

**CHAPTER 38****NEW JERSEY STATE BOARD OF OPTOMETRISTS****Authority**

N.J.S.A. 45:12-1 et seq., specifically 45:12-4.

**Source and Effective Date**

R.2000 d.382, effective September 18, 2000.  
See: 32 N.J.R. 2370(a), 32 N.J.R. 3446(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 38, New Jersey State Board of Optometrists, expires on September 18, 2005.

**Chapter Historical Note**

Chapter 38, New Jersey State Board of Optometrists, was adopted and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Subchapter 6, Records, was readopted as R.1983 d.359, effective August 15, 1983. See: 15 N.J.R. 1011(a), 15 N.J.R. 1481(d).

Pursuant to Executive Order No. 66(1978), Subchapter 2, General Rules of Optometric Practice, expired on July 17, 1984.

Subchapter 2, General Rules of Optometric Practice, was adopted as new rules by R.1985 d.60, effective February 19, 1985. See: 16 N.J.R. 3289(a), 17 N.J.R. 467(a).

Pursuant to Executive Order No. 66(1978), Subchapter 5, Fee Schedule, expired on April 23, 1984.

Subchapter 5, Fee Schedule, was adopted as new rules by R.1985 d.254, effective May 20, 1985. See: 17 N.J.R. 667(a), 17 N.J.R. 1323(a).

Petition for Rulemaking. See: 22 N.J.R. 673(a).

Petition for Rulemaking. See: 22 N.J.R. 1634(a).

Pursuant to Executive Order No. 66(1978) Chapter 38, New Jersey State Board of Optometrists, was readopted as R.1990 d.476, effective August 27, 1990, and Subchapter 4, Forms, was repealed by R.1990 d.476, effective October 1, 1990. See: 22 N.J.R. 1866(a), 22 N.J.R. 3153(a).

Petition for Rulemaking. See: 23 N.J.R. 1213(a), 23 N.J.R. 2191(c).

Petition for Rulemaking. See: 23 N.J.R. 1214(a), 23 N.J.R. 2191(d).

Subchapter 4, Examination, was adopted as new rules by R.1992 d.443, effective November 2, 1992. See: 24 N.J.R. 2802(a), 24 N.J.R. 4058(a).

Pursuant to Executive Order No. 66(1978), Chapter 38, New Jersey State Board of Optometrists, was readopted as R.1995 d.524, effective August 25, 1995. See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a). Pursuant to Executive Order No. 66(1978), Chapter 38 expired on August 25, 2000.

Chapter 38, New Jersey State Board of Optometrists, was adopted as new rules by R.2000 d.382, effective September 18, 2000. See: Source and Effective Date.

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**SUBCHAPTER 1. ADVERTISEMENTS AND SOLICITATION****13:38-1.1 Optometrist presumed responsible for advertisements**

Every registered optometrist whose name appears or is mentioned in any advertisement of any kind or character shall be presumed to have caused, permitted, and approved the advertising and shall be personally responsible for its material content and character.

Amended by R.1989 d.252, effective May 15, 1989.  
See: 20 N.J.R. 2361(b), 21 N.J.R. 1366(b).

Recodified as new 1.1 from old 1.3 and replaced old 1.1, "Professional cards," which was repealed.

Deleted language "or office address or place of practice" and added "material" to describe content and character of advertising.

#### Case Notes

Decision of the Board of Optometrists not to issue complaints based on charges brought by nonprofit optometric association reviewable only in the Appellate Division of Superior Court; association is without standing to sue for violation of the Optometry Act, the Optician Act, the Antitrust Act or for alleged acts of unfair competition, on behalf of itself, its members or the public interest. *New Jersey Optometric Ass'n v. Hillman-Kohan Eyeglasses, Inc.*, 144 N.J.Super. 411, 365 A.2d 956 (Ch.Div.1976) affirmed 160 N.J.Super. 81, 388 A.2d 1299 (App.Div. 1978).

#### 13:38-1.2 General advertising practices

(a) The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Accrediting bodies" means any school of optometry, college or university approved by the Commission on Higher Education or the Council on Postsecondary Accreditation of the United States Department of Education or its successor.

