



NOTICE OF TEXT [Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
- Notice without a scheduled hearing
- Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: North Carolina State Board of Opticians
2. Link to agency website pursuant to G.S. 150B-19.1(c): www.ncopticiansboard.org
3. Proposed Action -- Check the appropriate box(es) and list <u>rule citation(s)</u> beside proposed action: <input checked="" type="checkbox"/> ADOPTION: 21 NCAC 40 .0325 <input checked="" type="checkbox"/> AMENDMENT: 21 NCAC 40 .0101; .0104; .0109; .0209; .0212; .0302 - .0303; .0314; .0319 - .0321; .0323 <input checked="" type="checkbox"/> REPEAL: 21 NCAC 40 .0108 <input type="checkbox"/> READOPTION <u>with</u> substantive changes: <input type="checkbox"/> READOPTION <u>without</u> substantive changes: <input type="checkbox"/> REPEAL through READOPTION:
4. Proposed effective date: October 1, 2019
5. Is a public hearing planned? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes: Public Hearing date: June 19, 2019 Public Hearing time: 1:00 pm Public Hearing location: 3809 Computer Drive, Raleigh, NC 27609
6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s): See attachment.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Sue Hodgkin

Address: North Carolina State Board of Opticians

PO Box 6758

Raleigh, NC 27628-6758

Phone (optional): 919-420-1390

Fax (optional): 919-420-1361

E-Mail (optional): shodgin@ncopticiansboard.org

10. Comment Period Ends: August 2, 2019

11. Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

12. Rule-making Coordinator: Sue Hodgkin

Phone: 919-420-1390

E-Mail: shodgin@ncopticiansboard.org

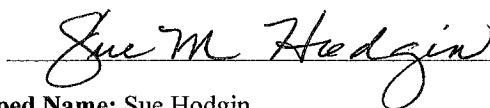
Additional agency contact, if any:

Phone:

E-mail:

13. The Agency formally proposed the text of this rule(s) on
Date: May 4, 2019

14. Signature of Agency Head* or Rule-making Coordinator:



Typed Name: Sue Hodgkin

Title: Director

**If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.*

NORTH CAROLINA STATE BOARD OF OPTICIANS
ATTACHMENT TO NOTICE OF TEXT

- 21 NCAC 40 .0101 Updates the current address of the Board.
- 21 NCAC 40 .0104 Clarifies the types of applications that may be requested from the Board office and that applications must be received by the Board on or before the application deadline.
- 21 NACA 40 .0108 GS 90-246 was amended to set the exact amount of fees to be charged, rendering the rule redundant and subject to repeal.
- 21 NCAC 40 .0109 Eliminates requirement that Election Committee be comprised of Board members.
- 21 NCAC 40 .0209 Clarifies that optician in charge shall display his or her registration conspicuously in the optical places of business where he or she accepts responsibility.
- 21 NCAC 40 .0212 Updates the referenced statutory citation to accurately reflect the correct citation.
- 21 NCAC 40 .0302 Eliminates practice of applying a paid fee toward a future examination, if the licensee fails to take the examination for which the fee was paid.
- 21 NCAC 40 .0303 Amends the process by which examinations are administered, taken, and deemed passed; eliminates the process by which taken exams may be reviewed.
- 21 NCAC 40 .0314 Reduces the minimum hours of work required per week for the apprenticeship period.
- 21 NCAC 40 .0319 Establishes the deadline by which the applicant must register for his or her internship following notification from the Board concerning the applicant's licensure eligibility.
- 21 NCAC 40 .0320 Establishes process by which licensee may obtain inactive status and return to active status from inactive status.
- 21 NCAC 40 .0321 Eliminates notarization requirement from application for licensees who wish to train an apprentice or intern.
- 21 NCAC 40 .0323 Eliminates notarization requirement from Board applications.
- 21 NCAC 40 .0325 Implement the requirements of GS 93B-15.1 related to military-trained applicants and military spouses.

