

## Board of Optometry

### Proposed Permanent Rules Relating to the Practice of Optometry; Making Technical Changes

#### 6500.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Act.** "Act" means the Minnesota Optometric Practice Act, Minnesota Statutes, sections 148.52 to 148.62, and the Minnesota Contact Lens Prescription Act, Minnesota Statutes, sections 145.711 to 145.714.

Subp. 2a. [See repealer.]

Subp. 3. **Board.** "Board" means the Minnesota Board of Optometry.

Subp. 4. [See repealer.]

Subp. 4a. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

#### 6500.0300 PURPOSE AND APPLICATION.

~~These rules are~~ This chapter is intended to clarify and implement Minnesota Statutes, section sections 148.52 et seq., to the end that the provisions thereunder may be best effectuated and the public interest most effectively served to 148.62 and 145.711 to 145.714, in order to best protect the public.

~~These rules shall be~~ This chapter is applicable to all persons licensed to practice optometry in the state of Minnesota pursuant to the provisions of Minnesota Statutes, section 148.52 et seq., and, in pertinent part, and to those persons applying to the Minnesota board of Optometry for a license to practice optometry in the state of Minnesota.

**6500.0400 PROFESSIONAL CONDUCT.**

*[For text of subp 1, see M.R.]*

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

Subp. 4. **Transfer of practice.** In the event an optometric practice is transferred to a ~~duly~~ licensed optometrist, ~~said~~ the transferee may, through professional cards, stationery, signs, e-mail, or other permissible forms of announcement, identify the transferee as having acquired the practice, provided that no such announcement shall be used or displayed more than two years after the date of transfer. During ~~said~~ the two-year period, the name or names of ~~those from whom the practice was transferred~~ the transferor shall not appear in letters larger than the letters used in the name of the transferee.

**6500.0500 DISPLAY AND DISCLOSURE OF NAME.**

The ~~name of the optometrist~~ optometrist's board-issued certificate shall be displayed prominently at any office or establishment where ~~such person examines eyes~~ the optometrist practices optometry.

~~All receipts relating to payment for eye examinations shall indicate the name of the examining optometrist.~~

**6500.0600 PRESCRIPTION.**

Prescriptions furnished to the patient shall be signed by the examining optometrist. No licensed optometrist shall sign or cause to be signed a refractive prescription without first making a personal examination of the eyes of the person for whom the prescription is made.

**6500.0700 RECORDS.**

Subpart 1. ~~Content of records~~ Minimum standards for medical records. ~~In the absence of compelling reasons to the contrary, it shall be considered either grossly~~

~~incompetent or unprofessional conduct, or both, for an optometrist licensed to practice optometry in this state to fail to keep a record of the following minimum procedures on all patients:~~ An optometrist licensed in the state must maintain a medical record for each patient. For each encounter with a patient, the medical record must:

A. ~~case history;~~ be legible to someone other than the author, and written in the English language;

B. ~~visual acuity without correction;~~ contain only those terms and abbreviations that are or should be comprehensible to other health care professionals in the same or similar specialties;

C. ~~ocular pathology;~~ contain adequate identification of the patient and treating health care professional;

D. ~~refractive findings, both far and near;~~ specify the date the health care was provided;

E. ~~binocular findings;~~ contain information supporting the decision making, diagnosis, or recommended treatment plan, which may include the chief complaint or reason for the encounter; history of present illness; medical, social, or family history; examinations performed and tests ordered and their findings or interpretations; counseling offered; concurrent care or transfers of care; or consultations requested;

F. ~~prescription given, if any, with visual acuity attained;~~ and specify the prescriptions written or renewed; any medications prescribed, dispensed, or administered; and the quantity and strength of each;

G. ~~patient referral, if any;~~ document the patient's progress during the course of treatment if applicable; and

H. include all patient records received from other health care providers, if those records formed the basis for a treatment decision by the optometrist.

Subp. 2. [See repealer.]

