

RULES AND REGULATIONS
PERTAINING TO OPTOMETRISTS
(R5-35-OPT)



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
Department of Health
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INTRODUCTION

These *Rules and Regulations Pertaining to Optometrists (R5-35-OPT)* are promulgated pursuant to the authority conferred under sections 5-35-5 and 5-35-1.1 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting prevailing standards for the licensure of optometrists in Rhode Island.

In accordance with the provisions of section 42-35-3 (c) of the General Laws of Rhode Island, as amended, consideration was given in arriving at the amendments as to: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. Based on the available information, no known alternative approach, duplication or overlap was identified.

These rules and regulations shall supersede any previous *Rules and Regulations Pertaining to Optometrists* promulgated by the Department of Health and filed with the Secretary of State.

TABLE OF CONTENTS

	<i>Page</i>
PART I <i>Definitions</i>	1
1.0 Definitions	
PART II <i>Licensure And Certification Requirements/ Optometrists</i>	3
2.0 License and Certification Requirements	3
3.0 Qualifications for Licensure and Certification	3
4.0 Application/Fee	5
5.0 Examinations	6
6.0 Issuance and Renewal of License	6
7.0 Continuing Education	7
8.0 Practice of Optometry	8
9.0 Denial, Suspension and Revocation of License and Certification	9
PART III <i>Advertising, Sanctions, Practices And Procedures, Severability</i>	11
10.0 Advertising	11
11.0 Sanctions/Violations	11
12.0 Practices and Procedures	11
13.0 Severability	11
<i>References</i>	12

PART I *Definitions*

Section 1.0 *Definitions*

Wherever used in these rules and regulations, the following terms shall be construed to mean:

- 1.1 "**Act**" means Chapter 5-35 of the General Laws of Rhode Island, as amended, entitled "Optometrists."
- 1.2 "**Amplified optometrist**" means an optometrist licensed in this state to practice optometry and authorized by the Board to administer and prescribe all topical pharmaceutical agents in the treatment of conditions of the human eye and its appendages, including anterior uveitis and glaucoma, without surgery or other invasive techniques, and in accordance with the requirements herein.
- 1.3 "**Board**" means the Board of Examiners for Optometry established under the provisions of section 5-35-2 of the Act.
- 1.4 "**Certified optometrist**" means an optometrist licensed in this state to practice optometry and authorized by the Board to administer and prescribe topical ocular pharmaceutical agents in the treatment of ocular conditions of the anterior segment of the human eye and its appendages, (with the exception of uveitis and glaucoma) without surgery or other invasive techniques, and in accordance with the requirements herein.
- 1.5 "**Department**" means the Rhode Island Department of Health.
- 1.6 "**Director**" means the Director, Rhode Island Department of Health.
- 1.7 "**Optometrist**" means an individual licensed in this state to practice optometry pursuant to the provisions of Chapter 5-35 of the General Laws and the rules and regulations herein.
- 1.8 "**Optometry**" means the profession whose practitioners are engaged in the art and science of the evaluation of vision and the examination of vision and the examination and refraction of the human eye which includes: the employment of any objective or subjective means for the examination of the human eye or its appendages; the measurement of the powers or range of human vision or the determination of the accommodative and refractive powers of the human eye or the scope of its functions in general and the adaptation of lenses, prisms, and/or frames for the aid thereof; the prescribing, directing the use of or administering ocular exercises, visual training, vision training, or orthoptics, and the use of any optical device in connection therewith; the prescribing of contact lenses for, or the fitting or adaptation of contact lenses to the human eye; the examination or diagnosis of the human eye to ascertain the presence of abnormal conditions or functions; and the topical application of pharmaceutical agents to the eye. Provided, however, that no optometrist licensed in this state shall perform any surgery for the purpose of detecting any diseased or pathological condition of the eye. Provided however, only presently licensed optometrists who: (1) have satisfactorily completed a course in pharmacology, as it applies to optometry, at an institution accredited by a regional or professional accreditation organization which is recognized by the national commission on accreditation, with particular emphasis on the topical application of drugs to the eye for the purposes of detecting any diseased or pathological condition of the eye; or the effects of any

