

## CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY

### SUBCHAPTER 42A - ORGANIZATION

#### **21 NCAC 42A .0101 CONTACTING THE BOARD**

The Board mailing address is 521 Yopp Rd., Suite 214 #444, Jacksonville, NC 28540. The Board's phone number is (910) 285-3160; its toll free number is (800) 426-4457 (in-state only); and its fax number is (910) 285-4546. The email address is info@ncoptometry.org and its website is www.ncoptometry.org.

*History Note:* Authority G.S. 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. October 1, 1994; April 1, 1993; June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;  
Amended Eff. January 1, 2023.

#### **21 NCAC 42A .0102 PURPOSE**

The purpose of the Board is to regulate the practice of optometry in the State of North Carolina, and to carry out the purposes and enforce the provisions of the laws of North Carolina relating thereto.

*History Note:* Authority G.S. 90-116; 90-121.2(a);  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42A .0103 RECORDS**

#### **21 NCAC 42A .0104 STRUCTURE**

*History Note:* Authority G.S. 90-116; 90-117; 90-117.2;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Repealed Eff. September 30, 1981.

#### **21 NCAC 42A .0105 DEFINITIONS**

The following definitions apply to 21 NCAC 42 only:

- (1) The term "Board" refers to the North Carolina State Board of Examiners in Optometry.
- (2) The term "President" refers to the President of the North Carolina State Board of Examiners in Optometry.
- (3) The term "Secretary" refers to the Secretary-Treasurer of the North Carolina State Board of Examiners in Optometry.
- (4) The term "Executive Director" refers to the Executive Director of the North Carolina State Board of Examiners in Optometry.

*History Note:* Authority G.S. 90-117; 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. April 1, 1993; June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42A .0106 MEETINGS**

#### **21 NCAC 42A .0107 SECRETARIAL ASSISTANCE**

#### **21 NCAC 42A .0108 EXPENSE ALLOWANCE**

*History Note:* Authority G.S. 90-117.3; 90-117.5; 90-122; 93B-5; 138-6(a);  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Repealed Eff. September 30, 1981.

## **SUBCHAPTER 42B - LICENSE TO PRACTICE OPTOMETRY**

### **SECTION .0100 - LICENSE BY EXAMINATION**

#### **21 NCAC 42B .0101 APPROVED SCHOOLS OF OPTOMETRY**

The Board may grant recognition and approval, deny or rescind recognition and approval, or make any recognition and approval granted by the Board conditional or probational, to any school accredited by the Accreditation Council on Optometric Education. The Board, in its discretion, may base such determination on its assessment of the quality of the educational programs and offerings of each school or college of optometry.

*History Note:* Authority G.S. 90-117.5; 90-118(a),(b);  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. April 1, 2011; April 1, 1993; June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;  
Amended Eff. March 1, 2023.

#### **21 NCAC 42B .0102 REQUIREMENTS FOR LICENSURE**

*History Note:* Authority G.S. 90-118;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Repealed Eff. September 30, 1981.

#### **21 NCAC 42B .0103 APPLICATION FOR LICENSURE BY EXAMINATION**

One desiring to obtain the application form for licensure by examination shall specify the date of the examination when requesting the application form. The application shall be made on Form BEO-1 supplied by the Board. The completed application form and the proper fee must be received in the Board office 60 days prior to the examination date.

*History Note:* Authority G.S. 90-118; 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. April 1, 1993; June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42B .0104 APPLICATION FOR LICENSURE BY RECIPROCITY**

*History Note:* Authority G.S. 90-117.5; 90-118.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. April 1, 1993; June 1, 1989; September 30, 1981;  
Repealed Eff. August 1, 2012.

#### **21 NCAC 42B .0105 APPLICATION FOR INTERN PERMIT**

*History Note:* Authority G.S. 90-118.8; 90-117.5;

*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Repealed Eff. September 30, 1981.*

## **21 NCAC 42B .0106 FEES**

*History Note: Authority G.S. 90-117.5; 90-123;*  
*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Amended Eff. September 30, 1981;*  
*Repealed Eff. June 1, 1989.*

## **21 NCAC 42B .0107 NATIONAL BOARD EXAMINATIONS**

(a) Each applicant shall direct the National Board of Examiners in Optometry (NBEO) to release his or her official score report to the Board as evidence of having achieved a passing score as determined by the NBEO on:

- (1) Parts I, II, and III of the National Board of Examiners in Optometry (NBEO) Examinations if offered in the calendar year the applicant graduated from an accredited school or college of optometry;
- (2) NBEO's Treatment and Management of Ocular Disease Examination if offered in the calendar year the applicant graduated from an accredited school or college of optometry; and
- (3) NBEO's Injection Skills Examination.

(b) The applicant shall authorize the release of his or her official NBEO score report to the Board prior to the approval by the Board of his or her application to take the North Carolina clinical practicum examination.

*History Note: Authority G.S. 90-117.5; 90-118;*  
*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Amended Eff. June 1, 2014; April 1, 2011; July 1, 1998; May 1, 1995; April 1, 1993; June 1, 1989; September 30, 1981;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;*  
*Amended Eff. July 1, 2023.*

## **21 NCAC 42B .0108 CLINICAL PRACTICUM EXAMINATIONS**

(a) Each applicant, after paying the fee set in Subchapter 42J and having met the requirements of Rule .0107 of this Subchapter, will be given clinical practicum examinations which may be in oral, written, clinical and practical form, said examinations to cover those subjects essential to the practice of optometry as defined in G.S. 90-114.

(b) To ensure proper examination of all applicants within a reasonable amount of time, the Board is authorized to employ clinical examiners, such clinical examiners to be licensed optometrists in the State of North Carolina who have been in practice no less than five years and who have demonstrated to their peers that they have superior clinical expertise.

(c) It shall be the duty of the optometrists who are members of the Board to prepare or oversee the preparation of the clinical practicum examinations. Psychometric consultants, subject matter experts and clinicians who have served as either members of the Board or as clinical examiners for the Board may be engaged by the Board in the design, implementation and grading of the examinations.

*History Note: Authority G.S. 90-114; 90-117.5; 90-118;*  
*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Amended Eff. June 1, 1989; September 30, 1981;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

## **21 NCAC 42B .0109 CLINICAL EXAMINATION**

*History Note: Authority G.S. 90-118;*

*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Repealed Eff. September 30, 1981.*

**21 NCAC 42B .0110 PASSING SCORE**

An applicant must attain an average grade of 75 on the clinical practicum examinations to pass the examination and be issued a license. No applicant who has received a grade of less than 60 on any part of the clinical practicum examination shall be considered eligible for licensure even though his overall clinical practicum score may average 75. Each applicant will be notified by the Executive Director as to his success or failure after the results of the examination have been determined by the Board.

*History Note: Authority G.S. 90-117.5; 90-118;*  
*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Amended Eff. May 1, 1995; April 1, 1993; June 1, 1989; September 30, 1981;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

**21 NCAC 42B .0111 RESIDENCY**

*History Note: Authority G.S. 90-117.5;*  
*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Amended Eff. September 30, 1981;*  
*Repealed Eff. June 1, 1989.*

**21 NCAC 42B .0112 TIME AND LOCATION**

There shall be at least one examination for the purpose of licensure held each year for those persons applying for a license to practice optometry in the State of North Carolina. Said examination shall be at such time and location as the Board may determine; provided, however, the date and place of examination shall be announced by the Board no less than six months prior to the examination.

*History Note: Authority G.S. 90-117.5; 90-118;*  
*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Amended Eff. June 1, 1989; September 30, 1981;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

**21 NCAC 42B .0113 REEXAMINATION**

(a) A completed application, except for school transcripts, birth certificate, and National Board scores, is required in case of reexamination. The completed application accompanied by the proper fee must be received in the Board office 60 days prior to the examination date.

(b) Any applicant who has failed the clinical practicum examination three times after the effective date of this Rule shall be deemed ineligible to apply for reexamination until he successfully completes an additional course of study in clinical optometry encompassing at least one academic year, such course to be approved by the Board. Such applicant shall submit evidence satisfactory to the Board of the additional study at the time he makes application for reexamination.

*History Note: Authority G.S. 90-117.5; 90-118;*  
*Eff. April 1, 1993;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

**21 NCAC 42B .0114 MILITARY LICENSE**

(a) Permanent Unrestricted License Military Optometrist: The Board shall issue a permanent license to a military-trained applicant to allow the applicant to lawfully practice optometry in North Carolina if, upon application to the Board, the applicant satisfies the following conditions:

- (1) Awarded a military occupational specialty in optometry and has done all of the following at a level that the Board, through an oral interview or administration of a clinical practicum examination, determines to be substantially equivalent to or exceeds the requirements for licensure in this State:
  - (A) completed a military program of optometry training that includes additional clinical experience in the diagnosis, treatment, and management of diseases of the eye and its adnexa;
  - (B) completed testing or equivalent training and experience; and
  - (C) performed in the occupational specialty;
- (2) Engaged in the practice of optometry for at least two of the five years, which may include clinical residency, preceding the date of the application under this Paragraph;
- (3) Not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice optometry in this State at the time the act was committed; and
- (4) Pays the application, examination, and licensing fees required by the Board.

(b) Permanent Unrestricted License-Optometrist Spouse of Military Personnel: The Board shall issue to a military spouse a license to practice optometry in this State if, upon application to the Board, the military spouse satisfies the following conditions:

- (1) Holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure in this State;
- (2) Can demonstrate competency in optometry through methods determined by the Board, such as passing the Board's clinical practicum examination, completing continuing education units, or having had recent clinical experience in the diagnosis, treatment, and management of diseases of the eye and its adnexa for at least two of the five years preceding the date of the application under this Paragraph;
- (3) Not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice optometry in this State at the time the act was committed;
- (4) Submits written evidence demonstrating that the applicant is married to an active member of the U.S. military;
- (5) Is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit; and
- (6) Pays the application, examination, and licensing fees required by the Board.

(c) All optometric medical experience of a military service member in the discharge of official duties or, for a military spouse, all optometric medical experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice required under Paragraphs (a) and (b) of this Rule.

(d) A nonresident licensed under this Rule shall be entitled to the same rights and subject to the same obligations as required of a resident licensed by the Board in this State.

*History Note:* Authority G.S. 90-123; 93B-15.1;  
Eff. July 1, 2014.

## **SECTION .0200 - RESPONSIBILITY TO SUPPLY INFORMATION**

### **21 NCAC 42B .0201 BEGINNING PRACTICE; RELOCATING PRACTICE**

Prior to beginning practice, a licensee shall notify the Board in writing as to the full and complete mailing address, including the street address, of his or her office and the telephone number of such office. Prior to relocating an office, the licensee involved shall notify the Board in writing of his or her new office address and telephone number. The address so identified shall constitute his or her primary practice address and the address to which all information pertaining to his or her licensure shall be addressed.

