

**NEW JERSEY REGISTER  
VOLUME 35, NUMBER 4  
TUESDAY, FEBRUARY 18, 2003  
RULE ADOPTION  
LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
NEW JERSEY STATE BOARD OF OPTOMETRISTS  
TERMINATION OF THE OPTOMETRIST-PATIENT RELATIONSHIP**

Adopted New Rule: N.J.A.C. 13:38-3.9

Proposed: May 6, 2002 at 34 N.J.R. 1623(a).

Adopted: July 17, 2002 by the New Jersey State Board of Optometrists, Leonard Steiner, O.D., President.

Filed: January 22, 2003 as R.2003 d.83, with a technical change not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:12-4.

Effective Date: February 18, 2003.

Expiration Date: September 18, 2005.

**Summary of Agency-Initiated Change:**

The Board has amended N.J.A.C. 13:38-3.9(a) upon adoption. Specifically, the Board has amended the definition of "optometrist-patient relationship" to include the word "in" before the word "which" to read grammatically correct.

**Federal Standards Statement**

A Federal standards analysis is not required because the adopted new rule is dictated by State statute and is not subject to Federal requirements or standards.

Full text of the adoption follows:

**<< NJ ADC 13:38-3.9 >>**

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

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

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

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

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

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

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

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

1. Notify the patient that he or she wishes to terminate the optometrist-patient relationship and will no longer be providing care. The notification shall be in writing, by certified mail, return receipt requested, to the patient's last known address and made no less than 30 days prior to the date on which care is to be terminated;
2. Provide all necessary emergency care or services, which shall include the provision of necessary prescriptions, until the date on which the optometrist-patient relationship is terminated. The provision of such emergency care or services shall not be deemed to manifest any intention to reestablish the optometrist-patient relationship; and
3. Comply with all requirements set forth in N.J.A.C. 13:38-6.1 for access to and transfer of the patient records.

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

1. Where to do so would be for any discriminatory purpose and/or would violate any laws or rules prohibiting discrimination; or
2. Where the optometrist knows or reasonably should know, that no other professional is currently able to provide the type of care or service that the optometrist is providing the patient.

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

1. The optometrist-patient relationship has been terminated by the patient as evidenced by conduct manifesting a deliberate intention to terminate the relationship. Such conduct shall be recorded in the patient record; or
2. The reason for termination of the optometrist-patient relationship is because the optometrist has discontinued providing services to the patient's managed care provider or health maintenance organization (HMO) and such managed care provider or HMO has discharged its notice obligation pursuant to N.J.S.A. 26:2S-5a(1).

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