disease or pathological condition of the eye, approved by the Board of Examiners in Optometry and the Chief of Pharmacy of the Department; or (2)(i) have successfully passed all sections of the National Board of Examiners in Optometry (NBEO) examination; and (ii) the treatment and management of ocular disease (TMOD) examination shall be permitted to apply pharmaceutical agents topically to the eye for the purpose of detecting any diseased or pathological condition of the eye, or the effects of any disease or pathological condition of the eye.

1.9 “*Vision training*”, as referenced in section 1.8 herein, includes:

- a) “*Vision therapy*” means the assessment, diagnosis, treatment, or prescription of treatment for conditions of the visual system or management of a patient with vision therapy, visual training, visual rehabilitation, orthoptics or eye exercises. Anyone who holds him/herself out as being able to do so for the rehabilitation and/or treatment of physical, physiological, sensorimotor, neuromuscular or perceptual anomalies of the eyes or vision system or who prescribes or utilizes lenses, prisms, filters, occlusion, or other devices for the enhancement, rehabilitation and/or treatment of the visual system or prevention of visual dysfunctions, except under the supervision and management of a licensed optometrist, is engaged in the practice of optometry.
- b) “*Low vision rehabilitation*” means the evaluation, diagnosis, and management of the low vision patient, including but not limited to, prescription, low vision rehabilitation therapy, education and interdisciplinary consultation when indicated. Any person who prescribes or provides comprehensive low vision care for the rehabilitation and/or treatment of the visually impaired or legally blind patient, prescribes corrective spectacles, contact lenses, prisms, or filters, employs any means for the adaptation of lenses, low vision devices, prisms, filters, evaluates the need for, recommends, or prescribes optical, electronic or other low vision devices; or recommends or provides low vision rehabilitation services independent of a clinical treatment plan prescribed by an optometrist or ophthalmologist shall be considered to be engaged in the practice of optometry.

PART II *Licensure and Certification Requirements for Optometrists*

Section 2.0 *Licensure and Certification Requirements*

- 2.1 Any person practicing or offering to practice optometry in this state must be licensed as an optometrist in Rhode Island in accordance with the statutory and regulatory requirements herein.
 - 2.1.1 Furthermore, optometrists licensed in this state who desire to administer and prescribe topical pharmaceutical agents in the treatment of ocular conditions of the human eye and its appendages, without the use of surgery or other invasive techniques, must be certified by the Board in accordance with the requirements herein. Provided, however, that as of March 20, 1997, individuals who are licensed and certified to prescribe certain topical therapeutic pharmaceutical agents may continue to prescribe said medications in accordance with that certification; and those individuals who hold diagnostic pharmaceutical privileges as of March 20, 1997, may continue to exercise those privileges.
- 2.2 Any optometrist who utilizes latex gloves shall do so in accordance with the provisions of the *Rules and Regulations Pertaining to the Use of Latex Gloves by Health Care Workers, in Licensed Health Care Facilities, and by Other Persons, Firms, or Corporations Licensed or Registered by the Department* promulgated by the Department of Health.

Section 3.0 *Qualifications For Licensure and Certification*

Basic Licensure Requirements

- 3.1 An applicant seeking licensure to practice optometry in this state must:
 - a) be of good moral character;
 - b) be not less than eighteen (18) years of age;
 - c) have graduated from a school or college of optometry which maintains a course in optometry of no less than four (4) years and approved by the Accreditation Council on Optometric Education (ACOE) or other accrediting body as approved by the Board;
 - d) have successfully passed all sections of the National Board Examination;
 - e) Candidates seeking initial licensure in Rhode Island must be certified in the use of therapeutic pharmaceuticals in accordance with the requirements of section 5-35-1.2 of the General Laws, and have successfully completed the educational and certification requirements related to the amplification of privileges to treat anterior uveitis of section 3.2 herein.

