

CHAPTER 33

**STATE BOARD OF OPHTHALMIC DISPENSERS
AND OPHTHALMIC TECHNICIANS**

Authority

N.J.S.A. 45:1-15 and 52:17B-41.13.

Source and Effective Date

R.2005 d.305, effective August 11, 2005.
See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 33, State Board of Ophthalmic Dispensers and Ophthalmic Technicians, expires on February 7, 2011. See: 42 N.J.R. 1994(b).

Chapter Historical Note

Chapter 33, State Board of Ophthalmic Dispensers and Ophthalmic Technicians, was originally filed and became effective prior to September 1, 1969.

Subchapter 4, Contact Lenses, was adopted as R.1979 d.462, effective November 27, 1979. See: 11 N.J.R. 454(a), 12 N.J.R. 47(a).

Pursuant to Executive Order No. 66(1978), Subchapter 1, General Rules and Regulations, Subchapter 2, Equipment, and Subchapter 3, Uniform Penalty Letter, were readopted by R.1984 d.112, effective March 19, 1984. See: 16 N.J.R. 215(a), 16 N.J.R. 738(b).

Pursuant to Executive Order No. 66(1978), Subchapter 4, Contact Lenses, was readopted by R.1985 d.136, effective March 18, 1985. See: 16 N.J.R. 2513(a), 17 N.J.R. 710(b).

Pursuant to Executive Order No. 66(1978), Chapter 33, State Board of Ophthalmic Dispensers and Ophthalmic Technicians, was readopted as R.1990 d.204, effective March 12, 1990. See: 22 N.J.R. 154(a), 22 N.J.R. 1148(a).

Subchapter 3, Uniform Penalty Letter, was repealed by administrative change. See: 25 N.J.R. 1516(b).

Pursuant to Executive Order No. 66(1978), Chapter 33, State Board of Ophthalmic Dispensers and Ophthalmic Technicians, was readopted as R.1995 d.192, effective March 10, 1995. See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Subchapter 4, Contact Lenses, was repealed by R.1997 d.330, effective August 4, 1997. See: 29 N.J.R. 840(a), 29 N.J.R. 3456(a).

Petition for Rulemaking. See: 30 N.J.R. 2530(a), 30 N.J.R. 4485(a).

Pursuant to Executive Order No. 66(1978), Chapter 33, State Board of Ophthalmic Dispensers and Ophthalmic Technicians, was readopted as R.2000 d.146, effective March 10, 2000. See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Subchapter 3, Dispensing of Contact Lenses, was adopted by R.2001 d.95, effective March 19, 2001. See: 32 N.J.R. 1286(a), 33 N.J.R. 1010(b).

Chapter 33, State Board of Ophthalmic Dispensers and Ophthalmic Technicians, was readopted as R.2005 d.305, effective August 11, 2005. Subchapter 7, Advertising, was adopted as R.2005 d.305, effective September 6, 2005. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. APPRENTICESHIPS

13:33-1.1 Minimum age for ophthalmic dispenser's apprentice certificate

Applicants for an ophthalmic dispenser's apprentice certificate shall be at least 17 years old.

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote the section.

Recodified from N.J.A.C. 13:33-1.26 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Former N.J.A.C. 13:33-1.1 recodified as N.J.A.C. 13:35-1.3.

13:33-1.2 Minimum age for ophthalmic technician's apprentice certificate

Applicants for an ophthalmic technician's apprentice certificate shall be at least 16 years old.

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote the section.

Recodified from N.J.A.C. 13:33-1.27 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Former N.J.A.C. 13:33-1.2 recodified as N.J.A.C. 13:35-1.4.

13:33-1.3 Ophthalmic dispenser apprentice certificate

An ophthalmic dispenser apprentice certificate shall expire three years after date of issue.

As amended, R.1983 d.15, effective February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Changed certificate expiration from four to three years after date of issue.

Recodified from N.J.A.C. 13:35-1.1 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Former N.J.A.C. 13:33-1.3 recodified as N.J.A.C. 13:33-1.5 and amended.

13:33-1.4 Ophthalmic technician apprentice certificate

An ophthalmic technician apprentice certificate shall expire one year after date of issue.

As amended, R.1983 d.15, effective February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Changed certificate expiration from two to one year after date of issue.

Recodified from N.J.A.C. 13:33-1.2 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-1.5 Supervision of apprentice ophthalmic dispensers and technicians

(a) Apprentice ophthalmic dispensers shall dispense ophthalmic appliances, eyeglasses or ophthalmic lenses as set forth in N.J.S.A. 52:17B-41.5, only under the immediate supervision of a licensed ophthalmic dispenser. Apprentice ophthalmic dispensers and technicians may produce, prepare and process ophthalmic lenses only under the immediate

supervision of a licensed ophthalmic dispenser or a licensed ophthalmic technician. For the purpose of this subsection "immediate supervision" shall mean that a supervising preceptor shall be on the premises at all times during which an individual is engaged in apprentice functions.

(b) During an apprenticeship, a supervising preceptor shall be qualified to instruct and train an apprentice in the requisite skills, methods and techniques so as to assure that an apprentice is competent in producing and reproducing ophthalmic lenses and kindred products and mounting the same to supporting materials. In addition, a preceptor must be qualified to afford training and instruction in the following areas:

1. With regard to ophthalmic dispenser apprentices:

i. Reading and interpreting prescriptions brought to a dispensing establishment and ascertaining the patient's individual needs;

ii. Selection, physical fitting and adjustment of frame in accordance with the patient's prescription and facial contour;

iii. Taking of near and far monocular pupillary distances;

iv. Lenses: grinding, processing, optical and geometric centers, prisms, measurement, base curve, multifocal, colors (tints), neutralization, transposition, duplication, and insertion;

v. Use of all required equipment pursuant to N.J.A.C. 13:33-3.5 and 3.6, including, but not limited to, vertometer, lensometer or any other automatic electron equipment to measure the power of a lens, a lens clock and millimeter ruler, hand or automatic protractor for marking up lenses, automatic edger and handfinishing stone;

vi. Frames: mountings, sizes, measurements and types of temples.

2. With regard to ophthalmic technician apprentices:

i. Reading and transposition of prescriptions or orders for lenses;

ii. Lenses: grinding, processing, optical and geometric centers, prisms, measurements, base curve, multifocal, colors (tints), neutralization, transposition, duplication, and insertion;

iii. Use of all required equipment pursuant to N.J.A.C. 13:33-3.5 and 3.6, including, but not limited to, vertometer, lensometer or any other automatic electronic equipment to measure the power of a lens, a lens clock and millimeter ruler, hand or automatic protractor for marking up lenses, automatic edger and hand-finishing stone;

iv. Frames: mountings, sizes, measurements and types of temples.

(c) In the event that a preceptor's apprentice fails to establish competence in licensing examinations for reasons attributable to the failure of a preceptor to properly train and instruct such apprentice, the Board, upon notice and affording an opportunity to be heard, may exclude an individual from acting as a preceptor.

(d) A licensed ophthalmic dispenser or licensed ophthalmic technician employed full time at an optical establishment, or a physician or optometrist duly licensed to practice medicine or optometry in the State of New Jersey who is qualified to train apprentices, shall not be permitted to employ, supervise or train more than two registered apprentices at any given time.

(e) A work-study program is defined as that activity which places students enrolled in the Ophthalmic Science curriculum of any school approved by the National Commission on Accreditation into the optical field on a limited basis under the supervision of a college-approved preceptor for the purpose of gaining college-supervised practical experience. A college-approved preceptor is that individual licensed in New Jersey as an ophthalmic dispenser or ophthalmic technician who meets the conditions established by the college in the development of its work-study program.

1. Where a licensed ophthalmic dispenser or a licensed ophthalmic technician qualifies as a college-approved preceptor in a work-study program, he or she shall be permitted to supervise additionally a maximum of two work-study students who shall be registered with the State Board of Examiners. The work-study time accumulated by students will not be credited to apprenticeship time required by statute to qualify for licensure.

As amended, R.1983 d.15, eff. February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Added "appliances, eyeglasses or ophthalmic" as set forth in the statute.

As amended, R.1984 d.22, effective February 6, 1984.

See: 15 N.J.R. 1832(a), 16 N.J.R. 248(c).

In (a), added last two sentences and added new (b)-(e).

Amended by R.1995 d.192, effective April 3, 1995.

See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Recodified from N.J.A.C. 13:33-1.3 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Updated the N.J.A.C. references throughout.