*History Note:* Authority G.S. 90-117.5;

*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Amended Eff. April 1, 1993; June 1, 1989; September 30, 1981;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23,*  
*2015;*  
*Amended Eff. November 1, 2023.*

#### **21 NCAC 42B .0202 BRANCH OFFICE**

Before opening or beginning practice in a branch office, an optometrist must obtain a duplicate license to be displayed in the branch office. The application for a branch office license must be made on Form BEO-3, which can be acquired from the Board. If in the opinion of the Board Rules 42E .0102(2) and 42E .0102(5) of this Chapter are met, the Board shall notify the optometrist making application of the approval of the request and upon receipt of the required fee such duplicate license shall be issued by the Board for the purpose of display in the branch office for which it is issued in compliance with G.S. 90-118.2 and 90-118.4. A duplicate license is not transferable from one practice location to another, nor from one practitioner to another. Within the meaning of this Rule a nursing home is considered a branch office when there is an agreement between the optometrist or his representative that he will provide optometric services on a scheduled basis within the nursing home; provided however, any optometrist who accepts a request to make emergency calls to patients at a nursing home within 20 miles of his practice location(s) as reflected in the Board records is not required to obtain a duplicate license for that location.

*History Note: Authority G.S. 90-117.5; 90-118.2; 90-118.4;*  
*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Amended Eff. April 1, 1993; June 1, 1989; September 30, 1981;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23,*  
*2015.*

#### **21 NCAC 42B .0203 TEMPORARY OR RELIEF OPTOMETRIST**

Before providing optometric services on a temporary or relief basis for which he will receive compensation, for any period of time, an optometrist must first obtain a duplicate license for each location at which he will provide such services. The identity of such temporary or relief optometrist shall clearly appear in the record of each patient to whom such optometrist renders optometric services.

*History Note: Authority G.S. 90-117.5; 90-118.2; 90-118.4;*  
*Eff. April 1, 1993;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23,*  
*2015.*

#### **21 NCAC 42B .0204 CEASING PRACTICE**

(a) In the event an optometrist shall cease to practice at any practice location (primary or branch) as defined in Rules .0201 and .0202 of this Section, the optometrist shall notify the Board in writing within ten days of ceasing practice, indicating the reason for discontinuing practice and the disposition of patient records.

(b) On ceasing practice at any location, the licensee shall notify those patients whose records he retains in accordance with 21 NCAC 42E .0102(5) and (6) of the disposition or availability of such records. Such notice shall be given by direct mail, email, or through a public announcement in a newspaper of general circulation in the county or counties wherein the patients reside. If such notice is given by publication, such publication shall occur not less than weekly for a period of not less than ninety days. Proof of the giving of such notice shall be retained by the licensee.

(c) Any licensee ceasing practice shall maintain control and custody of the records located at that practice location until such time as such records are transferred to the patients or to the custody of another practitioner similarly licensed.

*History Note: Authority G.S. 90-117.5; 90-118.2;*  
*Eff. April 1, 1993;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23,*  
*2015;*

*Amended Eff. January 1, 2024.*

## **SECTION .0300 - ANNUAL LICENSE RENEWAL**

### **21 NCAC 42B .0301 FEE**

*History Note: Authority G.S. 90-123;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. September 30, 1981;  
Repealed Eff. June 1, 1989.*

### **21 NCAC 42B .0302 CONTINUING EDUCATION**

- (a) Each optometrist holding a certificate of registration shall take annual courses of study approved by the Board as related to and essential to the practice of optometry as defined in G.S. 90-114. The Board shall approve courses whose content and quality of presentation are reasonably assured to the end that the licensee's abilities to meet the public demand of acceptable standards of care are enhanced and that currency of knowledge is insured.
- (b) Each licensee shall determine if a course has been approved by the Board prior to the taking of the course and submitting it for credit.
- (c) No course or course offering shall be considered for approval unless the vendor or sponsor has submitted to the Board no later than 30 days prior to the offering of the course information deemed sufficient by the Board as to the course title, course format, course content and learning purpose, lecturers including curriculum vitae, dates courses are offered, city and state where offered, and the name, address, and telephone number of the vendor or sponsor and the contact person(s) to whom inquiries can be made.
- (d) Those courses that are approved, including the type and number of hours of credit, shall be entered by the Board's staff into the Board's central data base and the vendor or sponsor notified. Information concerning those courses that have been approved shall be made available to any licensee making inquiry concerning course approval.
- (e) The Board shall maintain continuing education data on-line in its central data base for a minimum period of five years preceding the next annual license renewal date. A yearly listing of credits shall be furnished each licensee at the time of license renewal. Additional reports shall be available on request and with payment of a transcript fee of five dollars (\$5.00). Telephone inquiries as to current status of continuing education hours may be made during normal business hours.
- (f) Notification of the number of hours required by the Board for license renewal shall be given to each licensee at the time the licensee receives notice of annual license renewal. Such notice shall state the number of hours of approved continuing education required in the following year in order to renew a license for the second following year. The number of required continuing education hours is 25 hours.
- (g) In any calendar year no less than 12 hours of the continuing education requirement must be in courses focused on current practices and advancements in the fields of ocular and general pharmacology, diagnosis and therapeutics, or advanced clinical procedures, said hours to be deemed "certified" credit hours by the Board. Courses certified to meet this special requirement shall be of sufficient length and depth to address the subject matter in the course description(s) and taught by individuals who have training and experience in the area taught.
- (h) Courses of self-study by vendors meeting the standards and criteria set by the Council on Optometric Postgraduate Education (COPE) or the Accreditation Council for Continuing Medical Education (ACCME), said course(s) meant to be taken by individuals through journal articles or over the internet where organized material is presented and written evaluations are made prior to or after completing the course(s) are eligible for approval provided the vendor or sponsor has submitted the course or courses for approval as described in this Rule prior to its being offered to the licensee. However, no licensee shall receive credit for more than six hours of educational credit by this means in any calendar year.
- (i) Courses that are classified as practice administration shall be accepted by the Board for credit provided that no more than four hours of the total number of continuing education hours required shall be accepted within one calendar year for the purpose of credit for any licensee.
- (j) All courses accepted for credit must be taken within the calendar year for which the credit is applied; provided, however, that any course dependent upon an examination for successful completion may be certified to the Board following examination even if the examination or the results thereof are not available until the next calendar year.

(k) Attendance at any course or courses approved by the Board shall be for the requisite period. The vendor or sponsor of the course shall assure compliance with this requirement and shall so certify to the Board no later than 30 days following the courses being offered. Documentation of attendance may be transmitted:

- (1) By the vendor or sponsor of the education provided the documentation contains the following information:
  - (A) Course title and classification verification;
  - (B) Vendor or sponsor identification;
  - (C) Name of and license number of North Carolina licensee; and
  - (D) Vendor or sponsor's attestation or verification of attendance.
- (2) By any licensee directly to the Board provided that the attendance is documented by the vendor or sponsor of the education, on a form given the licensee attending the course(s) attesting to their attendance, and the original form, not a photocopy or facsimile, is submitted.

(l) Electronic transfer of attendance records in a data base format compatible to the Board's data management system is acceptable; provided, however, the Board may at any time within three years of the date of transfer call for a hard copy verification if in its opinion such verification is necessary.

*History Note:* Authority G.S. 12-3.1; 90-117.5; 90-123.1;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. April 1, 2011; April 1, 1993; June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42B .0303 FAILURE TO MEET CONTINUING EDUCATION REQUIREMENT**

For a first failure to comply with 21 NCAC 42B .0302 the Board may require that the optometrist complete an additional five hours of attendance at approved continuing education programs. In the calendar year following such failure to comply, the optometrist must complete a sufficient number of hours at approved continuing education programs to cure the prior year's shortfall, meet the current year's continuing education obligation, and meet any penalty imposed as a result of the prior year's shortfall. Any subsequent failure to comply with 21 NCAC 42B .0302 may subject the optometrist to disciplinary action under G.S. 90-121.2.

*History Note:* Authority G.S. 90-117.5; 90-121.2; 90-123.1  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;  
Amended Eff. March 1, 2023.

#### **21 NCAC 42B .0304 APPLICATION FOR LICENSE RENEWAL**

To apply for license renewal, the licensee shall fully and accurately complete the application that is available through the portal on the Board's website. The application shall be made available before November 15 of each year preceding the date on which the application and the fees are due.

*History Note:* Authority G.S. 90-117.5; 90-118.10;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;  
Amended Eff. September 1, 2023.

#### **21 NCAC 42B .0305 SUSPENSION OF AUTHORITY TO EXPEND FUNDS**

In the event the Board's authority to expend funds is suspended pursuant to Session Law 2009-125, the Board shall continue to issue and renew licenses and all fees tendered shall be placed in an escrow account maintained by the



Board for this purpose. Once the Board's authority is restored, the funds shall be moved from the escrow account into the general operating account.

*History Note:* Authority G.S. 93B-2(b);  
Eff. April 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **SUBCHAPTER 42C - PROFESSIONAL CORPORATIONS AND LIMITED LIABILITY COMPANIES**

### **21 NCAC 42C .0101 CERTIFICATION OF REGISTRATION (REPEALED)**

*History Note:* Authority G.S. 90-117.5; 55B-12;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Repealed Eff. September 30, 1981.

### **21 NCAC 42C .0102 APPLICATION**

An optometrist who has a certificate of registration issued by the Board may make application to the Board for a certificate of registration for a "professional corporation" or "professional limited liability company". When the Board makes the findings in G.S. 55B-10, it shall issue a certificate of registration for a professional corporation or professional limited liability company upon payment of the registration fee. The certificate shall remain effective until January 1 following the date of registration.

*History Note:* Authority G.S. 55B-10; 57C-2-01; 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. October 1, 1994; June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **21 NCAC 42C .0103 FEE**

*History Note:* Authority G.S. 55B-10;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Repealed Eff. June 1, 1989.

### **21 NCAC 42C .0104 NAMING CORPORATION OR LIMITED LIABILITY COMPANY**

(a) A corporate or limited liability company name must include either:

- (1) the name of a shareholder or member of the corporation or limited liability company and the shareholder's or member's degree; or
- (2) the word or words "optometry", "optometric", or "optometrists", followed, in the case of corporation, by the words "professional association" or the abbreviation "P.A.", or, in the case of a limited liability company, by the words "professional" and "limited liability company," or some abbreviation thereof that is permissible under G.S. 57C-2-01(c) and 57C-2-30 or 57C-7-06.

(b) The name of the shareholder or member, the shareholder's or member's degree, and the words "optometrists", "optometry", or "optometric" must appear on any corporate or limited liability company sign or advertisement.