Therapeutic Pharmaceutical Requirements Related to Amplification of Privileges to Treat Anterior Uveitis and Glaucoma

- 3.2 All applicants for initial licensure or any licensed applicant who seek certification to use all topical therapeutic pharmaceuticals used in the treatment of conditions of the human eye and its appendages including, but not limited to, the removal of superficial foreign bodies from the eye and the treatment of the diseases of anterior uveitis and glaucoma, without the use of surgery or other invasive techniques, shall have completed the International Association of Boards of Optometry examination in "The Treatment and Management of Ocular Disease" administered after January 1, 1999.

Sections 3.2.1 and 3.2.2 apply to optometrists who have graduated from a college of optometry prior to January 1, 2007:

- 3.2.1 Upon successful completion of the written National Board of Examiners in Optometry (NBEO) examination, in "The Treatment and Management of Ocular Disease" administered after January 1, 1999, a duly licensed optometrist may prescribe all such topical pharmaceuticals exclusive of those used in the treatment of glaucoma. Prescriptive privileges for those topical pharmaceuticals used in the treatment of glaucoma will commence upon completion of subsection 3.2.2 (below) and acceptance of such by the Board.

Therapeutic Pharmaceutical Requirements to Treat Glaucoma:

- 3.2.2 Submit a completed form for each patient providing evidence that the applicant has performed written consultations which satisfy the following requirements:
- i) The applicant has consulted with an ophthalmologist or optometrist with amplified privileges to treat glaucoma, who is licensed in good standing, and who has been treating glaucoma for no less than three (3) years regarding no less than twenty (20) glaucoma-related patients and the ophthalmologist or optometrist with amplified privileges to treat glaucoma, who is licensed in good standing, and who has been treating glaucoma for no less than three (3) years has provided written confirmation of this consultation.
 - ii) Up to ten (10) of these glaucoma-related patients may have been diagnosed as glaucoma-related up to one (1) year prior to completion of the requirements in subsection 3.2.1 above. All twenty (20) glaucoma-related patients shall be followed for a minimum of one (1) year or until the patient is stabilized (i.e., symptoms controlled, vision loss arrested, medication changes not required) whichever is longer; and
 - iii) For each glaucoma-related patient, the applicant shall develop, in consultation with the ophthalmologist or optometrist with amplified privileges to treat glaucoma, who is licensed in good standing, and who has been treating glaucoma for no less than three (3) years the following:
 - A) A confirmatory evaluation and diagnosis by the ophthalmologist or optometrist with amplified privileges to treat glaucoma, who is licensed

in good standing, and who has been treating glaucoma for no less than three (3) years;

- B) A written plan for diagnostic workup for each patient. This workup shall be in accordance with the prevailing community standard of care; and
 - C) A treatment plan for each patient which shall take into account the assessment of the optic nerve, the level of the intraocular pressure, and stability of the clinical course.
- iv) The methodology of consultation required in sections 3.2.2 (i) and 3.2 (ii) shall be left to the professional discretion of the ophthalmologist or optometrist with amplified privileges to treat glaucoma, who is licensed in good standing, and who has been treating glaucoma for no less than three (3) years and the applicant; provided, however, the applicant may submit to the Board of Examiners in Optometry the completed form once the patient has reached the agreed upon treatment plan (including target pressure and compliance with medications).

Section 4.0 *Application for License, Certification and Fees*

Licensure Application

- 4.1 Application for licensure shall be made on forms provided by the Department, which shall be completed, notarized and submitted to the Department. Such application shall be accompanied by the following documents:
- a) a certified copy of birth certificate or proof of legal entry into the United States;
 - b) a recent identification passport-type photograph of the applicant, approximately 2 x 2 inches in size;
 - c) *if by endorsement*, a statement from the board of examiners in optometry in each state in which the applicant has held or holds licensure to be submitted to the Board of this state attesting to the licensure status of the applicant during the time period the applicant held licensure in said state;
 - d) supporting certified transcripts of education credentials as required in section 3.1 herein. Such documentation must consist of original statements and/or photocopies bearing the signature of the dean or registrar and the imprint of the school seal;
 - e) the results of the written National Board Examination submitted directly to the Board by the National Board;
 - f) the application fee of seventy dollars (\$70.00) made payable to the General Treasurer, state of Rhode Island (non-refundable and non-returnable); and
 - g) such other information as the Board and/or Department may deem necessary.

