

SUBCHAPTER 3. LICENSURE BY EXAMINATION

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 satisfactory evidence of the legality of such change, the return of the original certificate with satisfactory evidence that the licensee is the same person to whom the certificate was issued, 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Prior text at 13:38-3.1, Application for examination, repealed.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Prior text at 13:38-3.2, Reexamination, repealed.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Prior text at 13:38-3.3, Payment of registration fee, repealed.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 Accredited schools of optometry

Accredited schools and colleges of optometry are those schools duly accredited by the United States Department of Education and the Council on Postsecondary Accreditation.

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) Applications for licensure will be accepted under the following conditions:

1. The applicant shall satisfy the character and education requirements set forth in N.J.S.A. 45:12-1 et seq.;
2. The applicant shall have passed parts I and II of the written examination conducted by National Board of Examiners in Optometry, and the New Jersey Board of Optometrists shall have received verification of the scores from the National Board of Examiners in Optometry; and
3. The applicant shall have passed an optometric clinical skills assessment test administered by the North East Region Clinical Optometric Assessment Testing Service

(NERCOATS), and the State Board of Optometrists shall have received verification of test scores from NERCOATS.

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).

13:38-3.6 Employment of optometrist by unlicensed persons

N.J.S.A. 45:12-11(u) shall not be construed to permit an optometrist to be employed by another optometrist or physician who is directly or indirectly employed or connected or associated as an optometrist or a physician with any unlicensed person, company, association, organization or corporation.

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 optometrists

(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 or assistant, another optometrist, to ascertain that the optometrist possesses a duly issued registration renewal certificate or branch office certificate for the address at which the employee, associate or assistant 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 must file a change of address form together with the fee as set forth in N.J.A.C. 13:38-5.1 and must return the branch office certificate previously issued.

(b) A licensee desiring an additional branch office certificate must 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.

SUBCHAPTER 4. CERTIFICATION BY EXAMINATION

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, P.L. 1991, c.385.

(b) This subchapter shall apply to a licensed optometrist utilizing pharmaceutical agents, as defined and limited in P.L. 1991, c.385, for the purposes of treating deficiencies, deformities, diseases or anomalies of the human eye, including the removal of superficial foreign bodies from the eye and adnexae.

13:38-4.2 Application for certification; general requirements

(a) An optometrist licensed in this State who wishes to use pharmaceutical agents for treatment purposes as permitted by P.L. 1991, c.385, must be certified by the Board prior to prescribing or dispensing such agents.

(b) Each applicant for certification shall submit the following to the Board:

1. A completed application form;
2. The 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. Proof that the applicant has successfully completed 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 P.L. 1991, c.385.

13:38-4.3 Educational requirements for certification

Each applicant for 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 Post-secondary Accreditation. The education shall be no less than that required of currently enrolled students as part of their requirements for graduation from that school.

13:38-4.4 Examination requirements for certification

Each applicant for certification shall be required to successfully complete the Treatment and Management of Ocular Disease Examination administered by the National Board of Examiners in Optometry.

13:38-4.5 Biennial 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:

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| 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: | \$125.00; |
| 3. Biennial renewal fee—active certificate: | \$250.00; |
| 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) The patient record, or a copy thereof, shall be released, upon oral or written request, to the patient or to another optometrist or physician acting on behalf of the patient. A patient record or portion thereof shall be released to any other person or entity only upon receipt of a signed release from the patient whose records are being requested.

(b) An optometrist shall 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:

You should be aware that the physical measurements of your eyes may change over time. Using contact lenses that are not properly fitted can endanger your eye health. If you

wish to obtain replacement lenses, you should see your eye doctor to assure that your lenses are fitting properly.

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 complete eye examination and contact lens evaluation and may be of shorter duration depending on the professional judgment of the optometrist.

(c) A copy of the patient's prescription for eyeglasses shall be given to the patient or to another optometrist, physician or optician.

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

(e) 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).