

**LAWS AND REGULATIONS RELATING TO
LICENSURE AS AN OPHTHALMIC DISPENSER**



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DISCLAIMER

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For the official copies of the statutes and regulations pertaining to this profession, please visit <http://lrc.ky.gov>.

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KENTUCKY REVISED STATUTES

326.010 Definitions for chapter -- When prescriptions required.

As used in this chapter:

- (1) "Board" means the "Kentucky Board of Ophthalmic Dispensers";
- (2) "Ophthalmic dispensing" means that a person prepares and dispenses lenses, spectacles, eyeglasses, or appurtenances thereto to the intended wearers on written prescriptions from licensed physicians, osteopaths, or optometrists, and in accordance with these prescriptions, interprets, measures, adapts, fits, and adjusts the lenses, spectacles, eyeglasses, or appurtenances thereto to the human face for the aid or correction of visual or ocular anomalies of the human eyes. The services and appliances relating to ophthalmic dispensing shall be dispensed, furnished, or supplied to the intended wearer or user only upon a written prescription issued by a physician, osteopath, or optometrist. Duplications, replacements, reproductions, or repetitions may be provided without prescriptions, but shall be construed to be ophthalmic dispensing the same as if performed on the basis of an original written prescription; and
- (3) "Optical establishment" means any establishment where ophthalmic dispensing services for the general public are offered, advertised, or performed. "Optical establishment" shall not include any establishment that comes under the practice of medicine by a duly licensed physician, the practice of osteopathy by a duly licensed osteopath, or the practice of optometry by a duly licensed optometrist.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 105, sec. 1, effective June 26, 2007. -- Created 1954 Ky. Acts ch. 27, sec. 1, effective June 17, 1954.

326.020 Kentucky Board of Ophthalmic Dispensers -- Membership -- Appointment -- Qualifications -- Terms -- Powers.

- (1) There is hereby created a board of ophthalmic dispensers to be known as the "Kentucky Board of Ophthalmic Dispensers." It shall consist of five (5) members to be appointed by the Governor, one (1) member of which shall be a licensed medical physician or osteopath experienced in the treatment and examination of eyes and one (1) member of which shall be a licensed optometrist. Two (2) members shall be licensed ophthalmic dispensers. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. They shall not pass upon their own qualifications. The board shall elect one (1) of its members chairman and one (1) member secretary-treasurer. These officers shall serve at the pleasure of the board.
- (2) Members shall serve for a period of four (4) years from the date of their appointment and qualification. At the expiration of the term of office of any member, the Governor shall appoint a successor for a term of four (4) years.
- (3)
 - (a) The board may promulgate administrative regulations to carry out the purposes and provisions of this chapter, including the licensing of apprentice ophthalmic dispensers and the adoption of a program for continuing education for all licensees.
 - (b) No licensee shall be permitted to renew his or her license, unless the minimum annual continuing education requirements have been completed. No program for continuing education shall contain, as a prerequisite for license renewal, a requirement for more than

- a total of six (6) credit hours per year for ophthalmic dispenser licensees, or four (4) credit hours per year for apprentice ophthalmic dispenser licensees.
- (4) Board members shall receive fifty dollars (\$50) per day for attending board meetings. Board members shall also be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.
 - (5) The board may:
 - (a) Revoke, suspend, or refuse to issue or renew licenses; impose probationary or supervisory conditions upon licensee; or issue written reprimands to licensees, in accordance with KRS 326.090;
 - (b) Impose administrative fines in accordance with KRS 326.100; or
 - (c) Take any other action or combination of actions regarding licenses, licensees, or apprenticeships authorized by this chapter.
 - (6) For the purpose of enforcing the provisions of this chapter, the board may administer oaths, receive evidence, interview persons, issue subpoenas, and require the production of books, papers, documents, or other evidence.
 - (7) The board may seek injunctive relief in Franklin Circuit Court to enjoin violation of KRS 326.030.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 65, sec. 1, effective July 14, 2000. -- Amended 1994 Ky. Acts ch. 183, sec. 2, effective July 15, 1994. -- Amended 1978 Ky. Acts

326.030 Licenses required.

No person shall engage in the practice of ophthalmic dispensing unless he or she is duly licensed to practice medicine, osteopathy, or optometry in this Commonwealth or unless he or she is the holder of a license as an ophthalmic dispenser; provided, this section shall not be so construed as to prohibit a firm or corporation from operating a business which comes within the meaning of ophthalmic dispensing, if each of its employees either (1) coming in contact with the public and performing for the public any service or services included within the meaning of ophthalmic dispensing, or (2) otherwise performing any work or service required by this chapter to be performed by an ophthalmic dispenser, is the holder of a license as an ophthalmic dispenser.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 65, sec. 2, effective July 14, 2000. -- Created 1954 Ky. Acts ch. 27, sec. 2, effective June 17, 1954. ch. 154, sec. 35, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 206, sec. 22. -- Created 1954 Ky. Acts ch. 27, sec. 11, effective June 17, 1954.

