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 File Date: 6/15/2022
 Effective Date: 9/13/2022

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Board of Dispensing Opticians

Division:

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Revision Type (check all that apply):

Amendment

New

Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0480-01	General Rules Governing Dispensing Opticians
Rule Number	Rule Title
0480-01-.01	Definitions
0480-01-.03	Necessity of Licensure
0480-01-.04	Qualifications for Licensure
0480-01-.05	Procedures for Licensure
0480-01-.06	Fees
0480-01-.07	Application Review, Approval, Denial, Interviews
0480-01-.08	Examinations
0480-01-.09	Renewal of License
0480-01-.11	Retirement and Reactivation of License
0480-01-.12	Continuing Education
0480-01-.14	Apprenticeship Training Program
0480-01-.16	License
0480-01-.17	Change of Address and/or Name
0480-01-.21	Branch Offices

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Rule Chapter 0480-01
General Rules Governing Dispensing Opticians

Amendments

Rule 0480-01-.01 Definitions is amended by deleting paragraph (9) in its entirety, and is further amended by adding new paragraphs (3), (9), (19), (21), (25), (26), and (27) and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs shall read:

- (3) Apprentice – An individual who is registered with the Board; engaged in an approved apprentice training program, as described in rule 0480-01-.14; practicing opticianry under Sponsoring Supervision; and whose application has been ratified by the Board.
- (9) Direct Supervision – The requirement that a supervising licensed Dispensing Optician, Optometrist, or Ophthalmologist direct, coordinate, review, inspect, and approve acts or services performed by an Apprentice who is training to prepare, fit and dispense ophthalmic materials.
- (19) Ophthalmologist – An Ophthalmologist is a physician who has undergone training to specialize in eye care. To become an Ophthalmologist, one must graduate from a four-year college, attend four (4) years of medical training to earn a Medical or Osteopathic doctorate (M.D. or D.O.), then undergo an additional four (4) years of medical and ophthalmologic residency training.
- (21) Optometrist – A person who is licensed to engage in the practice of optometry as defined in Tenn. Code. Ann. § 63-8-102.
- (25) Sponsoring Supervisor – A Dispensing Optician, Optometrist, or Ophthalmologist holding an active and unencumbered Tennessee License, and who is responsible for the Direct Supervision of no more than two (2) Apprentices.
- (26) Sponsoring Supervision – The Direct Supervision by a Sponsoring Supervisor of an Apprentice in practice, including the assignment of tasks, and the review, inspection, and approval of acts and services performed by an Apprentice who is training to prepare, fit, and dispense ophthalmic materials. The Sponsoring Supervisor has the ultimate responsibility for ensuring the Apprentice has met all the requirements of the apprenticeship training program described in rule 0480-01-.14.
- (27) Supervisor – A Dispensing Optician, Optometrist, or Ophthalmologist holding an active and unencumbered Tennessee License, who is actively engaged in the temporary Direct Supervision of an Apprentice who is either temporarily assigned to a workplace location which is not their regular place of employment or at their regular place of employment when the Sponsoring Supervisor is off premises. A Supervisor, at the Supervisor's discretion, shall not oversee more than four (4) Apprentices concurrently.

Authority: T.C.A. §§ 63-1-118, 63-14-101, 63-14-102, 63-14-103, 63-14-106, and 63-14-107.

Rule 0480-01-.03 Necessity of Licensure is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

- (2) The practice of a Dispensing Optician is one of the healing arts, and as such the practice is restricted to those persons credentialed by the Board. Persons engaging in the practice of dispensing opticianry without being licensed or expressly exempted by the laws are in violation of division law, T.C.A. § 63-1-123.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-14-101, 63-14-102, 63-14-103, and 63-14-104.

Rule 0480-01-.04 Qualifications for Licensure is amended by adding a new paragraph (1), and renumbering the remaining paragraphs accordingly, and is further amended by deleting newly renumbered paragraphs (3), (4), and subparagraphs (4)(a) and (4)(c) in their entirety and substituting instead the following language, so that as

amended, the new paragraphs and subparagraph shall read:

- (1) Be a United States citizen.
- (3) Provide evidence that he is well regarded in moral character and professional ethics (Rule 0480-01-.05).
- (4) Meet the following educational requirements:
 - (a) Be a graduate of an accredited high school or possess an equivalency of a high school education. The education requirements must be completed prior to the date of application; and either
 - (c) Have had practical training and experience (apprenticeship) of a grade and character satisfactory to the Board as an Apprentice for not less than three (3) years or more than six (6) years under the Sponsoring Supervision of a Sponsoring Supervisor. Practical training prior to age 15 will not be considered in determining the time spent in the apprenticeship training program. Attendance in an accredited school or an approved college level program that shall specifically include study in the following will be considered as time toward fulfilling the three (3) year requirement. Time will be computed hour for hour exactly as hours spent in the apprenticeship training program:

Authority: T.C.A. §§ 63-14-101, and 63-14-103.

Rule 0480-01-.05 Procedures for Licensure is amended by deleting paragraphs (2), (6) and (7) in their entirety and substituting instead the following language, and is further amended by deleting paragraph (8) in its entirety and renumbering the remaining paragraphs, so that as amended, the new paragraphs shall read:

- (2) It is the Applicant's responsibility to provide evidence that he has fulfilled the educational requirements by providing proof of graduation from high school or by providing proof of possession of a general equivalency diploma (G.E.D).
- (6) An Applicant shall submit with the Applicant's application an original or a notarized photocopy of the Applicant's birth certificate or other legal documentation indicating the Applicant's age and United States' citizenship status.
- (7) An Applicant shall submit with the Applicant's application two (2) letters of recommendation. At least one (1) of these letters shall be from a current or former employer, and neither letter shall be from a spouse or relative. Both letters must be on letterhead and signed by the writer of the letter.

Authority: T.C.A. §§ 63-14-101, 63-14-103, 63-14-104, 63-14-107, and 63-14-111.

Rule 0480-01-.06 Fees is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

- (1) Fee Schedule:

Type	Amount
(a) Apprenticeship Application	\$100.00
(b) Dispensing Optician Application	\$ 37.50
(c) Duplicate Wall License/Duplicate Identification Badge	\$ 25.00
(d) License Fee	\$ 27.50
(e) State Regulatory (Biennial)	\$ 10.00
(f) Dispensing Optician Renewal (Biennial)	\$ 75.00
(g) Late Renewal Fee	\$100.00

Authority: T.C.A. §§ 63-1-106, 63-1-118, 63-14-101, 63-14-103, 63-14-106, and 63-14-107.

Rule 0480-01-.07 Application Review, Approval, Denial, Interviews is amended by deleting paragraph (3) and subparagraph (9)(b) in their entirety and substituting instead the following language, so that as amended, the new paragraph and subparagraph shall read:

- (3) Initial review of all applications to make a licensure decision may be delegated to any Board member, the Board's consultant, or the Board's administrator or unit director. In no event may a final licensure decision be made without prior review by the Board.
- (9) (b) The Board's unit director may close an application that has been deemed abandoned. Written notification will be mailed to the Applicant to notify that the file has been closed.

Authority: T.C.A. §§ 63-14-101, 63-14-103, and 63-14-107.

Rule 0480-01-.08 Examinations is amended by deleting subparagraph (1)(b), and part (1)(d)4 in their entirety, and substituting instead the following language, so that as amended, the new subparagraph and part shall read:

- (1) (b) The National Contact Lens Registry Examination or its successor, which is graded on a scale of 0-100 with a minimum passing score of seventy (70).
- (d) 4. The jurisprudence examination shall be mailed or emailed to the Applicant when the application has been received by the Board's administrative office.

Authority: T.C.A. §§ 63-14-101, 63-14-103, and 63-14-107.

Rule 0480-01-.09 Renewal of License is amended by deleting part (1)(b)1, subparagraph (1)(d), and part (2)(a)1 in their entirety and substituting instead the following language, so that as amended, the new subparagraph and parts shall read:

- (1) (b) 1. Internet Renewals – Individuals may apply for renewal and pay the necessary Fees via the Internet. The application to renew can be accessed at:

<https://apps.tn.gov/hlrs/>
- (d) Renewals may be issued administratively or by the Board.
- (2) (a) 1. Payment of past due renewal and state regulatory Fees;

Authority: T.C.A. §§ 63-1-107, 63-14-101, 63-14-103, 63-14-104, 63-14-106, and 63-14-107.

Rule 0480-01-.11 Retirement and Reactivation of License is amended by deleting subparagraph (3)(b) in its entirety, and substituting the following language, and is further amended by adding new subparagraph (3)(c), so that as amended, the new subparagraphs shall read:

- (3) (b) Pay the current licensure renewal Fee and state regulatory Fee as provided in Rule 0480-01-.06. If retirement was pursuant to Rule 0480-01-.09, and reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Board shall require payment of the current renewal Fee and state regulatory Fee as provided in Rule 0480-01-.06; and
- (c) Submit evidence of compliance with the continuing education provisions of Rule 0480-01-.12. Each individual is responsible for maintaining continuing education documentation until such time as he applies for reinstatement.

Authority: T.C.A. §§ 63-14-101, 63-14-103, 63-14-106, and 63-14-107.

Rule 0480-01-.12 Continuing Education is amended by deleting subparagraph (1)(d) and substituting instead the following language, and is further amended by deleting paragraph (2), including its subparagraphs, parts, and subparts in their entirety and substituting instead the following language as new paragraph (2), and is further amended by deleting subparagraphs (3)(b) and (3)(c) in their entirety and substituting instead the following language as new subparagraph (3)(b), and re-lettering the remaining subparagraph accordingly, and is further

amended by deleting subparagraph (4)(d) in its entirety and substituting instead the following language as new subparagraph (4)(d), so that as amended, the new paragraph, subparagraphs, parts, and subparts shall read:

- (1) (d) For new licensees, submitting proof of successful completion of a two (2) year course of study in opticianry in a college level program recognized and approved by the Board, pursuant to rule 0480-01-.04 (4)(b), or submitting proof of successful completion of a three (3) year training program, pursuant to rule 0480-01-.04 (4)(c), shall be considered proof of sufficient preparatory education to constitute continuing education clock hour credit for the calendar year in which the applicant is approved.
- (2) Acceptable Continuing Education – Traditional Formats
 - (a) The following organizations and entities are authorized to present, sponsor, or approve continuing education courses, events, and activities related to the practice of Opticianry and need no prior authorization or approval from the Board.
 1. American Board of Opticianry (ABO),
 2. National Contact Lens Examiners (NCLE),
 3. Tennessee Dispensing Opticians Association (TDOA).
 - (b) The Board will accept any other Dispensing Optician clinic, workshop, seminar or lecture attended in Tennessee or attended at any national or regional meeting not in Tennessee for continuing education (CE) credit if it is in accordance with the following guidelines:
 1. The subject matter must fall within the limit of subjects approved by the Board.
 2. Registrants, instructors, and panelists will be eligible for credit.
 3. CE will be awarded on the following basis:
 - (i) Any single session covering not less than 2-1/2 hours will be assigned 3 hours of CE.
 - (ii) Any single session covering not less than 1 hour, 40 minutes will be assigned 2 hours of CE.
 - (iii) Any single session covering not less than 50 minutes will be assigned 1 hour of CE.
 - (iv) The hours shall be based on actual instruction or program time, excluding registration time and coffee breaks, but including question and answer periods.
 - (v) The total credits to be earned in any single 24-hour period cannot exceed 12.
 4. Course approval procedure for course providers – The subject matter, instructor, and course provider shall have prior approval from the Board. To obtain prior approval, the course provider must have delivered to the Board administrative office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, documentation which includes all of the following items which must be resubmitted if changes are made after receipt of approval from the Board:
 - (i) a course content description or outline;
 - (ii) names of all lecturers;
 - (iii) brief resume of all lecturers;
 - (iv) number of hours of educational credit requested;

- (v) dates, locations, and hours of course;
 - (vi) copies of materials to be utilized in the course;
 - (vii) how verification of continuous attendance is to be documented; and
 - (viii) how notification to every Tennessee licensed Dispensing Optician is to be accomplished.
5. Under no circumstances shall continuing education courses be approved if the materials required by part 4 of this subparagraph are not received at least thirty (30) days prior to a regularly scheduled meeting of the Board at which approval is sought that precedes the course.
 6. Notwithstanding the provisions of subparagraph (2)(a), out-of-state continuing education providers may seek course approval if they are a dispensing optician regulatory agency or association from a state that borders Tennessee.
 7. Notwithstanding the provisions of subparagraph (2)(a), any licensee may seek approval to receive credit for successfully completing continuing education courses by submitting the documentation required in subparts (2)(b)4(i) through (vi) and part (2)(b)5.
- (3) (b) Course approval procedure for individual licensees – Any licensee may seek approval to receive credit for successfully completing multi-media format continuing education courses by submitting the documentation required in parts (2)(b)4 and (2)(b)5.
 - (4) (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (b) of this paragraph may be subject to disciplinary action.

Authority: T.C.A. §§ 63-1-107, 63-14-101, 63-14-103, 63-14-104, 63-14-106, 63-14-107, and 63-14-111.

Rule 0480-01-.14 Apprenticeship Training Program is amended by deleting subparagraphs (1)(a), (1)(b), and (1)(c) in their entirety and substituting instead the following language, and is further amended by adding new subparagraph 1(d), and is further amended by deleting paragraph (2), including its subparagraphs, paragraph (3), part (4)(d)2 and paragraph (5), including its parts and subparts, and subpart (6)(c)1(i) in their entirety and substituting instead the following language, so that as amended, the new paragraphs, subparagraphs, parts and subparts shall read:

- (1) (a) The apprenticeship applicant shall designate, in the application, a Sponsoring Supervisor.
 - (b) The Board administrator shall notify the apprenticeship applicant of the apprenticeship training program start date. Apprenticeship hours cannot begin and will not be counted until notification from the Board's administrator.
 - (c) Except as provided in Rule 0480-01-.04(4), only training that occurs on or after the training program start date shall be counted towards meeting the three (3) year minimum requirement.
 - (d) The apprenticeship applicant shall cause to be submitted to the Board administrative office directly from the vendor identified in the Board's application materials, the result of a criminal background check. Pursuant to T.C.A. § 63-1-130, a person who applies for the apprenticeship training program who has a criminal conviction that directly relates to the occupation of an Apprentice or a Dispensing Optician may be denied. An applicant may be required to appear before the Board to provide details of the conviction prior to the Board granting approval into the apprenticeship program.
- (2) Apprenticeship training programs must be conducted under Sponsoring Supervision.
 - (a) The Sponsoring Supervisor shall work on the premises where the Apprentice is assigned.
 - (b) The Sponsoring Supervisor shall provide Sponsoring Supervision at all times in accordance with

T.C.A. § 63-14-103(a) and (f) and rule 0480-01-.01(25), unless the Apprentice is temporarily under the Direct Supervision of a non-sponsoring Supervisor as defined in rule 0480-01-.01(27).