"Advertisement" means any attempt directly or indirectly by publication, dissemination, or circulation in print or electronic media which directly or indirectly induces or attempts to induce any person or entity to consider, purchase or enter into an agreement to purchase optometric services, treatment, or ophthalmic materials from an optometrist.

"Electronic media" means and includes radio, television, computer and Internet.

"Optometrist" means any individual holding a license issued by the New Jersey State Board of Optometrists.

"Print media" means newspapers, magazines, periodicals, professional journals, professional letterhead, professional cards, telephone directories, circulars, handbills, flyers, billboards, signs, on premise signs and other similar items, documents or comparable publications, the content of which is disseminated by means of the printed word.

(b) An optometrist may, consistent with the provisions set forth in this section, advertise to the consuming public, through print or electronic media, the availability of optometric services and ophthalmic materials. In any advertising permitted by this subchapter, an optometrist shall not use, employ, permit or condone any practice, statement or format which is false, fraudulent, misleading or deceptive.

(c) An optometrist may advertise fees for services to be rendered and prices for ophthalmic materials offered for sale provided that:

1. The advertised service or ophthalmic materials are provided for not more than the advertised amount;
2. All advertised fees or prices are clearly and conspicuously displayed;

3. A statement of a fee for professional services shall be set forth in a single dollar amount and shall not be stated in the form of a range of fees. A statement of price relating to ophthalmic materials may be set forth in a range provided such range is stated in terms of a minimum and maximum dollar amount;

4. Where a separate or additional fee for the service of dispensing ophthalmic materials is to be charged, the advertisement shall disclose the dollar amount of such fee;

5. Where prices are set forth for ophthalmic materials and services for eyeglasses (lenses and frames), the advertisement shall indicate the type of frames and corrective lenses being offered such as clear or tinted, single vision or multifocal, and plastic, glass or other material. The lenses and frames may be priced separately or as a combined package. If the eye examination is included in the combined package, the advertisement shall also indicate the cost of the eye examination if the combined package is not purchased;

6. When prices are set forth for ophthalmic materials and services for contact lenses, the advertisement shall include, the fee for the minimum eye examination as defined in N.J.A.C. 13:38-2.1, the fee for the contact lens fitting or evaluation, the fee for the type and brand of lens being offered, and the fee for fitting instruction and follow-up care. These items may be priced separately or as a combined package. If a combined package is advertised, the advertisement shall also indicate fee for individual services if the combined package is not purchased. If the cost of a contact lens care kit is not indicated as a separate item or as a part of a combined package, the following statement shall be set forth: "The proper maintenance of certain contact lenses requires sterilization, storage and cleansing in special containers and solutions, the cost of which is not included in this offer." In all advertisements which include a price for a contact lens care kit, the type of kit shall be set forth. When the price of a contact lens is advertised, a statement shall be made to note that such lens may not be appropriate for all patients; and

7. An optometrist may offer a free or reduced fee eye examination. An advertised offer of a free or reduced fee eye examination shall not be contingent upon a resultant purchase of ophthalmic materials or services.

(d) In the event that an advertisement contains a statement with regard to an advertiser's refund policy, such policy shall clearly and conspicuously set forth all conditions including relevant time periods and dollar amounts to be refunded.

(e) An advertisement shall not state that the optometrist possesses professional superiority with regard to services or materials offered or with regard to apparatus, equipment or technology utilized by the optometrist unless such claims can be substantiated.

Recodified from 13:28-2.6 by R.1992 d.443, effective November 2, 1992.

See: 24 N.J.R. 2802(a), 24 N.J.R. 4058(a).

Prior text at section, Optometrists availability, recodified to 13:38-2.8.

**13:38-2.8 Optometrists availability**

The examining optometrist shall assure that every patient has access to the optometrist or to a suitable covering doctor in an emergency, during a doctor's vacation time or during hours when the office is not open.

Amended by, R.1970 d.59, effective May 29, 1970.

See: 2 N.J.R. 35(b), 2 N.J.R. 55(f).