326.035 Apprentice license and temporary apprentice permit.

- (1) The board shall, upon payment of a fee not to exceed fifty dollars (\$50), issue an apprentice license to any person in training for the vocation of ophthalmic dispenser, under the supervision of a licensed ophthalmic dispenser, and otherwise qualified pursuant to the administrative regulations promulgated by the board. The apprentice license shall be valid for not more than one (1) year and shall expire on December 31 of the year in which it was issued.
- (2) Applications for renewal apprentice licenses shall be made with the board prior to expiration of the current license, in accordance with administrative regulations promulgated by the board. Renewal apprentice licenses may be issued by the board upon payment of a fee not to exceed fifty dollars (\$50).

- (3) As a prerequisite for apprentice license renewal, licensees shall provide adequate proof that they have obtained at least four (4) hours of continuing education credits, approved by the board, during the previous twelve (12) months.
- (4) The chairman of the board may issue a temporary apprentice permit to any person duly qualified under subsection (1) of this section. The temporary apprentice license, unless approved by the board, shall expire upon adjournment of the next regular meeting of the board.
- (5) A sponsor of an apprentice shall file with the board an outline of the training schedule he proposes to follow in training the apprentice, and an overview of the facilities located at his establishment. These facilities shall be sufficient to provide adequate training of an apprentice.
- (6) An apprentice shall notify the board, within seven (7) days if his employment with his sponsor is terminated, or the supervisory relationship with his sponsor no longer exists.
- (7) The board shall limit the number of apprentices to no more than two (2) apprentices per licensed ophthalmic dispenser in each establishment.

Effective: July 15, 1994

History: Created 1994 Ky. Acts ch. 183, sec. 1, effective July 15, 1994.

326.040 Issuance of license -- Fee -- Examinations.

A license as an ophthalmic dispenser shall be issued by the board to any person who pays a fee of fifty dollars (\$50) and submits evidence under oath satisfactory to the board:

- (1) That he or she is more than eighteen (18) years of age and of good moral character;
- (2) That he or she has graduated from high school or possesses a General Educational Development (GED) certificate;
- (3) That he or she has at least two (2) years of satisfactory training and experience in ophthalmic dispensing under the supervision of an ophthalmic dispenser, physician, osteopath, or optometrist, or is a graduate of an accepted school of ophthalmic dispensing;
- (4) That he or she has passed a satisfactory examination in ophthalmic dispensing approved by the board.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 65, sec. 3, effective July 14, 2000. -- Amended 1970 Ky. Acts ch. 120, sec. 16. -- Created 1954 Ky. Acts ch. 27, sec. 3, effective June 17, 1954.

326.060 Dispenser not to examine or treat eyes -- Fitting of contact lenses.

Nothing in this chapter shall be construed to authorize or permit any ophthalmic dispenser to hold himself out as being able to, or to either offer, undertake or attempt, by any means or method, to examine or exercise eyes, to fit contact lenses, or to diagnose, treat, correct, relieve, operate or prescribe for any human ailment, deficiency, deformity, disease, injury, pain or physical condition except that an ophthalmic dispenser holding a license as such issued hereunder may fit contact lenses under the supervision of a physician, osteopath or optometrist.

Effective: June 17, 1954

History: Created 1954 Ky. Acts ch. 27, sec. 5, effective June 17, 1954.

326.070 Exemptions from chapter.

- (1) Nothing in the provisions of this chapter relating to ophthalmic dispensing shall be construed to limit or restrict, in any respect, the practice of medicine by duly licensed physicians, the practice of osteopathy by duly licensed osteopaths, or the practice of optometry by duly licensed optometrists. A licensed physician, osteopath, or optometrist shall have all the rights and privileges of ophthalmic dispensers licensed under this chapter.
- (2) This chapter shall not be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in an optical office, laboratory, or shop.
- (3) Persons, firms, and corporations that sell completely assembled eyeglasses or spectacles without advice or aid as to their selection, as merchandise, from permanently located or established places of business shall not be subject to this chapter.
- (4) Physicians, osteopaths, optometrists, and their employees while working under their regulation and supervision shall have the right to practice ophthalmic dispensing without qualifying under this chapter and shall not be subject to any of the provisions of this chapter.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 105, sec. 2, effective June 26, 2007. -- Created 1954 Ky. Acts ch. 27, secs. 6 to 9, effective June 17, 1954.

326.080 Renewal of licenses.

- (1) A license to practice ophthalmic dispensing shall be renewed each year by the payment of a fee not to exceed seventy-five dollars (\$75), unless the license has been suspended or revoked by the board.
- (2) Effective January 1, 1996, as a prerequisite for license renewal, licensees shall provide adequate proof that they have obtained at least six (6) hours of continuing education credits, approved by the board, during the previous twelve (12) months.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 183, sec. 3, effective July 15, 1994. -- Created 1954 Ky. Acts ch. 27, sec. 10, effective June 17, 1954.