- (3) Changes in any of the information provided in the Apprentice's application, including the Sponsoring Supervisor of an Apprentice, shall be reported to the Board in writing within 30 days of such change.
- (4)
 - (d) 2. The Board may rescind its approval of any apprenticeship training program if it determines that the Apprentice is not actively pursuing licensure including, but not limited to, working less than five hundred (500) hours per year as provided in subparagraph (4) (b), and failing to file semi-annual evaluation reports in a timely manner as provided in subparagraph (5)(c).
- (5) Sponsoring Supervisors, Supervisors, and Supervision
 - (a) Limitations
 1. A Sponsoring Supervisor may provide Sponsoring Supervision for no more than two (2) Apprentices concurrently.
 2. If a Supervisor, at the Supervisor's discretion, is providing temporary Direct Supervision for more than four (4) Apprentices concurrently, no more than four (4) of the Apprentices under that Supervisor's Direct Supervision shall receive credit for those hours.
 - (b) The Apprentice shall function under the supervision of a licensed supervisor who must be working in the same premises where the apprenticeship training program is conducted and must be present at all times (T.C.A. § 63-14-103).
 - (c) The filing of semi-annual evaluation reports for each Apprentice of a Sponsoring Supervisor is mandatory. Such reports shall be completed by an Apprentice's Sponsoring Supervisor, based on that Sponsoring Supervisor's review and approval of all work performed by the Apprentice while practicing under the Sponsoring Supervision. The Apprentice is responsible for filing the semi-annual reports to the Board administrative office. The appropriate form will be supplied by the Board and shall be notarized before filing. Semi-annual evaluation periods begin six (6) months from initial registration and each six (6) months thereafter until licensure as a Dispensing Optician has been achieved.
 1. The semi-annual evaluation report must be received in the Board administrative office no later than thirty (30) days after the six (6) month training period has ended or the training period shall be disallowed and not considered as time toward fulfilling the five thousand, two hundred and fifty (5,250) hour requirement.
 2. If two (2) semi-annual evaluation reports are not received by the Board administrative office within thirty (30) days after the applicable training periods have ended, the Board will rescind its approval of the apprenticeship training program. The Apprentice will not receive credit for the two (2) training periods for which the semi-annual evaluation reports were not submitted or were received by the Board administrative office later than thirty (30) days after the applicable training period. In order to continue the apprenticeship training program, a new application for an apprenticeship training program must be submitted.
 - (d) Hardship Waiver
 1. The Board may in its discretion grant a waiver for the filing of semi-annual evaluation reports required in (5)(c) if it can be shown to the Board that the failure to comply was not attributable to, or was beyond the physical capabilities of, the individual, i.e.: disability, residence abroad, military service, or other instances of undue hardship. Such requests for waiver must be accompanied by written documentation acceptable to the Board.
 2. Waivers will be considered only on an individual basis and may be requested by

submitting the following items to the Board administrative office.

- (i) A written request for a waiver which specifies what is sought to be waived and a written and signed explanation of the reasons for the request.
- (ii) Any documentation which supports the reason for the waiver request or which may be subsequently requested by the Board.
- (iii) A waiver may be granted for no longer than twelve (12) months (two (2) semi-annual reports.)

3. A waiver approved by the Board is effective for only the semi-annual evaluation reports requested in writing pursuant to subparagraphs (5)(d), unless otherwise specified in writing by the Board.

- (6) (c) 1. (i) One (1) fitting table with two (2) chairs or two (2) stools

Authority: T.C.A. §§ 63-14-101, and 63-14-103.

Rule 0480-01-.16 License is amended by deleting paragraph (3) and subparagraph (4)(d) in their entirety, and substituting instead the following language, so that as amended, the new paragraph and subparagraph shall read:

(3) Duplicate License – A licensee whose “artistically designed” License document, as described in Rule 0480-01-.01(17), has been lost or destroyed may be issued a new document upon receipt of a written request in the Board administrative office and payment of the required Fee pursuant to Rule 0480-01-.06(1)(c).

(4) (d) If a licensee’s identification badge is lost, a statement requesting a duplicate must be submitted to the Board administrative office and payment of the required Fee pursuant to Rule 0480-01-.06(1)(c).

Authority: T.C.A. §§ 63-1-101, 63-1-106, 63-14-101, and 63-14-103.

Rule 0480-01-.17 Change of Address and/or Name is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

(2) Change of Name – Individuals registered with the Board shall notify the Board in writing within thirty (30) days of a name change. An original or notarized photocopy of a document showing the name change must accompany the request. A request for name change must reference the individual’s profession and License number and previous name.

Authority: T.C.A. §§ 63-1-101, 63-1-106, 63-14-101, and 63-14-109.

Rule 0480-01-.21 Branch Offices is amended by deleting paragraphs (2) and (3) in their entirety.

Authority: T.C.A. §§ 63-14-101, 63-14-102, and 63-14-103.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Rule 0480-01-.01 Definitions

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.03 Necessity of Licensure

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.04 Qualifications for Licensure

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.05 Procedures for Licensure

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.06 Fees

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.07 Application Review, Approval, Denial, Interviews

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.08 Examinations

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.09 Renewal of License

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.11 Retirement and Reactivation of License

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.12 Continuing Education

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.14 Apprenticeship Training Program

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.16 License

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.17 Change of Address And/Or Name

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

Rule 0480-01-.21 Branch Offices

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William DeCrow	X				
Jonathon Winnegrad	X				
Brandy Miller	X				
LeRhonda Walton-Hill	X				
Charles Bowman	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Dispensing Opticians on 01/19/2022, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/20/2021

Rulemaking Hearing(s) Conducted on: (add more dates). 01/19/2022

Date: May 31, 2022

Signature: 

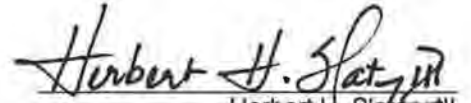
Name of Officer: Eric Winters

Title of Officer: Senior Associate General Counsel, Department of Health

Agency/Board/Commission: Board of Dispensing Opticians

Rule Chapter Number(s): 0480-01

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


Herbert H. Slater III
Attorney General and Reporter
6/6/2022 Date

Department of State Use Only

Filed with the Department of State on: 6/15/2022

Effective on: 9/13/2022


Tre Hargett
Secretary of State

RECEIVED

JUN 15 2022

Secretary of State
Division of Publications

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were four (4) written public comments provided and they are attached as a collective exhibit. Two (2) of the written comments were provided by associations, National Association of Optometrist and Opticians (NAOO) and Tennessee Dispensing Opticians Association (TDOA).

0480-01-.01 Definitions

(3) - The Board agreed with TDOA's recommendation to include optometrist and ophthalmologist in the definition.

(25) - The Board agreed with NAOO and TDOA's recommendation to remove the requirement of the proposed rules to require a dispensing optician to be licensed two (2) years prior to being eligible to be a supervising sponsor.

(26) - The Board did not agree with TDOA's suggested language revision and believed the word "met" was sufficient.

(27) - The Board agreed with NAOO's suggested revision. The Board recognized TDOA's concern of a "supervisor" being able to oversee four (4) apprentices concurrently and changed the proposed rules so that the overseeing of four (4) apprentices concurrently was at the "supervisor's discretion."

The TDOA recommended adding the feminine genders to Rules 0480-01-.04 and 0480-01-.05; however, the Board cited 0480-01-.01(15) which states "he" represents both genders and did not agree the recommendation was warranted.

0480-01-.06 (1)(c) **Fees** – The Board agreed with the TDOA that a charge for a duplicate identification badge should be included with the charge for a duplicate license.

Additionally, the TDOA suggested a review of the proposed fee reductions. The Board decided to keep fee reductions as listed in the proposed rules for the purpose of reducing the Board's carryover.

0480-01-.10 **Supervision** – The Board agreed with TDOA's position that paragraphs regarding contact lenses should not be removed and decided to keep the rules as they are currently.

0480-01-.12 **Continuing Education**– The Board agreed with TDOA's position that there should be requirements for continuing education in multi-media formats. To streamline the rules, it changed the proposed rules to reference the requirements outlined for continuing education in traditional formats found in 0480-01-.12 (2)(b)(4) and (5).

Additionally, the Board reviewed Dr. Ferguson's comments and found them irrelevant, stating the American Board of Opticianry (ABO), National Contact Lens Examiners (NCLE), and Tennessee Dispensing Opticians Association (TDOA) are entities that serve the profession of dispensing opticians whereas the mission of other continuing education providers is not to specifically serve dispensing opticians.

Lastly, the Board's Administrative Director noted the administrative staff does not currently provide course evaluation forms and has always required individual licensees to provide the same information required for acceptance of continuing education in the traditional and multimedia formats. The Board therefore removed the requirement from proposed rule 0480-01-.12(2)(b)(7)(ii).

0480-01-.14 **Apprenticeship Program** – The TDOA expressed concerns that in some establishments, supervisors were overseeing apprentices a large majority of the time instead of the "sponsoring supervisor" and recommended percentages be provided by apprentices when submitting their semi-annual evaluation forms. The Board noted it was the sponsoring supervisor's ultimate responsibility to supervise an apprentice and did not agree the additional percentage information was necessary.

0480-01-.14(5)(a)(2)- The Board recognized TDOA's concern of a "supervisor" being able to oversee four (4) apprentices concurrently and changed the proposed rules so that the overseeing of four (4) apprentices concurrently was at the "supervisor's discretion."

0480-01-.16 **License** – The TDOA withdrew its recommendation of requiring a licensee supply an affidavit when requesting a replacement license or identification badge when Board administration noted other Board's do not require affidavits for such request.

0480-01-.21 **Branch Offices** - The Board's Administrative Director noted there is not a process for registering branch offices nor does the administrative staff currently keep a licensee's employment information and that it does not have a mechanism for doing so. The Board therefore decided instead of revising the rules by removing "Secretary" from paragraphs (2) and (3), the Board removed the paragraphs in their entirety.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) **The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

These rule amendments do not overlap, duplicate, or conflict with other federal, state, and local government rules.

- (2) **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

These rules amendments establish clarity, conciseness, and lack of ambiguity.

- (3) **The establishment of flexible compliance and/or reporting requirements for small businesses.**

These rule amendments do not establish any reporting requirements for small businesses.

- (4) **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

There are no such requirements contained in the rule amendments.

- (5) **The consolidation or simplification of compliance or reporting requirements for small businesses.**

There are no such requirements contained in the rule amendments.

- (6) **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

These rule amendments do not establish any standards that apply to small businesses.

- (7) **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

These rule amendments create no entry barriers or other effects that would stifle legitimate entrepreneurial activity, curb innovation, or increase costs for legitimate businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The proposed rule amendments should not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule changes include numerous fee reductions as the Board is currently operating with a surplus. The amendments allow the Board's unit director to review applications and make initial licensure decisions. Additionally, the preapproval process for continuing education classes is amended to provide clarity. Definitions are updated and new ones are included to expand who can supervise apprentices and incorporates hardship waivers for filing of semi-annual evaluation reports when failure to comply resulted from undue hardship beyond the capability of the apprentice. To comply with T.C.A. § 63-1-107, the rules are amended to limit the amount of past due renewal fees that can be charged by the Board when a licensee allows their license to expire. An amendment requires an official document be provided when a name change is requested by a licensee and removes the requirement that a licensee notify the Board of the opening of a branch office or a change of employment.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

0480-01-.09 T.C.A. § 63-1-107 limits the amount of past due renewal fees that can be charged by the Board when a licensee allows their license to expire.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The rule affects all licensees and future licensees under the Board. As of January 19, 2022, there were 928 Dispensing Opticians licensed in Tennessee. Additionally, the Tennessee Dispensing Opticians Association and National Association of Optometrist and Opticians provided comments on the proposed rules. A large majority of the minor requested changes were accepted by the Board. Overall, the associations were in favor of the proposed rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the attorney general and reporter or any judicial ruling which relate to the rule or the necessity to promulgate the rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The rule is not estimated to increase or decrease state and local government revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Jonathan Winnegrad, Board Chair;
Kimberly Wallace, Board Administrator,
Eric Winters, Board advisory attorney.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jonathan Winnegrad, Board Chair;
Kimberly Wallace, Board Administrator,
Eric Winters, Board advisory attorney.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Jonathan Winnegrad, 1801 Gunbarrel Road, Chattanooga, TN 37421, (423) 508-0168,
jonathanwinnegrad@gmail.com

Kimberly Wallace, 665 Mainstream Drive, 2nd Floor, Nashville, TN 37243, (615) 253-3447,
kimberly.wallace@tn.gov

Eric Winters, 665 Mainstream Drive, 2nd Floor, Nashville, TN 37243, (615) 532-7176, eric.winters@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**RULES
OF
THE TENNESSEE BOARD OF DISPENSING OPTICIANS**

**CHAPTER 0480-01
GENERAL RULES GOVERNING DISPENSING OPTICIANS**

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0480-01-.01 DEFINITIONS. As used in these rules, the terms and acronyms shall have the following meanings ascribed to them:

(1) Advertising - Includes, but is not limited to, business solicitations, with or without limiting qualifications, by a card, sign, or device issued to a person; in a sign or marking in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, or television broadcasting or any other means designed to secure public attention.

GENERAL RULES GOVERNING DISPENSING OPTICIANS CHAPTER 0480-01

(Rule 0480-01-.01, continued)

(2) Applicant - Any individual seeking licensure by the Board and who has submitted an official application and paid the application fee.