1 21 NCAC 40 .0101 is proposed for amendment as follows:

2
3 **CHAPTER 40 - BOARD OF OPTICIANS**

4
5 **SECTION .0100 - LOCATION**

6
7 **21 NCAC 40 .0101 LOCATION AND FUNCTION**

8 The Board is physically located at ~~222 North Person Street,~~ 3809 Computer Drive, Raleigh, North Carolina ~~27604-~~
9 27609. Its mailing address is Post Office Box ~~25336, 6758,~~ Raleigh, North Carolina ~~27611-5336, 27628-6758.~~ The
10 State Board of Opticians is created and operated pursuant to Article 17, Chapter 90, of the General Statutes of North
11 Carolina for the purpose of regulating the training, education, examination and practice of dispensing opticians. Its
12 functions include the following:

- 13 (1) monitoring the location and activities of apprentices, interns, licensees and places where dispensing
14 takes place;
- 15 (2) examining applicants for licenses with and without examination; and
- 16 (3) investigating and prosecuting complaints against licensees and unlicensed persons.

17
18 *History Note: Authority G.S. 90-239;*
19 *Eff. February 1, 1976;*
20 *Readopted Eff. September 29, 1977;*
21 *Amended Eff. January 1, 1994; February 1, 1989; November 1, 1981;*
22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
23 *22, 2018-2018;*
24 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0104 is proposed for amendment as follows:

2
3 **21 NCAC 40 .0104 INFORMATION AND APPLICATION**

4 (a) Any person desiring to become a North Carolina licensed optician may obtain information on licensure and an
5 application form by download from the Board webpage. Application forms must be completed in order to be
6 considered for licensure by waiver of the examination, or to sit for the licensure examination.

7 (b) Any person not able to download licensure information, or the licensure or examination application, or training
8 or renewal application, may request that the Board office mail the materials which the Board will subsequently mail
9 to the requesting person.

10 (c) When submitting an application for licensure or examination, the applicant shall submit all applicable fees as set
11 ~~out in 21 NCAC 40 .0108.~~ forth in G.S. 90-246. Additionally, the applicant shall provide:

12 (1) information, including an affirmation regarding whether the applicant has violated G.S. 90, Article
13 17, or Title 21, Chapter 40, of the North Carolina Administrative Code, or been convicted of a felony
14 ~~or misdemeanor,~~ misdemeanor;

15 (2) information as to whether the applicant has been named as a defendant or respondent to a lawsuit
16 involving fraud, deceit, or misrepresentation; malpractice, unethical conduct, gross negligence, or
17 gross ~~misconduct,~~ misconduct; and

18 (3) the applicant's age.

19 (d) Additionally, the applicant shall include the following when submitting the application:

20 (1) evidence of qualifications to comply with G.S. 90-237 or G.S. 90-241, whichever ~~applicable,~~
21 applicable; and

22 (2) a passport-size photograph taken within six months of the date the application is submitted to the
23 Board.

24 (e) Applications of any type must be received by the Board on or before any stated or printed deadline.

25
26 *History Note: Authority G.S. 90-237; 90-239; 90-240; 90-249(6); 90-249.1(a)(8);*

27 *Eff. February 1, 1976;*

28 *Readopted Eff. September 29, 1977;*

29 *Amended Eff. September 1, 2012; August 1, 1998; February 1, 1989; February 1, 1988; November*
30 *1, 1981;*

31 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
32 *22, 2018-2018;*

33 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0108 is proposed for repeal as follows:

2

3 **21 NCAC 40 .0108 FEES**

4

5 *History Note: Authority G.S. 90-246; 90-249(a)(9);*

6 *Eff. November 1, 1981;*

7 *Temporary Amendment Eff. November 1, 1997;*

8 *Amended Eff. April 1, 2004; August 1, 1998; February 1, 1989; February 1, 1988; August 1, 1985;*

9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*

10 *22, 2018.*

1 21 NCAC 40 .0109 is proposed for amendment as follows:

2
3 **21 NCAC 40 .0109 ELECTION OF MEMBERS**

4 (a) Optician/licensee appointments to the Board are selected by election and gubernatorial appointment. By April 1
5 of each year, any licensed optician desiring his or her name to be placed in nomination shall forward a petition
6 endorsed by five licensees to the Board.

