

SUBCHAPTER 42E - MODE OF PRACTICE

SECTION .0100 - RESPONSIBILITY FOR PATIENTS

21 NCAC 42E .0101 PROFESSIONAL CODE

The optometrist shall keep the visual welfare of the patient uppermost at all times, promote the best care of the visual needs of mankind, strive continuously to develop educational, professional, clinical, and technical proficiency and keep himself informed as to new developments within his profession.

*History Note: Authority G.S. 90-121.2(a);
Eff. February 1, 1976;
Readopted Eff. May 30, 1978;
Amended Eff. September 30, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

21 NCAC 42E .0102 PROFESSIONAL RESPONSIBILITY

In keeping with the professional code, the optometrist shall:

- (1) attend to the visual needs of all those seeking his services without regard to financial remuneration;
- (2) maintain adequate equipment and instruments in his office at all times to assure proper and complete examination of patients. Such equipment and instruments shall include, but not be limited to, the following: a direct ophthalmoscope; an indirect ophthalmoscope; condensing lenses; proper instrumentation for foreign body removal; biomicroscope; instrument for plotting central and peripheral fields; applanation tonometer; distance and near acuity charts; test objects for stereopsis and fusion; color vision testing apparatus; refractor, trial frame or phorometer with trial case lenses; keratometer; and retinoscope;
- (3) sterilize according to usage all instruments or equipment used in the treatment of optometric patients, including those instruments or equipment used for the removal of foreign bodies from the external eye or its adnexa. All optometric offices shall follow infection control recommendations as set forth in the infection control manual as recommended by the American Optometric Association's Committee on Primary Care and Ocular Disease, or in the clinical guidelines of the American Optometric Association's Clinical Guidelines and Quality Assurance Coordinating Committee or their successors including subsequent adoptions, amendments, and editions. These materials are incorporated herein by reference. Copies are available for inspection at the Board's office and may be obtained by paying a fee of ten dollars (\$10.00) to the Board;
- (4) assist his patients in whatever manner possible in obtaining further care when in his opinion other than his care is needed;
- (5) maintain adequate and available records on every patient containing case history, findings, diagnosis, treatment, and disposition. In compliance with this requirement, the patient record shall include the name of the patient's family physician or any other physician who may be consulted with regard to the care of the patient. The name and dosage of any medication prescribed shall be recorded with the diagnosis and instructions to the patient concerning follow-up;
- (6) retain full and independent control of and responsibility for patient records. This requirement does not preclude the licensee from providing copies of patient spectacle prescriptions for subsequent optical services, nor does it preclude the licensee from providing copies of patient records to any entity with the consent and authorization of the patient. Patient records shall be maintained by the optometrist responsible for such records for a period of not less than 5 years following the last entry into the patient's chart;
- (7) treat all information concerning his patients as confidential and not to be communicated to others except when authorized to do so by the patient or required by law;
- (8) have an established and appropriate procedure for the provision of eye care to his patients in the event of an emergency outside of normal professional hours, or when the licensee is not available due to vacation, personal illness, attendance at professional meetings or continuing education programs, or other absences of a similar nature. Patients shall be informed of such procedure. The procedure referred to herein may include, but is not limited to, cooperative arrangements with another licensed optometrist or a physician licensed under North Carolina General Statutes Chapter 90, Article 1, a telephone answering system or pager; or written or posted instructions to the patient;

- (9) maintain full and independent control of the terms and conditions of any professional liability insurance coverage pertaining to his services.

History Note: Authority G.S. 90-18; 90-114; 90-121.2; 90-127.2; Eff. February 1, 1976; Readopted Eff. May 30, 1978; Amended Eff. April 1, 1993; June 1, 1989, September 30, 1981; Temporary Amendment Eff. September 15, 1997; Amended Eff. August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.

21 NCAC 42E .0103 PRESCRIPTIONS; DISPENSING

(a) All prescription forms shall conform to 21 NCAC 46 .2301 and shall include the name, address, state licensure number, and the Drug Enforcement Administration number of the prescriber, if applicable. The provisions of 16 C.F.R. 315.2 and 16 C.F.R. 456.1(g) are hereby incorporated by reference, including subsequent amendments and editions. The provisions of the Code of Federal Regulations (C.F.R.) cited in this rule may be accessed at no charge at <https://www.ecfr.gov/current/title-16>. The optometrist shall be responsible for implementing appropriate safeguards, including but not limited to the optometrist keeping a physical prescription pad in his or her personal possession or under lock and key at all times and password-protecting his or her electronic prescription form, within his or her practice to prevent the unauthorized use of his or her prescription forms, and shall immediately notify the Board upon determining that prescription blanks might be missing or misused.

(b) Any optometrist licensed by the Board who wishes to dispense drugs pursuant to G.S. 90-127.4 must first register with the North Carolina Board of Pharmacy pursuant to G.S. 90-85.26B.

