

53 N.J.R. 2229(b)

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RULE ADOPTIONS

Reporter

53 N.J.R. 2229(b)

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Agency

LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > BOARD OF EXAMINERS OF OPHTHALMIC DISPENSERS AND OPHTHALMIC TECHNICIANS

Administrative Code Citation

Adopted Repeals and New Rules: N.J.A.C. 13:33-1.1 and 1.2

Adopted Amendments: N.J.A.C. 13:33-1.8, 2.1, and 2.2

Adopted New Rules: N.J.A.C. 13:33-1A and 8.9

Adopted Repeals: N.J.A.C. 13:33-1.3 and 1.4

Text

Application for Ophthalmic Dispenser Apprentice Certificate; Application for Ophthalmic Technician Apprentice Certificate

Proposed: August 19, 2019, at 51 N.J.R. 1334(a) (The notice of proposal would have expired on August 19, 2020, but was extended by Executive Order No. 127 (2020) and P.L. 2021, c. 103, to January 1, 2022).

Adopted: November 13, 2019, by the Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, Michael Higgins, President.

Filed: November 15, 2021, as R.2021 d.144, **with non-substantial changes**, not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:17B-41.13.

Effective Date: December 20, 2021.

Expiration Date: December 20, 2024.

Summary of Public Comments and Agency Responses:

The official comment period ended October 18, 2019. The Board received comments from the following individuals:

1. Daniel G. Banks, Ophthalmic Program Director, Camden County College
2. Mariel Ruocco
3. Michael Miller, Director, Eyewear Retail, Licensed Optician, ABOC, NCLEC
4. Valorie Petrak, Optician
5. Raymond Mennen
6. Brooke Siminski, Adjunct Instructor, Ophthalmic Science Dept., Camden County College

1. COMMENT: Three commenters support the amendments and new rules.

RESPONSE: The Board thanks the commenters for their support.

2. COMMENT: Some of the commenters oppose the amendments at N.J.A.C. 13:33-1.1, which require a preceptor to be licensed for at least the last two years as an ophthalmic dispenser in New Jersey. The commenters contend that, by limiting the licensees who may act as preceptors, the amendments will limit locations at which apprentices may work. The commenters contend that recently licensed ophthalmic dispensers are better preceptors, as they are more familiar with student experiences.

RESPONSE: The Board believes that the experience gained through working as a licensed ophthalmic dispenser for at least two years is vital [page=2230] to ensure that a preceptor has the requisite skill and ability to supervise apprentices safely and effectively. The Board will not change N.J.A.C. 13:33-1.1 to permit licensed ophthalmic dispensers with less than two years of experience to become preceptors.

3. COMMENT: Several of the commenters oppose the provisions at N.J.A.C. 13:33-2.1, which require an applicant to begin an apprenticeship after he or she has completed an associate degree. The commenters contend that students should be allowed to begin an apprenticeship any time after they have enrolled in associate degree programs. The commenters believe that this requirement will limit students' ability to obtain appropriate on-the-job training. The commenters are concerned that the requirement will make it difficult for graduates to take the licensing examination in a timely manner because they often finish an associate degree in May and would then need to complete an apprenticeship between June and September, which would prohibit them from taking the fall licensing examination.

RESPONSE: The Board believes that an apprenticeship effectively provides appropriate experience to applicants for licensure only when the apprentice can incorporate the education he or she has completed. This is only possible if an apprenticeship begins after completion of an associate degree. The Board notes that the fall licensing examination is offered in October, which provides ample time for an applicant to complete a four-month apprenticeship after completing an associate degree in May.

4. COMMENT: Some commenters oppose the amendments at N.J.A.C. 13:33-2.2, which require clinical education sites to have all of the equipment required at N.J.A.C. 13:33-3.5(a). The commenters specifically oppose requiring all such sites to have an automatic edger and hand finishing stone. The

commenters contend that this requirement will reduce clinical opportunities for students and will reduce the number of individuals seeking ophthalmic degrees. The commenters recognize that students who work in ophthalmic dispensaries with lens edgers receive a better apprentice experience, but contend that requiring dispensaries to purchase lens edgers will reduce job opportunities for students.

