

21 NCAC 40 .0101 is amended with changes as published in 33:23 NCR 2258-2262 as follows:

## CHAPTER 40 - BOARD OF OPTICIANS

### SECTION .0100 - LOCATION

#### 21 NCAC 40 .0101 LOCATION AND FUNCTION

The ~~Board~~ NC State Board of Opticians (Board) is physically located at ~~222 North Person Street,~~ 3809 Computer Drive, Raleigh, North Carolina ~~27601,~~ 27609. Its mailing address is Post Office Box ~~25336,~~ 6758, Raleigh, North Carolina ~~27611-5336,~~ 27628-6758. ~~The State Board of Opticians is created and operated pursuant to Article 17, Chapter 90, of the General Statutes of North Carolina for the purpose of regulating the training, education, examination and practice of dispensing opticians. Its functions include the following:~~

- ~~(1) monitoring the location and activities of apprentices, interns, licensees and places where dispensing takes place;~~
- ~~(2) examining applicants for licenses with and without examination; and~~
- ~~(3) investigating and prosecuting complaints against licensees and unlicensed persons.~~

*History Note: Authority G.S. 90-239;*

*Eff. February 1, 1976;*

*Readopted Eff. September 29, 1977;*

*Amended Eff. January 1, 1994; February 1, 1989; November 1, 1981;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, ~~2018,~~ 2018;*

*Amended Eff. October 1, 2019.*

21 NCAC 40 .0212 is amended with changes as published in 33:23 NCR 2258-2262 as follows:

**21 NCAC 40 .0212 DUTY TO PROVIDE DIRECT SUPERVISION**

(a) The failure of ~~[an optical place of business or]~~ a licensed ~~optician,~~ optician who owns or has a controlling interest in an optical place of ~~business~~ business, or under whose name an optical place of business or branch thereof is registered, to provide direct supervision as set forth in G.S. 90-253 of an unlicensed person working at such business or branch and performing acts constituting the practice of opticianry shall constitute a violation of G.S. 90-249.1(a)(2).

(b) The failure of an optical place of business to schedule a licensed optician to provide direct supervision as set forth in G.S. 90-253 of an unlicensed person working at the business shall constitute a violation of G.S. 90-249.1(a)(2).

(c) Optometrists and ophthalmologists, and individuals employed by them, are exempt from the provision of direct supervision as set forth in G.S. 90-253, except for those employees registered as trainees with the Board when the optometry or ophthalmology practice is registered with the Board as a training establishment.

*History Note: Authority G.S. 90-239; 90-249.1(a)(2); 90-253;*

*Eff. February 1, 1988;*

*Amended Eff. August 1, 1998;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, ~~2018,~~ 2018;*

*Amended Eff. October 1, 2019.*

21 NCAC 40 .0302 is amended with changes as published in 33:23 NCR 2258-2262 as follows:

**21 NCAC 40 .0302 LICENSURE EXAMINATION FEES**

(a) The [full] fee for licensure examination participation [eligibility determination] as set forth in G.S. 90-246 shall be remitted to the Board by cash, certified check check, or money order. There shall be no prorating of the fee.

~~(b) The full fee shall be paid for each examination date in which an applicant participates; there shall be no prorating of the fee.~~

~~(c)~~ (b) Licensure examination fees shall not be returned due to the withdrawal of the applicant or failure to take the examination after the fee has been accepted by the Board. ~~The Board shall, however, apply a remitted and accepted fee to a future examination, upon receipt of an updated and fully executed examination application.~~ If, during its review of an application, the Board determines that information submitted is false, misleading misleading, or deceptive, the Board shall deny the application but retain any fees paid.

*History Note: Authority G.S. 90-245; 90-246;*

*Eff. February 1, 1976;*

*Readopted Eff. September 29, 1977;*

*Amended Eff. September 1, 2012; February 1, 1989; November 1, 1981;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018; 2018;*

*Amended Eff. October 1, 2019.*

21 NCAC 40 .0303 is amended with changes as published in 33:23 NCR 2258-2262 as follows:

**21 NCAC 40 .0303 LICENSURE EXAMINATION AND RE-EXAMINATION**

~~(a) The licensure exam shall consist of Basic and Practical components. An optician's license shall not be issued until a passing score has been achieved on all components within three years from the date of a passing score having been achieved on one component.~~

~~(a) (b)~~ A candidate who has met the qualifications as defined in G.S. 90-237, and either 90-240 or 90-241(b) shall be admitted to a Practical component of the licensure examination upon the Board's receipt of a fully an executed application and the examination ~~fee;~~ fee as set out in G.S. 90-246.

