

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

AGENCY: N.C. Board of Examiners in Optometry

RULE CITATION: 21 NCAC 42E .0103

DEADLINE FOR RECEIPT: May 3, 2024

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:

Line 4, is “prescription form” defined somewhere? Can you cite the state statutes and incorporate by reference the federal statutes that the “prescription forms shall conform to?”

Line 6, how are “appropriate safeguards” defined? Can you incorporate or cite any examples of such safeguards? Consider changing “providing” to “implementing”.

Line 7, is “diversion” defined somewhere? Will you cite the definition in the rule?

Line 7, add “or her” after “his”.

Lines 12-13, HB 125 (G.S. 90-127.4(b)) says an optometrist dispensing drugs shall register with both the North Carolina Board of Pharmacy and “the Board”. Should the requirement to register with “the Board” be included in this part of the Rule?

Line 23, consider deleting “is entitled to”.

Line 24, can you incorporate by reference the “Federal Trade Commission rules and guidelines?”

What is meant by “supported by appropriate findings and documented patient records?” What types of findings or patient records would support a “statement of caution or a disclaimer?” Can you provide examples?

Line 28, can you incorporate by reference the “Federal Trade Commission rules and guidelines?”

Line 28, consider putting a period after “guidelines”, delete “and”, and start a new sentence with “The prescription shall explicitly...”

Lines 31-2, consider rearranging this sentence for a more active voice. “The contact lens prescription cannot be written until all the requirements of a satisfactory fit of contact lenses have been determined by the prescriber.”

Lines 33-34, delete “At such time that” and replace it with “When”.

Lines 36-36, What is meant by “supported by appropriate findings and documented patient records?” What types of findings or patient records would support a “statement of caution or a disclaimer?” Can you provide examples?

Line 37, consider deleting “In the event that in the professional opinion of the prescribing optometrist,”. Start the sentence with “If a patient...”

Pg. 2, line 1, consider adding “prescribing” after “the” at the end of line 1.

1 21 NCAC 42E .0103 is adopted as published in 38:15 NCR 970-971 as follows:

2
3 **21 NCAC 42E .0103 PRESCRIPTIONS ~~PRESCRIPTIONS; DISPENSING~~**

4 (a) All prescription forms shall conform to state and federal statutes governing such forms and shall include the name,
5 address, state licensure number, and the Drug Enforcement Administration number of the prescriber, if applicable.
6 The optometrist shall be responsible for providing appropriate safeguards within his or her practice to prevent the
7 unauthorized use or diversion of his prescription forms, and shall immediately notify the Board upon determining that
8 prescription blanks might be missing or misused. ~~Should missing prescription blanks bear his DEA number, the~~
9 ~~optometrist shall also notify the North Carolina State Board of Pharmacy, giving that board the date he determined~~
10 ~~that the prescriptions blanks were missing or misused, the number missing, and any information that could be of help~~
11 ~~in preventing unauthorized use of the prescription blanks.~~

12 (b) Any optometrist licensed by the Board who wishes to dispense drugs pursuant to G.S. 90-127.4 must first register
13 with the North Carolina Board of Pharmacy pursuant to G.S. 90-85.26B. ~~In the event that legend drugs being~~
14 ~~prescribed by the optometrist are dispensed by the optometrist, the optometrist shall cause the following written or~~
15 ~~printed information to be given to the patient for each such drug dispensed at the time the drug is dispensed:~~

- 16 (1) ~~date of issuance;~~
17 (2) ~~name and address of patient;~~
18 (3) ~~name, address and telephone number of prescriber;~~
19 (4) ~~name, strength, dosage form and quantity of drug dispensed;~~
20 (5) ~~the number of refills, if authorized;~~
21 (6) ~~route of administration of drug dispensed; and~~
22 (7) ~~directions for use.~~

23 (c) Within one year of examination, a patient may request and is entitled to and shall receive a copy of his or her
24 spectacle prescription that complies with Federal Trade Commission rules and guidelines. The prescription may show
25 a statement of caution or a disclaimer if such a statement or disclaimer is supported by appropriate findings and
26 documented patient records. An expiration date of not less than one year from the date of the prescribing examination
27 shall appear on every such prescription.

28 (d) A prescription for contact lenses shall comply with Federal Trade Commission rules and guidelines and explicitly
29 state that it is for contact lenses and specify the lens type and all specifications necessary for the ordering and
30 fabrication of the lenses. Words or phrases such as "OK for contact lenses", "fit with contact lenses", "contact lenses
31 may be worn", or similar wording do not constitute a contact lens prescription. Until all the requirements of a
32 satisfactory fit of contact lenses have been determined by the prescriber, the contact lens prescription cannot be written.
33 All contact lenses used in the determination of a contact lens prescription are considered to be diagnostic lenses. At
34 such time that it has been determined that a prescription can be written, such prescription may show a statement of
35 caution or a disclaimer if such a statement or disclaimer is supported by appropriate findings and documented patient
36 records. An expiration date consistent with the type and modality of use of the contact lens being prescribed shall
37 appear on every such prescription. In the event that in the professional opinion of the prescribing optometrist, a patient

1 is not adhering to appropriate regimens of care and follow-up with regard to the continuing use of contact lenses, the
2 optometrist may terminate his optometric care of that patient and notify the patient that he or she is terminating such
3 relationship and the reasons for doing so.

4
5 *History Note: Authority G.S. 90-114; 90-117.5; 90-127.2; 90-127.3;*
6 *Eff. June 1, 1989;*
7 *Amended Eff. April 1, 1993;*
8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23,*
9 *2015.*
10 *Amended Eff. June 1, 2024*