

ARIZONA STATE BOARD OF DISPENSING OPTICIANS
RULES

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ARTICLE 1. GENERAL

R4-20-101. Definitions

The following definitions apply in this Chapter unless otherwise specified:

1. "ABO" means the American Board of Opticianry.
2. "Applicant" means an individual requesting an initial or renewal license from the Board.
3. "Application packet" means the forms and additional information the Board requires to be submitted by an applicant or on the applicant's behalf.
4. "Comity" means the procedure for granting an Arizona license to an applicant who is already licensed as a dispensing optician in another state of the United States.
5. "Days" means calendar days.
6. "Laboratory experience" means work directly involved in the process of producing optical devices and does not include work that is strictly clerical.
7. "License" means a written authorization issued by the Board to practice as a dispensing optician or operate an optical establishment in Arizona.
8. "NCLE" means the National Contact Lens Examiners.
9. "Nationally recognized body of opticianry accreditation" means the Commission on Opticianry Accreditation.
10. "Optical devices" means eyeglasses, contact lenses, prosthetic eyes, low-vision aids, other eyewear, and eyewear appurtenances or parts.
11. "Optometrist" means a person currently licensed in any state of the United States in the practice of the profession of optometry as defined in A.R.S. § 32-1701.
12. "Physician" means a person currently licensed in any state of the United States to practice allopathic or osteopathic medicine
13. "Work week" means the period of time beginning on Sunday at 12:00 a.m. and ending the following Saturday at 11:59 p.m.

R4-20-102. Application for a Dispensing Optician's License by Examination

At least 30 days before a regularly scheduled board meeting date, an applicant for a dispensing optician's license by examination shall submit to the Board an application packet that contains:

1. An application form provided by the Board, signed and dated by the applicant, that contains:
 - a. The applicant's name, Social Security number, address, and telephone number;
 - b. The name and address of the applicant's employer at the time of application, if applicable;
 - c. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(b), the name and address of each dispensing optician, physician, or optometrist for whom the applicant served as an apprentice for three of

- the six years immediately preceding the application date, and the beginning and ending dates of each apprenticeship;
- d. If demonstrating technical skill and training under A.R.S. § 32-1683(5) (c), the name and address of the school from which the applicant graduated, dates of attendance, date of graduation, degree received, and the name and address of each dispensing optician for whom the applicant served as a dispensing optician apprentice for one of the six years immediately preceding the application date and the beginning and ending dates of service. The applicant shall submit a photocopy of the applicant's diploma from the optical dispensing school;
 - e. If demonstrating technical skill and training under A.R.S. § 32-1683(5) (c) received during military service, the name and address of the school from which the applicant graduated, dates of attendance, date of graduation, and degree received, the location and name of the duty station at which the applicant has worked for three of the six years immediately preceding the application date and the beginning and ending dates of service.
 - f. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(d), the name and address of each dispensing optician, physician, or optometrist for whom the applicant has worked for three of the six years immediately preceding the application date and the beginning and ending dates of employment;
 - g. A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in any state;
 - h. A statement of whether the applicant has ever had an application for a professional license denied or had a license suspended or revoked in any state; and
 - i. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A photocopy of the applicant's:
 - a. High school diploma or general educational diploma issued in any state; or
 - b. Transcripts from a high school or college; or,
 - c. Evidence of a college degree or admission to any college in any state;
 3. Verification of passing both spectacle and contact lens written and practical examinations in opticianry administered by a nationally recognized body as evidenced by an original notice of examination results or a copy of the original certificate of passage issued by the organization that prepared the examination;
 4. A letter attesting to good moral character from each of three individuals who are not family members, who have known the applicant for two years immediately before the date of the application, and support the applicant's licensure;
 5. A letter from each physician, optometrist, or dispensing optician named in subsection (1) (c), (d), or (e) that contains:
 - a. The individual's printed name, address, and telephone number; and
 - b. A statement that the applicant has either served as an apprentice or been employed as a dispensing optician by the physician, optometrist, or dispensing optician for the time required in subsection (1) (c), (d), or (e);

6. A photograph of the applicant taken not more than six months before the date of application; and
7. The fee required in R4-20-112.

R4-20-107. Application for a Dispensing Optician's License by Comity

An applicant for a dispensing optician's license by comity shall submit an application packet to the Board that contains:

1. An application form provided by the Board, signed and dated by the applicant that contains:
 - a. The applicant's name, Social Security number, address, and telephone number;
 - b. The applicant is dispensing optician license number and the state and date of licensure;
 - c. A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in any state;
 - d. A statement of whether the applicant has ever been denied a license or had a license suspended or revoked in any state; and
 - e. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A photocopy of the unexpired license and a written statement, signed by an officer of the Board that issued the license, that states the license is in good standing, and that the license is valid to dispense both eyeglasses and contact lenses;
3. A photograph of the applicant taken not more than six months before the date of application; and
4. The fee required in R4-20-112.

