

HANDBOOK FOR NYS OPTOMETRISTS



2019

New York State Optometric Association

Laws, Rules & Regulations • License Requirements • Continuing
Education • Practice Guidelines • Training • Prescribing • Important
Contact Information



Handbook for NYS Optometrists

NEW YORK STATE OPTOMETRIC ASSOCIATION

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INTRODUCTION

Disclaimer: The New York State Optometric Association, Inc. (NYSOA) has compiled this handbook to serve as a resource and reference guide for members. No express or implied warranty is given by the NYSOA as to the accuracy of the information. Users are responsible for making their own assessments of all information contained herein or in connection with this handbook and are advised to verify such information by making reference to its original publication and obtain independent advice before acting on it.

Optometry is one of more than fifty licensed professions subject to New York State's unique system of professional regulation. This system is guided by the Board of Regents, a citizen body that presides over the University of the State of New York and the New York State Education Department. The State Education Department, under Regents' direction, administers professional regulation through its Office of the Professions, assisted by the State Boards for the Professions. This system recognizes the importance of education in both preparing licensed professionals and ensuring their continuous development.

LAWS, RULES & REGULATIONS

The following statutes of the State of New York apply to optometry.

Education Law

Title VIII, Article 143 – OPTOMETRY

§7100. INTRODUCTION.

This article applies to the profession of optometry. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§7101. DEFINITION OF THE PRACTICE OF OPTOMETRY.

The practice of the profession of optometry is defined as diagnosing and treating optical deficiency, optical deformity, visual anomaly, muscular anomaly or disease of the human eye and adjacent tissue by prescribing, providing, adapting or fitting lenses or by prescribing, providing, adapting or fitting non-corrective contact lenses, or by prescribing or providing orthoptics or vision training, or by prescribing and using drugs. The practice of optometry shall not include any injection or invasive modality. For purposes of this section invasive modality means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive modality includes surgery, lasers, ionizing radiation, therapeutic ultrasound and the removal of foreign bodies from within the tissue of the eye. Nothing in this section or section seventy-one hundred one-a of this article shall be construed to limit the scope of optometric practice as authorized prior to January first, nineteen hundred ninety-five. The use of drugs by optometrists is authorized only in accordance with the provisions of this article and regulations promulgated by the commissioner.

§7101-A. CERTIFICATION TO USE THERAPEUTIC DRUGS.

1. Definitions. As used in this section, the following terms shall have the following meanings:
 - a. Clinical training. Clinical training shall mean the diagnosis, treatment and management of patients with ocular disease and shall be comparable to that acquired by a current graduate of the State University College of Optometry.
 - b. Consultation. Consultation shall mean a confirmation of the diagnosis, a plan of co-management of the patient, and a periodic review of the patient's progress.
 - c. Education review committee. Education review committee shall mean the committee established pursuant to subdivision nine of this section.

- d. Diagnostic pharmaceuticals. Diagnostic pharmaceuticals shall mean those drugs which shall be limited to topical applications to the surface of the eye for the purpose of diagnostic examination of the eye and shall be limited to:
 - i. Anesthetic agents;
 - ii. Mydriatics;
 - iii. Cycloplegics;
 - iv. Miotics;
 - v. Disclosing agents and other substances used in conjunction with these drugs as part of a diagnostic procedure.
 - e. Phase one therapeutic pharmaceutical agents. Phase one pharmaceutical agents shall mean those drugs which shall be limited to topical application to the surface of the eye for therapeutic purposes and shall be limited to:
 - i. antibiotic/antimicrobials;
 - ii. decongestants/anti-allergenic;
 - iii. non-steroidal anti-inflammatory agents;
 - iv. steroidal anti-inflammatory agents;
 - v. antiviral agents;
 - vi. hyperosmotic/hypertonic agents;
 - vii. cycloplegics;
 - viii. artificial tears and lubricants.
 - f. Phase two therapeutic pharmaceutical agents. Phase two pharmaceutical agents shall mean those drugs which shall be limited to topical application to the surface of the eye and shall be limited to:
 - i. beta blockers;
 - ii. alpha agonists;
 - iii. direct acting cholinergic agents.
2. Standard of care. An optometrist authorized to use pharmaceutical agents for use in the diagnosis, treatment or prevention of ocular disease shall be held to the same standard of care in diagnosis, use of such agents, and treatment as that degree of skill and proficiency commonly exercised by a physician in the same community.
 3. Certificate. The commissioner shall issue appropriate certificates to use therapeutic pharmaceutical agents in accordance with the provisions of this section to those optometrists who have satisfactorily completed a curriculum in general and ocular pharmacology at a college of optometry with didactic and supervised clinical programs approved by the department are eligible to apply for the certificate issued pursuant to this section.
 4. Phase one therapeutic pharmaceutical agents.
 - a. Before using or prescribing phase one therapeutic pharmaceutical agents, each optometrist shall have completed at least three hundred hours of clinical training in the diagnosis, treatment and management of patients with ocular disease other than glaucoma and ocular hypertension, not fewer than twenty-five hours of such training shall have been completed subsequent to June thirtieth, nineteen hundred ninety-three and additionally shall either have taken and successfully passed the treatment and management of ocular diseases portion of the National Board of Examiners in Optometry test or have taken and successfully passed an examination acceptable to the board.
 - b. Before using or prescribing phase two therapeutic pharmaceutical agents, an optometrist must be certified for diagnostic and phase one therapeutic agents and have completed an additional one hundred hours of clinical training in the diagnosis, treatment and management

- of patients with glaucoma and ocular hypertension, not fewer than twenty-five hours of such training shall have been completed subsequent to July first, nineteen hundred ninety-four, and shall have taken and successfully passed an oral or written examination acceptable by the board.
- c. The clinical training required by this section may have been acquired prior to the enactment of this section not inconsistent with paragraphs (a) and (b) of this subdivision. Approval of the pre-acquired clinical training shall be in accordance with subdivision nine-a of this section.
 - d. The provisions of paragraphs (a) and (b) of this subdivision shall not apply to (i) graduates of an appropriate program approved by the department who have successfully passed the examination on the use of diagnostic and therapeutic drugs and who graduated subsequent to January first, nineteen hundred ninety-three; or (ii) optometrists who have been certified for at least five years to use phase one and phase two drugs in another jurisdiction, have demonstrated such use in independently managed patients, and have been licensed in accordance with section seventy-one hundred four of this chapter. Provided, however, no optometrist exempt under this paragraph shall be permitted to use phase one therapeutic pharmaceutical agents or phase two therapeutic pharmaceutical agents prior to the general authorization provided to optometrists licensed in this state.
5. Suspension of certification. The department shall suspend the certification for the use and prescribing of phase one therapeutic agents of any optometrist who fails to receive certification for phase two therapeutic pharmaceutical agents within three years of having been certified for phase one therapeutic pharmaceutical agents.
 6. Consultation.
 - a. After the initial diagnosis of glaucoma or ocular hypertension and before initiating treatment of any patient, an optometrist shall engage in a written consultation with a licensed physician specializing in diseases of the eye.
 - b. A consultation shall be required for a period of three years or until the optometrist has examined and diagnosed seventy-five patients having glaucoma or ocular hypertension which examinations require a written consultation in accordance with paragraph (a) of this subdivision, whichever occurs later.
 - c. The consultation provisions shall not apply to a graduate of an appropriate program approved by the department who successfully passed an examination in the use of diagnostic and therapeutic pharmaceutical agents approved by the department and graduated such school subsequent to January first, nineteen hundred ninety-nine and who has had at least seventy-five documented examinations and diagnosis of patients with glaucoma or ocular hypertension which examinations were part of their training and were under physician supervision.
 7. Continuing education. Each optometrist certified to use phase one or phase two therapeutic pharmaceutical agents shall complete a minimum of thirty-six hours of continuing education per triennial registration period. The education shall be in the area of ocular disease and pharmacology and may include both didactic and clinical components. Such educational programs shall be approved in advance by the department and evidence of the completion of this requirement shall be submitted with each application for license renewal as required by section sixty-five hundred two of this chapter.
 8. Notice to patient.
 - a.

- i. An optometrist prescribing steroids or antiviral medication shall inform each patient that in the event the condition does not improve within five days, a physician of the patient's choice will be notified.
 - ii. An optometrist engaged in a written consultation with an ophthalmologist shall inform a patient diagnosed with glaucoma that the optometrist will have the diagnosis confirmed and co-managed with an ophthalmologist of the patient's choice, or one selected by the optometrist.
- b. In addition, each optometrist certified to prescribe and use therapeutic drugs shall have posted conspicuously in the office reception area the following notice:

"Dr. (Name), O.D. is certified by New York State to use drugs to diagnose and treat diseases of the eye. In the event your condition requires the use of steroids or antiviral medication and your condition does not improve within five days, a physician of your choice will be notified.

In the event you are diagnosed with glaucoma, the optometrist will have your diagnosis confirmed and treatment co-managed with an ophthalmologist (MD) of your choice, or if you wish, one selected by Dr. (Name)."

The second paragraph of such notice shall only be required to be included during the period when the optometrist is engaged in a written consultation pursuant to subdivision six of this section.

9. Education review committee. An education review committee is hereby created to advise and assist the commissioner in evaluating pre-acquired clinical training. The members of the committee shall be appointed by the commissioner in consultation with the chancellor of the state university of New York. The committee shall consist of five members, two of whom shall be optometrists on the faculty of the SUNY college of optometry, two of whom shall be ophthalmologists who, in addition to being members of the faculty of any approved medical school in this state and not also faculty members of SUNY college of optometry, have surgical privileges at a New York state hospital. The fifth member who shall be designated as chair shall be an expert in the field of public health and shall be neither an ophthalmologist nor an optometrist.

The commissioner shall submit each application to the committee for its review and recommendation. In making such recommendation, the committee shall advise as to the number of hours of pre-acquired clinical training, if any, to be approved, based upon the information submitted with the application. In evaluating such training, the committee shall be authorized to require the submission of such reasonable documentation needed to facilitate the committee's review of the adequacy and relevance of such training.

- a. Pre-acquired clinical training. Each optometrist requesting approval of pre-acquired clinical training shall submit a written application to the department. The commissioner, in consultation with the education review committee may provide credit for the following:
 - i. clinical training acquired at an institution accredited by a regional or professional accreditation organization which is recognized or approved by the United States Department of Education, the department and the Board of Regents of the University of the state of New York;
 - ii. clinical training acquired at a facility licensed by the state of New York in accordance with article twenty-eight of the public health law or at a comparable facility located

- in another state or country provided the licensing requirements or accreditation requirements of such institution are comparable to those of New York state;
 - iii. hospital affiliations, including rounds and patient management for applicants having staff privileges at such facility;
 - iv. consultation and co-management with ophthalmologists of patients with ocular disease and post-surgery recovery;
 - v. postdoctoral accredited residency or fellowship programs;
 - vi. experience at an accredited educational institution as a faculty instructor in clinical practice, ocular disease management and pharmacology;
 - vii. experience in other states in which the applicant has been certified to use therapeutic pharmaceutical agents.
 - b. Any optometrist disagreeing with the recommendation of the education review committee shall have a right to appeal in writing to the commissioner. The decision of the commissioner shall be final and binding on all parties.
10. Pharmaceutical agents. Optometrists who have been approved and certified by the department shall be permitted to use the following drugs:
- a. Diagnostic pharmaceuticals.
 - b. Those optometrists having been certified for phase one therapeutic pharmaceutical agents shall be authorized (i) to use and recommend all nonprescription medications appropriate for ocular disease whether intended for topical or oral use; and (ii) to use and prescribe all phase one therapeutic pharmaceutical agents which are FDA approved and commercially available.