13:33-1.6 Preparation of apprentice ophthalmic dispensers for examination

(a) It shall be the responsibility of preceptors of apprentice ophthalmic dispensers to provide instruction to apprentices in the following areas:

1. Reading and transposing prescriptions;
2. Knowledge and fabrication of lenses, specifically types of lenses, optical and geometrical centers, axes, prisms, powers, different types of glass, colors (tints), curves, grinding, neutralizing, transposing, and the purpose and use of lenses;

3. Familiarization with frames and mountings, sizes, measurements, and types of temples;

4. Using a vertometer, lensometer, or similar instrument;

5. Neutralizing and identifying a series of single vision and multifocal lenses; and one of the following:

i. Marking up and surfacing a pair of single vision or multifocal lenses from a pair of semifinished lens blanks; or

ii. Making a complete pair of eyeglasses, given a pair of uncut lenses and a frame or mounting;

6. Knowledge of measurements, pupillary distances and power of lenses;

7. Knowledge of fitting a pair of eyeglasses to a person; and

8. Knowledge of bench work and edge grinding in order to make a complete pair of eyeglasses, given a frame and uncut lenses.

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote (a).

Recodified from N.J.A.C. 13:33-1.32 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-1.7 Preparation of apprentice ophthalmic technicians for examination

(a) It shall be the responsibility of preceptors of apprentice ophthalmic technicians to provide instruction to apprentices in the following areas:

1. Reading and transposing of a prescription or order for lenses;

2. Knowledge of and fabrication of lenses. Specifically, grinding, processing, optical and geometrical centers, prisms, measurements, base curves, multifocal and colors (tints) of all types of lenses;

3. Knowledge of frames and mountings, sizes, measurements, and types of temples;

4. Using a vertometer, lensometer, or similar instrument;

5. Neutralizing and identifying a series of single vision and multifocal lenses; and one of the following:

i. Marking up and surfacing a pair of single vision or multifocal lenses from a pair of semifinished lens blanks; or

ii. Making a complete pair of eyeglasses, given a pair of uncut lenses and a frame or mounting.

Amended by R.1995 d.192, effective April 3, 1995.

See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote the section.

Recodified from N.J.A.C. 13:33-1.31 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Former N.J.A.C. 13:33-1.7 recodified as N.J.A.C. 13:33-3.3 and amended.

13:33-1.8 Ophthalmic dispenser apprentice; licensing examination

(a) An ophthalmic dispenser apprentice shall complete not less than 12 credit hours of course work in Materials I and Materials II Lecture and Materials I and Materials II Lab. The 12 credits shall be completed within the first 12 months of the apprenticeship and shall be from a school accredited by the Commission on Opticianry Accreditation.

(b) The ophthalmic dispenser apprentice shall, at the completion of the first 12 months of the apprenticeship, apply for the first scheduled Qualifying Technical examination. The Qualifying Technical examination shall be offered twice annually and shall consist of a written test and practical tests in neutralization and fabrication. In the event of illness, extreme emergency, or other good cause, an extension of application to the next succeeding examination may be granted by the Board.

(c) If the ophthalmic dispenser apprentice fails the qualifying technical examination, he or she shall no longer serve the public by dispensing, measuring or fitting prescriptive eyewear. An ophthalmic dispenser apprentice who has failed the qualifying technical examination shall not accumulate time towards the three-year apprenticeship requirement until the apprentice passes the qualifying technical examination. If the ophthalmic dispenser apprentice is unsuccessful in passing three consecutive examinations, the apprentice shall surrender the apprentice permit. In the event that the ophthalmic dispenser apprentice meets the requirements to sit for examination and neither applies for, appears at, or is excused from said examination, an automatic failure will be imposed.

(d) An individual who has failed the Qualifying Technical examination three times may take the Ophthalmic Technician Licensing examination. If the individual passes the Ophthalmic Technician Licensing examination, he or she shall be reinstated in the Ophthalmic Dispensing Apprenticeship. The individual may take the Ophthalmic Technician Licensing examination three times.

(e) During the 36 months of the apprenticeship, the ophthalmic dispenser apprentice shall complete at least 30 hours of course work in ophthalmic science from a school accredited by the Commission on Opticianry Accreditation. The 30 credits shall include Materials I and II Lecture and Materials I and II Lab, taken within the first 12 months of apprenticeship; Dispensing I and II Lecture and Dispensing I and II Lab; Principles of Optics (Theory of Optics); Anatomy and Physiology of the Eye; and Contact Lens Theory. Apprentices shall obtain a grade of either a "C," or better, or a

numerical grade of 70, or better, in all required optical science courses.

(f) At the completion of the 36-month apprenticeship, the ophthalmic dispenser apprentice shall apply for the first scheduled ophthalmic dispenser licensing examination. In the event of illness, extreme emergency, or other good cause, an extension of application to the next succeeding examination may be granted by the Board.

(g) If the ophthalmic dispenser apprentice fails three consecutive ophthalmic dispenser licensing examinations, the apprentice dispenser shall return the dispenser permit to the Board. An ophthalmic dispenser apprentice who has returned his or her permit to the Board may retake the ophthalmic dispensing licensing examination provided that the last year of experience as an apprentice dispenser was acquired within the past two years.

(h) In the event that the ophthalmic dispenser apprentice meets the requirements to sit for examination and neither applies for, appears at, or is excused from said examination, an automatic failure will be imposed.

Amended by R.1983 d.15, effective February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Deleted old text and added new text.

Amended by R.1987 d.323, effective August 3, 1987.

See: 19 N.J.R. 917(a), 19 N.J.R. 1455(a).

Substantially amended.

Amended by R.1995 d.192, effective April 3, 1995.

See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote the section.

Recodified from N.J.A.C. 13:33-1.13 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Former N.J.A.C. 13:33-1.8 recodified as N.J.A.C. 13:33-8.3.

13:33-1.9 Ophthalmic technician apprentice; licensing examination

(a) An ophthalmic technician apprentice who has served as an apprentice for at least one calendar year of full-time employment shall apply for the first examination after the completion of the one year of full-time employment.

(b) In the event of illness, extreme emergency, or other good cause, an extension of application to the next succeeding examination may be granted by the Board.

(c) If the ophthalmic technician apprentice is unsuccessful in passing three consecutive examinations, the apprentice shall return the apprentice technician permit to the Board. An ophthalmic technician apprentice who has returned his or her permit to the Board may retake the ophthalmic technician licensing examination provided that the last year of experience as an apprentice technician was acquired within the past two years.

(d) In the event that the ophthalmic technician apprentice meets the requirements to sit for examination and neither

applies for, appears at, or is excused from said examination, an automatic failure shall be imposed.

New Rule, R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Former N.J.A.C. 13:33-1.14, Military Service, recodified to N.J.A.C. 13:33-1.16.

Recodified from N.J.A.C. 13:33-1.14 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

SUBCHAPTER 2. LICENSURE

13:33-2.1 Application for examination

(a) Applications for examination shall be filed with the executive director of the Board at least 30 days prior to the date on which the examination is to be held.

(b) Applications shall include a certification from the preceptor certifying that the applicant has completed, or will complete by the time of examination, one year of apprenticeship for the Qualifying Technical examination and the Ophthalmic Technician licensing examination, and three years of apprenticeship for the Ophthalmic Dispensing licensing examination or four months of apprenticeship for applicants for the Ophthalmic Dispensing licensing examination who have an associates degree.

Amended by R.1979 d.66, effective February 15, 1979.

See: 10 N.J.R. 503(a), 11 N.J.R. 145(b).

Amended by R.1995 d.192, effective April 3, 1995.

See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote the section.

Recodified from N.J.A.C. 13:33-1.24 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Former N.J.A.C. 13:33-2.1 recodified as N.J.A.C. 13:33-3.5.

13:33-2.2 Out-of-State ophthalmic dispenser application

(a) A Temporary Ophthalmic Dispenser Permit shall be issued to an individual from out of the State of New Jersey if the applicant is licensed as an ophthalmic dispenser in another state and has either an associate degree in ophthalmic science from a school accredited by the Commission on Opticianry Accreditation or 30 credits of course work including Materials I and II Lecture, Materials I and II Lab, Dispensing I and II Lecture, Dispensing I and II Lab, Principles of Optics (Theory of Optics), Anatomy and Physiology of the Eye and Contact Lens Theory and has worked in the optical field for a minimum of three years following the award of his her license, the last year of ophthalmic dispensing having been acquired within five years of the date of application for the temporary permit. Applicants shall obtain a grade of either a "C," or better, or a numerical grade of 70, or better, in 30 credits of coursework.

(b) The holder of Temporary Ophthalmic Dispenser Permit may practice dispensing in New Jersey without supervision

but may not supervise any apprentices and must take the first Ophthalmic Dispenser licensing examination following the issuance of the Permit.