Repealed by R.1985 d.60, effective February 19, 1985.

See: 16 N.J.R. 3289(a), 17 N.J.R. 467(a).

This section was "Approval of Vision Service Plan."

New Rule, R.1989 d.252, effective May 15, 1989.

See: 20 N.J.R. 2361(b), 21 N.J.R. 1366(b).

Recodified as new 2.7 from old 2.8. Prior annotations refer to old 2.8, "Approval of Vision Service Plan."

Added new rule, "Optometrist's availability," to remedy consumers' complaints regarding inaccessibility of optometrists for emergency care. Recodified from 13:28-2.7 by R.1992 d.443, effective November 2, 1992.

See: 24 N.J.R. 2802(a), 24 N.J.R. 4058(a).

Prior text at section, (Reserved), recodified to 13:38-2.9.

**Case Notes**

Authority of Board. Att'y Gen. Form. Op. 1980-No. 13.

A requirement which allows only "open panel" plans, plans which do not restrict the number of optometrists to be used by plan members, to operate is beyond the authority of the board of optometrists. Atty. Gen.F.O.1980, No. 13.

The exercise of the right of the board of optometrists of prior approval over vision service plans should be carried out in a reasonable manner, within a reasonable period of time and after full consultation with the office of the Attorney General. Atty.Gen.F.O.1980, No. 13.

**13:38-2.9 (Reserved)**

**13:38-2.10 Minimum standards and tolerances**

(a) Every pair of lenses, spectacles or eyeglasses provided to a patient shall conform to the following minimum standards and tolerances:

Physical Quality and Appearance	Tolerance
1. Surface imperfections	No pits, scratches (other than hairline), grayness or watermarks shall be acceptable.
2. Glass defects	No bubbles, striae and inclusions shall be acceptable.
3. Localized power errors	Waves found by visual inspection shall be passable if no deterioration in image quality is found when the localized area is examined with a standard lens measuring instrument.
4. Refractive powers	0.0 to 6.00 + or - 0.12. 6.25 to 12.00 2 per cent of power. Above 12.00 + or - 0.25. Maximum cylinder power variation + or - 0.12.
5. Refractive power addition	+ or - 0.12.0.
6. Cylinder Axis	0.12 or 0.37 + or - 3 degrees.

Physical Quality and Appearance	Tolerance
7. Prism power and location of specified optical center	0.50 to 1.00 + or - 2 degrees. 1.12 on up + or - 1 degree. Vertical + or - 0.25 prism for each lens or a total of 1/8 prism imbalance. Horizontal + or - 0.25 prism for each lens or a total of 0.50 prism diopter imbalance; if prism exceeds .50 prism diopter, the optical centers must be within 2 mm. If prism is less than 0.50 prism diopter, the optical centers must be within 4 mm.
8. Segment size	+ or - 0.5 mm. Pair must be symmetrical upon visual inspection.
9. Segment location	As specified within + or - 0.5 mm.
10. Lens size:	
i. Rimless	+ or - 0.5 mm;
ii. Bevel, for plastic frames	+ or - 0.5 mm;
iii. Bevel, for metal frames	To fit standard specified frames. Lens shape must match. Edges must be smooth and straight and sharp edge must be removed.
11. Heat-treated and chemically-treated industrial safety eyewear	Tolerance for power, size and the like shall be as above, except that minimum thickness edge or center shall meet the requirements of American Standard Z80.1-1972 and subsequent revisions.
12. Heat-treated and chemically treated dress eyewear	Tolerance for power, size and the like shall be as above, except that minimum thickness edge or center shall meet the requirements of American Standard Z80.1-1972 and subsequent revisions.
13. Frame selection and fit	Frame shall be selected for the requirements of the prescription and facial contour. Bridge size should fit the nose within 2 mm of its width with flair, and temple length must fit within 5 mm.

(b) When eyeglasses are provided to the patient, the following information shall be recorded in the patient's record:

1. Eye size, bridge size, temple length, frame manufacturer and style, patient pupillary distance, and, if applicable, multi-focal type, segment height and base curve.