7 (b) By April 10 of each year, the Board of Opticians shall prepare and distribute by mail to each North Carolina
8 licensee eligible to vote:

9 (1) a notice of the election, its dates and method of ~~participation~~, participation;

10 (2) the name of each ~~nominee~~, nominee;

11 (3) biographical information on each ~~nominee~~, nominee;

12 (4) a ~~ballet~~, ballot; and

13 (5) a return envelope.

14 (c) The return envelope containing the ballot shall be postmarked no later than April 30. The enclosed ballot will not
15 be valid unless the optician's signature, license number, and correct mailing address are on the left top corner of the
16 return envelope.

17 (d) The Board Chair shall appoint an Election Committee of at least three ~~Board~~ members, who shall not be nominees.
18 The Election Committee shall review all ballots that have been determined valid based on this Rule, and count all the
19 valid ballots.

20 (e) Based upon the canvass by the Election Committee, the Board Chair shall submit to the Governor a list of three
21 nominees which shall be listed from highest to lowest votes and percentages received for each nominee.

22 (f) The Governor shall complete the appointment process based on G.S. 90-238.

23
24 *History Note: Authority G.S. 90-238;*

25 *Eff. November 1, 1981;*

26 *Amended Eff. September 1, 2012; April 1, 2011; February 1, 1989; January 1, 1986;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
28 *22, 2018-2018;*

29 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0209 is proposed for amendment as follows:

2

3 **21 NCAC 40 .0209 DISPLAY OF REGISTRATION AND LICENSE**

4 (a) Each registered optical place of business or training establishment shall display its registration certificate in a
5 conspicuous and public area of the principal place of business.

6 (b) Each optician in charge shall display his or her registration certificate in a conspicuous and public part of the
7 optical place of business for which he or she accepts responsibility.

8 ~~(b)~~ (c) Each apprentice and intern shall display his or her registration certificate in a conspicuous and public part of
9 the training establishment wherein he or she is engaged as a trainee.

10 ~~(c)~~ (d) Each optician to whom a license has been granted shall display his or her license and current renewal seal in a
11 conspicuous and public part of the office or establishment wherein he or she is engaged as a dispensing optician.

12

13 *History Note: Authority G.S. 90-244;*

14 *Eff. November 1, 1981;*

15 *Amended Eff. September 1, 2012; February 1, 1989; July 1, 1983;*

16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
17 *22, 2018. 2018;*

18 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0212 is proposed for amendment as follows:

2

3 **21 NCAC 40 .0212 DUTY TO PROVIDE DIRECT SUPERVISION**

4 The failure of an optical place of business or a licensed optician, who owns or has a controlling interest in an optical
5 place of business or under whose name an optical place of business or branch thereof is registered, to provide direct
6 supervision of an unlicensed person working at such business or branch and performing acts constituting the practice
7 of opticianry shall constitute a violation of G.S. 90-249.1(a)(2).

8

9 *History Note: Authority G.S. 90-239; 90-249.1(a)(2); 90-253;*

10 *Eff. February 1, 1988;*

11 *Amended Eff. August 1, 1998;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
13 *22, 2018. 2018;*

14 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0302 is proposed for amendment as follows:

2
3 **21 NCAC 40 .0302 LICENSURE EXAMINATION FEES**

4 (a) The full fee for licensure examination ~~participation~~ eligibility determination shall be remitted to the Board by
5 cash, certified check or money order. There shall be no prorating of the fee.

6 ~~(b) The full fee shall be paid for each examination date in which an applicant participates; there shall be no prorating~~
7 ~~of the fee.~~

8 ~~(e)~~ (b) Licensure examination fees shall not be returned due to the withdrawal of the applicant or failure to take the
9 examination after the fee has been accepted by the Board. ~~The Board shall, however, apply a remitted and accepted~~
10 ~~fee to a future examination, upon receipt of an updated and fully executed examination application.~~ If, during its
11 review of an application, the Board determines that information submitted is false, misleading or deceptive, the Board
12 shall deny the application but retain any fees paid.

13
14 *History Note: Authority G.S. 90-245; 90-246;*

15 *Eff. February 1, 1976;*

16 *Readopted Eff. September 29, 1977;*

17 *Amended Eff. September 1, 2012; February 1, 1989; November 1, 1981;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
19 *22, 2018. 2018;*

20 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0303 is proposed for amendment as follows:

2
3 **21 NCAC 40 .0303 LICENSURE EXAMINATION AND RE-EXAMINATION**

4 (a) A candidate who has met the qualifications as defined in G.S. 90-237, and either 90-240 or 90-241(b) shall be
5 admitted to a Practical component of the licensure examination upon the Board's receipt of a fully executed application
6 and the examination fee.