(c) If the holder of a Temporary Ophthalmic Dispenser Permit fails the Ophthalmic Dispenser licensing examination once, the Temporary Ophthalmic Dispenser Permit may be renewed one time. An applicant working as a Temporary Ophthalmic Dispenser pursuant to a renewed permit shall take the next scheduled licensing examination. If the applicant fails the second examination, the applicant shall surrender the Temporary Ophthalmic Dispenser Permit and shall no longer work as an ophthalmic dispenser until he or she passes the licensing examination. If an applicant fails to take the next scheduled examination because of illness, emergency or other good cause, the Board may allow the applicant to take another examination. An applicant who has surrendered the Temporary Ophthalmic Dispenser Permit may work in an ophthalmic dispensing establishment supervised by a preceptor pursuant to N.J.A.C. 13:33-1.5. An applicant who has surrendered the Temporary Ophthalmic Dispenser Permit may take the Ophthalmic Dispenser Licensing examination provided that the applicant practiced as an Ophthalmic Dispenser in another state within the previous five years. An applicant whose last year of Ophthalmic Dispenser practice was more than five years ago may enter an apprenticeship program for licensure.

(d) An individual who has worked as an ophthalmic dispenser in a state that does not license ophthalmic dispensers shall qualify to take the Ophthalmic Dispenser licensing examination in this State provided that he or she:

1. Holds an associate degree in Ophthalmic Science from a school accredited by the Commission on Opticianry Accreditation and has four months of experience as a dispenser of prescription eyewear subsequent to the award of the degree and within the immediately preceding five-year period; or

2. Has satisfactorily completed 30 credit hours of courses in ophthalmic science including Materials I and II Lecture, Materials I and II Lab, Dispensing I and II Lecture, Dispensing I and II Lab, Principles of Optics (Theory of Optics), Anatomy and Physiology of the Eye and Contact Lens Theory and thereafter has worked as a dispenser of prescription eyewear for three calendar years, the last year of which shall have been within five years of the date of application for examination. Applicants shall obtain a grade of either a "C," or better, or a numerical grade of 70, or better, in all required optical courses.

As amended, R.1983 d.15, effective February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Changed section title from temporary ophthalmic dispenser permit.

Added 2. to (a). Also added (b).

Amended by R.1987 d.323, effective August 3, 1987.

See: 19 N.J.R. 917(a), 19 N.J.R. 1455(a).

Credits changed from 18 to 30.

Amended by R.1995 d.192, effective April 3, 1995.

See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote the section.

Recodified from N.J.A.C. 13:33-1.11 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Updated the N.J.A.C. reference in (c).

Former N.J.A.C. 13:33-2.2 recodified as N.J.A.C. 13:33-3.6.

13:33-2.3 Out-of-State ophthalmic technician applicants

(a) A Temporary Ophthalmic Technician Permit shall be issued to an individual from out of the State of New Jersey who has completed an Ophthalmic Technician course from a school accredited by the Commission on Opticianry Accreditation and can show that he or she has completed at least one year of optical laboratory experience within five years of the date of application for such Permit.

(b) The holder of a Temporary Ophthalmic Technician Permit may work as an Ophthalmic Technician in New Jersey without supervision of a New Jersey licensee but may not supervise any apprentices and must take the first Ophthalmic Technician licensing examination following the issuance of the Permit.

(c) If the holder of a Temporary Ophthalmic Technician Permit fails the Ophthalmic Technician licensing examination, the Temporary Ophthalmic Technician Permit may be renewed one time. An applicant working as a Temporary Ophthalmic Technician pursuant to a renewed Temporary Ophthalmic Technician Permit shall take the next scheduled licensing examination. If the applicant fails the second examination, he or she shall surrender the Temporary Ophthalmic Technician Permit and shall no longer work as an Ophthalmic Technician until he or she passes the licensing examination. If an applicant fails to take the next scheduled examination because of illness, emergency or other good cause, the Board may allow the applicant to take another examination. An applicant who has surrendered his or her Temporary Ophthalmic Technician Permit may work in an Ophthalmic establishment supervised by a preceptor pursuant to N.J.A.C. 13:33-1.5. An applicant who has surrendered the Temporary Ophthalmic Technician Permit may take the Ophthalmic Technician Licensing examination provided that the applicant practiced as an Ophthalmic Technician in another state within the previous five years. An applicant whose last year of Ophthalmic Technician practice was more than five years ago may enter an apprenticeship program for licensure.

(d) An individual who has fabricated prescription eyewear for one year in another state or has attended a course in Ophthalmic Technicianry in a school approved by the Commission on Opticianry Accreditation may apply for examination and licensure as an Ophthalmic Technician, without having worked in the State of New Jersey, subject to the provision that the last year of experience of fabricating prescription eyewear has been acquired within five years of the date of application for examination.

As amended, R.1983 d.15, effective February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Changed section title from temporary ophthalmic technician permit.

Added 2. to (a). Also added (b).

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote the section.

Recodified from N.J.A.C. 13:33-1.12 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Updated the N.J.A.C. reference in (c).

13:33-2.4 Review of examination

(a) An applicant who has failed the qualifying technical examination, the Ophthalmic Dispenser licensing examination or the Ophthalmic Technician licensing examination may apply to the Board for a review of his or her examination. The application shall be submitted, in writing, to the Executive Director of the Board within one month following notification of examination results.

(b) The Executive Director shall arrange a date for the applicant to review the deficiencies on his or her performance on the Board-generated portions of the examination with an examiner in the Board office. The Board-generated portions of the Qualifying Technical examination and the Ophthalmic Technician Licensing examination are the neutralizing and shop portions. The Board-generated portions of the Ophthalmic Dispenser Licensing examination are the neutralizing, shop and dispensing sections.

(c) The Executive Director shall arrange for the testing service to forward to the applicant a summary of the written portion of the examination detailing the applicant's area of weakness.

(d) In the event an apprentice ophthalmic dispenser or technician fails the licensing examination for the second time, the apprentice shall obtain the Board's written approval of the preceptor under whose immediate supervision the apprentice intends to continue his or her apprenticeship.

New Rule, R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Recodified from N.J.A.C. 13:33-1.15 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-2.5 Failure to apply for licensure within two years of examination; reexamination required

If an applicant who has passed a licensing examination fails to apply for a license within two years of passing the examination, the applicant shall be required to retake the examination before applying for a license.

Amended by R.1992 d.103, effective March 2, 1992.

See: 23 N.J.R. 3631(a), 24 N.J.R. 852(c).

Revised text.

Amended by R.1995 d.192, effective April 3, 1995.

See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote the section.

In (a), rewrote 1 through 3.

Recodified from N.J.A.C. 13:33-1.22 and amended by R.2005 d.305, effective September 6, 2005.
See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

SUBCHAPTER 3. PROFESSIONAL PRACTICE

13:33-3.1 Space rental agreements with other health care practitioners

(a) A Board licensee may rent space to or from a person authorized by law to prescribe corrective or therapeutic eyewear or from a separately held entity in which said person and/or his or her immediate family hold any financial interest, only where the total rent to be paid is set forth in a written agreement and such rent is for a fixed dollar amount for a stated period of time determined by the fair market value for the rented space. The rent shall not be determined by the number of referrals made or by volume of sales or fees.

(b) The term "immediate family," for the purpose of this section, means the spouse and children, siblings and parents, spouse's siblings and parents, and the spouses of the children of the person authorized by law to prescribe corrective or therapeutic eyewear.

New Rule, R.1974 d.66, effective March 14, 1974.

See: 5 N.J.R. 388(b), 6 N.J.R. 153(a).

Repealed by R.1984 d.22, effective February 6, 1984.

See: 15 N.J.R. 1832(a), 16 N.J.R. 248(c).

Section was "Limits on number of apprentice."

New Rule, R.1993 d.603, effective December 6, 1993.

See: 24 N.J.R. 4010(a), 25 N.J.R. 5484(b).

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Deleted former (b) and (d); and recodified former (c) as (b).

Recodified from N.J.A.C. 13:33-1.36 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Former N.J.A.C. 13:33-3.1 recodified as N.J.A.C. 13:33-4.1 and amended.

13:33-3.2 Display of certificate of registration

(a) Every holder of a certificate of registration issued by the Board, including renewal certificates and validating certificates, shall display it to the public at the location for which it is issued.

(b) Renewal certificates and validating certificates shall be attached to the original certificate in the lower left-hand corner.

Amended by R.1995 d.192, effective April 3, 1995.

See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

In (a), deleted "conspicuously" following "shall".

Recodified from N.J.A.C. 13:33-1.33 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Former N.J.A.C. 13:33-3.2 recodified as N.J.A.C. 13:33-6.2 and amended.