(c) Any optometrist licensed by the Board shall provide their patients a copy of his or her eyeglass prescription, once such prescription is determined and finalized, consistent with Federal Trade Commission regulations. The provisions of 16 C.F.R. 456.2(a) are hereby incorporated by reference, including subsequent amendments and editions. An expiration date of not less than one year from the date of the prescribing examination shall appear on every such prescription. The prescription may show a statement of caution or a disclaimer if such a statement or disclaimer is supported by documented patient records.

(d) Any optometrist licensed by the Board shall provide their patients a copy of his or her contact lens prescription, once determined and finalized, consistent with Federal Trade Commission regulations. The provisions of 16 C.F.R. 315.4 are hereby incorporated by reference, including subsequent amendments and edition. A prescription for contact lenses shall explicitly state that it is for contact lenses and specify the lens type and all specifications necessary for the ordering and fabrication of the lenses. Words or phrases such as "OK for contact lenses", "fit with contact lenses", "contact lenses may be worn", or similar wording do not constitute a contact lens prescription. The prescriber cannot write the contact lens prescription until all the requirements of a satisfactory fit of contact lenses have been determined by the prescriber. All contact lenses used in the determination of a contact lens prescription are considered to be diagnostic lenses. An expiration date of not less than one year from the date of the prescribing examination shall appear on every such prescription unless there is a medical justification for a shorter duration. If the prescriber has such a medical justification, the prescriber must document the medical reason for the shorter expiration date in the patient's medical record consistent with Federal Trade Commission regulations. The provisions of 16 C.F.R. 315.6(a)(3) and (b)(1) are hereby incorporated by reference, including subsequent amendments and editions. If a patient is not adhering to appropriate regimens of care and follow-up with regard to the continuing use of contact lenses, the prescribing optometrist may terminate optometric care for that patient and notify the patient that he or she is terminating such relationship and the reasons for doing so.

(e) An optometrist shall provide a copy of a requesting patient's eyeglass prescription or contact lens prescription so long as the requested prescription has not expired.

History Note: Authority G.S. 90-114; 90-117.5; 90-127.2; 90-127.3; 90-127.4; Eff. June 1, 1989; Amended Eff. April 1, 1993; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015; Amended Eff. June 1, 2024.

21 NCAC 42E .0104 ACCESS TO AND CONTROL OVER PRACTICE

(a) The licensee shall maintain full and independent control of the scheduling and provision of his optometric services.

(b) Each licensee is responsible for and shall retain full and independent control of information disseminated to the public through any advertising or other commercial medium when such information relates to optometric services being provided by the licensee whether or not such advertising is paid for or sponsored by the optometrist. Provided however, it shall not be a violation of this subsection to include in an advertisement not disseminated by the licensee a statement advertising the availability of optometric services, including eye examinations, by an independent doctor of optometry adjacent to or in proximity to a retail optical establishment, or a statement containing substantially similar language.

(c) The licensee shall have physical access to his practice location at all times.

(d) Whenever any licensee enters into a lease or rental agreement to locate his practice within the exterior walls of a commercial or retail establishment, that practice location shall include an outside entrance to assure such access as may be needed by the optometrist and his patients to his optometric practice at all times. Further, the practice location within the commercial or retail establishment may have interior access from and to a public aisle, but such interior access shall not pass through or into any retail optical space within the establishment to the effect that the optometric practice shall be operated under the complete control of the optometrist.

(e) A licensee shall not enter into any lease, rental agreement, or agreement or contract of employment for the provision of optometric services which infringes upon his independent professional judgment with regard to the operation of his practice or the care of his patients. Provisions within a lease, rental agreement, or agreement or contract of employment for the provision of optometric services or provisions within any master lease to which a lease is subject which would violate this Rule include, but are not limited to, provisions which control or attempt to control: malpractice liability insurance beyond a requirement that the licensee maintain a professionally-reasonable amount of malpractice liability insurance; regulation of the optometrist's business hours beyond 50 hours a week, except that the optometrist may agree to furnish coverage in excess of 50 hours a week either personally or by providing a temporary or relief optometrist to provide such coverage; custody and control of the optometrist's patient records; the scheduling or rescheduling of patient examinations or follow-up care; the setting or discounting of professional fees, except for participation in managed care or other third-party programs; or the specification of particular drugs or optical goods to be dispensed to or prescribed for a patient. Any lease which is subject to a master lease to which the optometrist does not have ready access for purposes of assuring compliance with this Rule shall be deemed in violation of this Rule and Rule .0201 of Section .0200 of this Subchapter.

*History Note: Authority G.S. 90-117.5; 90-121.2;
Eff. June 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

SECTION .0200 - ETHICS

21 NCAC 42E .0201 GENERAL

(a) The optometrist shall conduct his practice in a decorous, dignified and professional manner and in keeping with the rules as adopted by the Board.

(b) It is the continuing responsibility of the optometrist to maintain control over his practice to the end that this independent professional judgment is not compromised in the rendering of patient care.