7 (b) The examination shall be administered at least twice yearly, at a time and location specified by the ~~Board~~. Board
8 or any of its examination administration agents.

9 (c) Exam applications obtained by procedures outlined in Rule .0104 of this Chapter must be properly executed and
10 received by the Board no later than 60 days prior to the ~~Board-specified date of an examination~~. opening of the exam
11 registration period specified by the Board or any of its examination administration agents.

12 (d) If, during its review of an application, the Board determines that a candidate has participated in a Practical exam
13 without first having their qualifications examined by the Board, the Board shall deny any passing score obtained by
14 the candidate and require subsequent re-examination in the Practical.

15 ~~(d)~~ (e) The licensure exam shall consist of written and practical components. An optician's license shall not be issued
16 until a passing score has been achieved on all components within three years from the date one component is
17 successfully completed.

18 ~~(e)~~ (f) A participant who is unsuccessful in passing an exam component may retake the failed components upon timely
19 receipt of an updated and properly executed exam retake application registration and remittance of the examination
20 fee. fee to the administration agent.

21 ~~(f) A participant who is unsuccessful in passing an exam component may see the failed portion of his or her~~
22 ~~examination by registering for a Board-proctored exam review.~~

23
24 *History Note: Authority G.S. 90-240; 90-249; 93B-8;*

25 *Eff. February 1, 1976;*

26 *Amended Eff. September 1, 2012; February 1, 1989; February 1, 1988; August 1, 1985; July 1,*
27 *1983;*

28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
29 *22, 2018. 2018;*

30 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0314 is proposed for amendment as follows:

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3 **21 NCAC 40 .0314 APPRENTICESHIP AND INTERNSHIP REQUIREMENTS: REGISTRATION**

4 (a) Each apprentice or intern entering the apprenticeship or internship shall register with the Board and be issued a
5 certificate of registration. Registration of the apprenticeship automatically expires on the first day of July of each year,
6 and, in order for the apprenticeship to continue, registration must be renewed each succeeding July 1 until the
7 apprenticeship is completed. If the apprenticeship or internship is to be supervised by an ophthalmologist or
8 optometrist, the supervisor shall provide a statement in which he agrees to abide by the same requirements as would
9 an optician providing the same training.

10 (b) Part-time work or work as an optical salesman or consultant shall not apply toward completion of apprenticeship
11 or internship.

12 (c) The work as an apprentice or intern shall be full time, defined as a minimum of ~~35~~ 32 hours per week, under the
13 supervision of a licensed optician, ophthalmologist, or optometrist.

14 (d) In addition to the work specified in Paragraph (c) of this Rule, the curriculum for the apprentice shall include one
15 of the following, as chosen by the apprentice:

- 16 (1) an optical curriculum certificate program presented by a school of opticianry approved pursuant to
17 ~~21 NCAC 40 .0312, Rule .0312 of this Chapter;~~ or
18 (2) the National Academy of Opticianry's home study career progression ~~program,~~ program; or
19 (3) any apprenticeship program, approved by the Board, which is offered by an optical place of business
20 registered with the Board pursuant to ~~21 NCAC 40 .0202, Rule .0202 of this Chapter.~~ The Board
21 shall approve such apprenticeship program if the program's curriculum summary contains subject
22 matter similar to the curriculum summary of the National Academy of Opticianry's home study
23 career progression program.

24 The classroom and laboratory time spent in the optical curriculum certificate program shall be credited as part of the
25 apprenticeship period and its minimum of ~~35~~ 32 hours per week. Certification that the apprentice has completed and
26 passed one of the programs shall be required. Apprentices registered with the Board on or before March 1, 1996, shall
27 not be subject to the provisions of this Paragraph and may satisfy the apprenticeship requirement by completing the
28 training program in which they are then registered.

29 (e) No more than two persons, whether apprentices or interns or a combination, may be trained by an optician,
30 ophthalmologist, or optometrist at the same time.