(c) Upon completion of the fabrication of corrective lenses and upon dispensing within the State of New Jersey, the lenses or finished eyeglasses shall be verified to assure the accuracy of the prescription and properly fitted to the patient's face.

R.1975 d.19, effective January 28, 1975.

See: 6 N.J.R. 447(a), 7 N.J.R. 115(b).

Amended by R.1985 d.60, effective February 19, 1985.

See: 16 N.J.R. 3289(a), 17 N.J.R. 467(a).

Substantially amended.

Amended by R.1989 d.252, effective May 15, 1989.

See: 20 N.J.R. 2361(b), 21 N.J.R. 1366(b).

Renumbered old 2.10 as new 2.9 with no change in text.

Recodified from 13:28-2.9 by R.1992 d.443, effective November 2, 1992.

See: 24 N.J.R. 2802(a), 24 N.J.R. 4058(a).

Prior text at section, (Reserved), recodified to 13:38-2.11.

### 13:38-2.11 Delegation of duties to ancillary personnel

(a) As used in this section, the following words have the following meanings unless the context indicates otherwise:

1. "Ancillary personnel" means any natural person other than a licensed physician, optometrist, or ophthalmic dispenser or technician who is an employee of a New Jersey licensed optometrist and who performs patient care.
2. "Direct supervision" means the continuous physical presence of the optometrist who is in a supervisory status at the office location and who is available on-site for consultation, guidance, and instruction during the performance of any delegable procedures by ancillary personnel.

(b) An optometrist may delegate any procedure relating to minimum examination requirements as enumerated in N.J.A.C. 13:38-2.1 to ancillary personnel under his or her direct supervision.

(c) The supervising optometrist who delegates any procedure pursuant to (b) above shall:

1. Assume full responsibility for the performance of the delegated procedures by the ancillary personnel; and
2. Ensure that ancillary personnel have received the appropriate level of training necessary to satisfactorily complete the delegated procedures.

(d) An optometrist shall not delegate the following functions or duties to ancillary personnel:

1. Any procedure which must be performed by the optometrist as part of the minimum examination requirements pursuant to N.J.A.C. 13:38-2.1(a), subject to the restrictions as set forth in N.J.A.C. 13:38-2.1(b) through (d);
2. Inserting and removing contact lenses;
3. Determining the fit of contact lenses;
4. Determining the power of contact lenses (over refracting);
5. Determining the method of contact lens cleaning or sterilization;
6. Selecting lens materials (all types);
7. Selecting bifocal types;
8. Selecting tints (except for Rose #1); and
9. Final verification of all ophthalmic goods prior to their dispensing to the patient.

(e) The name of the supervising optometrist and the ancillary personnel shall be indicated on the patient record.

New Rule, R.1999 d.143, effective May 3, 1999.

See: 30 N.J.R. 1193(a), 31 N.J.R. 1201(a).

### 13:38-2.12 Preceptorship program

(a) A New Jersey optometrist, with an active license and therapeutic certification, may act as a preceptor to supervise a fourth-year student of an accredited college of optometry in that optometrist's office under the conditions in this section.

1. The clinical training, when performed in the preceptor's office shall be classified as a preceptorship program.

2. The college of optometry shall submit to the New Jersey State Board of Optometrists a detailed description of its preceptorship program, indicating procedures for monitoring such programs, procedures for selection of preceptors, the number of weeks during which such programs will be in effect, and other pertinent information for the Board's approval.

3. The college of optometry shall provide the Board with the name and address of the preceptor under whose supervision the student shall work, the name and address of the student, and the dates of preceptorship.

4. The college of optometry shall select the preceptors and shall submit those names to the New Jersey State Board of Optometrists. Such preceptor shall have been engaged in the practice of optometry in the State of New Jersey for at least five years immediately preceding the application. The Board shall issue a Certificate of Preceptorship which shall be valid no longer than one year from the date of issuance and which shall be displayed conspicuously on the office premises of the preceptor. The preceptor shall inform his or her patients of the student's status prior to the submission of the patient to examination by the student.