~~(b) (c)~~ The examination shall be administered at least twice yearly, at a time and location specified by the ~~Board.~~ Board or any of its examination administration agents.

~~(c) (d)~~ Exam applications obtained by procedures outlined in Rule .0104 of this Chapter must be properly executed and received by the Board no later than 60 days prior to the ~~Board specified date of an examination.~~ opening of the exam registration period specified by the Board or any of its examination administration agents.

~~(e) The licensure exam shall consist of written and practical components. An optician's license shall not be issued until a passing score has been achieved on all components within three years from the date one component is successfully completed.~~

~~(d) (e)~~ If, during its review of an application, the Board determines that a candidate has participated in a Practical exam without first having their qualifications examined by the Board, the Board shall deny any passing score obtained by the candidate and require subsequent re-examination in the Practical.

~~(e) (f)~~ A participant who is unsuccessful in passing an exam component may retake the failed components upon timely receipt of an updated and properly executed exam retake application registration and remittance of the examination ~~fee.~~ fee being submitted to the administration agent within the deadline specified by the agent.

~~(f) A participant who is unsuccessful in passing an exam component may see the failed portion of his or her examination by registering for a Board proctored exam review.~~

*History Note: Authority G.S. 90-240; 90-249; 93B-8;*

*Eff. February 1, 1976;*

*Amended Eff. September 1, 2012; February 1, 1989; February 1, 1988; August 1, 1985; July 1, 1983;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018, 2018;*

*Amended Eff. October 1, 2019.*

21 NCAC 40 .0320 is amended with changes as published in 33:23 NCR 2258-2262 as follows:

**21 NCAC 40 .0320 LICENSE RENEWAL INFORMATION**

(a) The Board shall send each ~~Each~~ registrant ~~is sent~~ an application to renew licensure yearly. The ~~application~~ application, credits for required education ~~[documentation,]~~ as set forth in 21 NCAC 40 .0206, and ~~[specified]~~ the fee ~~as set forth in G.S. 90-246(3) must~~ shall be ~~returned~~ received in the Board office prior to renewal.

(1) The application form shall provide the registrant's current address, contact and employment information, and an attestation to the Board regarding the registrant's histories concerning arrest and conviction, licensure disciplinary actions, and civil or administrative court proceedings related to occupational licensure or the practice of opticianry.

(b) A registrant in current renewal status may apply to the Board for a change ~~[of status]~~ to inactive status. Application for any status change shall be made on the form provided by the Board.

(1) The application form shall provide the registrant's current address and contact information, and an attestation to the Board that the registrant is working in a field other than opticianry, or is not engaged in active opticianry practice at the time of the status change application.

(2) A registrant approved for inactive status shall not practice as a licensed optician.

(A) A registrant in inactive practice status shall not remain in inactive status if found in practice. The registrant shall apply for a change to active status as set forth in this Rule, and are subject to disciplinary action set forth in G.S. 90-249.1(1).

(B) Registrants in inactive status shall complete a renewal form for status renewal and pay the yearly renewal fee as set forth in G.S. 90-246(3) but are not required to obtain annual continuing education hours as set forth in 21 NCAC 40. 0206.

~~[(c) A registrant with an approval for inactive practice status shall not practice as a licensed optician. A registrant in inactive practice status may not remain in inactive status if found in practice. Registrants in inactive status shall pay the yearly renewal fee and complete a renewal form for inactive practice status but are not required to obtain annual continuing education hours during such periods of inactivity.]~~

~~[(d)]~~ (c) A registrant in inactive status may apply to the Board to change to active ~~[status by:]~~ status. Application for a status change shall be made on a form provided by the Board.

(1) ~~[completing the form provided by the Board,]~~ The application form shall provide the registrant's current address and contact information.

(2) ~~[attending the required continuing education hours for the current year as set forth in Rule .0206 of this Chapter; and]~~ Credits for having attended required education, as set forth in 21 NCAC 40 .0206, the fee as set forth in G.S. 90-246(3), and the application form shall be received in the Board office and approved prior to the registrant's resumption of opticianry practice.

~~[(3) ——— paying the license restoration fee as set forth in G.S. 90-246.]~~

~~[(e)]~~ (d) The Board ~~[will]~~ shall notify registrants of receipt of yearly licensure renewal and of approval of status changes.

1  
2  
3  
4  
5  
6  
7

*History Note:* Authority G.S. 90-239; G.S. 90-244(b);  
*Eff. November 1, 1981;*  
*Amended Eff. February 1, 1989; February 1, 1988; August 1, 1985; July 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
*22, ~~2018~~, 2018;*  
*Amended Eff. October 1, 2019.*