Section 5.0 *Examinations*

Examinations For Licensure

5.1 Applicants for licensure to practice optometry shall be required to successfully complete all parts and all sections of the National Board Examination of the National Board of Examiners in Optometry (NBEO) in order to test the applicant's knowledge and skills to practice optometry in this state pursuant to the statutory and regulatory requirements herein.

Licensure by Endorsement

5.2 A license to practice optometry may be issued without examination to an applicant who has been duly licensed by examination as an optometrist under the laws of another state or jurisdiction provided:

- a) the applicant meets the qualifications to practice optometry in this state in accordance with section 3.0 herein;
- b) that such state accords a like privilege to holders of licenses issued in this state and the applicant has not failed to pass the exam required in this state; and
- c) the applicant submits the license application form with supporting certified documentation of credentials and application fee of ninety dollars (\$90.00) made payable to the General Treasurer, State of Rhode Island.

Section 6.0 *Issuance and Renewal of License and Fee*

6.1 Upon completion of the aforementioned requirements, the Director may issue a license to those applicants found to have satisfactorily met all the requirements herein. Said license and/or certification shall expire annually on the 31st day of January, unless sooner suspended or revoked.

6.2 On or before the 31st day of December of each year, the Department shall mail an application for renewal of license to each person to whom a license has been issued or renewed during the current year. Every person licensed who intends to practice optometry during the ensuing year shall file a renewal application duly executed together with the renewal fee for licensure of one hundred seventy dollars (\$170.00) (non-refundable/non-returnable) made payable to the General Treasurer, state of Rhode Island on or before the 31st day of January in each year.

6.3 Upon receipt of a renewal application accompanied by evidence of completion of the prescribed continuing education program requirements as set forth in section 7.0 herein, including payment of fee, the accuracy of the application shall be verified and license shall be granted effective 1 February of that year.

6.4 In case of neglect or refusal to pay, said Department may revoke or suspend such license provided, however, that no license shall be so suspended or revoked without first giving sixty (60) days notice in each such case of neglect or refusal and within such period any such optom-

etrlist shall have the right to receive a renewal of such license on payment of the renewal fee, together with an added penalty of seventy dollars (\$70.00) (non-refundable/non-returnable).

- 6.5 Retirement from practice for a period not exceeding five (5) years shall not deprive the holder of a license of the right to renew such license upon payment of all annual renewal fees remaining unpaid, and a further fee of seventy dollars (\$70.00) (non-refundable/non-returnable).

Section 7.0 *Continuing Education*

For Re-Licensure for those Optometrists with Amplified Therapeutic Privileges:

- 7.1 Every optometrist licensed to practice optometry with amplified therapeutic privileges in this state under the provisions of the Act and these rules and regulations herein shall on or before the 31st day of January of every year attest to the Board that he/she possesses satisfactory evidence of having completed in the preceding calendar year, no less than twenty (20) hours of continuing education in optometry or other related health field, in course(s) that shall include ten (10) or more hours of approved courses in pharmacology for the treatment and management of ocular conditions of the eye offered, sponsored, or administered by any of the following organizations:

- American Optometric Association and its affiliated associations;
- Schools/colleges of optometry;
- Any course approved by the Council on Optometric Practitioners Education (COPE);
- American Medical Association – Category I;
- American Academy of Ophthalmology – Category I;
- All courses that meet the requirements of eligibility for Category I of the American Optometric Association Optometric Recognition Award;
- American Academy of Optometry.

