

# Board of Opticianry

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## Laws & Rules

Chapter 484, Part I, Florida Statutes  
Chapter 64B12, Florida Administrative Code  
Chapter 64B29, Florida Administrative Code

Current as of July 30, 2010

### **CHAPTER 484, PART I, FLORIDA STATUTES**

#### **PREPARING AND DISPENSING OF EYEGASSES AND OTHER OPTICAL DEVICES**

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#### **484.001 Purpose; legislative findings; intent.--**

(1) The Legislature finds that the practice of opticianry by unskilled and incompetent practitioners presents a danger to the public health and safety. The Legislature finds further that it is difficult for the public to make an informed choice about opticians and that the consequences of a wrong choice could seriously endanger their health and safety. The only way to protect the public from the incompetent practice of opticianry is through the establishment of minimum qualifications for entry into the profession and through swift and effective discipline for those practitioners who violate the law.

(2) The sole purpose of enacting this part is for the protection of the public health, safety, and welfare.

**History.--**ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; ss. 1, 11, 12, ch. 86-254; s. 4, ch. 91-429.

#### **484.002 Definitions.--**As used in this part:

- (1) "Department" means the Department of Health.
- (2) "Board" means the Board of Opticianry.
- (3) "Opticianry" means the preparation and dispensing of lenses, spectacles, eyeglasses, contact lenses, and other optical devices to the intended user or agent thereof, upon the written prescription of a licensed allopathic or osteopathic physician or optometrist who is duly

licensed to practice or upon presentation of a duplicate prescription. The selection of frame designs, the actual sales transaction, and the transfer of physical possession of lenses, spectacles, eyeglasses, contact lenses, and other optical devices subsequent to performance of all services of the optician shall not be considered the practice of opticianry; however, such physical possession shall not be transferred until the optician has completed the fitting of the optical device upon the customer. The practice of opticianry also includes the duplication of lenses accurately as to power, without prescription. A board-certified optician qualified and operating under rules established by the board may fill, fit, adapt, or dispense any soft contact lens prescription. Such optician may fill, fit, adapt, or dispense any extended wear or hard contact lens prescription to the extent authorized to do so by the prescribing allopathic or osteopathic physician or optometrist.

(4) "Optician" means any person licensed to practice opticianry pursuant to this part.

(5) "Direct supervision" means supervision where the licensee remains on the premises while all work is being done and gives final approval to any work performed by an employee.

(6) "Board-certified optician" means an optician licensed in this state who:

(a) Has passed the National Contact Lens Registry Examination;

(b) Has successfully completed a board-approved course of at least 20 contact hours covering the competencies required in fitting, adapting, and dispensing of contact lenses;

(c) Has met any other requirements established by the board to assure competence in the fitting, adapting, and dispensing of contact lenses;

(d) Has completed the application form and remitted a nonrefundable application fee set by the board not to exceed \$100; and

(e) Has been issued a certificate by the department.

(7) "Optical establishment" means any establishment in the state which offers, advertises, and performs opticianry services for the general public.

(8) "Contact lenses" means a prescribed medical device intended to be worn directly against the cornea of the eye to correct vision conditions, act as a therapeutic device, or provide a cosmetic effect.

(9) "Optical dispensing" means interpreting but not altering a prescription of a licensed physician or optometrist and designing, adapting, fitting, or replacing the prescribed optical aids, pursuant to such prescription, to or for the intended wearer, duplicating lenses, accurately as to power without a prescription, and duplicating nonprescription eyewear and parts of eyewear. "Optical dispensing" does not include selecting frames, transferring an optical aid to the wearer after an optician has completed fitting it, or providing instruction in the general care and use of an optical aid, including placement, removal, hygiene, or cleaning.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; s. 83, ch. 83-329; ss. 2, 11, 12, ch. 86-254; s. 27, ch. 88-205; s. 57, ch. 89-162; s. 29, ch. 91-220; s. 4, ch. 91-429; s. 1, ch. 94-192; s. 177, ch. 94-218; s. 138, ch. 98-166; s. 117, ch. 2001-277.

#### **484.003 Board of Opticianry; membership; appointment; terms.--**

(1) The Board of Opticianry is created within the Department of Health and shall consist of seven members to be appointed by the Governor and confirmed by the Senate.

(2) Five members of the board must be licensed opticians. The remaining two members must be residents of the state who never have been licensed as opticians and who are in no way connected with the practice of opticianry. At least one member of the board must be 60 years of age or older.

(3) Members shall be appointed for terms of 4 years.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; s. 99, ch. 83-218; ss. 11, 12, ch. 86-254; s. 24, ch. 87-172; s. 4, ch. 91-429; s. 2, ch. 94-192; s. 178, ch. 94-218; s. 139, ch. 98-166.

**484.004 Board headquarters.--**The board shall maintain its official headquarters in the City of Tallahassee.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; ss. 11, 12, ch. 86-254; s. 4, ch. 91-429.

**484.005 Authority to make rules.**--The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part conferring duties upon it. Such rules shall include, but not be limited to, rules relating to:

(1) A standard of practice for opticians licensed pursuant to this part.

(2) Minimum equipment which shall be utilized to prepare, fit, measure, and dispense lenses, spectacles, eyeglasses, contact lenses, and other optical devices allowed under the practice of opticianry.

(3) Procedures for transfer of prescription files upon the going out of business of an optician, corporation, or other person.

(4) A standard of practice for filling prescriptions for contact lenses and fitting, adapting, and dispensing contact lenses.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; ss. 3, 11, 12, ch. 86-254; s. 4, ch. 91-429; s. 156, ch. 98-200.

**484.006 Certain rules prohibited.**--

(1) No rule or policy of the board shall prohibit any optician from offering a discount in any form or manner in conjunction with the practice of opticianry or from advertising, either directly or indirectly by any means whatsoever, any definite or indefinite price or credit terms on prescriptive or corrective lenses, frames, complete prescriptive or corrective glasses, or other opticianry service.

(2) No rule or policy of the board shall prohibit any optician from practicing jointly with optometrists or allopathic or osteopathic physicians licensed in this state.

(3) No rule or policy of the board shall prohibit the sale of spectacles for reading purposes; toy glasses; goggles or sunglasses consisting of plano white, plano colored, or plano tinted glasses; or readymade nonprescription glasses; nor shall anything in this part be construed to affect in any way the manufacturing and sale of plastic or glass artificial eyes or any person engaged in the manufacturing or sale of plastic or glass artificial eyes.

(4) No rule or policy of the board shall prohibit any optician licensed under this part from engaging in the practice of opticianry with, or in the employ of, any partnership, corporation, lay body, organization, group, or individual.

(5) No rule or policy of the board shall prohibit the location of offices or branch offices by an optician.

(6) No rule or policy of the board shall prohibit the practice of opticianry under a trade name or service mark.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; ss. 11, 12, ch. 86-254; s. 4, ch. 91-429; s. 118, ch. 2001-277.

**484.007 Licensure of opticians; permitting of optical establishments.**--

(1) Any person desiring to practice opticianry shall apply to the department, upon forms prescribed by it, to take a licensure examination. The department shall examine each applicant who the board certifies:

(a) Has completed the application form and remitted a nonrefundable application fee set by the board, in the amount of \$100 or less, and an examination fee set by the board, in the amount of \$325 plus the actual per applicant cost to the department for purchase of portions of the examination from the American Board of Opticianry or a similar national organization, or less, and refundable if the board finds the applicant ineligible to take the examination;

(b) Is not less than 18 years of age;

(c) Is a graduate of an accredited high school or possesses a certificate of equivalency of a high school education; and

(d)1. Has received an associate degree, or its equivalent, in opticianry from an educational institution the curriculum of which is accredited by an accrediting agency recognized and approved by the United States Department of Education or the Council on Postsecondary Education or approved by the board;

2. Is an individual licensed to practice the profession of opticianry pursuant to a regulatory licensing law of another state, territory, or jurisdiction of the United States, who has actively practiced in such other state, territory, or jurisdiction for more than 3 years immediately preceding application, and who meets the examination qualifications as provided in this subsection;

3. Is an individual who has actively practiced in another state, territory, or jurisdiction of the United States for more than 5 years immediately preceding application and who provides tax or business records, affidavits, or other satisfactory documentation of such practice and who meets the examination qualifications as provided in this subsection; or

4. Has registered as an apprentice with the department and paid a registration fee not to exceed \$60, as set by rule of the board. The apprentice shall complete 6,240 hours of training under the supervision of an optician licensed in this state for at least 1 year or of a physician or optometrist licensed under the laws of this state. These requirements must be met within 5 years after the date of registration. However, any time spent in a recognized school may be considered as part of the apprenticeship program provided herein. The board may establish administrative processing fees sufficient to cover the cost of administering apprentice rules as promulgated by the board.

(2) The department may permit an applicant who has satisfied all requirements of subsection (1) to take the examination and shall issue a license to practice opticianry to any candidate who successfully completes the examination.

(3) Any person desiring to operate an optical establishment shall apply to the department, upon forms prescribed by the department, for a permit. The department shall issue a permit to each applicant who:

(a) Has completed the permit form and remitted a nonrefundable application fee set by the department in an amount not to exceed \$500.

(b) Has identified the optical establishment by name, street and mailing address, and telephone number.

(c) Has identified the owner of the optical establishment by name, street and mailing address, and telephone number and, in the case of a partnership, corporation, association, or entity, has identified a registered agent or other person to receive service of papers or other documents or perform other duties as specified by the department.

(4)(a) A permit issued to an optical establishment is for that establishment only, is valid for as long as that establishment operates at that location, and is not transferable to another owner or location by any means, including, but not limited to, any sale of a corporation, partnership, sole proprietorship, or other business entity.

(b) The owner of a permitted optical establishment shall notify the department within 30 days after a change in ownership of the establishment and at the same time return the permit to the department for cancellation. Upon any change in ownership of an optical establishment, the new owner of the establishment shall file for a new permit and shall pay the prescribed permit fee.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; s. 82, ch. 83-329; ss. 4, 11, 12, ch. 86-254; s. 28, ch. 88-205; s. 58, ch. 89-162; s. 59, ch. 89-374; s. 4, ch. 91-429; s. 156, ch. 92-149; s. 3, ch. 94-192; s. 154, ch. 99-397.

#### **484.008 Renewal of license.--**

(1) The department shall renew a license upon receipt of the renewal application and the fee set by the board not to exceed \$350.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

(3) The board may by rule prescribe continuing education, not to exceed 20 hours biennially, as a condition for renewal of a license or certificate. The criteria for such programs or courses shall be approved by the board. All education programs which contribute to the advancement, extension, or enhancement of professional skills and knowledge, whether

conducted by a nonprofit or a profitmaking entity, are eligible for approval. The board may establish by rule an application fee not to exceed \$200 for anyone seeking approval to provide continuing education courses and may provide by rule for a fee not to exceed \$200 for renewal of providership.

(4) The board may excuse any licensee or group of licensees from the continuing education requirement, until the licensee or group of licensees is capable of fulfilling the continuing education requirement, if an unusual circumstance, emergency, or hardship prevented the licensee or group of licensees from complying with such requirement.

**History.**--ss. 1, 5, ch. 79-275; s. 4, ch. 80-291; ss. 2, 3, ch. 81-318; ss. 11, 12, ch. 86-254; s. 1, ch. 87-335; s. 29, ch. 88-205; s. 59, ch. 89-162; s. 4, ch. 91-429; s. 246, ch. 94-119.

#### **484.009 Inactive status.--**

(1) A license that has become inactive may be reactivated under s. 484.008 upon application to the department. The board shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license may not exceed 12 classroom hours for each year the license was inactive.

(2) The board shall promulgate rules relating to licenses which have become inactive and for the renewal of inactive licenses. The board shall prescribe by rule a fee not to exceed \$200 for the reactivation of an inactive license and a fee not to exceed \$50 for the renewal of an inactive license.

**History.**--ss. 1, 5, ch. 79-275; s. 360, ch. 81-259; ss. 2, 3, ch. 81-318; s. 114, ch. 83-329; ss. 11, 12, ch. 86-254; s. 60, ch. 89-162; s. 4, ch. 91-429; s. 247, ch. 94-119.

**484.011 Supportive personnel.**--No person other than a licensed optician may engage in the practice of opticianry, except that a licensed optician may delegate to nonlicensed supportive personnel those duties, tasks, and functions which fall within the purview of s. 484.002(3). All such delegated acts shall be performed under the direct supervision of a licensed optician, who shall be responsible for all such acts performed by persons under her or his supervision.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; s. 35, ch. 82-179; ss. 11, 12, ch. 86-254; s. 4, ch. 91-429; s. 447, ch. 97-103.

#### **484.012 Prescriptions; filing; duplication of prescriptions; duplication of lenses.-**

(1) Any prescription written by a duly licensed allopathic or osteopathic physician or optometrist for any lenses, spectacles, eyeglasses, contact lenses, or other optical devices shall be kept on file for a period of 2 years with the optical establishment that fills such prescription. However, the licensed optician may maintain a copy of the prescription.