R4-20-109. Renewal of Dispensing Optician's License; Late Renewal; Reinstatement

- A. No later than December 31 of each year, an applicant for renewal of a dispensing optician's license shall submit to the Board the fee required by R4-20-112, proof of continuing education credits required by R4-20-120, and an application form, provided by the Board, signed and dated by the applicant, that contains:
 1. The applicant's name, Social Security number, address, and telephone number;
 2. The name, address, telephone number, and Arizona license number of the optical establishment at which the applicant is currently practicing as a dispensing optician; and
 3. A statement that the information contained on the renewal application is correct.
- B. A licensee who submits a renewal application and renewal fee after December 31 but before January 31 of the following year shall pay the late fee in R4-20-112.

- C. A licensee who fails to submit a renewal application before January 31 following a license expiration of December 31, and who wishes to reinstate the license, shall:
 - 1. Submit a reinstatement application within one year of license expiration;
 - 2. Pay the renewal fee and the late fee in R4-20-112;
 - 3. Achieve a passing grade on the practical examination, unless the applicant has successfully completed the practical examination in the five-year period immediately preceding the license expiration.

R4-20-110. Application for an Optical Establishment License

- A. Any person, corporation, company, partnership, firm, association or society operating an optical establishment, except those exempt under A.R.S. §32-1691, shall obtain an optical establishment license.
- B. An applicant for an optical establishment license shall submit an application packet to the Board that contains:
 - 1. An application form provided by the Board, signed and dated by the applicant,
 - that contains:
 - a. The applicant's name, establishment name, establishment address, and telephone number.
 - b. The hours the establishment will be open to the public for business;
 - d. If a corporation, the name of the statutory agent, the corporation's officers, and the state of incorporation; and
 - e. The name and license number of each licensed dispensing optician who is scheduled to work at the establishment on a full-time basis, consisting of 32 hours or more per week;
 - 2. If a corporation, the articles of incorporation; and
 - 3. The fee required in R4-20-112.
- C. To be licensed, an optical establishment shall employ at least one dispensing optician licensed by the Board, for at least 32 hours or more per week.

R4-20-111. Time-frames for License Approvals

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the substantive review and overall time-frame. The substantive review time-frame may not be extended by more than 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is set forth in Table 1.
 - 1. The administrative completeness review time-frame begins:
 - a. For approval to take a dispensing optician examination or for an optical establishment license, when the Board receives an

- application packet.
 - b. For approval or denial of a license by examination, when the applicant takes the dispensing optician examination.
 - c. For a license by comity, when the Board receives an application packet.
 - 2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
 - 3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
 - 4. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.
 - 1. During the substantive review time-frame, the Board may make one comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
 - 2. The Board shall send a written notice approving the applicant to take an examination or granting a license to an applicant who meets the qualifications in A.R.S. §§32-1681 through 32-1684 and 32-1687.
 - 3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. §§32-1681 through 32-1684 and 32-1687.
- D. The Board shall consider an application withdrawn if within 360 days from the application submission date the applicant fails to:
 - 1. Supply the missing information under subsection (B)(2) or (C)(1); or
 - 2. Take the dispensing optician examination.
- E. An applicant who does not want an application withdrawn may request a denial in writing within 360 days from the application submission date.
- F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the next business day shall be considered the time-frame's last day.

R4-20-112. Fees

- A. Dispensing optician fees, which are non-refundable, unless A.R.S. §41-1077 applies, are as follows:
 - 1. License issuance fee \$100
 - 2. Renewal of dispensing optician license \$135

	3.	License renewal late fee	\$100
B.		Optical establishment license fees are as follows:	
	1.	License application fee	\$100
	2.	License issuance fee	\$100
	3.	Renewal of optical establishment license	\$135
	4.	License renewal late fee	\$100

R4-20-113. Display of Licenses; Non-transferability

- A. A licensee shall display all licenses in a conspicuous place. If a license is renewed, the licensee shall display the evidence of renewal in public view.
- B. Optical establishment and dispensing optician licenses are not transferable.
- C. A licensee shall return an optical establishment license to the Board upon transfer of ownership or going out of business.

R4-20-114. Notice of Change of Status

- A. An optical establishment licensee and dispensing optician licensee shall notify the Board of any change in the information provided to the Board concerning license application or its renewal, including any change in name, address, work location, establishment ownership or the name, address or home telephone number of each dispensing optician, working at the establishment.
- B. This notice shall be in writing and made within 30 days of change of status.
- C. For purposes of this Section, a change of establishment ownership means:
 - 1. The transfer of a controlling interest in the optical establishment business from one person to another;
 - 2. The addition or termination of a general partner; or
 - 3. The transfer or agreement to transfer a block of twenty percent or more of the outstanding voting stock of a corporation or association or the transfer or agreement to transfer any amount of voting stock that would give the transferee control of a majority of outstanding voting stock. For purposes of this paragraph, "voting stock" means any interest or system whereby the operation of a corporation is controlled by its owners or trustees.

