

4. Instrument, including but not limited to, trial frame with test lenses and auxiliary prisms, for the measurement of the subjective refractive status of the eye;
5. Instruments to test for stereopsis and fusion;
6. Instruments or charts to measure distance and near visual acuities;
7. Instruments to test color vision;
8. Equipment to measure central and peripheral visual fields;
9. Instruments to measure intraocular pressure;
10. Biomicroscope (slit-lamp), or other equipment with equivalent technological capabilities.

Amended by, R.1980 d.202, effective May 6, 1980.

See: 12 N.J.R. 90(b), 12 N.J.R. 348(d).

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

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

Substantially amended.

Petition for Rulemaking.

See: 26 N.J.R. 2812(c).

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

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

13:38-2.3 Records of examinations and prescriptions; computerized records

(a) Licensees shall prepare contemporaneous, legible, permanent professional treatment records and shall also maintain records relating to billings made to patients or third-party carriers for professional services. All treatment records, bills and claim forms shall accurately reflect the treatment of services rendered. Treatment records shall be maintained for a period of not less than seven years from the date of the most recent entry.

(b) To the extent applicable, professional treatment records shall contain, in addition those findings required by the minimum examination as set forth in N.J.A.C. 13:38-2.1:

1. The dates of all patient visits, examinations, and treatments;
2. The patient complaint or reason for visit;
3. The patient history;
4. The findings of the examination;
5. Progress notes;
6. Any orders for tests or consultations and the results thereof;
7. Diagnosis or impression;
8. Complete eyeglass, contact lens, or pharmaceutical prescriptions;
9. The treatment or plan initiated, including specific dosages, quantities and strengths of medications, including

the number of refills, if prescribed, administered or dispensed, and recommended follow-up;

10. The identity of the optometrist providing treatment and the name of the person dispensing eyeglasses, contact lenses, or issuing pharmaceutical prescriptions to the patient;

11. Documentation when, in the reasonable exercise of the optometrist's judgment, the communication of examination results is necessary and action needs to be taken but reasonable efforts made by the optometrist responsible for communication have been unsuccessful; and

12. Documentation concerning the decision and justification when, after the required evaluation of a patient for the specifically advertised brand and type of contact lens which attracted or induced the patient to seek such goods, the patient is fitted with another brand or type of contact lens.

(c) Corrections, but no deletions or additions, may be made to an existing record, provided that each entry is clearly identified as such and initialed and dated by the licensee.

(d) Treatment records may be prepared and maintained on a personal or other computer but shall be in compliance with the following criteria:

1. The record shall contain no less than two independent forms of identification, such as patient name and record number;

2. An entry in a patient's treatment record shall be made by the optometrist contemporaneously with the optometric service and shall contain all of the information required in (b) above, and the full printed name of the optometrist providing the care. The system and/or software shall be set up in such a way that all data and findings must be manually entered and are not entered by default;

3. The optometrist shall finalize or "sign" the entry by means of a confidential personal code ("CPC") and include the date of the "signing." In those practices with multiple licensees, each optometrist shall have his or her own CPC;

4. The optometrist may dictate a dated entry for later transcription. The transcription shall be identified as "preliminary" until reviewed and finalized as provided in 3, above;

5. The system used to record the treatment record shall provide an automatic dating of the entry and prepare an automatic back-up file. No other data or findings may be entered automatically by the system. Any additional data or findings shall be entered manually each time a patient's treatment record is updated;

6. The system shall not allow an entry to be modified in any manner after it is "signed" by means of the CPC. A

new entry shall be required to modify a preexisting entry and signed again by means of the CPC;

7. The system shall have the capability to print on demand a hard copy of all current and historical data contained in each patient record file;

8. The optometrist shall maintain the safety and security of back-up data and hard copies maintained off premises; and

9. The optometrist shall provide to the Board upon request any back-up data and/or hard copies maintained off premises on any requested patient records, together with the following information:

- i. The name of the computer operating system and patient record management software package containing the requested patient record files and instructions on using such system;
- ii. Current passwords necessary to access the requested patient record files;
- iii. Previous passwords if required to access the requested patient record files; and
- iv. The name of the contact person(s) who provides technical support for the licensee's computer operating system and patient record management software package.

Amended by R.1985 d.60, effective February 19, 1985.
See: 16 N.J.R. 3289(a), 17 N.J.R. 467(a).