Subp. 3. **Storage.** Patient records required by subpart 1 shall be maintained for at least five years. In the event of closure of a practice, all records from patient encounters during the previous five years shall be offered to the individual patients or transferred to another provider after notification of the new location is made to those individuals.

### **6500.0800 INCORPORATING UNDER THE PROFESSIONAL CORPORATIONS ACT.**

Subpart 1. **Incorporation.** One or more licensed optometrists may form a professional optometric corporation. If an optometrist chooses to incorporate, the optometrist must do so under the Professional Corporations Firms Act as stated in Minnesota Statutes, section 319A.01 et seq chapter 319B. With reference to the formation and maintenance of such professional optometric corporations, the following rules shall apply. A solo practitioner optometrist who is not incorporated is not required to comply with the Professional Firms Act.

Subp. 2. **Filing.** No professional optometric corporation shall begin to render professional service in this state until it has filed with the board ~~executive secretary~~ a copy of its articles of incorporation.

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

### **6500.2000 TERMS AND RENEWAL OF INDIVIDUAL ANNUAL LICENSE RENEWAL.**

Subpart 1. **Fee Renewal of application.** On or before January 1 of each year, the board shall receive a licensee must submit to the board a license renewal fee of \$105 from every licensed optometrist who desires application to continue to be entitled to lawfully

practice in this state. A renewed license is valid from January 1 of the year of issue until December 31 of the year of issue.

Subp. 2. ~~Address of practice~~ **Information required on renewal application.** ~~At the time of paying the fee required by this part, the optometrist shall inform the board of the address or addresses of the place or places where the practice is conducted. The optometrist shall also inform the board of any change in the address or addresses of the practice during the 12-month period within one month of the change. An application for renewal must be postmarked by, or if submitted online, received by the board, on or before December 31 of each year of renewal. The renewal application shall include the applicant's signature, any application fees required by statute, the address or addresses where the applicant practices optometry, any changes in the applicant's optometry practice locations in the previous 12-month period, the applicant's license number, and any other information requested by the board.~~

Subp. 3. **Compliance with continuing education requirements.** ~~As specified in parts 6500.0900 to 6500.1700, submission to the board of satisfactory proof of compliance with continuing education requirements is and shall be a condition precedent to annual license renewal~~ part 6500.3000, an applicant must submit to the board proof of compliance with continuing education requirements as part of the applicant's annual license renewal.

Subp. 4. [See repealer.]

Subp. 4a. **Failure to submit renewal application, required fees, or evidence of continuing education compliance.** If a licensee fails to submit the renewal application, the required fee, or evidence of continuing education compliance, the board shall follow the following procedures.

A. After January 1 of the renewal year, the board shall change the status of the active licensee to designate the nonrenewed or lapsed license. A licensee may not provide services as a licensed optometrist with a lapsed or nonrenewed license.

B. After January 1 of the renewal year, the board shall send to the licensee, at the last address on file, notice that the licensee has failed to satisfy the license renewal requirements and shall specify which requirement remains unsatisfied. The board shall set out the steps the licensee must take to renew a license and any late fees required, notify the licensee of the option of voluntarily terminating the license, and notify the licensee that failure to respond within 30 days after the notice is sent by the board will result in termination of the license.

C. If the application for renewal, including the required information about continuing education compliance, the application fee, and any late fees, are not received by the board within the 30-day deadline specified in the notice, the license shall be terminated and the licensee will no longer be authorized to practice optometry in Minnesota. The termination will be administrative and will not constitute disciplinary action on the license.

D. A license that has been administratively terminated under this part may be reinstated pursuant to part 6500.2900.

Subp. 5. **Practicing optometry without a current license.** Practicing optometry without a renewed or current license shall have the same force, effect, and potential legal consequences as practicing optometry without a license.

Subp. 6. **Contested case proceeding.** The board, in lieu of the process in subpart 4a, may initiate a contested case proceeding to take disciplinary action on the license for failure to submit fees and continuing education compliance at the same time that it initiates disciplinary action proceedings against the licensee for other grounds specified in part 6500.3000 or Minnesota Statutes, sections 148.52 to 148.62.