13:33-3.3 Branch office certificate

(a) Licensees who practice in a location other than the office location registered with the Board shall obtain a branch office certificate for each such location. A branch office certificate will be issued for a period of two years.

(b) A fee will be charged for this certificate as indicated in N.J.A.C. 13:33-8.8.

(c) A licensee may work in locations that are not registered with the Board as the licensee's main office or branch offices for a maximum of 12 days in a calendar year as long as the licensee notifies the Board, in writing, where he or she will be working.

(d) If a licensee spends or intends to spend more than 12 days in a calendar year at unregistered locations, he or she shall notify the Board in writing. The licensee shall obtain a branch certificate from the Board for any location in which he or she practices and shall pay the branch office registration fee pursuant to N.J.A.C. 13:33-8.8.

As amended, R.1983 d.15, effective February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Changed employment certificate period of issuance from one to two years. Fee for certificate changed from \$5.00 to as indicated in the statute.

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote (a); and added (c) and (d).

Recodified from N.J.A.C. 13:33-1.7 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Updated the N.J.A.C. references in (b) and (d).

13:33-3.4 Permits: registration

(a) Any employer, before he permits a new employee to start work as a temporary ophthalmic dispenser, temporary ophthalmic technician, ophthalmic dispenser apprentice, or ophthalmic technician apprentice is responsible for registering said employee under the applicable permit.

(b) "Registration" means filing a notarized application with the Board for any temporary ophthalmic dispenser, temporary ophthalmic technician, ophthalmic dispenser apprentice, or ophthalmic technician apprentice that works in an ophthalmic establishment and receipt by the applicant of a permit or letter of permission to work from the Board.

(c) The employer shall conspicuously post in all optical establishments a sign, which shall be supplied by the Board, stating that the employer is responsible for the registration of all employees.

R.1974 d.66, effective March 14, 1974.

See: 5 N.J.R. 388(b), 6 N.J.R. 153(a).

As amended, R.1983 d.15, effective February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Deleted limited technician apprentice.

Amended by R.1995 d.192, effective April 3, 1995.

See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote (b).
 Recodified from N.J.A.C. 13:33-1.39 by R.2005 d.305, effective
 September 6, 2005.
 See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

**13:33-3.5 Minimum optical equipment in establishments
 where apprentices are registered and/or
 where fabricating is done on the premises**

(a) All optical establishments where apprentices are registered or where fabricating is done on the premises, shall be equipped with the following optical equipment:

1. One set of hand tools consisting of files, screwdrivers, pliers, hammers/anvils or hand press, reamers, taps, calipers and millimeter ruler;
2. One automatic lens analyzer, such as a lensometer, vertometer, or any other automatic electronic equipment to measure the power of a lens and lens clock;
3. Hand or automatic protractor for marking up lenses;
4. One colmascope;
5. One frame heater;
6. One automatic edger and hand finishing stone;
7. A minimum of 250 assorted frames and mountings; and
8. If the establishment fabricates glass lenses on the premises, lens hardening equipment and a drop ball tester.

Amended by R.1984 d.534, effective November 19, 1984.
 See: 16 N.J.R. 2062(a), 16 N.J.R. 3207(a).

Substantially amended.

Amended by R.2000 d.146, effective April 3, 2000.
 See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

In (a), rewrote the introductory paragraph and 7, deleted "or similar instrument, lens hardening equipment, drop ball tester" at the end of 4, and added 8.

Recodified from N.J.A.C. 13:33-2.1 by R.2005 d.305, effective
 September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

**13:33-3.6 Optical equipment required for practice of
 ophthalmic dispensing in establishments
 where no fabricating is done on premises and
 where no apprentices are registered**

(a) All optical establishments where ophthalmic dispensers practice and where no fabricating is done on the premises and no apprentices are registered, shall be equipped with the following optical equipment:

1. One set of hand tools consisting of files, screwdrivers, pliers, hammers/anvils or hand press, reamers, taps, calipers and a millimeter ruler;
2. One automatic lens analyzer, such as a lensometer, vertometer, or any other automatic electronic equipment to measure the power of a lens and lens clock
3. One colmascope;

4. One frame heater;
5. One hand finishing stone; and
6. A minimum of 250 assorted frames and mountings.

(b) All optical establishments that do not have a laboratory on the premises shall conspicuously display to the public a sign stating, "No laboratory on the premises." The size of the sign shall be a minimum of eight inches by 10 inches.

Amended by R.1984 d.534, effective November 19, 1984.
 See: 16 N.J.R. 2062(a), 16 N.J.R. 3207(a).

Substantially amended.

Amended by R.1995 d.192, effective April 3, 1995.
 See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Amended by R.2000 d.146, effective April 3, 2000.
 See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

In (a), substituted "the following optical equipment" for "a minimum of the optical equipment as follows" at the end of the introductory paragraph, deleted "or similar instrument" at the end of 3, and rewrote 6. Recodified from N.J.A.C. 13:33-2.2 by R.2005 d.305, effective
 September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

SUBCHAPTER 4. DISPENSING OF CONTACT LENSES

13:33-4.1 Dispensing of contact lenses

(a) An ophthalmic dispenser may dispense contact lenses directly to a patient upon presentation of a valid contact lens prescription written by a licensed optometrist or physician. The prescription shall contain the name, address and phone number of the prescriber.

(b) An ophthalmic dispenser may only replace, reproduce or duplicate a previously dispensed contact lens based upon a prescription or the specifications of record, which are the specific characteristics of the contact lens taken from the prescription.

(c) Contact lenses shall be dispensed upon the following conditions:

1. Dispensing shall only be performed by a licensed ophthalmic dispenser. Under no circumstances may dispensing be delegated to an unlicensed person.
2. Any contact lenses dispensed shall be in exact conformity with the prescription presented and shall be dispensed only to the person named on the prescription. The licensed ophthalmic dispenser shall not alter or substitute the lenses prescribed.
3. A licensed ophthalmic dispenser who dispenses contact lenses shall provide the following information to the patient whenever contact lenses are dispensed:

WARNING: IF YOU ARE HAVING ANY UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE, OR REDNESS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE

PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN.

4. Under no circumstances shall contact lenses be dispensed after the expiration date stated on the prescription or, if there is no expiration date, more than two years after the date that the prescription was originally written.

5. A licensed ophthalmic dispenser shall not dispense to a patient contact lenses when the seals on the contact lens container have been opened.

(d) Concurrent with the dispensing of contact lenses, an individual patient record shall be created and be maintained for a period of seven years from the date of the last entry in the record, and shall contain the following information:

1. A copy of any prescriptions for which contact lenses are dispensed;
2. The patient's name, address and telephone number;
3. The date on which the contact lenses were dispensed; and
4. The identity and initials of the licensed ophthalmic dispenser who dispensed the contact lenses.

(e) A licensed ophthalmic dispenser may mail contact lenses to a patient pursuant to a valid prescription provided:

1. The ophthalmic dispenser maintains a record of the prescribing eye doctor's name, address and telephone number and an original, or copy of the, patient's prescription or lens specifications, which includes the following information:

- i. The name of the manufacturer;
- ii. The brand name;
- iii. The lens power;
- iv. The base curve;
- v. The diameter; and

2. The prescription has not expired pursuant to an expiration date stated by the prescribing eye doctor and the prescription or specifications of record are not more than two years old.

(f) A licensee who dispenses contact lenses without satisfying the conditions and limitations prescribed by this section shall be deemed to have engaged in professional misconduct.

(g) Ophthalmic dispensers shall complete three classroom hours of continuing education covering the dispensing of contact lenses pursuant to N.J.A.C. 13:33-6.2 every biennial period.

New Rule, R.2001 d.95, effective March 19, 2001.

See: 32 N.J.R. 1286(a), 33 N.J.R. 1010(b).

Recodified from N.J.A.C. 13:33-3.1 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).
Added (g).

SUBCHAPTER 5. PRACTICE STANDARDS

13:33-5.1 Record of prescriptions filled

(a) Each person licensed as an ophthalmic dispenser shall maintain for a period of at least six years at a New Jersey establishment the following records:

1. All original prescriptions, or copies of prescriptions, which the licensee or licensee's apprentices fill;
2. All data required in the preparation and dispensing of eyeglasses:
 - i. Frames, such as eye size, bridge size and temple length; and
 - ii. Lenses, such as sphere, cylinder, axis, prism base, add, patient pupillary distance (P.D.), eyeglass pupillary distance (P.S.) and height of segment (Seg) if multifocal, base curve, frame size, eye size, bridge size and temple length;
3. All information required in dispensing of contact lenses;
4. Identification, by means of name or initials, of individuals involved in interpreting and measuring, duplicating, fabricating, verifying and fitting and adjusting all eyeglasses, frames and lenses fabricated and dispensed; and
5. Written confirmation that the licensed dispenser or licensed technician has verified the lenses.