31 (f) An apprentice or intern shall be credited with training time only from the date of registration with the Board as an
32 apprentice or intern. The apprenticeship or internship may not be interrupted for more than 12 months at the time.

33 (g) When registering to serve a six month internship, the applicant must have completed the ~~three~~ two and one-half
34 years of apprenticeship as required by G.S. 90-240(a)(2) and (3) or have completed the course of training required by
35 G.S. 90-240(a)(1).

36
37 *History Note: Authority G.S. 90-239; 90-240; 90-243; 90-249;*

1 *Eff. February 1, 1976;*
2 *Amended Eff. September 6, 1977;*
3 *Readopted Eff. September 29, 1977;*
4 *Amended Eff. February 1, 1996; January 1, 1994; July 1, 1991; February 1, 1989;*
5 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
6 *22, ~~2018.~~ 2018.*
7 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0319 is proposed for amendment as follows:

2
3 **21 NCAC 40 .0319 APPLICANTS FROM OTHER STATES**

4 (a) An applicant seeking licensure in North Carolina under G.S. 90-241(a) shall tender an application to the Board
5 accompanied by affidavits from two persons with whom the applicant worked as an optician for the previous four
6 years. In addition, the applicant shall furnish affidavits from two licensed refractionists, either ophthalmologists or
7 optometrists, that the applicant has practiced the profession of opticianry for four years in another state immediately
8 prior to the application. An application under G.S. 90-241(a) must be filed with the Board not more than 90 days
9 following the termination of the applicant's out-of-state opticianry work for which the applicant claims credit.

10 (b) An applicant seeking admission to an examination under G.S. 90-241(b) shall tender an application to the Board
11 accompanied by affidavits from two persons under whom or with whom the applicant lawfully worked in the practice
12 of opticianry in the other state, either in one or multiple places of business. The application and the affidavits shall
13 describe the tasks performed by the applicant in the other state and the dates the tasks were performed.

14 ~~(c) An application under G.S. 90-241(a) must be filed with the Board not more than 90 days following the termination~~
15 ~~of the applicant's out-of-state opticianry work for which the applicant claims credit.~~

16 (c) An applicant seeking licensure in North Carolina under G.S. 90-241 must register with the Board to serve a 6
17 month internship pursuant to Rule .0314 of this Chapter not more than 12 months following the date of notification
18 from the Board concerning the applicant's licensure eligibility. The applicant shall reapply for licensure with the
19 Board if the fully executed internship registration is not received in the Board office within the required timeframe.

20
21 *History Note: Authority G.S. 90-237; 90-239; 90-241; 90-249(12);*
22 *Eff. November 1, 1981;*
23 *Amended Eff. August 1, 1998; December 1, 1994; July 1, 1991; February 1, 1989;*
24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
25 *22, 2018. 2018;*
26 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0320 is proposed for amendment as follows:

2

3 **21 NCAC 40 .0320 LICENSE RENEWAL INFORMATION**

4 (a) Each registrant is sent an application to renew licensure yearly. The application application, required education
5 documentation, and specified fee must be returned received in the Board office prior to renewal.

6 (b) A registrant may apply to the Board for change of status to inactive status. Application for any status change shall
7 be made on the form provided by the Board.

8 (c) A registrant with an approval for inactive practice status shall not practice as a licensed optician. A registrant in
9 inactive practice status may not remain in inactive status if found in practice. Registrants in inactive status shall pay
10 the yearly renewal fee and complete a renewal form for inactive practice status but are not required to obtain annual
11 continuing education hours during such periods of inactivity.

12 (d) A registrant in inactive status may apply to the Board to change to active status by:

13 (1) completing the form provided by the Board;

14 (2) attending the required continuing education hours for the current year as set forth in Rule .0206 of
15 this Chapter; and

16 (3) paying the license restoration fee as set forth in G.S. 90-246.

17 (e) The Board will notify registrants of receipt of yearly licensure renewal and of approval of status changes.