*History Note:* Authority G.S. 55B-5; 57C-2-01; 57C-2-30; 57C-7-06; 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. October 1, 1994; June 1, 1989; September 30, 1981;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

**21 NCAC 42C .0105 ANNUAL RENEWAL**

A certificate of registration for a professional corporation or professional limited liability company must be renewed on or before December 31. The required renewal fee must accompany the application.

*History Note: Authority G.S. 55B-11; 57C-2-01; 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. October 1, 1994; June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

**21 NCAC 42C .0106 COMPLIANCE WITH LAW: RULES AND REGULATIONS**

*History Note: Authority G.S. 90-117.5; 55B-9;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Repealed Eff. September 30, 1981.*

**SUBCHAPTER 42D - OPTOMETRIC ASSISTANT AND TECHNICIAN**

**21 NCAC 42D .0101 DEFINITIONS**

*History Note: Authority G.S. 90-115.1(6); 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;  
Repealed Eff. March 1, 2023.*

**21 NCAC 42D .0102 FUNCTION**

(a) For the purposes of this Rule, "paraoptometric personnel" means an optometric assistant, optometric technician, or similarly titled position who qualifies by training and experience to perform duties of an administrative, technical, or clinical nature and is directed and supervised by a licensed optometrist.

(b) Paraoptometric personnel shall perform his or her functions within the scope of his or her training, as directed by and assigned by an optometrist, so long as those functions are at the specific direction and under the supervision of the licensee.

*History Note: Authority G.S. 90-115.1(6); 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;  
Amended Eff. March 1, 2023.*

- 21 NCAC 42D .0103 APPLICATION**
- 21 NCAC 42D .0104 REGISTRATION**
- 21 NCAC 42D .0105 ANNUAL RENEWAL**
- 21 NCAC 42D .0106 ACCREDITATION**

*History Note:* Authority G.S. 90-115.1(6); 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. June 1, 1989; September 30, 1981;  
Repealed Eff. August 1, 2012.

#### **21 NCAC 42D .0107 QUALIFICATION BY EXAMINATION**

*History Note:* Authority G.S. 90-115.1(6); 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Repealed Eff. September 30, 1981.

#### **21 NCAC 42D .0108 TERMINATION OF REGISTRATION**

*History Note:* Authority G.S. 90-115.1(6); 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. June 1, 1989; September 30, 1981;  
Repealed Eff. August 1, 2012.

#### **21 NCAC 42D .0109 FEES**

*History Note:* Authority G.S. 90-115.1(6); 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. September 30, 1981;  
Repealed Eff. June 1, 1989.

### **SUBCHAPTER 42E - MODE OF PRACTICE**

#### **SECTION .0100 - RESPONSIBILITY FOR PATIENTS**

##### **21 NCAC 42E .0101 PROFESSIONAL CODE**

The optometrist shall keep the visual welfare of the patient uppermost at all times, promote the best care of the visual needs of mankind, strive continuously to develop educational, professional, clinical, and technical proficiency and keep himself informed as to new developments within his profession.

*History Note:* Authority G.S. 90-121.2(a);  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

##### **21 NCAC 42E .0102 PROFESSIONAL RESPONSIBILITY**

In keeping with the professional code, the optometrist shall:

- (1) attend to the visual needs of all those seeking his services without regard to financial remuneration;
- (2) maintain adequate equipment and instruments in his office at all times to assure proper and complete examination of patients. Such equipment and instruments shall include, but not be limited to, the following: a direct ophthalmoscope; an indirect ophthalmoscope; condensing lenses; proper instrumentation for foreign body removal; biomicroscope; instrument for plotting central and peripheral fields; applanation tonometer; distance and near acuity charts; test objects

- for stereopsis and fusion; color vision testing apparatus; refractor, trial frame or phorometer with trial case lenses; keratometer; and retinoscope;
- (3) sterilize according to usage all instruments or equipment used in the treatment of optometric patients, including those instruments or equipment used for the removal of foreign bodies from the external eye or its adnexa. All optometric offices shall follow infection control recommendations as set forth in the infection control manual as recommended by the American Optometric Association's Committee on Primary Care and Ocular Disease, or in the clinical guidelines of the American Optometric Association's Clinical Guidelines and Quality Assurance Coordinating Committee or their successors including subsequent adoptions, amendments, and editions. These materials are incorporated herein by reference. Copies are available for inspection at the Board's office and may be obtained by paying a fee of ten dollars (\$10.00) to the Board;
  - (4) assist his patients in whatever manner possible in obtaining further care when in his opinion other than his care is needed;
  - (5) maintain adequate and available records on every patient containing case history, findings, diagnosis, treatment, and disposition. In compliance with this requirement, the patient record shall include the name of the patient's family physician or any other physician who may be consulted with regard to the care of the patient. The name and dosage of any medication prescribed shall be recorded with the diagnosis and instructions to the patient concerning follow-up;
  - (6) retain full and independent control of and responsibility for patient records. This requirement does not preclude the licensee from providing copies of patient spectacle prescriptions for subsequent optical services, nor does it preclude the licensee from providing copies of patient records to any entity with the consent and authorization of the patient. Patient records shall be maintained by the optometrist responsible for such records for a period of not less than 5 years following the last entry into the patient's chart;
  - (7) treat all information concerning his patients as confidential and not to be communicated to others except when authorized to do so by the patient or required by law;
  - (8) have an established and appropriate procedure for the provision of eye care to his patients in the event of an emergency outside of normal professional hours, or when the licensee is not available due to vacation, personal illness, attendance at professional meetings or continuing education programs, or other absences of a similar nature. Patients shall be informed of such procedure. The procedure referred to herein may include, but is not limited to, cooperative arrangements with another licensed optometrist or a physician licensed under North Carolina General Statutes Chapter 90, Article 1, a telephone answering system or pager; or written or posted instructions to the patient;
  - (9) maintain full and independent control of the terms and conditions of any professional liability insurance coverage pertaining to his services.

*History Note:* Authority G.S. 90-18; 90-114; 90-121.2; 90-127.2;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. April 1, 1993; June 1, 1989, September 30, 1981;  
Temporary Amendment Eff. September 15, 1997;  
Amended Eff. August 1, 1998;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **21 NCAC 42E .0103      PRESCRIPTIONS**

(a) All prescription forms shall conform to state and federal statutes governing such forms and shall include the name, address, state licensure number, and the Drug Enforcement Administration number of the prescriber, if applicable. The optometrist shall be responsible for providing appropriate safeguards within his practice to prevent the unauthorized use or diversion of his prescription forms, and shall immediately notify the Board upon determining that prescription blanks might be missing or misused. Should missing prescription blanks bear his DEA number, the optometrist shall also notify the North Carolina State Board of Pharmacy, giving that board the date he determined that the prescriptions blanks were missing or misused, the number missing, and any information that could be of help in preventing unauthorized use of the prescription blanks.

(b) In the event that legend drugs being prescribed by the optometrist are dispensed by the optometrist, the optometrist shall cause the following written or printed information to be given to the patient for each such drug dispensed at the time the drug is dispensed:

- (1) date of issuance;
- (2) name and address of patient;
- (3) name, address and telephone number of prescriber;
- (4) name, strength, dosage form and quantity of drug dispensed;
- (5) the number of refills, if authorized;
- (6) route of administration of drug dispensed; and
- (7) directions for use.

(c) Within one year of examination, a patient may request and is entitled to and shall receive a copy of his spectacle prescription. The prescription may show a statement of caution or a disclaimer if such a statement or disclaimer is supported by appropriate findings and documented patient records. An expiration date of not less than one year from the date of the prescribing examination shall appear on every such prescription.

(d) A prescription for contact lenses shall explicitly state that it is for contact lenses and specify the lens type and all specifications necessary for the ordering and fabrication of the lenses. Words or phrases such as "OK for contact lenses", "fit with contact lenses", "contact lenses may be worn", or similar wording do not constitute a contact lens prescription. Until all the requirements of a satisfactory fit of contact lenses have been determined by the prescriber, the contact lens prescription cannot be written. All contact lenses used in the determination of a contact lens prescription are considered to be diagnostic lenses. At such time that it has been determined that a prescription can be written, such prescription may show a statement of caution or a disclaimer if such a statement or disclaimer is supported by appropriate findings and documented patient records. An expiration date consistent with the type and modality of use of the contact lens being prescribed shall appear on every such prescription. In the event that in the professional opinion of the prescribing optometrist, a patient is not adhering to appropriate regimens of care and follow-up with regard to the continuing use of contact lenses, the optometrist may terminate his optometric care of that patient and notify the patient that he is terminating such relationship and the reasons for doing so.

*History Note: Authority G.S. 90-114; 90-117.5; 90-127.2; 90-127.3;  
Eff. June 1, 1989;  
Amended Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

## **21 NCAC 42E .0104 ACCESS TO AND CONTROL OVER PRACTICE**

(a) The licensee shall maintain full and independent control of the scheduling and provision of his optometric services.

(b) Each licensee is responsible for and shall retain full and independent control of information disseminated to the public through any advertising or other commercial medium when such information relates to optometric services being provided by the licensee whether or not such advertising is paid for or sponsored by the optometrist. Provided however, it shall not be a violation of this subsection to include in an advertisement not disseminated by the licensee a statement advertising the availability of optometric services, including eye examinations, by an independent doctor of optometry adjacent to or in proximity to a retail optical establishment, or a statement containing substantially similar language.

(c) The licensee shall have physical access to his practice location at all times.

(d) Whenever any licensee enters into a lease or rental agreement to locate his practice within the exterior walls of a commercial or retail establishment, that practice location shall include an outside entrance to assure such access as may be needed by the optometrist and his patients to his optometric practice at all times. Further, the practice location within the commercial or retail establishment may have interior access from and to a public aisle, but such interior access shall not pass through or into any retail optical space within the establishment to the effect that the optometric practice shall be operated under the complete control of the optometrist.

(e) A licensee shall not enter into any lease, rental agreement, or agreement or contract of employment for the provision of optometric services which infringes upon his independent professional judgment with regard to the operation of his practice or the care of his patients. Provisions within a lease, rental agreement, or agreement or contract of employment for the provision of optometric services or provisions within any master lease to which a lease is subject which would violate this Rule include, but are not limited to, provisions which control or attempt to control: malpractice liability insurance beyond a requirement that the licensee maintain a professionally-reasonable

amount of malpractice liability insurance; regulation of the optometrist's business hours beyond 50 hours a week, except that the optometrist may agree to furnish coverage in excess of 50 hours a week either personally or by providing a temporary or relief optometrist to provide such coverage; custody and control of the optometrist's patient records; the scheduling or rescheduling of patient examinations or follow-up care; the setting or discounting of professional fees, except for participation in managed care or other third-party programs; or the specification of particular drugs or optical goods to be dispensed to or prescribed for a patient. Any lease which is subject to a master lease to which the optometrist does not have ready access for purposes of assuring compliance with this Rule shall be deemed in violation of this Rule and Rule .0201 of Section .0200 of this Subchapter.