326.090 Causes for revocation or suspension of licenses -- Fines -- Reprimand.

- (1) The board may refuse to issue a license, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine upon, or issue a written reprimand against the holder of a license to practice ophthalmic dispensing or an apprentice license if the applicant or licensee has:
 - (a) Committed a dishonest or corrupt act. If the act is a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence of guilt at the ensuing disciplinary hearing of the licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
 - (b) Committed any unfair, false, misleading, or deceptive act or practice;
 - (c) Been incompetent or negligent in the practice of ophthalmic dispensing;
 - (d) Failed to comply with a lawful order of the board;
 - (e) Aided or abetted another person in falsely procuring or attempting to procure a license;
 - (f) Aided or abetted an unlicensed person in activities which violate KRS 326.030 and which are not otherwise exempted from the provisions of this chapter;

- (g) Exhibited chronic or persistent inebriety or addiction to a drug habit, to an extent that disqualifies the applicant or the licensee from practicing with safety to the public;
 - (h) Committed fraud or deception in the application or in the examination for the license; or
 - (i) Violated any provisions of this chapter or administrative regulations promulgated in accordance with this chapter.
- (2) The board may impose a fine against any person who:
- (a) Operates an optical establishment without the supervision of a Kentucky-licensed ophthalmic dispenser;
 - (b) Allows, aids, or abets an unlicensed person to perform activities that violate KRS 326.030 and are not otherwise exempted from the provisions of this chapter; or
 - (c) Allows a Kentucky licensed ophthalmic dispenser to supervise more than one (1) optical establishment at the same time.
- (3) After investigating an alleged violation and offering the licensee the opportunity to respond to the allegation, the board may issue a written reprimand to the licensee if the board determines that a violation that is not of a serious nature has occurred. A copy of the reprimand shall be placed in the permanent file of the licensee. The licensee may file a written response to the reprimand within thirty (30) days of receiving the reprimand or may request a hearing with the board. If the licensee responds to the reprimand, his or her response shall be placed in the licensee's permanent file. If the licensee requests a hearing, the board shall set aside the written reprimand, pending the outcome of a hearing by the board under the provisions of KRS Chapter 13B.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 105, sec. 3, effective June 26, 2007. -- Amended 2000 Ky. Acts ch. 65, sec. 4, effective July 14, 2000. -- Created 1954 Ky. Acts ch. 27, sec. 12, effective June 17, 1954.

326.100 Hearings -- Appeals.

- (1) The board, before suspending, revoking, imposing probationary, or supervisory conditions upon, imposing an administrative fine, issuing a written reprimand, or taking any combination of these actions regarding any person under this chapter, shall conduct a hearing under the provisions of KRS Chapter 13B, upon the request of that person.
- (2) After denying an application under the provisions of this chapter, the board shall grant a hearing to the denied applicant under the provisions of KRS Chapter 13B.
- (3) Any applicant aggrieved by a disciplinary action of the board may appeal the final order of the board to the Circuit Court in the county in which the licensee is practicing in accordance with KRS Chapter 13B.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 105, sec. 4, effective June 26, 2007. -- Amended 2000 Ky. Acts ch. 65, sec. 5, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 318, sec. 298, effective July 15, 1996. -- Amended 1980 Ky. Acts ch. 114, sec. 86, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 315, sec. 66. -- Created 1954 Ky. Acts ch. 27, sec. 13, effective June 17, 1954.

326.120 Deposit of fees in agency fund.

All fees imposed and collected under the provisions of this chapter shall be paid to the secretary-treasurer of the board for the use of the board, and shall be deposited in the State Treasury to the credit of an agency fund for the use of the board.

Effective: June 17, 1954

History: Created 1954 Ky. Acts ch. 27, sec. 15, effective June 17, 1954.

326.990 Penalties.

Any person who shall directly or indirectly engage in the practice of ophthalmic dispensing or hold himself or herself out to the public as being able so to do, or who shall violate any of the provisions of this chapter relating to ophthalmic dispensing, or having had his or her license suspended or revoked shall continue to engage in the practice of ophthalmic dispensing, or who directly or indirectly employs, permits or authorizes an unlicensed person to engage in the practice of ophthalmic dispensing shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for not more than thirty (30) days, or by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by both such fine and imprisonment, and each such violation shall be deemed a separate offense.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 65, sec. 6, effective July 14, 2000. -- Created 1954 Ky. Acts ch. 27, sec. 16, effective June 17, 1954.