In the event an optometrist treats a patient with topical antiviral or steroidal drugs and the patient's condition either fails to improve or worsens within five days, the optometrist shall notify a physician designated by the patient or, if none, by the treating optometrist.
 - c. Those optometrists having been certified for phase two therapeutic pharmaceutical agents shall be authorized to use and prescribe phase two therapeutic pharmaceutical agents which are FDA approved and commercially available.
11. Responsibilities of the commissioner. The commissioner shall adopt regulations (a) providing for the certification of graduates of an appropriate program approved by the department who have successfully passed the examination on the use of diagnostic and therapeutic pharmaceutical agents and who have graduated subsequent to January first, nineteen hundred ninety-three; and (b) providing for the certification of optometrists who have graduated from other accredited colleges of optometry or who are licensed to practice in other jurisdictions, have demonstrated such use in independently managed patients and are seeking licensure and certification in New York.
12. Responsibilities of the commissioner of health. The commissioner of health may recommend to the commissioner additions or deletions to the department's regulations relating to optometric use of drugs except that such recommendations shall be limited only to additions which have been determined to be equivalent to those drugs already authorized or deletions based upon a finding that the drugs are no longer appropriate for their current use or for other similar reasons.

§7102. PRACTICE OF OPTOMETRY AND USE OF TITLE "OPTOMETRIST".

Only a person licensed or exempt under this article shall practice optometry or use the title "optometrist".

§7103. STATE BOARD FOR OPTOMETRY.

A state board for optometry shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board

shall be composed of not less than seven optometrists who shall have been residents of this state engaged in the practice of optometry for at least five years in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§7104. REQUIREMENTS FOR A PROFESSIONAL LICENSE.

To qualify for a license as an optometrist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;
2. Education: have received an education, including a degree of doctor of optometry or equivalent degree, in accordance with the commissioner's regulations;
3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;
4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;
5. Age: be at least twenty-one years of age;
6. Citizenship: meet no requirement as to United States citizenship;
7. Character: be of good moral character as determined by the department; and
8. Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period, and for additional authorization for the purpose of utilizing diagnostic pharmaceutical agents, a fee of sixty dollars.

§7105. EXEMPT PERSONS.

Nothing in this article shall be construed to affect or prevent:

- a. A student from engaging in clinical practice under supervision of a licensed optometrist or physician in a school of optometry in this state registered by the department; or
- b. A person licensed to practice optometry from using a degree conferred in course after resident study by an educational institution lawfully authorized by the state in which it is located to confer such a degree.
- c. An optometrist licensed in another state or country who is employed on a full-time basis by a registered school of optometry as a faculty member with the rank of assistant professor or higher from conducting research and clinical demonstrations as part of such employment, under the supervision of a licensed optometrist and on the premises of the school. No fee may be charged for the practice of optometry authorized by this subdivision.

§7106. SPECIAL PROVISIONS.

1. The testimony and reports of a licensed optometrist shall be received by any official, board, commission or other agency of the state or of any of its subdivisions or municipalities as qualified evidence with respect to any matter defined in section seventy-one hundred one of this article; and no official, board, commission, or other agency of the state or any of its subdivisions or municipalities shall discriminate among the practitioners of optometry and any other ocular practitioners.
2. Eyeglasses or lenses for the correction of vision or non-corrective contact lenses may be sold by any person, firm or corporation at retail, only on prescription of a licensed physician or licensed optometrist and only if a licensed physician, optometrist or ophthalmic dispenser is in charge of and in personal attendance at the place of sale. This article shall not apply to binoculars, telescopes, or other

lenses used for simple magnification; except, that a seller of non-prescription ready-to-wear magnifying spectacles or glasses shall have the following language attached to each pair of glasses or spectacles displayed or offered for sale and in at least ten point bold type permanently affixed in plain view to the top of any point of sale display or, if there is no display, in the area of sale: "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this subdivision "non-prescription, ready to wear magnifying spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are encased in eyeglass frames and intended to ameliorate the symptoms of presbyopia. The lenses in such glasses shall be of uniform focus power in each eye and shall not exceed 2.75 diopters.

3. It shall be a class A misdemeanor to practice any fraud, deceit or misrepresentation in any advertising related to optometric services.

§7107. ADVERTISING OF NON-PRESCRIPTION READY-TO-WEAR MAGNIFYING SPECTACLES OR GLASSES.

1. Any printed advertising for non-prescription ready-to-wear magnifying spectacles or glasses to be sold through the mail also shall include the statement, "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this section, "non-prescription, ready to wear magnifying spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are encased in eyeglass frames and intended to ameliorate the symptoms of presbyopia. The lenses in such glasses shall be of uniform focus power in each eye and shall not exceed 2.75 diopters.
2. Any person, his or her agent or employee who shall violate any provision of this section shall be subject to a civil penalty of not less than twenty-five dollars nor more than two hundred fifty dollars for each violation. For purposes of this section, the sale or offer for sale of each pair of non-prescription ready-to-wear magnifying spectacles or glasses which fail to meet the standards of this section shall constitute a violation.

Rules of the Board of Regents

Part 29, Unprofessional Conduct

§ 29.1 GENERAL PROVISIONS.

- a. Unprofessional conduct shall be the conduct prohibited by this section. The provisions of these rules applicable to a particular profession may define additional acts or omissions as unprofessional conduct and may establish exceptions to these general prohibitions.
- b. Unprofessional conduct in the practice of any profession licensed, certified or registered pursuant to title VIII of the Education Law, except for cases involving those professions licensed, certified or registered pursuant to the provisions of Article 131 or 131-B of such law in which a statement of charges of professional misconduct was not served on or before July 26, 1991, the effective date of Chapter 606 of the Laws of 1991, shall include:
 1. willful or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of the profession;

2. exercising undue influence on the patient or client, including the promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party;
3. directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or client or in connection with the performance of professional services;
4. permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice the same profession, or a legally authorized trainee practicing under the supervision of a licensed practitioner. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services used by a professional licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice, except as otherwise provided by law with respect to a facility licensed pursuant to Article 28 of the Public Health Law or Article 13 of the Mental Hygiene Law;
5. conduct in the practice of a profession which evidences moral unfitness to practice the profession;
6. willfully making or filing a false report, or failing to file a report required by law or by the Education Department, or willfully impeding or obstructing such filing, or inducing another person to do so;
7. failing to make available to a patient or client, upon request, copies of documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client;
8. revealing of personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law;
9. practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;
10. delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them;
11. performing professional services which have not been duly authorized by the patient or client or his or her legal representative;
12. advertising or soliciting for patronage that is not in the public interest:
 - i. Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that:
 - a. is false, fraudulent, deceptive or misleading;
 - b. guarantees any service;
 - c. makes any claim relating to professional services or products or the cost or price therefore which cannot be substantiated by the licensee, who shall have the burden of proof;
 - d. makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof; or

- e. offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.
 - ii. The following shall be deemed appropriate means of informing the public of the availability of professional services:
 - a. informational advertising not contrary to the foregoing prohibitions; and
 - b. the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range of prices, for specified routine professional services, provided that if there is an additional charge for related services which are an integral part of the overall service being provided by the licensee, the advertisement shall so state, and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect.
 - iii.
 - a. all licensees placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, tape or videotape thereof as appropriate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the Education Department;
 - b. a licensee shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;
 - iv. Testimonials, demonstrations, dramatizations, or other portrayals of professional practice are permissible provided that they otherwise comply with the rules of professional conduct and further provided that the following conditions are satisfied:
 - a. the patient or client expressly authorizes the portrayal in writing;
 - b. appropriate disclosure is included to prevent any misleading information or imagery as to the identity of the patient or client;
 - c. reasonable disclaimers are included as to any statements made or results achieved in a particular matter;
 - d. the use of fictional situations or characters may be used if no testimonials are included; and
 - e. fictional client testimonials are not permitted;
13. failing to respond within 30 days to written communications from the Education Department or the Department of Health and to make available any relevant records with respect to an inquiry or complaint about the licensee's unprofessional conduct. The period of 30 days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from either department by registered or certified mail, with return receipt requested, to the address appearing in the last registration, the period of 30 days shall commence on the date of delivery to the licensee, as indicated by the return receipt;
14. violating any term of probation or condition or limitation imposed on the licensee by the Board of Regents pursuant to Education Law, Section 6511.

§ 29.2 GENERAL PROVISIONS FOR HEALTH PROFESSIONS.

- a. Unprofessional conduct shall also include, in the professions of: acupuncture, athletic training, audiology, certified behavior analyst assistant, certified dental assisting, chiropractic, creative arts therapy, dental hygiene, dentistry, dietetics/nutrition, licensed behavior analyst, licensed perfusionist, licensed practical nursing, marriage and family therapy, massage therapy, medicine, mental health

counseling, midwifery, occupational therapy, occupational therapy assistant, ophthalmic dispensing, optometry, pharmacy, physical therapist assistant, physical therapy, physician assistant, podiatry, psychoanalysis, psychology, registered professional nursing, respiratory therapy, respiratory therapy technician, social work, specialist assistant, speech-language pathology (except for cases involving those professions licensed, certified or registered pursuant to the provisions of article 131 or 131-B of the Education Law in which a statement of charges of professional misconduct was not served on or before July 26, 1991, the effective date of chapter 606 of the Laws of 1991):

1. abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients;
2. willfully harassing, abusing or intimidating a patient either physically or verbally;
3. failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of 21 years;
4. using the word "Doctor" in offering to perform professional services without also indicating the profession in which the licensee holds a doctorate;
5. failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
6. guaranteeing that satisfaction or a cure will result from the performance of professional services;
7. ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient;
8. claiming or using any secret or special method of treatment which the licensee refuses to divulge to the State Board for the profession;
9. failing to wear an identifying badge, which shall be conspicuously displayed and legible, indicating the practitioner's name and professional title authorized pursuant to the Education Law, while practicing as an employee or operator of a hospital, clinic, group practice or multiprofessional facility, registered pharmacy, or at a commercial establishment offering health services to the pub;
10. entering into an arrangement or agreement with a pharmacy for the compounding and/ or dispensing of coded or specially marked prescriptions;
11. with respect to all professional practices conducted under an assumed name, other than facilities licensed pursuant to article 28 of the Public Health Law or article 13 of the Mental Hygiene Law, failing to post conspicuously at the site of such practice the names and the licensure field of all of the principal professional licensees engaged in practice at that site (i.e., principal partners, officers or principal shareholders);
12. issuing prescriptions for drugs and devices which do not contain the following information: the date written, the prescriber's name, address, telephone number, profession and registration number, the patient's name, address and age, the name, strength and quantity of the prescribed drug or device, as well as the directions for use by the patient. In addition, all prescriptions for controlled substances shall meet the requirements of article 33 of the Public Health Law;