18

19 *History Note: Authority G.S. 90-244(b);*

20 *Eff. November 1, 1981;*

21 *Amended Eff. February 1, 1989; February 1, 1988; August 1, 1985; July 1, 1983;*

22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
23 *22, 2018- 2018;*

24 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0321 is proposed for amendment as follows:

2

3 **21 NCAC 40 .0321 TRAINING ESTABLISHMENT REQUIREMENTS**

4 Any North Carolina licensed optician, ophthalmologist, or optometrist as provided in G.S. 90-237 (4) and G.S.
5 90-240(a)(2) and (3) who proposes to train an apprentice or intern to become an optician shall fill out and sign ~~under~~
6 ~~oath~~ an application to do so. In addition, the training establishment must meet the requirements of the Board to train
7 an apprentice or intern in opticianry. These requirements are:

- 8 (1) providing the list of minimum equipment specified by the Board;
- 9 (2) submitting a schedule of work processes and indicating the number of hours to be devoted to each
10 work process for the apprentice and/or intern as outlined in the curriculum approved by the Board;
- 11 (3) administering and returning any test required by the Board for trainees and submitting requested
12 periodic statements regarding compliance; and
- 13 (4) allowing on-site inspection of the training establishment by the Board.

14

15 *History Note: Authority G.S. 90-237(4); 90-240(3); 90-243; 90-249;*
16 *Eff. November 1, 1981;*
17 *Amended Eff. February 1, 1989;*
18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
19 *22, 2018. 2018;*
20 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0323 is proposed for amendment as follows:

2
3 **21 NCAC 40 .0323 AFFIDAVIT OF APPLICANT**

4 (a) Applicants for any Board process (training, examination, and licensure application) shall attest ~~under oath~~ to the
5 completeness and accuracy of the information contained in applications.

6 (b) The Board may decide to conduct a criminal background check as a part of its application review. Application
7 fees are inclusive of costs involved for such investigations, and no additional charges shall be assessed against the
8 applicant.

9 (c) If an applicant submits incomplete, false, or misleading information, the Board shall bar any applicant from
10 admission to examination, apprenticeship, internship, ~~business~~ business, or training establishment registrations or
11 licensure.

12 (d) If any optician, optometrist, or ophthalmologist submits incomplete, ~~false~~ false, or misleading information, then
13 the Board shall bar them from training.

14
15 *History Note: Authority G.S. 90-243; 90-249;*

16 *Eff. November 1, 1981;*

17 *Amended Eff. September 1, 2012; February 1, 1989;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
19 *22, 2018. ~~2018;~~*

20 *Amended Eff. October 1, 2019.*

1 21 NCAC 40 .0325 is proposed for adoption as follows:

2
3 **21 NCAC 40 .0325 LICENSURE FOR MILITARY-TRAINED APPLICANT; LICENSURE FOR**
4 **MILITARY SPOUSE**

5 (a) Licensure for a military-trained applicant. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from
6 a military-trained applicant, the Board shall issue a license to the applicant who satisfies the following conditions:

- 7 (1) submission of a complete Application for License to Practice Ophthalmic Dispensing, pursuant to
8 G.S. 93B-15.1, Military Training/Experience or Spouse of Military Personnel;
9 (2) submission of a license fee as set forth in G.S. 90-246;
10 (3) providing documentation to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2); and
11 (4) providing documentation that the applicant has not committed any act in any jurisdiction that would
12 constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time
13 the act was committed.

14 (b) Licensure for a military spouse. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military
15 spouse, the Board shall issue a license to the applicant who satisfies the following conditions:

- 16 (1) submission of a complete Application for License to Practice Ophthalmic Dispensing, pursuant to
17 G.S. 93B-15.1, Military Training/Experience or Spouse of Military Personnel;
18 (2) submission of a license fee as set forth in G.S. 90-246;
19 (3) submission of written documentation demonstrating that the applicant is married to an active
20 member of the U.S. military;
21 (4) providing documentation to satisfy conditions set out in G.S. 93B-15.1(b)(1) and (2);
22 (5) providing documentation that the applicant has not committed any act in any jurisdiction that would
23 constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time
24 the act was committed; and
25 (6) is in good standing and has not been disciplined by the agency that had jurisdiction to issue the
26 license, certification, or permit.

27
28 *History Note: Authority G.S. 90-234; 90-239; 93B-15.1;*
29 *Eff. October 1, 2019.*