(c) added.

Amended by R.1989 d.252, effective May 15, 1989.
See: 20 N.J.R. 236(b), 21 N.J.R. 1366(b).

Added new (e), clarifying procedure regarding an optometrist's responsibility for patient evaluation for a specifically advertised brand of contact lenses.

Amended by R.1993 d.357, effective July 19, 1993.
See: 24 N.J.R. 4237(a), 25 N.J.R. 3232(a).

Petition for Rulemaking.

See: 26 N.J.R. 4707(c).

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

Petition for Rulemaking.

See: 30 N.J.R. 2958(b), 30 N.J.R. 3109(a).

Amended by R.2006 d.126, effective April 3, 2006.

See: 37 N.J.R. 3780(a), 38 N.J.R. 1574(b).

In (a), added "legible,"; in (b)8, made grammatical changes and added "or pharmaceutical"; rewrote (b)10; in (c), substituted "Corrections, but no deletions or additions," for "Corrections or additions, but no deletions," and "entry" for "change"; deleted (d)10.

13:38-2.4 Requirements for issuing prescriptions and dispensing of medications

(a) Every optometrist shall provide the following on all prescriptions:

1. The prescriber's full name, address, telephone number, license number and academic degree or identification of professional practice. This information shall be preprinted on all prescriptions;

2. The full name of the patient;
3. The date of issuance of prescription; and
4. The signature of the prescriber, hand-written.

(b) Every optometrist certified to prescribe pharmaceutical agents pursuant to the provisions of N.J.A.C. 13:38-4 and N.J.S.A. 45:12-9.8 through 9.12 shall, in addition to the information set forth in (a) above, provide the following on all prescriptions for pharmaceutical agents:

1. The optometrist's certification number;
2. The name, strength and quantity of drug or drugs to be dispensed;
3. Adequate instruction for the patient, which shall include, but not be limited to, duration, frequency and dosage. The use of "p.r.n." or "as directed" without further instruction shall be deemed insufficient direction.
4. The number of refills permitted or time limit for refills, or both; and
5. Every prescription blank shall be imprinted with the words "substitution permissible" and "do not substitute" and shall contain space for the optometrist's initials next to the chosen option, in addition to the space required for the signature in (a)4 above.

(c) In addition to the provisions of (a) and (b) above, optometrists certified to prescribe pharmaceutical agents pursuant to the provisions of N.J.A.C. 13:38-4 and N.J.S.A. 45:12-9.8 through 9.12 shall comply with the following:

1. The optometrist shall advise all patients by sign or pamphlet or similar notice available in a conspicuous location in the optometrist's office that the patient may request that the optometrist substitute a generic drug for any prescribed medication.
2. The optometrist shall not dispense a prescription as provided for in N.J.S.A. 45:12-1 in an amount exceeding a 72-hour supply unless the prescription is dispensed at no charge to the patient.
3. The optometrist shall ensure that each medication dispensed directly to a patient is placed in a container or envelope labeled in a legible manner with at least the following information:
 - i. The optometrist's full name, license and certificate number;
 - ii. The full name of the patient;
 - iii. The date the medication is dispensed;
 - iv. The name, strength and quantity of medication dispensed; and
 - v. Adequate instructions for the patient regarding the frequency of administration of the medication.

(d) In no instance shall an optometrist sign a blank prescription form or dispense medications without complying with the requirements of this section.

(e) Written prescriptions shall be issued only on New Jersey Prescription Blanks (NJPB), secured from an approved vendor and subject to the required security mandates of the prescription blank program pursuant to N.J.S.A. 45:14-14.

New Rule, R.1992 d.443, effective November 2, 1992.
See: 24 N.J.R. 2802(a), 24 N.J.R. 4058(a).

Prior text at section, Vision screening, recodified to 13:38-2.5.
Amended by R.1995 d.524, effective September 18, 1995.
See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).
Petition for Rulemaking.
See: 29 N.J.R. 2717(b), 30 N.J.R. 3556(b), 31 N.J.R. 2007(b).

13:38-2.5 (Reserved)

As amended, R.1970 d.59, effective May 29, 1970.

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

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

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

(b) deleted.

Recodified from 13:28-2.4 by R.1992 d.443, effective November 2, 1992.

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

Prior text at section, Division of Fees, recodified to 13:38-2.6.