**6500.2200 FEE PAYMENT; NONREFUNDABLE.**

All required fees ~~required in this chapter~~ shall be submitted ~~only by check or money order, made~~ payable to the board. No ~~such~~ fee or any portion of a fee paid or payable to the board is refundable.

**6500.2400 JURISPRUDENCE EXAMINATION.**

Subpart 1. **Requirements.** An applicant must pass an examination on Minnesota optometric jurisprudence shall be given and must be passed with a score of 65 80 percent or better. An applicant who fails the Minnesota jurisprudence examination and passes a board-constructed or nationally constructed clinical examination may repeat the jurisprudence examination only. If the clinical examination is failed, the entire examination must be retaken, including the Minnesota jurisprudence examination. For applicants, the Minnesota jurisprudence examination score is valid for one year from the date of the examination.

Subp. 2. **Scheduling.** ~~An applicant for licensure in this state may:~~ The Minnesota jurisprudence examination must be scheduled either in conjunction with the national clinical examination or scheduled with the examining body on a separate occasion from the national clinical examination.

A. ~~take the jurisprudence examination in conjunction with a nationally presented examination according to the procedures set by the examining organization; or~~

B. ~~schedule an appointment to take the jurisprudence examination with the executive director of the board.~~

**6500.2700 OPTOMETRIST EMERITUS REGISTRATION.**

Subpart 1. **Application.** Any optometrist duly licensed to practice optometry in Minnesota pursuant to Minnesota Statutes, sections 148.52 to 148.62, who declares that he or she is retired from active practice of optometry may apply to the board for emeritus registration on the annual license renewal form. To qualify, the optometrist must be retired

and must not be subject to any disciplinary action or be subject to an order of the board imposing a suspended, conditional, or restricted license to practice optometry.

Subp. 2. **Status of registrant.** The emeritus registration is not a license ~~which~~ that permits the registrant to practice optometry as defined in Minnesota Statutes, sections 148.52 to 148.62, and the rules of the board.

Subp. 3. **Continuing education.** The continuing education requirements of part ~~6500.0900~~ 6500.3000 are not applicable to emeritus registration.

Subp. 4. **Change to active status.** The emeritus optometrist must:

- A. apply to the board for reinstatement of his or her active license; and
- B. comply with the continuing education requirements for the time period in which the license was in emeritus status. ~~This requirement~~ The continuing education requirements must be fulfilled prior to petitioning the board for reinstatement of license.

Subp. 5. **Renewal cycle or fees.** Being registered as an emeritus optometrist will not subject the person to the annual license renewal cycle or renewal fee.

Each applicant who meets all requirements for registration as emeritus optometrist shall be issued a certificate. ~~The fee for this certificate is \$10.~~ A replacement certificate may be issued by the board.

## **6500.2900 REINSTATEMENT OF LICENSE.**

Subpart 1. **Requirements.** ~~Upon complying~~ After a former licensee complies with the requirements in this part, the ~~applicant's~~ license shall be reinstated. Any person desiring the reinstatement of a license shall:

- A. submit to the board a completed application on a form provided by the board;



B. submit with the application the fee specified in part 6500.2000, subpart 1 of three prior renewal periods and late fees, if the person has not held an active license in any state during the three calendar years preceding the date of the application;

C. include with the application a letter stating the reasons for applying for reinstatement; and

D. retake and pass the Minnesota jurisprudence examination; and

~~D. E. comply with the application provisions of part 6500.2000, subpart 3. Upon reinstatement, the person shall be assigned to the continuing education cycle to which the licensee was assigned before termination of the license.~~ demonstrate satisfaction of Minnesota continuing education requirements for the three years prior to application, except that if the person holds an active license in any state on the date the person applies for reinstatement, the person may demonstrate proof of compliance with the continuing education requirements of the state or states in which the person is licensed for the three calendar years preceding the date of the application in lieu of demonstrating compliance with Minnesota continuing education requirements.

