

21 NCAC 40 .0202 is amended as published in 35:02 NCR 116-119 as follows:

**21 NCAC 40 .0202        REGISTRATION OF OPTICAL PLACE OF BUSINESS AND OPTICIAN IN CHARGE**

(a) As used in this Rule, "optical place of business" means the principal office office, as well as each branch office of such a the business.

(1) Every optical place of business shall be registered with the Board within 10 days following its opening for business and thereafter annually and in the event of relocation or change of ownership. The registration fee shall be paid for each registration.

(2) Registration of an optical place of business automatically expires on the last day of June of each year, and it shall not engage in business until it is registered for the next annual period.

(3) An optical place of business registration is the responsibility of the owner. Any business ~~[which]~~ that violates the registration requirements of this Rule shall be subject to the Board's disciplinary authority under G.S. 90-249.1, G.S. 90-252, and G.S. 90-254. ~~[An injunction closing an unregistered optical place of business may also be obtained.]~~

(4) An optical place of business registered in compliance with this Rule ~~[is]~~ shall be eligible to be a training establishment when the requirements of Rules .0314 and .0321 of this Chapter are met.

(b) Every optical place of business shall ~~have~~ register a licensed optician in charge, who shall serve as the ~~registered license licensee~~ in charge of only one optical place of business.

(1) Every optician in charge shall be registered with the Board within 10 days of ~~[a business opening,]~~ the opening of an optical place of business, or change of optician in charge. The registration fee ~~as set forth in G.S. 90-246~~ shall be paid for each registration.

(2) Registration of an optician in charge automatically expires on the last day of June of each year, and the optical business shall not engage in dispensing activities under G.S. 90-236 until it has a registered optician in charge for the next annual period.

(3) An optician in charge registration is the responsibility of both the licensed optician in charge and the owner. Any optician in charge of an optical place of business ~~[which]~~ that violates the registration requirements of this Rule shall be subject to the Board's disciplinary authority under ~~[G.S. 90-249.1 and G.S. 90-252.]~~ G.S. 90-249.1, G.S. 90-252, and G.S. 90-254.

~~(c) Every optical place of business shall be registered with the Board within 10 days following its opening for business and thereafter annually and in the event of relocation, change of ownership or change of licensed optician in charge. The registration fee shall be paid for each registration.~~

~~(d) Registration of an optical place of business automatically expires on the first day of July of each year, and it shall not engage in business until it is registered for the next annual period.~~

~~(e) Registration is the responsibility of both the licensed optician in charge and the owner. Any licensed optician in charge of an optical place of business which violates the registration requirements of this Rule shall be subject to the~~

1 ~~Board's disciplinary authority under G.S. 90-249.1. An injunction closing an unregistered optical place of business~~  
2 ~~may also be obtained.~~

3 (f) ~~An optical place of business registered in compliance with this Rule is eligible to be a training establishment when~~  
4 ~~the requirements of Rules .0314 and .0321 of this Chapter are met.~~

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6 *History Note: Authority G.S. 90-239; 90-243; 90-249(5); 90-252; 90-253;*

7 *Eff. February 1, 1976;*

8 *Amended Eff. November 1, 1978; June 21, 1978; September 6, 1977;*

9 *Readopted Eff. May 23, 1979;*

10 *Amended Eff. August 1, 1998; January 1, 1994; August 1, 1991; February 1, 1989; August 1, 1985;*

11 *Temporary Amendment Eff. November 1, 2016;*

12 *Temporary Amendment Expired Eff. August 12, 2017;*

13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
14 *22, ~~2018~~, 2018;*

15 *Amended Eff. November 1, 2020.*

21 NCAC 40 .0206 is amended with changes as published in 35:02 NCR 116-119 as follows:

**21 NCAC 40 .0206            PROFESSIONAL RESPONSIBILITY; CONTINUING EDUCATION**

(a) With the goal of keeping the vision health and welfare of the client uppermost at all times, promoting optimal public health for North Carolina's citizens, striving to continuously develop educational and technical proficiency, and informing himself or herself as to new developments within the profession, a A licensed optician shall:

(1) maintain ~~adequate~~ equipment and instruments in his or her office at all times to assure professional service to the ~~public~~; public, and for use in training apprentices and interns as set forth in 21 NCAC 40 .0321;

(2) ~~assist his or her clients in whatever manner possible in obtaining further care when, in his or her opinion, additional care is needed; make a referral to [other] another healthcare provider when, in the licensee's professional opinion, such referral would benefit the client; [and]~~

(3) ~~maintain records;~~

(4)(3) treat all information concerning his or her clients as privileged and not to be communicated to others except when authorized or required by a law or rule, or with express consent of the client; and

(5)(4) take annual courses of study in subjects related and essential to the practice of opticianry for the purpose of enhancing his or her scientific knowledge and professional skills, gaining the benefits of learning new techniques, and acquiring increased knowledge of laws and rules governing the practice of ~~opticianry~~. opticianry, as set forth in Paragraph (b) of this Rule.