*History Note:* Authority G.S. 90-117.5; 90-121.2;  
Eff. June 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **SECTION .0200 - ETHICS**

### **21 NCAC 42E .0201 GENERAL**

- (a) The optometrist shall conduct his practice in a decorous, dignified and professional manner and in keeping with the rules as adopted by the Board.
- (b) It is the continuing responsibility of the optometrist to maintain control over his practice to the end that this independent professional judgment is not compromised in the rendering of patient care.
- (c) In any printed or oral reference by an optometrist to his practice, the primary designation must be "optometrist", "optometry", or "doctor of optometry".

*History Note:* Authority G.S. 90-121.2;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. June 1, 1993; June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **21 NCAC 42E .0202 ADVERTISING**

*History Note:* Authority G.S. 90-117.5;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. September 30, 1981;  
Repealed Eff. June 1, 1989.

### **21 NCAC 42E .0203 CONSULTANT: ADVISOR, STAFF OPTOMETRIST, OR INDEPENDENT CONTRACTOR**

- (a) An optometrist may:
  - (1) be engaged as a consultant, advisor, or independent contractor for industrial plants where industrial vision programs are being or have been instituted; or
  - (2) be engaged as a staff optometrist, independent contractor, or optometric administrator for health programs sponsored or funded by any agency of municipal, county, state or federal government, or research organizations educational institutions, insurance companies, health maintenance organization, or hospitals.
- (b) In acting in the capacity of consultant, advisor, independent contractor, or staff optometrist, the optometrist shall at all times remain cognizant of his professional responsibilities and shall with demeanor, decorum and determination retain his right of independent professional judgment and title in all situations and circumstances as he would in his own office. If at any time the right of independent professional title and judgment is abridged by the party or parties engaging the optometrist's services, it shall be mandatory upon the optometrist to resign or terminate the position as consultant, advisor, staff optometrist, or independent contractor and in so doing the intent of G.S. 90-125 would not be violated.

*History Note:* Authority G.S. 90-117.5; 90-125;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. April 1, 1993; June 1, 1989; September 30, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **SECTION .0300 - UNETHICAL PRACTICES DEFINED: REVOCATION OF LICENSE**

### **21 NCAC 42E .0301 PUNISHMENT FOR VIOLATION OF RULES**

The Board may invoke such disciplinary measures as it deems appropriate, including issuing a letter of warning or caution, reprimand, censure, suspension of a license, revocation of a license, and probation for violation of any statute governing the practice of optometry or of any Rule adopted by the Board.

*History Note:* Authority G.S. 90-117.5; 90-121.2;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Amended Eff. April 1, 1993; June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **21 NCAC 42E .0302 UNETHICAL PRACTICES**

It is unethical for an optometrist to:

- (1) solicit by means of advertising considered by the Board to be untruthful, false, misleading, deceptive, bait-and-switch, or fraudulent;
- (2) allow, permit, or otherwise condone by his failure to act in a timely manner to prevent his name, his practice, or his practice location from being presented to the public through any type of advertising which is false, deceptive, or misleading;
- (3) offer to discount his professional fees as a condition to the sale of optical goods by himself or any optical dispensary located adjacent to or in close proximity to his practice;
- (4) fail to use the word "optometrist", the abbreviation "O.D.", or the words "doctor of optometry" whenever the optometrist's name appears in connection with his practice of optometry;
- (5) fail to list the name of each practitioner on any sign or lettering denoting the location of the practice or in any advertising promoting a practice when there is more than one optometrist practicing at the same location; the lettering of the optometrist's name and the lettering denoting the optometrist's designation as an optometrist shall be of comparable size and readability;
- (6) use the title "Optometrist" in connection with a profession or business considered foreign to the practice of optometry;
- (7) present his practice or practice location to the public as an optical store in order to entice the public to avail themselves of his professional optometric service while shopping for optical goods. In keeping with this Rule, an optometrist may make use of frame bars or selection cabinets provided such frame bars or selection cabinets are so placed within an office that they are not visible from outside the office;
- (8) allow his professional judgment to be unreasonably influenced by someone not directly responsible for the patient's well-being or welfare. Persons directly responsible for the patient's welfare would include another optometrist, a physician, or a member of the patient's family;
- (9) give or accept rebates in any form to or from any person in return for an opportunity to generate or receive a professional fee;
- (10) practice or use his license in a manner deemed to be in violation of G.S. 90-121.2 or 90-125;
- (11) knowingly aid another person to violate the laws governing optometry;
- (12) engage in practice involving conduct which is inconsistent with the dignity of the profession or the rules of the Board. Such "unprofessional conduct" includes, but is not limited to, conduct which violates or does not meet any standard of behavior which through professional experience has become established in the profession of optometry in North Carolina.

*History Note:* Authority G.S. 90-117.5; 90-121.2;

*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Amended Eff. June 1, 1993; June 1, 1989; September 30, 1981;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

## **SUBCHAPTER 42F - RULEMAKING AND ADMINISTRATIVE HEARING PROCEDURES**

### **SECTION .0100 - PETITIONS FOR RULES**

#### **21 NCAC 42F .0101      RULE-MAKING AND ADMINISTRATIVE PROCEDURES**

*History Note:      Authority G.S. 90-117.5; 90-121.2; 150A-11; 150A-14;*  
*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Amended Eff. September 30, 1981;*  
*Repealed Eff. June 1, 1989.*

#### **21 NCAC 42F .0102      CONTENTS OF PETITION** **21 NCAC 42F .0103      DISPOSITION OF PETITIONS**

*History Note:      Authority G.S. 90-117.5; 90-121.2(a); 150A-16;*  
*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Repealed Eff. September 30, 1981.*

### **SECTION .0200 - NOTICE OF RULEMAKING HEARINGS**

#### **21 NCAC 42F .0201      TIMING OF NOTICE** **21 NCAC 42F .0202      NOTICE MAILING LIST** **21 NCAC 42F .0203      ADDITIONAL INFORMATION**

*History Note:      Authority G.S. 90-117.5; 90-121.2(a); 150A-12;*  
*Eff. February 1, 1976;*  
*Readopted Eff. May 30, 1978;*  
*Repealed Eff. September 30, 1981.*

### **SECTION .0300 - RULEMAKING HEARINGS**

#### **21 NCAC 42F .0301      REQUEST TO PARTICIPATE** **21 NCAC 42F .0302      CONTENTS OF REQUEST: GENERAL TIME LIMITATIONS** **21 NCAC 42F .0303      RECEIPT OF REQUEST: SPECIFIC TIME LIMITS** **21 NCAC 42F .0304      WRITTEN SUBMISSIONS** **21 NCAC 42F .0305      PRESIDING OFFICER: POWERS AND DUTIES** **21 NCAC 42F .0306      STATEMENT OF REASONS FOR DECISION** **21 NCAC 42F .0307      RECORD OF PROCEEDINGS** **21 NCAC 42F .0308      EMERGENCY RULES**

*History Note:      Authority G.S. 90-117.5; 90-121.1(a); 150A-12(a),(d),(e); 150A-13;*  
*Eff. February 1, 1976;*



*Readopted Eff. May 30, 1978;*  
*Repealed Eff. September 30, 1981.*

#### **SECTION .0400 - DECLARATORY RULINGS**

<b>21 NCAC 42F .0401</b>	<b>SUBJECTS OF DECLARATORY RULINGS</b>
<b>21 NCAC 42F .0402</b>	<b>SUBMISSION OF REQUEST FOR RULING</b>
<b>21 NCAC 42F .0403</b>	<b>DISPOSITION OF REQUESTS</b>
<b>21 NCAC 42F .0404</b>	<b>RECORD OF DECISION</b>
<b>21 NCAC 42F .0405</b>	<b>DEFINITION</b>

*History Note: Authority G.S. 90-117.5; 90-121.2(a); 150A-17; 150A-12; 150A-12(e);  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Repealed Eff. September 30, 1981.*

#### **SECTION .0500 - ADMINISTRATIVE HEARING PROCEDURES**

<b>21 NCAC 42F .0501</b>	<b>RIGHT TO HEARING</b>
<b>21 NCAC 42F .0502</b>	<b>REQUEST FOR HEARING</b>
<b>21 NCAC 42F .0503</b>	<b>GRANTING OR DENYING HEARING REQUESTS</b>
<b>21 NCAC 42F .0504</b>	<b>NOTICE OF HEARING</b>
<b>21 NCAC 42F .0505</b>	<b>WHO SHALL HEAR CONTESTED CASES</b>
<b>21 NCAC 42F .0506</b>	<b>PETITION FOR INTERVENTION</b>
<b>21 NCAC 42F .0507</b>	<b>TYPES OF INTERVENTION</b>
<b>21 NCAC 42F .0508</b>	<b>DISQUALIFICATION OF HEARING OFFICERS</b>

*History Note: Authority G.S. 1A-1; Rule 24; 90.117.5; 90.121.2(a); 150A-2(2); 150A-23; 150A-25;  
150A-32;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Repealed Eff. September 30, 1981.*

#### **SECTION .0600 - ADMINISTRATIVE HEARINGS: DECISIONS: RELATED RIGHTS AND PROCEDURES**

<b>21 NCAC 42F .0601</b>	<b>FAILURE TO APPEAR</b>
<b>21 NCAC 42F .0602</b>	<b>SIMPLIFICATION OF ISSUES</b>
<b>21 NCAC 42F .0603</b>	<b>SUBPOENAS</b>
<b>21 NCAC 42F .0604</b>	<b>FINAL DECISIONS IN ADMINISTRATIVE HEARINGS</b>

*History Note: Authority G.S. 90-117.5; 90-121.2(a); 150A-25(a); 150A-27; 150A-33(5); 150A-43;  
Eff. February 1, 1976;  
Readopted Eff. May 30, 1978;  
Repealed Eff. September 30, 1981.*

#### **SUBCHAPTER 42G - FORMS**

<b>21 NCAC 42G .0101</b>	<b>DESIGNATION</b>
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<b>21 NCAC 42G .0102</b>	<b>ACCESS TO FORMS</b>
<b>21 NCAC 42G .0103</b>	<b>FORM BEO-1</b>
<b>21 NCAC 42G .0104</b>	<b>FORM BEO-2</b>
<b>21 NCAC 42G .0105</b>	<b>FORM BEO-3</b>
<b>21 NCAC 42G .0106</b>	<b>FORM BEO-4</b>
<b>21 NCAC 42G .0107</b>	<b>FORM BEO-5</b>
<b>21 NCAC 42G .0108</b>	<b>FORM BEO-6</b>
<b>21 NCAC 42G .0109</b>	<b>FORM BEO-7</b>
<b>21 NCAC 42G .0110</b>	<b>FORM BEO-8</b>
<b>21 NCAC 42G .0111</b>	<b>FORM BEO-9</b>
<b>21 NCAC 42G .0112</b>	<b>FORM BEO-10</b>
<b>21 NCAC 42G .0113</b>	<b>FORM BEO-11</b>

*History Note:* Authority G.S. 150A-11;  
 Eff. February 1, 1976;  
 Readopted Eff. May 30, 1978;  
 Repealed Eff. September 30, 1981.