13. failing to use scientifically accepted infection prevention techniques appropriate to each profession for the cleaning and sterilization or disinfection of instruments, devices, materials and work surfaces, utilization of protective garb, use of covers for contamination-prone equipment and the handling of sharp instruments. Such techniques shall include but not be limited to:
- i. wearing of appropriate protective gloves at all times when touching blood, saliva, other body fluids or secretions, mucous membranes, nonintact skin, blood-soiled items or bodily fluid-soiled items, contaminated surfaces, and sterile body areas, and during instrument cleaning and decontamination procedures;
 - ii. discarding gloves used following treatment of a patient and changing to new gloves if torn or damaged during treatment of a patient; washing hands and donning new gloves prior to performing services for another patient; and washing hands and other skin surfaces immediately if contaminated with blood or other body fluids;
 - iii. wearing of appropriate masks, gowns or aprons, and protective eyewear or chin-length plastic face shields whenever splashing or spattering of blood or other body fluids is likely to occur;
 - iv. sterilizing equipment and devices that enter the patient's vascular system or other normally sterile areas of the body;
 - v. sterilizing equipment and devices that touch intact mucous membranes but do not penetrate the patient's body or using high-level disinfection for equipment and devices which cannot be sterilized prior to use for a patient;
 - vi. using appropriate agents, including but not limited to detergents for cleaning all equipment and devices prior a sterilization or disinfection;
 - vii. cleaning, by the use of appropriate agents, including but not limited to detergents, equipment and devices which do not touch the patient or that only touch the intact skin of the patient;
 - viii. maintaining equipment and devices used for sterilization according to the manufacturer's instructions;
 - ix. adequately monitoring the performance of all personnel, licensed or unlicensed, for whom the licensee is responsible regarding infection control techniques;
 - x. placing disposable used syringes, needles, scalpel blades, and other sharp instruments in appropriate puncture-resistant containers for disposal; and placing reusable needles, scalpel blades, and other sharp instruments in appropriate puncture-resistant containers until appropriately cleaned and sterilized;
 - xi. maintaining appropriate ventilation devices to minimize the need for emergency mouth-to-mouth resuscitation;
 - xii. refraining from all direct patient care and handling of patient care equipment when the health care professional has exudative lesions or weeping dermatitis and the condition has not been medically evaluated and determined to be safe or capable of being safely protected against in providing direct patient care or in handling patient care equipment; and
 - xiii. placing all specimens of blood and body fluids in well-constructed containers with secure lids to prevent leaking; and cleaning any spill of blood or other body fluid with an appropriate detergent and appropriate chemical germicide; and
14. failing to adhere to applicable practice guidelines, as determined by the commissioner, for the compounding of sterile drugs and products.

- b. Unprofessional conduct shall also include, in those professions specified in section 18 of the Public Health Law and in the professions of acupuncture, certified behavior analyst assistant, creative arts therapy, marriage and family therapy, massage therapy, mental health counseling, and psychoanalysis, failing to provide access by qualified persons to patient information in accordance with the standards set forth in section 18 of the Public Health Law. In the professions of acupuncture, certified behavior analyst assistant, creative arts therapy, licensed behavior analyst, marriage and family therapy, massage therapy, mental health counseling, and psychoanalysis, qualified persons may appeal the denial of access to patient information in the manner set forth in section 18 of the Public Health Law to a record access committee appointed by the executive secretary of the appropriate State Board. Such record access review committees shall consist of not less than three, nor more than five members of the appropriate State Board.

§ 29.8 SPECIAL PROVISIONS FOR THE PROFESSION OF OPTOMETRY.

- a. Unprofessional conduct in the practice of optometry shall include all conduct prohibited by Sections 29.1 and 29.2 of this Part, except as provided in this section, and shall also include the following:
 - 1. advertisements of the prices of frames or lenses which do not identify the lenses as single vision, bifocal or trifocal; the specific type of bifocal or trifocal lenses; and as either glass or plastic. Advertisements which indicate that a number of frame types are available at a stated price at an establishment shall not be prohibited; provided, however, that stock sufficient to meet any demand which may be reasonably expected must be maintained at the location. Advertisements of the prices of contact lenses shall state whether the lenses are hard or soft. Any advertised price shall be in effect for a period of time stated in the advertisement;
 - 2. aiding and abetting, directly or indirectly, the conduct or advertising of any employer, firm or associate if such conduct or advertising conflicts with the foregoing regulations in this Part. It shall also be unprofessional conduct for a licensee to continue in the employment of an employer who has been found to have advertised in violation of this Part after a preliminary hearing. Notice of such preliminary hearing shall be given in writing to the licensee and to the employer. It shall state the specific violation or violations, and that continuation of the licensee's employment after the charges are sustained may constitute unprofessional conduct by the licensee. It shall also state that both the licensee and the employer shall have the right to appear at the preliminary hearing, the right to be represented by counsel, and the rights set forth in Section 6510 of the Education Law;
 - 3. failing to provide a patient, upon request, with the patient's prescription, including the name, address and signature of the prescriber and date of the prescription;
 - 4. failing to adhere to standards for ophthalmic materials as set forth in regulations of the Commissioner of Education; or
 - 5. failing to wear an identifying badge as required by Section 29.2(a)(10) of this Part, while working in an establishment which dispenses eyeglasses or lenses to the public.
- b. Nothing in this Part shall be construed to prevent the sale of eyeglasses or lenses for the correction of vision by any person, firm or corporation in accordance with the provisions of Section 7106(2) of the Education Law, or to prevent any contractual arrangement between any such person, firm or corporation, its professional employees, or a person leasing space or equipment to such firm or corporation under which the amount due any of such parties is computed on the basis of a percentage of the receipts from the performance of professional services. This provision shall apply in lieu of Section 29.1(b)(4) of this Part.

Regulations of the Commissioner of Education

Part 52.17, Registration of Curricula, Optometry

Admission requirements to a college of optometry shall include the following preprofessional education: 60 semester hours of college study, including courses in general chemistry, organic chemistry, biology or zoology, and physics.

Part 66, Optometry**§66.1 PROFESSIONAL STUDY OF OPTOMETRY.**

To meet the professional education requirements for licensure in this State, the applicant shall present evidence of completion of not less than 60 semester hours of preprofessional postsecondary education satisfactory to the department, and evidence of:

- a. the completion of a program in optometry registered by the department or accredited by an accrediting organization acceptable to the department, or determined by the department to be the equivalent of a registered or accredited program; and
- b. having received the degree doctor of optometry, or the equivalent as determined by the department, from a school offering a program which meets the requirements of subdivision (a) of this section.

§66.2 PROFESSIONAL LICENSING EXAMINATION.

Each applicant for licensure who meets the requirements of section 66.1 of this Part shall pass a written examination in the basic and clinical sciences, and a practical examination, in accordance with the following:

- a. Written examination. The department may accept grades acceptable to the State Board for Optometry on the examination of the National Board of Examiners in Optometry as meeting the requirements of all or part of the written examination requirement.
- b. Practical examination.
 1. Content. The practical examination shall include, but shall not be limited to, the following sections: vision analysis, rigid contact lenses, soft contact lenses, pathology, low vision, vision training, dispensing, and the use of topically applied diagnostic drugs.
 2. Passing score. The passing score in the practical examination shall be reported on a pass/fail basis with the passing score being an average of 75.0 as determined by the State Board for Optometry. In order to determine this average, no section score shall be accepted with a score less than 65.0, and not more than one section score with a score less than 75.0, except that a score of 75.0 must be achieved in the sections of vision analysis and pathology. A candidate who fails the practical exam shall be reexamined in all sections.

§66.3 ENDORSEMENT.

- a. An applicant for endorsement of an optometry license issued by another jurisdiction shall satisfy all requirements of section 59.6 of this Title, except as herein provided:
 1. All applicants shall present evidence satisfactory to the State Board for Optometry of at least five years of professional practice of optometry following initial licensure and within the 10 years immediately preceding application for licensure by endorsement.
 2. All applicants shall take the practical examination as required by section 66.2(b) of this Part.
- b. Applicants for endorsement may be certified to use diagnostic drugs upon satisfactory completion of the requirements of section 66.4 of this Part.

§66.4 USE OF DIAGNOSTIC DRUGS.

- a. Optometrists certified to use drugs pursuant to subdivision (b) of this section may use the drugs specified in subdivision (c) of this section for the purposes stated in Education Law, section 7101(2).
- b. Certification. To receive a certificate issued by the department to use drugs, an optometrist shall be licensed in New York and shall meet the educational and examination requirements set forth in paragraph (1) or (2) of this subdivision:
 1. graduation after January 1, 1984 from a professional program of study in optometry that includes training acceptable to the department in ocular pharmacology, and successful completion of the licensing examination in accordance with section 66.2 of this Part; or
 2. satisfactory completion of a special training course in ocular pharmacology approved by the department, such course to include provision for advanced standing for optometrists with prior education in ocular pharmacology, and to include a final examination acceptable to the State Board for Optometry.
- c. An optometrist certified to use drugs as authorized under section 7101(2) of the Education Law may use anesthetic agents, mydriatics, cycloplegics, and miotics, and disclosing agents and other substances used in conjunction with these drugs as part of a diagnostic procedure.

§66.5 USE OF THERAPEUTIC PHARMACEUTICAL AGENTS.