(2) Upon request by the intended user of the prescribed lenses, spectacles, eyeglasses, contact lenses, or other optical devices, or by an agent of the intended user, the optician who fills the original prescription shall duplicate, on a form prescribed by rule of the board, the original prescription. However, for medical reasons only, the prescribing allopathic or osteopathic physician or optometrist may, upon the original prescription, prohibit its duplication. Any duplication shall be considered a valid prescription to be filled for a period of 5 years from the date of the original prescription, except that a contact lens prescription shall be considered a valid prescription to be filled for a period of 2 years from the date of the original prescription.

(3) Nothing in this part shall be construed to prohibit a licensed optician from accurately duplicating lenses as to power without a prescription.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; ss. 5, 11, 12, ch. 86-254; s. 4, ch. 91-429; s. 119, ch. 2001-277.

#### **484.013 Violations and penalties.--**

(1) It is unlawful for any person:

(a) To make a false or fraudulent statement, either for herself or himself or for another person, in any application, affidavit, or statement presented to the board or in any proceeding before the board.

(b) To prepare or dispense lenses, spectacles, eyeglasses, contact lenses, or other optical devices when such person is not licensed as an optician in this state.

(c) To prepare or dispense lenses, spectacles, eyeglasses, contact lenses, or other optical devices without first being furnished with a prescription as provided for in s. 484.012.

(2) It is unlawful for any person other than an optician licensed under this part to use the title "optician" or otherwise lead the public to believe that she or he is engaged in the practice of opticianry.

(3) It is unlawful for any optician to engage in the diagnosis of the human eyes, attempt to determine the refractive powers of the human eyes, or, in any manner, attempt to prescribe for or treat diseases or ailments of human beings.

(4) It is unlawful for any person to open or operate, either alone or with any other person or persons, an optical establishment which does not have the permit required by this part.

(5)(a) Except as otherwise provided in paragraph (b), a person who violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who knowingly violates paragraph (1)(c) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; ss. 6, 11, 12, ch. 86-254; s. 115, ch. 91-224; s. 4, ch. 91-429; s. 4, ch. 94-192; s. 448, ch. 97-103; s. 120, ch. 2001-277.

#### **484.014 Disciplinary actions.--**

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Procuring or attempting to procure a license by misrepresentation, bribery, or fraud or through an error of the department or the board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which the person is required to make or file as an optician.

(d) Failing to make fee or price information readily available by providing such information upon request or upon the presentation of a prescription.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Fraud or deceit, or negligence, incompetency, or misconduct, in the authorized practice of opticianry.

(g) Practicing with a revoked, suspended, inactive, or delinquent license.

(h) Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(i) Violation of any provision of s. 484.012.

(j) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(k) Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

(l) Failing to keep written prescription files.

(m) Willfully failing to report any person who the licensee knows is in violation of this part or of rules of the department or the board.

(n) Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(o) Gross or repeated malpractice.

(p) Permitting any person not licensed as an optician in this state to fit or dispense any lenses, spectacles, eyeglasses, or other optical devices which are part of the practice of opticianry.

(q) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, in a court of this state or other jurisdiction, a crime which relates to the ability to practice opticianry or to the practice of opticianry.

(r) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida law or rules regulating opticianry.

(s) Being unable to practice opticianry with reasonable skill and safety by reason of illness or use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. An optician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of opticianry with reasonable skill and safety to her or his customers.

(t) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) The board shall not reinstate the license of an optician it has deemed unqualified until such time as it is satisfied that the optician has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of opticianry.

(4) A permitholder under this part shall be subject to the provisions of this section which shall be enforced by the department.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; ss. 7, 11, 12, ch. 86-254; s. 4, ch. 91-429; s. 248, ch. 94-119; s. 5, ch. 94-192; s. 449, ch. 97-103; s. 140, ch. 98-166; s. 198, ch. 2000-160; s. 46, ch. 2000-318; s. 49, ch. 2001-277; s. 24, ch. 2005-240.

**484.015 Authority to inspect.**--Duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours an establishment of any kind in the state in which lenses, spectacles, eyeglasses, contact lenses, and any other optical devices are prepared or dispensed, for the purposes of:

(1) Determining if any provision of this part, or any rule promulgated under its authority, is being violated;

(2) Securing samples or specimens of any lenses, spectacles, eyeglasses, contact lenses, or other optical devices, after paying or offering to pay for such sample or specimen; or

(3) Securing such other evidence as may be needed for prosecution under this part.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; ss. 8, 11, 12, ch. 86-254; s. 4, ch. 91-429; s. 122, ch. 2001-277.

**484.017 Reciprocity.**--In order to ensure that opticians licensed in this state may be licensed in other states, the board may enter into reciprocity agreements with other states.

**History.**--ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; ss. 11, 12, ch. 86-254; s. 4, ch. 91-429.

**484.018 Exceptions.**--

(1) Nothing in this part shall be construed to prevent a person licensed in this state as a physician or as an optometrist from performing those services she or he is licensed to perform.

(2) Nothing in this part shall be construed to mean that an employee of a licensed physician or a licensed optometrist shall be required to secure a license under this part, so long

as the employee is working exclusively for, and under the direct supervision of, the licensed physician or optometrist and does not hold herself or himself out to the public generally as an optician.

(3) Nothing in this part shall be construed to mean that a practitioner licensed under chapter 458, chapter 459, or chapter 463 shall be required to secure a permit under this part for the operation of an optical establishment.

**History.**—ss. 1, 5, ch. 79-275; ss. 2, 3, ch. 81-318; ss. 11, 12, ch. 86-254; s. 4, ch. 91-429; s. 6, ch. 94-192; s. 450, ch. 97-103.

## **64B12, FLORIDA ADMINISTRATIVE CODE**

### **CHAPTER 64B12-8**

#### **ORGANIZATION, OPERATING PROCEDURES, AND DISCIPLINARY GUIDELINES**

64B12-8.008	Probable Cause Panel
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64B12-8.016	Other Board Business for Which Compensation Is Allowed
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64B12-8.019	Security and Monitoring Procedures for Licensure Examination
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#### **64B12-8.008 Probable Cause Panel.**

(1) The determination as to whether probable cause exists to believe that a violation of the provisions of Chapter 456 or 484, F.S., or of the rules promulgated thereunder has occurred, shall be made by majority vote of the probable cause panel.

(2) The probable cause panel must have a minimum of 2 members, one of which may be a former Board member who holds an active valid license to practice opticianry.

*Specific Authority 456.073(4), 484.005 FS. Law Implemented 456.073(4) FS. History—New 12-6-79, Formerly 21P-8.08, Amended 1-26-88, 9-21-92, Formerly 21P-8.008, 61G13-8.008, 59U-8.008, Amended 8-6-97, 7-8-07.*

#### **64B12-8.009 Unexcused Absences.**

Unexcused absences of a Board member mean absences not due to the following situations:

(1) Medical problems of a Board member or a Board member's family including but not limited to illness, surgery, emergency care and/or hospitalization.

(2) Death of a family member and/or attendance at the family member's funeral.

(3) Conflicting business previously authorized by the Board.

(4) Conflicts deemed unavoidable by the Board.

(5) Other extraordinary circumstances.

*Specific Authority 456.011, 484.005 FS. Law Implemented 456.011 FS. History—New 12-6-79, Amended 9-7-82, Formerly 21P-8.09, Amended 1-27-93, Formerly 21P-8.009, 61G13-8.009, 59U-8.009, Amended 8-6-97.*

#### **64B12-8.016 Other Board Business for Which Compensation Is Allowed.**

The following activities are considered to be other business involving the Board for which compensation shall be paid pursuant to Section 456.011(4), F.S.:

(1) All joint Board or Committee meetings required by statutes, Board rule or Board action.

(2) Meetings of Board members with Agency staff or contractors of the Agency at the Agency's or the Board's request. Any participation or meeting of members noticed or unnoticed will be on file in the Board office.

(3) Participation in a meeting which has been requested by the State Surgeon General of the Agency.

(4) Probable Cause Panel Meeting.

(5) All activity of Board members, if authorized by the Board, when grading, proctoring or reviewing examinations given by the Agency.

(6) All participation in Board authorized meetings with professional associates of which the Board is a member of invitee. This would include all meetings of national associations of registration Boards of which the Board is a member as well as Board authorized participation in meetings of national or professional associations or organizations involved in educating, regulating or reviewing the profession over which the Board has statutory authority.

(7) Any and all other activities which are Board approved, except telephone conference calls, and which are necessary for Board members to attend in order to further protect the public health, safety and welfare.

(8) Monitoring a continuing professional education course offered by an approved provider at the request of the Chairman of the Board.

*Specific Authority 456.011(4), 484.005 FS. Law Implemented 456.011(4) FS. History—New 12-10-81, Amended 8-30-84, 1-7-86, Formerly 21P-8.16, Amended 5-2-89, Formerly 21P-8.016, 61G13-8.016, 59U-8.016.*

#### **64B12-8.0165 Licenses of Spouses of Members of Armed Forces.**

A spouse of a member of the Armed Forces of the United States is exempt from licensure renewal requirements, but only in cases of absence from the state because of his or her spouse's duties with the Armed Forces.

*Specific Authority 456.024, 484.005 FS. Law Implemented 456.024 FS. History—New 1-4-98.*

#### **64B12-8.017 Final Orders - Time for Payment of Administrative Fines.**

If a Final Order imposes an administrative fine, the fine shall be paid within 30 days, unless otherwise specified in the Final Order, by remitting it to the Board's Executive Director.

*Specific Authority 456.072(4), 484.005 FS. Law Implemented 456.072(4), 484.014(2) FS. History—New 6-15-83, Formerly 21P-8.17, Amended 3-30-89, Formerly 21P-8.017, Amended 5-2-94, Formerly 61G13-8.017, 59U-8.017, Amended 8-6-97.*

#### **64B12-8.018 Investigators; Criteria for Selection; Training.**

Investigators employed by the Agency to assist the Board in disciplinary matters shall be selected based upon the following criteria:

- (1) Attainment of high school diploma or a recognized academic equivalent, and
- (2) Graduation from an accredited four-year college or university and either two years of regulatory inspection experience or two years sworn law enforcement or investigative experience, or
- (3) Experience as either a regulatory inspector, a sworn law enforcement officer, or as a non-law enforcement investigator may be substituted on a year by year basis for the required college training.
- (4) Persons selected by the Agency based upon the above criteria shall complete a minimum of 14 days of orientation and training as established by the Agency for the purpose of training them in the fact-finding process. This training shall be under the direct supervision of an investigator who has had at least six months experience in opticianry investigations. This training shall include training by individual board members as deemed necessary by the Agency or Board.

*Specific Authority 456.004(8) FS. Law Implemented 456.004(8) FS. History—New 12-30-82, Formerly 21P-8.18, 21P-8.018, 61G13-8.018, 59U-8.018.*

#### **64B12-8.019 Security and Monitoring Procedures for Licensure Examination.**

The Board adopts by reference Rule 64B12-8.019, F.A.C., of the Department of Health as its rule governing licensure examination security and monitoring.

*Specific Authority 456.017(1)(d) FS. Law Implemented 456.017(1)(d) FS. History—New 12-30-82, Formerly 21P-8.19, 21P-8.019, 61G13-8.019, 59U-8.019.*

#### **64B12-8.020 Disciplinary Guidelines.**

(1) The Board provides within this rule disciplinary guidelines which shall be imposed upon applicants or licensees whom it regulates under Chapter 484, F.S. The purpose of this rule is to notify applicants and licensees of the ranges of penalties that will routinely be imposed unless the Board finds it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed; multiple counts of the violated provisions or a combination of the

violations may result in a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to subsections 120.57(1) and 120.57(2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

(3) When the Board finds an applicant or licensee whom it regulates under Chapter 484, F.S., has committed any of the acts set forth in Section 484.014, F.S., it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:

VIOLATIONS	RECOMMENDED PENALTIES		
	First Offense	Second Offense	Third Offense
(a) Procuring or attempting to procure, or renew a license by misrepresentation, bribery, fraud or through an error of the Department or the Board. (484.014(1)(a), F.S.) (456.072(1)(h), F.S.)	(a) From reprimand to probation of the license and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure. If the violation is for fraud or making a false or fraudulent representation, the administrative fine is \$10,000.00.	(a) From suspension to revocation of the license and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure. If the violation is for fraud or making a false or fraudulent representation, the administrative fine is \$10,000.00.	(a) From revocation, without the ability to reapply, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure. If the violation is for fraud or making a false or fraudulent representation, the administrative fine is \$10,000.00.
(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation. (484.014(1)(b), F.S.)	(b) From reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure. If the violation is for fraud or making a false or fraudulent representation, the administrative fine is \$10,000.00.	(b) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure. If the violation is for fraud or making a false or fraudulent representation, the administrative fine is \$10,000.00.	(b) From suspension to revocation, without the ability to reapply, and an administrative fine of \$1,000.00, or refusal to certify an application for licensure. If the violation is for fraud or making a false or fraudulent representation, the administrative fine is \$10,000.00.
(c) Filing a false report or failing to file a report as required. Such reports or records shall include only those which the person is required to make or file as an optician. (484.014(1)(c), F.S.) (456.072(1)(l), F.S.)	(c) From a letter of concern to reprimand of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(c) From probation to suspension of the license and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(c) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1000.00, or refusal to certify an application for licensure.
(d) Failing to make fee or price information readily available by providing such information upon request or upon the presentation of a prescription. (484.014(1)(d), F.S.)	(d) From a letter of concern to reprimand of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(d) From reprimand to probation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(d) From probation to suspension of the license, and an administrative fine ranging from \$750.00 to \$1000.00, or refusal to certify an application for licensure.
(e) False, deceptive, or misleading advertising. (484.014(1)(e), F.S.)	(e) From a letter of concern to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(e) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(e) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.