#### **SUBCHAPTER 42H - PRECEPTORSHIPS**

<b>21 NCAC 42H .0101</b>	<b>DEFINITIONS</b>
<b>21 NCAC 42H .0102</b>	<b>FUNCTION</b>
<b>21 NCAC 42H .0103</b>	<b>QUALIFICATIONS</b>
<b>21 NCAC 42H .0104</b>	<b>APPLICATION AND REGISTRATION</b>
<b>21 NCAC 42H .0105</b>	<b>REMUNERATION AND EXPENSES</b>
<b>21 NCAC 42H .0106</b>	<b>TERMINATION</b>

*History Note:* Authority G.S. 90-115.1(3); 90-117.5;  
 Eff. February 1, 1976;  
 Readopted Eff. May 30, 1978;  
 Repealed Eff. June 1, 1989.

#### **SUBCHAPTER 42I - PRECEPTORS**

<b>21 NCAC 42I .0101</b>	<b>DEFINITIONS</b>
<b>21 NCAC 42I .0102</b>	<b>FUNCTION</b>
<b>21 NCAC 42I .0103</b>	<b>QUALIFICATIONS</b>
<b>21 NCAC 42I .0104</b>	<b>APPLICATION AND REGISTRATION</b>
<b>21 NCAC 42I .0105</b>	<b>REMUNERATION AND EXPENSES</b>
<b>21 NCAC 42I .0106</b>	<b>TERMINATION</b>

*History Note:* Authority G.S. 90-115.1(3); 90-117.5;  
 Eff. February 1, 1976;  
 Readopted Eff. May 30, 1978;  
 Repealed Eff. September 30, 1981.

#### **SUBCHAPTER 42J - FEE SCHEDULE**

## **21 NCAC 42J .0101 FEES**

The Board charges the following fees:

- (1) Each application for general optometry examinations \$800.00
- (2) Each general optometry license renewal \$300.00
- (3) Each certificate of license to a resident optometrist desiring to change to another state or territory \$300.00
- (4) Each license issued to a practitioner of another state or territory to practice in this State \$350.00
- (5) Each license to resume practice issued to an optometrist who has retired from the practice of optometry or who has moved from and returned to this State \$350.00
- (6) Each application for registration as an optometric assistant or renewal thereof \$100.00
- (7) Each application for registration as an optometric technician or renewal thereof \$100.00
- (8) Each duplicate license \$100.00
- (9) Each renewal license for each branch office \$100.00
- (10) Each certificate of registration for a professional corporation or limited liability company \$50.00
- (11) Each renewal certificate of registration for a professional corporation or limited liability company \$25.00

*History Note:* Authority G.S. 55B-10; 55B-11; 57D-2-02; 90-117.5; 90-123;  
Eff. June 1, 1989;  
Amended Eff. October 1, 1994; March 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;  
Amended Eff. November 10, 2016.

## **SUBCHAPTER 42K - RULEMAKING PROCEDURES**

### **SECTION .0100 - GENERAL INFORMATION**

#### **21 NCAC 42K .0101 PURPOSE**

This Subchapter establishes basic minimum procedures for the adoption, amendment, or repeal of administrative rules. These procedures ensure the participation of the public in the regulatory and policy-making activities of the Board.

*History Note:* Authority G.S. 150B-21.1; 150B-21.2;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42K .0102 ORGANIZATION OF SUBCHAPTER**

- (a) Sections .0200 through .0600 of this Subchapter pertain to the agency's procedures for adopting, amending, or repealing rules pursuant to the requirements of Chapter 150B, Article 2A.
- (b) Section .0700 of this Subchapter deals with the issuance of declaratory rulings under the authority of G.S. 150B-4.

*History Note:* Authority G.S. 150B-4; 150B-21.1; 150B-21.2;  
Eff. June 1, 1989;  
Amended Eff. March 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **SECTION .0200 - PETITION FOR RULE-MAKING**

#### **21 NCAC 42K .0201 NATURE OF THE PETITION**

A petition for rule-making is a method by which a person may focus the agency's attention upon areas under the agency's rule-making authority where a need for new or changed procedures exists. A petition for rule-making may request action to adopt new rules or to amend or repeal existing rules.

*History Note:* Authority G.S. 150B-20;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42K .0202 SUBMITTING THE PETITION**

Any person wishing to request the Board to adopt, amend, or repeal a rule shall address a petition to the Board. The envelope containing the petition should clearly bear the notation: RULE-MAKING PETITION RE: and the subject area.

*History Note:* Authority G.S. 150B-20;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42K .0203 CONTENTS OF THE PETITION**

There is no particular form required for a rule-making petition. However, the petitioner should include the following:

- (1) an indication of the subject area to which the petition is directed [for example: "This is a petition to conduct rule-making to amend (rule number)"];]
- (2) either a draft of the proposed rule or a summary of its contents, or an identification of the rule to be amended or repealed;
- (3) reasons for the proposal;
- (4) the effect of the proposal on existing rules and practices;
- (5) any data supporting the proposal; and
- (6) the name and address of each petitioner.

*History Note:* Authority G.S. 150B-20;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42K .0204 AGENCY RESPONSE TO A RULE-MAKING PETITION**

(a) The President of the Board may designate one or more board members to determine whether the public interest will be served by granting a rule-making petition. Prior to making this determination, the Board may request additional information from the petitioner, may contact interested persons or persons likely to be affected by the proposal and request their comments, or may use any other appropriate method for obtaining information upon which to base the determination of public interest.

(b) The designated Board member or members will recommend to the Board either the institution of rule-making proceedings or the denial of the petition, as the total information obtained suggests to be proper and in the public interest.

(c) The Board will decide whether to grant or deny the petition within the time limits set in G.S. 150B-20. If the decision is to deny the petition, the Board shall notify each petitioner in writing, stating the reasons for the denial. If the decision is to grant the petition, the Board shall immediately initiate a rule-making proceeding as described in these rules and in G.S. 150B-21.1 or G.S. 150B-21.2.

*History Note:* Authority G.S. 150B-20; 150B-21.1; 150B-21.2;  
Eff. June 1, 1989;  
Amended Eff. March 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42K .0205 RECOURSE TO DENIAL OF THE PETITION**

If the Board denies a petition for rule-making, the petitioner may seek judicial review of the denial to determine whether the Board abused its discretion. This action requires that the petitioner file a civil suit against the Board in the Superior Court of Wake County.

*History Note:* Authority G.S. 150B-20; 150B-45;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **SECTION .0300 - NOTICE AND ADVICE ON POTENTIAL RULE-MAKING TOPICS**

### **21 NCAC 42K .0301 SOLICITING PUBLIC COMMENT**

In addition to seeking information by other methods, the Board may solicit comments from the public on a subject matter of possible rule-making under active consideration by the Board. Should public comment be desired at this preliminary stage of rule-making, the Board may give notice in any manner it determines to be appropriate.

*History Note:* Authority G.S. 150B-21.2;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **SECTION .0400 - NOTICE OF RULE-MAKING**

### **21 NCAC 42K .0401 TIMING AND MANNER OF NOTICE**

When the Board decides to conduct a rule-making proceeding, either in response to a petition or otherwise, the Board shall give notice as required by G.S. 150B-21.2.

*History Note:* Authority G.S. 150B-21.2;  
Eff. June 1, 1989;  
Amended Eff. March 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **21 NCAC 42K .0402 OBTAINING ADDITIONAL INFORMATION ON PROPOSED RULES**

Persons desiring information in addition to that provided in a published notice of rule-making proceedings may contact the Board in writing at its address. The envelope containing the request should clearly bear the notation: "REQUEST FOR INFORMATION ON PROPOSED RULES". The request should clearly indicate the rule-making proceeding which is the subject of the inquiry. The sender should enclose a self-addressed stamped envelope for the Board's use in providing such information.

*History Note:* Authority G.S. 150B-21.2;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **SECTION .0500 - RULE-MAKING HEARINGS**

### **21 NCAC 42K .0501 REQUEST TO PARTICIPATE IN HEARING**

(a) Any person desiring to present oral data, views, or arguments at the rule-making hearing on a proposed rule should file a request to participate with the Board at least three full business days prior to the hearing.

(b) The request to participate should contain a clear reference to the proposed rule, a brief summary of the person's views with respect thereto, and how long the person desires to speak. The envelope containing the request should clearly bear the notation: "REQUEST TO PARTICIPATE IN RULE-MAKING HEARING RE&gml" and the subject matter of the proposed rule.

*History Note:* Authority G.S. 150B-21.2;

*Eff. June 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **21 NCAC 42K .0502      RESPONSE TO THE REQUEST TO PARTICIPATE**

Upon receipt of a request to participate in a rule-making hearing, the Board will acknowledge receipt of the request and inform the person in writing or by telephone of any limitations on oral presentations deemed necessary for a full and effective public proceeding on the proposed rule, including denial of the request and the reasons therefor. Failure by the Board to acknowledge a request shall not constitute approval of any request to participate. In general, each presentation will be limited to 15 minutes unless some other time limit is prescribed by the hearing officer for the rule-making hearing.

*History Note:      Authority G.S. 150B-21.2;*  
*Eff. June 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **21 NCAC 42K .0503      PRESENTATION OF ORAL COMMENT**

- (a) The hearing officer at a rule-making hearing shall create an agenda of members of the public whose requests to participate in the hearing have been approved.
- (b) If time allows, the hearing officer shall permit limited comment by attending members of the public who have not submitted requests to participate.
- (c) Any person making an oral presentation is encouraged to submit a written copy of the presentation to the hearing officer or the Board prior to or during the rule-making hearing.

*History Note:      Authority G.S. 150B-21.2;*  
*Eff. June 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **21 NCAC 42K .0504      POWERS AND DUTIES OF THE HEARING OFFICER**

- (a) The hearing officer at a rule-making hearing shall have complete control of the proceedings, including:
  - (1) extending any time limitations;
  - (2) recognizing speakers;
  - (3) setting time allotments for presentations;
  - (4) questioning speakers;
  - (5) directing the discussion; and
  - (6) otherwise managing the hearing.
- (b) The hearing officer, at all times, will take care that each person participating in the hearing is given a fair opportunity to present views, data, and comments.