- a. Definitions. As used in this section:
 1. Phase one therapeutic pharmaceutical agents shall mean those drugs identified in paragraph (e) of subdivision (1) of section 7101-a of the Education Law, which shall be limited to topical application to the surface of the eye for therapeutic purposes.
 2. Phase two therapeutic pharmaceutical agents shall mean:
 - i. those drugs identified in section 7101-a(1)(f) of the Education Law, and
 - ii. carbonic anhydrase inhibitors and prostaglandin analogs. Such drugs shall be limited to topical application to the surface of the eye for therapeutic purposes.
 3. Acceptable accrediting agency shall mean an organization accepted by the department as a reliable authority for the purpose of accrediting at the postsecondary level, applying its criteria for granting accreditation in a fair, consistent, and nondiscriminatory manner, such as an agency recognized for these purposes by the United States Department of Education.
 4. Education Review Committee shall mean that committee appointed by the commissioner in consultation with the chancellor of the State University of New York, pursuant to subdivision 9 of section 7101-a of the Education Law, whose function is to advise and assist the commissioner in evaluating acceptable clinical training.
 5. Temporary Evaluation Committee shall mean that committee appointed by the commissioner of education to advise the commissioner in the evaluation of optometric use of therapeutic pharmaceutical agents, pursuant to section 3 of Chapter 517 of the Laws of 1995.
- b. Certification requirements.
 1. Phase one therapeutic pharmaceutical agents. To receive a certificate issued by the department to use phase one therapeutic pharmaceutical agents, an optometrist shall be licensed in New York and meet the clinical training requirements set forth in paragraph (1) of subdivision (c) of this section and the examination requirements set forth in subdivision (d) of this section. After certification, such phase one therapeutic pharmaceutical agents shall be used in accordance with the provisions of Article 143 of the Education Law.
 2. Phase two therapeutic pharmaceutical agents. To receive a certificate issued by the department to use phase two therapeutic pharmaceutical agents, an optometrist shall be licensed in New York and certified in the use of phase one therapeutic pharmaceutical agents, and meet the clinical training requirements set forth in paragraph (2) of subdivision (c) of this

section and the examination requirements set forth in subdivision (d) of this section. After certification, such phase two therapeutic pharmaceutical agents shall be used in accordance with the provisions of Article 143 of the Education Law.

c. Clinical training requirements for certification.

1. To meet the clinical training requirements for certification in the use of phase one therapeutic pharmaceutical agents, the applicant shall present satisfactory evidence of either:
 - i. graduation after January 1, 1993 from a professional program of study in optometry that is registered by the department pursuant to Part 52 of this Title, or is accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program; or
 - ii. graduation on or before January 1, 1993 from a professional program of study in optometry that is registered by the department pursuant to Part 52 of this Title, or is accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program; and completion of at least 300 hours of acceptable clinical training, as prescribed in subdivision 4(a) and 9-a of section 7101-a of the Education Law; or
 - iii. certification to use phase one therapeutic pharmaceutical agents in another jurisdiction, provided that such optometrist has been certified for at least five years to use phase one therapeutic pharmaceutical agents in another jurisdiction during which time such use was demonstrated in independently managed patients, meaning that the optometrist demonstrated that he or she has treated patients with phase one therapeutic pharmaceutical agents without consultation with a licensed physician.
2. to meet the clinical training requirements for certification in the use of phase two therapeutic pharmaceutical agents, the applicant shall present satisfactory evidence of either:
 - i. graduation after January 1, 1993 from a professional program of study in optometry that is registered by the department pursuant to Part 52 of this Title, or is accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program; or
 - ii. graduation on or before January 1, 1993 from a professional program of study in optometry that is registered by the department pursuant to Part 52 of this Title, or is accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program and completion of at least an additional 100 hours over that obtained for certification to use phase one therapeutic pharmaceutical agents of acceptable clinical training, as prescribed in subdivisions 4(b) and 9-a of section 7101-a of the Education Law; or
 - iii. certification to use phase two therapeutic pharmaceutical agents in another jurisdiction, provided that such optometrist has been certified for at least five years to use phase two therapeutic agents in another jurisdiction during which time such use was demonstrated in independently managed patients, meaning that the optometrist demonstrated that he or she has treated patients with phase two therapeutic pharmaceutical agents without consultation with a licensed physician.
3. Applicants who meet the clinical training requirements for certification by complying with the requirements of subparagraph (ii) of paragraph (1) or subparagraph (ii) of paragraph (2) of this subdivision shall submit a written application to the department in a form approved by the department. The department shall submit each application to the education review committee for its review and recommendation, as prescribed in subdivisions 9 and 9-a of section 7101-a of the Education Law.

- d. Examination. To meet the examination requirement for either certification in the use of phase one therapeutic pharmaceutical agents or certification in the use of phase two therapeutic pharmaceutical agents, the applicant shall present evidence of successful completion of:
 - 1. the treatment and management of ocular diseases portion of the examination of the National Board of Examiners in Optometry; or
 - 2. an examination determined by the State Board for Optometry to be equivalent in scope and content to the ocular diseases portion of the examination of the National Board of Examiners in Optometry.
- e. Reporting requirement. An optometrist certified to use phase two therapeutic pharmaceutical agents shall file with the temporary evaluation committee a phase two report for each patient treated with phase two therapeutic pharmaceutical agents within seven days following the initial and each subsequent visit by the same patient. The report shall be in a form developed by the temporary evaluation committee and approved by the commissioner.

§66.6 CONTINUING EDUCATION FOR LICENSED OPTOMETRISTS CERTIFIED TO USE PHASE ONE AND/OR PHASE TWO THERAPEUTIC PHARMACEUTICAL AGENTS.

- a. As used in this section, acceptable accrediting agency shall mean an organization accepted by the department as a reliable authority for the purpose of accreditation at the postsecondary level, applying its criteria for granting accreditation in a fair, consistent and nondiscriminatory manner, such as an agency recognized for this purpose by the United States Department of Education.
- b. Mandatory continuing education requirement.
 - 1. General requirements.
 - i. During each triennial registration period, meaning a registration period of three years duration, an applicant for registration shall complete at least 36 hours of formal continuing education acceptable to the department as defined in paragraph (2) of this subdivision. At least 27 hours of such continuing education in a registration period shall consist of live in-person instruction in a formal course of study and/or live instruction in a formal course of study offered through audio, audio-visual, written, on-line and other media, during which the student must be able to communicate and interact with the instructor and other students. Up to 9 hours of such continuing education in a registration period may be completed through a self-study program, meaning structured study, provided by a sponsor approved pursuant to subdivision (g) of this section, that is based on audio, audio-visual, written, on-line, and other media, and does not include live instruction, transmitted in person or otherwise, during which the student may communicate and interact with the instructor and other students.
 - ii. Proration. During each registration or certification period of less than three years duration, an applicant shall complete acceptable continuing education, as defined in paragraph (2) of this subdivision, on a prorated basis at the rate of one hour of continuing education per month for such registration period.
 - 2. Acceptable continuing education. To be acceptable to the department, continuing education shall be:
 - i. in the area of ocular disease and pharmacology and may include both didactic and clinical components; and
 - ii. approved by the department pursuant to subdivision (g) of this section.
- c. Adjustments to the requirement.
 - 1. An adjustment to the continuing education requirement, as prescribed in subdivision (b) of this section, may be made by the department, to permit the applicant to complete all or part of

- the continuing education requirement through equivalent study acceptable to the department provided that the applicant documents good cause that prevents compliance with the regular continuing education requirement, which good cause shall include, but not be limited to, any of the following reasons: poor health certified by a physician; or a specific physical or mental disability certified by an appropriate health care professional; or extended active duty by the armed forces of the United States; or other good cause beyond the applicant's control which in the judgment of the department makes it impossible for the applicant to comply with the continuing education requirement in a timely manner.
2. The department may permit an applicant to complete all or a part of the continuing education requirement in the new registration period through an approved adjustment pursuant to this subdivision, provided that the applicant will not obtain a renewal of certification until the continuing education requirement is met. In such a case, the applicant will also have to complete the continuing education requirement for the new registration period.
- d. Renewal of certification. At each re-registration for a renewal of certification, applicants shall certify to the department that they have complied with the continuing education requirement set forth in subdivision (b) of this section or an adjusted requirement approved by the department in accordance with subdivision (c) of this section.
 - e. Licensee records.
 1. Each licensee subject to this section shall maintain and ensure access by the department to evidence of completed continuing education including:
 - i. the title of the course or program;
 - ii. the number of hours completed;
 - iii. the sponsor's name and any identifying number;
 - iv. attendance or participation verification; and
 - v. the date and location of the course.
 2. Retention. Such records shall be retained for at least six years from the date of completion of the course and shall be available for review by the department in the administration of the requirements of this section.
 - f. Measurement of continuing education study. Continuing education credit shall be granted only for acceptable continuing education as prescribed in subdivision (b) of this section. For continuing education courses, a minimum of 50 minutes of study shall equal one continuing education hour of credit. For credit-bearing university or college courses, each semester-hour of credit shall equal 15 continuing education hours of credit, and each quarter-hour of credit shall equal 10 continuing education hours of credit.
 - g. Continuing education course approval.
 1. To be approved by the department, a continuing education course shall meet the requirements of either paragraph (2) or (3) of this subdivision.
 2. The department shall deem approved a course that is in any one or more of the subjects prescribed for acceptable continuing education in subparagraph (b)(2)(i) of this section and that is either:
 - i. approved by the Council on Optometric Practitioner Education or an organization determined by the department with assistance from the State Board for Optometry to have adequate standards for approving sponsors of continuing education for professionals regulated by Title VIII of the Education Law that include, but are not limited to, standards that are equivalent to the standards prescribed in clauses (3)(ii)(a) and (b) of this subdivision; or

- ii. is offered by a postsecondary institution that is authorized to offer programs in optometry leading to licensure that are registered pursuant to Part 52 of this Title or accredited by an acceptable accrediting agency.
3. Department review of courses.
 - i. The department shall conduct a review of courses that are not deemed approved pursuant to the requirements of paragraph (2) of this section.
 - ii. A sponsor desiring to obtain approval of a continuing education course based upon a department review under this paragraph shall submit an application for advance approval of the course at least 14 days prior to the date of the commencement of such course that documents that the sponsor:
 - a. will offer courses of learning in any one or more of the subjects prescribed for acceptable continuing education in subparagraph (b)(2)(i) of this section;
 - b. provides staff who are qualified to teach the courses that will be offered, including, but not limited to, faculty of a college of optometry accredited by an acceptable accrediting agency, or a physician who specializes in diseases of the eye, or by licensed optometrists certified to treat patients with phase two therapeutic pharmaceutical agents, or qualified staff who are authorities in the health sciences specially qualified, in the opinion of the State Board for Optometry, to teach such courses; and
 - c. will maintain records for at least six years from the date of completion of course work, which shall include, but shall not be limited to, the name and curriculum vitae of the faculty, a record of attendance of licensed optometrists in the course, an outline of the course, the date and location of the course, and the number of hours for completion of the course. In the event that the sponsor of approved courses discontinues operation, the governing body of such sponsor shall notify the department and transfer all records as directed by the department.
 - iii. A course that is approved by the department pursuant to the requirements of this paragraph shall only be approved for specified dates that the course will be offered.
 - iv. The department may conduct site visits of, or request information from a sponsor of an approved course to ensure compliance with the requirements of this paragraph, and a sponsor shall cooperate with the department in permitting such a site visit and providing such information.
 - v. A determination by the department that a course approved pursuant the requirements of this paragraph is not meeting the standards set forth in this paragraph shall result in the denial or termination of the approved status of the course.