(b) [Licenses] A licensee whose license was issued after July 1 shall be exempt from the continuing education requirement for renewal by December 31 of the same year. Otherwise, each ~~Each~~ North Carolina-licensed optician shall take a total of at least eight hours of continuing education each calendar year as follows:

(1) three hours of study on the practice of contact lens ~~fitting; fitting and~~ dispensing. [dispensing;] in lieu thereof; Alternatively, a licensee may take two hours of study on contact lens ~~fitting fitting and~~ dispensing, and one hour of study ~~may be on either: optical business management or management,~~ consumer protection; and either: protection, or [ethics;] ethics;

(A) ~~When there have been no amendments or changes to the North Carolina opticianry laws or rules during the previous year, five hours of study on eyeglass fitting and dispensing; in lieu thereof, four hours of a study on eyeglass fitting and dispensing and one hour of study may be on laws and rules affecting North Carolina opticians, or ethics; or~~

(B) ~~When there has been an amendment or change to North Carolina opticianry laws or rules during the previous year, all licensed opticians practicing opticianry in the state shall take one hour of continuing education on the laws and rules relating to such amendment or change and four hours of study as described in Part (A) of this Subparagraph. The Board shall notify licensees when amendments or changes are made that would require each licensee's attendance at law/rule continuing education.~~

(2) four hours of study on eyeglass fitting and dispensing; and

(3) one hour of education on the laws and rules affecting North Carolina opticians.

(c) All hours shall be currently-approved by the American Board of Opticianry or the National Contact Lens Examiners.

(d) Courses of self-study, ~~meant to be~~ taken by ~~individuals~~ licensees through journal articles or online, where organized material is presented and written evaluations are offered prior to or after completing the ~~course(s)~~ course or courses ~~are~~ shall be eligible for ~~credit~~ credit, provided the vendor or sponsor ~~has submitted~~ submits the course or courses for approval to the Board as described in Paragraph ~~(4e)~~ (j) of this Rule prior to ~~its being offered~~ offering it to licensed opticians. However, no licensee shall receive credit for more than four hours of continuing education credit by ~~this~~ self-study ~~means~~ in any calendar year.

~~(2)(c)~~ Any licensed optician who is not practicing opticianry in the ~~state~~ State shall annually obtain a total of at least eight hours of courses of study: three hours shall be ~~essential to~~ on the practice of contact lens fitting, fitting and dispensing, and five hours shall be ~~essential to~~ on eyeglass fitting and dispensing. ~~One~~ ~~In lieu thereof,~~ Alternatively, one of the eight hours may be on optical business ~~management or~~ management, consumer ~~protection,~~ protection, or ethics. No other state's hours pertaining to its laws or rules shall be allowed as credit. ~~All hours shall be currently-approved by the American Board of Opticianry or the National Contact Lens Examiners.~~

(f) All hours must be taken within the prior or current calendar year for which credit is sought, and a licensee shall not receive continuing education credit for any course that the licensee already has completed during the same calendar year.

(g) Continuing education hours ~~acquired~~ in excess of the number required at the time of renewal shall not be applied to future requirements.

(h) Submission of fraudulent statements or certificates concerning continuing education shall subject the licensee to disciplinary action.

~~(i)~~ The hours of study set forth in this Rule may not be waived, except by: ~~upon presentation of evidence of illness rendering the licensee's attendance impossible, or by presentation of active duty orders for the licensee serving in a branch of the US armed forces.~~

(1) declared Board waiver as defined in 21 NCAC 40 .0113;

(2) presentation ~~to the Board~~ of evidence of illness, or residency outside the United States, ~~rendering~~ that makes the licensee's attendance impossible; or

(3) presentation ~~to the Board~~ of active-duty orders for the licensee serving in a branch of the US armed forces.

~~(e)(j)~~ Courses of study ~~for which a licensee desires continuing education credit~~ must be approved by the Board, meeting the following criteria:

(1) Courses must be directly related to the practice of a dispensing optician as defined in G.S. 90-235 and G.S. 90-236. The education of opticians must be the primary ~~and customary~~ objective of the education provider.

(2) Each course must be made available to all NC licensed opticians.