KENTUCKY ADMINISTRATIVE REGULATIONS

201 KAR 13:010. Board; powers, duties, meetings.

RELATES TO: KRS 326.020

STATUTORY AUTHORITY: KRS 326.020(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3) grants the board the authority to promulgate administrative regulations to carry out the provisions of KRS Chapter 326. This administrative regulation specifies the powers and duties of the board and its officers, and meeting date requirements.

Section 1. Officers; Duties; Meetings.

- (1) Three (3) members of the board shall constitute a quorum for the transaction of business.
- (2) (a) The board shall meet at least three (3) times each year as follows:
 1. The third Wednesday in March;
 2. The third Wednesday in July; and
 3. The third Wednesday in November.
- (b) Other meetings of the board shall be called by the chairman on his own motion or by written request of three (3) board members.
- (c) The secretary-treasurer shall give timely notice of the time and place of the meetings to each member.
- (3) The officers of the board shall discharge the duties that usually pertain to their respective offices.
- (4) The secretary-treasurer shall:
 - (a) Keep a permanent record of the names and addresses of all persons holding a license; and
 - (b) Annually transmit the names and addresses of the current chairman and the secretary-treasurer and the board's business address to the Secretary of State, Commonwealth of Kentucky.
- (5) All licenses shall be signed by both the chairman and the secretary-treasurer.
- (6) All fees and monies collected shall be deposited in the State Treasury to the credit of an agency fund for the use of the board. (OD-1 (1-17); 1 Ky.R. 721; eff. 5-14-75; Am. 10 Ky.R. 45; eff. 8-3-83; 27 Ky.R. 1526; 2722; eff. 4-9-2001.)

201 KAR 13:020. Dispensing defined.

RELATES TO: KRS 326.020

STATUTORY AUTHORITY: KRS 326.020(3)

NECESSITY, FUNCTION, AND CONFORMITY: Additional definition of ophthalmic dispensing.

Section 1. Eyeglass or spectacle frames and mountings intended for the purpose of holding corrective prescription lenses, are declared to be appurtenances thereto within the meaning of KRS 326.010. The following are ophthalmic dispensing within the meaning of KRS 326.010:

- (1) Fitting, adjusting, or adapting of such frames and mountings;
- (2) Performance of any act which involves a decision as to the size, shape, fitting or positioning of the frames and mountings in position before the eyes of the wearer; and
- (3) The final delivery of the complete prescription lenses, spectacles or eyeglasses frames and mountings. (OD-6; 1 Ky.R. 721; eff. 5-14-75.)

201 KAR 13:030. Contact lens fitting.

RELATES TO: KRS 326.060

STATUTORY AUTHORITY: KRS 326.020(3)

NECESSITY, FUNCTION, AND CONFORMITY: Procedures and policies regarding fitting of contact lenses.

- Section 1. (1) The fitting of contact lenses is a function of ophthalmic dispensing as outlined in KRS 326.060, and an ophthalmic dispenser's license shall be required of any person who fits contact lenses except as specified in KRS 326.070(4).
- (2) Contact lenses shall be furnished only upon prescription from a physician, osteopath or optometrist and under no circumstances shall the dispenser neutralize the customer's lenses to arrive at the prescription unless authorized to do so by the physician, osteopath or optometrist.
 - (3) Trial lenses or sample contact lenses shall not be inserted into the eye or eyes of a person for the purpose of demonstrating, measuring or for trial or for any other purpose incident to the fitting of contact lenses unless authorized to do so by a physician, osteopath or optometrist.
 - (4) In all cases of contact lens fitting, the ophthalmic dispenser shall not furnish contact lenses unless the prescription from a physician, osteopath or optometrist under which such lenses are to be furnished instructs the patient to return to such physician, osteopath or optometrist to complete the fitting process.
 - (5) It shall be the exclusive prerogative of the prescribing physician, osteopath, or optometrist, as set out in KRS 326.010, to determine whether contact lenses are superior to other forms of visual aid glasses.
 - (6) Since contact lens fitting is only one part of the ophthalmic dispensing procedure, the board will not consider an application for an apprentice license under 201 KAR 13:050 for any person working exclusively in contact lenses. All persons desiring to engage in contact lens fitting shall qualify as an ophthalmic dispenser under KRS 326.030 and be licensed by this board as such. (OD-5; 1 Ky.R. 722; eff. 7-2-75; Am. 2 Ky.R. 191; eff. 1-14-76.)

201 KAR 13:040. Licensing; application, examination; experience; renewal; and inactive status.

RELATES TO: KRS 326.020, 326.040, 326.080

STATUTORY AUTHORITY: KRS 326.020(3), 326.040, 326.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3) authorizes the board to promulgate administrative regulations to carry out the purposes and provisions of KRS Chapter 326. KRS 326.040 establishes the requirements for the issuance of a license including experience and passage of an examination. KRS 326.080 requires the annual renewal of licensure. This administrative regulation prescribes the forms, required examinations, experience, renewal requirements, and provisions for inactive status required for licensees.