(f) Fraud or deceit, or negligence, incompetency, or misconduct in the authorized practice of opticianry. (484.014(1)(f), F.S.)	(f) From reprimand to probation of the license, and an administrative fine ranging from \$1,000.00 to \$3,000.00, and if fraud is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(f) From probation to suspension of the license, and an administrative fine ranging from \$3,000.00 to \$5,000.00, and if fraud is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(f) From suspension to revocation of the license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, and if fraud is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.
(g) Practicing with a revoked, suspended, inactive, retired, or delinquent license. (456.036(1) and 484.014(1)(g), F.S.)	(g) From reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(g) From probation to suspension of the license and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(g) From suspension to revocation, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(h) Violation of a lawful order of the Board or Department or a subpoena of the Department. (484.014(1)(h), F.S.) (456.072(1)(g), F.S.)	(h) From a letter of concern to reprimand of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(h) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(h) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(i) Violation of any provision of Section 484.012, F.S. (484.014(1)(i), F.S.)	(i) From reprimand to suspension of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(i) From probation to suspension, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(i) From suspension to revocation, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(j) Conspiring to restrict another from lawfully advertising his or her services. (484.014(1)(j), F.S.)	(j) From reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(j) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(j) From suspension to revocation of the license and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(k) Willfully submitting to any thirdparty payor a claim for services which were not provided to a patient. (484.014(1)(k), F.S.) The licensee's reimbursement to the third-party payor shall be considered as a mitigating factor by the board.	(k) From reprimand to suspension of the license, and an administrative fine ranging from \$250.00 to \$750.00, or refusal to certify an application for licensure.	(k) From probation to suspension, and an administrative fine ranging from \$500.00 to \$1,000.00, or refusal to certify an application for licensure.	(k) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(l) Failing to keep written prescription files. (484.014(1)(l), F.S.)	(l) From a reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(l) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(l) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(m) Failure to report another licensee in violation of Chapters 484, Part I, 456, F.S., or rule of the Board or Department. (484.014(1)(m), F.S.) (456.072(1)(i), F.S.)	(m) From a letter of concern to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(m) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(m) From suspension to revocation of the license and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(n) Exercising influence on a client for financial gain of the licensee or of a third	(n) From reprimand to probation of the license, and an administrative fine ranging	(n) From probation to revocation of the license, and an administrative fine ranging	(n) From suspension to revocation and an administrative fine ranging

party. (484.014(1)(n), F.S.) (456.072(1)(n), F.S.)	from \$250.00 to \$500.00, or refusal to certify an application for licensure.	from \$500.00 to a \$750.00, or refusal to certify an application for licensure.	from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(o) Gross or repeated malpractice. (484.014(1)(o), F.S.)	(o) From probation to revocation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(o) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.	(o) From suspension to revocation of the license, without the ability to reapply, and an administrative fine ranging from \$900.00 to \$1,000.00, or refusal to certify an application for licensure.
(p) Permitting any person not licensed as an optician in this state to fit or dispense any lenses, spectacles, eyeglasses, or other optical devices that are part of the practice of opticianry. (484.014(1)(p), F.S.)	(p) From reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(p) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(p) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(q) Guilty of a crime directly relating to the ability to practice opticianry or to the practice of opticianry. (484.014(1)(q), F.S.) (456.072(1)(c), F.S.)	(q) From reprimand to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(q) From probation to revocation of the license, and an administrative fine ranging from \$500.00 to \$1,000.00, or refusal to certify an application for licensure.	(q) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(r) Action taken against license by another jurisdiction. Licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license. (484.014(1)(r), F.S.) (456.072(1)(f), F.S.)	(r) From reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(r) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(r) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(s) Being unable to practice opticianry with reasonable skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. (484.014(1)(s), F.S.) (456.072(1)(z), F.S.)	(s) From reprimand to suspension of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(s) From probation to revocation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(s) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(t) Violation or repeated violation of Chapter 456 or 484, F.S., or any rules promulgated pursuant thereto. (484.014(1)(i), (t), F.S.) (456.072(1)(b), (dd), F.S.)	(t) From reprimand to suspension of the license, and an administrative fine ranging from \$250.00 to \$750.00, or refusal to certify an application for licensure.	(t) From probation to revocation of the license, and an administrative fine ranging from \$500.00 to \$1,000.00, or refusal to certify an application for licensure.	(t) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.

(4) When the Board finds an applicant or licensee whom it regulates under Chapter 484, F.S., has violated Section 484.014(1)(t), F.S., by violating any of the following Board rules, it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:

VIOLATIONS	RECOMMENDED PENALTIES		
	First Offense	Second Offense	Third Offense
(a) Failure to pay any civil penalty imposed by order of the Board within thirty days of the effective date of the order as required by Rule 64B12-8.017, F.A.C.	(a) From reprimand to suspension of the license until such time as the fine has been paid and the licensee personally appears before the Board, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(a) From probation to suspension of the license until such time as the fine has been paid and the licensee personally appears before the Board, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(a) From suspension to revocation of license until such time as the fine has been paid and the licensee personally appears before the Board, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(b) Failure to give notice of withdrawal of services pursuant to Rule 64B12-10.003, F.A.C.	(b) From reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(b) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(b) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(c) Failure to identify through written notice or orally to a patient the type of license under which the practitioner is practicing pursuant to Rule 64B12-10.0035, F.A.C.	(c) From a letter of concern to reprimand of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(c) From reprimand to probation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(c) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(d) Failure to properly keep and transfer prescription files pursuant to Rule 64B12-10.006, F.A.C.	(d) From a letter of concern to reprimand of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(d) From reprimand to probation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(d) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(e) Failure to assure that duplicate prescription forms contain the information required by Rule 64B12-10.0065, F.A.C.	(e) From a letter of concern to reprimand of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(e) From reprimand to probation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(e) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(f) Failure to maintain the equipment required by Rule 64B12-10.007, F.A.C.	(f) From reprimand to suspension of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(f) From probation to revocation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(f) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(g) Failure to provide change of address, pursuant to Rule 64B12-10.012, F.A.C.	(g) From a letter of concern to reprimand of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(g) From reprimand to probation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(g) From reprimand to suspension of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(h) Failure to comply with subsection 64B12-15.001(5), F.A.C., which requires the licensee to comply with the	(h) From a reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to	(h) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to	(h) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to

Department's random audit of the licensee's continuing education records.	certify an application for licensure.	certify an application for licensure.	certify an application for licensure.
(i) Failure to properly supervise an apprentice as required by Rule 64B12-16.003, F.A.C. For each offense, depending upon aggravating and mitigating circumstances, the Board may require probation with the condition that the licensee not serve as a sponsor.	(i) From a reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(i) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(i) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(j) Failure to file the proper report upon termination of apprenticeship as required by Rule 64B12-16.004, F.A.C. For each offense, depending upon aggravating and mitigating circumstances, the board may deny credit for hours of apprenticeship.	(j) From a reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(j) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(j) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(k) Failure to file the proper report upon termination of sponsorship as required by Rule 64B12-16.004, F.A.C.  Depending upon aggravating and mitigating circumstances for each offense, the Board may require probation with the condition that the licensee not serve as a sponsor.	(k) From a reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(k) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(k) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(l) Failure of a sponsor or apprentice to comply with Chapters 484, Part I, and 456, F.S., and the rules of the Board and Department or to timely file complete reports or information as required by Rule 64B12-16.008, F.A.C.  Depending upon aggravating and mitigating circumstances for each offense, the Board may require probation with the condition that the licensee not serve as a sponsor or the board may deny credit for hours of apprenticeship.	(l) From a reprimand to suspension of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(l) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(l) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(m) Failure to maintain accurate and complete records of time worked by an apprentice, pursuant to	(m) From a reprimand to probation of the license, and an administrative fine ranging from \$250.00 to	(m) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to	(m) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to

Rule 64B12-16.009, F.A.C. Depending upon aggravating and mitigating circumstances for each offense, the Board may require probation with the condition that the licensee not serve as a sponsor.	\$500.00, or refusal to certify an application for licensure.	\$750.00, or refusal to certify an application for licensure.	\$1,000.00, or refusal to certify an application for licensure.
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(5) When the Board finds an applicant or licensee whom it regulates under Chapter 484, F.S., has violated subsection 456.013(2), 456.063(3), 456.065(2) or 484.013(1)(b) or Section 456.072, F.S., by violating any of the following provisions, it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:

VIOLATIONS	RECOMMENDED PENALTIES		
	First Offense	Second Offense	Third Offense
(a) Failure to return certificates and licenses to the Department. (456.013(2), F.S.)	(a) From a letter of concern to reprimand of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(a) From reprimand to suspension of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(a) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(b) Failure to report allegations of sexual misconduct to the department, regardless of the practice setting in which the alleged sexual misconduct occurred. (456.063(3), F.S.)	(b) From reprimand to suspension of the license, and an administrative fine ranging from \$1,500.00 to \$5,000.00, or refusal to certify an application for licensure. If fraud or making a false or fraudulent representation is proven, the administrative fine is \$10,000.00.	(b) From probation to suspension of the license, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure. If fraud or making a false or fraudulent representation is proven, the administrative fine is \$10,000.00.	(b) From suspension to revocation of license, and an administrative fine ranging from \$7,500.00 to \$10,000.00, or refusal to certify an application for licensure. If fraud or making a false or fraudulent representation is proven, the administrative fine is \$10,000.00.
(c) Failure to have a licensed optician on the business premises at any time that opticianry is being practiced. Should the violator be an unlicensed person, the Department will enter a cease and desist order. (456.065(2) and 484.013(1)(b), F.S.)	(c) From a reprimand to probation of the license, and an administrative fine ranging from \$250.00 to \$750.00, or refusal to certify an application for licensure.	(c) From probation to suspension of the license, and an administrative fine ranging from \$500.00 to \$1,000.00, or refusal to certify an application for licensure.	(c) From suspension to revocation of license, and an administrative fine ranging from \$750.00 to \$1,000.00, or refusal to certify an application for licensure.
(d) Making misleading, deceptive, or fraudulent representations in or related to the practice of opticianry. (456.072(1)(a), F.S.)	(d) From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$5,000.00, and if fraudulent representations are proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(d) From probation to revocation of the license, and an administrative fine ranging from \$3,000.00 to \$5,000.00, and if fraudulent representations are proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(d) From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, and if fraudulent representations are proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.
(e) Failing to comply with the educational course	(e) From letter of concern to reprimand of the license,	(e) From reprimand to probation of the license,	(e) From suspension to revocation of license, and

requirements for human immunodeficiency virus and acquired immune deficiency syndrome. (456.072(1)(e), F.S.)	and an administrative fine ranging from \$500.00 to \$1,000.00, or refusal to certify an application for licensure.	and an administrative fine ranging from \$1,000.00 to \$5,000.00, or refusal to certify an application for licensure.	an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.
(f) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee. (456.072(1)(g), F.S.)	(f) From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$2,500.00, or refusal to certify an application for licensure.	(f) From probation to revocation of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.	(f) From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.
(g) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice opticianry contrary to Chapters 484 and 456, F.S., or the rules of the department or the board. (456.072(1)(j), F.S.)	(g) From reprimand to suspension of the license, and an administrative fine ranging from \$2,000.00 to \$5,000.00, or refusal to certify an application for licensure.	(g) From probation to revocation of the license, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure.	(g) From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.
(h) Failure to perform legal obligation. (456.072(1)(k), F.S.)	(h) From reprimand to suspension of the license, and an administrative fine ranging from \$500.00 to \$2,500.00, or refusal to certify an application for licensure. If the violation is for fraud or making a false or fraudulent representation, the administrative fine is \$10,000.00.	(h) From probation to revocation of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure. If the violation is for fraud or making a false or fraudulent representation, the administrative fine is \$10,000.00.	(h) From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure. If the violation is for fraud or making a false or fraudulent representation, the administrative fine is \$10,000.00.
(i) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. (456.072(1)(m), F.S.)	(i) From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$5,000.00, and if fraudulent representation(s) is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(i) From probation to suspension of the license, without the ability to reapply, and an administrative fine ranging from \$3,000.00 to \$5,000.00, and if fraudulent representation(s) is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.	(i) From suspension to revocation of license, without the ability to reapply, and an administrative fine ranging from \$5,000.00 to \$10,000.00, and if fraudulent representation(s) is proven, an administrative fine of \$10,000.00, or refusal to certify an application for licensure.
(j) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform. (456.072(1)(o), F.S.)	(j) From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$2,500.00, or refusal to certify an application for licensure.	(j) From probation to revocation of the license, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or refusal to certify an application for licensure.	(j) From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.
(k) Delegating or contracting for the performance of professional	(k) From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to	(k) From probation to revocation of the license, and an administrative fine ranging from \$2,500.00 to	(k) From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to

responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them. (456.072(1)(p), F.S.)	\$2,500.00, or refusal to certify an application for licensure.	\$5,000.00, or refusal to certify an application for licensure.	\$10,000.00, or refusal to certify an application for licensure.
(l) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding. (456.072(1)(r), F.S.)	(l) From reprimand to probation of the license, and an administrative fine ranging from \$500.00 to \$1,000.00, or refusal to certify an application for licensure.	(l) From probation to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or refusal to certify an application for licensure.	(l) From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.
(m) Engaging or attempting to engage a patient or client in verbal or physical sexual activity. For the purposes of this section, a patient or client shall be presumed to be incapable of giving free, full, and informed consent to verbal or physical sexual activity. (456.072(1)(v), F.S.)	(m) From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or refusal to certify an application for licensure.	(m) From probation to revocation of the license, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure.	(m) From suspension to revocation of license, and an administrative fine ranging from \$5,000.00 to \$10,000.00, or refusal to certify an application for licensure.
(n) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. (456.072(1)(x), F.S.)	(n) From reprimand to suspension of the license, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or refusal to certify an application for licensure.	(n) From probation to revocation of the license, and an administrative fine ranging from \$5,000.00 to \$7,500.00, or refusal to certify an application for licensure.	(n) From suspension to revocation of license, and an administrative fine ranging from \$7,500.00 to \$10,000.00, or refusal to certify an application for licensure.
(o) Termination from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076, F.S. Termination can be for failure to comply with the terms of the monitoring or treatment contract entered into by the licensed practitioner, failure to successfully complete any drug treatment or alcohol-treatment program, or termination from a monitoring or	(o) From reprimand to suspension of the license, and an administrative fine ranging from \$250.00 to \$500.00, or refusal to certify an application for licensure.	(o) From probation to revocation of the license, and an administrative fine ranging from \$500.00 to \$750.00, or refusal to certify an application for licensure.	(o) From suspension to revocation of the license, and an administrative fine ranging from \$750.00 to \$1,000.00 or refusal to certify an application for licensure.