5. All tests referred to in N.J.A.C. 13:38-2.1 may be performed by the student; provided however that during the performance of any such tests, the preceptor shall be on the premises and immediately available for supervision at all times. All student evaluations of the patient shall be reviewed by the preceptor prior to final determination of the case and before the patient leaves the premises. A preceptor shall at all times be responsible for the effective supervision and direction of the student.

6. The preceptor shall not supervise more than one student and supervision shall not be delegated without the approval of the college of optometry.

7. Under no circumstances shall the student be paid for the preceptorship experience.

8. Failure of the student or preceptor to follow the provisions of this section shall constitute a violation of N.J.S.A. 45:1-14 et seq.

R.1979 d.276, effective July 18, 1979.

See: 11 N.J.R. 252(b), 11 N.J.R. 402(a).

Amended by R.1985 d.60, effective February 19, 1985.

See: 16 N.J.R. 3289(a), 17 N.J.R. 467(a).

(a)4: added text "Such preceptor . . . least five years."

Amended by R.1989 d.252, effective May 15, 1989.

See: 20 N.J.R. 2361(b), 21 N.J.R. 1366(b).

Renumbered old 2.12 as new 2.11 with no change in text.

Recodified from 13:28-2.11 by R.1992 d.443, effective November 2, 1992.

See: 24 N.J.R. 2802(a), 24 N.J.R. 4058(a).

No change in text.

## SUBCHAPTER 3. GENERAL PROVISIONS

### 13:38-3.1 Change of name

The Board shall issue a new registration certificate to any licensee whose name has been legally changed upon receipt of evidence of the legal name change, the return of the original certificate, together with a fee as set forth in N.J.A.C. 13:38-5.1.

Recodified from 13:38-3.4 and amended by R.1995 d.524, effective September 18, 1995.

See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

Prior text at 13:38-3.1, Application for examination, repealed.

### 13:38-3.2 Renewal of registration certificates

All registration certificates shall be renewed on or before April 30 of the odd numbered years, subject to the provisions of N.J.S.A. 45:12-9.

Recodified from 13:38-3.5 and amended by R.1995 d.524, effective September 18, 1995.

See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

Prior text at 13:38-3.2, Reexamination, repealed.

### 13:38-3.3 Military service

Any licensee of the Board who is engaged in active duty in the military service of this country shall not be required to pay the renewal fees for any year during which he or she is in service.

Recodified from 13:38-3.7 and amended by R.1995 d.524, effective September 18, 1995.

See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

Prior text at 13:38-3.3, Payment of registration fee, repealed.

### 13:38-3.4 (Reserved)

Recodified from 13:38-3.9 and amended by R.1995 d.524, effective September 18, 1995.

See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

### 13:38-3.5 Requirements for application for licensure

(a) An applicant seeking licensure shall satisfy the character and education requirements set forth in N.J.S.A. 45:12-1 et seq.

(b) An applicant seeking licensure shall submit the following to the Board:

1. A completed application form supplied by the Board that requires the applicant to provide identifying information;

2. A non-refundable application fee set forth in N.J.A.C. 13:38-5.1;

3. An official transcript(s) indicating that the applicant has satisfied the educational requirements as set forth in N.J.S.A. 45:12-1 et seq.;

4. Verification of the test scores from the National Board of Examiners in Optometry indicating that the applicant successfully passed parts I and II of the written examination conducted by the National Board of Examiners in Optometry; and

5. Verification of test scores from the North East Region Clinical Optometric Assessment Testing Services (NERCOATS) or the National Board of Examiners in Optometry indicating that the applicant successfully passed an optometric clinical skills assessment test administered by NERCOATS or the Part III Patient Care portion of the National Board of Examiners in Optometry test.

(c) When an applicant is seeking licensure and is also seeking therapeutic pharmaceutical agents (TPA) certification at the same time, the licensee shall comply with (b) above and the TPA certification requirements set forth at N.J.A.C. 13:38-4.2(b) and (c), except that the applicant is not required to pay two application fees.

Amended by R.1976 d.105, effective April 7, 1976.