*History Note:      Authority G.S. 150B-21.2;*  
*Eff. June 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

### **SECTION .0600 - PUBLIC ACCESS TO RULE-MAKING**

#### **21 NCAC 42K .0601      FILING WRITTEN COMMENTS ON PROPOSED RULES**

- (a) Any person may file with the Board a written submission containing data, comments, or arguments for or against a rule, after publication of a Notice of Rule-making by the Board. Written comments must be received not later than 30 days after the notice is issued, unless a different period has been prescribed in the notice or granted upon request.
- (b) The envelope containing the written submission should bear the notation "WRITTEN COMMENT RE:" and clearly state the rule or rules commented upon.

(c) Upon receipt of written comments, the Board will acknowledge the receipt in writing with an assurance that the comments therein will be considered fully.

*History Note: Authority G.S. 150B-21.2;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **21 NCAC 42K .0602 STATEMENT OF REASONS FOR THE BOARD'S DECISION**

- (a) Upon request by an interested person, the Board shall provide a concise statement of the principal reasons for and against the adoption of a rule and the factors that led to overruling the considerations urged against its adoption.
- (b) The request must be made in writing and received by the Board prior to adoption of the rule or within 30 days thereafter. The envelope containing the request should clearly bear the notation "REQUEST FOR STATEMENT OF REASONING RE:" and clearly state the rule or rules in question.

*History Note: Authority G.S. 150B-21.2;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **21 NCAC 42K .0603 PUBLIC ACCESS TO THE RULE-MAKING RECORD**

- (a) A record of each rule-making proceeding will be maintained by the Board for as long as the rule is in effect and for two years thereafter.
- (b) The record will contain:
- (1) the original petition for rule-making, if any;
  - (2) the Notice of Rule-making;
  - (3) all written memoranda and information submitted by the public;
  - (4) a record or summary of oral presentations, if any;
  - (5) all requests for a Statement of Reasons with the Board's response thereto.
- (c) The record of rule-making proceedings will be available for public inspection during the regular office hours of the Board.

*History Note: Authority G.S. 132-6; 150B-21.2;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

### **SECTION .0700 - DECLARATORY RULINGS**

#### **21 NCAC 42K .0701 NATURE OF THE DECLARATORY RULING**

- (a) A declaratory ruling is a quasi-judicial order of the Board, by which it addresses issues raised by an interested person regarding:
- (1) the manner in which a statute administered by the Board applies to a given fact situation;
  - (2) the manner in which a rule adopted by the Board applies to a given fact situation; or
  - (3) whether a particular rule of the Board is valid.
- (b) A declaratory ruling issued by the Board:
- (1) is binding upon the Board and upon the person requesting it;
  - (2) may be reviewed by the courts in the same manner as the final agency decision in a contested case; and
  - (3) may be altered by a subsequent declaratory ruling of the Board, but may not be altered retroactively.

*History Note: Authority G.S. 150B-4;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

## **21 NCAC 42K .0702 SUBMITTING A REQUEST FOR DECLARATORY RULING**

(a) All requests for declaratory rulings shall be written and mailed to the Board. The envelope containing the request should clearly bear the notation: "REQUEST FOR DECLARATORY RULING".

(b) Each Request for Declaratory Ruling must include the following information:

- (1) the name and address of the person requesting the ruling;
- (2) the statute or rule to which the request relates;
- (3) a concise statement of the manner in which the requesting person is affected by the statute or rule or its potential application to that person;
- (4) a statement whether an oral hearing is desired and, if so, the reason therefor.

*History Note: Authority G.S. 150B-4;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

## **21 NCAC 42K .0703 RESPONSE TO THE REQUEST**

(a) Upon receipt of a Request for Declaratory Ruling, the Board shall determine whether a ruling is appropriate under the facts stated.

(b) The Board shall proceed to issue a declaratory ruling where the person requesting the ruling shows that, with regard to the facts presented:

- (1) the statute or rule in question is unclear on its face;
- (2) circumstances are so changed since the adoption of the statute or rule that a declaratory ruling is warranted;
- (3) the factors specified in the request were not given appropriate consideration by the Board at the time the rule was adopted;
- (4) the statute administered by the Board is unclear in its application to the requesting person's facts; or
- (5) a fair question exists regarding the validity of the rule due to:
  - (A) an absence of statutory authority to adopt the rule;
  - (B) irregularities in the rule-making proceedings; or
  - (C) improper filing or distribution of the rule after the Board's adoption thereof.

(c) When the Board determines for good cause that the issuance of a declaratory ruling is undesirable, the Board shall notify, in writing, the person requesting the ruling, stating the reasons for the denial of the request. The Board will ordinarily decline to issue a declaratory ruling where:

- (1) there has been a similar controlling factual determination made by the Board in a contested case;
- (2) the rule-making record shows that the factual issues raised by the request were specifically considered prior to adoption of the rule; or
- (3) the subject-matter of the request is involved in pending litigation in any state or federal court in North Carolina.

(d) Prior to issuing a declaratory ruling, the Board may give notice of the declaratory proceedings to any person it deems appropriate and may direct that fact-finding proceedings appropriate to the circumstances of the particular request be conducted. The proceedings may consist of written submissions, an oral hearing, or other appropriate procedures. Any proceedings conducted by the Board shall be scheduled to provide the desired facts to the Board so that a decision on the declaratory ruling request may be issued within 60 days after receipt of the request.

(e) If the Board finds evidence that the factors listed in Subparagraphs (b)(1), (2), or (3) of this Rule exist or potentially exist despite a lack of evidence of the existence of such factors presented in a particular petition for a declaratory ruling, the Board shall consider rule-making proceedings on the rule.

*History Note: Authority G.S. 150B-4;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

## **21 NCAC 42K .0704 RECORD OF DECLARATORY RULING**



- (a) A record of each declaratory ruling and the proceedings held in connection with such ruling will be maintained by the Board at least until:
- (1) the statute or rule interpreted by the declaratory ruling is amended or repealed;
  - (2) the Board prospectively changes the declaratory ruling;
  - (3) any court sets aside the ruling in litigation between the Board and the party requesting the ruling;  
or
  - (4) any court of the Appellate Division of the General Court of Justice construes the statute or rule that is the subject of the declaratory ruling in a manner plainly irreconcilable with the declaratory ruling.
- (b) The record will contain:
- (1) the Request for Declaratory Ruling;
  - (2) all written submissions filed in the request, whether filed by the person requesting the ruling or by any other person;
  - (3) a record or summary of oral presentation, if any; and
  - (4) a copy of the declaratory ruling.
- (c) Records of declaratory rulings will be available for public inspection during the regular office hours of the Board.

*History Note:* Authority G.S. 132-6; 150B-4;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **SUBCHAPTER 42L - ADMINISTRATIVE HEARINGS: CONTESTED CASES**

### **21 NCAC 42L .0101 RIGHT TO HEARING**

When the Board acts or proposes to act, other than in rule-making or declaratory ruling proceedings, in a manner which will affect the rights, duties, or privileges of a specific, identifiable person, such person has the right to an administrative hearing. When the Board proposes to act in such a manner, it shall give all such affected persons notice of their right to a hearing by mailing by certified mail to them at their last known address a notice of the proposed action and a notice of a right to a hearing.

*History Note:* Authority G.S. 90-117.5; 150B-11; 150B-38;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### **21 NCAC 42L .0102 REQUEST FOR HEARING**

(a) When an individual believes that individual's rights, duties, or privileges have been affected by the Board's administrative action, but he has not received notice of a right to an administrative hearing, that individual may file a formal request for a hearing.

(b) Any person affected by or aggrieved by the Board's action or proposed action must file his request for an administrative hearing in the Board's office so that it is received by the Board within sixty days of the date such person receives notice of the Board's action or proposed action. For purposes of this Rule, "notice" is given by the Board and received by the affected individual:

- (1) for an action taken or proposed to be taken by the entire Board, on the date notice of such action is mailed by the Board to the affected person at his or her last known address according to the records of the Board;
- (2) for an action proposed by a committee of the Board, including a probable cause or investigatory committee, from the date the proposed resolution, proposal for settlement, or other proposed action is mailed to the affected person at his last known address as contained in the Board records. Provided, however, that if within thirty days of receipt of such notice the affected person proposes in writing to continue informal negotiations to settle the matters at issue, the Board or its committee handling such matter may, in its discretion, agree to toll the running of the sixty-day period or extend the sixty-day period on such terms as the Board deems appropriate;

- (3) for any person affected by a decision of the Board concerning licensure, including an approval or rejection of an application form for licensure, the approval or denial of an application for licensure under G.S. 90-118.5 or 90-118.7, or a decision by the Board that an applicant has passed or failed a clinical practicum examination administered by the Board, from the date notice of such decision is mailed to the affected person at his last known mailing address as contained in the Board records.
- (c) To request an administrative hearing, the affected individual shall submit a request bearing the following notation to the Board's office: REQUEST FOR ADMINISTRATIVE HEARING. The request shall contain the following information:
  - (1) name and address of the petitioner,
  - (2) a concise statement of the action taken by the Board which is challenged,
  - (3) a concise statement of the way in which the petitioner has been aggrieved, and
  - (4) a clear and specific statement of request for a hearing.
- (d) The request will be acknowledged promptly and, if deemed appropriate by the Board in accordance with Rule .0103 of this Section, a hearing will be scheduled.

*History Note:* Authority G.S. 90-117.5; 150B-38;  
Eff. June 1, 1989;  
Amended Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42L .0103 GRANTING OR DENYING HEARING REQUEST**

- (a) The Board will grant a request for a hearing if it determines that the party requesting the hearing is a "person aggrieved" within the meaning of G.S. 150B-2(6).
- (b) The denial of a request for a hearing will be issued immediately upon decision, and in no case later than 60 days after the submission of the request. Such denial shall contain a statement of the reasons leading the Board to deny the request.
- (c) Approval of a request for a hearing will be signified by the issuing of a notice as required by G.S. 150B-38(b) and explained in Rule .0104 of this Section.