Section 1. Application for License.

- (1) Any person wishing to obtain a license to practice as an ophthalmic dispenser, under KRS Chapter 326, shall make application to the Kentucky Board of Ophthalmic Dispensers on Form O.D. No. 1-00.
- (2) An applicant for licensure as an apprentice shall complete Form O.D. No. 1A-00.
- (3) The board shall admit to the practical examination any candidate who pays the required examination fee of fifty (50) dollars and who submits satisfactory evidence to the board, under oath,

that he qualifies pursuant to KRS 326.040 and the administrative regulations adopted by the board.

Section 2. Required Examinations.

- (1) The examination required pursuant to KRS 326.040(4) shall consist of passage of each of the following:
 - (a) The American Board of Opticians (ABO);
 - (b) The National Contact Lens Examiners (NCLE); and
 - (c) The practical examination established in Section 7 of this administrative regulation.
- (2) The ABO and the NCLE shall be:
 - (a) Taken before the expiration of thirty (30) months from the date of the original receipt of the apprentice license; and
 - (b) Passed within five (5) years of the date of the original receipt of the apprentice license.
- (3) The practical examination shall not be taken until all other licensure requirements have been completed.

Section 3. Experience. In addition to the experience requirement established in KRS 326.040(3), the board may also count as qualifying experience any time spent:

- (1) Attending a recognized school for ophthalmic dispensing; or
- (2) Working in an optical laboratory as an ophthalmic technician.

Section 4. Licensure Renewal.

- (1) Each license shall be renewed each year on or before December 31.
- (2) Each licensee shall complete and submit one (1) of the following:
 - (a) Renewal application form No. 2 for a licensed ophthalmic dispenser; or
 - (b) Renewal application form No. 2A for a licensed apprentice ophthalmic dispenser.
- (3) For a renewal postmarked on or before December 31, the renewal fee shall be:
 - (a) Fifty (50) dollars for a licensed ophthalmic dispenser; or
 - (b) Twenty-five (25) dollars for an apprentice ophthalmic dispenser.
- (4) In addition to the renewal fee, a ten (10) dollar penalty shall be paid on any renewal postmarked after December 31.
- (5) In order to qualify for licensure renewal, a licensee shall comply with the continuing education requirements of KRS 326.020(3)(b) and 201 KAR 13:055.

Section 5. Temporary Permit Application.

- (1) The board may issue a temporary permit to a qualified ophthalmic dispenser, who otherwise would qualify for a license but is in the state on a temporary basis or who has not yet had an opportunity to take an examination to procure a license and whose immediate employment depends upon being licensed by the board.
- (2) The permit shall be valid only until the next regular examination date and in no case shall exceed six (6) months following date of issuance.
- (3) The fee for a temporary permit shall be fifty (50) dollars, which amount shall accompany the application.

Section 6. Board Action, Notification.

- (1) The board shall act only upon those applications which are completely and properly filled out by the applicant.
- (2) Each applicant shall enclose the prescribed license fee in the form of a check or money order made payable to the Commonwealth of Kentucky State Treasurer.
- (3) Applicants shall be notified of the action of the board; and, if favorable, when and where the examination will be held.

Section 7. Inactive Status.

- (1) Upon application, the board may grant inactive status to a licensee. While on inactive status, the licensee shall not engage in the practice of ophthalmic dispensing.
- (2) The fee for licensure on inactive status shall be ten (10) dollars per year.
- (3)
 - (a) Continuing education requirements shall be waived for licensees on inactive status during the time they remain inactive.
 - (b) If at any time the inactive licensee applies to the board to return to active status, the licensee shall submit proof that he has completed six (6) hours of continuing education for ophthalmic dispenser licensees and four (4) hours of continuing education for apprentice ophthalmic dispenser licensees within the last twelve (12) month period immediately preceding the date on which the application is submitted.
 - (c) The licensee may request that he be allowed to return to active status immediately, with the provision that he shall receive the appropriate number of continuing education hours within six (6) months of the date on which he returns to active status.
 - (d) Additionally, the licensee shall be responsible for meeting the requirements set forth in 201 KAR 13:055 in order to qualify for renewal.
- (4) The reactivation fee for changing from inactive status to active status shall be forty (40) dollars for an ophthalmic dispenser licensee.

Section 8. Practical Examination Content And Procedures.

