **3.1 License Renewal**

(a) Licenses are issued for a two-year period on a schedule set by the Office of Professional Regulation and must be renewed by the expiration date printed on the license certificate.

(b) A license not renewed by its expiration date expires.

(c) The Office sends licensees a renewal notice in advance of the expiration date. A licensee is responsible for renewal whether a notice is received or not.

### **3.2 Continuing Education Requirements**

(a) As a condition of renewal all licensees are required to complete continuing education as set forth below:

(1) Licensees who do not hold an endorsement permitting use of therapeutic pharmaceutical agents must complete 20 hours of continuing education.

(2) Licensees who hold an endorsement permitting use of therapeutic pharmaceutical agents must complete 40 hours of continuing education of which 20 hours shall be in the use of therapeutic pharmaceutical agents, including treating possible complications arising from their use, and the treatment of glaucoma.

(b) “Continuing education” means the direct participation of an optometrist in a structured educational format taught by qualified presenters. Continuing education has significant intellectual and practical content directed at maintaining the professional competence of optometrists. Continuing education as used in this Part does not include practice management courses or programs.

(c) Permitted continuing education programs may include classroom style instruction, educational seminars with substantial written material available, whether conducted by live speakers, lecturers, panel members, video or audio tape presentation, in a classroom setting with a group of not fewer than three individuals, or on line.

### **3.3 When Continuing Education is Required**

(a) For applicants granted an initial license to practice, the mandatory continuing education requirement begins with the first day of the first full biennial licensing period following the issuance of initial license.

(b) For those licensees granted an initial license within 90 days of the end of the licensing period/renewal date and who are not then required to renew their licenses, the continuing education requirement begins with the first day of the biennial licensing period so that all people licensed for two years at the time of their first renewal must show compliance with the continuing education requirements.

**3.4 Limitation** No more than ten (10) hours of required continuing education may be taken as on home study or on line study. Of those ten (10) hours, no more than two (2) may be taken as home study. To qualify for approval home study or on line study courses must require verification of successful completion via test or other acceptable means.

**3.5 Hardship Variance** The Board, in its sole discretion, may, in individual cases involving extreme hardship, grant waivers or extensions of time to complete continuing education requirements.

**3.6 Acceptable Hours** Continuing education hours will be allowed only for actual time spent as a learner. Time spent in activities as an instructor, presenter, or supervisor do not qualify for continuing education credit.

**3.7 Continuing Education Records Retention** Continuing education certificates of attendance/documentation must be retained for four years.

### **3.8 Continuing Education Audits**

(a) The Board will conduct continuing education audits of randomly selected licensees as well as licensees whose licenses are conditioned. The Board will also audit reinstating licensees, and licensees who in any of the preceding 2 renewal cycles were initially found to have not met continuing education renewal requirements.

(b) When a licensee appears on the audit list, the Board will request documentation from the licensee showing a detailed account of the various credits claimed. The Board will review the documentation and determine whether the continuing education requirements have been satisfied.

(c) A form upon which all continuing education must be recorded is available on line at the Board's web site. Documentation of continuing education must include the name and date of the programs with certificates of attendance, the number of continuing education hours approved.

(c) Under 3 V.S.A. § 129(k) the Board may give licensees 90 days to develop and complete a corrective plan to cure any deficiencies in his or her continuing education requirements.

(d) Courses taken pursuant to a corrective plan may be counted for only the licensing period being audited.

(e) Failure to comply with a corrective plan may result in disciplinary action. 3 V.S.A. § 129a(a)(4).

### **3.9 Pre-approved programs or providers**

(a) Continuing education programs approved by C.O.P.E. are pre-approved by the Board.

(b) The Board may approve other specific providers or programs. A list of those approvals will be kept by the Board and be available from the Board's website.

### **3.10 Approval of Continuing Education Programs not Pre-Approved under Rule 3.9**

(a) An educational program may be approved by the Board. Applications for approval may be made by submitting a continuing education approval application form. The forms are available from the Board's web site.

(b) Requests for approval must include:

- (1) The name of the activity;
- (2) the number of credits requested;
- (3) an outline of presentation, copies of handouts or slides, if any;
- (4) the name of the instructors;
- (5) sponsors; and,
- (6) whether C.O.P.E. approval has been sought, granted or denied.

(c) An application may be filed by the sponsoring agency, or group, or by any participant.

(d) An application for advance approval must be filed at least 90 days before the educational activity occurs.

**3.11 Post Activity Approval** Applications for approval of continuing education programs which have already occurred must be filed within 30 days of the event or program.

### **3.12 Approval Process**

(a) The Board will approve an activity or program which meets the requirements of these rules.

(b) The Board will determine how many hours credit each approved activity will be awarded.

(c) Approval of a Program is for one time only.

(d) The sponsor of a program approved by the Board may state that the program is approved for the number of hours of continuing education credit specified by the Board.

### **3.13 Reinstatement of Expired Licenses**

(a) A lapsed license may be reinstated within six (6) years of expiration upon payment of the reinstatement penalty and renewal fee, and meeting all renewal requirements.

(b) If the license has lapsed more than six years, and the licensee does not possess an active license in good standing from another jurisdiction, the applicant is not eligible for reinstatement and must reapply as provided above.

**3.14 Inactive status** Licensees may change their license status to inactive as permitted by law.

**3.15 Change of Name or Address** A licensee is responsible for notifying the Office promptly of any change of name, mailing address, or business address within 30 days. Acceptable documentation of change of name includes a notarized copy of a marriage certificate, instrument of change of name from a probate court, or other court order. Acceptable documentation of change of name also includes a notarized copy of current identification, such as a driver's license or Social Security card, in both the former and present names. The Office may require additional documentation at its discretion.

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## **Part 4 Complaint Procedure and Unprofessional Conduct**

**4.1 Procedure** The Board follows the procedure of the Office of Professional Regulation (Office) for receiving complaints, conducting investigations, and resolving charges of unprofessional conduct. Copies of the procedure are available from the Office telephone 802-828-1505).

**4.2 Unprofessional Conduct** A licensee or applicant may be disciplined for unprofessional conduct on any of the grounds listed in 26 V.S.A. § 1719 and 3 V.S.A. § 129a. Violation of these rules can be unprofessional conduct. 3 V.S.A. § 129a(a)(3).

**4.3 Confidentiality** The Board follows the confidentiality provisions of 3 V.S.A. § 131. All identifying information related to complaints remains confidential until disciplinary charges are filed.

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