treatment contract without good cause. (456.072(1)(hh), F.S.)			
(p) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program. (456.072(1)(ii), F.S.)	(p) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.		
(q) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement. (456.072(1)(jj), F.S.)	(q) From a letter of concern to probation of the license, and an administrative fine of \$500.00 to \$1000.00.	(q) From a reprimand to suspension of license, and an administrative fine of \$1000.00 to \$5,000.00.	(q) From suspension to revocation of license, and an administrative fine of \$5,000.00 to \$10,000.00.
(r) Being terminated from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program. (456.072(1)(kk), F.S.)	(r) From a letter of concern to probation of the license, and an administrative fine of \$500.00 to \$1000.00.	(r) From a reprimand to suspension of license, and an administrative fine of \$1,000.00 to \$5,000.00.	(r) From suspension to revocation of license, and an administrative fine of \$1,000.00 to \$5,000.00.
(s) Being convicted of, or entering into a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, which relates to health care fraud. (456.072(1)(ll), F.S.)	(s) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.		

(6) Based upon consideration of aggravating or mitigating factors, present in an individual case, the Board may deviate from the penalties recommended in subsections (3) through (5) above. If mitigating factors are present, the administrative fine may be reduced and a less severe action, such as a reprimand or probation, taken against the licensee from the range of actions given in the disciplinary guidelines. If aggravating factors are present, the maximum administrative fine may be imposed and more severe action, such as suspension or revocation, taken against the licensee from the range of actions given in the disciplinary guidelines. The Board shall consider as aggravating or mitigating factors the following:

- (a) The danger to the public;
- (b) The length of time since the violation;
- (c) The number of times the licensee has been previously disciplined by the Board;
- (d) The length of time licensee has practiced;
- (e) The actual damage, physical or otherwise, caused by the violation;
- (f) The deterrent effect of the penalty imposed;
- (g) The effect of the penalty upon the licensee's livelihood;
- (h) Any effort of rehabilitation by the licensee;
- (i) The actual knowledge of the licensee pertaining to the violation;
- (j) Attempts by licensee to correct or stop violation or refusal by licensee to correct or stop violation;
- (k) Related violations against licensee in another state including findings of guilt or innocence, penalties imposed and penalties served;

- (l) Actual negligence of the licensee pertaining to any violation;
- (m) Penalties imposed for related offenses under subsections (1) and (2) above;
- (n) Any other relevant mitigating or aggravating under the circumstances.

(7) Penalties imposed by the Board pursuant to subsections (3) through (5) above may be imposed in combination or individually. All penalties at the upper range of the sanctions set forth in the guidelines (e.g., suspension, revocation) include lesser penalties, i.e., fine, reprimand or probation, which may be included in the final penalty. Such penalties are as follows:

(a) Refusal to certify to the Department an application for licensure.

(b) Issuance of a reprimand.

(c) Imposition of an administrative fine not to exceed \$10,000.00 for each count or separate offense. If the violation is for fraud or making a false or fraudulent representation, the board must impose a fine of \$10,000 per count or offense.

(d) Placement of the optician on probation for a period of time and subject to such conditions as the Board may specify, including requiring the optician to submit to treatment or to work under the supervision of another optician.

(e) Suspension of a license.

(f) Permanent revocation of a license.

*Rulemaking Authority 456.072(2), 456.079, 484.005 FS. Law Implemented 456.072, 456.079, 484.014 FS. History—New 3-5-87, Amended 3-30-89, 4-22-90, 12-23-90, 1-27-93, Formerly 21P-8.020, Amended 5-2-94, Formerly 61G13-8.020, 59U-8.020, Amended 12-3-01, 3-16-04, 5-25-06, 6-24-08, 4-8-10.*

#### **64B12-8.021 Citations.**

(1) Definition. As used in this rule:

(a) "Citation" means an instrument which meets the requirements set forth in Section 456.077, F.S., and which is served upon a subject for the purpose of assessing a penalty in an amount established by this rule. All citations will include a requirement that the subject correct the violation, if remediable, within a specified period of time not to exceed three months, and impose whatever obligations will remedy the offense.

(b) "Subject" means the licensee or apprentice alleged to have committed a violation designated in this rule.

(2) In lieu of the disciplinary procedures contained in Section 456.073, F.S., the Department is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint which is the basis for the citation.

(3) The Board hereby designates the following as citation violations, which shall result in the indicated penalty:

(a) Failing to make a fee or price information readily available by providing such information upon request or upon the presentation of a prescription pursuant to Section 484.014(1)(d), F.S., \$200.00;

(b) Failing to keep written prescription files pursuant to Section 484.014(1)(l), F.S., \$200.00;

(c) Failing to give notice of withdrawal of services pursuant to Rule 64B12-10.003, F.A.C., \$200.00;

(d) Failing to properly transfer prescription files pursuant to Rule 64B12-10.006, F.A.C., \$200.00;

(e) Failing to assure that duplicate prescription forms contain the information required by Rule 64B12-10.0065, F.A.C., \$200.00;

(f) Failing to return certificates and licenses to the Department, \$500.00;

(g) Failing to pay any civil penalty imposed by order of the Board or as required by Rule 64B12-8.017, F.A.C., \$200.00;

(h) Failing to complete the continuing education requirements prescribed in Section 484.008, F.S., and the rules promulgated thereto, \$500 plus \$25 per credit hour missing;

(i) Negligently failing to file a report or record required by state or federal law which person is required to make or file as an optician pursuant to Section 484.014(1)(c), F.S., \$150.00;

(j) Practicing opticianry with an inactive or retired status license, so long as the license has been inactive or retired for a period not to exceed two months, pursuant to Section 456.036(1), F.S., \$500.00;

(k) Failing to file the proper report upon termination of apprenticeship as required by Rule 64B12-16.004, F.A.C., \$200.00;

(l) Failing to file the proper report upon termination of sponsorship, as required by Rule 64B12-16.004, F.A.C., \$200.00;

(m) Failing to file complete reports and information timely, as required by Rule 64B12-16.008, F.A.C., \$200.00;

(n) Failing to provide change of address, pursuant to Rule 64B12-10.012, F.A.C., \$200.00; and

(o) Failing to identify the type of license under which the practitioner is practicing. The fine shall be \$200.00. (See Rule 64B12-10.0035, F.A.C.; Section 456.072(1)(t), F.S.)

(4) The penalty specified in the citation shall be the sum provided herein plus the Department's investigative costs.

(5) The Department shall report to the Board regarding the number of citations issued and the nature of the offenses for which they were issued.

*Specific Authority 456.077, 484.005 FS. Law Implemented 456.035(1), 456.072, 456.073, 456.077, 484.014 FS. History—New 1-19-92, Amended 5-27-92, Formerly 21P-8.021, Amended 5-2-94, Formerly 61G13-8.021, Amended 12-4-95, Formerly 59U-8.021, Amended 8-6-97, 6-14-01, 8-16-04, 8-28-05, 6-29-06, 6-24-08.*

#### **64B12-8.022 Mediation.**

The Board finds that mediation is an acceptable resolution of the following violations where the subject has an explanation and a differing view from the complainant as to the nature or extent of the violation because they are economic in nature or can be remedied by the licensee:

(1) Failure to respond timely to a continuing education audit pursuant to subsection 64B12-15.001(5), F.A.C.

(2) Failure to include a proper 72 hour cancellation notice for an advertisement when such notice is required by Section 456.062, F.S.

(3) Client or patient dissatisfaction based on economic or other misunderstandings not amounting to exploitation of the client for financial gain or gross malpractice under Section 484.014(1)(o), F.S.

(4) Failing to file the proper report upon termination of apprenticeship, as required by Rule 64B12-16.004, F.A.C.

(5) Failing to file the proper report upon termination of sponsor, as required by Rule 64B12-16.004, F.A.C.

*Specific Authority 456.078 FS. Law Implemented 456.078 FS. History—New 10-24-94, Formerly 59U-8.022, Amended 8-16-04, 8-28-05.*

#### **64B12-8.023 Notice of Noncompliance.**

In accordance with Sections 120.695 and 456.073, F.S., the Board shall issue a notice of noncompliance as a first response to a minor violation of a rule. Failure of a licensee to take action to correct the violation within the 15 days shall result in either the issuance of a citation when appropriate or the initiation of regular disciplinary proceedings. The minor violations which shall result in a notice of noncompliance are:

(1) Failure to provide change of address as required by Rule 64B12-10.012, F.A.C.

(2) Failure to maintain minimum equipment requirements as required by Rule 64B12-10.007, F.A.C.

*Specific Authority 120.695 FS. Law Implemented 456.073 FS. History—New 8-16-04.*

### **CHAPTER 64B12-9**

#### **EXAMINATION FOR LICENSURE, RE-EXAMINATION, EXAMINATION REVIEW**

64B12-9.001 Examination for Licensure

64B12-9.0015 Application for Examination and Licensure

64B12-9.0016 Demonstrating Knowledge of Laws and Rules for Licensure

64B12-9.002 Re-Examination

64B12-9.016 Eligibility of Individuals Licensed in Another State

64B12-9.017 Eligibility of Individuals Practicing in a State in Which Licensure is Not Required.

#### **64B12-9.001 Examination for Licensure.**

(1) There shall be five parts to the examination for Florida Licensure in opticianry: a national written opticianry competency examination; a national written contact lens examination; a neutralization examination; a dispensing problems examination; and a practical examination.

(2) The national written opticianry competency examination portion of the examination shall be the National Opticianry Competency Examination developed by the American Board of Opticianry. This portion of the licensure examination shall be completed through the American Board of Opticianry, and proof of successful completion shall be required prior to a candidate's taking of the state board approved practical examination.

(3) The national written contact lens examination portion of the examination shall be the Contact Lens Registry Examination developed by the National Contact Lens Examiners. This portion of the licensure examination shall be

completed through the National Contact Lens Examiners, and proof of successful completion shall be required prior to a candidate's taking of the state board approved practical examination.

(4) The criteria for determining the minimum score necessary for passing the National Opticianry Competency Examination and the Contact Lens Registry Examination shall be developed through the collective judgment of qualified experts appointed by the "American Board of Opticianry" to set the score that represents the minimum amount of knowledge necessary to pass the examination.

(5) Proof of having successfully completed the national portions of the examination shall consist of certification of the candidate's scores from the testing body directly to the Board. It is the candidate's responsibility to arrange for transfer of scores. The scores shall reflect that the candidate successfully completed the examinations within the three years preceding application for licensure. If however, the candidate successfully completed the examinations and has maintained a current certificate by having completed continuing education courses, the Board shall accept a copy of the original certificate of National Certification.

(6) Applicants, who have been certified eligible by the board, having completed all requirements, will be admitted to take the neutralization, the dispensing problems, and the practical examinations.

(7) The neutralization examination for opticianry licensure shall require candidates to neutralize lenses within the tolerances set out in the American National Standard (Z80.1-1987) A score of at least seventy percent (70%) shall be required to pass the neutralization examination.

(8) The dispensing problems examination for opticianry licensure shall be taken via computer at a testing center. A score of at least seventy percent (70%) shall be required to pass the dispensing problems examination.