LICENSE REQUIREMENTS

Source: NYS Education Department Office of the Professions, www.op.nysed.gov/prof/optom/optomlic.htm

General Requirements

Any use of the title "optometrist" within New York State requires licensure.

To be licensed as an optometrist in New York State you must:

- be of good moral character;
- be at least 21 years of age; and

- meet education and examination requirements.

You must submit an application for licensure and the other forms indicated, along with the appropriate fee, to the Office of the Professions at the address specified on each form. It is your responsibility to follow up with anyone you have asked to send material.

The specific requirements for licensure are contained in Title 8, Article 143, Section 7104 of New York's Education Law and Section 52.17 and Part 66 of the Commissioner's Regulations.

You should also read the general licensing information applicable for all professions.

Fees

The fee for licensure and first registration is \$377.

The fee for certification in the administration of topical diagnostic pharmaceuticals is \$60.

NOTE: If you are applying for both, you may submit one check for \$437 for both fees.

Fees are subject to change. The fee due is the one in law when your application is received (unless fees are increased retroactively). You will be billed for the difference if fees have been increased.

- Do not send cash.
- Make your personal check or money order payable to the New York State Education Department. Your cancelled check is your receipt.
- Mail your application and fee to:

**New York State Education Department
Office of the Professions
PO Box 22063
Albany, NY 12201**

NOTE: Payment submitted from outside the United States should be made by check or draft on a United States bank and in United States currency; payments submitted in any other form will not be accepted and will be returned.

Partial Refunds

Individuals who withdraw their licensure application may be entitled to a partial refund.

- For the procedure to withdraw your application, contact the NYS Education Department, Office of the Professions, Optometry Unit at opunit1@nysed.gov or by calling 518-474-3817 ext. 250 or by fax at 518-402-5354.
- The State Education Department is not responsible for any fees paid to an outside testing or credentials verification agency.

If you withdraw your application, obtain a refund, and then decide to seek New York State licensure at a later date, you will be considered a new applicant, and you will be required to pay the licensure fee and meet the licensure requirements in place at the time you reapply.

Education Requirement

To satisfy the education requirement for licensure as an optometrist, you must present evidence of completing A, B and C below.

A. Preprofessional Education

Satisfactory completion of not less than 60 semester hours of college study from a New York State registered program or the equivalent as determined by the New York State Education Department. These 60 semester hours must include courses in general chemistry, organic chemistry, biology or zoology, and physics.

B. Professional Education

Satisfactory completion of a professional program in optometry registered by the Department as licensure qualifying, accredited by the American Optometric Association Council on Optometric Education (AOACOE), or determined by the Department to be the equivalent of such a licensure qualifying or accredited program. The educational program must consist of four years of college study (or its equivalent) based upon the prerequisite education defined in Part A above and must lead to the degree of Doctor of Optometry, or its equivalent.

C. Additional Requirements:

- Child Abuse Identification Reporting

You must also complete coursework or training in the identification and reporting of child abuse in accordance with Section 6507(3)(a) of the Education Law.

- Infection Control and Barrier Precautions

You must also complete approved coursework or training appropriate to the professional's practice in infection control and barrier precautions, including engineering and work practice controls, to prevent the transmission of the human immunodeficiency virus (HIV) and the hepatitis b virus (HBV) in the course of professional practice.

Examination Requirement

To meet the examination requirement for licensure, you must pass Parts I, II, and III of the National Board of Examiners in Optometry (NBEO) examination. Contact the NBEO for eligibility requirements, fees, and other examination information at:

National Board of Examiners in Optometry (NBEO)
200 S. College Street, #1920
Charlotte, NC 28202
Phone: 704-332-9565 or toll free 800-969-EXAM (3926)
Fax: 704-332-9568
E-mail: nbeo@optometry.org
Web: www.optometry.org

Alternatively, if you passed Parts I and II of the NBEO examination and the Northeast Regional Clinical Optometric Assessment Testing Service (NERCOATS) examination, you meet the examination requirement for licensure.

If you are seeking certification in the use of Therapeutic Pharmaceutical Agents (TPAs), you must pass the NBEO's Treatment and Management of Ocular Diseases (TMOD) examination.

All score reports must be sent directly by the testing agency to the Office of the Professions. Student copies will not be accepted.

Reasonable Testing Accommodations

If you have a disability and require reasonable testing accommodations for the examination, contact the NBEO for information on the procedures for requesting such accommodations.

Topical Diagnostic Pharmaceuticals (DPAS) Requirement

If you graduated from a college of optometry registered by the Department as licensure qualifying or accredited by the ACOE after January 1, 1984, your educational program included the training required for you to obtain certification in the administration of topical diagnostic pharmaceuticals. To apply for the certification, you must check the box in item 1 of the Application for Licensure (Form 1) for "Optometrists DPA Certification" and include the \$60 certification fee.

If you graduated from your college of optometry prior to January 1, 1984, please contact the Office of the New York State Board for Optometry at 518-474-3817 ext. 591 for information on the requirements you must meet to obtain the certification.

Therapeutic Pharmaceutical Agents (TPA) Requirement

If you are interested in certification to use therapeutic pharmaceutical agents (TPAs), graduated from a college of optometry registered by the Department as licensure qualifying or accredited by the ACOE after January 1, 1993, and passed the TMOD examination, you must complete item 14 on your Application for Licensure (Form 1) to apply for that certification.

If you graduated from your college of optometry prior to January 1, 1993, you must contact the SUNY College of Optometry for information regarding the requirements you must meet to obtain certification.

SUNY College of Optometry
TPA Application Office
33 West 42nd Street
New York, NY 10036-8003
Phone: 212-938-5830

Licensure by Endorsement

Licensure by endorsement of a license issued by another state applies only to those applicants who were licensed without having taken the NBEO, Parts I, II and III or the NBEO Parts I and II and the NERCOATS examination. For the most part, this is an option for applicants who graduated from a professional optometry program prior to 1969, before the use of the NBEO as a national examination. All endorsement applicants

must present evidence of at least five years of professional practice of optometry following initial licensure and within the 10 years immediately preceding application for licensure in New York. If you have failed a licensing examination used by the State of New York, you are not eligible to apply for licensure by endorsement unless you have subsequently passed a comparable licensing examination.

APPLICATION FORMS

License applications forms can be accessed and downloaded at www.op.nysed.gov/prof/optom/optomforms.htm.

CONTINUING EDUCATION

Questions & Answers

Source: NYS Education Department Office of the Professions, www.op.nysed.gov/prof/optom/optomceques.htm

General Information

Optometrists in New York State with the phase one therapeutic pharmaceutical agents (TPA1) privilege ("U") and/or the phase two therapeutic pharmaceutical agents (TPA2) privilege ("V") are required to complete 36 contact hours of continuing education in each three-year registration period.

Specific requirements for continuing education for optometrists are contained in Article 143 of New York's Education Law.

Continuing Education: Who is required to take it and why?

1. Why is continuing education important?

The healthcare professions are always changing. New medications and new procedures are always being developed. To give the best care to your patients and allow your practice to evolve with your profession, you will want to continue your education throughout your professional career.

2. Who is required to take continuing education and how many hours must be completed?

Every optometrist who has been certified to use and prescribe therapeutic pharmaceutical agents and is registered to practice in New York State must take 36 contact hours of continuing education during each three-year registration period to be eligible for continued certification in the use of therapeutic pharmaceutical agents. Optometrists who do not have these certifications/privileges are not required to complete continuing education.

3. How can I tell if I have prescribing privileges?

Each New York State license is six digits long. If you have prescribing privileges, the letters "U" and/or "V" would precede your license number. The letter "U" is used to designate the phase one therapeutic pharmaceutical agent privilege. The letter "V" is used to designate the phase two therapeutic pharmaceutical agent privilege. The order of the letters does not matter.

4. If I have the Diagnostic Pharmaceutical Agent privilege, am I required to take continuing education courses?

Although it is recommended that all optometrists take continuing education in order to keep abreast of changes in the practice of optometry, it is not required by law.

Remember that **all** registered optometrists practicing in New York State, regardless of what privileges he or she has, must complete a State approved infection control course every 4 years. A list of approved providers can be found on the NYSED Office of the Professions' web site.

5. I recently graduated and received my license and am in my first registration period. Do I need to begin taking continuing education immediately?

Yes. Licensees are required to complete continuing education during every registration period during which they are certified to use therapeutic pharmaceutical agents.

6. I just received my registration and it is less than three years in length. Am I still expected to complete the total number of continuing education hours required for my profession?

No. Registration periods are adjusted so that renewals occur during the licensee's birth month. When this happens, you can calculate how many continuing education hours you are required to complete. To do this, count the length of the registration in months and complete one hour of approved continuing education for each month of the registration period. For example, if you are issued a registration effective 7/1/05 and it expires 10/31/07, this registration is for 28 months and you would need to complete 28 hours of continuing education.

7. I just received my certification to prescribe therapeutic pharmaceutical agents, but my registration expires soon. Do I still need to complete 36 hours of continuing education?

No. If you receive your TPA certification after your registration period begins, the minimum number of hours of continuing education required will be equal to one hour of continuing education per month of certified registration. Hours and months are counted in whole units; therefore, any part of a month in which you are TPA certified will count as one month. For example, if you receive your TPA certification on 12/20/05 and your registration expires 5/30/06, you will be required to complete a minimum of six hours of continuing education.

8. I am licensed in New York State and I do not have either TPA certification, but my registration is inactive. Do I need to complete continuing education before I can reactivate my registration?

No. To reactivate your New York State registration, you will need to request a delayed registration application from the Registration Unit and submit it along with your registration fee.

9. I am licensed in New York State with "U & V" Privileges but my registration is inactive because I am practicing my profession in another jurisdiction. Do I need to complete continuing education before I can reactivate my New York State registration?

Yes. To reactivate your New York State registration you will need to complete the amount of continuing education required for a normal triennial registration period. Since you are actively practicing your profession, you will be able to count continuing education credits earned up to 36 months prior to the month in which you reactivate your registration.

10. I am licensed in New York State with "U & V" Privileges but my registration is inactive because I have not been practicing my profession. Do I need to complete continuing education before I can reactivate my registration?

Yes. To reactivate your New York State registration you will need to complete the amount of continuing education required for a normal triennial registration period. Since you are not actively practicing your profession, you will only be able to count continuing education credits earned up to 12 months prior to the month in which you reactivate your registration.

Continuing Education Hours

11. What is an hour of continuing education?

An hour of continuing education is one contact hour of at least 50 minutes in duration. Most continuing education providers give credit in hours; however, you may see credit given in continuing education units.

One continuing education unit (CEU) equals 10 contact hours. Therefore, .1 CEU equals one contact hour, .2 CEUs equals two contact hours, .3 CEUs equals three contact hours, and so on.

Individuals completing college-level course work in appropriate subjects at accredited colleges of optometry should note that one semester hour equals 15 contact hours.

A residency program accredited by the Accreditation Council on Optometric Education may be counted for up to 36 hours of continuing education for the registration period during which the residency is completed.