(b) In order to fabricate, verify, and/or duplicate a lens or a pair of eyeglasses, the following information shall be obtained or checked:

1. Sphere, cylinder, axis, prism, base, add, patient pupillary distance, eyeglass pupillary distance, height of segment, base curve, frame size, eye size, bridge size, and temple length.

(c) To obtain the information outlined in (b) above, the following equipment shall be utilized:

1. Lensometer, vertometer, or any other automatic electronic equipment to measure the power of a lens, a lens clock and a millimeter ruler.

2. Any person using the equipment listed in (c)1 above to obtain information for the purpose of fabricating, dispensing, verifying, or duplicating a lens or pair of eyeglasses shall be deemed to be practicing Ophthalmic Dispensing and Ophthalmic Technicianry.

(d) If a patient requests that a licensed ophthalmic dispenser release an original prescription, the licensed ophthalmic dispenser shall release to the patient, without charge, the

original prescription maintained as part of the licensed ophthalmic dispenser's records pursuant to (a) above. A licensed ophthalmic dispenser who releases an original prescription shall make a copy of the prescription and maintain this as part of his or her records.

As amended, R.1978 d.9, effective January 13, 1978.
 See: 9 N.J.R. 538(c), 10 N.J.R. 72(b).
 As amended, R.1984 d.22, effective February 6, 1984.
 See: 15 N.J.R. 1832(a), 16 N.J.R. 248(c).
 Substantially amended (a) and added new (b)-(c).
 Amended by R.1995 d.192, effective April 3, 1995.
 See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).
 Amended by R.2000 d.146, effective April 3, 2000.
 See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).
 Rewrote (a); and in (c)2, substituted "or" for "and/or" following "verifying."
 Recodified from N.J.A.C. 13:33-1.29 by R.2005 d.305, effective September 6, 2005.
 See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).
 Amended by R.2008 d.59, effective March 17, 2008.
 See: 39 N.J.R. 2197(a), 40 N.J.R. 1672(a).
 In (a)1, inserted "original" and ", or copies of prescriptions,"; and added (d).

13:33-5.2 Minimum standards and tolerances

(a) Every prepared pair of lenses, spectacles, eyeglasses or appurtenances thereto dispensed to the intended wearers thereof on written prescriptions from physicians or optometrists duly licensed to practice their profession, or duplication, replacement, reproduction or repetitions, must conform to the following minimum standards and tolerances:

| Physical Quality and Appearance | Tolerance |
|---|---|
| 1. Surface imperfections | No pits, scratches (other than hair-line), 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 if 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 percent 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 to 0.37 + or - 3 degrees. 0.50 to 1.00 + or - 2 degrees. 1.12 on up + or - 1 degree. |
| 7. Prism power and location of specified optical center | Vertical + or - 0.25 prism for each lens or a total of 1/3 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 |

| Physical Quality and Appearance | Tolerance |
|---|---|
| 8. Segment size | must be within 2 mm. If prism is less than .50 prism diopter, the optical centers must be within 4 mm. + 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 frame. 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) In order to insure the proper fabrication of lenses and eyewear, the following information must be obtained from the refractionist:

1. Complete prescription, including sphere, cylinder, axis, prism/base and add;
2. The ophthalmic dispenser must measure and/or specify the following:
 - i. Eye size, bridge size, temple length, frame shape and style, patient pupillary distance, optical centers and, if applicable, bifocal type, segment height and base curve;
3. Upon completion of the fabrication of such corrective lenses and prior to dispensing within the State of New Jersey, the lenses or finished eyeglasses shall be verified to insure the accuracy of the prescription, the sphere, cylinder, axis, prism/base, add, patient pupillary distance, segment height, frame size, eye size, bridge size and temple length. In addition, the eyewear must be adjusted for fit and verified for compliance with the standards, set forth in (a) above.

R.1974 d.262, effective September 23, 1974.
 See: 5 N.J.R. 388(b), 6 N.J.R. 411(a).

As amended, R.1983 d.81, effective March 21, 1983.
See: 14 N.J.R. 1085(a), 15 N.J.R. 447(b).

Added 13 to (a) and added (b).

Amended by R.1985 d.113, effective March 18, 1985.

See: 16 N.J.R. 3288(b), 17 N.J.R. 710(a).

(a)7. added text: "if prism exceeds ... be within 4 mm".

Recodified from N.J.A.C. 13:33-1.38 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-5.3 Identification tags

Each licensee and permit holder shall wear an identification tag, which shall be clearly visible to the patient at all times. The tag shall bear the first name or initial, the full second name, the license or permit number, and the level of licensure. The letters on the tag shall be in type not smaller than ¼ inch.

R.1979 d.69, effective February 15, 1979.

See: 10 N.J.R. 503(b), 11 N.J.R. 146(c).

Amended by R.1983 d.15, effective February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Added registration number must be on tag.

Amended by R.1984 d.534, effective November 19, 1984.

See: 16 N.J.R. 2062(a), 16 N.J.R. 3207(a).

(a)6: "Biennial" deleted.

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote the section.

Recodified from N.J.A.C. 13:33-1.42 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-5.4 Compliance with rules and regulations

(a) The employers of all ophthalmic dispensers, ophthalmic technicians, apprentices and persons working under temporary permits, shall be responsible to ensure that all relevant statutes and rules are observed and complied with in their establishments.

(b) It shall be the responsibility of the employer to ensure that each new employee secures authorization to work from the board, in the form of a permit, branch office license or transfer of licenses, before starting employment.

(c) It shall be the responsibility of the employer to see that all certificates of employees are displayed according to law.

Amended by R.1995 d.192, effective April 3, 1995.

See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote (a); and deleted a former (d).

Recodified from N.J.A.C. 13:33-1.30 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-5.5 Ophthalmic dispenser: definition; scope of practice

(a) A licensed ophthalmic dispenser may prepare and dispense to the intended wearer lenses, spectacles, eyeglasses, appurtenances thereto, or contact lenses only if those preparations are based on a written prescription from a licensed physician or licensed optometrist. A licensed ophthalmic dis-

penser may also duplicate or replace existing lenses, spectacles, eyeglasses, appurtenances, or contact lenses.

(b) The following functions are within the scope of practice of a licensed ophthalmic dispenser:

1. Those activities performed by licensed ophthalmic technicians as set forth in N.J.A.C. 13:33-5.6(b);

2. The determination that the lenses, spectacles, eyeglasses or contact lenses prepared and dispensed comport with the prescription that corrects the patient's visual anomaly;

3. The analysis and interpretation of prescriptions and lens design;

4. The taking of interpupillary distances and bifocal, trifocal, and progressive placement measurements;

5. The selection and measurement of frames for facial contour: eye size, bridge size, temple length, frame shape, and frame style;

6. The fitting, adjusting, or adapting of eyewear to the face and eyes;

7. The dispensing of contact lenses pursuant to N.J.A.C. 13:33-4.1;

8. The mailing of completed eyeglasses pursuant to N.J.A.C. 13:33-5.7; and

9. The mailing of contact lenses pursuant to N.J.A.C. 13:33-4.1.

Amended by R.1983 d.15, effective February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Repealed ophthalmic dispenser defined.

New Rule. R.2001 d.96, effective March 19, 2001.

See: 32 N.J.R. 1283(a), 33 N.J.R. 1009(a).

Recodified from N.J.A.C. 13:33-1.17 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

In (a), inserted "may" in the first and second sentences. in (b)4 deleted "(distance and near)" following "distances," and updated the N.J.A.C. references throughout.

13:33-5.6 Ophthalmic technician: definition; scope of practice

(a) A licensed ophthalmic technician is one who has knowledge of optics, is skilled in the technique of producing and reproducing ophthalmic lenses and kindred products and mounting the same to supporting materials.

(b) The following functions are within the scope of practice of a licensed ophthalmic technician:

1. The reading and transposing of a prescription or work order for lenses;

2. The grinding of lenses; inspection of surface quality; determination of optical, mechanical, and geometric centers, prisms, lens powers, base curves, cross curves, cylinder location, multifocal lenses, progressive lenses, colors

(tints and coatings), neutralization, optical cross, optical lens graph, power drum readings, and transposition;

3. The mounting of lenses in frames; evaluation of measurements and sizes (eye, vertical, horizontal, pupillary distances, bridge size, temple style, and length) and use of the boxing system;

4. The verification of the lens conformity to either the written prescription or to the lenses being duplicated using a lensometer, vertometer, or any other method of verifying prescriptions;

5. The inspection of a lens; locating of the appropriate meridians of power, centering and marking the lens, decentering of the lens for the major reference point, blocking the lens for edging, inserting lens in edger with pattern or without patternless edgers, determining appropriate size and bevel position; assessing safety bevels and crowning the lens, and performing bench alignment; and

6. Inspection of completed eyeglasses.

Amended by R.1983 d.15, effective February 7, 1983.