If the individual is licensed in another state or states, the individual must also demonstrate that the individual's license has been active and in good standing in all states in which the individual is licensed for the three years prior to application.

Subp. 2. [See repealer.]

Subp. 3. **Revoked or suspended license.** No license that has been suspended or revoked by the board under its authority to take disciplinary action may be reinstated unless the applicant for reinstatement satisfies the requirements of subpart 1, provides evidence of full rehabilitation from the offense for which the license was suspended or revoked, and complies with all other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. ~~In addition, if the disciplinary action was based in~~

~~part on failure to meet continuing education requirements, the license may not be reinstated until the applicant has successfully completed the requirements in subpart 2.~~ The board may require the licensee to pay all costs of the proceedings resulting in the suspension or revocation of a license under part ~~6500.2800~~ 6500.2000 or pursuant to its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay all costs of the proceedings resulting in the disciplinary action.

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

### **6500.3000 CONTINUING EDUCATION REQUIREMENTS.**

Subpart 1. **Required hours and compliance period.** An optometrist licensed in Minnesota is required as a condition of licensure and license renewal to complete 40 hours of board-approved continuing optometric education every two years. The two-year cycle begins on January 1 and ends on December 31 of the second year.

Subp. 2. **Continuing education reporting.** At the time of license renewal, each licensee shall demonstrate, either through a board-approved electronic tracking system or paper documentation, completion of the minimum of 40 approved continuing education hours since the last renewal. A maximum of 15 hours per reporting period may be satisfied by board-approved noninteractive, independent study. A maximum of six hours per reporting period may be satisfied by continuing education in practice management.

It is the licensee's responsibility to maintain proof of continuing education compliance in either paper or electronic format. Failure to demonstrate proof of the required continuing education compliance shall result in nonrenewal of license pursuant to part 6500.2000.

Proof of attendance, in either electronic or paper form, must include:

- A. the name of the sponsoring organization;
- B. the name of the licensee;
- C. the course title and instructor's name;
- D. the number of hours in attendance;
- E. the date of the program; and
- F. any other evidence the board requires.

For purposes of this subpart, a receipt for payment of the fee for the continuing education program or activity is not sufficient evidence of completion.

Subp. 3. **Audits of continuing education.** The board may conduct random audits for the purpose of verifying continuing education each reporting year. A licensee who is being audited must provide verification of the required number of continuing education hours by submitting the documentation described in subpart 2. Failure to submit the required documentation shall be grounds for disciplinary action.

Subp. 4. **Courses; board approval required.** Continuing education activities must be approved by the board or the board's designee. Activities must be approved for all attendees when submitted by the sponsor pursuant to subpart 6, or a licensee may request individual approval pursuant to subpart 7. Courses that meet approval criteria standards and receive approval from the board's designee shall be accepted for credit by the board.

The board or the board's designee shall consider the following factors when determining whether an activity should be approved:

- A. whether the activity is structured on sound educational principles and has a topic relevant to the practice of optometry;
- B. whether the speakers, lecturers, or other presenters are recognized by the board as being highly qualified in their fields;

C. whether the proposed course, if conducted within Minnesota, is open to all optometrists licensed in Minnesota;

D. whether the tuition fee charged for courses conducted within Minnesota is the same for nonmembers of the course's sponsoring organization as it is for members. Any difference in tuition shall be reasonable and related to the sponsoring organization's expense in operating the continuing education course; and

E. whether the course is interactive between audience and instructor, either live or remote via Webinar, teleconferencing, or videoconferencing.

Courses or programs deemed by the board to be a sales promotion for a product or service shall be denied approval of continuing education credit, and may be presented without continuing education credit when so noted by the sponsor.

Subp. 5. **Retroactive revocation of CE approval.** The board may, after due consideration, add or delete continuing education credit hours of previously approved continuing education programs due to a change in content or actual hours of presentation. The board shall notify the program sponsor via mail of the change in approval. The program sponsor must then notify the program participants of the change in continuing education hours awarded.