R4-20-115. Renewal of Optical Establishment License; Late Renewal; Re-application

- A. No later than June 30 of each year, an applicant for renewal of an optical establishment license shall submit to the Board the fee required by R4-20-112 and an application form, provided by the Board that contains:
 - 1. The name, address, and telephone number of the optical establishment;
 - 2. The name and license number of each dispensing optician who is scheduled to work 32 hours or more each week at the optical establishment; and
 - 3. The applicant's signature and title.

- B. A licensee who submits a renewal application and renewal fee after June 30 but before July 31 of the renewal year shall pay the late fee in R4-20-112.
- C. A licensee who fails to submit a renewal application before July 31 following a license expiration of June 30, and who wishes to re-apply for an establishment license, shall submit an original application, and pay the application fee and license fee in R4-20-112.

R4-20-116. Rehearing or Review of Decision

- A. Except as provided in subsection (G), a party in a contested case before the Board who is aggrieved by a decision rendered in the case may file with the Board not later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for the rehearing or review. For purposes of this Subsection a decision is deemed to be served when personally delivered or mailed by certified mail to the party at the party's last known residence or place of business.
- B. A party may amend a motion for rehearing or review at any time before it is ruled upon by the Board. Any other party may file a response within 15 days after service of the motion or amended motion. The Board may require the filing of written brief upon the issues raised in the motion and may provide for oral argument.
- C. A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
 - 1. Irregularity in the administrative proceedings of the Board, the Board's informal interviewing officer, or the prevailing party, or any order or abuse of discretion that deprived the moving party of a fair hearing or interview;
 - 2. Misconduct of the Board or the prevailing party;
 - 3. Accident or surprise that could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
 - 5. Excessive or insufficient penalties;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
 - 7. The decision is not justified by the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing or review to all or any of the parties and on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify with particularity the grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters specified.
- E. Not later than 10 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which the Board might have granted a rehearing or review on motion of a party. After giving the parties or the parties' counsel notice and an opportunity to be heard on

the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion.

- F. When a motion for rehearing or review is based upon affidavits, the moving party shall serve the affidavits with the motion. An opposing party may within 10 days after service, serve opposing affidavits. The Board may extend the period for an additional 20 days for good cause shown or by written stipulation of the parties. The Board may permit reply affidavits.
- G. If in a decision the Board makes specific findings that the immediate effectiveness of the decision is necessary for the immediate preservation of the public peace, health, or safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, a party shall make application for judicial review of the decision within the time limits permitted for applications for judicial review of the Board's final decisions.
- H. For purposes of this Section the terms "contested case" and "party" have the same meaning as in A.R.S. § 41-1001 and "appealable agency action" has the same meaning as in A.R.S. § 41-1092.

R4-20-117. Scope of Practice

- A. The scope of practice of a dispensing optician means the activities described in A.R.S. § 32-1671(3).
- B. The dispensing optician shall fill a refill of a contact lens prescription prior to its expiration date with no more than the sufficient quantity of replacement contact lenses needed through the expiration date.

R4-20-118. Unprofessional Conduct

In addition to actions specified in A.R.S. § 32-1696, unprofessional conduct in the practice of optical dispensing includes the following:

1. Substandard care as specified in R4-20-119;
2. Failing to maintain a copy or record of the customer's prescription and failing to prepare and maintain a record of optical devices dispensed for at least three years. The record of optical devices dispensed shall include the brand, style, and size of the frame, if any, and the style, material, source, and all other information necessary to accurately reproduce each lens. The record shall be separate from optometrists' or physicians' records;
3. Failing or refusing to make a copy of a prescription or record described in subsection (2) promptly available to the customer who is the subject of the prescription or record, the customer's designated representative, the customer's prescribing practitioner, or the Board or its investigator, when requested. Notwithstanding this provision, a dispensing optician need not make the record of contact lenses dispensed on a trial basis available to the customer;

4. Failing or refusing to take corrective action or investigate a customer complaint concerning the manufacture or fit of eyeglasses, contact lenses, or other optical devices dispensed at the establishment by which the dispensing optician is employed if there is a substantial basis for the complaint;
5. Failure of any person, corporation, company, partnership, firm, association or society to maintain an active optical establishment license as required by R4-20-110; and
6. Failure to comply with a Board order.