RESPONSE: The Board points out that existing N.J.A.C. 13:33-3.5 requires every clinical education site to have equipment listed in the section. As the commenters recognize, apprentices receive a better apprentice experience when they work at establishments with lens edgers, and the Board believes that this experience is necessary to prepare an individual to obtain licensure and practice as a licensed ophthalmic dispenser.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted amendments, new rules, or repeals.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. APPRENTICESHIPS

13:33-1.1 Application for ophthalmic dispenser apprentice certificate

(a) An individual who applies for an ophthalmic dispenser apprentice certificate shall submit to the Board:

1. A completed application;
 2. An indication as to whether the applicant either:
 - i. Has completed an associate degree in allied health focusing on ophthalmic science that meets the requirements of N.J.A.C. 13:33-2.1(d); or
 - ii. Will complete 30 credit hours of coursework in ophthalmic science that meets the requirements of N.J.A.C. 13:33-1.8(e).
 3. A completed Criminal History Certification of Authorization form;
 4. Proof that the applicant is at least 17 years old;
 5. Proof that the applicant will be supervised pursuant to N.J.A.C. 13:33-1.5 by a preceptor who:
 - i. Has been licensed, and has been working, as an ophthalmic dispenser in New Jersey for at least the last two years; and
 - ii. Certifies that he or she has completed the continuing education requirements of N.J.A.C. 13:33-6.1 and 6.2; and
 6. The application fee set forth in N.J.A.C. 13:33-8.8.
- (b) An ophthalmic dispenser apprentice certificate shall expire four years after date of issue.

13:33-1.2 Application for ophthalmic technician apprentice certificate

(a) An individual who applies for an ophthalmic technician apprentice certificate shall submit to the Board:

1. A completed application;
2. A completed Criminal History Certification of Authorization form;
3. Proof that the applicant is at least 16 years old;
4. Proof that the applicant will be supervised pursuant to N.J.A.C. 13:33-1.5 by a preceptor who:
 - i. Has been licensed, and has been working, as an ophthalmic dispenser in New Jersey for at least the last two years; and
 - ii. Certifies that he or she has completed the continuing education requirements of N.J.A.C. 13:33-6.1 and 6.2; and
5. The application fee set forth in N.J.A.C. 13:33-8.8.

(b) An ophthalmic technician apprentice certificate shall expire one year after date of issue.

13:33-1.3 and 1.4 (Reserved)

13:33-1.8 Ophthalmic dispenser apprentice; licensing examination

(a)-(e) (No change.)

(f) The Materials I and II Lab and Dispensing I and II Lab portion of the education an ophthalmic dispenser applicant completed pursuant to (e) above shall be provided only by instructors who are legally permitted to practice ophthalmic dispensing in the state in which the instruction is provided. Instructors and students shall be physically present at the site at which the Materials I and II Lab and Dispensing I and II Lab instruction is being provided.

(g) The requirements **[of]* *at** (f) above shall not apply to an applicant who began an apprenticeship prior to **[(the effective date of this amendment)]* *December 20, 2021**.

Recodify existing (f)-(h) as (h)-(j) (No change in text.)

SUBCHAPTER 1A. DEFINITIONS

13:33-1A.1 Definitions

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

"Board" means the State Board of Ophthalmic Dispensers and Ophthalmic Technicians.

SUBCHAPTER 2. LICENSURE

13:33-2.1 Application for examination

(a) (No change.)

(b) Applications for the Qualifying Technical examination and the Ophthalmic Technician licensing examination shall include a certification from the applicant's preceptor indicating that the applicant completed one year of apprenticeship.