Subp. 6. **Sponsor's application for course approval.** A program sponsor requesting approval by the board or the board's designee must submit a program, schedule, and course description to the board. The board shall respond to the applications within 30 days. Nothing in this part shall permit the board to approve an educational program that has not satisfied the criteria in subpart 4. Courses not eligible for credit shall be identified by the program sponsor.

Subp. 7. **Licensee's application for course approval.** A licensee may apply individually to the board for approval of continuing education activities that have not been

approved by the board or its designee. A licensee shall complete and submit to the board the following information, as well as any other information the board or its designee deems necessary to evaluate the course for approval:

- A. the name and address of the organization sponsoring the activity, if applicable;
- B. a detailed description of the content of the activity;
- C. the name and credentials of each instructor or presenter, if applicable; and
- D. the location, including the name and address of the facility, at which the activity will be conducted.

If the activity does not meet the standards in subpart 4, the board or its designee shall deny approval. The board shall notify the licensee in writing of the reason for denying approval or an activity under this subpart.

Subp. 8. **Sources of credit.** Continuing education credit may be applied for the types of programs described in this subpart.

A. Programs approved by the board or its designee under subpart 4. A maximum of six credit hours per compliance period may be granted for programs related to practice management.

B. Participation in grand rounds, which consist of presenting medical conditions or treatment of a particular patient or type of condition to an audience consisting of licensed health care providers, residents, or medical students. One hour of continuing education credit may be awarded for each hour of participation in grand rounds.

C. Preparation of articles accepted for publication in optometric journals or other health-related journals. A maximum of three hours of continuing education per compliance period may be granted for acceptance and publication of articles in optometric or health-related journals.

D. Preparation of books or subparts of books on optometry-related subjects that have been accepted for publication. A maximum of nine hours of continuing education credits per compliance period may be granted for acceptance and publication of books.

E. Development and presentation of one or more lectures on optometry-related topics before an audience of optometric or other health care professionals. One hour of continuing education credit may be awarded for each hour of presentation. For one time only per lecture, two hours of continuing education credit may be awarded for development of each hour of presentation.

F. Participation in noninteractive, independent study activities, including self-instruction in vision care periodicals, Webcasts, audiotaped or videotaped programs, podcasts, written correspondence courses, and Internet courses. All programs must include a self-test to qualify for continuing education credit. A maximum of 15 hours of continuing education credits per compliance period may be awarded for noninteractive, independent study activities.

Subp. 9. **Exemption for continuing education requirements.** A licensee whose license has not expired and who meets any of the following conditions is exempt from continuing education requirements as described in this subpart.

A. A licensee who has been granted emeritus status under part 6500.2700 is exempt from continuing education requirements.

B. A licensee serving in active military service, as defined in Minnesota Statutes, section 190.05, subdivision 5, during any part of the 12 months immediately preceding the annual license renewal date is exempt from continuing education requirements.

C. A licensee first licensed by examination or reciprocity in the first year of the compliance period is exempt from continuing education requirements for that year but is

responsible for 20 hours of continuing education for the second year of the compliance period.

D. A licensee first licensed by examination or reciprocity in the second year of the compliance period is exempt from continuing education requirements for the entire compliance period.

Subp. 10. **Requirements in specified subjects.** The board may, when compelled by advancement in scope of practice or emerging public health issues, and by mailing written notice to each licensed optometrist on or before January 1, require all optometrists to attend continuing education programs in specified subjects.

**REPEALER.** Minnesota Rules, parts 6500.0100, subparts 2a, 4, 4a, 5, and 6; 6500.0400, subparts 2 and 3; 6500.0700, subpart 2; 6500.0800, subparts 3 and 4; 6500.0900; 6500.0950; 6500.1000; 6500.1100; 6500.1200; 6500.1300; 6500.1400; 6500.1500; 6500.1600; 6500.1700; 6500.1800; 6500.1900; 6500.2000, subpart 4; 6500.2300; 6500.2800; and 6500.2900, subparts 2, 4, 5, and 6, are repealed.