(9) The practical examination for opticianry licensure shall consist of:

- (a) Measuring and Calipering
- (b) Lens Identification
- (c) Fitting and Adjusting
- (d) Pupillary Distance

Grading tolerances for measuring and calipering shall be as follows:

Thickness  $\pm$  .2mm

Base curve  $\pm$  .25 diopters

Length  $\pm$  2mm

Mechanical  $\pm$  1mm

Width  $\pm$  1mm

Decentration  $\pm$  1mm

Grading tolerances for pupillary distance shall be as follows:

Monocular Distance P.D.

Left and right  $\pm$  1mm

Binocular P.D.

Distance and near  $\pm$  2mm

A score of at least seventy percent (70%) shall be required to pass the practical examination.

(10) In arriving at a final score for each part of the examination that uses percentage scores, any percentage score which contains a fractional part of a point of one-half (.5) or higher will be raised to the next highest whole number.

(11) When requested in writing by an applicant, the Board shall provide licensure examinations in an applicant's native language. Applicants for examination or reexamination pursuant to this rule provision shall bear the full cost for the Department's development, preparation, administration, grading, and evaluation of any examination in a language other than English.

*Specific Authority 456.017(1), (5), 484.005 FS. Law Implemented 456.017(1), (5) FS. History—New 12-6-79, Amended 8-10-80, 3-11-81, 10-29-81, 6-30-82, 8-11-82, 2-2-83, 8-29-85, Formerly 21P-9.01, Amended 9-17-87, 3-30-89, 2-18-93, Formerly 21P-9.001, Amended 5-2-94, Formerly 61G13-9.001, Amended 5-4-97, Formerly 59U-9.001, Amended 4-20-98, 9-12-99, 1-7-03, 8-28-05, 7-12-07.*

#### **64B12-9.0015 Application for Examination and Licensure.**

(1) Any person seeking licensure as an optician shall submit to the Board a completed application to take the examination on Form DH-MQA 1065, Application for Licensure Examination, (revised 11/09), hereby adopted and incorporated by reference, which can be obtained from the Board of Opticianry's website at [www.doh.state.fl.us/mqa/opticianry](http://www.doh.state.fl.us/mqa/opticianry). The application shall be accompanied with the application fee specified in Rule

64B12-11.002, F.A.C., which is non-refundable, and the examination fee specified in Rule 64B-1.016, F.A.C., which shall be refunded if the applicant is denied examination or does not timely complete application.

(2) A completed application with appropriate fees shall be received in the Board office at least 60 days prior to the examination.

(3) Any application which is not accompanied with the appropriate fees shall not be accepted for review and shall be returned to the applicant.

(4) Any application which does not provide all information required by the application forms shall not be considered by the Board until it has been completed. Any applicant who fails to complete the application within 12 months of its receipt in the Board office shall be required to apply as an initial applicant.

(5) Upon certifying applicants for the licensure examination, the Board shall also certify applicants for licensure, contingent and effective upon the following:

(a) Successful completion of required examinations,

(b) Successful completion of a two-hour laws and rules course by a Board approved laws and rules course provider,

(c) Successful completion of a two-hour continuing education course relating to the prevention of medical errors. The course must be approved by the Board and shall include a study of root-cause analysis, error reduction and prevention, and patient safety,

(d) No discovery of disqualifying factors prior to licensure, and

(e) Payment of the initial licensure fee within one (1) year of notification of successful passage of the examination.

(6) Should the applicant be unable to sit for the examination due to illness, death of a family member, or similar circumstances beyond the applicant's control, then the examination fee shall be applied to the next examination for which the applicant can sit.

*Rulemaking Authority 456.013, 456.017, 456.072, 484.005, 484.007, 484.014(2) FS. Law Implemented 456.013, 456.017, 456.072, 484.007, 484.014(2) FS. History—New 3-30-89, Amended 3-29-92, 2-18-93, Formerly 21P-9.0015, Amended 5-2-94, Formerly 61G13-9.0015, 59U-9.0015, Amended 1-4-98, 11-28-02, 8-28-05, 5-25-09, 5-19-10.*

#### **64B12-9.0016 Demonstrating Knowledge of Laws and Rules for Licensure.**

An applicant for licensure as an optician shall demonstrate knowledge of the laws and rules for licensure in the following manner:

(1) An applicant shall complete an approved course consisting of a minimum of two hours which shall include the following subject areas:

(a) Chapter 484, Part I, F.S.

(b) Chapter 64B12, F.A.C.

(c) Chapter 456, F.S.

(2) The laws and rules course must provide integration of the above subject areas into the competencies required for the practice of opticianry and interactive discussion of examples applying the laws and rules that govern opticianry.

(3) Upon completion of the course, the applicant shall receive a certificate of completion and submit the original certificate of completion to the Board.

(4) A laws and rules course offered by a Board approved laws and rules course provider shall qualify for continuing education credit even if the provider is not an approved continuing education provider pursuant to Rule 64B12-15.004, F.A.C.

(5) For purposes of this rule, an hour is defined as a 60-minute clock hour in which there is no less than 50 minutes of uninterrupted instruction.

(6) A Board approved course is one that meets the criteria set forth herein and is offered by a course provider who has requested approved provider status as set forth in the applicable portions of Rule 64B12-15.004, F.A.C.

*Specific Authority 484.002(6), 484.005 FS. Law Implemented 456.017(6) FS. History—New 4-17-03.*

#### **64B12-9.002 Re-Examination.**

An applicant who fails any portion of the state examination for licensure shall be required to pay the re-examination fee as set forth in Rule 64B-1.016, F.A.C., and to retake only that portion of the examination on which the applicant has not yet achieved a passing grade. However, an applicant may only retake any portion twice and must complete the allowed retakes within 2 years of the original failed examination date. An applicant who has not achieved a

passing score on all portions of the original examination within 2 years of the original examination date must apply for and take the entire current licensure examination excluding ABO and NCLE, provided current certification is maintained. An applicant seeking to retake any portion of the state examination for licensure as described above shall submit to the Board a completed application on Form DH-MQA 1190, Re-Examination Application (revised 11/09), hereby adopted and incorporated by reference, which can be obtained from the Board of Opticianry's website at [www.doh.state.fl.us/mqa/opticianry](http://www.doh.state.fl.us/mqa/opticianry).

*Rulemaking Authority 456.017(2), 484.005 FS. Law Implemented 456.017(2) FS. History--New 12-6-79, Amended 8-29-85, Formerly 21P-9.02, Amended 3-10-86, 3-5-87, Formerly 21P-9.002, Amended 5-2-94, Formerly 61G13-9.002, 59U-9.002, Amended 8-28-05, 6-17-09, 5-19-10.*

**64B12-9.016 Eligibility of Individuals Licensed in Another State.**

(1) For purposes of determining eligibility for examination of an individual pursuant to Section 484.007(1)(d)2. and 3., F.S., the Board shall interpret the phrase "immediately preceding application" to mean that the individual must apply for the examinations set forth in subsections 64B12-9.001(1), (3) and (4), F.A.C., for licensure in Florida within two (2) years of ceasing the actual practice of opticianry in the other state upon which the eligibility is claimed.

(2) Applicants for examination pursuant to Section 484.007(1)(d)2., F.S., shall submit with the application, documentation that they are actively licensed to practice opticianry, in another state, territory, or jurisdiction of the United States, for a period of more than 3 years immediately preceding application; and, that they meet the examination qualifications as provided in Section 484.007(1)(d)2., F.S. Periods of apprenticeship or training in opticianry shall not be considered to constitute any portion of the required years of practice.

*Specific Authority 484.005 FS. Law Implemented 484.007(1)(d)2. FS. History--New 8-30-84, Formerly 21D-17.01, Amended 9-17-87, 1-26-88, Formerly 21P-17.001, Amended 9-2-92, 2-18-93, Formerly 21P-9.016, Amended 5-2-94, Formerly 61G13-9.016, 59U-9.016, Amended 8-6-97, 5-24-07.*

**64B12-9.017 Eligibility of Individuals Practicing in a State in Which Licensure is Not Required.**

(1) For purposes of determining eligibility for examination of an individual pursuant to Section 484.007(1)(d)2. and 3., F.S., the Board shall interpret the phrase "immediately preceding application" to mean that the individual must apply for the examinations set forth in subsections 64B12-9.001(1), (3) and (4), F.A.C., for licensure in Florida within two (2) years of ceasing the actual practice of opticianry in the other state upon which the eligibility is claimed.

(2) Applicants for examination pursuant to Section 484.007(1)(d)3., F.S., shall submit with the application documentation that they have actively practiced opticianry for a period of more than 5 years immediately preceding application and who meets the examination qualifications as provided in Section 484.007(1)(d)3., F.S. Periods of apprenticeship or training in opticianry shall not be considered to constitute any portion of the required years of practice. The applicant must establish independent engagement in all aspects of the practice of opticianry during the period for which actual practice is claimed. Such documentation shall include the following:

(a) Tax records and business records which establish that the applicant has actually engaged in the practice of opticianry. Affidavits from eye-care business people or professionals which state the method by which the affiant has knowledge of the applicant's practice of opticianry, the extent of the affiant's knowledge of the applicant's actual practice and a detailed statement of the applicant's professional acts or experience of which the affiant has personal knowledge.

(b) An affidavit by the applicant which states with specificity the professional acts or experiences engaged in during the five-year period during which the applicant claims the actual practice of opticianry occurred.

(c) Current certification of the American Board of Opticianry and the National Contact Lens Examiners and verification of licensure status from another state, when applicable.

(3) For the purposes of this rule, an affidavit is defined to mean a written statement of facts which the affiant has confirmed by oath or affirmation taken before a person authorized by law to administer the oath or affirmation and which bears the signature and official seal of the officer or person before whom the affidavit was taken.

*Specific Authority 484.005 FS. Law Implemented 484.007(1)(d)3. FS. History--New 7-5-07.*

**CHAPTER 64B12-10**  
**STANDARD OF PRACTICE FOR LICENSED OPTICIANS**

- 64B12-10.003 Responsibility to Client
- 64B12-10.0035 Disclosure of Licensure Status
- 64B12-10.005 Advertising
- 64B12-10.006 Prescription Files and Transfer
- 64B12-10.0065 Duplicate Prescription Form
- 64B12-10.007 Minimum Equipment Requirements
- 64B12-10.009 Contact Lens Fitting
- 64B12-10.012 Change of Address

**64B12-10.003 Responsibility to Client.**

An optician shall give due notice to the client when going out of business so that the client may make other arrangements for replacement services. For purposes of this rule, due notice shall consist of publication in a newspaper of general circulation in the area of the optician's practice for one (1) day for four (4) consecutive weeks informing the clients of the need to seek replacement services and the closing of the practice.

*Specific Authority 484.005 FS. Law Implemented 484.005(3) FS. History--New 12-6-79, Formerly 21P-10.03, 21P-10.003, 61G13-10.003, Amended 12-4-95, Formerly 59U-10.003, Amended 3-16-06.*

**64B12-10.0035 Disclosure of Licensure Status.**

All persons licensed pursuant to Section 484.007, F.S., and not exempt pursuant to Section 456.072(1)(t), F.S., shall identify the license under which he or she practices in one of the following manners:

- (1) The wearing of a name tag which identifies the licensee as an optician;
- (2) By orally disclosing to the patient, upon the licensee's initial in-person contact with the patient, that the licensee is an optician;
- (3) By providing, upon the licensee's initial in-person contact with the patient, a business card or similar document which identifies the licensee as an optician; or
- (4) By placing notification in the lobby or waiting area of the location where the licensee practices, which contains a photo of the licensee and which identifies the licensee as an optician.

*Specific Authority 484.005, 484.007, F.S., 456.072(1)(t), FS. Law Implemented 456.072(1)(t) FS. History--New 5-8-08.*

**64B12-10.005 Advertising.**

- (1) No licensed optician may disseminate or cause to be disseminated any advertisement or advertising which is false, fraudulent, deceptive or misleading.
- (2) Any advertisement or advertising shall be deemed to be false, fraudulent, deceptive or misleading, if it:
  - (a) Contains a misrepresentation of facts;
  - (b) Is misleading or deceptive because in its content or in the context in which it is presented, it makes only a partial disclosure of relevant facts;
  - (c) Creates false or unjustified expectations of the benefits of opticianry services;
  - (d) States price or delivery times for optical devices which do not fully disclose any exceptions to the offer or fees not included, such as examination fees;
  - (e) Offers guarantees or warranties for optical devices without fully disclosing which devices, if any, are not subject to guarantee or warranty;
  - (f) Contains any representation or claim which the advertising optician fails to perform.
- (3) When determining what constitutes fraudulent, false, deceptive, or misleading advertisement, the Board shall be guided by the rules promulgated and decisions rendered by the Department of Legal Affairs under Part II, Chapter 501, F.S., and applicable rules promulgated and decisions rendered by the Federal Trade Commission.
- (4) The provisions of this rule shall apply to media exposure of any nature regardless of whether it is in the form of paid advertising.

(5) The statement in an advertisement to the effect of "eye examinations arranged" shall not, in and of itself, be considered to be false, fraudulent, deceptive or misleading within the meaning of this rule or Chapter 484, F.S.

(6) Failure to comply with this rule is a violation of Section 484.014(1)(e), F.S.