- (1) The board shall hold examinations for candidates for ophthalmic dispensers' licenses at its regular March, July, and November meetings, and at other time as the board may determine.
- (2) The examination of applicants for a license shall be upon the following subjects:
 - (a) Ophthalmic lenses, including spectacle and contact lenses;
 - (b) Dispensing procedure;
 - (c) Visual aids;
 - (d) Mathematics and physics; and
 - (e) Mechanical optics including:
 1. Pupillary distance;
 2. Decentration; and
 3. Base curve.
- (3)
 - (a) Examinations shall be conducted in a manner so that the result shall be entirely fair and impartial.
 - (b) The applicants shall be known by numbers only, so that no member of the board shall be able to identify the written examination of any applicant until it has been graded.
 - (c) All applicants examined at the same time shall have the same written questions.
 - (d) An applicant shall be required to make an average grade of seventy (70) with a minimum grade of fifty (50) in any one (1) branch.
 - (e) Part of the examination may be oral or demonstrative.
- (4) All written, oral or demonstrative examinations administered by this board shall be conducted in the presence of at least one (1) board member.
- (5) An applicant who has been rejected may become an applicant at any future examination by submitting a new application on a prescribed form and the payment of the required fee of fifty (50) dollars.
- (6) An application for a license shall be filed with the board at least ten (10) days before the examination.

Section 9. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) Form O.D. 1-00, March 2001 edition;
 - (b) Form O.D. 1A-00, March 2001 edition;

- (c) Renewal Application Form No. 2, March 2001 edition; and
 - (d) Renewal Application Form No. 2A, March 2001 edition.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Ophthalmic Dispensers, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (OD-2; 1 Ky.R. 722; eff. 5-14-75; Am. 11 Ky.R. 56; eff. 8-7-84; 733; eff. 12-11-84; 13 Ky.R. 900; eff. 12-2-86; 21 Ky.R. 481; 1086; eff. 10-12-94; 27 Ky.R. 1528; 2723; eff. 4-9-2001.)

201 KAR 13:050. Apprentices.

RELATES TO: KRS 326.020, 326.035

STATUTORY AUTHORITY: KRS 326.020(3), 326.035

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.035 authorizes the board to issue an apprentice license to any person in training to be an ophthalmic dispenser. This administrative regulation establishes the requirements for an apprentice ophthalmic dispenser.

Section 1. Definitions.

- (1) "Apprentice ophthalmic dispenser" means a person who is in training for the vocation of ophthalmic dispenser and who dispenses ophthalmic lenses, frames and appurtenances thereto to the intended wearer only under the supervision of a physician, osteopath, optometrist or licensed ophthalmic dispenser.
- (2) "Ophthalmic dispenser" means a physician, osteopath, optometrist or licensed ophthalmic dispenser licensed pursuant to KRS 326.040 who is sponsoring an apprentice ophthalmic dispenser.

Section 2. (1) An apprentice license shall be required of any person:

- (a) Who is not a licensed ophthalmic dispenser, but is in training to be an ophthalmic dispenser;
 - (b) While in training works under the supervision of a licensed ophthalmic dispenser; and
 - (c) Whose duties require that he perform the services as would be normally performed by a licensed ophthalmic dispenser.
- (2) The board may revoke the apprentice license at any time if either the employer or the apprentice fail to carry out the provisions of this administrative regulation.
 - (3) A licensed apprentice ophthalmic dispenser shall at all times work under the supervision of, and in the same establishment with, an ophthalmic dispenser, and the ophthalmic dispenser shall be responsible for his acts.
 - (4) The board shall issue an apprentice license for a period ending December 31 of the current year, upon receipt and board approval of the required application and a fee of fifty (50) dollars. In the event the apprentice's employment under the sponsoring ophthalmic dispenser is terminated for any reason, the board shall be notified immediately.
 - (5) The board shall supply, upon request, a list of approved textbooks covering the subjects on which the examination is based.
 - (6) The board may reject the application for an apprentice license or to rescind a license already issued if, upon inspection, it is found that any of the requirements for an apprentice license, as outlined in KRS 326.035 or the administrative regulations, are being violated.
 - (7) All administrative regulations regarding conduct, paying of fees, suspensions or revocations and all other administrative regulations not specifically excluding apprentice licenses shall apply to the licensed apprentice ophthalmic dispenser. (OD-2; 1 Ky.R. 722; eff. 5-14-75; Am. 11 Ky.R. 56; eff. 8-7-84; 733; eff. 12-11-84; 21 Ky.R. 483; eff. 10-19-94; 27 Ky.R. 1530; 2502; eff. 4-9-2001.)

201 KAR 13:055. Continuing education requirements.

RELATES TO: KRS 326.020, 326.080

STATUTORY AUTHORITY: KRS 326.020(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3)(b) requires licensees of the board to complete continuing education as a condition of license renewal. This administrative regulation establishes a continuing education program for ophthalmic dispenser licensees and apprentice ophthalmic dispenser licensees and the basic requirements, methods of accreditation, and manner of reporting.

Section 1. "Continuing education hour" means fifty (50) contact minutes of participating in continuing education experiences.

Section 2. (1) Each ophthalmic dispenser licensee shall be required to complete a minimum of six (6) continuing education hours in order to renew his license each year.

(2) Each apprentice ophthalmic dispenser licensee shall be required to complete a minimum of four (4) continuing education hours in order to renew his license each year.