*History Note:* Authority G.S. 90-117.5; 150B-11; 150B-38;  
Eff. June 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42L .0104 COMMITTEE ON INVESTIGATIONS**

- (a) Upon receipt of a written complaint alleging misconduct that might subject a licensee or other person to discipline, or upon notice of such otherwise coming to the Board's attention through investigatory means, the Board may investigate such matter to determine whether probable cause exists to institute formal disciplinary proceedings.
- (b) The President shall appoint one member from the Board to serve with the Executive Director of the Board as the probable cause or investigatory committee. The probable cause committee may be assisted by any attorney retained by the Board for the purpose of such investigation, or any investigator retained by the Board.
- (c) The probable cause committee shall investigate the complaint referred to it by the Board. The committee shall determine whether or not there is probable cause to believe that the licensee has violated any statute or board rule which would justify a disciplinary hearing. If the committee determines that such probable cause exists, the committee may confer with the licensee in an attempt to settle the matter through informal means. If the committee and the licensee reach an agreement on the disposition of the matter under investigation, the committee may cause to be drafted a proposed settlement agreement, which may include proposed findings of fact, conclusions of law, and a consent order, for presentation to and consideration by the Board. Such settlement agreement shall be presented to and approved by the licensee before they are presented to the Board for consideration and approval.
- (d) If the probable cause committee and the licensee are not able to settle the matter under investigation by informal means, the licensee may request an administrative hearing pursuant to Rule .0002 of this Section or the Board may give notice of a disciplinary or contested case hearing, if required.
- (e) Any Board member who has been appointed to a probable cause committee shall not be assigned to make a decision or to make findings of fact and conclusions of law in any administrative hearing concerning the particular

matter on which he served on the probable cause committee. Such Board member may be called as a witness and may give testimony at any administrative hearing resulting from such investigation.

(f) Subsequent to the issuance of a notice of hearing, the attorney prosecuting the contested case for the Board may not communicate, directly or indirectly, in connection with any issue of fact or question of law, with any party or his representative, including the members of the Board assigned to make a decision or to make findings of fact and conclusions of law in the contested case, except on notice and opportunity for all parties to participate. However, the attorney prosecuting the matter for the Board may continue to communicate concerning such contested case with the members of the probable cause committee who investigated such matter, and he may communicate with persons not parties to the contested case who may be called as witnesses, including the person who filed the complaint against the optometrist. He also may communicate with the Board members about other matters.

*History Note:* Authority G.S. 90-117.5; 150B-38; 150B-40;  
Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42L .0105 NOTICE OF HEARING**

(a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the hearing. Said notice shall contain the following information, in addition to the items specified in G.S. 150B-38(b):

- (1) the name, position, address and telephone number of a person at the office of the Board to contact for further information or discussion;
- (2) the date, time, and place for a pre-hearing conference, if any; and
- (3) any other information deemed relevant to informing the parties as to the procedure of the hearing.

(b) If the Board determines that the public health, safety, or welfare requires such action, it may issue an order summarily suspending a license. Upon service of the order, the licensee to whom the order is directed shall immediately cease the practice of optometry in North Carolina. The Board shall promptly give notice of hearing pursuant to G.S. 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

*History Note:* Authority G.S. 90-117.5; 90-121.2; 150B-3(c); 150B-11; 150B-38;  
Eff. June 1, 1989;  
Renumbered from 21 NCAC 42L .0004 Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42L .0106 WRITTEN RESPONSE TO THE NOTICE OF HEARING**

(a) Any party served with a notice of hearing may file a written response. Such response shall be served on the Board by certified mail at the address specified in 21 NCAC 42A .0001. The U.S. Post Office postmark or cancellation stamp date on such envelope shall be deemed the date such response was served on the Board.

(b) If the written response is submitted in lieu of a personal appearance by the party at the hearing, the envelope containing the response must bear the notation: "RESPONSE IN LIEU OF APPEARANCE IN THE CASE OF (name of case)" and the official file or reference number of the proceeding. The party shall mail the response in lieu of appearance by first class mail, postmarked not less than ten full days prior to the date set for the hearing.

*History Note:* Authority G.S. 90-117.5; 150B-38;  
Eff. June 1, 1989;  
Amended Eff. April 1, 1993;  
Renumbered from 21 NCAC 42L .0005 Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

#### **21 NCAC 42L .0107 WHO SHALL HEAR CONTESTED CASES**

All administrative hearings will be conducted by the Board, a panel consisting of a majority of the members of the Board, or an administrative law judge designated to hear the case pursuant to G.S. 150B-40(e).

*History Note:* Authority G.S. 90-117.5; 150B-11; 150B-38; 150B-40;

*Eff. June 1, 1989;*  
*Renumbered from 21 NCAC 42L .0006 Eff. April 1, 1993;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **21 NCAC 42L .0108 PRE-HEARING CONFERENCE**

- (a) The Board may direct the parties to conduct an informal pre-hearing conference, or the parties may request such a conference, at a time and place selected by the parties. If the parties do not agree on the time and place for the pre-hearing conference within a reasonable time, the Board may set the time and place of the pre-hearing conference, giving reasonable written notice to all parties in the proceedings. The Board may designate one or more persons from among its members and its attorneys to conduct the conference.
- (b) At the discretion of the Board, all or part of the pre-hearing conference may be conducted by telephone or other electronic means, if each party has an opportunity to participate while the conference is taking place.
- (c) The parties shall conduct the pre-hearing conference to deal, where applicable, with:
- (1) exploring settlement possibilities;
  - (2) formulating, clarifying, and simplifying the issues to be contested at the hearing;
  - (3) preparing stipulations of facts or findings;
  - (4) ruling on the identity and number of witnesses;
  - (5) determining the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, video tape, or other electronic means will be used as a substitute for proceedings in person;
  - (6) determining what depositions, discovery orders, or subpoenas will be needed;
  - (7) determining the need for consolidation of cases or joint hearing;
  - (8) determining the order of presentation of evidence and cross-examination; and
  - (9) considering any other matters which may promote the prompt, orderly, and efficient disposition of the case.

*History Note: Authority G.S. 90-117.5; 150B-33;*  
*Eff. June 1, 1989;*  
*Renumbered from 21 NCAC 42L .0007 Eff. April 1, 1993;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **21 NCAC 42L .0109 PETITION FOR INTERVENTION**

- (a) A person desiring to intervene in a contested case must file a written petition with the Board's office. The petition should bear the notation: PETITION TO INTERVENE IN THE CASE OF (Name of Case).
- (b) The petition must include the following information:
- (1) the name and address of petitioner;
  - (2) the business or occupation of petitioner, where relevant;
  - (3) a full identification of the hearing in which petitioner is seeking to intervene;
  - (4) the statutory or non-statutory grounds for intervention;
  - (5) any claim or defense in respect of which intervention is sought; and
  - (6) a summary of the arguments or evidence petitioner seeks to present.
- (c) If the Board determines to allow intervention, notice of that decision will be issued promptly to all parties, and to the petitioner. In cases of discretionary intervention, such notification will include a statement of any limitations of time, subject matter, evidence or whatever else is deemed necessary which are imposed on the intervenor.
- (d) If the Board's decision is to deny intervention, the petitioner will be notified promptly. Such notice will be in writing, will identify the reasons for the denial, and will be issued to the petitioner and all parties.

*History Note: Authority G.S. 90-117.5; 150B-11; 150B-38;*  
*Eff. June 1, 1989;*  
*Renumbered from 21 NCAC 42L .0008 Eff. April 1, 1993;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **21 NCAC 42L .0110 TYPES OF INTERVENTION**

- (a) Intervention of Right. A petition to intervene as of right, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the petition is timely.
- (b) Permissive Intervention. A petition to intervene permissively, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the Board determines that:
  - (1) There is sufficient legal or factual similarity between the petitioner's claimed rights, privileges, or duties and those of the parties to the hearings; and
  - (2) Permitting the petitioner to intervene as a party would aid the purpose of the hearing.
- (c) Discretionary Intervention. The Board may allow discretionary intervention, with whatever limits and restrictions are deemed appropriate.

*History Note:* Authority G.S. 90-117.5; 150B-11; 150B-38;  
Eff. June 1, 1989;  
Renumbered from 21 NCAC 42L .0009 Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **21 NCAC 42L .0111 DISQUALIFICATION OF BOARD MEMBERS**

- (a) Self-disqualification. If for any reason a Board member determines that personal bias or other factors render that member unable to hear a contested case and perform all duties in an impartial manner, that Board member shall voluntarily decline to participate in the hearing or decision.
- (b) Petition for Disqualification. If for any reason any party in a contested case believes that a Board member is personally biased or otherwise unable to hear a contested case and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board. The affidavit should bear the notation: AFFIDAVIT FOR DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (name of case).
- (c) Contents of Affidavit. The affidavit must state all facts the party deems to be relevant to the disqualification of the Board member.
- (d) Timeliness and Effect of Affidavit. An affidavit of disqualification will be considered timely if filed ten days before commencement of the hearing. Any other affidavit will be considered timely provided it is filed at the first opportunity after the party becomes aware of facts which give rise to a reasonable belief that a Board member may be disqualified under this Rule.
- (e) Where a petition for disqualification is filed less than ten days before or during the course of a hearing, the hearing shall continue with the challenged Board member sitting. Petitioner shall have the opportunity to present evidence supporting his petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification, the disqualified member will not participate in further deliberation or decision of the case.
- (f) Procedure for Determining Disqualification:
  - (1) The Board will appoint a board member or the Board's attorney to investigate the allegations of the affidavit.
  - (2) The investigator will report to the Board the findings of the investigation.
  - (3) The Board shall decide whether to disqualify the challenged individual.
  - (4) The person whose disqualification is to be determined will not participate in the decision but may be called upon to furnish information to the other members of the Board.
  - (5) When a Board member is disqualified prior to the commencement of the hearing or after the hearing has begun, such hearing will continue with the remaining members sitting provided that the remaining members still constitute a majority of the Board.
  - (6) If a sufficient number of Board members are disqualified pursuant to this Rule so that a majority of the Board cannot conduct the hearing, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

*History Note:* Authority G.S. 90-117.5; 150B-11; 150B-38; 150B-40;  
Eff. June 1, 1989;  
Renumbered from 21 NCAC 42L .0010 Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **21 NCAC 42L .0112 SUBPOENAS**

- (a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall be made in writing to the Board, shall identify any document sought with specificity, and shall include the full name and home or business address of all persons to be subpoenaed and, if known, the date, time, and place for responding to the subpoena. The President or the Secretary of the Board shall issue the requested subpoenas within three days of receipt of the request.
- (b) Subpoenas shall contain: the caption of the case; the name and address of the person subpoenaed; the date, hour and location of the hearing in which the witness is commanded to appear; a particularized description of the books, papers, records or objects the witness is directed to bring with him to the hearing, if any; the identity of the party on whose application the subpoena was issued; the date of issue; the signature of the presiding officer or his designee; and a "return of service". The "return of service" form, as filled out, shows the name and capacity of the person serving the subpoena, the date on which the subpoena was delivered to the person directed to make service, the date on which service was made, the person on whom service was made, the manner in which service was made, and the signature of the person making service.
- (c) Subpoenas may be served by the sheriff or other proper official of the county in which the person subpoenaed resides when the party requesting such subpoena prepays the sheriff's service fee. The subpoena shall be issued in duplicate, with a "return of service" form attached to each copy. A person serving the subpoena shall fill out the "return of service" form for each copy and properly return one copy of the subpoena, with the attached "return of service" form completed, to the Board.
- (d) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office.
- (e) Such objection shall include a concise, but complete, statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy of the evidence sought, or any other reason sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardship.
- (f) Any such objection to a subpoena must be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.
- (g) The party who requested the subpoena, within such time as may be granted by the Board, may file a written response to the objection. The written response shall be served by the requesting party on the objecting witness simultaneously with filing the response with the Board.
- (h) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested the subpoena and the party challenging the subpoena, and may notify any other party or parties of an open hearing, to be scheduled as soon as practicable, at which evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.
- (i) Promptly after the close of such hearing, a majority of the Board members hearing the contested case will rule on the challenge and issue a written decision. A copy of the decision will be issued to all parties and made a part of the record.