R4-20-119. Substandard Care

- A.** It is substandard care for a dispensing optician:
1. To dispense improperly manufactured eyeglasses or contact lenses. If a complaint indicates that eyeglasses or contact lenses dispensed by a dispensing optician or other employee of an optical establishment may have been improperly manufactured, the Board shall be guided in its determination of the facts by referring to the standards incorporated by reference in subsection (B) with regard to the individual parameters listed in the standards and considering patient wear, care, and usage;
 2. When interpreting written prescriptions:
 - a. To fail to follow standards incorporated by reference in subsection (B) in determining lens powers due to differences in vertex distances, base curvatures, special lens requirements, and facial fitting problems, or
 - b. To fail to comply with special instructions of the vision practitioner or optometrist shown on the prescription without the full knowledge and consent of the customer, the physician, or optometrist; or
 - c. To fill prescriptions beyond the expiration date indicated on the prescription;
 3. To fail to follow manufacturer’s guidelines regarding usual and customary lens thickness of eyewear;
 4. To intentionally or negligently injure a customer during the course of optical dispensing; or
 5. To fail to give the customer appropriate instructions on the care, handling, and wearing of an optical device.
- B.** The following standards published by the American National Standards Institute, Inc., (ANSI), 1819 L Street, NW, Suite 600, Washington, DC 20036, are incorporated by reference, and no further editions or amendments and are on file with the Board:
1. ANSI Z80.1 2015, “Prescription Ophthalmic Lenses-Recommendations.”
 2. ANSI Z80.20 2016, “Contact Lenses- Standard Terminology, Tolerances, Measurements And Physiochemical Properties.”
 3. ANSI Z87.1 2015, “Occupational and Educational Personal Eye and Face Protection Devices.”

4. ANSI Z80.9 2015, "Optical Devices for Low Vision."

R4-20-120. Continuing Education; Hours Required; Reporting

- A. A person licensed as a dispensing optician shall complete no fewer than 12 hours of continuing education that is approved by the Board for credit.
 1. For the initial period of licensure for an applicant who obtains initial licensure between January 1 and June 30, continuing education credits are due by December 31 of the second full calendar year of licensure.
 2. For the initial period of licensure for an applicant who obtains initial licensure between July 1 and December 31, continuing education credits are due by December 31 of the third full calendar year of licensure.
 3. Continuing education credits for every subsequent period of licensure are due every three years thereafter at the time of licensure renewal.
- B. Each licensee shall submit documentation to the Board verifying that the licensee has completed 12 hours or more of continuing education, within each three-year period. The licensee shall provide documentation that identifies the courses and the number of credit hours completed and include the following:
 1. If the course is from a school approved by the Commission on Opticianry Accreditation or college-accredited course, proof of course completion and the number of credits earned.
 2. If the course is part of an event, a certificate of completion issued by the sponsor which identifies each part completed.
 3. If the course is a home-study course, a certificate of completion issued by the sponsor and the number of credits earned.
 4. For any other course, a certificate of completion issued by the sponsor or presenter and the number of credits earned.
 5. If the licensee cannot obtain the above documentation, any other documents, affidavits, or testimony which provides assurance that the licensee has completed the requirements.
- C. Of the 12 hours of continuing education, each licensee shall obtain at least:
 1. Four hours in eyeglass fitting and dispensing;
 2. Three hours in contact lens fitting and dispensing;
 3. One hour in state or national opticianry standards.
- D. Hours will be measured as follows: one credit hour will be assigned for each 50 minutes of a single session.
- E. The Board shall discipline any licensee who submits false information for continuing education documentation.

F. A licensee shall not apply any hours accrued during one reporting period to any subsequent reporting period.

R4-20-121. Continuing Education; Approval of Courses

ABO and NCLE courses are approved by the Board for continuing education credit. Other individuals or organizations seeking approval of a continuing education course for credit shall apply to the Board 45 days before the date the course is offered. The application shall contain the following information on the course:

1. Title and description of course content;
2. Time, date, and place;
3. Number of credit hours;
4. Name of the sponsor and presenter; and
5. Brief curriculum vitae of the presenter.

R4-20-122. Agency Record; Directory of Substantive Policy Statements

The official rulemaking record for each rulemaking and a directory of substantive policy statements is located in the office of the Board and may be reviewed Monday through Friday, 8:00 a.m. to 5:00 p.m., except state holidays.

Table 1. Time-frames (in days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time- frame
License by Examination (R4-20-102)	A.R.S. § 32-1682 A.R.S. § 32-1684	60	30	30
License by Comity (R4-20-107)	A.R.S. §32-1683	90	30	60
Optical Establishment License (R4-20-110)	A.R.S. § 32-1684.01	60	30	30
Optician’s License Renewal (R4-20-109)	A.R.S. § 32-1682	60	30	30

Establishment License Renewal (R4-20-115)	A.R.S. § 32-1684.01	60	30	30
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