See: 8 N.J.R. 83(a), 8 N.J.R. 251(a).

Repeal and New Rule, R.1991 d.228, effective May 6, 1991.

See: 23 N.J.R. 166(a), 23 N.J.R. 1418(b).

Repealed rule—"Applicants required to pass all parts of the examination conducted by the National Board of Examiners in Optometry". Petitions for Rulemaking.

See: 27 N.J.R. 773(a).

Recodified from 13:38-3.11 and amended by R.1995 d.524, effective September 18, 1995.

See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

Amended by R.1997 d.458, effective November 3, 1997.

See: 29 N.J.R. 2781(b), 29 N.J.R. 4712(a).

In (a)3, inserted references to the National Board of Examiners in Optometry test.

### 13:38-3.6 (Reserved)

Recodified from 13:38-3.12 by R.1995 d.524, effective September 18, 1995.

See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

**13:38-3.7 Suspended or revoked licenses**

(a) No optometrist shall accept employment or association with, nor shall continue in the employment of or association with, any optometrist whose license to practice optometry has been suspended or revoked during the period of the suspension or revocation.

(b) It shall be the duty and responsibility of any optometrist, before employing, engaging the services of, or accepting as an associate, another optometrist, to ascertain that the optometrist possesses an active registration renewal certificate or an active branch office certificate for the address at which the employee or associate will practice optometry.

Recodified from 13:38-3.13 by R.1995 d.524, effective September 18, 1995.

See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

**13:38-3.8 Branch offices**

(a) A branch office certificate issued for one address is transferable to a different address. A licensee desiring to change a branch office address shall file a change of address form together with the fee as set forth in N.J.A.C. 13:38-5.1 and shall return the branch office certificate previously issued.

(b) A licensee desiring an additional branch office certificate shall file an application for a new branch office certificate and submit the fee as set forth in N.J.A.C. 13:38-5.1.

Recodified from 13:38-3.14 and amended by R.1995 d.524, effective September 18, 1995.

See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

Prior text at 13:38-3.8, Degree required of applicants, and text at former 13:38-3.10, Accelerated courses, repealed.

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**SUBCHAPTER 4. THERAPEUTIC  
PHARMACEUTICAL AGENTS (TPA)  
CERTIFICATION**

**13:38-4.1 Purpose and scope**

(a) The rules of this subchapter implement the provisions of the Consumer Access to Eye Care Act of 1991, N.J.S.A. 45:12-9.8 through 9.12.

(b) This subchapter shall apply to a licensed optometrist utilizing pharmaceutical agents, as defined and limited in N.J.S.A. 45:12-9.8 through 9.12.

**13:38-4.2 Application for therapeutic pharmaceutical agents (TPA) certification; general requirements**

(a) An optometrist licensed in this State who wishes to use pharmaceutical agents for treatment purposes as permitted by N.J.S.A. 45:12-9.8 through 9.12 shall be certified by the Board prior to prescribing or dispensing such agents.

(b) An applicant seeking therapeutic pharmaceutical agents (TPA) certification shall submit the following to the Board:

1. A completed TPA application form supplied by the Board that requires the applicant to provide identifying information;

2. A non-refundable application fee set forth in N.J.A.C. 13:38-5.1;

3. Verification that the applicant has successfully completed the educational requirements set forth in N.J.A.C. 13:38-4.3. The applicant shall obtain the required verification from the school where the applicant completed the educational requirements; and

4. Verification of test scores that the applicant has successfully passed the examination requirements set forth in N.J.A.C. 13:38-4.4.

(c) An applicant who satisfies all of the requirements set forth in (b) above shall, upon payment of the initial certification fee set forth in N.J.A.C. 13:38-5.1, be certified by the Board to use pharmaceutical agents as defined and limited in N.J.S.A. 45:12-9.8 through 9.12.

**13:38-4.3 Educational requirements for TPA certification**

Each applicant seeking TPA certification shall be required to successfully complete all educational requirements in ocular pharmacology at a school duly accredited by the United States Department of Education and the Council on Postsecondary Accreditation. This education shall be no less than that required of currently enrolled students as part of their requirements for graduation from that school. If an applicant attends a school other than a college of optometry, the education necessary to satisfy the ocular pharmacology educational requirement shall be substantially equivalent to that of a college of optometry.