(3) Apprentice – An individual who is registered with the Board; engaged in an approved apprentice training program, as described in rule 0480-01-.14; practicing opticianry under Sponsoring Supervision; and whose application has been ratified by the Board.

(4)(3) Board - The Board of Dispensing Opticians.

(5)(4) Board administrative office - The office of the administrator assigned to the board located at 665 Mainstream Drive, Nashville, TN 37243.

(6)(5) Board Designee - Any person who has received a written delegation of authority from the board to perform Board functions subject to review and ratification by the full Board where provided by these rules.

(7)(6) Closed File - An administrative action which renders an incomplete or denied file inactive.

(8)(7) Department - Tennessee Department of Health.

~~(9)(8) Direct Supervision – The requirement that the supervising licensed dispensing optician, optometrist, or ophthalmologist direct, coordinate, review, inspect, and approve acts or services performed by an apprentice who is training to prepare, fit and dispense ophthalmic materials.~~

(9) Direct Supervision – The requirement that a supervising licensed Dispensing Optician, Optometrist, or Ophthalmologist direct, coordinate, review, inspect, and approve acts or services performed by an Apprentice who is training to prepare, fit and dispense ophthalmic materials.

(10)(9) Dispensing Optician – A person holding a current, valid license issued by the Board that authorizes that person to engage in the practice of optical dispensing.

(11)(10) Division - The Division of Health Related Boards, Department of Health, from which the Board receives administrative support.

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(Rule 0480-01-.01, continued)

~~(12)~~~~(11)~~ Examination Service - The testing service whose written examination has been adopted by the Board.

~~(13)~~~~(12)~~ Fee - Money, gifts, services, or anything of value offered or received as compensation in return for rendering services; a payment required of an applicant or licensee pertaining to the application or license.

~~(14)~~~~(13)~~ Fee Splitting - The practice of paying commissions to colleagues out of fees received from clients who have been referred by the colleague for rendering services.

~~(15)~~~~(14)~~ Good Moral Character - The quality of being well regarded in personal behavior and professional ethics.

~~(16)~~~~(15)~~ He/she Him/her - When "he" appears in the text of these rules, the word represents both the feminine and masculine genders.

~~(17)~~~~(16)~~ HRB - When the acronym HRB appears in the text of these rules, it represents Health Related Boards.

~~(18)~~~~(17)~~ License - Document issued to an applicant who successfully completes the licensure process. The license takes the form of an "artistically designed" license as well as other versions bearing an expiration date.

~~(19)~~ Ophthalmologist – An Ophthalmologist is a physician who has undergone training to specialize in eye care. To become an Ophthalmologist, one must graduate from a four-year college, attend four (4) years of medical training to earn a Medical or Osteopathic doctorate (M.D. or D.O.), then undergo an additional four (4) years of medical and ophthalmologic residency training.

~~(20)~~~~(18)~~ Optical Dispensing – The design, verification and delivery to the intended wearer of lenses, frames, and other specially fabricated optical devices upon prescription.

~~(21)~~ Optometrist – A person who is licensed to engage in the practice of optometry as defined in Tenn. Code. Ann. § 63-8-102.

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(Rule 0480-01-.01, continued)

~~(22)(19)~~ Person - Any individual, firm, corporation, partnership, organization, or body politic.

~~(23)(20)~~ Recognized educational institution - Any educational institution that is accredited by a nationally or regionally recognized educational body or is approved by the board.

~~(24)(21)~~ Registrant - Any person who has been lawfully issued a license.

~~(25)~~ Sponsoring Supervisor – A Dispensing Optician, Optometrist, or Ophthalmologist holding an active and unencumbered Tennessee License, and who is responsible for the Direct Supervision of no more than two (2) Apprentices.

~~(26)~~ Sponsoring Supervision – The Direct Supervision by a Sponsoring Supervisor of an Apprentice in practice, including the assignment of tasks, and the review, inspection, and approval of acts and services performed by an Apprentice who is training to prepare, fit, and dispense ophthalmic materials. The Sponsoring Supervisor has the ultimate responsibility for ensuring the Apprentice has met all the requirements of the apprenticeship training program described in rule 0480-01-.14.

~~(27) Supervisor – A dispensing optician, optometrist or ophthalmologist holding an active Tennessee license who is actively engaged in the supervision of apprentices who may provide temporary oversight of an apprentice who is temporarily assigned to a workplace location which is not their regular place of employment. A supervisor shall not oversee more than four (4) apprentices concurrently.~~

~~(27)~~ Supervisor – A Dispensing Optician, Optometrist, or Ophthalmologist holding an active and unencumbered Tennessee License, who is actively engaged in the temporary Direct Supervision of an Apprentice who is either temporarily assigned to a workplace location which is not their regular place of employment or at their regular place of employment when the Sponsoring Supervisor is off premises. A Supervisor, at the Supervisor's discretion, shall not oversee more than four (4) Apprentices concurrently.

~~(28)(22)~~ Use a title or description of - To hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationery, announcements, business cards, or other instruments of professional identification.

~~(29)(23)~~ Written evidence - Includes, but is not limited to, verification from supervisors or other professional colleagues familiar with the applicant's work.

Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 63-1-118, 63-14-101, 63-14-102, 63-14-103, 63-14-106, and 63-14-107.~~ **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 25,

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(Rule 0480-01-.01, continued)

1986; effective January 9, 1987. Repeal and new rule filed August 2, 1995; effective October 16, 1995. Amendment filed August 7, 1997; effective October 27, 1997. Amendment filed May 6, 2002; effective July 20, 2002. Amendment filed March 27, 2009; effective June 10, 2009. Amendment filed April 1, 2015; effective June 30, 2015.

0480-01-.02 SCOPE OF PRACTICE.

(1) The practice of optical dispensing includes the preparation, adaptation and dispensing of lenses, spectacles, eye glasses and optical devices on the written prescription of an optometrist or a physician including the interpretation of written prescriptions and the transposing of prescriptions.

(2) Nothing contained in these rules shall be construed to permit persons licensed under T.C.A. §§ 63-14-101 through 63-14-121 to examine or exercise eyes, nor to diagnose, treat, or prescribe for any human injury, disease or ailment.

(3) Dispensing opticians may fit contact lenses only in the presence of and under the direct supervision of a licensed optometrist or ophthalmologist.

(4) Nothing in this section or in this chapter shall be construed to require the licensing of persons, firms or corporations which are wholesale suppliers to opticians, optometrists or ophthalmologists, of lenses, spectacles, eye glasses or optical devices, or to prevent such persons, firms or corporations from the preparation of lenses, spectacles, eye glasses or optical devices, defined to be the surfacing, fabrication, or finishing of any substance or material used or to be used for the correction of human vision, or the adaptation of such lenses, spectacles, eye glasses or optical devices, defined to be the mounting of such a prepared substance or material to frames or to other devices designed to be worn by the user thereof, as long as such preparation or adaptation is done under the written order of an ophthalmologist or optometrist only, and as long as such lenses, spectacles, eye glasses or optical devices so prepared or adapted are delivered directly to the office of an ophthalmologist, optometrist or dispensing optician, and as long as such persons, firms or corporations do not engage in advertising as to the price of either the finished product or any part thereof.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-14-101, 63-14-102, and 63-14-103. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed April 1, 2015; effective June 30, 2015.

(Rule 0480-01-.04, continued)

0480-01-.03 NECESSITY OF LICENSURE.

(1) It is unlawful for any person who is not licensed in the manner prescribed in Title 63, Chapter 14 of the Tennessee Code Annotated to represent himself as a dispensing optician or to hold himself out to the public as being licensed by means of using a title on signs, mailboxes, address plates, stationery, announcement, telephone listings, calling cards, or other instruments of professional identification.

~~(2) Dispensing Optician is one of the healing arts, and as such the practice of which is restricted to those persons credentialed by the board. Persons engaging in the practice of dispensing optician without being licensed or expressly exempted by the laws are in violation of division law, T.C.A. § 63-1-123.~~

(2) The practice of a Dispensing Optician is one of the healing arts, and as such the practice is restricted to those persons credentialed by the Board. Persons engaging in the practice of dispensing opticianry without being licensed or expressly exempted by the laws are in violation of division law, T.C.A. § 63-1-123.

(3) No person shall hold himself out to the public by a title or description of services incorporating the words "dispensing optician", nor shall state or imply that he is licensed as such, unless such person is licensed or expressly exempted pursuant to T.C.A. §§ 63-14-101, et. seq.

~~(4) Use of Titles – Any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked has the right to use the title "Licensed Dispensing Optician" and to engage in the practice of dispensing opticians, as defined in T.C.A. § 63-14-102. Any person licensed by the Board to whom this rule applies must use the title authorized by this rule in every "advertisement" [as that term is defined in rule 0480-01-.20(2)(a)] he or she publishes or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the dispensing optician to disciplinary action pursuant to T.C.A. § 63-14-104(2).~~

Authority: ~~T.C.A. §§ 4-5-202, 4-5-204, 63-1-145, 63-1-146, 63-14-101, 63-14-102, 63-14-103, and 63-14-104.~~ **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed April 11, 2007; effective June 25, 2007. Amendment filed March 27, 2009; effective June 10, 2009.

0480-01-.04 QUALIFICATIONS FOR LICENSURE. An applicant and licensee must:

(1) Be a United States citizen.

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(0480-01-.04, continued)

~~(1)~~(2) Be at least 18 years of age.

~~(2) — Must provide evidence that he is well regarded in moral character and professional ethics (Rule 0480-01-.05).~~

(3) Provide evidence that he is well regarded in moral character and professional ethics (Rule 0480-01-.05).

~~(3) Education requirements—An applicant must:~~

(4) Meet the following educational requirements:

(a) Be a graduate of an accredited high school or possess an equivalency of a high school education. The education requirements must be completed prior to the date of application; and either

(b) Have satisfactorily completed a two-year course of study in opticianry in a college level program recognized and approved by the Board; or

~~(c) Have had practical experience and training (apprenticeship) of a grade and character satisfactory to the board for not less than three years under the supervision of a licensed dispensing optician, a licensed optometrist, or a licensed ophthalmologist. Practical training prior to age 15 (see T.C.A. § 63-14-103 (a)) will not be considered in determining the time spent in apprenticeship. Attendance in an accredited school or an approved college level program that shall specifically include study in the following will be considered as time toward fulfilling the three years requirement. Time will be computed hour for hour exactly as hours spent in On the Job Training (Apprenticeship):~~

(c) Have had practical training and experience (apprenticeship) of a grade and character satisfactory to the Board as an Apprentice for not less than three (3) years or more than six (6) years under the Sponsoring Supervision of a Sponsoring Supervisor. Practical training prior to age 15 will not be considered in determining the time spent in the apprenticeship training program. Attendance in an accredited school or an approved college level program that shall specifically include study in the following will be considered as time toward fulfilling the three (3) year requirement. Time will be computed hour for hour exactly as hours spent in the apprenticeship training program:

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(0480-01-.04, continued)

1. Anatomy and Physiology of the Eye
2. Optical Theory
3. Applied Ophthalmic and Geometric Optics
4. Ophthalmic Lens Design
5. Lens Measurement and Inspection
6. Lens Surfacing and Fabrication
7. Fitting Techniques
8. Keratometry
9. The Use of the Slit Lamp, Radius Scope, Lensometer, Thickness and Diameter Gauges, and other instruments that do not determine refractive power or diseases and ailments of the eye
10. Methods of Fitting Contact Lenses
11. Post-fitting Contact Lens Care

(d) If the applicant holds an unrestricted dispensing optician license in another state, the length of time for that state's training and supervised experience requirements for initial licensure shall be considered as time toward fulfilling Tennessee's three (3) year requirement.

Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 63-14-101, and 63-14-103~~. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed November 30, 1998; effective February 13, 1999. Amendment filed April 11, 2007; effective June 25, 2007.

0480-01-.05 PROCEDURES FOR LICENSURE.

(1) An applicant shall obtain a current application form from the Board's web page on the Internet, respond truthfully and completely to every question or request for information contained in the form, and submit it along with all documentation and all fees required by the form and this rule to the Board's administrative office. In the absence of access to the Internet, an applicant may obtain the application from the Board's administrative office. It is the intent of this rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all materials and fees be filed simultaneously.

~~(2) It is the applicant's responsibility to provide evidence that he has fulfilled the educational requirements by providing proof of graduation from high school or by providing proof of possession of a general equivalency diploma (g.e.d).~~

(2) It is the applicant's responsibility to provide evidence that he has fulfilled the educational requirements by providing proof of graduation from high school or by providing proof of possession of a general equivalency diploma (G.E.D.).

(3) All applicants shall pay the appropriate non-refundable fees as provided in Rule 0480-01-.06.

(4) Every person desiring to engage in the practice of dispensing opticianry shall be required to pass the examinations pursuant to Rule 0480-01-.08.

(5) An applicant shall submit with his application a "passport" size photograph taken within the preceding twelve (12) months.

~~(6) An applicant shall submit with his application a notarized photocopy of his birth certificate.~~

(6) An Applicant shall submit with the Applicant's application an original or a notarized photocopy of the Applicant's birth certificate or other legal documentation indicating the Applicant's age and United States' citizenship status.

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(Rule 0480-01-.05, continued)

~~(7) An applicant shall submit with his application two (2) letters of recommendation. At least one (1) of these letters shall be from a current or former employer, and neither letter shall be from a spouse or relative.~~

(7) An Applicant shall submit with the Applicant's application two (2) letters of recommendation. At least one (1) of these letters shall be from a current or former employer, and neither letter shall be from a spouse or relative. Both letters must be on letterhead and signed by the writer of the letter.

~~(8) A license will be mailed by the administrative office after all requirements of the board have been met including payment of all fees. The fee must be received in the board office on or before the 30th day from receipt of notification that the fee is due. Failure to comply will result in the application file being closed.~~

~~(8)(9)~~ The burden is on the applicant to prove by a preponderance of the evidence that he meets the qualifications.

(9) An applicant shall disclose the circumstances surrounding any of the following:

(a) Conviction of any crime in any country, state, or municipality, except minor traffic violations.