(c) In any printed or oral reference by an optometrist to his practice, the primary designation must be "optometrist", "optometry", or "doctor of optometry".

*History Note: Authority G.S. 90-121.2;
Eff. February 1, 1976;
Readopted Eff. May 30, 1978;
Amended Eff. June 1, 1993; June 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

21 NCAC 42E .0202 ADVERTISING

*History Note: Authority G.S. 90-117.5;
Eff. February 1, 1976;
Readopted Eff. May 30, 1978;
Amended Eff. September 30, 1981;
Repealed Eff. June 1, 1989.*

21 NCAC 42E .0203 CONSULTANT: ADVISOR, STAFF OPTOMETRIST, OR INDEPENDENT CONTRACTOR

(a) An optometrist may:

- (1) be engaged as a consultant, advisor, or independent contractor for industrial plants where industrial vision programs are being or have been instituted; or
- (2) be engaged as a staff optometrist, independent contractor, or optometric administrator for health programs sponsored or funded by any agency of municipal, county, state or federal government, or research organizations educational institutions, insurance companies, health maintenance organization, or hospitals.

(b) In acting in the capacity of consultant, advisor, independent contractor, or staff optometrist, the optometrist shall at all times remain cognizant of his professional responsibilities and shall with demeanor, decorum and determination retain his right of independent professional judgment and title in all situations and circumstances as he would in his own office. If at any time the right of independent professional title and judgment is abridged by the party or parties engaging the optometrist's services, it shall be mandatory upon the optometrist to resign or terminate the position as consultant, advisor, staff optometrist, or independent contractor and in so doing the intent of G.S. 90-125 would not be violated.

*History Note: Authority G.S. 90-117.5; 90-125;
Eff. February 1, 1976;
Readopted Eff. May 30, 1978;
Amended Eff. April 1, 1993; June 1, 1989; September 30, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

SECTION .0300 - UNETHICAL PRACTICES DEFINED: REVOCATION OF LICENSE

21 NCAC 42E .0301 PUNISHMENT FOR VIOLATION OF RULES

The Board may invoke such disciplinary measures as it deems appropriate, including issuing a letter of warning or caution, reprimand, censure, suspension of a license, revocation of a license, and probation for violation of any statute governing the practice of optometry or of any Rule adopted by the Board.

*History Note: Authority G.S. 90-117.5; 90-121.2;
Eff. February 1, 1976;
Readopted Eff. May 30, 1978;
Amended Eff. April 1, 1993; June 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*

21 NCAC 42E .0302 UNETHICAL PRACTICES

It is unethical for an optometrist to:

- (1) solicit by means of advertising considered by the Board to be untruthful, false, misleading, deceptive, bait-and-switch, or fraudulent;
- (2) allow, permit, or otherwise condone by his failure to act in a timely manner to prevent his name, his practice, or his practice location from being presented to the public through any type of advertising which is false, deceptive, or misleading;
- (3) offer to discount his professional fees as a condition to the sale of optical goods by himself or any optical dispensary located adjacent to or in close proximity to his practice;
- (4) fail to use the word "optometrist", the abbreviation "O.D.", or the words "doctor of optometry" whenever the optometrist's name appears in connection with his practice of optometry;
- (5) fail to list the name of each practitioner on any sign or lettering denoting the location of the practice or in any advertising promoting a practice when there is more than one optometrist practicing at the same location; the lettering of the optometrist's name and the lettering denoting the optometrist's designation as an optometrist shall be of comparable size and readability;
- (6) use the title "Optometrist" in connection with a profession or business considered foreign to the practice of optometry;
- (7) present his practice or practice location to the public as an optical store in order to entice the public to avail themselves of his professional optometric service while shopping for optical goods. In keeping with this Rule, an optometrist may make use of frame bars or selection cabinets provided such frame

- bars or selection cabinets are so placed within an office that they are not visible from outside the office;
- (8) allow his professional judgment to be unreasonably influenced by someone not directly responsible for the patient's well-being or welfare. Persons directly responsible for the patient's welfare would include another optometrist, a physician, or a member of the patient's family;
 - (9) give or accept rebates in any form to or from any person in return for an opportunity to generate or receive a professional fee;
 - (10) practice or use his license in a manner deemed to be in violation of G.S. 90-121.2 or 90-125;
 - (11) knowingly aid another person to violate the laws governing optometry;
 - (12) engage in practice involving conduct which is inconsistent with the dignity of the profession or the rules of the Board. Such "unprofessional conduct" includes, but is not limited to, conduct which violates or does not meet any standard of behavior which through professional experience has become established in the profession of optometry in North Carolina.

*History Note: Authority G.S. 90-117.5; 90-121.2;
Eff. February 1, 1976;
Readopted Eff. May 30, 1978;
Amended Eff. June 1, 1993; June 1, 1989; September 30, 1981;
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