*History Note:* Authority G.S. 90-117.4; 90-117.5; 150B-11; 150B-38; 150B-40;  
Eff. June 1, 1989;  
Renumbered from 21 NCAC 42L .0011 Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## **21 NCAC 42L .0113 WITNESSES**

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded. At the request of a party or upon the Board's own motion, the presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

*History Note:* Authority G.S. 90-117.5; 150B-11; 150B-38; 150B-40;  
Eff. June 1, 1989;  
Renumbered from 21 NCAC 42L .0012 Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

**21 NCAC 42L .0114 PLEADINGS: BRIEFS: MOTIONS: SERVICE**

- (a) The Board shall give all parties full opportunity, at appropriate stages of the proceedings, to file pleadings, motions, objections, and offers of settlement.
- (b) The Board may give all parties full opportunity, at appropriate stages of the proceedings, to file briefs, proposed findings of fact and conclusions of law, and proposed orders.
- (c) A party who files any such item shall serve copies on all parties by personal service or by mail.

*History Note:* Authority G.S. 90-117.5; 150B-33;  
Eff. June 1, 1989;  
Renumbered from 21 NCAC 42L .0013 Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

**21 NCAC 42L .0115 FINAL DECISION**

In all cases heard by the Board, the Board will issue its decision within 60 days after its next regularly scheduled meeting following the close of the hearing. This decision will be the prerequisite "final agency decision" for the right to judicial review.

*History Note:* Authority G.S. 90-117.5; 150B-11; 150B-38; 150B-42;  
Eff. June 1, 1989;  
Renumbered from 21 NCAC 42L .0014 Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

**21 NCAC 42L .0116 PROPOSALS FOR DECISION**

- (a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(e), a "proposal for decision" shall be rendered within 45 days of the hearing pursuant to the Rules of the Office of Administrative Hearings, 26 N.C.A.C. 3 .0026. The parties may file written exceptions to this "proposal for decision" and submit their own proposed findings of fact and conclusions of law. The exceptions and alternative proposals must be filed within ten days after the party has received the "proposal for decision" as drafted by the administrative law judge.
- (b) Any exceptions to the procedure during the hearing, the handling of the hearing by the administrative law judge, rulings on evidence, or any other matter must be written and refer specifically to pages of the record or otherwise precisely identify the occurrence to which exception is taken. The exceptions must be filed with the Board within ten days of the receipt of the proposal for decision. The written exceptions should bear the notation: EXCEPTIONS TO THE PROCEEDINGS IN THE CASE OF (Name of case).
- (c) Any party may present oral argument to the Board upon request. The request must be included with the written exceptions.
- (d) Upon receipt of a request for further oral argument, notice will be issued promptly to all parties designating the time and place for such oral argument.
- (e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered will be a part of the record and a copy thereof given to all parties. The decision as adopted or modified becomes the "final agency decision" for the right to judicial review. Said decision will be rendered by the Board within 60 days of the next regularly scheduled meeting following the oral arguments, if any. If there are no oral arguments presented, the decision will be rendered within 60 days of the next regularly scheduled Board meeting following receipt of the written exceptions.

*History Note:* Authority G.S. 90-117.5; 150B-11; 150B-38; 150B-40;  
Eff. June 1, 1989;  
Renumbered from 21 NCAC 42L .0015 Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

## SUBCHAPTER 42M - PRECEPTORSHIPS

### 21 NCAC 42M .0101 DEFINITIONS

As used in this Subchapter:

- (1) An "institution" is a school or college of optometry approved by the Board in accordance with Rule 21 NCAC 42B .0101.
- (2) A "preceptee" is an individual who is still enrolled as a student in a school or college of optometry approved by the Board and whose clinical training is continuing under the auspices and control of the institution in which he or she is enrolled and under the supervision of the preceptor to which he or she has been assigned by his or her institution.
- (3) A "preceptor" is an optometrist, duly licensed in the State of North Carolina, credentialed by the institution for which he is serving as preceptor and who has been approved by the Board to act as such and under whose supervision a preceptee serves.
- (4) A "preceptorship" is a course of study in which students enrolled in a school approved pursuant to Rule 21 NCAC 42B .0101 receive part of their clinical training in a private practice setting outside the direct confines of the educational institution and whose training is continuing under the auspices and overall responsibility of the institution in which he or she is enrolled and under the supervision of a preceptor credentialed by the institution for which he or she is acting as a preceptor and whose credentials have been approved by the board.

*History Note:* Authority G.S. 90-115.1(3); 90-117.5;  
Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;  
Amended Eff. March 1, 2023.

### 21 NCAC 42M .0102 FUNCTION

- (a) Preceptees may perform all functions which a duly licensed optometrist may perform under Article 6 of Chapter 90 of the North Carolina General Statutes, provided that such are performed at the direction and under the supervision of the preceptor to whom the preceptee is registered; provided, however, nothing in this part shall be construed to permit a preceptee to prescribe for any patient in his own name or prior to the patient's chart being reviewed and signed by the preceptor. Further, in an instance where a pharmaceutical agent is being prescribed, the preceptor shall physically examine the patient prior to the prescription being authorized and given to the patient.
- (b) A preceptee shall wear appropriate identification at all times when involved in patient care that will identify him to patients both by name and as a "student". Acceptable terms that would meet this requirement include but are not limited to "intern", "preceptee", "extern", and "optometry student".
- (c) Prior to the undertaking of any examination of a patient by a preceptee, the patient shall be made aware that the care being rendered to him is being performed by a student in training and the patient's record shall note the patient's consent.

*History Note:* Authority G.S. 90-115.1(3); 90-117.5;  
Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

### 21 NCAC 42M .0103 QUALIFICATIONS

- (a) To qualify for a preceptorship, an individual must:
  - (1) be a student in good academic standing currently enrolled in an optometric program leading to a doctorate degree in optometry at a school whose preceptorship program has been approved by the Board;
  - (2) submit evidence satisfactory to the Board of an educational background sufficient to enable the applicant to function in a clinical environment;
  - (3) be recommended for participation in a preceptorship by the dean of the optometry school or college or his designee;
  - (4) be approved and registered by the Board.



(b) Within 60 days of the completion of a preceptorship, the institution under whose auspices the preceptorship was offered shall furnish the Board with an evaluation of the preceptee's performance in the preceptorship, such evaluation to include copies of no fewer than one case report for each week the preceptee was engaged in the program.

*History Note: Authority G.S. 90-115.1(3); 90-117.5;  
Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **21 NCAC 42M .0104 APPLICATION AND REGISTRATION**

(a) An institution establishing a preceptorship within the State of North Carolina shall be approved by the Board in accordance with Rule 21 NCAC 42B .0101 and shall:

- (1) notify the Board in writing outlining in sufficient detail the educational purposes of the program, the clinical experience they expect the preceptee to gain, the supervision or protocols that the institution, the preceptor and the preceptee agree to in order to assure safe and effective patient care, the standards by which they will credential preceptors, the facilities that are required and made available by the preceptor to the preceptee, the maximum and minimum number of weeks a student will be assigned to the same preceptor and the means or methods they use to evaluate the student's performance in the program. If the Board finds that the preceptorship serves the educational goals as outlined by the institution and patient care and safety will not be compromised by lack of proper supervision, the Board will notify the institution of the approval by the Board of their preceptorship program.
- (2) within 30 days of the beginning of each academic year furnish the Board with a current list of optometrists licensed in North Carolina who are recommended by the institution to the Board as having proper credentials and adequate facilities to serve as preceptors. If "new" preceptors are to be added to the institution's preceptorship program after the institution has filed the preceptor list with the Board, the Board shall be notified prior to a preceptee being assigned to a new preceptor.

(b) To receive Board approval and be registered as a preceptee, the individual must file an application, Form BEO-7, provided by the Board and must submit such to the Board complete in every detail. The application must be accompanied by evidence of educational qualifications as required by Rule .0003 of this Subchapter.

(c) To receive Board approval and be registered as a preceptor, the optometrist must file an application, Form BEO-8, provided by the Board and must submit such to the Board complete in every detail.

*History Note: Authority G.S. 90-115.1(3); 90-117.5;  
Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

#### **21 NCAC 42M .0105 REMUNERATION AND EXPENSES**

The preceptor shall serve as such without remuneration for his or her services. Any funds given to the preceptee shall be only for reimbursement of expenses and subsistence costs.

*History Note: Authority G.S. 90-115.1(3); 90-117.5;  
Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;  
Amended Eff. January 1, 2024.*

#### **21 NCAC 42M .0106 TERMINATION**

(a) Approval and registration of a preceptor shall continue in effect until terminated by the Board, by the institution from whom he or she received his or her credentials as a preceptor, or until 30 days after written notification of termination is submitted by the preceptor to the Board. The approval and registration of a preceptor may be terminated, after notice and hearing, for any violation of these Rules.

(b) The approval of a preceptee shall be terminated by the Board no later than 30 days following the date of graduation or when, after notice and hearing, the Board finds:

- (1) that the preceptee has held himself or herself out or permitted another to represent him or her as a licensed optometrist;
- (2) that the preceptee has in fact performed professional services while not under the supervision of an optometrist licensed by the Board or has been delegated and performed a task or tasks beyond his or her competence;
- (3) that the preceptee is a user of intoxicants or drugs to such an extent that he or she is unable to perform as a preceptee to an optometrist;
- (4) that the preceptee has been convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude;
- (5) that the preceptee has been adjudicated a mental incompetent or whose mental condition renders him or her unable to safely perform as a preceptee to an optometrist; or
- (6) that the preceptee has committed any act or omission which would subject him or her to discipline under G.S. 90-121.2 or under these Rules.

(c) Approval of a preceptorship shall continue in effect until terminated by the Board or until 30 days after written notification of termination is submitted by the institution to the Board. A preceptorship may be terminated, after notice and hearing, for any violation of the rules of this Chapter.

*History Note: Authority G. S. 90-115.1(3); 90-117.5; 90-121.2;  
Eff. April 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015;  
Amended Eff. March 1, 2023.*