(b) The denial of a licensure application by any other state or the discipline of the license in any state.

~~(10)(11)~~ An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§ ~~4-5-202, 4-5-204~~, 63-14-101, 63-14-103, 63-14-104, 63-14-107, and 63-14-111.

Administrative History: Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed July 16, 1997; effective September 29, 1997. Amendment filed November 30, 1998; effective February 13, 1999. Amendment filed October 18, 2005; effective January 1, 2006. Amendment filed March 17, 2006; effective May 31, 2006.

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(Rule 0480-01-.06, continued)

0480-01-.06 FEES.

(1) Fee Schedule:

<u>Type</u>	<u>Amount</u>
(a) Apprenticeship Application	\$100.00
(b) Dispensing Optician Application	\$150.00
(c) Duplicate License/Duplicate Identification Badge	\$ 25.00
(d) License	\$110.00
(e) State Regulatory (Biennial)	\$ 10.00
(f) Dispensing Optician Renewal (Biennial)	\$300.00
(g) Renewal Late Fee	\$100.00
(h) Endorsement/Verification	\$ 30.00

(1) Fee Schedule:

<u>Type</u>	<u>Amount</u>
(a) <u>Apprenticeship Application</u>	<u>\$100.00</u>

GENERAL RULES GOVERNING DISPENSING OPTICIANS CHAPTER 0480-01

(Rule 0480-01-.06, continued)

(b) Dispensing Optician Application ~~\$100.00~~ 37.50

(c) Duplicate Wall License/Duplicate Identification Badge \$25.00

(d) License Fee ~~\$110.00~~ 27.50

(e) State Regulatory (Biennial) \$ 10.00

(f) Dispensing Optician Renewal (Biennial) ~~\$225.00~~ 75.00

(g) Late Renewal Fee \$100.00

Authority: T.C.A. §§ ~~4-3-1011, 4-5-202, 4-5-204~~, 63-1-106, 63-1-118, 63-14-101, 63-14-103, 63-14-106, and 63-14-107. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. (See page 1 for history prior to October, 1995) Suspended by G.O.C. filed March 20, 1996. New rule filed August 7, 1997; effective October 27, 1997. Amendment filed February 6, 1998; effective April 22, 1998. Amendment filed October 18, 2005; effective January 1, 2006. Amendment filed August 19, 2010; effective November 17, 2010.

0480-01-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS.

(1) An application shall be accompanied by a check or money order for the application fee, as provided in Rule 0480-01-.06. This fee is non-refundable and subject to the application completion time frame pursuant to this rule.

(2) Applications for licensure will be accepted throughout the year and files which are completed on or before the 30th day prior to the meeting will ordinarily be processed at the next Board meeting scheduled for the purpose of reviewing files.

(Rule 0480-01-.07, continued)

~~(3) Initial review of all applicants to make a preliminary licensure decision may be delegated to any Board Member, the Board's Consultant, or the Board's Administrator. In no event may a final licensure decision be made without prior review by the Board.~~

(3) Initial review of all applications to make a licensure decision may be delegated to any Board member, the Board's consultant, or the Board's administrator or unit director. In no event may a final licensure decision be made without prior review by the Board.

(4) If an application is incomplete when received in the Board's administrative office, a deficiency letter will be sent to the applicant by certified mail notifying him of the deficiency. The requested information must be received in the Board's administrative office on or before the 30th day after the applicant's receipt of the notification.

(a) Such notification shall be sent certified mail return receipt requested from the Board's administrative office.

(b) If the requested information is not received within the 30 day period, the application file shall be closed and the applicant notified. No further Board action will take place until a new application is received pursuant to the rules governing the application process, including another payment of all fees.

(5) If a completed application has been denied and ratified as such by the Board, the action shall become final and the following shall occur:

(a) A notification of the denial shall be sent by the Board's administrative office by certified mail return receipt requested. Specific reasons for denial will be stated, such as incomplete information, unofficial records, examination failure, or other matters judged insufficient for licensure, and such notification shall contain all the specific statutory or rule authorities for the denial.

(b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §4-5-301, et. seq.) to contest the denial and the procedure necessary to accomplish that action.

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(Rule 0480-01-.07, continued)

(c) An applicant has a right to a contested case hearing only if the licensure denial was based on subjective or discretionary criteria.

(d) An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria. If after review and attempted resolution by the Board's administrative staff, the licensure application can not be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal, an appeal may be requested. Such request must be made in writing to the board within 30 days of the receipt of the notice from the Board.

(6) The Board may at its discretion delay a decision on eligibility to take the written and/or oral examination(s) for any applicant for whom the Board wishes additional information for the purpose of clarifying information previously submitted. This request is to be in writing and shall be made within 60 days from the date of the official review of the application by the Board.

(7) If the Board finds it has erred in the issuance of a license, the Board will give written notice by certified mail of its intent to annul the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within 30 days from date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to annul the license, the applicant shall have the right to proceed according to Rule 0480-01-.07(5)(c)(d).

(8) Whenever requirements for licensure by examination are not completed within six months from the date of the initial review of application and credentials, written notification will be mailed to the applicant and the application file will be closed. An applicant whose file has been closed shall subsequently be considered for licensure only upon the filing of a new application and payment of all appropriate fees.

(9) Abandonment of Application

(a) An application shall be deemed abandoned and closed if:

1. The application has not been completed by the applicant within six months after it was initially reviewed by the Board; and

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(Rule 0480-01-.07, continued)

2. The applicant fails to apply and/or register for applicable examinations within six (6) months after being notified of eligibility.

~~(b) The above actions must be ratified by the board. Written notification will be mailed to the applicant notifying him that the file has been closed.~~

(b) The Board's unit director may close an application that has been deemed abandoned. Written notification will be mailed to the Applicant to notify that the file has been closed.

(c) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application.

(10) If an applicant requests an application for licensure and after board review wishes to change that application to a different type of application, a new application with supporting documents and an additional application fee must be submitted, i.e., application based upon apprenticeship to one based upon formal education.

Authority: T.C.A. §§ ~~4-5-102(3), 4-5-202, 4-5-204, 4-5-301,~~ 63-14-101, 63-14-103, and 63-14-107.

Administrative History: Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed November 30, 1998; effective February 13, 1999. Amendment filed March 27, 2009; effective June 10, 2009.

0480-01-.08 EXAMINATIONS.

(1) The Board requires the following examinations to be successfully completed for licensure as a dispensing optician:

(a) The National Opticianry Competency Examination or its successor, which is graded on a scale of 0-100 with a minimum passing score of seventy (70).

~~(b) The National Contact Lens Registry Examination or its successor, which is graded on a scale of 0-100 with a minimum passing score of seventy-two (72).~~

(Rule 0480-01-.08, continued)

(b) The National Contact Lens Registry Examination or its successor, which is graded on a scale of 0-100 with a minimum passing score of seventy (70).

(c) The Tennessee Dispensing Optician Examination, which is graded on a scale of 0-100 with a minimum passing score of seventy (70) on each portion of the examination. This examination shall be administered by a testing agency approved by the Board. The following subjects may be included on the Tennessee Dispensing Optician Examination:

1. anatomy and physiology of the eye
2. applied ophthalmic and geometric optics
3. ophthalmic lens design
4. ophthalmic materials
5. ophthalmic dispensing
6. contact lenses
7. laboratory techniques
8. practical subjects

(d) The Tennessee Jurisprudence Examination, which is graded on a scale of 0-100 with a minimum passing score of ninety (90).

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(Rule 0480-01-.08, continued)

1. The following subjects may be included on the Tennessee Jurisprudence Examination:

(i) Tennessee Code Annotated, Title 63, Chapters 2 and 14; and

(ii) Official Compilation, Rules and Regulations of the State of Tennessee, Chapter 0480-01.

2. The applicable statutes and regulations can be accessed at the Board's Internet web page or are available upon request from the Board's administrative office.

3. The format of the examination shall be "open-book."

~~4. The Board shall include the Tennessee jurisprudence examination with its application materials.~~

4. The jurisprudence examination shall be mailed or emailed to the Applicant when the application has been received by the Board's administrative office.

5. The applicant shall complete the Tennessee jurisprudence examination and return it to the Board's administrative office.

6. If the Board determines that the applicant has failed to successfully complete the Tennessee jurisprudence examination, the applicant will be mailed another examination and he/she must continue to retake the examination until it has been successfully completed before the application will be deemed complete and presented to the Board for consideration.

(2) Except for the Tennessee Jurisprudence Examination, admission to, application for, and the fee required to sit for the examinations are governed by and must be submitted directly to the testing agencies.

(Rule 0480-01-.08, continued)

(a) The applicant shall complete all requirements of Rule 0480-01-.04, Qualifications for Licensure prior to being approved to take the Tennessee Dispensing Optician Examination.

(b) The applicant shall cause his/her score results from the National Opticianry Competency

Examination and the National Contact Lens Registry Examination to be submitted directly from the testing agencies to the Board administrative office. The applicant shall accomplish this prior to being approved to take the Tennessee Dispensing Optician Examination and in conjunction with the filing of an application for licensure.

(3) The effectiveness of any examination for purposes of measuring competency to practice and therefore eligibility for licensure is two (2) years from the date on which the examination was successfully completed. This is the date on which the applicant took the exam and not the date on which passing scores were reported to the Board.

(4) Notwithstanding the provisions of paragraph (3), submitting proof of current certification by the American Board of Opticianry and the National Contact Lens Examiners shall be considered as equivalent to passing the examinations required by subparagraphs (1) (a) and (1) (b) if the applicant's initial certification was awarded based upon passing the examinations required by subparagraphs (1) (a) and (1) (b).

Authority: T.C.A. §§ ~~4-5-202, 4-5-204~~, 63-14-101, 63-14-103, and 63-14-107. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed July 16, 1997; effective September 29, 1997. Amendment filed November 30, 1998; effective February 13, 1999. Amendment filed October 18, 2005; effective January 1, 2006. Amendment filed March 27, 2009; effective June 10, 2009.

0480-01-.09 RENEWAL OF LICENSE.

(1) Renewal applications.

(a) The due date for license renewal is the expiration date indicated on the licensee's initial certificate of registration or renewal certificate.

(Rule 0480-01-.10, continued)

(b) Methods of Renewal

~~1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:~~

~~www.tennesseeanytime.org~~

1. Internet Renewals - Individuals may apply for renewal and pay the necessary Fees via the Internet. The application to renew can be accessed at:

<https://apps.tn.gov/hlrs/>

2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

(c) To be eligible for renewal, an individual must have completed continuing education requirements provided in Rule 0480-01-.12 and submit to the Division of Health Related Boards on or before the expiration date all of the following:

1. A completed and signed board renewal application form; and
2. The renewal and State regulatory fees as provided in Rule 0480-01-.06; and

~~(d) Renewal issuance decisions pursuant to this rule may be made administratively or upon review by any Board member or the Board's designee.~~

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(Rule 0480-01-.10, continued)

(d) Renewals may be issued administratively or by the Board.

(e) Anyone submitting a signed renewal form or letter which is found to be untrue subjects himself to possible disciplinary action as provided in Rule 0480-01-.15.

(f) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.

(2) Reinstatement of an Expired License

(a) Reinstatement of an expired license may be accomplished upon meeting the following conditions:

~~1. Payment of all past due renewal and state regulatory fees;~~

1. Payment of past due renewal and state regulatory Fees;

2. Payment of the renewal late fee provided in Rule 0480-01-.06; and

3. Compliance with continuing education requirements pursuant to Rule 0480-01-.12.

(b) The Board shall require an applicant whose license has expired for a period of three (3) years or more to apply, take and pass the examinations as required by the Board pursuant to Rule 0480-01-.08 prior to being considered for reinstatement.

(c) An individual whose request for reinstatement has been initially a denied shall be given notice and may have review by the Board only when contested case hearing is requested in writing, and only where the individual has met all objective requirements of paragraph (2)(a) of this Rule, and where the denial decision is based upon subjective criteria.

(Rule 0480-01-.10, continued)

Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 63-1-107, 63-14-101, 63-14-103, 63-14-104, 63-14-106, and 63-14-107.~~ **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed February 10, 2000; effective April 25, 2000. Amendment filed May 6, 2002; effective July 20, 2002. Amendment filed October 18, 2005; effective January 1, 2006.

0480-01-.10 SUPERVISION.

(1) Supervision by Optometrist or Ophthalmologist Required - T.C.A. §63-14-102 provides that a dispensing optician may not fit contact lenses except in the presence of and under the direct supervision of a licensed optometrist or ophthalmologist. In accordance with the statutory requirement, the following procedures shall be followed in filling a prescription for contact lenses:

(a) Upon delivery of a written prescription by an ophthalmologist or optometrist, the dispensing optician performs the necessary mechanical operations to prepare the lenses in conformity with the prescription.

(b) The licensed dispensing optician will deliver the contact lenses to the patient and inform of the potential need to return to the office of the ophthalmologist or optometrist to ascertain proper fitting and for follow-up care.

(c) The dispensing optician shall instruct the patient to keep in contact with his ophthalmologist or optometrist and that any problems whatsoever should be diagnosed by the ophthalmologist or optometrist.

(2) Instructions - Although the ophthalmologist or optometrist will instruct the patient on methods of insertion and removal of the contact lenses, the dispensing optician shall thoroughly instruct the patient on the use and care of the contact lenses.

(3) Full-time Supervision - Any office of a licensed dispensing optician, partnership or corporation which engages in optical dispensing must have a duly licensed dispensing optician on duty in each and every establishment; no office of a licensed dispensing optician, partnership or corporation shall offer technical optical dispensing services to the public unless a duly licensed dispensing optician is physically present.

(Rule 0480-01-.10, continued)

Authority: T.C.A. §§4-5-202, 4-5-204, 63-14-101, 63-14-102, and 63-14-103. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed October 18, 2005; effective January 1, 2006.

0480-01-.11 RETIREMENT AND REACTIVATION OF LICENSE.

(1) A person who holds a current license and does not intend to practice as a dispensing optician may apply to convert an active license to inactive ("retired") status. An individual who holds a retired license will not be required to pay the renewal fee.