12. If I complete more hours than required during the registration period, can I use them toward the hours required in my next registration period?

No. Continuing education hours cannot be carried over from one registration period to the next. The hours must be completed between the effective date and expiration date for the registration period for which they will be applied.

13. Am I required to complete a certain number of hours per year?

No. You may complete the hours any time during the three-year registration period as long as you have completed the required hours prior to the expiration date of your registration. However, we recommend that you complete courses each year so you are sure to have them completed before it is time to reregister.

Continuing Education Courses and Acceptable Subject Areas

14. What courses can I take to meet my continuing education requirement?

All courses taken to meet the continuing education requirement must be in appropriate subject areas offered by approved sponsors.

15. What are appropriate subject areas?

Appropriate subject areas include pharmacology and ocular disease. Courses in practice management, accounting, finance, statistics, and how to use the Internet are NOT ACCEPTABLE.

16. I wanted to take a course relating to LASIK surgery, but it does not appear to be in the category of pharmacology or ocular disease. Would this course count toward my CE requirement?

Yes, a course in ocular disease may include topics directly related to procedures with side-effects that may cause ocular disorders. This may include ocular surgery as well as contact lens fitting.

If you are unsure whether a course you would like to take will meet the continuing education requirement, feel free to contact the Optometry Board by phone at 518-474-3817, ext. 591 or by e-mail at optombd@nysed.gov.

17. Am I required to physically attend courses to meet the continuing education requirement?

No. Optometrists must complete at least three-quarters of their continuing education hours through "live courses" (please see question 18 for the definition of live courses). The balance of the remaining hours may be completed through the appropriate self-study courses.

18. What is a live course?

Live courses are those in which you are able to interact with the instructor. For example: a live lecture; a webinar, a telecourse or teleconference in which you and the instructor can speak directly with each other; a course in which you and other practitioners discuss a taped presentation with a facilitator's assistance; a computerized course in which you are able to interact directly with the instructor. On the other hand, a televised lecture with no means of direct interaction would not be acceptable as a live course even if it is a live telecast.

Continuing Education Sponsors

19. How do I know if a sponsor is approved?

All sponsors of continuing education for New York State licensed optometrists must receive advanced approval from the New York State Education Department.

To help facilitate the approval process, the Department has pre-approved the following sponsors of continuing education:

- accredited colleges of optometry;
- Council on Optometric Practitioner Education (COPE) approved coursework;
- The American Academy of Optometry;
- The American Optometric Association;
- state societies (but not chapters); and
- continuing medical education (CME) approved by the American Medical Association.

If you are considering a course not offered by one of the providers in the above listing, please notify the provider that they may request prior approval of their course by completing Form 1-SBO and submitting it by mail to the New York State Board for Optometry, 89 Washington Avenue, Second Floor West, Albany, NY 12234-1000 or by fax 518-473-0567.

If you are unsure whether a sponsor offering a continuing education program is approved, feel free to contact the Optometry Board by phone at 518-474-3817, ext. 591, by fax at 518-473-0567, or by e-mail at optombd@nysed.gov.

Recordkeeping, Reporting and Auditing

20. What records will I have to keep for the continuing education courses I attend?

You are required to keep verification of attendance for each course you complete for at least 6 years from the date of completion. Verification should include the following items:

- title of the course;
- number of hours completed*;
- the sponsor's name*;
- the location the course was taken;
- the date of the course; and
- verification by the sponsor of your attendance.

All of these items are likely to be provided on a certificate of completion from the sponsor.

**For COPE approved courses, the COPE number may be used in lieu of the number of hours completed and sponsor's name.*

21. Do I have to send these continuing education records to the State Education Department's State Board for Optometry when I renew my registration?

Not unless you are requested to do so by the Department. New York State Education Law requires that you submit evidence of completion at the time of your renewal. In most instances, such evidence will consist of your certification on the registration renewal document that you have completed the required continuing education. Each month, a number of licensees will be selected randomly for audit of compliance with the continuing education requirements. If you are selected for audit, you will be required to submit documentation of your continuing education.

22. What if an audit reveals that I did not comply with the mandatory continuing education requirement?

You may be subject to disciplinary proceedings for professional misconduct. According to Section 29.1 of the Rules of the Board of Regents, willful or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of the profession is unprofessional conduct. Penalties may include censure and reprimand, a fine and/or suspension or revocation of your license to practice in New York State.

Other Relevant Information

23. What if it is time for me to reregister and I have not completed the required number of continuing education hours?

You may request that your certification to prescribe therapeutic pharmaceutical agents be suspended until you have met the requirement. If the reason for non-compliance is due to reasons of health, certified by a physician or extended active duty with the armed forces of the United States, please contact the Board office at the address below.

Contact for Further Information

24. What if I have questions or need further information?

Contact the State Board for Optometry, New York State Education Department, Office of the Professions, 89 Washington Avenue, Second Floor West, Albany, New York 12234-1000, telephone 518-474-3817 ext. 591, fax 518-473-0567, e-mail optombd@nysed.gov.

Coursework Approval

Source: NYS Education Department Office of the Professions,
www.op.nysed.gov/prof/optom/optomcesponsor.htm

New York State Education Department Approval of Continuing Education Coursework for Optometrists

PLEASE NOTE: APPLICANTS WHO HAVE HAD THEIR COURSE APPROVED THROUGH ANY OF THE DEPARTMENT'S PRE-APPROVED SPONSORS NEED NO ADDITIONAL APPROVAL AND DO NOT NEED TO SUBMIT THE APPLICATION FOR BOARD APPROVAL.

THE NEW YORK STATE BOARD FOR OPTOMETRY HAS PRE-APPROVED THE FOLLOWING SPONSORS OF CONTINUING EDUCATION:

- ACCREDITED COLLEGES OF OPTOMETRY;
- THE AMERICAN ACADEMY OF OPTOMETRY;
- THE AMERICAN OPTOMETRIC ASSOCIATION;
- STATE SOCIETIES (BUT NOT CHAPTERS);
- COPE APPROVED COURSEWORK; AND
- CME APPROVED BY THE AMERICAN MEDICAL ASSOCIATION.

(EFFECTIVE OCTOBER 2007)

This section explains the requirements for approval of continuing education coursework for optometrists in New York State. Once you have read the "Standards" below, please complete the application, Form 1-SBO, and send it to the address at the end of the application form along with the supporting materials requested. Be sure to sign and date the agreement section. Please keep in mind that the individual signing the agreement section is accepting responsibility for ensuring that all requirements are met. The agreement should not be signed by the contact person unless that person is accepting responsibility for complying with New York State Education Law. If applying as an organization, information regarding the organization must be made available to the Department upon request. Sponsors are required to keep records on the continuing education programs that they offer. The details concerning the record keeping requirements are included in the "Standards" document.

An applicant (individual or organization) must complete a **separate application form for each course** for which approval is sought.

An applicant must comply with the applicable requirements of Section 66.6 of the Commissioner's Regulations to obtain State Education Department approval for continuing education coursework for optometrists. Applicants are expected to meet or exceed the standards detailed in this document.

Should you have questions concerning the requirements, please contact the State Board for Optometry.

Standard 1 - Organization

An applicant shall submit an application for advance approval of a course.

Section 66.6(g)(3) of the Regulations of the Commissioner of Education requires organizations or individuals seeking approval for continuing education course work to submit information to the Department which would allow the Department to determine the ability of the organization or individual to offer appropriate course work.

Standard 2 - Course

Courses must be formal continuing education acceptable to the Department.

Section 66.6(b)(2)(i) of the Regulations of the Commissioner of Education states that in order to be acceptable to the Department, continuing education shall be in the area of ocular disease and pharmacology and may include both didactic and clinical components.

Standard 3 - Instructors

Instructors must be qualified to teach the course that will be offered.

Section 66.6(g)(3)(ii)(b) of the Regulations of the Commissioner of Education requires that staff must be provided, including, but not limited to, faculty of a college of optometry accredited by an acceptable accrediting agency, or a physician who specializes in diseases of the eye, or licensed optometrists certified to treat patients with phase two therapeutic pharmaceutical agents, or qualified staff who are authorities in the health sciences specially qualified, in the opinion of the State Board for Optometry, to teach such courses.

Standard 4 - Attendance Verification

Each licensee shall maintain certificates of completion for continuing education course work completed.

Section 66.6(e)(1) of the Regulations of the Commissioner of Education requires licensees to maintain documentation of attendance at continuing education courses. Such documentation shall include:

- a. attendee's printed name;
- b. course title;
- c. course ID number (from approval notice);
- d. name of organization or individual giving course;
- e. date and location of course; and
- f. number of contact hours completed.

Standard 5 - Records Retention

Records must be maintained by the sponsor for at least six years.

Section 66.6(g)(3)(ii)(c) of the Regulations of the Commissioner of Education requires sponsors of continuing education to maintain records for courses for at least six years from the date of completion of course work which must include:

- a. name and curriculum vitae of the faculty;
- b. record of attendance of licensed optometrists in the course;
- c. outline of the course;
- d. date and location of the course; and
- e. number of hours for completion of the course.

For a full and accurate record of the course, your documents should also include:

- a. copy of the application;
- b. copy of the approval notice;
- c. any materials submitted with the application; and
- d. copy of all printed materials used in the course.

This section further requires that in the event that the sponsor of approved courses discontinues operation, the governing body of such sponsor shall notify the department and transfer all records as directed by the department.

PRACTICE GUIDELINES

Source: NYS Education Department Office of the Professions,
www.op.nysed.gov/prof/optom/optompracticeguide.htm

These Guidelines are offered as a matter of general guidance and do not carry the force of law. Specific questions should be directed to the actual statutory or regulatory language. Please see [Deputy Commissioner's March 1999 Memo on Professional Practice Guidelines](#).

Patient Confidentiality

Privacy is a patient right. Optometrists have an ethical and legal responsibility to safeguard patient information. Patient information includes such information as personal data, medical history, diagnosis, treatment, and financial situation.

Patient information should be shared only on a need-to-know basis with those who participate in the care of the patient. Unless disclosure is required by law, patient information should not be shared with anyone without the patient's written permission. Court orders, subpoenas and investigations by the Office of Professional Discipline are examples of disclosures that may be required even in the absence of the patient's consent.

Patient information, written or electronic, must be kept secure from loss, theft, or unauthorized access, use or disclosure. Confidential information should be kept out of plain view, and stored in a secure environment. Care should be taken not to talk about patients in public places, even if you are not using the patient's name.

Under section 29.1(b)(8) of the Regents Rules, it is unprofessional conduct to reveal personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law. If you violate this confidentiality rule you may be subject to charges of unprofessional conduct.

Your decision to disclose patient information must be consistent with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), if it applies. More information regarding HIPAA may be found on the United States Department of Health and Human Services Web site at www.hhs.gov/ocr/hipaa.