13:38-2.6 (Reserved)

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

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

(b): Deleted "or responsibility".

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

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

Recodified as new 2.5 from old 2.6 (with no change of text) and replaced old 2.5, "Free eye examinations or refractions," which was repealed.

Recodified from 13:28-2.5 by R.1992 d.443, effective November 2, 1992.

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

Prior text at section, Vision service plans, recodified to 13:38-2.7.

Repeal and New Rule, R.1993 d.357, effective July 19, 1993.

See: 24 N.J.R. 4237(a), 25 N.J.R. 3232(a).

13:38-2.7 (Reserved)

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

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

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

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

Old text deleted and new text substituted.

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

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

Recodified as new 2.6 from old 2.7 with no change in text.

7. The nature and circumstances under which services are provided.

(d) Unless services are provided during an emergency or other circumstances where opportunity, custom and practice will preclude discussion prior to the rendition of such services, the licensee or his or her designee shall, in advance of providing services, specify or discuss and agree with the patient, the fee or basis for determination of the fee to be charged.

(e) Charging an excessive fee in violation of (b) above shall constitute professional misconduct subjecting the licensee to disciplinary action by the New Jersey State Board of Optometrists.

New Rule, R.2002 d.274, effective August 19, 2002.
See: 33 N.J.R. 2601(a), 34 N.J.R. 3008(a).

SUBCHAPTER 3. GENERAL PROVISION

13:38-3.1 Change of name

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

Recodified from 13:38-3.4 and amended by R.1995 d.524, effective September 18, 1995.
See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).
Prior text at 13:38-3.1, Application for examination, repealed.

13:38-3.2 Renewal of registration certificates

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

Recodified from 13:38-3.5 and amended by R.1995 d.524, effective September 18, 1995.
See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).
Prior text at 13:38-3.2, Reexamination, repealed.

13:38-3.3 Military service

Any licensee of the Board who is engaged in full-time 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 full-time 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.
Amended by R.2006 d.126, effective April 3, 2006.
See: 37 N.J.R. 3780(a), 38 N.J.R. 1574(b).
Added "full-time" throughout.

13:38-3.4 (Reserved)

Recodified from 13:38-3.9 and amended by R.1995 d.524, effective September 18, 1995.
See: 27 N.J.R. 2092(a), 27 N.J.R. 3617(a).

13:38-3.5 Requirements for application for licensure

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

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

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

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

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

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

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

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

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

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

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

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

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

Petitions for Rulemaking.

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

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

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

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

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

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

13:38-3.6 (Reserved)

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

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

13:38-3.7 Suspended or revoked licenses

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

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

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

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

13:38-3.8 Branch offices

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

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

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

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

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

Amended by R.2006 d.126, effective April 3, 2006.

See: 37 N.J.R. 3780(a), 38 N.J.R. 1574(b).

In (a), substituted "transfer" for "change".

13:38-3.9 Termination of the optometrist-patient relationship

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

"Emergency care or service" means the provision of optometric services to an individual in such circumstances where timely care is necessary to prevent potential vision loss or would cause the patient undue hardship.

"Optometrist" means any person licensed by the New Jersey State Board of Optometrists.

"Optometrist-patient relationship" means an association between an optometrist and patient in which the optometrist owes a continuing duty to the patient to be available to provide optometric services consistent with his or her training, experience and scope of practice.

"Patient" means any individual who is the recipient of optometric services for purposes of diagnosis, treatment or consultation relating to treatment.

(b) The optometrist-patient relationship shall be deemed to exist where the optometrist has provided services within the scope of his or her license within one calendar year preceding the date on which care is to be terminated. In addition, the optometrist-patient relationship shall also be deemed to exist in those circumstances in which the patient has indicated to the optometrist that he or she anticipates that the optometrist will continue to provide professional services.

(c) In order to terminate an optometrist-patient relationship, the optometrist shall:

1. Notify the patient that he or she wishes to terminate the optometrist-patient relationship and will no longer be providing care. The notification shall be in writing, by certified mail, return receipt requested, to the patient's last known address and made no less than 30 days prior to the date on which care is to be terminated;

2. Provide all necessary emergency care or services, which shall include the provision of necessary prescriptions, until the date on which the optometrist-patient relationship is terminated. The provision of such emergency care or services shall not be deemed to manifest any intention to reestablish the optometrist-patient relationship; and

3. Comply with all requirements set forth in N.J.A.C. 13:38-6.1 for access to and transfer of the patient records.

(d) Notwithstanding (c) above, an optometrist shall not terminate an optometrist-patient relationship under the following circumstances:

1. Where to do so would be for any discriminatory purpose and/or would violate any laws or rules prohibiting discrimination; or

2. Where the optometrist knows or reasonably should know, that no other professional is currently able to provide the type of care or service that the optometrist is providing the patient.