*Specific Authority 484.005 FS. Law Implemented 484.014(1)(e) FS. History--New 12-6-79, Amended 4-1-84, Formerly 21P-10.05, Amended 3-5-87, Formerly 21P-10.005, 61G13-10.005, 59U-10.005.*

#### **64B12-10.006 Prescription Files and Transfer.**

Prescription files which are 2 years old or less when the optician dies, terminates the practice, or relocates and is no longer available to the patients, shall be transferred to a location where they may be obtained by clients. The prescription files must be retained 2 years after the optician's death, termination of practice, or relocation. The optical establishment shall also provide notice, within 60 days, to its clients of the establishment's closing and advertise where the prescription files may be obtained, pursuant to Section 456.057(11), F.S. (2005).

*Specific Authority 456.058, 484.005(3) FS. Law Implemented 456.057(11), 456.058, 484.012(1) FS. History—New 12-6-79, Formerly 21P-10.06, Amended 3-5-87, 12-23-90, Formerly 21P-10.006, 61G13-10.006, 59U-10.006, Amended 8-6-97, 3-16-06.*

#### **64B12-10.0065 Duplicate Prescription Form.**

The duplicate prescription form referred to in Section 484.012, F.S., shall contain a place for the following:

- (1) Name of the client.
- (2) Name of the prescribing doctor.
- (3) The date of the original prescription.
- (4) The sphere.
- (5) The cylinder power.
- (6) The axis.
- (7) The prism power.
- (8) The reading power.

*Specific Authority 484.005, 484.012, 484.013 FS. Law Implemented 484.005(1), 484.012(2) FS. History—New 12-6-79, Amended 8-30-84, Formerly 21P-13.01, 21P-13.001, 21P-10.0065, 61G13-10.0065, 59U-10.0065, Amended 8-6-97.*

#### **64B12-10.007 Minimum Equipment Requirements.**

The following equipment must be maintained in each office in which an optician practices opticianry:

- (1) Pupillary gauges,
- (2) Thickness gauge,
- (3) One set of hand tools necessary for the fitting of eye glasses,
- (4) One lensometer or vertometer or similar instrument,
- (5) One colmascope or similar instrument, when manufacturing glass lenses on the premises,
- (6) One frame heater,
- (7) One lens measure,
- (8) Set of sample frames and mountings,
- (9) Keratometer or similar instrument and slit lamp or similar instrument if fitting and adapting contact lenses pursuant to subsection 64B12-10.009(2), F.A.C.
- (10) Set of trial soft contact lenses, if fitting and adapting contact lenses pursuant to subsection 64B12-10.009(2), F.A.C.

*Specific Authority 484.005(2) FS. Law Implemented 484.002(3), 484.005(2) FS. History—New 12-6-79, Formerly 21P-10.07, Amended 5-31-87, Formerly 21P-10.007, 61G13-10.007, 59U-10.007, Amended 8-16-04.*

#### **64B12-10.009 Contact Lens Fitting.**

The technical fitting of contact lenses is embraced in the field of optical dispensing.

(1) A licensed optician may fill, fit, adapt or dispense soft contact lenses, extended wear contact lenses or hard contact lenses only to the extent authorized and under the supervision of the prescribing medical doctor or optometrist.

(2) A licensed optician who has been certified by the Board pursuant to Rule Chapter 64B12-14, F.A.C., may fill, fit, adapt or dispense prescribed soft contact lenses so long as the requirements and standards of practice set forth in Rule Chapter 64B12-14, F.A.C., and the equipment requirements set forth in Rule 64B12-10.007, F.A.C., are met.

*Specific Authority 484.005(4) FS. Law Implemented 484.002(3) FS. History—New 12-6-79, Amended 12-10-81, Formerly 21P-10.09, Amended 5-31-87, Formerly 21P-10.009, 61G13-10.009, 59U-10.009.*

**64B12-10.012 Change of Address.**

Each licensee shall notify the Board of any change of address in writing within thirty (30) working days of the address change.

*Specific Authority 484.005 FS. Law Implemented 456.035 FS. History–New 4-22-90, Formerly 21P-10.012, Amended 4-17-94, Formerly 61G*

**CHAPTER 64B12-11  
FEE SCHEDULE**

- 64B12-11.001 Collection and Payment of Fees
- 64B12-11.002 Application Fee
- 64B12-11.003 Active Status Fee
- 64B12-11.005 Retirement Status Fee
- 64B12-11.008 Initial Active Status License Fee
- 64B12-11.009 Renewal of Inactive Status License Fee
- 64B12-11.0095 Delinquent Status License Fee
- 64B12-11.010 Reactivation of Inactive Status License Fee
- 64B12-11.0105 Change of Status Fee
- 64B12-11.012 Application and Renewal Fees for Continuing Education Providership
- 64B12-11.013 Apprentice Registration Fees
- 64B12-11.014 Application Fees for Board Certified Opticians
- 64B12-11.017 Duplicate License Fee
- 64B12-11.018 Unlicensed Activity Fee

**64B12-11.001 Collection and Payment of Fees.**

All fees shall be made payable to the Department of Health.

*Specific Authority 484.005 FS. Law Implemented 484.005 FS. History–New 12-6-79, Formerly 21P-11.01, 21P-11.001, 61G13-11.001, 59U-11.001.*

**64B12-11.002 Application Fee.**

The application fee shall be \$100.00, which shall be non-refundable.

*Specific Authority 484.005, 484.007(1)(a) FS. Law Implemented 484.007(1)(a) FS. History–New 12-6-79, Amended 6-30-82, 4-10-85, 1-7-86, Formerly 21P-11.02, Amended 7-7-87, 3-30-89, 7-3-91, Formerly 21P-11.002, 61G13-11.002, 59U-11.002, Amended 11-14-00, 4-15-03.*

**64B12-11.003 Active Status Fee.**

The fee for biennial renewal of an optician’s active status license shall be \$150.00.

*Specific Authority 484.005, 484.008(1) FS. Law Implemented 484.008(1), 455.271 FS. History–New 12-6-79, Amended 6-30-82, Formerly 21P-11.03, Amended 3-30-89, 7-10-89, 7-3-91, Formerly 21P-11.003, 61G13-11.003, Amended 10-24-94, Formerly 59U-11.003, Amended 1-4-98, 2-1-04.*

**64B12-11.005 Retirement Status Fee.**

The fee for retirement status of an active or inactive license shall be \$50.00.

*Specific Authority 484.005 FS. Law Implemented 456.036 FS. History–New 1-17-06.*

**64B12-11.008 Initial Active Status License Fee.**

Persons initially licensed in the first year of a biennial period shall pay the fee established in Rule 64B12-11.003, F.A.C. Those persons initially licensed in the second year of the biennium shall pay one-half the fee established in Rule 64B12-11.003, F.A.C.

*Specific Authority 484.005 FS. Law Implemented 456.013 FS. History–New 4-1-84, Formerly 21P-11.08, 21P-11.008, 61G13-11.008, Amended 10-24-94, Formerly 59U-11.008.*

**64B12-11.009 Renewal of Inactive Status License Fee.**

The fee for renewal of an inactive status license shall be \$50.00.

*Specific Authority 456.036, 484.005, 484.009(2) FS. Law Implemented 456.036, 484.009(2) FS. History–New 4-1-84, Formerly 21P-11.09, 21P-11.009, 61G13-11.009, Amended 10-24-94, Formerly 59U-11.009.*

**64B12-11.0095 Delinquent Status License Fee.**

The fee for a delinquent status license shall be \$150.00.

*Specific Authority 456.036, 484.005 FS. Law Implemented 456.036 FS. History–New 10-24-94, Formerly 59U-11.0095, Amended 4-3-06.*

**64B12-11.010 Reactivation of Inactive Status License Fee.**

The fee for reactivation of an inactive status license shall be \$200.00.

*Specific Authority 456.036(4), 484.005, 484.009(2) FS. Law Implemented 456.036, 484.009(2) FS. History–New 4-1-84, Formerly 21P-11.10, Amended 7-3-91, Formerly 21P-11.010, 61G13-11.010, Amended 10-24-94, Formerly 59U-11.010.*

**64B12-11.0105 Change of Status Fee.**

The fee for processing a licensee’s request to change licensure status at any time other than at the beginning of a licensure cycle shall be \$50.00. The licensure cycle shall begin 90 days before the biennial renewal date and end on the biennial renewal date.

*Specific Authority 456.036(8), 484.005 FS. Law Implemented 456.036(8) FS. History–New 10-24-94, Formerly 59U-11.0105.*

**64B12-11.012 Application and Renewal Fees for Continuing Education Providership.**

The application fee for continuing education providership shall be \$200.00; the reapplication fee shall be \$200.00, both which shall be non-refundable.

*Specific Authority 484.005, 484.008 FS. Law Implemented 484.008 FS. History–New 3-30-89, Amended 7-3-91, Formerly 21P-11.012, 61G13-11.012, 59U-11.012.*

**64B12-11.013 Apprentice Registration Fees.**

The registration fee for apprentices shall be \$60.00.

*Specific Authority 484.005, 484.007 FS. Law Implemented 484.007 FS. History–New 3-30-89, Formerly 21P-11.013, 61G13-11.013, 59U-11.013.*

**64B12-11.014 Application Fees for Board Certified Opticians.**

The application fee to become a Board Certified Optician shall be \$50.00, which shall be non-refundable.

*Specific Authority 484.002, 484.005 FS. Law Implemented 484.002 FS. History–New 3-30-89, Formerly 21P-11.014, 61G13-11.014, 59U-11.014.*

**64B12-11.017 Duplicate License Fee.**

If a duplicate license is requested by a licensee, the fee is \$25.00 for the duplicate license.

*Specific Authority 456.025(11), 484.005 FS. Law Implemented 456.025(11) FS. History–New 2-23-93, Formerly 21P-11.017, 61G13-11.017, 59U-11.017, Amended 10-29-02, 1-17-06.*

**64B12-11.018 Unlicensed Activity Fee.**

In addition to all other fees, the Department shall impose a fee of \$5.00 upon each initial licensure and biennial renewal to fund efforts to combat the unlicensed practice of opticianry.

*Specific Authority 456.065, 484.005 FS. Law Implemented 456.065 FS. History–New 4-17-94, Formerly 61G13-11.018, 59U-11.018.*

**CHAPTER 64B12-12**

**INACTIVE LICENSES; RENEWAL, REACTIVATION AND EXPIRATION**

- 64B12-12.006 Active Status License Renewal
- 64B12-12.007 Inactive Status License
- 64B12-12.008 Reactivation of an Inactive License
- 64B12-12.009 Delinquent License
- 64B12-12.010 Reactivation of Retired Status License

**64B12-12.006 Active Status License Renewal.**

The agency shall renew an active status license to practice opticianry upon timely receipt of the complete application for active status, the biennial renewal fee, and certification that the licensee has satisfied the continuing education requirements of Rule 64B12-15.001, F.A.C. For the purpose of this section, a complete application shall be a license renewal form provided by the agency.

*Specific Authority 456.036, 484.005 FS. Law Implemented 456.036, 484.008 FS. History–New 2-15-95, Formerly 59U-12.006.*

**64B12-12.007 Inactive Status License.**

Any licensee may elect at the time of license renewal to place the license into inactive status by filing with the board a complete application for inactive status and paying the inactive status fee. For the purpose of this section, a complete application shall be a renewal form provided by the agency on which the licensee affirmatively elects

inactive status.

*Specific Authority 456.036(3), 484.005 FS. Law Implemented 456.036(3), 484.009 FS. History—New 2-15-95, Formerly 59U-12.007, Amended 8-6-97, 6-25-98.*

#### **64B12-12.008 Reactivation of an Inactive License.**

An inactive status license may change to active status at anytime provided the licensee:

- (1) Submits a written request for reactivation,
- (2) Demonstrates compliance with the continuing education requirements of Rule 64B12-15.001, F.A.C., for the biennium the license was in inactive status,
- (3) Pays the reactivation fee set forth in Rule 64B12-11.010, F.A.C., and
- (4) Pays the applicable renewal fee,
  - (a) If the reactivation request is received during the license renewal cycle, pays the active renewal fee set forth in Rule 64B12-11.003, F.A.C., or
  - (b) If the reactivation request is received at any other time than at the time of license renewal, pays the difference between the inactive renewal fee and the active renewal fee and the change of status fee set forth in Rule 64B12-11.0105, F.A.C.

*Specific Authority 456.013(6), (7), 456.036(2), (3), (4), 484.005, 484.008, 484.009 FS. Law Implemented 456.013(6), (7), 456.036(2), (3), (4), 484.008, 484.009 FS. History—New 11-27-01.*

#### **64B12-12.009 Delinquent License.**

(1) The failure of any licensee to elect active or inactive status before the license expires shall cause the license to become delinquent.

(2) Once the license becomes delinquent, the delinquent licensee must affirmatively apply for active or inactive status during the biennium in which the license becomes delinquent. Failure by the delinquent licensee to renew before the expiration of the biennium shall render the license null and void without further action by the Board or the Department.

(3) The delinquent licensee who applies for active or inactive license status shall:

- (a) Submit to the Board a written request for either active status or inactive status,
- (b) If active is requested, demonstrate compliance with the continuing education requirements for each year, or part thereof, the license is delinquent as set forth in Rule 64B12-15.001, F.A.C.,
- (c) Pay to the Board the delinquent fee as set forth in Rule 64B12-11.0095, F.A.C.,
- (d) Pay to the Board either the active status or inactive status renewal fee, and
- (e) If applicable, pay to the Board the change of status fee as set forth in Rule 64B12-11.0105, F.A.C.