Recordkeeping

Health professionals are required to maintain records for each patient that accurately reflect the evaluation and treatment of the patient according to section 29.2(a)(3) of the Rules of the Board of Regents. All patient records must be retained for at least six years, with the exception of records for minor patients, which must be maintained for at least six years and for one year after the minor patient reaches the age of 21.

Accurate and complete patient records serve many purposes. For example, patient records can ensure consumer protection, guide professional treatment, and facilitate professional consultations. Patient records are required in matters pertaining to professional liability and professional discipline.

Practitioners and their patients should be aware that under some conditions other parties might have reason to have access to patient records. For example, in some cases, patient records may be needed by other professionals to provide requisite patient care. Your records, therefore, should be an accurate and legible account of the evaluation and treatment of the patient.

Under Section 18 of the Public Health Law, patients have the right of access to their records under most circumstances. If you deny access to records to a patient, you have an obligation to inform the patient of his/her right to appeal to the Office of Record Access of the Department of Health. Contact information is available on the New York State Department of Health Web site at www.health.state.ny.us/nysdoh/opmc/medright.htm.

If you dispose of records when there is no longer any obligation or need to maintain them, they should be properly destroyed to safeguard patient confidentiality.

Optometrists who retire or sell their practices must make provisions for records to be maintained and accessed, if requested. The obligation to maintain records is not changed by the retirement or sale of a practice by an optometrist.

Your records may be your principal defense to charges of professional misconduct. There is no statute of limitations for charges of professional misconduct.

Optometrists should also make provisions for the maintenance and destruction, as appropriate, of their patients' records in the event of the optometrist's death. In some cases, if appropriate provisions are not in place, the optometrist's estate could be subject to a malpractice suit after his/her death.

Supervision

The optometrist should adequately monitor the performance of all personnel, licensed or unlicensed, that he or she supervises. The optometrist is ultimately responsible for quality patient care and is accountable for all services provided by administrative and clinical individuals that the optometrist supervises.

Patient Abandonment

Section 29.2(a)(1) of the Rules of the Board of Regents defines as a basis for unprofessional conduct, "abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients."

In the event of an emergency, optometrists may become unexpectedly ill or disabled rendering them unable to continue to provide services. Normally these cases would not be considered abandonment. However, appropriate planning for such events early in the professional relationship can ensure that patients receive the essential services they need when emergencies occur.

Optometrists who surrender or lose a license as a result of a professional disciplinary action should also ensure that patients are referred to other optometrists who can provide essential professional services.

Consultation with Other Professionals

Good practice often involves the need to consult with other professionals to provide for quality patient care. When legally required or when consultation is otherwise appropriate, you should obtain the patient's consent before consulting with other professionals.

It is also good practice, and in certain circumstances it may be necessary, for the patient to give informed consent permitting you to reveal any personally identifiable information to a consultant.

Fee Disputes

The Office of the Professions does not negotiate or resolve fee disputes. However, fee disputes can often lead to complaints of professional misconduct including claims unrelated to the actual fee dispute, such as claims of negligence or incompetence. Even when these complaints are determined to be unfounded, the optometrist will have had the inconvenience and expense sometimes associated with an investigation.

To avoid these complaints, optometrists should:

- Clarify the billing conditions, including insurance coverage if applicable, with the patient at the outset of the evaluation and treatment, and specify the financial arrangements in terms that the patient can understand.
- Explain to the patient all costs involved with their treatment, including co-payments and expenses that are not covered by insurance. It would be useful to have a written policy in place which is signed by patients to indicate their understanding of the costs involved for their evaluation and treatment and for the optometrist and the patient to develop an individualized payment agreement in advance of treatment when the patient must pay for non-covered expenses.

Insurance Billing and Pitfalls

Insurance billing, though sometimes seemingly uncomplicated and straightforward, may easily lead to disputes and/or allegations of misconduct. To avoid this, billing statements, insurance claims, and treatment reports should be simple, clear, direct, and accurate representations of the services provided, the fees charged for each service, and the nature of the patient's evaluation and treatment.

- Discussing payment and insurance issues (including pre-certification) at the first meeting with the patient, or soon afterward, could help to ensure that the patient fully understands all financial arrangements and could also help to avoid any possible misunderstandings and subsequent disputes regarding issues such as co-payments or contract differences.
- It is good practice to have the patient's written authorization to release information necessary to process an insurance claim or to complete a treatment report for pre-certification; there may be circumstances in which authorization is required.
- Optometrists should be aware of precisely what they are stating when signing any insurance form or report. What information you are asked to provide and what you are asked to attest to often varies depending upon the insurance form or report. For example, a signature as provider on the insurance form may, in some instances, constitute a certification that the signatory directly provided the services him or herself.
- Attention to details and making certain that you have provided all of the required information when completing insurance forms and reports can help to avoid delays in payment and subsequent misunderstandings and disputes between you and the patient.

- When a patient cancels or does not appear for an appointment, it is usually considered fraudulent to bill an insurance company for that appointment unless the insurer has provided for cancellations within the contract.

Professional Conduct in Patient Relations

Optometrist should treat all patients with respect and with a professional demeanor. If a complaint is filed, it will be your responsibility to demonstrate that the patient has been treated in a professional manner and that appropriate boundaries have been maintained.

Optometrists should establish a working relationship with patients and when appropriate, with their legal guardian, involving them as active participants in treatment decisions.

Section 29.2(a)(2) of the Rules of the Board of Regents defines unprofessional conduct to include "willfully harassing, abusing or intimidating a patient either physically or verbally."

Sometimes problems may arise due to miscommunication and misperceptions between optometrists and patients/guardians. You should try to recognize the indicators of such problems and try to prevent or quickly defuse these situations.

The optometrist should keep careful records of what transpires in discussions with each patient and if appropriate, their legal representative.

Office Hygiene - Infection Control

The Education Law requires that every four years every optometrist practicing in New York State complete approved coursework or training appropriate to his/her practice in infection control and barrier precautions. Regular training is required to prevent the transmission of the human immunodeficiency virus (HIV) and the hepatitis B virus (HBV) in the course of professional practice. Each optometrist must document compliance with this requirement at the time of your first registration and at each subsequent reregistration.

Proper Prescriptions and the Release of Prescriptions

All prescriptions for drugs and devices are required to contain the following information:

- Date the prescription is written
- Prescribers name, address and phone number
- Profession and registration number
- The patient's name, address, and age
- The name, strength and quantity of the prescribed drug or device
- The directions for use by the patient

Other than contact lens prescriptions, optometrists are required to provide a patient with a copy of his or her prescription, upon request. The prescription must include the name, address and signature of the prescriber and date of prescription.

The Federal "Fairness to Contact Lens Consumers Act" requires prescribers of contact lenses to provide the patient with a copy of their contact lens prescription upon the completion of the contact lens fitting, whether or not it is requested by the patient. The prescriber may not require that the patient sign a waiver or release before verifying or releasing prescriptions. For other requirements relating to contact lens prescriptions, visit the Federal Trade Commission's Web site at www.ftc.gov.

Questions or Additional Information

The laws, rules, and regulations pertaining to the practice of optometry in New York State can be found at www.op.nysed.gov/prof/optom/. If more detailed information is required, you may contact the New York State Board for Optometry by calling 518-474-3817 ext. 591 or e-mailing optombd@nysed.gov.

CHILD ABUSE TRAINING

Source: NYS Education Department Office of the Professions, www.op.nysed.gov/training/camemo.htm

Training related to child abuse is required for the following professions:

- Certified Behavior Analyst Assistants
- Chiropractors
- Creative Arts Therapists
- Dental Hygienists
- Dentists
- Licensed Behavior Analysts
- Licensed Clinical Social Workers
- Licensed Master Social Workers
- Marriage and Family Therapists
- Mental Health Counselors
- **Optometrists**
- Physicians
- Podiatrists
- Psychoanalysts
- Psychologists
- Registered Nurses

Specific information about this training is provided below.

Effective January 1, 1989, Education Law requires certain individuals, when applying initially for licensure or a limited permit, to provide documentation of having completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. This is a one-time requirement and once taken does not need to be completed again. Optometry is one of the licensed professions that this requirement applies to.

Since September 1, 1990, programs registered by NYS that lead to licensure or certification in one of the areas affected by the legislation have been required to include training in the identification and reporting of child abuse and maltreatment. Students graduating from such programs on or after September 1, 1990 are not required to take additional training and are not required to receive a Certification form and submit documentation. However, medical residency programs, which are taken after receiving licensure, are not required to include such training. Therefore, training received during residency does not satisfy the NYS training requirement. An individual who completes an out-of-state medical program unregistered by NYS who then receives training in a NYS residency program has not met the training requirement and must take additional training from an approved provider.

Documentation

Documentation in the form of an authorized Certification of Completion must be submitted to the State Education Department at the time of reregistration or initial application for licensure, certification, or a limited permit. Within ten days of coursework completion, the approved provider from whom you obtain the training is required to issue you two copies of the Certification form.

Exemptions

The law exempts from the training an individual who can document, to the satisfaction of the Department, that there is no need for the training based on the nature of his or her practice. You may be eligible for an exemption if the nature of your practice is such that you do not have professional contact with persons under the age of 18 years and you do not have contact with persons 18 years of age or older with a handicapping condition, who reside in a residential care school or facility. If you wish further information about an exemption, or you wish to request an exemption application, please contact:

**The New York State Education Department
Professional Education Program Review
89 Washington Avenue, 2nd Floor West Wing
Albany, New York 12234
Attn: Child Abuse Training Exemption**

Choosing a Provider

The list of providers is available at www.op.nysed.gov/training/caproviders.htm. You may wish to contact several providers before deciding on the offering that best meets your needs and schedule. Please note that some providers will be offering training that exceeds the two-hour minimum established in law. Also, fees will vary from provider to provider. Within this listing you will also be able to view online course work providers. Any organization whose name is hyper-linked (blue and underlined) you can click on to be directed to the approved online course.

INFECTION CONTROL TRAINING

Source: NYS Education Department Office of the Professions, www.op.nysed.gov/training/icmemo.htm

Frequently Asked Questions: www.op.nysed.gov/training/icfaq.htm

List of Approved Training Providers: www.op.nysed.gov/training/icproviders.htm

All dentists, dental hygienists, licensed practical nurses, **optometrists**, podiatrists, and registered nurses must complete course work or training appropriate to their practice regarding infection control and barrier precautions, including engineering and work controls to prevent the transmission of human immunodeficiency virus (HIV) and the hepatitis b virus (HBV) in the course of professional practice, every four years according to Section 6505-b of the Education Law. You must attest to having completed this requirement to the State Education Department on your first licensure/registration application and at every subsequent registration.

All physicians, physician assistants, and specialist assistants must complete course work or training in accordance with Chapter 786 of the Laws of 1992 at the time of their initial licensure/registration and every four years thereafter.

If you have graduated from a New York State program in any of the affected professions after September 1, 1993, you are automatically credited with having completed the initial requirement as part of your coursework.