(c) Applications for the Ophthalmic Dispensing licensing examination shall indicate that the applicant completed either:

1. An associate degree in allied health focusing on ophthalmic science that meets the requirements of (d) below and a four-month apprenticeship that was begun after the completion of the associate degree; or
2. Three years of apprenticeship that meets the requirements of N.J.A.C. 13:33-1.8 and (e) below.

(d) An associate degree in allied health focusing on ophthalmic science shall be from a school that:

1. Is accredited by the Commission on Opticianry Accreditation and a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education; and
2. Provides clinical instruction that is:
 - i. Taught by faculty members who are legally permitted to practice ophthalmic dispensing in the state in which the clinical facility is physically located; and
 - ii. Conducted in a location at which both faculty members and students are physically located and that is equipped with the optical equipment required by N.J.A.C. 13:33-3.5(a).

(e) The Materials I and II Lab and Dispensing I and II Lab portion of the education an ophthalmic dispenser applicant completed pursuant to [page=2231] N.J.A.C. 13:33-1.8 shall be provided only by instructors who are legally permitted to practice ophthalmic dispensing in the state in which the instruction is provided. Instructors and students shall be physically present at the site at which the Materials I and II Lab and Dispensing I and II Lab instruction is being provided.

(f) The requirements *[of]* *at* (d) and (e) above shall not apply to an applicant who was enrolled in an associate degree program as of, or who began an apprenticeship prior to, *[(the effective date of this amendment)]* ***December 20, 2021***.

13:33-2.2 Out-of-State ophthalmic dispenser application

(a) A Temporary Ophthalmic Dispenser Permit shall be issued to an individual from out of the State of New Jersey if the applicant is licensed as an ophthalmic dispenser in another state, has engaged in ophthalmic dispensing for a minimum of three years following the award of his or her license, the last year of ophthalmic dispensing having been acquired within five years of the date of application for the temporary permit and either:

1. (No change.)
2. Has completed 30 credits of course work from a school accredited by the Commission on Opticianry Accreditation and a regional accrediting body recognized by the United States Department of Education,

Office of Postsecondary Education, in which he or she obtained a grade of either a "C" or better or a numerical grade of 70 or better, which included:

i.-vii. (No change.)

(b)-(c) (No change.)

(d) An individual who has worked as an ophthalmic dispenser in a state that does not license ophthalmic dispensers shall qualify to take the Ophthalmic Dispenser licensing examination in this State provided that he or she:

1. (No change.)

2. Has worked as a dispenser of prescription eyewear for three calendar years, the last year of which shall have been within five years of the date of application for examination, and has satisfactorily completed 30 credit hours of courses in ophthalmic science from a school accredited by the Commission on Opticianry Accreditation and a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education, in which he or she obtained a grade of either a "C" or better or a numerical grade of 70 or better, which included:

i.-vii. (No change.)

(e) Clinical instruction in an associate degree program or the Materials I and II Lab and Dispensing I and II Lab portion of the coursework an applicant completed shall be provided only by instructors who are legally permitted to practice ophthalmic dispensing in the state in which the clinical instruction is provided. Instructors and students shall be physically present at the site at which clinical instruction or the Materials I and II Lab and Dispensing I and II Lab instruction is being provided and the location shall be equipped with the optical equipment required by N.J.A.C. 13:33-3.5(a).

(f) The requirements *[of]* *at* (e) above shall not apply to an applicant who was enrolled in an associate degree program as of, or who began his or her coursework prior to, *[(the effective date of this amendment)]* **December 20, 2021**.*

SUBCHAPTER 8. GENERAL PROVISIONS

13:33-8.9 Reporting of unlawful conduct

(a) A licensee shall report to the Board any incident or series of incidents that the licensee, in good faith, believes is in violation of N.J.S.A. 52:17B-41.1 et seq., or this chapter.

(b) A licensee shall report to the Board any incident of unlicensed practice of ophthalmic dispensing or ophthalmic technicianry of which the licensee is aware.

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