

RULES AND REGULATIONS
PERTAINING TO OPTICIANS
(R5-35-OPTI)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Health

June 1959

As Amended:

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INTRODUCTION

These amended *Rules and Regulations Pertaining to Opticians (R5-35-OPTI)* are promulgated pursuant to the authority conferred under the provisions of section 5-35-5 of the General Laws of Rhode Island, as amended, and are established for the purpose of establishing administrative procedures and minimum requirements for the licensure (registration) of opticians in this state.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, the following issues have been given consideration in arriving at the amended regulations: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; and (3) significant economic impact on small business as defined in Chapter 42-35 of the General Laws. Based on information available no alternative approach, duplication, overlap, or significant economic impact was identified. Consequently the amended regulations are adopted in the best interest of the public health, safety and welfare.

These amended rules and regulations shall supersede all previous rules and regulations pertaining to opticians developed by the Rhode Island Department of Health and the Board of Examiners in Optometry and filed with the Secretary of State.

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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"* refers to Chapter 5-35 of the General Laws of Rhode Island, as amended, entitled, "Optometrists."
- 1.2 *"Advisory Committee"* refers to the Advisory Committee of Opticianry established pursuant to section 5-35-2.1 of the Act.
- 1.3 *"Director"* refers to the Director of the Rhode Island Department of Health.
- 1.4 *"Division"* refers to the Division of Professional Regulation, Rhode Island Department of Health.
- 1.5 *"Intern"* means a graduate of a school of opticianry who is enrolled in a full-time internship under the supervision of a duly licensed optician or optometrist.
- 1.6 *"License"* is synonymous with "registration."
- 1.7 *"Optician"* means a person who neither practices nor professes to practice optometry but who may grind ophthalmic lenses, fit spectacles and eyeglasses and may sell spectacles and eyeglasses or lenses on prescription from either a licensed physician or licensed optometrist, nor shall an optician fit, sell, replace or dispense contact lenses pursuant to section 5-35-1 of the Act.

PART II *Licensure Requirements*

Section 2.0 *Licensure Requirements*

- 2.1 No person shall conduct the business of optician in this state until he or she has passed an examination approved by the Department, and shall have registered and received a certificate of licensure pursuant to the provisions of section 5-35-23 of the Act and the rules and regulations herein.

Section 3.0 *Qualifications for Licensure*

- 3.1 An applicant seeking licensure to practice as an "optician" in this state must:
- a) be of good moral character;
 - b) be not less than eighteen (18) years of age;
 - c) have successfully graduated from a high school of a standard approved by the department of education in the state in which the applicant graduated, or hold a statement of high school equivalency certified and issued by the department of education in the state in which the applicant obtained the equivalency certificate;
 - d) On or after January 1, 1995 have graduated from a two (2) year school of opticianry approved by the Department and successfully completed one (1) year of postgraduate internship under the supervision of a duly licensed optometrist or optician.
 - e) have successfully passed a written examination, such as the National Opticianry Competency Examination or such other written examination as approved by the Department and the Advisory Committee; and
 - f) have successfully passed a practical examination approved by the Department with consultation from the Advisory Committee for Opticianry.
- 3.2 Notwithstanding any other provisions of section 5-35-24(8) of the Rhode Island General Laws, as amended, any individual who, at the time of his or her application for licensure, is a citizen or legal resident of the United States; submits satisfactory evidence to the Department and Advisory Committee of successful completion of a two (2) year apprenticeship program; that he or she has previously held a valid license to practice opticianry in another state for at least one (1) year; has practiced opticianry in this or any other state for a period of not less than one (1) year; is in good standing in that state; has previously taken and successfully passed as a prerequisite for licensure in the other state a written examination such as the National Opticianry Competency Examination or such other written examination approved by the Department and the Advisory Committee and otherwise meets the requirements for licensure with the exception of section 3.1(d) herein; pays to the Department the appropriate fee which shall accompany his or her application; is eligible to apply for licensure on condition that he or she first completes the requirements of 3.1(f) herein.

Section 4.0 *Application and Fee*

4.1 Application for licensure shall be made on forms provided by the Department. Said forms shall be completed, notarized and submitted to the Department at least thirty (30) days before the scheduled date of the Advisory Committee meeting. Such application shall be accompanied by the original document, certified copies or notarized photo copies of the following documents:

- a) a certified copy of birth certificate;
- b) three (3) letters of reference from reputable individuals (other than relatives) who have known the applicant for at least two (2) years;
- c) a recent identification photograph of the applicant, head and shoulders, front view, approximately 2x3 inches in size;
- d) a statement from the Board of Examiners in Opticianry in each state in which the applicant has held or holds licensure, to be submitted to the Department of this state attesting to the licensure status of the applicant during the time period the applicant held licensure in said state(s);
- e) documented evidence of high school education; supporting certified transcripts of education signed by the dean or registrar of the school of opticianry; and a statement certifying successful completion of an internship, with the exception of those applicants seeking licensure in accordance with section 3.2 herein who must produce evidence of their valid licensure and practice in such other state. Such statements and/or documentation must consist of original transcripts, statements and/or photocopies acceptable to the Advisory Committee.
- f) the results of the written national examination as approved by the Department and submitted directly to the Department by the American Board of Opticianry;
- g) the initial application fee of fifty dollars (\$50.00) made payable by check to the General Treasurer, state of Rhode Island;
- h) the practical examination fee of one hundred dollars (\$100.00) made payable by check to the General Treasurer, state of Rhode Island; and
- i) such other information as may be deemed necessary by the Department and/or the Advisory Committee.