(2) A person who holds an active license may apply for retired status in the following manner:

(a) Request in writing from the board's administrative office an affidavit of retirement form.

(b) Complete and submit the affidavit affirming that, while in retired status, the licensee will not practice or in any way indicate or imply that he holds an active Tennessee license or use within the State of Tennessee any words, letters, titles, or figures which indicate or imply that he is a licensed dispensing optician.

(3) A person who holds a retired license may apply to reactivate his license in the following manner:

(a) Submit a written request to the board's administrative office for licensure reactivation;

~~(b) Pay the current licensure renewal fee and state regulatory fee as provided in Rule 0480-01-.06. If retirement was pursuant to Rule 0480-01-.09, and reactivation was requested prior to the expiration of one year from the date of retirement, the Board may require payment of the late renewal fee, past due renewal fees, and state regulatory fees as provided in Rule 0480-01-.06; and (c) Submit evidence of compliance with the continuing education provisions of Rule 0480-01-.12. Each individual is responsible for maintaining continuing education documentation until such time as he applies for reinstatement.~~

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(Rule 0480-01-.11, continued)

(b) Pay the current licensure renewal Fee and state regulatory Fee as provided in Rule 0480-01-.06. If retirement was pursuant to Rule 0480-01-.09, and reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Board shall require payment of the current renewal Fee and state regulatory Fee as provided in Rule 0480-01-.06; and

(c) Submit evidence of compliance with the continuing education provisions of Rule 0480-01-.12. Each individual is responsible for maintaining continuing education documentation until such time as he applies for reinstatement.

(4) Upon receipt of the reinstatement application, fees, and continuing education documentation, the Board shall consider the reinstatement application.

(5) The Board shall require an applicant whose license has been revoked, suspended, or retired for a period of three (3) or more years to apply, take and pass the examinations, pursuant to Rule 0480-01-.08, prior to being considered for reinstatement.

Authority: T.C.A. §§ ~~4-5-202, 4-5-204~~, 63-14-101, 63-14-103, 63-14-106, and 63-14-107. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed October 18, 2005; effective January 1, 2006.

0480-01-.12 CONTINUING EDUCATION (CE).

(1) Basic Requirements

(a) Each person licensed by the Board is required to complete nine (9) hours of continuing education during each calendar year which shall include: four (4) hours in spectacles, two (2) hours in contact lenses, one (1) hour in jurisprudence and two (2) hours in optional courses.

1. The one (1) hour jurisprudence credit may be obtained by either:

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(Rule 0480-01-.12, continued)

- (i) Successfully completing the Board's Continuing Education Jurisprudence Credit examination; or
 - (ii) Attending one (1) morning session of a regularly scheduled meeting of the Board.
2. Licensees who attend one (1) morning session of a regularly scheduled meeting of the Board must sign the sign-in sheet, maintained by the Board's administrator. The licensee must record their name, license number, the time the licensee arrived at the Board meeting, and the time the licensee departed the Board meeting to receive one (1) hour of jurisprudence continuing education credit. The morning session shall be not less than 50 minutes.

(b) Each licensee must retain proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was required. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.

1. Documentation must include the date, location, and total time transpired if the continuing education was presented in a traditional format
2. Documentation must include proof of successful completion of a written post-course examination to evaluate material retention if the course was presented in a multi-media format.

(c) The licensee must, within thirty (30) days of a request from the board, provide evidence of continuing education activities. Certificates verifying the licensee's attendance or original letters from course providers are such evidence.

~~(d) For new licensees, submitting proof of successful completion of a two (2) year course of study in opticianry in a college level program recognized and approved by the Board, pursuant to rule 0480-01-.04 (3) (b), or submitting proof of successful completion of a three (3) year training program, pursuant to rule 0480-01-.04 (3) (c), shall be considered proof of sufficient preparatory education to~~

(Rule 0480-01-.12, continued)

~~constitute continuing education clock hour credit for the calendar year in which the applicant is approved.~~

(d) For new licensees, submitting proof of successful completion of a two (2) year course of study in opticianry in a college level program recognized and approved by the Board, pursuant to rule 0480-01-.04 (4)(b), or submitting proof of successful completion of a three (3) year training program, pursuant to rule 0480-01-.04 (4)(c), shall be considered proof of sufficient preparatory education to constitute continuing education clock hour credit for the calendar year in which the applicant is approved.

~~(2) Acceptable Continuing Education Traditional Formats~~

~~(a) The Board will accept any dispensing optician clinic, workshop, seminar or lecture attended in Tennessee or attended at any national or regional meeting not in Tennessee for continuing education (CE) credit if it is in accordance with the following guidelines:~~

~~(b) The subject matter must fall within the limit of subjects approved by the Board.~~

~~(c) Registrants, instructors and panelists will be eligible for credit.~~

~~(d) CE will be awarded on the following basis:~~

~~1. Any single session covering not less than 2 1/2 hours will be assigned 3 hours of CE.~~

~~2. Any single session covering not less than 1 hour, 40 minutes will be assigned 2 hours of CE.~~

~~3. Any single session covering not less than 50 minutes will be assigned 1 hour of CE.~~

~~4. The hours shall be based on actual instruction or program time, excluding registration time and coffee breaks, but including question and answer periods;~~

(Rule 0480-01-.12, continued)

~~5.—The total credits to be earned in any single 24-hour period cannot exceed 12;~~

~~6.—Course approval procedure for course providers—The subject matter, instructor and course provider shall have prior approval from the Board. To obtain prior approval the course provider must have delivered to the Board Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, documentation which includes all of the following items which must be resubmitted if changes are made after receipt of approval from the Board:~~

~~(i) a course content description or outline.~~

~~(ii) names of all lecturers.~~

~~(iii) brief resume of all lecturers.~~

~~(iv) number of hours of educational credit requested.~~

~~(v) dates, locations and hours of course.~~

~~(vi) copies of materials to be utilized in the course.~~

~~(vii) how verification of continuous attendance is to be documented.~~

~~(viii) how notification to every Tennessee-licensed dispensing optician is to be accomplished.~~

~~(ix) documentation to the Board's satisfaction that the course content has applied for approval in the last twelve (12) months or has received approval from either the American Board of Opticianry or the National~~

(Rule 0480-01-.12, continued)

~~Contact Lens Examiners. In the event that the American Board of Opticianry or the National Contact Lens Examiners fails to give approval to the course content the Board may review the course content and at its discretion, approve or deny the course. Approval or denial from the American Board of Opticianry or the National Contact Lens Examiners does not mean that the course content has automatically been approved or denied by the Board.~~

~~(e) Under no circumstances shall continuing education courses be approved if the materials required by subparts (2) (d) 6. (i) – (ix) are not received at least thirty (30) days prior to a regularly scheduled meeting of the Board at which approval is sought that precedes the course.~~

~~(f) Notwithstanding the provisions of subparagraph (a), out of state continuing education providers may seek course approval if they are a dispensing optician regulatory agency or association from a state that borders Tennessee.~~

~~(g) Course approval procedure for individual licensees~~

~~1. Notwithstanding the provisions of subparagraph (a), any licensee may seek approval to receive credit for successfully completing continuing education courses by complying with the provisions of part (2) (d) 6., subparts (2) (d) 6. (i) through (vii) and subpart (2) (d) 6. (ix).~~

~~2. To retain course approval, the licensee must submit a course evaluation form, supplied by the Board, to the Board's administrative office within thirty (30) days after successfully completing the course.~~

(2) Acceptable Continuing Education – Traditional Formats

(a) The following organizations and entities are authorized to present, sponsor, or approve continuing education courses, events, and activities related to the practice of Opticianry and need no prior authorization or approval from the Board.

1. American Board of Opticianry (ABO).
2. National Contact Lens Examiners (NCLE).
3. Tennessee Dispensing Opticians Association (TDOA).

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(Rule 0480-01-.12, continued)

- (b) The Board will accept any other Dispensing Optician clinic, workshop, seminar or lecture attended in Tennessee or attended at any national or regional meeting not in Tennessee for continuing education (CE) credit if it is in accordance with the following guidelines:
1. The subject matter must fall within the limit of subjects approved by the Board.
 2. Registrants, instructors, and panelists will be eligible for credit.
 3. CE will be awarded on the following basis:
 - (i) Any single session covering not less than 2-1/2 hours will be assigned 3 hours of CE.
 - (ii) Any single session covering not less than 1 hour, 40 minutes will be assigned 2 hours of CE.
 - (iii) Any single session covering not less than 50 minutes will be assigned 1 hour of CE.
 - (iv) The hours shall be based on actual instruction or program time, excluding registration time and coffee breaks, but including question and answer periods.
 - (v) The total credits to be earned in any single 24-hour period cannot exceed 12.
 4. Course approval procedure for course providers – The subject matter, instructor, and course provider shall have prior approval from the Board. To obtain prior approval, the course provider must have delivered to the Board administrative office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, documentation which includes all of the following items which must be resubmitted if changes are made after receipt of approval from the Board:
 - (i) a course content description or outline;
 - (ii) names of all lecturers;
 - (iii) brief resume of all lecturers;
 - (iv) number of hours of educational credit requested;
 - (v) dates, locations, and hours of course;
 - (vi) copies of materials to be utilized in the course;
 - (vii) how verification of continuous attendance is to be documented; and
 - (viii) how notification to every Tennessee licensed Dispensing Optician is to be accomplished.
 5. Under no circumstances shall continuing education courses be approved if the

(Rule 0480-01-.12, continued)

materials required by part 4 of this subparagraph are not received at least thirty (30) days prior to a regularly scheduled meeting of the Board at which approval is sought that precedes the course.

6. Notwithstanding the provisions of subparagraph (2)(a), out-of-state continuing education providers may seek course approval if they are a dispensing optician regulatory agency or association from a state that borders Tennessee.

7. Notwithstanding the provisions of subparagraph (2)(a), any licensee may seek approval to receive credit for successfully completing continuing education courses by submitting the documentation required in subparts (2)(b)4(i) through (vi) and part (2)(b)5.

(3) Acceptable Continuing Education - Multi-Media Formats

(a) The Board will accept no more than two (2) hours of the annual requirement as provided in subparagraph (1) (a) in Multi-Media formats for continuing education (CE) credit if it is in accordance with the following guidelines:

1. Under no circumstances shall Multi-Media format continuing education courses be approved for course providers or awarded CE credit for individual licensees if the materials required by subparagraphs (3) (b) or (3) (c) are not received at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes any licensee's successful completion of the course.

2. The number of CE hours awarded for any course shall be determined by the Board during the course approval procedure as provided in subparagraphs (3) (b) or (3) (c).

3. The licensee must successfully complete a written post-course examination to evaluate material retention.

~~(b) Course approval procedure for course providers—The subject matter, instructor/author and course provider shall have prior approval from the Board. To obtain prior approval the course provider must have delivered to the Board Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes any licensee's successful completion of the course,~~

(Rule 0480-01-.12, continued)

documentation which includes all of the following items which must be resubmitted if changes are made after receipt of approval from the Board:

1. a course content description or outline.
2. names of all lecturers/authors.
3. brief resume of all lecturers/authors.
4. number of hours of educational credit requested.
5. copies of materials to be utilized in the course.
6. how verification of successful course completion is to be documented.
7. how notification to every Tennessee licensed dispensing optician is to be accomplished.
8. documentation to the Board's satisfaction that the course content has applied for approval in the last twelve (12) months or has received approval from either the American Board of Opticianry or the National Contact Lens Examiners. In the event that the American Board of Opticianry or the National Contact Lens Examiners fails to give approval to the course content the Board may review the course content and at its discretion, approve or deny the course. Approval or denial from the American Board of Opticianry or the National Contact Lens Examiners does not mean that the course content has automatically been approved or denied by the Board.

(c) Course approval procedure for individual licensees—Any licensee may seek approval to receive credit for successfully completing Multi-media format continuing education courses by submitting the documentation required in parts (3) (b) 1. through 5. and part (3) (b) 8.

(Rule 0480-01-.12, continued)

(b) Course approval procedure for individual licensees - Any licensee may seek approval to receive credit for successfully completing multi-media format continuing education courses by submitting the documentation required in parts (2)(b)4 and (2)(b)5.

~~(c)~~ Multi-Media courses may include courses utilizing:

1. The Internet
2. Interactive Teleconferencing
3. Interactive Videoconferencing

(4) Violations

(a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can-not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.

(b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.

(c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.

~~(d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (3) (b) above may be subject to disciplinary action.~~

(d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (b) of this paragraph may be subject to disciplinary action.

(Rule 0480-01-.12, continued)

(e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

(5) Continuing Education for Reactivation of License

(a) For Reactivation of retired licensure

1. An individual whose license has been retired for three (3) years or less will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reinstatement. Those hours will be considered replacement hours and cannot be counted during the next licensure renewal period. An individual whose license has been retired for more than three (3) years shall apply, take and pass the examinations as required by the Board, pursuant to Rule 0480-01-.08, prior to being considered for reinstatement.

2. Any individual requesting reactivation of a license which has been retired must submit along with the reactivation request, verification which indicates the attendance and completion of hours of continuing education which must have been begun and successfully completed within 6 months immediately preceding the date of requested reinstatement. The continuing education hours completed to reinstate a retired license shall not be credited toward the continuing education hours required to be completed by the end of the calendar year following reinstatement.

3. The Board, upon receipt of a written request and explanation, may waive or condition any or all of the continuing education required for reactivation of a retired certificate or license in emergency situations.

(b) For reactivation of revoked licensure - No person whose license has been revoked for failure to comply with continuing education may be reinstated without complying with the requirements. Continuing education will accumulate at the same rate as for those licenses which are active. The required clock hours of continuing education must have been begun and successfully completed within six (6) months immediately following the date of revocation or suspension. A license which has been

(Rule 0480-01-.12, continued)

revoked for noncompliance with the CE requirements shall also be subject to the renewal late fee pursuant to rule 0480-01-.06.

(c) For reactivation of expired licensure - No person whose license has expired may be reinstated without submitting evidence of continuing education. The continuing education hours documented at the time of reinstatement must equal the hours required, had the license remained in an active status, and must have been successfully completed within six (6) months immediately preceding the date of reinstatement.