**13:38-4.4 Examination requirements for TPA certification**

Each applicant for TPA certification shall be required to successfully pass the Treatment and Management of Ocular Disease Examination, or any successive examination, administered by the National Board of Examiners in Optometry.

**13:38-4.5 Biennial TPA certification renewal**

(a) An application for certification renewal shall be issued by the Board upon the applicant's submission of proof that during the two calendar years immediately preceding application for renewal the applicant successfully completed 20 continuing professional education credits in Board-approved courses devoted to ocular pharmacology, ocular manifestation of systemic disease treatable by pharmacological agents, or ocular pathology treatable by pharmacological agents. Each credit shall represent or be equivalent to one hour of actual course attendance.

(b) Ten credits of the 20-credit continuing education requirement set forth in (a) above shall be in addition to the 50-credit continuing education requirement for license renewal. Credit for a continuing education course which is approved as fulfilling either the certification or the license renewal requirements shall be applied only once, either to the certification or to the license renewal requirement.

Amended by R.1995 d.524, effective September 18, 1995.  
See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

## SUBCHAPTER 5. FEE SCHEDULE

### 13:38-5.1 Fee schedule

(a) The following fees shall be charged by the Board:

1. Application fee:	\$125.00;
2. Initial license fee:	
i. During the first year of a biennial renewal period:	\$250.00;
ii. During the second year of a biennial renewal period:	
3. Biennial renewal fee—active certificate:	\$125.00;
4. Biennial renewal fee—non-active certificate:	\$100.00;
5. Initial branch office certificate:	
i. During the first year of a biennial renewal period:	\$250.00;
ii. During the second year of a biennial renewal period:	\$125.00;
6. Biennial renewal fee—branch office certificate:	\$250.00;
7. Initial certification fee:	
i. If paid during the first year of a biennial renewal period:	\$210.00
ii. If paid during the second year of a biennial renewal period:	\$105.00
8. Biennial renewal fee—certification to prescribe:	\$210.00
9. Each additional certificate-certification to prescribe	\$25.00
10. Change of address fee—active or non-active:	\$25.00;
11. Transfer fee—non-active to active:	
i. During the first year of a biennial renewal period:	\$150.00;
ii. During the second year of a biennial renewal period:	\$75.00;
12. Penalty for late renewal of certificate:	\$200.00;
13. Endorsement fee:	\$75.00;
14. Duplicate wall certificate:	\$25.00;
15. Letter of certification:	
i. License:	\$40.00;
ii. Continuing education credit:	\$50.00;
16. Preceptorship certificate:	\$25.00;
17. Reinstatement fee:	\$200.00.

R.1975 d.23, effective March 1, 1975.

See: 7 N.J.R. 115(c).

Amended by R.1979 d.158, effective April 23, 1979.

See: 11 N.J.R. 145(a), 11 N.J.R. 298(a).

Amended by R.1985 d.254, effective May 20, 1985.

See: 17 N.J.R. 667(a), 17 N.J.R. 1323(a).

Substantially amended.

Amended by R.1991 d.360, effective July 15, 1991.

See: 23 N.J.R. 1064(a), 23 N.J.R. 2160(b).

Renumbered existing 1 as 3, 2 as 4, 3 as 6, 4 as 7, 5 as 8, 13 as 12, 14 as 13; all fees charged except in 13. Added 8i, ii. Changed fee in 9. Deleted 6, 7, 8, 10, 12.

Amended by R.1992 d.443, effective November 2, 1992.

See: 24 N.J.R. 2802(a), 24 N.J.R. 4058(a).

Added new 7-9, recodified existing 7-14 as 10-17.

Amended by R.1995 d.524, effective September 18, 1995.

