

“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 relationship 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.....	75.00
	ii. Ophthalmic Technician .....	50.00
	iii. Qualifying Technical.....	50.00
3.	Initial license fee:	
	i. 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
	ii. Ophthalmic Technician:	
	(1) During the first year of a biennial renewal period .....	175.00
	(2) During the second year of a biennial renewal period....	87.50
	iii. Branch Office Ophthalmic Dispenser:	
	(1) During the first year of a biennial renewal period .....	165.00
	(2) During the second year of a biennial renewal period....	82.50

iv.	Branch Office Ophthalmic Technician:	
(1)	During the first year of a biennial renewal period.....	110.00
(2)	During the second year of a biennial renewal period.....	55.00
4.	Biennial renewal:	
i.	Ophthalmic Dispenser.....	230.00
ii.	Ophthalmic Technician.....	175.00
iii.	Branch Office Ophthalmic Dispenser.....	165.00
iv.	Branch Office Ophthalmic Technician.....	110.00
5.	Permits and permit renewals:	
i.	Temporary.....	50.00
ii.	Apprentice Dispenser.....	50.00
iii.	Apprentice Technician.....	50.00
6.	Late renewal of license or permit.....	100.00
7.	Late application for licensure.....	100.00
8.	Replacement certificate of registration:	
i.	License.....	50.00
ii.	Branch Office License.....	50.00
iii.	Permit.....	30.00
9.	Continuing education sponsor fee (biennial).....	100.00
10.	Reinstatement fee.....	150.00

11. Inactive fee.....(to be established by the Board by rule)  
 R.1974 d.309, effective January 1, 1975.  
 See: 6 N.J.R. 390(e).  
 Amended by R.1981 d.148, effective June 4, 1981.  
 See: 12 N.J.R. 546(a), 13 N.J.R. 366(b).  
 (a)1i: "dispensing" was "dispenser"; (a)1ii: "technician" was "technician"; (a)1iii added.  
 Same changes for (a)2.  
 Amended by R.1984 d.112, effective April 2, 1984.  
 See: 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.  
 See: 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.  
 See: 23 N.J.R. 3631(a), 24 N.J.R. 852(c).  
 Amended text.  
 Amended by R.1993 d.173, effective April 19, 1993.  
 See: 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.  
 See: 37 N.J.R. 938(a), 37 N.J.R. 3437(a).  
 Added 10 and 11.