Section 5.0 *Examinations for Licensure*

5.1 *Examinations*

Applicants seeking licensure to practice opticianry in this state shall be required to successfully pass:

- 5.1.1 a written examination as determined by the Department, such as that of the National Opticianry Competency Examination, or such other as determined by the Department and the Advisory Committee. The date, time and place of such examination may be obtained from the American Board of Opticianry or from the Department.
- 5.1.2 a practical examination, approved by the Department with consultation from the Advisory Committee which covers subjects in fields which will test the applicant's knowledge of professional standards of practice.

5.2 ***Re-examination***

- 5.2.1 In case of failure of any applicant to satisfactorily pass an examination, said applicant shall be entitled to re-examination. In the event of a second failure or any subsequent failure, opportunity for re-examination(s) shall be subject to the applicant's completion of additional requirements as recommended by the Advisory Committee on an individual basis.
- 5.2.2 Furthermore, any applicant who fails three or more sections of the practical examination shall be considered as having failed the practical examination.

Section 6.0 ***Continuing Education***

- 6.1 Every person licensed to practice opticianry within this state shall on or before the thirty-first (31st) day of January of each year in which his or her license is due for renewal, present to the Advisory Committee satisfactory evidence of completion of not less than twelve (12) hours of continuing education within the preceding two (2) calendar years.
 - 6.1.1 Any course intended to fulfill the requirement of continuing education shall be submitted to the committee for review and approval, provided however, that continuing education derived from attendance at or participation in any of the following shall be deemed approved by the Advisory Committee:
 - a) any course and/or courses offered by a provider meeting the guidelines of continuing opticianry education of the American Board of Opticianry;
 - b) a maximum of one (1) hour per two (2) year period in approved management and marketing course(s); and
 - c) any other course approved by the Advisory Committee.
- 6.2 The Advisory Committee, in its discretion, may exempt a person from the requirements for continuing opticianry education for hardship or other extenuating circumstances as the Advisory Committee deems appropriate.

Section 7.0 ***Issuance and Renewal of License and Fee***

- 7.1 Upon completion of the aforementioned requirements, the Department may issue a license to

those applicants found to have satisfactorily met all the requirements herein. Said license shall expire biennially (every two [2] years on the 31st of January), unless sooner suspended or revoked.

- 7.2 On or before the 1st of January of every other 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 past two (2) years. Every person licensed who intends to practice opticianry during the ensuing two (2) years shall file a renewal application duly executed together with a renewal fee of sixty-two dollars and fifty cents (\$62.50) made payable by check to the General Treasurer, state of Rhode Island.
- 7.3 Upon receipt of a renewal application accompanied by evidence of completion of prescribed continuing education requirements as set forth in section 6.0 herein, and including payment of renewal fee, the accuracy of the application shall be verified and license shall be granted effective for a two (2) year period unless sooner suspended or revoked.

Section 8.0 ***Denial, Suspension or Revocation of License***

- 8.1 In addition to any other sanctions provided in the statutory and regulatory provisions herein, the Director may, pursuant to section 5-35-19 of the Act, and after due notice and hearing as provided in section 11.0 herein, refuse to grant, refuse to renew, suspend or revoke any license to any person who is not of good moral character, or 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, and of gross unprofessional conduct as defined in the aforementioned section of the Act.

PART III ***Advertising, Violations, Practices and Procedures and Severability***
(R5-35-OPTI)

Section 9.0 ***Advertising***

- 9.1 Pursuant to section 5-35-20(b) of the Act, no optician licensed and practicing in this state shall advertise by written or spoken word of a character tending to deceive or mislead the public.
- 9.2 In addition to section 9.1 above, any and all advertising conducted by any optician shall conform to the provisions of Chapter 6-13.1 of the General Laws of Rhode Island, as amended, entitled, "Deceptive Trade Practices Act."
- 9.3 Any person practicing pursuant to the provisions of the Act, shall be required to post his or her name and license number on the premises where the services are being offered.

Section 10.0 ***Violations***

- 10.1 Any violations of the statutory and regulatory requirements herein shall be subject to the statutory sanctions as set forth in section 5-35-19 of the Act.

Section 11.0 ***Rules Governing Practices and Procedures***

- 11.1 All hearings and reviews required under the provisions of the Act shall be held in accordance with the provisions of the rules and regulations promulgated by the Rhode Island Department of Health entitled, *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 12.0 ***Severability***

- 12.1 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 the application of the regulations which can be given effect, and to this end the provisions of the regulations are declared to be severable.