(3) Continuing education hours in excess of the number required at the time of renewal of license shall not be applied to future requirements.

Section 3. (1) A minimum of three (3) of the required six (6) continuing education hours for renewal of ophthalmic dispenser licensure and a minimum of two (2) of the required four (4) continuing education hours for renewal of apprentice ophthalmic dispenser licensure shall be obtained through programs sponsored by entities listed in Section 4(1) of this administrative regulation.

(2) The remaining continuing education hours may be obtained through any of the sources listed in Section 4 of this administrative regulation.

(3) Repetitious completion of a program shall not entitle the participant to additional continuing education credit.

(4) Licenses issued after August 1 shall be exempt from the continuing education requirement for renewal by December 31 of the same year.

Section 4. Continuing education hours applicable to renewal of licensure shall be directly related to the professional growth and development of ophthalmic dispensers. They may be earned by completing any of the following educational activities:

(1) Programs not requiring board review and approval. An educational program from any of the following providers shall be deemed to be relevant to ophthalmic dispensing and shall be approved without further review by the board if it is provided by:

(a) The Society of Dispensing Opticians of Kentucky;

(b) The Opticians Association of America, or any of its affiliated state chapters;

(c) The Contact Lens Society of America, or any of its affiliated state chapters;

(d) The National Academy of Opticianary, or any of its affiliated state chapters;

(e) The American Optometric Association, or any of its affiliated state chapters;

(f) The American Academy of Ophthalmology, or any of its affiliated state chapters;

(g) The Southeastern Conference; or

(h) The National Association of Optometrists and Opticians.

(2) Programs requiring board review and approval. A program from any of the following sources shall be reviewed and determined if it is relevant and therefore subsequently approved by the board:

(a) Accredited schools' continuing education programs; or

- (b) Any other provider's continuing education programs.
- (3) Related areas not specifically a part of the field of ophthalmic dispensing may be approved for up to two (2) continuing education hours, if the board believes that the related areas may serve to enhance the licensee's ability to practice.

Section 5. Sponsors of continuing education programs shall be responsible for obtaining from the board accreditation for their respective continuing education programs.

- (1) Programs shall be submitted to the board for review and approval at least thirty (30) days prior to planned participation so the participants can know the value of the experience prior to actual participation.
- (2) Requests for program changes shall be made to and accredited by the board or the evaluation and accreditation of the program becomes null and void.
- (3) Sponsors shall maintain for three (3) years records of the names of those participants who complete a program.

Section 6. Sponsors and licensees requesting approval of continuing education for ophthalmic dispensers shall submit any information the board may require.

Section 7. Submission of fraudulent statements or certificates concerning continuing education shall subject the licensee to revocation or suspension of his license as provided in KRS Chapter 326.

Section 8. Each licensee shall submit, with the annual renewal application, on forms provided by the board, a list of accredited continuing education hours completed by the licensee during the previous license year.

Section 9. (1)(a) Each person registered with the board shall retain proof of attendance and completion of all continuing education requirements.

- (b) These documents shall be retained for a period of three (3) years from the end of the calendar year in which the continuing education was acquired.
- (c) This documentation shall be produced for inspection and verification, if requested in writing by the board during its verification process.
- (d) The board shall not maintain continuing education files.
- (2) (a) The board shall conduct a randomly selected audit of individual records to assure that the continuing education requirements have been met.
 - (b) An individual's record may be audited during consecutive renewal periods.
- (3) If audited, the individual shall provide evidence of continuing education activities. The evidence shall be either:
 - (a) Certificates verifying the individual's attendance at the continuing education programs described above; or
 - (b) An official transcript verifying credit hours earned. One (1) semester credit hour is equivalent to six (6) continuing education hours for the purpose of licensure renewal.

Section 10. Upon proper application to the board, a licensee may be granted a deferral on a year-to-year basis at the discretion of the board for reasons of illness, incapacity, or other similar extenuating circumstances.

Section 11. Each licensee shall keep the board informed of his correct address and place of employment. The board shall be informed in writing of any changes to the licensee's address or place of employment. (21 Ky.R. 712; Am. 1087; eff. 10-19-94; 27 Ky.R. 1530; 2503; 2725; eff. 4-9-2001.)

201 KAR 13:060. Military service; reciprocity.

RELATES TO: KRS 326.020, 326.040

STATUTORY AUTHORITY: KRS 326.020(3), 326.040

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020 grants the board the authority to promulgate administrative regulations to carry out the purpose and provisions of KRS Chapter 326. This administrative regulation provides for necessity of renewal of licenses by members of the military service and to provide reciprocity between the states.

Section 1. Military Service. Any license holder who is in the military service is exempt from renewing his license until he is honorably discharged from the service.

Section 2. Reciprocity.