(e) An optometrist need not comply with the requirements set forth in (c)1 above if:

1. The optometrist-patient relationship has been terminated by the patient as evidenced by conduct manifesting a deliberate intention to terminate the relationship. Such conduct shall be recorded in the patient record; or

2. The reason for termination of the optometrist-patient relationship is because the optometrist has discontinued providing services to the patient's managed care provider or health maintenance organization (HMO) and such managed care provider or HMO has discharged its notice obligation pursuant to N.J.S.A. 26:2S-5a(1).

(f) When requested by the patient, the optometrist shall make reasonable efforts to assist the patient in obtaining professional services from another health care provider qualified to meet the patient's needs.

New Rule, R.2003 d.83, effective February 18, 2003.
See: 34 N.J.R. 1623(a), 35 N.J.R. 1143(a).

13:38-3.10 Renewal; reinstatement; inactive/active status

(a) All licenses to practice optometry issued by the Board shall be issued for a two-year biennial licensure period. Except as provided in N.J.A.C. 13:38-3.3, a licensee who seeks renewal of the license shall submit a renewal application and the renewal fee set forth in N.J.A.C. 13:38-5.1 prior to the expiration date of the license.

(b) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee and a late fee, as set forth in N.J.A.C. 13:38-5.1.

(c) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice.

(d) A licensee whose license has been automatically suspended for up to five years for nonpayment of a biennial renewal fee pursuant to (c) above may be reinstated by the Board upon completion of the following:

1. Payment of the reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:38-5.1;
2. Completion of the continuing education credits required for each biennial registration period for which the licensee was suspended; and
3. Submission of an affidavit of employment listing each job held during the period of suspended license which includes the names, addresses, and telephone numbers of each employer.

(e) A licensee whose license has been automatically suspended for more than five years who wishes to have his or her license reinstated shall reapply for licensure. The applicant shall fulfill all of the initial licensure requirements.

(f) Renewal applications shall provide the licensee with the option of either active or inactive status. A licensee electing inactive status shall pay the inactive license fee set

forth in N.J.A.C. 13:38-5.1 and shall not engage in the practice of optometry.

(g) A licensee who elected inactive status and has been on inactive status for less than five years may be reinstated by the Board upon completion of the following:

1. Payment of the reinstatement fee;
2. The completion of the continuing education credits required for each biennial registration period for which the licensee was on inactive status; and
3. Submission of an affidavit of employment listing each job held during the period the licensee was on inactive status which includes the names, addresses, and telephone numbers of each employer.

(h) A licensee who was on inactive status for more than five years who wishes to return to practice shall reapply for licensure. The applicant shall fulfill all of the initial licensure requirements.

New Rule, R.2006 d.126, effective April 3, 2006.
See: 37 N.J.R. 3780(a), 38 N.J.R. 1574(b).

SUBCHAPTER 4. THERAPEUTIC PHARMACEUTICAL AGENTS (TPA) CERTIFICATION

13:38-4.1 Purpose and scope

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

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

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

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

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

1. A completed TPA application form supplied by the Board that requires the applicant to provide identifying information;
2. A non-refundable application fee set forth in N.J.A.C. 13:38-5.1;
3. Verification that the applicant has successfully completed the educational requirements set forth in N.J.A.C. 13:38-4.3. The applicant shall obtain the required

verification from the school where the applicant completed the educational requirements; and

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

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

13:38-4.3 Educational requirements for TPA certification

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

13:38-4.4 Examination requirements for TPA certification

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

13:38-4.5 Biennial TPA certification renewal

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

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

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

SUBCHAPTER 5. FEE SCHEDULE

13:38-5.1 Fee schedule

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

1. Application fee:	\$125.00;
2. Initial license fee:	
i. During the first year of a biennial renewal period:	\$250.00;
ii. During the second year of a biennial renewal period:	\$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) For purposes of this subchapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