(d) Continuing education hours obtained as a prerequisite for reactivating a license may not be counted toward the calendar year requirement.

(6) Waiver of Continuing Education

(a) The Board may grant a waiver to certify attendance and completion of the required hours of continuing education, if it can be shown to the Board that the failure to comply was not attributable to or was beyond the physical capabilities of the individual, i.e., disability, residence abroad, military service, or other instances of undue hardship. Such requests for waiver must be accompanied by written documentation acceptable to the Board.

(b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the Board administrative office.

1. A written request for a waiver which specifies what requirement is sought to be waived and a written and signed explanation of the reasons for the request.
2. Any documentation which supports the reason for the waiver requested or which may be subsequently requested by the board.

(c) A waiver approved by the Board is effective for only the calendar year for which the waiver of the requirement is sought, unless otherwise specified in writing by the Board.

(Rule 0480-01-.12, continued)

Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 63-1-107~~, 63-14-101, 63-14-103, 63-14-104, 63-14-106, 63-14-107, and 63-14-111. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed August 7, 1997; effective October 27, 1997. Amendment filed February 10, 2000; effective April 25, 2000. Amendment filed April 26, 2002; effective July 10, 2002. Amendment filed May 6, 2002; effective July 20, 2002. Amendment filed May 12, 2003; effective July 26, 2003. Amendment filed October 12, 2004; effective December 26, 2004. Amendment filed October 18, 2005; effective January 1, 2006. Amendment filed April 1, 2015; effective June 30, 2015. Amendment filed September 11, 2015; effective December 10, 2015.

0480-01-.13 CODE OF ETHICS.

- (1) The following code of ethics shall govern the conduct of licensed dispensing opticians in the practice of opticianry.
 - (a) Keep the visual welfare of the consumer upper-most at all times.
 - (b) Promote in every possible way the better care of the visual needs of the citizens of this state.
 - (c) Continuously enhance their educational and technical proficiency so that their customers shall receive the benefits of all knowledge and improvements in visual care.
 - (d) Insure that no person shall lack the necessary information on visual care regardless of the financial status of the person.
 - (e) Conduct themselves as an exemplary citizen.
 - (f) Maintain and promote cordial and useful mutual relationships between ophthalmic dispensers and other allied health professions for the interchange of information for the advantage of mankind.
- (2) Immoral, unprofessional, or dishonorable conduct shall include, but shall not be limited to, the following:

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(Rule 0480-01-.13, continued)

- (a) The performance of any unethical conduct designed to, or likely to, deceive, defraud, or harm the public.
- (b) Being a party to or aiding and abetting the violation of these regulations or the laws of the State of Tennessee regulating the practice of dispensing opticianry.
- (c) The intentional or negligent use of any false, fraudulent, or forged statement, writing or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice in connection with any of the licensing requirements of T.C.A. §§ 63-14-101, et. seq.
- (d) The use of untruthful or improbable statements of flamboyant or extravagant claims concerning one's professional excellence or abilities, or the use of untruthful or improbable statements to deceive the public or which are injurious or harmful to public safety.
- (e) Engaging, conspiring, aiding or abetting, directly or indirectly, in any form, in rebating or referral fees to any persons, associations, partnerships, or corporations.
- (f) Engaging in the diagnosis of the human eyes or attempting to determine the refractive powers of the human eyes or attempting to prescribe for or treat diseases or ailments of the human eyes.
- (g) Displaying any refracting equipment that may tend to mislead the public into believing that eye examinations are being made on the premises in connection with optical dispensing.
- (h) Failing to directly supervise and control an "apprentice dispensing optician" or "student dispensing optician" in performing any of the services which an apprentice or student is allowed to do under the provisions of T.C.A. § 63-14-103.
- (i) Procuring or attempting to procure state licensure for any other person by making, or causing to be made, any false misrepresentation, fraud or deception.
- (j) Conviction of any crime involving moral turpitude or any crime relating adversely on the practice of opticianry for the purpose of this rule.

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(Rule 0480-01-.13, continued)

(k) Failure to comply with any order issued by a state or federal court, by a state licensing body, or failure to comply with any written agreement entered into with any state licensing board regarding the practice of opticianry.

(l) Failure to cooperate with the investigation of a disciplinary matter involving any dispensing optician license.

(m) Engaging in any intimidation, coercion or deception, to obtain or retain a customer, or to discourage the customer from obtaining a second opinion.

(n) Engaging in gross or repeated acts of negligence, malpractice or incompetence.

(o) Engaging in fraud, deception, misrepresentation, false promise or false pretense in the practice of opticianry.

(p) Fraudulently altering patient/customer records.

(q) Practicing opticianry while the ability to practice is impaired by alcohol, drugs, physical disability or mental disability.

(r) Abuse of a consumer or sexual misconduct with a consumer.

(s) Knowingly engaging in a practice involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public safety.

(t) Refusing to provide goods or services to a person because of such person's race, creed, color, or national origin.

(Rule 0480-01-.13, continued)

(u) Preparing, adapting or dispensing lenses, spectacles, eye glasses, or optical devices that are not of good workmanship or do not meet the standards set out in the American National Standard for Ophthalmics - Prescription Ophthalmic Lenses - Recommendations (ANSI Z-80.1-1987 edition).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-101, 63-14-101, 63-14-102, 63-14-103, 63-14-104, and 63-14-111. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995.

0480-01-.14 APPRENTICESHIP TRAINING PROGRAM.

(1) Any person wishing to practice the profession of dispensing opticianry and who intends to fulfill the education and training requirements via the apprenticeship provision shall make application to and register with the Board pursuant to T.C.A. § 63-14-103(a)(1) and (f).

~~(a) The apprentice shall designate, in the application, a supervising dispensing optician, optometrist or ophthalmologist, and an alternate supervisor. The Board administrator shall notify the apprentice when the supervisor, alternate supervisor, training program, and training setting have been approved.~~

(a) The apprentice applicant shall designate, in the application, a Sponsoring Supervisor. The Board administrator shall notify the apprentice when the sponsoring supervisor, training program, and training setting have been approved.

~~(b) The Board administrator shall notify the apprentice of the training program start date.~~

(b) The Board administrator shall notify the apprenticeship applicant of the apprenticeship training program start date. Apprenticeship hours cannot begin and will not be counted until notification from the Board's administrator.

~~(c) Except as provided in Rule 0480-01-.04(3), only training that occurs on or after the training program start date shall be counted towards meeting the three (3) year minimum requirement.~~

(c) Except as provided in Rule 0480-01-.04(4), only training that occurs on or after the training program start date shall be counted towards meeting the three (3) year minimum requirement.

(0480-01-.14, continued)

(d) The apprenticeship applicant shall cause to be submitted to the Board administrative office directly from the vendor identified in the Board's application materials, the result of a criminal background check. Pursuant to T.C.A. § 63-1-130, a person who applies for the apprenticeship training program who has a criminal conviction that directly relates to the occupation of an Apprentice or a Dispensing Optician may be denied. An applicant may be required to appear before the Board to provide details of the conviction prior to the Board granting approval into the apprenticeship program.

~~(2) Apprenticeship training must be supervised by a dispensing optician, optometrist, or ophthalmologist who has been licensed in Tennessee or another state and whose license to practice in Tennessee is current, undisciplined and unrestricted.~~

(2) Apprenticeship training programs must be conducted under Sponsoring Supervision.

~~(a) The supervisor shall work at the premises where the apprenticeship training is conducted.~~

(a) The Sponsoring Supervisor shall work on the premises where the Apprentice is assigned.

~~(b) The supervisor shall provide direct supervision at all times in accordance with T.C.A. § 63-14-103(a) and (f) and rule 0480-01-.01(8).~~

(b) The Sponsoring Supervisor shall provide Sponsoring Supervision at all times in accordance with T.C.A. § 63-14-103(a) and (f) and rule 0480-01-.01(25), unless the Apprentice is temporarily under the Direct Supervision of a non-sponsoring Supervisor as defined in rule 0480-01-.01(27).

~~(3) Changes in the information provided in the original apprentice application shall be reported to the Board in writing within 30 days of such change.~~

(3) Changes in any of the information provided in the Apprentice's application, including the Sponsoring Supervisor of an Apprentice, shall be reported to the Board in writing within 30 days of such change.

(4) Length of Training Program - Pursuant to T.C.A. § 63-14-103(a)(1), the period of apprenticeship training shall be not less than -three (3) years and no more than six (6) years and must include a total of five thousand two hundred and fifty (5250) hours of full time or part time education and training under

(0480-01-.14, continued)

qualified supervision. If the apprenticeship is not completed within a maximum of six (6) years, the applicant shall be required to start the apprenticeship program from the beginning.

(a) Full Time - Full time work is defined as fifty (50) weeks of at least thirty-five (35) hours per week or one thousand, seven hundred and fifty (1,750) hours per year.

(b) Part Time - Any part time work must be at least five hundred (500) hours per year to count toward the five thousand two hundred and fifty (5,250) hour requirement.

(c) Optical Laboratory Work - No more than one (1) year / one thousand seven hundred and fifty (1,750) hours of credit will be allowed for experience obtained in an optical laboratory under supervision of a licensed eye care professional.

(d) Rescinding of Approval of Training Program

1. The Board may rescind its approval of any apprenticeship training program if it determines that the facilities and equipment available to the apprentice are not adequate or when the apprentice is not being properly trained or supervised.

~~2. The Board may rescind its approval of any apprenticeship training program if it determines that the apprentice is not actively pursuing licensure including, but not limited to, working less than one thousand (1000) hours per year as provided in subparagraph (4) (b), and failing to file semi-annual evaluation reports in a timely manner as provided in subparagraph (5) (c).~~

2. The Board may rescind its approval of any apprenticeship training program if it determines that the Apprentice is not actively pursuing licensure including, but not limited to, working less than five hundred (500) hours per year as provided in subparagraph (4)(b), and failing to file semi-annual evaluation reports in a timely manner as provided in subparagraph (5)(c).

3. If the Board rescinds its approval of an apprenticeship training program, the apprentice may no longer work or train as a dispensing optician. To continue training, the apprentice must apply to the Board and register for a new apprenticeship training program and must begin a new three (3) year / five

(0480-01-.14, continued)

thousand two hundred and fifty (5250) hour apprenticeship as provided in this rule.

~~(5) — Supervision~~

~~(a) — Limitations~~

~~1. — A licensed dispensing optician may supervise no more than two (2) apprentices concurrently.~~

~~2. — A licensed dispensing optician may provide supervision in the temporary and impermanent absence (a.k.a. alternate supervision) of the supervising licensee to one (1) of the two (2) apprentices being supervised concurrently.~~

~~3. — The Board will disallow the apprenticeship training of an apprentice whose supervisor is supervising more than two (2) apprentices concurrently. Such training shall not be considered as time toward fulfilling the five thousand, two hundred and fifty (5,250) hour requirement.~~

~~(b) — The apprentice shall function under the direct supervision of a sponsoring/designated licensed supervisor who must be working in the same premises where the apprenticeship training is conducted and must be present at all times (T.C.A. § 63-14-103).~~

~~(c) — The filing of semi-annual evaluation reports for each apprentice under the direct supervision of a licensed eye care professional is mandatory. The appropriate form will be supplied by the Board and shall be notarized before submission. Semi-annual evaluation periods begin 6 months from initial registration and each 6 months thereafter until licensure as a dispensing optician has been achieved.~~

~~1. — The semi-annual evaluation report must be received in the Board's administrative office no later than thirty (30) days after the six (6) month training period has ended or the training period shall be disallowed and not considered as time toward fulfilling the five thousand, two hundred and fifty (5,250) hour requirement.~~

(0480-01-.14, continued)

~~2. If two (2) semi-annual evaluation reports are not received by the Board's administrative office within thirty (30) days after the applicable training periods have ended, the Board will rescind its approval of the apprenticeship training program. The apprentice will not receive credit for the two (2) training periods for which the semi-annual evaluation reports were not submitted or were received by the Board's administrative office later than thirty (30) days after the applicable training period. In order to continue the apprenticeship training program, a new application for an apprenticeship training program must be submitted.~~

(5) Sponsoring Supervisors, Supervisors, and Supervision

(a) Limitations

1. A Sponsoring Supervisor may provide Sponsoring Supervision for no more than two (2) Apprentices concurrently.
 2. If a Supervisor, at the Supervisor's discretion, is providing temporary Direct Supervision for more than four (4) Apprentices concurrently, no more than four (4) of the Apprentices under that Supervisor's Direct Supervision shall receive credit for those hours.
- (b) The Apprentice shall function under the supervision of a licensed supervisor who must be working in the same premises where the apprenticeship training program is conducted and must be present at all times (T.C.A. § 63-14-103).
- (c) The filing of semi-annual evaluation reports for each Apprentice of a Sponsoring Supervisor is mandatory. Such reports shall be completed by an Apprentice's Sponsoring Supervisor, based on that Sponsoring Supervisor's review and approval of all work performed by the Apprentice while practicing under the Sponsoring Supervision. The Apprentice is responsible for filing the semi-annual reports to the Board administrative office. The appropriate form will be supplied by the Board and shall be notarized before filing. Semi-annual evaluation periods begin six (6) months from initial registration and each six (6) months thereafter until licensure as a Dispensing Optician has been achieved.
1. The semi-annual evaluation report must be received in the Board administrative office no later than thirty (30) days after the six (6) month training period has ended or the training period shall be disallowed and not considered as time toward fulfilling the five thousand, two hundred and fifty (5,250) hour requirement.
 2. If two (2) semi-annual evaluation reports are not received by the Board administrative office within thirty (30) days after the applicable training periods have ended, the Board will rescind its approval of the apprenticeship training program. The Apprentice will not receive credit for the two (2) training periods for which the semi-annual evaluation reports were not submitted or were received by the Board administrative office later than thirty (30) days after the applicable

(0480-01-.14, continued)

training period. In order to continue the apprenticeship training program, a new application for an apprenticeship training program must be submitted.