See: 14 N.J.R. 545(a), 15 N.J.R. 157(a).

Repealed ophthalmic technician defined.

New Rule, R.2001 d.96, effective March 19, 2001.

See: 32 N.J.R. 1283(a), 33 N.J.R. 1009(a).

Recodified from N.J.A.C. 13:33-1.18 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-5.7 Mailing completed eyewear

(a) Upon request of a patient, a licensed ophthalmic dispenser may mail completed eyeglasses to the patient provided that the ophthalmic dispenser:

1. Has personally measured the patient for the eyeglasses to be dispensed;

2. Maintains a record of the prescription requirements and lens specifications; and

3. Assumes full responsibility for the accuracy and fit of the completed eyeglasses.

R.1984 d.534, eff. November 19, 1984.

See: 16 N.J.R. 2062(a), 16 N.J.R. 3207(a).

This section was formerly "Use of trade or corporate names".

New Rule, R.2001 d.97, effective March 19, 2001.

See: 32 N.J.R. 1285(a), 33 N.J.R. 1010(a).

Recodified from N.J.A.C. 13:33-1.28 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-5.8 Prohibition on rebates and commissions for referring patients

(a) An ophthalmic dispenser or ophthalmic technician may recommend an ophthalmologist or optometrist to patients.

(b) It shall be unlawful for any ophthalmic dispenser or ophthalmic technician or employee or agent thereof or any other person on their behalf to offer to pay a rebate or commission in any form whatsoever to, or receive a rebate or

commission from, any physician, optometrist, or any other person in return for referring patients to anyone licensed under N.J.S.A. 52:17B-41.1 et seq.

New Rule, R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Recodified from N.J.A.C. 13:33-1.37 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

SUBCHAPTER 6. CONTINUING EDUCATION

13:33-6.1 Continuing education requirements

(a) An ophthalmic dispenser shall indicate on the license renewal form that he or she has completed the continuing education requirements as outlined in (b) below. Ophthalmic dispensers applying for their first biennial renewal are exempt from this mandatory continuing education requirement.

(b) Each ophthalmic dispenser licensed by the Board shall successfully complete 12 credits per biennial period of approved continuing education course work, of which three such credits shall be in the dispensing of contact lenses in compliance with N.J.A.C. 13:33-6.2. One credit shall equal one hour of attendance at an approved course. Two credits may be carried over into a succeeding biennial period only if earned during the last six months of the preceding biennial period.

(c) The ophthalmic dispenser shall maintain sponsor verifications that he or she has completed the continuing education courses as part of his or her records for a period of four years. Falsification of sponsor verifications may result in an appearance before the Board, penalties and/or disciplinary action. The Board may request a review of an ophthalmic dispenser's continuing education records at any time. Any ophthalmic dispenser who is unable to verify that he or she has completed the continuing education requirements shall be subject to disciplinary action.

(d) The Board may waive the requirements of this section on an individual basis in cases of certified illness or undue hardship.

(e) The Board shall approve only such continuing educational programs as are available on a reasonable nondiscriminatory basis to all persons practicing ophthalmic dispensing in the State. The Board shall maintain a list of all approved courses and lecturers at the Board offices and shall furnish this information to licensees upon request. Courses to be approved for the continuing education requirement shall be in areas of ophthalmic science, study related to the human eye and its care, or such other areas of opticianry education as the Board shall designate. Speakers, lecturers and others participating in the presentation of programs shall be recognized as possessing requisite qualifications and being of recognized repute in their area of instruction.

(f) Any person desiring approval as a sponsor of a continuing education course, seminar or program shall:

1. Complete and submit the written application form provided by the Board. The application form will elicit descriptive information concerning the course offering, such as:

- i. The name and address of sponsoring organization and the name of individual filing application;
- ii. The title and a complete description of course offering;
- iii. The date, time (beginning and end) and place of course offering;
- iv. Curriculum vitae of each speaker; and
- v. The mechanism to be used to assess program value.

2. Secure Board approval prior to offering any continuing education course, seminar or program and prior to representing that any course, seminar or program fulfills the requirements of this section;

3. Notify all licensees of the time, place and date of the course being offered; and

4. Monitor the attendance at each approved course and furnish to each enrollee a verification of attendance.

(g) An ophthalmic dispenser on inactive status who seeks to reactivate his or her license shall submit proof to the Board of successful completion of 12 credits of approved continuing education course work, three of which shall be in the dispensing of contact lenses, for each biennial period of approved inactive status.

New Rule, R.1993 d.173, effective April 19, 1993.

See: 25 N.J.R. 57(b), 25 N.J.R. 1771(c).

Amended by R.2001 d.95, effective March 19, 2001.

See: 32 N.J.R. 1286(a), 33 N.J.R. 1010(b).

Rewrote (a) through (c) and (g).

Recodified from N.J.A.C. 13:33-1.43 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Updated the N.J.A.C. reference in (b).

13:33-6.2 Continuing education for dispensing of contact lenses

(a) During each biennial registration period, a licensed ophthalmic dispenser shall complete pursuant to N.J.A.C. 13:33-6.1, a continuing education course of at least three classroom hours covering the dispensing of contact lenses. Such course shall include, at a minimum, instruction in the following areas related to contact lenses:

1. Analysis and interpretation of prescriptions and specifications for contact lenses;

2. Preparation of orders, fabrication of contact lenses, lens care and maintenance and use of lens containers and solutions;

3. Instruction of patients in the proper insertion, removal and use of contact lenses; and

4. Innovative techniques in contact lenses and their dispensing.

New Rule, R.2001 d.95, effective March 19, 2001.

See: 32 N.J.R. 1286(a), 33 N.J.R. 1010(b).

Recodified from N.J.A.C. 13:33-3.2 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Updated the N.J.A.C. reference in (a).

SUBCHAPTER 7. ADVERTISING

13:33-7.1 Advertising

(a) An ophthalmic dispenser or ophthalmic technician may advertise provided that the advertisement does not mislead or deceive the public or discredit others in the eye care field.

(b) Any advertisement, placed on or in newspapers, magazines, radio, television, flyers, on-premise signs, off-premise signs and the Internet, which contains the price of corrective lenses, frames, complete corrective eyeglasses or the dispensing of contact lenses shall, for each stated price:

1. Specify the type of lenses being offered, such as single vision, bifocal, trifocal, or progressive; whether they have tints or colorations; whether they are standard size or oversize; and of what material the lenses are made; and

2. Specify the type of frame and the material from which it is made; and whether the frame advertised has been discontinued by the manufacturer.

(c) Where delivery time is advertised, any restrictions imposed upon such delivery shall be in a minimum of 10 point type and shall be placed adjacent to the indicated delivery time.

(d) Where warranties and guarantees are advertised, all exceptions to such warranty or guarantee shall be listed.

(e) Anyone who advertises the price of lenses, frames, complete corrective eyeglasses or dispensing of contact lenses shall answer telephone inquiries on the availability and the prices of the advertised ophthalmic items.

(f) Licensees may advertise eye examinations provided they state that the examination is performed by an independent doctor of optometry or ophthalmologist.

(g) All advertisements shall include, for at least one ophthalmic dispenser working at the business:

1. The ophthalmic dispenser's first name, or first initial of the first name, and full last name;
2. The ophthalmic dispenser's business address and telephone number; and
3. The terms "N.J. License #" followed by the ophthalmic dispenser's license number.

Amended by R.2008 d.59, effective March 17, 2008.
See: 39 N.J.R. 2197(a), 40 N.J.R. 1672(a).
Rewrote (g).

Case Notes

Price, advertising permitted. Att'y Gen. Form. Op. No. 4(1977).