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

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

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

(c) An optometrist shall, free of charge, release the contact lens prescription directly to the patient upon completion of the contact lens fitting. An optometrist shall, free of charge, release a copy of a patient’s contact lens prescription directly to a licensed ophthalmologist, optometrist, or ophthalmic dispenser upon either the oral or written request of a patient. Upon the release of a contact lens prescription directly to a patient, an optometrist, shall provide the patient with a written warning, which shall include the following language in boldface, underlined and in capital letters:

WARNING: YOU SHOULD BE AWARE THAT YOUR EYES MAY CHANGE WITH TIME AND CONTACT LENSES THAT WERE INITIALLY FITTING PROPERLY MAY NO LONGER BE

APPROPRIATE AND MAY ENDANGER YOUR EYE HEALTH. YOU SHOULD SEE YOUR EYE DOCTOR PERIODICALLY TO ENSURE YOUR LENSES ARE FITTING PROPERLY.

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

(d) After the completion of a patient’s comprehensive eye examination, and upon the patient’s request, a copy of the patient’s prescription for eyeglasses shall be given, free of charge, to the patient or to another optometrist, ophthalmologist or ophthalmic dispenser acting on the patient’s behalf.

(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).

Amended by R.2006 d.126, effective April 3, 2006.

See: 37 N.J.R. 3780(a), 38 N.J.R. 1574(b).

Rewrote (c); in (d), added “After completion of a patient’s comprehensive eye examination, and upon” and made technical changes by substituting “ophthalmic dispenser” for “optician”; deleted former (c); recodified former (f) as (e).

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).

SUBCHAPTER 7. CONTINUING PROFESSIONAL
OPTOMETRIC EDUCATION

**13:38-7.1 Active registration renewal; continuing
education requirement**

Any applicant who applies for an active registration renewal certificate for a biennial period shall confirm on the renewal application that the applicant has completed continuing professional optometric education programs of the types and number of credits specified in N.J.A.C. 13:38-7.3. The Board shall not issue an active registration renewal certificate to any applicant who fails to confirm that the applicant has completed the continuing professional optometric education requirements unless the Board issues the applicant a waiver pursuant to N.J.A.C. 13:38-7.7.

13:38-7.2 Nonactive registration renewal and reactivation of license; continuing education requirement

(a) Any licensee who has a nonactive certificate shall be exempt from the continuing professional optometric education requirements set forth in this subchapter.

(b) Any licensee seeking to reactivate a nonactive certificate shall provide the Board with evidence of having maintained proficiency by completing the professional optometric education requirements set forth at N.J.A.C. 13:38-7.3(a) during the two calendar years immediately preceding the application for reactivation.

13:38-7.3 Credit hour requirements

(a) An applicant for an active registration renewal certificate shall complete, during the preceding biennial period, a minimum of 50 credits of continuing professional optometric education. At least 25 of the 50 credits shall consist of courses or programs classified as therapeutic pharmaceutical agents (TPA) credits and shall be primarily devoted to the diagnosis, treatment and management of ocular disease, ocular pathology or the ocular manifestation of systemic disease. The remaining general continuing professional optometric education credits shall be in content areas set forth in N.J.A.C. 13:38-7.4.

(b) An applicant who initially obtains a certificate within the first year of a biennial period shall complete at least 25 of the minimum required credits of continuing professional optometric education. At least 12.5 of the 25 credits shall consist of courses or programs classified as TPA credits and shall be devoted to the subject matter set forth in (a) above.

(c) An applicant who initially obtains a certificate within the second year of a biennial period shall be exempt from completing continuing professional optometric credits for that biennial renewal period.

(d) A licensee who completes more than the required 50 credits in any biennial period may carry up to 20 credits into any succeeding biennial period. Any credits to be carried over shall be earned in the last one year of the biennial renewal period and shall be applied to the continuing professional optometric education requirements and shall not be applied to the TPA requirements.

(e) Any continuing education courses or programs directed or ordered by the Board to be taken by a licensee as all or part of a disciplinary or remedial measure or to remediate a deficiency in continuing professional optometric education credits for a prior biennial renewal period shall not be eligible to fulfill the mandatory continuing professional optometric education requirements for a subsequent biennial renewal period as set forth in this subchapter.