- (1) A person may be licensed as an ophthalmic dispenser without complying with the provisions of KRS 326.040 if that person:
 - (a) Holds a valid license as an ophthalmic dispenser in another state whose qualifications at the time of licensure were equal to or higher than those requirements established in KRS 326.040 and 201 KAR 13:040; and
 - (b) Has been actively engaged in the practice of ophthalmic dispensing for a period of two (2) years immediately preceding the date of application.
- (2) An applicant for licensure by reciprocity shall:
 - (a) Apply for licensure on the form required in 201 KAR 13:040, Section 1(1);
 - (b) Pay the application fee established in 201 KAR 13:040, Section 1(2);
 - (c) Provide a copy of the current license from the other jurisdiction; and
 - (d) Take and pass the practical examination established in 201 KAR 13:040, Section 8. (OD-1 (18, 19); 1 Ky.R. 723; eff. 7-2-75; Am. 27 Ky.R. 1533; 2504; eff. 4-9-2001.)

201 KAR 13:070. License revocation.

RELATES TO: KRS 326.020

STATUTORY AUTHORITY: KRS 326.020(3)

NECESSITY, FUNCTION, AND CONFORMITY: Procedures regarding revocation of license upon failure to pay license fee.

Section 1. Upon failure of any licensee to pay his license fee to the treasurer of the board within thirty (30) days, the treasurer shall certify to the chairman the fact of nonpayment. The licensee shall then have thirty (30) days in which either to pay his renewal fee or to request a hearing to show cause why his license should not be cancelled. If at the end of said thirty (30) day period the licensee has neither paid his renewal fee nor requested a hearing, his license shall be cancelled. (1 Ky.R. 723; eff. 5-14-75; Am. 12 Ky.R. 1521; eff. 4-17-86.)

201 KAR 13:080. Operation and inspection of optical establishments.

RELATES TO: KRS 326.010(2), 326.010(3), 326.030, 326.070, 326.090(2), 326.990

STATUTORY AUTHORITY: KRS 326.020(3)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.030 provides that a person shall not engage in the practice of ophthalmic dispensing unless he is licensed. KRS 326.090(2) authorizes the board to impose a fine against any person who operates an optical establishment without the supervision of a

Kentucky-licensed ophthalmic dispenser. KRS 326.090(1) authorizes the board to suspend or revoke a license to practice ophthalmic dispensing for a violation of KRS Chapter 326. KRS 326.020(3)(a) authorizes the board to promulgate administrative regulations necessary to implement the chapter. This administrative regulation establishes a procedure for the operation and inspection of an optical establishment to determine if the establishment has complied with the licensing requirements.

Section 1. Definitions.

- (1) "Operates an optical establishment" means to engage in business activities at an optical establishment, including the activities of the owner of the optical establishment and the authorized representative of the owner in the management of the optical establishment and its employees.
- (2) "Optical establishment" is defined in KRS 326.010(3).
- (3) "Person" is defined in KRS 446.010(27).
- (4) "Supervision" means the oversight of the practice of ophthalmic dispensing at an optical establishment by a Kentucky-licensed ophthalmic dispenser who is physically present on the premises.

Section 2. Optical Establishment Supervisor.

- (1) Each optical establishment shall have a Kentucky-licensed ophthalmic dispenser to provide supervision for the establishment.
- (2) An ophthalmic dispenser who leaves the employment of an optical establishment shall notify the board within five (5) working days of his departure from that optical establishment.

Section 3. (1) A board member, employee of the board, or an authorized agent may enter an optical establishment which is required to be under the supervision of a Kentucky-licensed ophthalmic dispenser during regular business hours to determine:

- (a) If the optical establishment is under the supervision of a Kentucky-licensed ophthalmic dispenser;
 - (b) If every person practicing ophthalmic dispensing at the optical establishment is in compliance with the statutes and administrative regulations applying to the practice of ophthalmic dispensing; and
 - (c) The name of each person or persons who operates the optical establishment.
- (2) The provisions of this administrative regulation shall not apply to a person who is exempted under KRS 326.070.

Section 4. A licensed ophthalmic dispenser or apprentice ophthalmic dispenser shall produce the appropriate license or identification for each person employed within the optical establishment upon request.

Section 5. A licensed ophthalmic dispenser shall permit the complete inspection of an optical establishment used in the practice of ophthalmic dispensing upon request.

Section 6. A licensed ophthalmic dispenser or apprentice ophthalmic dispenser shall display his license in a conspicuous place in the office in which he practices. He shall also produce, upon request, a current identification card issued by the board.

Section 7. (1) The board may impose a fine not to exceed \$1000 for a violation of KRS 326.090(2).

- (2) The procedure for imposing a fine on a person for violation of KRS 326.090(2) shall be conducted in accordance with KRS Chapter 13B and 326.100. (23 Ky.R. 4250; Am. 858; eff. 10-13-1997; 34 Ky.R. 618; 968; eff. 11-19-2007.)