See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

## SUBCHAPTER 6. RECORDS

### 13:38-6.1 Availability of records

(a) For purposes of this subchapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

“Authorized representative” means a person who has been designated, pursuant to a court order or a signed writing by the patient, to exercise the patient’s rights under this section. An authorized representative may be the patient’s attorney or an employee of an insurance carrier with whom the patient has a contract which provides that the carrier be given such access in order to assess a claim for reimbursement. If the patient is a minor, a parent or guardian shall be deemed to be an authorized representative except where a court order makes a specific designation to the contrary.

“Patient” means any person who is the recipient of optometric services rendered by a licensee for the purpose of examination, treatment, or consultation relating to the treatment.

(b) The patient record, or a copy thereof, shall be released upon written request, to the patient, the patient’s authorized representative, or to another optometrist or physician acting on behalf of the patient. A patient record or portion thereof shall be released to any person or other entity only upon the receipt of a signed release from the patient whose records are being requested. An optometrist may charge a fee for the reproduction of records, which shall be no greater than \$.50 per page or \$100.00 for the entire record, whichever is less. If the record requested is 10 pages, the optometrist may charge up to \$10.00 to cover postage and the miscellaneous costs associated with retrieval of the record. If agreeable to the individual requesting the record, the optometrist may send a summary in lieu of the actual record and the charge for the summary shall not exceed the cost that would be charged for the actual record.

(c) An optometrist shall, free of charge, release a copy of a patient’s contact lens prescription directly to the patient or to a New Jersey licensed ophthalmologist, optometrist, or ophthalmic dispenser upon either the oral or written request of a patient or the New Jersey licensed eye care provider acting on the patient’s behalf. If an optometrist releases a contact lens prescription directly to a patient, the optometrist shall provide the patient with a written warning, which shall include the following language in boldface, underlined and in capital letters:

WARNING: YOU SHOULD BE AWARE THAT YOUR EYES MAY CHANGE WITH TIME AND CONTACT LENSES THAT WERE INITIALLY FITTING PROPERLY MAY NO LONGER BE APPROPRIATE AND MAY ENDANGER YOUR EYE HEALTH. YOU SHOULD SEE YOUR EYE DOCTOR PERIODICALLY TO ENSURE YOUR LENSES ARE FITTING PROPERLY.

1. As used in this section, a "contact lens prescription" shall include those specifications contained within the doctor's records that are necessary for the preparation of contact lenses for a patient. A contact lens prescription is not complete unless and until a patient has been fitted for the contact lenses being prescribed and the fit has been fully evaluated over at least one follow-up visit and determined to be satisfactory. A contact lens prescription shall include a date of expiration that cannot exceed two years from the date of the last contact lens evaluation and may be of shorter duration depending on the professional judgment of the optometrist.

(d) Upon the patient's request, a copy of the patient's prescription for eyeglasses shall be given, free of charge, to the patient or to another optometrist, ophthalmologist or optician acting on the patient's behalf.

(e) Subsections (c) and (d) above relative to the release of contact lens and eyeglass prescriptions shall not apply unless the patient has satisfied all financial obligations to the optometrist.

(f) If a licensee ceases to engage in practice or it is anticipated that he or she will remain out of practice for more than three months, the licensee or designee shall:

1. Establish a procedure by which patients may obtain their records or transfer those records to another licensee who will assume the responsibilities of the practice;

2. Publish a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once a month for the first three months after the cessation; and

3. File a notice of the established procedure for the retrieval of records with the Board of Optometrists.

R.1978 d.242, effective July 21, 1978.

See: 10 N.J.R. 119(a), 10 N.J.R. 352(b).

Amended by R.1979 d.465, effective November 27, 1979.

See: 11 N.J.R. 462(b), 12 N.J.R. 48(c).

Amended by R.1989 d.252, effective May 15, 1989.

See: 20 N.J.R. 2361(b), 21 N.J.R. 1366(b).

Added new (d) regarding application of preceding subsections.

Amended by R.1995 d.524, effective September 18, 1995.

See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

#### Case Notes

History of rule. Hillman/Kohan v. N.J. Board of Optometrists, 169 N.J. Super. 259, 404 A.2d 1172 (App.Div.1979).