*Specific Authority 456.036 FS. Law Implemented 456.036 FS. History—New 9-30-02, Amended 9-4-05.*

#### **64B12-12.010 Reactivation of Retired Status License.**

(1) Any licensee may elect at the time of licensure renewal to place the license on retired status by paying the retired status fee of \$50.00.

(2) A retired status licensee may change to active status provided:

(a) If the license has been in retired status for 10 years or less, the licensee must meet the continuing education requirements of Rule 64B12-15.001, F.A.C., for each biennium the licensee was in retired status and paid all past renewal fees;

(b) If the license has been in retired status for more than 10 years, the licensee must retake and pass the initial examination for licensure, as set forth in Rule 64B12-9.001, F.A.C., and retake an approved laws and rules course, as set forth in Rule 64B12-9.0016, F.A.C.

*Specific Authority 456.036(10), 484.005 FS. Law Implemented 456.036(4)(b), (10) FS. History—New 6-29-06.*

## **CHAPTER 64B12-14 STANDARDS OF PRACTICE FOR BOARD CERTIFIED OPTICIANS**

64B12-14.002 Application for Board Certification and Renewal

64B12-14.004 Board Certification Course Requirements and Course Approval

#### **64B12-14.002 Application for Board Certification and Renewal.**

(1) A licensed optician who wishes to be certified by the Board to be qualified to independently fill, fit, adapt or dispense soft contact lenses pursuant to Section 484.002, F.S., and subsection 64B12-10.009(2), F.A.C., shall submit to the Board, Form MQA-DH 1194, Board Certification Application, (revised 06/09), which is hereby adopted and incorporated by reference, and can be obtained from the Board of Opticianry's website at [www.doh.state.fl.us/mqa/opticianry](http://www.doh.state.fl.us/mqa/opticianry). The application shall be accompanied by the fee specified in Rule 64B12-11.014, F.A.C., which is non-refundable.

(2) To assure up-to-date training and current competency prior to Board Certification, applicants for Board Certification must complete the course required by Rule 64B12-14.004, F.A.C., within a period of no more than 2 years prior to application.

(3) Any applicant whose application or qualifications submitted raises questions regarding the ability to practice safely as a Board Certified Optician shall be required to personally appear before the Board to answer questions which are reasonably related to issues raised by the application, qualifications and ability to practice safely as a Board Certified Optician.

(4) Board Certified Opticians must renew their certification biennially by providing to the Department proof of compliance with the continuing education requirements of Rule 64B12-15.001, F.A.C.

*Rulemaking Authority 484.005(1) FS. Law Implemented 484.002(6), 484.005(1) FS. History—New 3-5-87, Amended 3-30-89, 1-30-91, Formerly 21P-14.002, 61G13-14.002, 59U-14.002, Amended 10-12-97, 9-4-05, 10-13-09.*

#### **64B12-14.004 Board Certification Course Requirements and Course Approval.**

Applicants for Board Certification must submit with their application proof of satisfactory completion of Board approved courses which meet the requirements of this rule.

(1) The required total course work must consist of 16 classroom hours of instruction and 4 hours of clinical training.

(2) Classroom instruction must include the following components in the specified hours:

(a) 2 hours contact lens theory;

(b) 2 hours pre- and post-fitting customer observation, evaluation and record keeping;

(c) 2 hours customer follow-up care including follow-up care that may be required to be performed by the prescribing optometrist or medical doctor and referral;

(d) 1 hour contact lens solution selection;

(e) 2 hours overview of contact lens induced pathology;

(f) 2 hours ocular surface anatomy;

(g) 2 hours instrument use and maintenance;

(h) 3 hours basic lens fitting.

(3) Clinical Training must be conducted under the direct supervision of the instructor and must include the following components in the specified hours:

(a) 1 hour lens modification;

(b) 1 hour contact lens insertion and removal;

(c) 1 hour observation, evaluation and referral of customers with appropriate record keeping practice; and

(d) 1 hour actual use of equipment required by Rule 64B12-10.007, F.A.C.

(4) Courses may be taught only by instructors whose qualifications have been approved by the Board, or a committee of the Board appointed by the Chair. Approval must be obtained prior to the course being offered. The following qualifications are required for approval.

(a) Having been a licensed optometrist, ophthalmologist or optician and actively engaged in contact lens fitting for 2 years immediately preceding instructorship; or

(b) Having been actively engaged as a contact lens instructor in an approved school of opticianry, an accredited school of optometry or an accredited medical school.

(5) Instructor-student ratios for classroom instruction must not exceed 40 students to 1 instructor. Instructor-student ratios for clinical experience must not exceed 20 students to 1 instructor.

(6) A course outline shall be submitted to the Board, or a committee of the Board appointed by the Chair, for review to determine the sufficiency of the course in meeting the requirements of this rule, prior to the course receiving Board approval.

(7) Board certification courses may be taken for the purpose of fulfilling continuing education course requirements, but only if they are not taken to obtain Board certification as described herein.

## **CHAPTER 64B12-15 CONTINUING EDUCATION**

- 64B12-15.001 Continuing Education for License Renewal
- 64B12-15.003 Standards for Continuing Professional Education
- 64B12-15.004 Provider Approval and Renewal
- 64B12-15.007 Requirements for Approved Providers
- 64B12-15.008 Courses Without Classroom Instruction

### **64B12-15.001 Continuing Education for License Renewal.**

(1) All licensed opticians shall be required to obtain continuing education from courses offered by providers approved by this rule chapter prior to biennial license renewal.

(2) Within each license renewal biennium, each licensed optician shall complete a minimum of 20 hours of continuing professional education, according to the criteria set forth in these rules. A maximum of 5 hours of continuing professional education may be earned from courses without classroom instruction. An optician initially licensed in the first year of the biennium shall, for the first renewal, be required to complete only one-half the number of hours of continuing education as are required biennially in Rule 64B12-15.003, F.A.C., of which a maximum of 2.5 hours may be earned from courses without classroom instruction. An optician initially licensed during the second year of the biennium shall not be required to complete continuing education for the first license renewal. For the first renewal in which a licensee is required to take continuing education, one (1) hour of continuing education instruction must be on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS).

(3) Credit hours for continuing professional education must be earned during the biennium for which they will be submitted.

(4) Each licensee shall be responsible for maintaining the documentation which establishes completion of required continuing education during each biennium. The licensee shall retain the documentation for four years from the beginning of the biennium for which credit is claimed.

(5) The Board shall audit at random a number of licensees as necessary to ensure that these continuing education requirements are met. Upon the request of an audit, the licensee shall retain a copy of the certification for purposes of proof if original audit records are lost or damaged. Falsification of attendance record or failure when audited to provide proof of attendance to substantiate the required number of hours for license renewal, shall be grounds for disciplinary action.

(6) Licensed opticians who serve as full-time instructors of opticianry at an educational institution accredited by an accrediting agency recognized and approved by the United States Department of Education or the Council on Postsecondary Education shall not be required to complete continuing education courses in order to renew their licenses, so long as they were so employed during the entire biennium.

(7) At the time of license renewal, the licensee shall submit to the Department a license renewal card, the form affirming completion of the continuing education requirements and the renewal fee prescribed by Rule 64B12-11.003, F.A.C. In order to receive continuing professional education credit for video cassette courses taken by the licensee, a video cassette course validation form signed by the vendor and the licensee shall be retained for purposes of proof.

*Specific Authority 456.013(8), (9), 484.005, 484.008(3) FS. Law Implemented 456.013(8), (9), 484.008(3) FS. History--New 10-12-80, Amended 6-30-82, 12-5-82, 9-5-83, 8-30-84, Formerly 21P-15.01, Amended 3-5-87, 9-17-87, 3-30-89, 12-23-90, 6-11-92, 2-18-93, 5-19-93, Formerly 21P-15.001, Amended 4-17-94, Formerly 61G13-15.001, Amended 8-8-94, 3-14-95, 4-18-96, Formerly 59U-15.001, Amended 8-6-97, 4-20-99, 7-27-08.*

### **64B12-15.003 Standards for Continuing Professional Education.**

(1) Each credit hour of continuing professional education submitted to fulfill biennial requirements shall consist of at least 50 minutes of classroom instruction.

(2) Credit for continuing education courses shall be limited to 8 hours taken in a 24-hour period.

(3) Continuing professional education courses must contribute to the advancement, extension or enhancement of

professional skills and knowledge in the practice of opticianry or the management of a practice. For biennial renewal, twenty hours of continuing education shall be required as follows:

(a) Eleven (11) hours must be directly related to the technical practice of opticianry. If the licensee is a Board Certified Optician, four (4) of those eleven (11) hours shall consist of technical courses related to contact lens theory and practice;

(b) Two (2) hours must include the subject of Federal or Florida laws and administrative rules governing the profession;

(c) For the first renewal in which a licensee is required to take continuing education, one (1) hour of continuing education instruction must be on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS);

(d) Two (2) hours must relate to the prevention of medical errors. The course must be approved by the Board and shall include a study of root-cause analysis, error reduction and prevention, and patient safety; and

(e) Two hours of continuing education in risk management per biennium shall be granted for attendance at a regularly scheduled board meeting where disciplinary action is being taken except that licensees appearing before the board on any disciplinary proceeding shall not be entitled to claim two hours of continuing education for that particular board meeting. Any licensee claiming two hours of continuing education under this section shall prepare a written statement detailing the date and location of said board meeting and the hours attended at said board meeting. Said written statement shall be used to report continuing education pursuant to Rule 64B12-5.001, F.A.C.

(f) Five (5) hours shall be electives consisting of courses in one (1) or more of the subjects of categories (a), (b), (c), or (e) above or subjects relating to management of a practice from a business perspective including sales and marketing, business and finance, personnel management, stress management, risk management, fire prevention or disaster planning, or for attending a board meeting as provided herein.

(4) Upon application, a continuing education program which meets the following minimum criteria shall be approved by the Board. The program provider must document and submit at least the following:

(a) A showing that the program provides training in one of the subjects specified in subsection 64B12-15.003(3), F.A.C.;

(b) An explanation of the objective of each program so that it is clearly demonstrated to the Board how an Optician Practitioner's skills, knowledge or needs will be enhanced;

(c) A written detailed outline of the course instruction and complete copies of all written materials to be used;

(d) The name and a current detailed curriculum vitae of any instructor or lecturer reflecting competency, qualifications, education, and experience in the subject matter;

(e) A statement of the manner in which the program will ensure that the teacher-student ratio is appropriate for the program's objective and context, thereby allowing appropriate teacher-student interaction;

(f) A statement of the date, time and place of presentation of the program(s);

(g) For courses involving classroom instruction, a copy of rules designed to minimize classroom distractions to include those against disruptive behavior not conducive to learning, and the use of personal communication devices;

(h) A statement of the number of Board approved credit hours requested for each program; and

(i) For courses involving classroom instruction, the name(s) and current mailing address of the person(s) who will be responsible for each presentation of the program. Said person(s) shall be responsible for completion and submission of all reporting and documentation requirements and shall be the contact person between the Board and the provider and between the students and the provider. Courses on HIV/AIDS shall include the following subject areas:

1. Modes of transmission;

2. Infection control procedures;

3. Clinical management;

4. Prevention;

5. Florida law on AIDS and the impact on testing, confidentiality, and treatment. A home study course shall be permitted to fulfill this aspect of the HIV/AIDS education. Courses on HIV/AIDS approved by any Board within the Division of Medical Quality Assurance of the Department of Health pursuant to Section 456.033, F.S., are approved by this Board.

(5) The teacher for a particular continuing professional education course shall be competent in the subject matter taught and qualified by education or experience. Licensure in the subject matter taught may be substituted as proof of appropriate education or experience.

(6) Upon completion of the program, the program provider must distribute and the participants must complete

an evaluation form. The program provider must maintain the completed evaluation forms for at least 120 days from the date the program was offered. The program provider shall review and compile a summary of evaluation responses. The program provider shall retain the summary of evaluation responses for at least three years, and submit to the Board upon the Board's request.

(7) Proof of attendance, signed by the program provider, indicating the program title, date of course, and number of credit hours earned, and the provider number if an approved provider, shall be furnished to each participant. The program provider shall retain his attendance records for at least three years, and submit them to the Board upon the Board's request.

*Specific Authority 456.013(7), (9), 484.005, 484.008(3) FS. Law Implemented 456.013(7), (9), 484.008(3) FS. History—New 10-12-80, Formerly 21P-15.03, Amended 3-5-87, 8-10-87, 10-29-87, 1-6-88, 6-11-92, Formerly 21P-15.003, Amended 4-17-94, Formerly 61G13-15.003, Amended 3-14-95, Formerly 59U-15.003, Amended 4-20-99, 12-31-00, 10-29-02, 4-23-03, 4-11-06, 9-13-07, 7-27-08.*

#### **64B12-15.004 Provider Approval and Renewal.**

(1) The Board approves those courses sponsored by a college or university accredited by an accrediting agency approved by the U.S. Department of Education, or the Council on Post Secondary Education. Attendance by the licensee must be properly certified by the program provider as set forth in subsection 64B12-15.003(7), F.A.C.