For Re-Licensure for those Optometrists without Amplified Therapeutic Privileges:

- 7.2 Optometrists licensed to practice optometry without therapeutic privileges must show evidence of sixteen (16) hours of continuing education in optometry or other related health fields in the calendar year preceding the most recent license renewal.
- 7.3 The Board may waive the continuing education requirement in specific circumstances for due cause such as hardship or for any sufficient reason, if satisfactory evidence is submitted to the Board to that effect.
- 7.4 Optometrists initially licensed after the February 1st renewal date shall be exempt from the continuing education requirements stated herein until the date of the next renewal cycle (i.e., January 31st of the next year).
- 7.5 It shall be the sole responsibility of the individual optometrist to obtain documentation from the recognized sponsoring or co-sponsoring organizations, agencies or other, of his or her participation in the learning experience and the number of dated credits earned. Furthermore, it

shall be the sole responsibility of the individual to safeguard the documents for review by the Board, if required. These documents shall be retained by each licensee for no less than two (2) years and are subject to random audit by the Department.

Section 8.0 *Practice of Optometry*

- 8.1 Pursuant to section 3.2 herein, optometrists with amplified privileges, as defined in section 1.2 herein, may:
- a) remove superficial foreign bodies from the conjunctiva, lid and cornea without surgery or other invasive techniques; and
 - b) administer and prescribe topical pharmaceutical agents as provided herein for the treatment of ocular conditions of the human eye and its appendages without surgery or other invasive techniques, and in accordance with the prevailing standards of practice as those of duly licensed physicians providing similar services.
 - c) Treatment of glaucoma shall exclude treatment of infantile and congenital glaucoma. Treatment of acute angle closure glaucoma shall be limited to initiation of immediate emergency care.

Scope of Medications

- 8.2 Medications which may be used by certified optometrists qualified to administer and prescribe topical therapeutic pharmaceutical agents in the treatment of conditions of the human eye and its appendages but not holding amplified privileges in accordance with section 3.2 herein, include topical medication (mast cell inhibitors or stabilizers), lubricants, decongestants, mucolytics, antibiotics, and steroids with a clinical potency not exceeding 1/4% methyl-prednisolone or equivalent.
- 8.3 Optometrists authorized by the Board as having amplified privileges, in accordance with section 3.2 herein, may utilize all topical pharmaceutical agents in the treatment of conditions of the human eye and its appendages, including anterior uveitis and glaucoma, without surgery or other invasive techniques, and in accordance with the requirements herein.

Minimum/Initial Examination of New Patients

- 8.4 Pursuant to section 5-35-18 of the Act, every person practicing optometry shall perform an examination of the patient that is in accordance with the prevailing community standard of care, and record same in the patient's medical record.

Minimum Equipment for Optometric Practice

- 8.5 At any location where an optometrist practices his or her profession, an optometrist shall have any equipment that a reasonable and prudent person practicing optometry would have available in order to meet the needs of his/her patients.

Spectacle or Eyeglass Prescriptions

- 8.6 A spectacle prescription shall contain all of the information necessary for the accurate fabrication, fitting and dispensing of the spectacles (eyeglasses). All spectacle prescriptions

shall be in accordance with the requirements of the Federal Trade Commission's "Ophthalmic Practice Rules" of reference 1 herein.

- 8.7 A contact lens prescription shall contain all of the information necessary for the accurate fitting and dispensing of the contact lens. All such prescriptions shall be in accordance with the requirements of the Federal Trade Commission's "Contact Lens Rule" of reference 2 herein.