13:38-7.4 Approved course offerings

(a) The Board shall grant continuing professional optometric education credit only for courses or programs that have significant educational or practical content which deal with matters related to the practice of optometry or with the professional responsibilities or ethical obligations of licensees, such as the following:

1. Clinical Optometry: general optometry; contact lenses; ophthalmic lens design; low vision; functional vision; principals of diagnosis; HIV control; infection control;
2. Ocular Disease and Management: treatment and management of ocular disease: anterior segment; treatment and management of ocular disease: posterior segment; glaucoma; refractive surgery management; peri-operative management of ophthalmic surgery;
3. Related Systemic Disease: ocular/systemic disease; pharmacology; and
4. Optometric Practice Management: jurisprudence; practice management; managed care courses or programs related to the practice of optometry, except that estate planning, financial or investment/tax planning, personal health, the selling of ophthalmic materials, or other similar subjects shall not be acceptable for credit.

(b) All courses or programs offered by the following sources and providers shall be deemed to be automatically approved and a licensee may obtain all 50 continuing professional optometric education credits from the following:

1. Post-graduate courses or programs in the professional skills of optometric practice and scientific courses or programs, which are accredited by the United States Department of Education or the Council on Postsecondary Accreditation;

2. Continuing professional optometric education courses or programs that consist of educational and scientific courses, which are approved by the Council on Optometric Practitioner Education (COPE); or

3. A residency, which is a one year post-OD training program at an accredited college of optometry or accredited by the Accreditation Council on Optometric Education (ACOE) of the American Optometric Association, or a fellowship, which is a one year post-residency training program at an accredited college of optometry or accredited by the ACOE of the American Optometric Association in a specialty area.

(c) Sponsors submitting applications for pre-approval of continuing professional optometric education programs or courses which award three credits or less shall submit to the Board, on a form provided by the Board, no less than 45 days prior to the date the program or course is to be offered. Such courses or programs shall be in compliance with N.J.A.C. 13:38-7.8 and cover topics outlined at (a) above.

(d) The Board shall grant a maximum of 20 of the mandatory 50 continuing professional optometric education credits, including a maximum of 10 of the mandatory 25 TPA credits required, from any or all of the following:

1. Videotape, audiotape, computer media, Internet, journal, or correspondence courses or programs. The course or program shall include an examination at the end of the course or program. Credit for correspondence and other individual study courses or programs will be given only in the renewal period in which the course is completed with a successful final examination. TPA credits may be obtained from participating in any of these courses that are primarily devoted to the diagnosis, treatment and management of ocular disease, ocular pathology or the ocular manifestation of systemic disease;

2. Structured grand rounds, which is a presentation, with a formal outline of course or program material, of clinical cases involving actual patient encounters and the lecture and discussion of the diagnosis and treatment of the particular patient condition. Non-structured grand rounds that consist of observation of individual patient care shall not be accepted for credit. TPA credits may be obtained from participating in structured grand rounds that are primarily devoted to the diagnosis, treatment and management of ocular disease, ocular pathology or the ocular manifestation of systemic disease;

3. Hands-on demonstrations of instrumentation when accompanied by didactic lectures. TPA credits may be obtained from participating in hands-on demonstrations of instrumentation that are primarily devoted to the diagnosis, treatment and management of ocular disease, ocular pathology or the ocular manifestation of systemic disease;

4. Interactive workshops which include demonstrations and applications of hands-on techniques and skills in optometric procedures and instrumentations accompanied by didactic lectures. TPA credits may be obtained from participating in interactive workshops that are primarily devoted to the diagnosis, treatment and management of ocular disease, ocular pathology or the ocular manifestation of systemic disease;

5. Preparation and presentation of a continuing professional optometric education lecture. TPA credits may be obtained from preparing and presenting continuing professional optometric education lectures that are primarily devoted to the diagnosis, treatment and management of ocular disease, ocular pathology or the ocular manifestation of systemic disease;

6. Preparation of an educational or scientific article authored and published in a professional refereed journal. TPA credits may be obtained from preparing an educational or scientific article authored and published in a professional refereed journal that is primarily devoted to the diagnosis, treatment and management of ocular disease, ocular pathology or the ocular manifestation of systemic disease; or

7. The Board shall grant a maximum of 10 continuing professional optometric education credits per biennial renewal period for optometric practice management or managed care courses or programs relating to the practice of optometry. Continuing professional optometric education credit shall not be granted in courses or programs taken in the following subjects: estate planning, financial or investment/tax planning, personal health, the selling of ophthalmic materials, or other similar subjects.

