

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Examiners in Optometry

RULE CITATION: 21 NCAC 42B .0204

**DEADLINE FOR RECEIPT: December 8, 2023**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Lines 17-20: Explain the Secretary's authority to require the estate of a decedent- licensee to do anything.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee  
Commission Counsel

Date submitted to agency: November 27, 2023

1 21 NCAC 42B .0204 is adopted as published in 38:04 NCR 217-218 as follows:

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3 **21 NCAC 42B .0204 CEASING PRACTICE**

4 (a) In the event an optometrist shall cease to practice at any practice location (primary or branch) as defined in Rules  
5 .0201 and .0202 of this Section, the optometrist shall notify the Board in writing within ten days of ceasing practice,  
6 indicating the reason for discontinuing practice and the disposition of patient records.

7 ~~(b) In the event that a licensee discontinues practice at a location for which a duplicate license has been issued, the  
8 licensee shall return the license to the Board for cancellation within 30 days.~~

9 ~~(b)~~ (b) On ceasing practice at any location, the licensee shall notify those patients whose records he retains in  
10 accordance with 21 NCAC 42E .0102(5) and (6) of the disposition or availability of such records. Such notice shall  
11 be given by direct ~~mail~~ mail, email, or through a public announcement in a newspaper of general circulation in the  
12 county or counties wherein the patients reside. If such notice is given by publication, such publication shall occur not  
13 less than weekly for a period of not less than ninety days. Proof of the giving of such notice shall be retained by the  
14 licensee.

15 ~~(c)~~ (c) Any licensee ceasing practice shall maintain control and custody of the records located at that practice location  
16 until such time as such records are transferred to the patients or to the custody of another practitioner similarly licensed.

17 (d) Should an optometrist pass away while in practice, the optometrist's estate shall comply with paragraph (b) above  
18 and attempt to place any medical records for which no directions are received from the patient into the hands of an  
19 optometrist or ophthalmologist located in proximity to the deceased optometrist's practice location as soon as possible.  
20 Any records retained by the estate shall be maintained for the period of time required by 21 NCAC 42E .0102 (6).

21 *History Note: Authority G.S. 90-117.5; 90-118.2;*

22 *Eff. April 1, 1993;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23,*  
24 *2015.*

25 *Amended Eff. January 1, 2024*  
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