- (3) The following information shall be submitted to the Board office no later than 45 days prior to the date the course ~~to be presented~~ is to be made available for ~~[presentation]~~ The following information is required for course submission and consideration: presentation:
- (A) ~~Location and scheduled time for The~~ [Method] method of course presentation; if ~~[on-site presentation]~~ in-person training is utilized, the location and scheduled time;
  - (B) ~~Title of The~~ course title;
  - (C) ~~Instructor's~~ The instructor's name, address mailing address, and qualifications. Instructors must be qualified by education and experience to provide instruction in the course subject; resume or curriculum vitae to show education, training qualifications and experience;
  - (D) ~~Course~~ A course description, including course length, instructional objectives, or course outline;
  - (E) ~~Indication of~~ Documentation showing the course's approval status granted and course number assigned with by the American Board of Opticianry or National Contact Lens Examiners;
  - (F) ~~Name~~ The name and address of the provider agency, and primary its preferred contact information;
  - (G) ~~Description~~ A description of the provider's attendance certification process; and
  - (H) ~~Agreement~~ An agreement to provide an electronic attendance roster to the Board, and certified attendance documentation to attendees.
- (4) Course content shall be presented in ~~an objective~~ a manner that does not promote the sale or marketing of one company's products or services over another. Presentations on new optical technology shall not include a specific brand/manufacturer of the technology in the title or content. Product-specific "info-mercials" and sales pitches shall not be approved.
- (5) Courses shall consist of a minimum 50 minutes' education for each ~~hour~~ hour's credit.
- (6) ~~[Online courses may not exceed two hours in length, and on-site instructors may not present more than four [two] consecutive hours of continuing education. Online courses shall not exceed two hours in length.]~~
- (7) In-person training instructors may not present more than two consecutive hours of continuing education.
- ~~(d)(k)~~ Each course ~~to be presented~~ [on-site] in-person shall be submitted for approval separately ~~and completely~~ each time credit is ~~sought~~. sought as set forth in Subparagraph (j)(3) of this Rule.
- ~~(l)~~ ~~[Post presentation approval of continuing education courses will not be granted.]~~ The Board shall not grant retroactive approval of courses.
- ~~(e)(m)~~ All approved courses [for on-site presentation] shall allow complimentary in person review by representatives from the Board. The course provider shall allow Board representation to attend courses approved for in-person training without registration charge.
- ~~(f)(n)~~ Course sponsors shall: shall, no later than 30 days following the presentation of in-person training:

- (1) Certify opticians' attendance for the requisite period;
  - (2) Submit to the Board ~~an electronic attendance roster, including names and credit hours received; and documentation of attendance in a format provided by the Board [for compatibility to its data management system to include:]~~ that includes:
    - (A) ~~[Course]~~ The course title and classification verification;
    - (B) ~~[Vendor or sponsor identification;]~~ The course provider or sponsor [identification;] identification that includes name and contact information;
    - (C) ~~[Name]~~ The name of and license number of each attending North Carolina licensee;
    - (D) ~~[Sponsor's]~~ The sponsor's attestation or verification of attendance.
  - (3) ~~— Certify attendance documentation by the provider agency.~~
    - ~~(e) Any licensee may submit completed online hours directly to the Board, provided that the attendance is documented by the vendor or sponsor of the education, on a form given the licensee attending the course(s) attesting to their attendance, and the original form, not a photocopy or facsimile, is submitted to the Board.]~~
    - (o) Any licensee may enter online continuing education hours taken through his or her portal on the Board website or by submitting their online continuing education hours taken to the Board office. The entries or submissions shall include information from the course provider that shall serve as attendance verification. A licensee who is unable to enter his or her hours shall mail the continuing education credits into the Board office during the annual renewal period for credit.
    - (p) Course sponsors shall maintain for three years records of the names of [those attendants] attendees who complete continuing education hours.
  - ~~(g)~~(q) Opticians and course attendees shall:
    - (1) Retain documentation for a minimum ~~2-year period~~ two-year period, beginning with the next renewal year immediately following the date the courses were taken; and
    - (2) Present the documentation to Board as required during the license renewal ~~process. process, or [at any time if in the Board's opinion such documentation is necessary.]~~ complaint or disciplinary investigations.
- History Note: Authority G.S. 90-235; 90-236; 90-249; 90-249.1;*  
*Eff. February 1, 1976;*  
*Amended Eff. September 6, 1977;*  
*Readopted Eff. September 29, 1977;*  
*Amended Eff. January 1, 2013; July 1, 1991; February 1, 1989; February 1, 1988; January 1, 1986;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018; 2018;*  
*Amendment Eff. November 1, 2020.*