(d) Hardship Waiver

1. The Board may in its discretion grant a waiver for the filing of semi-annual evaluation reports required in (5)(c) if it can be shown to the Board that the failure to comply was not attributable to, or was beyond the physical capabilities of, the individual, i.e.: disability, residence abroad, military service, or other instances of undue hardship. Such requests for waiver must be accompanied by written documentation acceptable to the Board.
2. Waivers will be considered only on an individual basis and may be requested by submitting the following items to the Board administrative office.
 - (i) A written request for a waiver which specifies what is sought to be waived and a written and signed explanation of the reasons for the request.
 - (ii) Any documentation which supports the reason for the waiver request or which may be subsequently requested by the Board.
 - (iii) A waiver may be granted for no longer than twelve (12) months (two (2) semi-annual reports.)
3. A waiver approved by the Board is effective for only the semi-annual evaluation reports requested in writing pursuant to subparagraphs (5)(d), unless otherwise specified in writing by the Board.

(6) The Apprenticeship Registration does not permit or empower the apprentice to practice as a Dispensing Optician during the absence of the sponsoring/designated licensed supervisor under whose supervision he or she is registered.

(a) Apprentice training for spectacle dispensing must include, but is not limited to the following subjects:

1. Optical Terminology
2. Anatomy of the Eye
3. Physiology of the Eye

(0480-01-.14, continued)

4. Optical Concepts, Light Theory
5. Lens power (Meridians of Power)
6. Lens Form and Analysis, Transposition
7. Base Curve, Radius of Curvature
8. Prism and its Effect
9. Lens Types and Materials
10. Frame Styles, Sizes and Materials
11. Instrumentation
12. Prescription Analysis
13. Fitting of Eyewear
14. Ordering of Eyewear
15. Verification of Parameters
16. Bench Adjustment
17. Final Personal Adjustment/Alignment

(0480-01-.14, continued)

18. Delivery Procedures

19. Laboratory Procedures:
 - (i) Blank Size

 - (ii) Patterns

 - (iii) Layout

 - (iv) Blocking

 - (v) Edging

 - (vi) Deblocking

 - (vii) Hand Edging

 - (viii) Grooving

 - (ix) Coatings

 - (x) Filters

 - (xi) Tints

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(0480-01-.14, continued)

- (xii) Engraving
 - (xiii) Heat and Chemical Treating
 - (xiv) Testing for Impact Resistance
 - (xv) Mounting
 - (xvi) Alignment
 - (xvii) Inspection
 - (xviii) Verification
- 20. Repair, Replacement, Realignment
 - 21. Subnormal Vision Aids
 - 22. Inventory Management
 - 23. Industry Standards (Z80 ANSI Standards)
 - 24. State and Federal Laws
 - 25. Physician/Technician Protocol and Relationships
 - 26. Other Related Concepts:

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(0480-01-.14, continued)

- (i) Basic Mathematics and Science
- (ii) Public Relations
- (iii) Sales
- (iv) Accounting
- (v) Management

(b) Apprenticeship training for contact lens dispensing must include, but is not limited to, these subjects:

1. Optical and Contact Lens Terminology
2. History of Contact Lens
3. Anatomy of the Eye:
 - (i) Structure of the Cornea
 - (ii) Topography
4. Physiology of the Eye:
 - (i) Conditions

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(0480-01-.14, continued)

- (ii) Lens/Corneal Relationship
 - (iii) Lacrimal System/Function
 - (iv) Eyelid/Lens Relationship
5. Pathology of the Eye:
- (i) Conditions
 - (ii) Diseases
6. Chemistry:
- (i) Lens Materials
 - (I) Wettability
 - (II) Permeability
 - (ii) Solutions
 - (iii) Cosmetics
 - (iv) Medications
7. Basic Science and Fitting of Contact Lens

(0480-01-.14, continued)

8. Contact Lens Optics and Application:

- (i) Keratometry
- (ii) Reflection
- (iii) Refraction
- (iv) Prism
- (v) Aberration
- (vi) Magnification
- (vii) Radius of Curvature
- (viii) Diameter
- (ix) Optical Zone
- (x) Vault (Sagittal Depth)
- (xi) Index of Refraction
- (xii) Vertex Distance

(0480-01-.14, continued)

9. Hygienic Conditions and Practice

10. Equipment and Instrumentation:

(i) Keratometer

(ii) Biomicroscope (Slit Lamp)

(I) Methods of Illumination - Use of Fluorescein

(II) Burton Lamp

(III) Vertometer (Lensometer)

(IV) Radiuscope

(V) Diameter and Thickness Gauge

(VI) Calipers

(VII) Millimeter Rule

(VIII) 7x or 8x Magnifier

(IX) Diopter to Millimeter Conversion Table

(X) Vertex Conversion Table

(0480-01-.14, continued)

(XI) Light Source

(XII) Cleaning and Sterilization Equipment

11. Lens Design
12. Fitting Methodology and Theory
13. Indications for Use
14. Contraindications for Use
15. Follow-up Procedures:
 - (i) Subjective and Objective Findings
 - (ii) Modification/Adjustment Techniques
16. Complications - Recognition and Referral of Conditions Requiring Medical Attention
17. Inventory Management
18. Industry Standards (Z80 ANSI Standards)
19. State and Federal Laws

(0480-01-.14, continued)

20. Physician/Technician Protocol and Responsibilities

21. Other Related Concepts:

(i) Basic Mathematics and Science

(ii) Public Relations

(iii) Sales

(iv) Accounting

(v) Management

(c) It is recommended the work place where the apprenticeship training is taking place have the following minimum equipment:

1. For spectacle dispensing:

~~(i) One (1) fitting table with two (2) chairs or two (2) stools~~

(i) One (1) fitting table with two (2) chairs or two (2) stools

(ii) One (1) mirror

(iii) One (1) set of hand tools, including but not limited to, assorted anvils, files, pliers, reamers, screwdrivers, taps and wrenches

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- (iv) One (1) frame warmer
- (v) One (1) Lensometer or Vertometer
- (vi) One (1) Pupilometer or other P.D. gauge
- (vii) One (1) set of calipers or other thickness gauge
- (viii) One (1) clock or lens measure
- (ix) One (1) penlight
- (x) Handstone or other edging equipment to shape lenses
- (xi) Polishing and buffing wheel/lathe
- (xii) 7 inch rulers marked in millimeters
- (xiii) Polariscope
- (xiv) Coating Unit
- (xv) Dye Facilities
- (xvi) Groover
- (xvii) One hundred fifty (150) sample frames

(0480-01-.14, continued)

(xviii) Current copy of Z-80 ANSI standards of eyewear

(xix) Current copies of Tennessee Law and Rules and Regulations governing dispensing of vision correction devices

2. For contact lens dispensing:

(i) Slit Lamp

(ii) Keratometer or Ophthalmometer

(iii) Topogometer

(iv) Burton Lamp

(v) Calipers

(vi) Millimeter rule

(vii) Lensometer/Lensmeter

(viii) Radiuscope

(ix) Diameter Gauge

(x) Thickness Gauge

(0480-01-.14, continued)

- (xi) Hand-held 7x or 8x magnifier reticle with millimeter rule
- (xii) Modification Tools
- (xiii) Cleaning and Sterilization Equipment
- (xiv) Vertex Conversion Tables
- (xv) Diopters to Millimeters Conversion Tables.
- (xvi) Current copies of Z-80 ANSI standards
- (xvii) Current copies of Tennessee Law and Rules and Regulations governing dispensing of Contact Lenses

Authority: T.C.A. §§ ~~4-5-202, 4-5-204~~, 63-14-101, and 63-14-103. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed June 2, 2004; effective August 16, 2004. Amendment filed October 18, 2005; effective January 1, 2006. Amendment filed April 11, 2007; effective June 25, 2007. Amendment filed March 27, 2009; effective June 10, 2009. Amendments filed April 1, 2015; effective June 30, 2015.

0480-01-.15 DISCIPLINARY ACTIONS AND CIVIL PENALTIES.

(1) Upon a finding by the Board that a licensed dispensing optician or apprentice dispensing optician has violated any provision of the T.C.A. §§ 63-14-101, et. seq., or these rules, the Board may impose any of the following actions separately or in any combination which is deemed appropriate to the offense.

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(Rule 0480-01-.15, continued)

- (a) **Advisory Censure** - This is a written action issued to the licensed dispensing optician or apprentice dispensing optician for minor infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.

- (b) **Formal Censure or Reprimand** - This is a written action issued to a licensed dispensing optician or apprentice dispensing optician for one time and less severe violations. It is a formal disciplinary action.

- (c) **Probation** - This is a formal disciplinary action which places a licensed dispensing optician or apprentice dispensing optician on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and may restrict the individual's activities during the probationary period.

- (d) **Licensure Suspension** - This is a formal disciplinary action which suspends an individual's right to practice for a fixed period of time. It contemplates the re-entry of the individual into the practice under the license previously issued.

- (e) **Licensure Revocation** - This is the most severe form of disciplinary action which removes an individual from the profession and terminates the license previously issued. If revoked, it relegates the violator to the status he possessed prior to application for licensure. However, the Board may in its discretion allow the reinstatement of a revoked license upon conditions and after a period of time it deems appropriate. No petition for reinstatement and no new application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one year unless otherwise stated in the Board's Revocation Order.

- (f) **Conditions** - Any action deemed appropriate by the board to be required of an individual disciplined during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension or the reinstatement of a revoked license.

- (g) **Civil penalty** - A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.

- (h) Once ordered, probation, suspension, revocation, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation,

(Rule 0480-01-.15, continued)

suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties assessed have been paid.

(2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.

(a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:

1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:

- (i) A copy of the previously issued order; and

(Rule 0480-01-.15, continued)

(ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and

(iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

(i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or

(ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a

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(Rule 0480-01-.15, continued)

declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance

Board of Dispensing Opticians

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's E-Mail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

Attorney's Mailing Address: _____

Attorney's E-Mail Address: _____

Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or

(Rule 0480-01-.15, continued)

2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board’s consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the day of , 20 .

Petitioner’s Signature

(3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

(a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the

(Rule 0480-01-.15, continued)

petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:

(i) A copy of the previously issued order; and

(ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and

(iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

(i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or

(ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and

(Rule 0480-01-.15, continued)

notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification

Board of Dispensing Opticians

Petitioner's Name: _____

Petitioner's Mailing Address: _____

Petitioner's E-Mail Address: _____

Telephone Number: _____

Attorney for Petitioner: _____

(Rule 0480-01-.15, continued)

Attorney's Mailing Address: _____

Attorney's E-Mail Address: _____

Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____.

Petitioner's Signature

(Rule 0480-01-.15, continued)

(a) Purpose - The purpose of this is to set out a schedule designating the minimum and maximum Civil Penalties which may be assessed pursuant to T.C.A. § 63-1-134.

(b) Schedule of Civil Penalties

1. A Type A Civil Penalty may be imposed whenever the board finds a person who is required to be licensed, certified, permitted, or authorized by the board to be guilty of a willful and knowing violation of the Practice Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual consumer or the public. For the purpose of this section, willfully and knowingly practicing optical dispensing without a permit, license, certification, or other authorization from the Board is one of the violations of the Dispensing Optician Practice Act for which a Type A Civil Penalty is assessable.

2. A Type B Civil Penalty may be imposed whenever the board finds the person required to be licensed, certified, permitted, or authorized by the Board is guilty of a violation of the Dispensing Optician Practice Act or regulations promulgated pursuant thereto in such manner as to impact directly on the care of consumers or the public.

3. A Type C Civil Penalty may be imposed whenever the board finds the person required to be licensed, certified, permitted, or authorized by the Board is guilty of a violation of the Dispensing Optician Practice Act or regulations promulgated pursuant thereto, which are neither directly detrimental to the consumers or public, nor directly impact their care, but have only indirect relationship to consumer care or the public.

(c) Amount of Civil Penalties

1. Type A Civil Penalties shall be assessed in the amount of not less than \$500 or more than \$1,000.

(Rule 0480-01-.15, continued)

2. Type B Civil Penalties may be assessed in the amount of not less than \$100 and not more than \$500.

3. Type C Civil Penalties may be assessed in the amount of not less than \$50 and not more than \$100.

(d) Procedures for Assessing Civil Penalties

1. The Division of Health Related Boards may initiate a Civil Penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty, and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.

2. Civil Penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of Civil Penalty which was not recommended by the Division.

3. In assessing the Civil Penalties pursuant to these rules the board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;

 - (ii) The circumstances leading to the violation;

 - (iii) The severity of the violation and the risk of harm to the public;

 - (iv) The economic benefits gained by the violator as a result of non-compliance; and

(Rule 0480-01-.15, continued)

(v) The interest of the public.

4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of Title 4, Chapter 5, Tennessee Code Annotated.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-122, 63-14-101, 63-14-110, and 63-14-111. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed July 27, 2000; effective October 10, 2000. Amendment filed August 23, 2004; effective November 6, 2004.

0480-01-.16 LICENSE.

(1) Issuance - A license fee pursuant to rule 0480-01-.06 must be paid prior to issuance of the license. Upon receipt of written notification that the applicant has met all the requirements as set forth in T.C.A. §§ 63-14-101, et seq., and these rules the applicant must pay the fee before a license can be issued. The license fee must be paid on or before the 30th day from receipt of the notification.

(2) Display of License - Every person licensed as a dispensing optician shall display his license in a conspicuous place in the office or place of business where/when working and, whenever required, exhibit such license to the board or its authorized representative.

~~(3) Duplicate License - A license holder whose "artistically designed" document has been lost or destroyed may be issued a new document upon receipt of a written request in the Board's administrative office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original license and the required fee pursuant to Rule 0480-01-.06.~~

(3) Duplicate License - A licensee whose "artistically designed" License document, as described in Rule 0480-01-.01(17), has been lost or destroyed may be issued a new document upon receipt of a written request in the Board administrative office and payment of the required Fee pursuant to Rule 0480-01-.06(1)(c).

(4) Identification

GENERAL RULES GOVERNING DISPENSING OPTICIANS CHAPTER 0480-01

(Rule 0480-01-.16, continued)

(a) All licensed dispensing opticians shall be required to wear an identification badge indicating his/her name, photograph, and Tennessee license number.

(b) An apprentice shall be required to wear an identification badge indicating his/her name and Tennessee file number.