Section 9.0 ***Denial, Suspension or Revocation of License and/or Certification***

9.1 In addition to any and all other remedies provided in the Act, pursuant to section 5-35-19 of the Act, the Director may, after due notice and hearing, as provided in the Act and section 11.0 herein, refuse to grant, refuse to renew, suspend or revoke any license and/or certification provided for in the Act to any person who is not of good moral character or who has been guilty of gross unprofessional conduct or conduct of a character likely to deceive or defraud the public or for any fraud or deception committed in obtaining such license or certification. Gross unprofessional conduct is defined as including, but is not limited to, the following:

- a) Conviction of felony or any crime or misdemeanor involving moral turpitude as evidenced by a certified copy of the record of the court convicting;
- b) Knowingly placing the health of a client at serious risk without maintaining proper precautions;
- c) Advertising by means of false or deceptive statements;
- d) Peddling from door to door;
- e) Habitual intoxication or addiction to the use of drugs;
- f) The use of any false or fraudulent statement in any document connected with his or her practice;
- g) The obtaining of any fee by fraud or willful misrepresentation of any kind either to a patient or insurance plan;
- h) Willfully betraying professional secrets;
- i) Knowingly performing any act which in any way aids or assists an unlicensed person to practice in violation of the Act;
- j) Violating or attempting to violate, directly or indirectly, or assisting in, or abetting, the violation of, or conspiring to violate, any of the provisions of this chapter or regulations previously or hereafter issued pursuant to the Act;
- k) Gross incompetence;
- l) Repeated acts of immorality or repeated acts of gross misconduct;

- m) An optometrist providing services to a person who is making a claim as a result of a personal injury, who charges or collects from the person any amount in excess of the reimbursement to the optometrist by the insurer as a condition of providing or continuing to provide services or treatment; and/or
- n) Any departure from or failure to conform to the minimal standards of acceptable and prevailing optometry practice.

PART III *Advertising, Violations, Practices, Procedures and Severability*

Section 10.0 *Advertising*

- 10.1 Pursuant to section 5-35-20(b) of the General Laws of Rhode Island, as amended, no optometrist licensed by and practicing in this state shall advertise by written or spoken word of a character tending to deceive or mislead the public.
- 10.2 An optometrist who holds him/herself out to be a specialist in a specific field of optometry practice shall include a statement in all advertisements that reads as follows, "The Rhode Island Department of Health licenses all optometrists in the general practice of optometry. The Department does not license or certify any optometrist as an expert or specialist in any field of practice."
- 10.3 In addition to section 10.1 herein any and all advertising conducted by any optometrist shall conform to the provisions of Chapter 6-13.1 of the General Laws of Rhode Island, as amended, entitled "Deceptive Trade Practices Act."
- 10.4 Any person practicing pursuant to the provisions of Chapter 5-35 of the General Laws of Rhode Island, as amended, shall be required to post his name on the premises where the services are being offered in such a manner as to be clearly visible to the public at the entrance to the premises and on any sign visible outside of the premises which offers the delivery of optometric services.
- 10.5 Advertisement of any type (electronic or print media) shall also include the name(s) and address(es) of the responsible optometrist(s).

Section 11.0 *Violations*

- 11.1 Any violations of the statutory and regulatory requirements herein shall be subject to the statutory sanctions as set forth in section 5-35-27 of the Act and provides that any person who violates the provisions of the Act is punished by a fine of not more than two hundred dollars (\$200) or is imprisoned for not more than three (3) months for each offense.

Section 12.0 *Rules Governing Practices and Procedures*

- 12.1 All hearings and reviews required under the provisions of the Act shall be held in accordance with the provisions of the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*.

Section 13.0 *Severability*

- 13.1 If any provision of these rules and regulations or the application thereof to any individual or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the regulations which can be given effect, and to this end the provisions of the regulations are declared to be severable.

References

1. Federal Trade Commission, “Ophthalmic Practice Rules,” Title 16 *Code of Federal Regulations*, Part 456, May 1, 1992 and subsequent amendments thereto.
Available online: http://www.access.gpo.gov/nara/cfr/waisidx_03/16cfr456_03.html
and related statute: 15 United States Code 57a; 5 U.S.C. 552.

2. Federal Trade Commission, “The Contact Lens Rule,” Title 16 *Code of Federal Regulations*, Part 315, July 2, 2004 and subsequent amendments thereto.
Available online: http://www.access.gpo.gov/nara/cfr/waisidx_05/16cfr315_05.html
and related statute: 15 United States Code 7601--7610.

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