13:33-7.2 Unlawful practices

(a) The following practices shall be unlawful with respect to all advertisements:

1. The failure of an advertiser to maintain and offer for immediate purchase advertised merchandise in a quantity sufficient to meet anticipated consumer demand. When an advertisement states a specific period of time during which merchandise will be available for sale, such merchandise shall be made available to meet anticipated consumer demand during the stated period. When no stated period appears in the advertisement, a sufficient quantity of merchandise shall be made available to meet anticipated consumer demand during three consecutive business days commencing with the effective date of the advertisement. This paragraph shall not apply to merchandise which is advertised:
 - i. On an in-store sign only with no corresponding out-of-store sign;
 - ii. As being available in a specific quantity; or
 - iii. As being available in a "limited supply," pursuant to a "closeout sale" or pursuant to a "clearance sale" if such offering is represented to be permanently reduced, or the sale is one in which the advertiser offers for sale at a reduced price items of merchandise remaining at one or more specified locations which the advertiser will not have available for sale within a reasonable period of time after all such items have been sold;
 2. The failure of an advertiser to specifically designate within an advertisement which merchandise items possess special or limiting factors relating to price, quality, condition or availability;
 3. The failure to conspicuously post notice of advertised merchandise, on the business premises to which the advertisement applies, in proximity to the advertised merchandise or at all entrances to the business premises. Such notice may consist of a copy of the advertisement or may take the form of a tag attached to the merchandise or any sign with such terms as "sale," or "as advertised";
 4. The use of any type, size, location, lighting, illustration, graphic depiction or color resulting in the obscuring of any material fact;
 5. Describing the advertiser through the use of the terms "warehouse," "factory outlet," "discount," "bargain," "clearance," "liquidators," or other words or terms of similar meaning, whether in the advertiser's corporate, partnership or trade name or otherwise, where such terms do not reflect a bona fide description of the advertiser being described;
 6. Whenever an advertiser provides a raincheck for an advertised item which is not available for immediate purchase, the failure to:
 - i. Honor or satisfy such raincheck within 60 days of issuance unless an extension of such time period is agreed to by the holder thereof;
 - ii. Give written or telephonic notice to the holder thereof when the merchandise is available and hold such merchandise for a reasonable time after giving such notice; and
 - iii. Offer a raincheck to all customers who are unable, due to the unavailability thereof, to purchase the advertised merchandise during the period of time during which the merchandise has been advertised as available for sale.
 7. The making of false or misleading representations of facts concerning the reasons for, existence or amounts of price reductions, the nature of an offering or the quantity of advertised merchandise available for sale;
 8. The failure of an advertiser to substantiate through documents, records or other written proof any claim made regarding the safety, performance, availability, efficiency, quality or price of the advertised merchandise, nature of the offering or quantity of advertised merchandise available for sale. Such records shall be made available upon request for inspection by the Board;
 9. The use, directly or indirectly, of a comparison to a suggested retail price, inventory price, invoice price or similar terms that directly or indirectly compare or suggest a comparison between the cost of supply and the price at retail for the advertised merchandise; or
 10. Use of the term "cost," "wholesale" or other similar terms to describe an advertised price where such price is not equal to or less than the price per unit paid by the advertiser to the manufacturer or distributor of the merchandise.
- (b) An advertiser shall not use a fictitious former price in an advertisement. Use of a fictitious former price shall be deemed professional misconduct.

1. A former price or price range or the amount of reduction shall be deemed fictitious if it cannot be substantiated, through a showing of:

i. Sales of the advertised merchandise, or comparable merchandise of like grade or quality, made within the advertiser's trade area, the geographical area in which an advertiser solicits or makes a substantial number of sales, in the regular course of business at any time within 60 days prior to, or after, the effective date of the advertisement;

ii. That the advertised merchandise, or comparable merchandise of like grade or quality, was offered for sale at that price within the advertiser's trade area in the regular course of business during at least 28 days of a 90 day period before or after the effective date of the advertisement; or

iii. That the price does not exceed the supplier's cost plus the mark-up on the merchandise used by the advertiser in the regular course of business.

2. If the former price specifically references a time in the remote past during which it was offered, it shall be deemed fictitious unless substantiated pursuant to either (b)1i or iii above.

(c) It shall be unlawful to advertise or employ displays in such a manner as to suggest, infer or indicate that persons licensed under N.J.S.A. 52:17B-41.1 et seq. are qualified to give professional advice concerning eye care or perform eye examinations.

13:33-7.3 Reduced price sales; price ranges; percentage sales

(a) An advertiser advertising an item of merchandise specifically advertised for sale at a reduced price shall:

1. State the selling price or price range;
2. State the former price or price range or the amount of the reduction in dollars;
3. State with specificity in any price reduction advertisement the period of time during which the price reduction shall be applicable, unless the merchandise is advertised on an in-store sign with no corresponding out-of-store sign, or as being available in a specific quantity, or as being available in a "limited supply" pursuant to a "closeout sale" or a "clearance sale";
4. Set forth the former price or price range or the amount of reduction in dollars in close proximity to the selling price or price range and the advertised item; and
5. Set forth the basis upon which the former price or price range or the amount of reduction in dollars was established in close proximity to the former price or price range of the advertised item. In this regard, terms such as "comparable value," "our regular price," or words of simi-

lar import shall be used to designate the basis for the former price.

(b) A former price or a selling price may be stated in terms of a price range when:

1. An advertiser operates more than one retail outlet at which advertised merchandise has been or will be available for purchase at different prices in the ordinary course of business. In such case, the price range shall be based upon the sales or offers of sale at the advertiser's retail outlets; or

2. An advertiser advertises two or more items of comparable merchandise as available at reduced prices, in which case the price range shall be based upon former or usual selling prices of the advertised products.

(c) An advertiser offering merchandise for sale at a savings of a percentage shall set forth the basis upon which the former price was established in close proximity to the percentage reduction. In this regard, terms such as "our regular price" or words of similar import shall be used to designate the basis for the former price.

SUBCHAPTER 8. GENERAL PROVISIONS

13:33-8.1 Renewal of registration certificates

(a) Licenses shall be renewed biennially on a form provided by the Board. Each applicant shall attest that the continuing education requirements of N.J.A.C. 13:33-6.1 have been completed during the prior biennial period.

(b) The Board shall send a notice of renewal to each licensee, at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

(c) The licensee shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:33-8.8 prior to the date of expiration of the license. If the licensee does not renew the license prior to its expiration date, the licensee may renew it no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:33-8.8. A licensee who fails to renew the license within 30 days after the expiration date of the license shall be suspended without a hearing.

(d) Individuals who continue to hold themselves out as licensed after being suspended shall be deemed to have violated N.J.S.A. 52:17B-41.18, even if no notice of suspension had been provided to the person.

(e) A person seeking reinstatement within five years following the suspension of a license shall submit the following to the Board:

1. A completed reinstatement application;
2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:33-8.8;
3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:33-8.8;
4. A certification verifying completion of the continuing education credits required pursuant to N.J.A.C. 13:33-6.1 for the renewal of a license; and
5. An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.

(f) A person seeking reinstatement after more than five years following the suspension of a certification shall satisfy the requirements of (e) above and shall successfully complete the examination required for initial certification as set forth in N.J.A.C. 13:33-1.8, for ophthalmic dispensers, and N.J.A.C. 13:33-1.9, for ophthalmic technicians.

(g) Renewal applications for all licenses shall provide the licensee with the option of either active or inactive renewal. Licensees electing to renew as inactive shall not hold themselves out to the public as licensees.

(h) Upon application to the Board, the Board may permit a licensee who has been on inactive status to return to active status provided such applicant completes the continuing education credits that are required per biennial period for each biennial period that the applicant is on inactive status.

New rule, R.2005 d.305, effective September 6, 2005.
See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-8.2 Military service

Any licensee who is engaged in active duty in the military service of this country shall be required to renew his or her license to keep it in force, but shall not be required to pay the renewal fee for any year during which he or she is in the service. Notwithstanding a licensee's engagement in active duty, a licensee shall be required to meet all continuing education requirements within 12 months of returning to practice.

Amended by R.1995 d.192, effective April 3, 1995.
See: 27 N.J.R. 298(a), 27 N.J.R. 1428(a).
Recodified from N.J.A.C. 13:33-1.14 and amended by R.2000 d.146, effective April 3, 2000.
See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).
Substituted "within 12 months of" for "prior to" following "requirements" in the last sentence.
Recodified from N.J.A.C. 13:33-1.16 by R.2005 d.305, effective September 6, 2005.
See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-8.3 Change of address

All persons holding certificates or permits must notify the Board within 10 days of any change of address or place of employment.

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Substituted "in writing within 10 days" for "immediately" following "Board".

Recodified from N.J.A.C. 13:33-1.8 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-8.4 Change of name

(a) The Board shall issue a new registration certificate to any licensee whose name has been legally changed, upon receipt of:

1. Notarized copies of documentary evidence of a legal name change;
2. The return of the original certificate; and
3. The certificate replacement fee set forth in N.J.A.C. 13:33-8.8.

Amended by R.1992 d.103, effective March 2, 1992.