13:38-7.5 Sources of continuing professional optometric education credit and credit-hour calculation

(a) The Board shall grant credit only for continuing professional optometric education courses or programs that are at least one instructional hour long. For purposes of this subchapter, an "instructional hour" represents a 60-minute clock hour with no less than 50 minutes of educational content within the hour. Courses or programs may include one 10-minute break for each instructional hour. Successful completion of an entire course segment of instruction is required in order to receive any continuing professional optometric education credit for that segment.

(b) The Board shall grant a licensee continuing professional optometric education for each biennial period as follows:

1. Attendance at continuing professional optometric education courses or programs: one credit for each hour of attendance;

2. Coursework in a post-graduate educational program related to the profession of optometry: three credits for each course credit awarded;

3. Authoring an educational or scientific article authored and published in a professional refereed journal within the preceding biennial period: three credits per article;

4. Successful completion of videotape, audiotape, computer media, Internet, journal, and correspondence courses or programs: a maximum of two credits per course;

5. Structured grand rounds and hands-on demonstrations of instrumentation: one-half credit for each hour of attendance;

6. Interactive workshops: one credit for each hour of attendance;

7. Preparation and presentation of a continuing professional optometric education lecture course or program: two credits for each hour of a new presentation up to a maximum of twelve credits. For purposes of this paragraph, "new" represents a course or program that the licensee has not taught previously in any educational setting. One credit for each hour of a presentation shall be given for subsequent sessions involving substantially identical subject matter up to a maximum of 12 credits, provided the original material has been updated and subject to the credit limits of N.J.A.C. 13:38-7.4(d); and

8. A residency or a fellowship, as defined in N.J.A.C. 13:38-7.4(b)3: 25 credits, of which 12.5 shall be TPA credits, upon completing each residency or fellowship.

13:38-7.6 Documentation of continuing professional optometric education credit

(a) Each licensee shall maintain a record of all continuing professional optometric education activity completed and shall submit evidence of completion of the credit requirements to the Board upon request. Each licensee shall obtain from the continuing education course or program sponsor and retain for a period of at least four years following the renewal a record of attendance which shall include, at a minimum, the following:

1. The participant's name and New Jersey State Board of Optometrists license number;
2. The title and, if the title does not adequately describe the course content, subject matter of the course;
3. The name of the instructor;
4. The course or program sponsor;
5. The date and location of the course or program;
6. The number of continuing education hours and credits awarded;
7. The signature of a course or program official or other verification of successful completion by the course or program sponsor; and

8. The course outline and curriculum vitae for those courses or programs not approved pursuant to N.J.A.C. 13:38-7.4(b) and (c).

(b) A licensee shall verify completion of academic coursework by an official transcript.

(c) A licensee who completes a videotape, audiotape, computer media, Internet, journal, or correspondence course or program shall retain the certification of the successful final examination completed at the end of the course or program.

(d) The Board shall monitor compliance with the mandatory continuing professional optometric education requirement by conducting a random audit of licensees, who, upon request shall provide proof of successful completion of continuing professional optometric education credits.

13:38-7.7 Waiver of continuing professional optometric education requirements

(a) The Board may waive continuing professional optometric education requirements on an individual basis for reasons of hardship such as illness, disability, active service in the military, or other good cause.

(b) A licensee who seeks a waiver of the continuing professional optometric education requirements shall provide to the Board, in writing, the specific reasons for requesting the waiver and such additional information as the Board may request in support of the waiver.

13:38-7.8 Responsibilities of continuing education sponsors for courses/programs with three credits or less

(a) A continuing education sponsor seeking pre-approval for a course/program awarding three credits or less shall provide the Board, in writing on a form provided by the Board, information which demonstrates that the course meets the following requirements:

1. The course or program is offered in a subject matter and in a format permissible pursuant to the provisions of this subchapter;
2. The course or program is at least one instructional hour in length, but not more than three instructional hours in length; and
3. The course or program is conducted by an instructor or discussion leader who submits a curriculum vitae and meets one of the following criteria:
 - i. An optometrist with at least five years of experience in the lecture subject matter;
 - ii. An individual holding an O.D., M.D., Ph.D. or a substantially equivalent international degree who is either board certified or has special expertise in the lecture subject matter; or