(c) The Board shall send each licensee and apprentice an identification badge with lamination instructions. Licensees will also receive photograph requirements.

~~(d) If the identification badge is lost, a notarized statement requesting a duplicate must be submitted to the Board's administrative office and accompanied with the appropriate fee as stated in Rule 0480-01-.06(1)(c).~~

(d) If a licensee's identification badge is lost, a statement requesting a duplicate must be submitted to the Board administrative office and payment of the required Fee pursuant to Rule 0480-01-.06(1)(c).

Authority: T.C.A. §§ ~~4-5-202, 4-5-204~~, 63-1-101, 63-1-106, 63-14-101, and 63-14-103. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed February 6, 1998; effective April 22, 1998.

0480-1-.17 CHANGE OF ADDRESS AND/OR NAME.

(1) Change of Address - Each person registered with the Division and licensed by the Board who has had a change of address shall file in writing with the Board his new home address and/or mailing address, within 30 days after such change has occurred and must reference the individual's name, profession, and license number.

~~(2) Change of Name - Individuals registered with the Board shall notify the board in writing within 30 days of a name change. A request for name change must reference the individual's profession and license number and previous name.~~

(2) Change of Name - Individuals registered with the Board shall notify the Board in writing within thirty (30) days of a name change. An original or notarized photocopy of a document showing the name change must accompany the request. A request for name change must reference the individual's profession and License number and previous name.

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Authority: T.C.A. §§ ~~4-5-202~~, 63-1-101, 63-1-106, 63-14-101, and 63-14-109. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995.

0480-01-.18 MANDATORY RELEASE OF CLIENT RECORDS.

- (1) Upon request from a client or the client's authorized representative, licensees shall provide a complete copy of the client's records or summary of such records which were maintained by the licensee.
- (2) It shall be the licensee's option as to whether copies of the records or a summary will be given to the client.
- (3) Requests for records shall be honored by the licensee in a timely manner.
- (4) The individual requesting the records shall be responsible for payment of a reasonable fee in advance to the licensee for copying and mailing of the records.

Authority: T.C.A. §§ 4-5-202, 63-2-101, 63-2-102, and 63-14-101. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995.

0480-01-.19 BOARD MEETINGS, OFFICERS, CONSULTANTS, DECLARATORY ORDERS, AND SCREENING PANELS.

- (1) Purpose of Board - The Board is charged by law with the responsibility for governing the profession of dispensing opticianry. This includes testing the applicants, granting approval for licensure, and revoking, suspending, and renewing licenses.
- (2) The Board shall elect every second year from its membership a chairperson and a secretary who shall hold office for two years or until the election and qualification of a successor.
 - (a) Chairperson - presides at all Board meetings.

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(Rule 0480-01-.19, continued)

(b) Secretary - who along with the Board administrator shall be responsible for correspondence from the board.

(3) Board meetings

(a) The time, place, and frequency of all Board meetings shall be decided by a majority of the Board, except at least one meeting shall be held annually.

(b) A majority of the members of the Board shall at all times constitute a quorum.

(c) All meetings of the Board shall be open to the public. Notice of meetings shall conform to all applicable sunshine laws.

(4) Board Conflict of Interest - Any board member having an immediate personal, private, or financial interest in any matter pending before the Board shall disclose the fact in writing and shall not vote upon such matter.

(5) The Board has the authority to select a Board consultant who shall serve as a consultant to the Division and who is vested with the authority to do the following acts:

(a) Recommend whether and what type of disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Division.

(b) Recommend whether and what terms a complaint, case, or disciplinary action might be settled. Any matter proposed for settlement must be subsequently ratified by the full Board before it will become effective.

(c) Undertake any other matter authorized by a majority vote of the Board.

(6) Records and Complaints

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(Rule 0480-01-.19, continued)

(a) All requests, applications, notices, other communications, and correspondence shall be directed to the Board's administrator who shall forward to the board chairman. Any requests or inquiries requiring a Board decision or official Board action except documents relating to disciplinary actions or hearing requests must be received 14 days prior to a scheduled Board meeting and will be retained in the administrative office and presented to the Board at the Board meeting. Such documentation not timely received shall be set over to the next Board meeting.

(b) All records of the Board, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Division at the Board's administrative office.

(c) Copies of public records shall be provided to any person upon payment of the cost of copying.

(d) Complaints made against a practitioner become public information only upon the filing of a notice of charges by the Department of Health.

(e) All complaints should be directed to the Investigations Section of Health Related Boards.

(7) Declaratory Orders - The Board adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's administrative office.

(8) Screening Panels - The Board adopts, as if fully set out herein, Rule 1200-10-1-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.

(9) The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-04-01-.18 regarding petitions for reconsiderations and stays in that case.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-223, 4-5-224, 4-5-225, 63-1-138, and 63-14-101, 63-14-104, 63-14-111. **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995.

(Rule 0480-01-.19, continued)

Amendment filed December 14, 1999; effective February 27, 2000. Amendment filed July 27, 2000; effective October 10, 2000. Amendment filed April 11, 2007; effective June 25, 2007. Amendment filed March 27, 2009; effective June 10, 2009.

0480-01-.20 ADVERTISING.

(1) **Policy Statement.** The lack of sophistication on the part of many of the public concerning ophthalmic services, the importance of the interests affected by the choice of a dispensing optician and the foreseeable consequences of unrestricted advertising by dispensing opticians which is recognized to pose special possibilities for deception, require that special care be taken by dispensing opticians to avoid misleading the public. The dispensing optician must be mindful that the benefits of advertising depend upon its reliability and accuracy. Since advertising by dispensing opticians is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.

(2) **Definitions**

(a) **Advertisement.** Informational communication to the public in any manner designed to attract public attention to the practice of a dispensing optician who is licensed to practice in Tennessee.

(b) **Licensee** - Any person holding a license to practice as a dispensing optician in the State of Tennessee. Where applicable this shall include partnerships and/or corporations.

(c) **Material Fact** - Any fact which an ordinary reasonable and prudent person would need to know or rely upon in order to make an informed decision concerning the choice of practitioners to serve his or her particular needs.

(d) **Bait and Switch Advertising** - An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised service or merchandise, in order to sell something else, usually for a higher fee or on a basis more advantageous to the advertiser.

(Rule 0480-01-.20, continued)

(e) Discounted Fee - Shall mean a fee offered or charged by a person for a product or service that is less than the fee the person or organization usually offers or charges for the product or service. Products or services expressly offered free of charge shall not be deemed to be offered at a "discounted fee."

(3) Advertising Fees and Services

(a) Fixed Fees - Fixed fees may be advertised for any service. It is presumed unless otherwise stated in the advertisement that a fixed fee for a service shall include the cost of all professional recognized components within generally accepted standards that are required to complete the service.

(b) Range of Fees. A range of fees may be advertised for services and the advertisement must disclose the factors used in determining the actual fee, necessary to prevent deception of the public.

(c) Discount Fees. Discount fees may be advertised if:

1. The discount fee is in fact lower than the licensee's customary or usual fee charged for the service; and
2. The licensee provides the same quality and components of service and material at the discounted fee that are normally provided at the regular, non-discounted fee for that service.

(d) Related Services and Additional Fees. Related services which may be required in conjunction with the advertised services for which additional fees will be charged must be identified as such in any advertisement.

(e) Time Period of Advertised Fees.

1. Advertised fees shall be honored for those seeking the advertised services or materials during the entire time period stated in the advertisement whether

(Rule 0480-01-.20, continued)

or not the services or materials are actually rendered or completed within that time.

2. If no time period is stated in the advertisement of fees, the advertised fee shall be honored for thirty (30) days from the last date of publication or until the next scheduled publication whichever is later whether or not the services or materials are actually rendered or completed within that time.

(4) Advertising Content. The following acts or omissions in the context of advertisement by any licensee shall constitute unethical and unprofessional conduct, and subject the licensee to disciplinary action pursuant to T.C.A. § 63-14-104.

(a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed, employed, or used, or that convey the message that one licensee is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.

(b) The misleading use of an unearned or non-health degree in any advertisement.

(c) Promotion of professional services which the licensee knows or should know is beyond the licensee's ability to perform.

(d) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective client.

(e) Any appeals to an individual's anxiety in an excessive or unfair manner.

(f) The use of any personal testimonial attesting to a quality of competency of a service or treatment offered by a licensee that is not reasonably verifiable.

(g) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.

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(Rule 0480-01-.20, continued)

- (h) The communication of personal identifiable facts, data, or information about a patient without first obtaining patient consent.
- (i) Any misrepresentation of a material fact.
- (j) The knowing suppression, omission or concealment of any material fact or law without which the advertisement would be deceptive or misleading.
- (k) Statements concerning the benefits or other attributes of procedures or products that involve significant risks without including:
 - 1. A realistic assessment of the safety and efficiency of those procedures or products; and
 - 2. The availability of alternatives; and
 - 3. Where necessary to avoid deception, descriptions or assessment of the benefits or other attributes of those alternatives.
- (l) Any communication which creates an unjustified expectation concerning the potential results of any treatment.
- (m) Failure to comply with the rules governing advertisement of fees and services, or advertising records.
- (n) The use of "bait and switch" advertisements. Where the circumstances indicate "bait and switch" advertising, the Board may require the licensee to furnish data or other evidence pertaining to those sales at the advertised fee as well as other sales.
- (o) Misrepresentation of a licensee's credentials, training, experience, or ability.

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(Rule 0480-01-.20, continued)

(p) Failure to include the corporation, partnership or individual licensee's business location, address, and telephone number in any advertisement.

(q) Failure to disclose the fact of giving compensation or anything of value to representative of the press, radio, television or other communicative medium in anticipation of or in return for any advertisement (for example, newspaper article) unless the nature, format or medium of such advertisement makes the fact of compensation apparent.

(r) After thirty (30) days of the licensee's departure, the use of the name of any licensee formerly practicing at or associated with any advertised location or on office signs or buildings. This rule shall not apply in the case of a retired or deceased former associate who practiced in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign.

(s) Stating or implying that a certain licensee provides all services when any such services are performed by another licensee.

(t) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services.

(5) Advertising Records and Responsibility

(a) Each licensee who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisements.

(b) Any and all advertisements are presumed to have been approved by the licensee named therein.

(c) A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media, and a copy of any other form of advertisement shall be retained by each licensee who is a principal partner, or officer of a firm or entity for a period of one (1)

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(Rule 0480-01-.20, continued)

year from the last date of broadcast or publication and be made available for review upon request by the Board or its designee.

(d) At the time any type of advertisement is placed, the licensee must possess and rely upon information which, when produced, would substantiate the truthfulness of any assertion, omission or representation of material fact set forth in the advertisement or public information.

(6) Severability. It is hereby declared that the sections, clauses, sentences and parts of these rules are severable, are not matters of mutual essential inducement, and any of them shall be rescinded if these rules would otherwise be unconstitutional or ineffective. If any one or more sections, clauses, sentences or parts shall for any reason be questioned in court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part in any one or more instance shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-145, 63-1-146, 63-14-101, 63-14-103, and 63-14-104.

Administrative History: Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed April 11, 2007; effective June 25, 2007.

0480-01-.21 BRANCH OFFICES.

(1) Full-Time Supervision. Any office of a licensed dispensing optician, partnership or corporation which engages in optical dispensing must have a duly licensed dispensing optician on duty in each and every establishment; no office of a licensed dispensing optician, partnership or corporation shall offer technical optical dispensing services to the public unless a duly licensed dispensing optician is physically present.

~~(2) A dispensing optician opening a branch office must notify the Board Secretary or the administrator at least thirty (30) days prior to the opening. This notice must be in writing and sent by registered mail. The notice must contain opening date, the location and the name(s) of licensed optician(s) operating such branch. The Secretary Treasurer or the administrator for the Board will then cause such branch to be registered with the Board.~~

~~(3) — Notice of Change of Employment. Any dispensing optician working for, with, or under any licensed dispensing optician, optometrist, or physician must notify the Secretary or administrator for the Board of any change of employment or location where he is acting as a dispensing optician, whether it be permanent or temporary.~~

Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 63-14-101, 63-14-102, and 63-14-103.~~ **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995.

0480-01-.22 GUIDELINES FOR CONTACT LENSES.

(1) Supervision of Optometrist or Ophthalmologist Required - T.C.A. § 63-14-102 provides that a dispensing optician may not fit contact lenses except in the presence of and under the direct supervision of a licensed optometrist or ophthalmologist. In accordance with the statutory requirement, the following procedures shall be followed in filling a prescription for contact lenses:

(a) Upon delivery of a written prescription by an ophthalmologist or optometrist, the dispensing optician performs the necessary mechanical operations to prepare the lenses in conformity with the prescription.

(b) The licensed dispensing optician will deliver the contact lenses to the patient and inform of the potential need to return to the office of the ophthalmologist or optometrist to ascertain proper fitting and for follow-up care.

(c) The dispensing optician shall instruct the patient to keep in contact with his ophthalmologist or optometrist and that any problems whatsoever should be diagnosed by the ophthalmologist or optometrist.

(2) Instructions - Although the ophthalmologist or optometrist will instruct the patient on methods of insertion and removal of the contact lenses, the dispensing optician shall thoroughly instruct the patient on the use and care of the contact lenses.

Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 63-1-101, 63-14-101, and 63-14-102.~~ **Administrative History:** Original rule filed August 2, 1995; effective October 16, 1995. Amendment filed October 18, 2005; effective January 1, 2006.

(Rule 0480-01-.22, continued)

0480-01-.23 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

(1) Malpractice reporting requirements. The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the "Health Care Consumer Right-To-Know Act of 1998" shall be ten thousand dollars (\$10,000).

(2) Criminal conviction reporting requirements. For purposes of the "Health Care Consumer Right-To-Know Act of 1998", the following criminal convictions must be reported:

(a) Conviction of any felony.

(b) Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:

1. Sex.
2. Alcohol or drugs.
3. Physical injury or threat of injury to any person.
4. Abuse or neglect of any minor, spouse or the elderly.
5. Fraud or theft.

(c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

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(Rule 0480-01-.23, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-14-101, and 63-51-101 et seq. **Administrative History:** Original rule filed August 24, 2001; effective November 7, 2001.