See: 23 N.J.R. 3631(a), 24 N.J.R. 852(c).

Revised (a)3.

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Recodified from N.J.A.C. 13:33-1.23 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Updated N.J.A.C. reference in (a)3.

13:33-8.5 Replacement certificates of registration

If a licensee's certificate of registration has been lost or destroyed, the licensee may request that the Board provide a replacement certificate of registration. Such request shall be in writing, include the certificate replacement fee pursuant to N.J.A.C. 13:33-8.8 and the licensee shall certify on a Board-provided form that the certificate has been lost or destroyed and has not been given to another person.

Amended by R.1992 d.103, effective March 2, 1992.

See: 23 N.J.R. 3631(a), 24 N.J.R. 852(c).

Revised section.

Amended by R.2000 d.146, effective April 3, 2000.

See: 32 N.J.R. 241(a), 32 N.J.R. 1236(a).

Rewrote the section.

Recodified from N.J.A.C. 13:33-1.20 and amended by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Updated the N.J.A.C. reference.

13:33-8.6 Full calendar year; week

A full calendar year shall consist of 12 months of compensated employment. A working week shall consist of no less than 32 hours.

R.1974 d.66, effective March 14, 1974.

See: 5 N.J.R. 388(b), 6 N.J.R. 153(a).

Recodified from N.J.A.C. 13:33-1.40 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-8.7 Sexual misconduct

(a) The purpose of this section is to identify for licensees conduct which the Board of Ophthalmic Dispenser and Technicians deems sexual misconduct.

(b) As used in this section, the following terms have the following meanings unless the context clearly indicates otherwise:

“Licensee” means any person licensed by or registered with the Board of Ophthalmic Dispenser and Technicians.

“Patient” means any person who is the recipient of a professional service rendered by a licensee for purposes of obtaining contact lenses, eyeglasses or a consultation relating to ophthalmic services. “Patient” for purposes of this section also means a person who is the subject of professional evaluations.

“Patient-practitioner relationship” means an association between a practitioner and patient wherein the practitioner owes a continuing duty to the patient to be available to render professional services consistent with his or her training and experience and the performance of any professional ophthalmic service including, but not limited to, the interpretation of a prescription, taking facial and visual measurements, final fitting and adjusting of the finished product.

“Sexual contact” means the knowing touching of a person’s body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee’s own prurient interest or for sexual arousal or gratification.

“Sexual contact” includes, but is not limited to, the imposition of a part of the licensee’s body upon a part of the patient’s body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or patient’s body into or near the genital, anal or other opening of the other person’s body.

“Sexual harassment” means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a licensee’s activities or role as a provider of ophthalmic services, and that either: is unwelcome, offensive to a reasonable person, or creates a hostile workplace environment, and the licensee knows, should know or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. “Sexual harassment” may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensee with a patient, co-worker, employee, student or supervisee whether or not such individual is in a subordinate position to the licensee. “Sexual harassment” may also include conduct of a nonsexual nature if it is based on the sex of an individual.

“Spouse” means the husband, wife, fiance or fiancée of the licensee or an individual in a long-term committed relation-

ship with the licensee. For the purposes of the definition of “spouse” a long term committed relationship means a relationship which is at least six months in duration.

(c) A licensee shall not engage in sexual contact with a patient with whom the licensee has a patient-practitioner relationship. The patient-practitioner relationship is considered ongoing for purposes of this section, unless:

1. Terminated by way of written notice to the patient and documented in the patient record; or

2. The last professional service rendered by the practitioner to the patient was more than six months ago.

(d) A licensee shall not seek or solicit sexual contact with a patient with whom he or she has a patient-practitioner relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

(e) A licensee shall not engage in any discussion of an intimate sexual nature with a patient, including disclosure by the licensee of his or her own intimate sexual relationships.

(f) A licensee shall not engage in sexual harassment, whether in a professional setting such as an office, hospital, residence or health care facility, or outside of the professional setting.

(g) A licensee shall not engage in any other activity, such as, but not limited to, voyeurism or exposure of the genitalia of the licensee which would lead a reasonable person to believe that the activity serves the licensee’s personal prurient interest or is for the sexual arousal, the sexual gratification or the sexual abuse of the licensee or patient.

(h) Violation of any of the prohibitions or directives set forth at (c) through (g) above shall be deemed to constitute gross or repeated malpractice pursuant to N.J.S.A. 45:1-21(c) or (d) or professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(i) Nothing in this section shall be construed to prevent a licensee from rendering professional services to a spouse, providing that the rendering of such service is consistent with accepted standards of professional care.

(j) It shall not be a defense to any action under this section that:

1. The patient solicited or consented to sexual contact with the licensee; or

2. The licensee was in love with or had affection for the patient.

New Rule. R.2001 d.230, effective July 16, 2001.

See: 32 N.J.R. 4379(a), 33 N.J.R. 2482(a).

Recodified from N.J.A.C. 13:33-1.44 by R.2005 d.305, effective September 6, 2005.

See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

13:33-8.8 Fee schedule

(a) The following fees shall be charged by the Board effective upon promulgation.

- 1. Application fee.....\$100.00
- 2. Examination:
 - i. Ophthalmic Dispenser.....300.00
 - ii. Ophthalmic Dispenser re-examination75.00
for each part taken
 - iii. Ophthalmic Technician.....250.00
 - iv. Ophthalmic Technician re-examination75.00
for each part taken
 - v. Qualifying Technical100.00
 - vi. Qualifying Technical re-examination.....50.00
- 3. Initial license fee:
 - i. Ophthalmic Dispenser:
 - (1) During the first year of a biennial renewal period.....420.00
 - (2) During the second year of a biennial renewal period ..210.00
 - ii. Ophthalmic Technician:
 - (1) During the first year of a biennial renewal period.....320.00
 - (2) During the second year of a biennial renewal period ..160.00
 - iii. Branch Office Ophthalmic Dispenser:
 - (1) During the first year of a biennial renewal period.....230.00
 - (2) During the second year of a biennial renewal period ..115.00
 - iv. Branch Office Ophthalmic Technician:
 - (1) During the first year of a biennial renewal period.....150.00
 - (2) During the second year of a biennial renewal period75.00
- 4. Biennial renewal:
 - i. Ophthalmic Dispenser.....420.00
 - ii. Ophthalmic Technician.....320.00
 - iii. Branch Office Ophthalmic Dispenser230.00
 - iv. Branch Office Ophthalmic Technician.....150.00
- 5. Permits and permit renewals:
 - i. Temporary210.00
 - ii. Apprentice Dispenser.....300.00
 - iii. Apprentice Technician100.00

- 6. Late renewal of license or permit 100.00
- 7. Late application for licensure 100.00
- 8. Duplicate license 50.00
- 9. Replacement certificate of registration:
 - i. License 50.00
 - ii. Branch Office License..... 50.00
 - iii. Permit..... 30.00
- 10. Verification of licensure 50.00
- 11. Continuing education sponsor fee (annual) 500.00
- 12. Reinstatement fee 150.00
- 13. Inactive fee.....(to be established by the Board by rule)

R.1974 d.309, effective January 1, 1975.

Sec: 6 N.J.R. 390(e).

Amended by R.1981 d.148, effective June 4, 1981.

Sec: 12 N.J.R. 546(a), 13 N.J.R. 366(b).

(a)Ii: “dispensing” was “dispenser”; (a)Iii: “technicianry” was “technician”; (a)Iiii added.

Same changes for (a)2.

Amended by R.1984 d.112, effective April 2, 1984.

Sec: 16 N.J.R. 215(a), 16 N.J.R. 738(b).

Allows Board to operate without financial loss.

Amended by R.1988 d.66, effective February 1, 1988.

Sec: 19 N.J.R. 2242(a), 20 N.J.R. 295(b).

Fees were raised.

Amended by R.1992 d.103, effective March 2, 1992.

Sec: 23 N.J.R. 3631(a), 24 N.J.R. 852(c).

Amended text.

Amended by R.1993 d.173, effective April 19, 1993.

Sec: 25 N.J.R. 57(b), 25 N.J.R. 1771(c).

Added new (a)9.

Recodified from N.J.A.C. 13:33-1.41 and amended by R.2005 d.305, effective September 6, 2005.

Sec: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).

Added 10 and 11.

Amended by R.2006 d.56, effective February 6, 2006.

Sec: 37 N.J.R. 3553(a), 38 N.J.R. 1005(b).

In (a), increased all fees; added reexamination fees for ophthalmic dispenser, ophthalmic technician, and qualifying technical; added fee for duplicate license and verification of licensure; changed continuing education sponsor fee from biennial to annual.