Choosing a Provider

You may choose a training provider that has been approved by either the State Education Department or the Department of Health. This list of providers includes those organizations approved by the State Education Department as providers of training in infection control. Providers must use the prescribed syllabus prepared by the Department. They are required to cover, at a minimum, the six core elements jointly approved by the State Education Department and the Department of Health, and are authorized to issue a Certification of Completion for each person completing the course work. Although most providers will present the course work or training in a classroom setting, some may offer a distance format. Dates, fees, and course length may vary from provider to provider.

The Department has approved course work for specific professional groups. Please check with the provider to determine if the course they are offering is appropriate for your profession, as some providers will offer training ONLY to certain professional groups.

To obtain a list of course work providers approved by the Department of Health (DOH) or to contact the Department of Health regarding infection control for physicians, physician assistants or specialist assistants write or call:

Bureau of Healthcare-Associated Infections
Healthcare Epidemiology and Infection Control Program
New York State Department of Health

You may also find a list of approved New York State Department of Health Providers by clicking [here](#).

DOH is responsible for approving course work offered by DOH-regulated health care facilities or offered by physician or physician/specialist assistant organizations.

Documentation

Dentists, Dental Hygienists, Licensed Practical Nurses, Optometrists, Podiatrists and Registered Nurses

- When you have completed the required coursework or training, the approved provider will give you a Certification of Completion.
- Please DO NOT submit this form to the State Education Department. Instead, keep the certificate in the event that you are required to submit it at a later date.
- You must attest to having completed this requirement to the State Education Department on your first licensure/registration application and at every subsequent registration.

Exemption

You may be eligible for exemption from the training if you can document, to the satisfaction of the Department, that there is no need for the training based on the nature of your practice.

Dentists, Dental Hygienists, Licensed Practical Nurses, Optometrists, Podiatrists and Registered Nurses

If you wish to apply for exemption based on the nature of your practice, or if you can satisfactorily document that you have completed course work in infection control within the past four years that included the minimum information required in the New York State approved syllabus, you should indicate that you wish to apply for an exemption on the Form 1IC and submit the completed form to the New York State Education Department Office of the Professions at the address on the form. It should be noted that professionals in these fields not currently practicing in New York State but holding active New York State licenses DO NOT need to complete the infection control course work at this time. Upon resuming practice in New York State you will have 90 days to complete the training.

Any questions related to the Infection Control and Barrier Precautions Workshop can be sent to OPPLEUIC@nysed.gov.

ELECTRONIC PRESCRIBING

Source: NYS Education Department Office of the Professions, www.op.nysed.gov/news/advisory-notices.html#electronic

Effective March 27, 2016, New York State law requires nurse practitioners, midwives, dentists, podiatrists, physicians, physician assistants and optometrists in New York State ("prescribers") to issue prescriptions electronically directly to a pharmacy, with limited exceptions. The law does not require a prescriber to issue a prescription electronically when:

- Electronic prescribing is not available due to temporary technological or electronic failure;
- The prescriber has a waiver granted by the New York State Commissioner of Health;
- The prescriber reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner; or,
- The prescription will be dispensed at a pharmacy located outside New York State.

The new law requires electronic prescribing for all types of medications (controlled substances and non-controlled substances) and for syringes and other medical devices dispensed at a pharmacy in New York.

Information about this law (Public Health Law §281) is available on the New York State Department of Health website.

Electronic Prescriptions

An electronic prescription is a prescription that is:

- Created, recorded, transmitted or stored by electronic means;
- Issued and validated with the prescriber's electronic signature;
- Electronically encrypted to prevent unauthorized access, alteration or use of the prescription; and,
- Transmitted electronically directly from the prescriber to a pharmacy or pharmacist.

Electronic prescription computer technology must comply with federal and New York regulations. These regulations require prescribers and pharmacists to have a secure (encrypted and encoded) system for electronic transmission of the prescription from computer to computer in order to protect the confidentiality and security of patient information. Electronic prescribing computer applications must also be "certified" (i.e.

audited by an organization or certified by the federal Drug Enforcement Agency to ensure it meets technical standards acceptable to federal government).

Emailed prescriptions are NOT considered electronic prescriptions since email is not considered a secure method of electronically transmitting a prescription. A faxed prescription is NOT considered an electronic prescription.

Prescribers must personally generate and transmit electronic prescriptions to pharmacies or pharmacists and are **not** legally allowed to delegate this responsibility to other individuals. Electronic prescriptions must include the same information that written prescriptions do except that:

- All electronic prescriptions must include an NPI number;
- Electronic prescriptions must be electronically signed; and,
- The prescriber must specify whether a prescription must be dispensed as written, if a brand-name product is therapeutically required.

For more information, visit: www.health.ny.gov/professionals/narcotic/.

Government Requirements for Electronic Prescribing

Prescribers must obtain a number of government approvals and identification numbers and register their “certified electronic prescribing computer application” in order to issue electronic prescriptions to pharmacies. Here’s a brief summary of these requirements.

- **A National Provider Identifier (NPI) issued by the US Center for Medicaid and Medicare Services (CMS).** All electronic prescriptions issued in New York State must include a NPI. Federal law requires health care providers (including hospitals and prescribers) to use NPIs on electronic health care transactions (i.e., processing claims, status inquiries, eligibility inquiries). CMS issues NPIs to institutional health care providers (i.e., hospitals) and to licensed prescribers. If a prescriber works in a hospital, the prescriber may use the hospital’s NPI when issuing prescriptions. In most other cases, the prescriber must include his or her personal NPI on the prescription. For more information about applying for a NPI, visit: www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/NationalProviderStand/. Applications can be submitted online or by regular mail.
- **A Federal Drug Enforcement Administration Registration (DEA) Number issued by the US Department of Justice- Drug Enforcement Administration.** In New York, a DEA number must be on every prescription for a controlled substance issued by a prescriber. The DEA issues DEA numbers to institutional health care providers (i.e., hospitals) and to licensed prescribers. In most cases, a prescriber must obtain a DEA number in order to prescribe or dispense controlled substances. In some cases, prescribers who are employed at a hospital may, when acting in the usual course of employment, may dispense or prescribe controlled substances under the DEA number of the hospital. For more information about applying for a DEA number visit, www.DEAdiversion.USDOJ.gov or call 1-877-883-5789, 1-800-882-9539 or 212-337-1593. **Prescribers who do not prescribe controlled substances do not need a DEA number.**
- **A Health Commerce System Account (HCSA) from the New York State Department of Health.** All prescribers must have a HCSA in order to access an online Prescription Monitoring Registry when prescribing controlled substances. New York Law requires prescribers, when prescribing controlled substances, to consult the registry, which contains information about prescriptions for controlled substances obtained their patients. Instructions for establishing a Health Commerce System Account are available at the New York State Department of Health’s web site:

www.health.ny.gov/professionals/narcotic/. Prescribers who do not prescribe controlled substances do need an HCSA account.

- **Registration with the New York State Department of Health's Bureau of Narcotic Enforcement.** Each prescriber must register with the New York State Health Department's Bureau of Narcotic Enforcement in order to prescribe controlled substances. The registration must be renewed every 2 years. Instructions on registering are available at the New York State Department of Health's Bureau of Narcotic Enforcement web site: www.health.ny.gov/professionals/narcotic/. **Prescribers who do not prescribe controlled substances do not need to register as a prescriber of controlled substances with the New York State Department of Health's Bureau of Narcotic Enforcement.**
- **Registration of "Certified" Electronic Prescribing Computer Applications.** Prescribers must ensure that they issue electronic prescriptions using electronic prescribing computer applications that meet federal regulatory criteria for protecting the confidentiality and security of patient information. Information relating to federal criteria for electronic prescribing computer applications is available at: www.deadiversion.usdoj.gov/ecom/e_rx/thirdparty.htm. Prescribers should verify with the computer company that licenses that their electronic prescribing computer application that the application is "certified" (i.e. audited by an organization or certified by the federal Drug Enforcement Agency to ensure that the application meets technical standards acceptable to federal government). Prescribers must then complete a "Practitioner EPCS Registration Form" and file it with the New York State Department of Health's Bureau of Narcotics Enforcement. On the form, the prescriber must identify the "certified" electronic prescribing computer application that he or she uses. For information about registration send an email to narcotic@health.ny.gov. Include "Electronic Prescribing" in the subject. Additional information about electronic prescribing is at: www.health.ny.gov/professionals/narcotic/electronic_prescribing/.
- **A Medicaid Provider Number.** Prescribers must obtain a Medicaid Provider Number in order to prescribe for Medicaid beneficiaries. To access application forms for Medicaid reimbursement, go to www.emedny.org and click on the provider enrollment tab at the top of the page. If a prescriber will not be participating as a provider in New York's Medicaid Program, the prescriber does not need to obtain a Medicaid Provider Number.

IMPORTANT CONTACT INFORMATION

License Application Status

Find the status of your license application by checking the Office of the Professions' [online license verifications](#); your name will be added immediately when your license number is issued. You may also contact:

NY State Education Department
Office of the Professions
Division of Professional Licensing Services
Optometry Unit
89 Washington Avenue
Albany, New York 12234-1000
518-474-3817 ext. 250 (voice)
518-402-5354 (fax)
opunit1@nysed.gov

Please provide your name, the last 4 digits of your social security number, date of birth, and the name of the profession in any correspondence.

Education Credentials from Non-approved Programs

If you have questions about acceptable documentation to verify education completed outside the U.S. or in non-approved programs, contact:

NY State Education Department
Office of the Professions
Bureau of Comparative Education
89 Washington Avenue
Albany, New York 12234-1000
518-474-3817 ext. 300 (voice)
518-486-2966 (fax)
comped@nysed.gov

Licensing Examination

Licensing examinations for optometrists are administered by:

National Board of Examiners in Optometry (NBEO)
200 S. College Street, #1920
Charlotte, NC 28202
704-332-9565 or toll free 800-969-EXAM (3926) (voice)
704-332-9568 (fax)
nbeo@optometry.org
www.optometry.org

Practice Issues and Continuing Education

For answers to questions concerning practice issues or continuing education requirements, contact:

NY State Education Department
Office of the Professions
State Board for Optometry
89 Washington Avenue
Albany, New York 12234-1000
518-474-3817 ext. 591 (voice)
518-473-0567 (fax)
optombd@nysed.gov

Professional Misconduct and Discipline

This site contains information concerning professional misconduct, including how to file a complaint and search for disciplinary actions taken against licensees.

www.op.nysed.gov/opd/

General Customer Service

Office of the Professions staff are available from 8:30 am to 4:45 pm, Eastern Time, Monday through Friday, excluding holidays.

NY State Education Department
Office of the Professions
89 Washington Avenue
Albany, New York 12234-1000
518-474-3817, ext. 570 (voice)
518-474-1449 (fax)
op4info@nysed.gov