(2) Any provider seeking approved provider status shall:

(a) Complete and submit an application form to the Board. The application must be received by the Board at least 90 days prior to the date upon which the applicant seeks approval.

(b) Pay the required fee as set forth in Rule 64B12-11.012, F.A.C.

(3) An approved provider status is non-transferable. Cosponsorship with an unapproved provider is prohibited.

(4) Programs to be presented by an approved provider must meet the criteria of the Board, as set forth in Rule 64B12-15.003, F.A.C.

(5) The Board retains the right and authority to audit and/or monitor programs given by any provider. Monitoring of programs may be without notice to the provider. The monitor shall file a written report with the Committee on Continuing Education. The Board shall use the reports when evaluating the program for subsequent renewal approval. The Board shall also disapprove any and all credit for the program if there is a failure to meet the criteria of Rules 64B12-15.003 and 64B12-15.004, F.A.C.

(6) Any person, monitor, or board member attending a continuing education program who believes that the approved provider is not in compliance with Chapter 484, F.S., any rule of the Board or Department, or pertinent statutory provisions may file a complaint with the Department for action against the provider and/or the responsible Florida-licensed optician pursuant to Section 456.073, F.S.

(7) The Board shall rescind approved provider status or reject individual programs of the provider who has disseminated any false or misleading information in connection with the continuing education program, or if the provider has failed to conform to and abide by the written agreement and rules of the Board.

*Specific Authority 484.005, 484.008(3) FS. Law Implemented 484.008(3) FS. History—New 10-12-80, Formerly 21P-15.04, Amended 3-5-87, 1-6-88, 3-30-89, 5-2-89, 6-11-92, Formerly 21P-15.004, Amended 9-14-93, Formerly 61G13-15.004, Amended 4-18-96, 7-10-97, Formerly 59U-15.004, Amended 8-6-97, 12-31-00, 9-4-05.*

#### **64B12-15.007 Requirements for Approved Providers.**

(1) Approved providers must comply with the following requirements to maintain their status:

(a) Assure that each course offered complies with Rule 64B12-15.003, F.A.C.

(b) Comply with all provisions of this Chapter, the rules of the Board and Department and applicable statutory provisions.

(c) All advertising for courses shall contain the approved provider's assigned provider number and shall not contain any false, deceptive or misleading material.

(d) Provide to the Board or Department any information requested regarding compliance with this chapter, the rules of the Department or Board and pertinent statutory provisions. All such information requested shall be reasonably related to the Board's and Department's duty to review and monitor approved providers.

(e) Provide that course offerings are reasonably accessible to all licensed opticians and not solely to those who maintain membership in various organizations. Although reasonable fee variances for participants are permitted, excessive fee variances among participants are prohibited.

(2) Upon a determination that an approved provider is failing to comply with this Rule, the Board and

Department shall review the approved provider to determine whether approval should be rescinded pursuant to Rule 64B12-15.004, F.A.C.

*Specific Authority 484.005, 484.008(3) FS. Law Implemented 484.008(3) FS. History—New 3-5-87, Amended 9-19-87, 1-6-88, Formerly 21P-15.007, 61G13-15.007, Amended 3-14-95, Formerly 59U-15.007, Amended 12-31-00.*

#### **64B12-15.008 Courses Without Classroom Instruction.**

(1) Continuing professional education courses which do not provide a classroom experience for participants, and do not monitor attendance, including but not limited to video cassette courses, mail-order courses, computer interactive courses, home-study, directed study and other self-education courses shall not qualify for credit hours, regardless of the provider, unless the following conditions are met:

(a) All materials to be provided to the participant for each course including the course examination shall be submitted to the Board for review, approval and designation of credit hours at least 90 days prior to its being offered to the public for continuing education credit.

(b) Each course shall be designed to maximize participant involvement in the learning process.

(c) Each course shall require an examination thoroughly testing the participant's knowledge of course material. Examination answers may not be provided to the participant. Examinations must be graded by the provider.

(d) Participants must pass the examination in order to receive continuing professional education credit for the course. Re-examination of a participant who has failed the examination is prohibited.

(2) Approval of a particular course may be granted for a period not to exceed 2 years. At the end of the approval period the course provider may request renewed approval by submitting the information required for initial approval.

(3) Providers of courses permitted by this rule shall comply with the requirements of subsections 64B12-15.003(1), (2), (3), (4), (5), and (6), F.A.C. and subsection 64B12-15.004(2), F.A.C., in that a provider application fee must be submitted and a providership number issued. Providers of video cassette courses must sign the video cassette course validation form required by subsection 64B12-15.001(7), F.A.C., and send the form to the licensee after the licensee has completed the video cassette course. Home study courses must be presented to the Board upon initial request for providership approval and upon any subsequent request for new course approval. Failure to comply with these requirements shall subject the course to rescission of approval as described in Rule 64B12-15.004, F.A.C.

*Specific Authority 456.013(7), 484.005, 484.008(3) FS. Law Implemented 456.013(7), 484.008(3) FS. History—New 3-5-87, Amended 3-30-89, 2-18-93, Formerly 21P-15.008, Amended 4-17-94, Formerly 61G13-15.008, Amended 4-6-97, Formerly 59U-15.008, Amended 12-31-00.*

### **CHAPTER 64B12-16 APPRENTICESHIP**

64B12-16.003 Apprenticeship Requirements and Training Program

64B12-16.004 Termination of Apprenticeship

64B12-16.008 Enforcement

64B12-16.009 Required Sponsor Time Records

#### **64B12-16.003 Apprenticeship Requirements and Training Program.**

(1) Any persons seeking to be registered as an apprentice optician shall submit to the Board an Apprentice Optician Application (Form DH-MQA 1180, revised 11/09), hereby adopted and incorporated by reference, which can be obtained from the Board's website at [www.doh.state.fl.us/mqa/opticianry](http://www.doh.state.fl.us/mqa/opticianry). All apprenticeship training must be conducted by the sponsor(s) with whom the apprentice is currently registered with the Agency. Credits shall be granted to apprentices if the training is properly documented according to this rule. An apprentice shall not receive credit for any training received from a person other than the properly registered sponsor(s). However, an apprentice can receive credit for attending continuing education courses by a board-approved provider pursuant to this rule.

(2) An apprentice shall have no more than two sponsors at any given time. If an apprentice has two sponsors, one sponsor shall be the primary sponsor responsible for the secondary sponsor and the apprentice. The primary sponsor shall be responsible for the completion, filing, signature and verification of the Apprenticeship Sponsor Form (DH-MQA 1063, revised 11/08) which is hereby adopted and incorporated by reference, which can be obtained from the Board's website at [www.doh.state.fl.us/mqa/opticianry](http://www.doh.state.fl.us/mqa/opticianry). The secondary sponsor may work with

the apprentice in a store or office other than the primary store or office as long as the apprentice works under the apprenticeship requirements and training program.

(3) A sponsor may provide training for no more than two apprentices at a time.

(4) An apprenticeship shall consist of 6,240 hours of training, completed within five years after the apprentice's first registration with the Department. However, time spent in training at a board-approved school of opticianry may be substituted for required apprenticeship time. Each credit hour earned at such school shall count as 86.67 apprenticeship hours.

(a) An apprentice is required to obtain two of the required hours by completing a Board-approved Apprentice/Sponsor Orientation Course and submitting the original certificate of attendance to the board office within one year of registration with the Department.

(b) Each sponsor may attend a Board-approved Apprentice/Sponsor Orientation course. This course will count toward the laws and rules continuing education requirement pursuant to Rule 64B12-15.003, F.A.C.

(c) An apprentice can attend continuing education classes from an approved provider which will count towards the apprenticeship hours. Each credit hour of continuing education shall count as one hour of apprenticeship training. An apprentice can only claim up to a maximum of 100 hours of continuing education credit over the entire length of the apprenticeship. Hours of continuing education credit will only be awarded upon presentation of proof of attendance to the Board.

(5) No hours of credit will be awarded to an apprentice unless those hours were worked under the supervision of the sponsor(s) or within an acceptable alternative as outlined in this rule. The sponsor(s) must be on the premises at all times that opticianry services are performed by an apprentice. The sponsor(s) must personally inspect and approve any work so produced. However, an apprentice may perform such tasks without the sponsor's presence which may lawfully be performed by unsupervised non-licensed personnel, so long as no hours of apprenticeship credit are claimed or earned.

(6) Total training received by an apprentice during apprenticeship must consist of training in the following subject areas:

(a) Reading and interpreting prescriptions,

(b) Working with lens types, optical and geometric centers, axis, prisms, powers, different types of glass, colors (tints), curves, transposing and knowing the purpose and use of lenses and contact lenses,

(c) Working with frames and mountings and optical appurtenances, adjustments, sizes, measurements and types of temples,

(d) Fitting eyeglasses on individual customers,

(e) Attaining a working knowledge of measurements, pupillary distances, basic anatomy and physiology of the eye and attaining basic knowledge of geometric optics,

(f) Using lensometer or other similar instrument; neutralizing and identifying series of single vision and multi-focal lenses, power of lenses,

(g) Assembling eyeglasses from frames and uncut lenses,

(h) Filling contact lens prescriptions, fitting, adapting and dispensing contact lenses if the sponsor is a Board-Certified optician, Florida-licensed optometrist or Florida-licensed allopathic or osteopathic physician, or an optician pursuant to subsection 64B12-10.009(1), F.A.C., or the apprentice must complete a Board-approved course equivalent to 32 hours as a substitute for working experience with contact lenses. Such course must include the following instruction:

1 hour – contact lens history

2 hours – anatomy and physiology of the eye

1 hour – patient selection

2 hours – contact lens technology

2 hours – basic optics for contact lenses

4 hours – basic fitting methods

1 hour – patient follow-up

1 hour – data collection and record keeping

2 hours – ordering and verification

2 hours – patient instruction

2 hours – problem solving

2 hours – specialty fittings

1 hour – ANSI Standards

1 hour – Florida laws and rules

8 hours – hands on practice

Although the lecture sessions may be open to any number of students, the hands on sessions shall be limited to 20 students per qualified instructor and three assistant instructors. A qualified instructor is one who has been a Board-Certified optician, licensed optometrist or ophthalmologist and actively engaged in contact lens fitting for 2 years immediately preceding instructorship or actively engaged as a contact lens instructor in an approved school of opticianry, an accredited school of optometry or an accredited medical school. The assistants must be Board-Certified or equally qualified to the instructor. Any request for course approval must be submitted to the Board 30 days prior to the next Board meeting and must be reviewed every two years. The apprentice must complete the entire course within 31 days.

(i) Additional work in any of the above categories.

*Rulemaking Authority 484.005 FS. Law Implemented 484.002, 484.007(1)(d)4. FS. History–New 10-12-80, Amended 8-31-83, 8-30-84, Formerly 21P-16.03, Amended 3-5-87, 7-15-87, 1-26-88, 3-30-89, 10-17-90, 5-27-92, 9-30-92, 1-27-93, Formerly 21P-16.003, Amended 9-14-93, 5-2-94, Formerly 61G13-16.003, Amended 2-21-96, 4-23-97, Formerly 59U-16.003, Amended 10-1-97, 2-16-99, 6-25-02, 4-11-06, 9-27-06, 4-19-07, 11-20-07, 5-25-09, 11-29-09, 5-19-10.*

#### **64B12-16.004 Termination of Apprenticeship.**

(1) If an apprentice terminates apprenticeship with a sponsor or the sponsor is no longer providing training to an apprentice, the sponsor shall submit to the Department within 30 days from the date of the termination a completed Apprenticeship Sponsor Attestation Form, as set forth in subsection 64B12-16.003(2), F.A.C.

(2) Failure to comply with the requirements of this rule shall subject the apprentice to discipline or denial of licensure and the sponsor to discipline.

*Specific Authority 484.005, 484.007(1) FS. Law Implemented 484.007(1)(d)4. FS. History–New 10-12-80, Formerly 21P-16.04, Amended 3-5-87, 3-30-89, Formerly 21P-16.004, 61G13-16.004, Amended 7-10-97, Formerly 59U-16.004, Amended 6-25-02.*

#### **64B12-16.008 Enforcement.**

(1) Apprentices and sponsors shall comply with the provisions of this chapter, the rules of the Department and the Board, and Chapters 456 and 484, F.S.

(2) Failure to adhere to these standards is a violation of Chapters 456.072 and 484.014, F.S., and shall subject either the apprentice or the sponsor, or both, to disciplinary action.

(3) The sponsor and the apprentice shall supply to the Board all information requested as set forth in Rule 64B12-16.009, F.A.C., which reasonably relates to the apprenticeship program and the Board's duty to properly monitor the program for compliance with program standards. The completed Apprenticeship Sponsor Attestation form must be provided within six months of the apprentice's completion of the program or credits will not be counted.

(4) If an Apprenticeship Sponsor Attestation Form is not in compliance with this chapter, the rules of the Department and the Board and Chapters 456 and 484, F.S., the Board shall deny credit for hours of apprenticeship claimed and/or the Board, the Apprentice Review Committee or Board staff shall initiate a complaint against the licensee who appears to be in violation.

*Specific Authority 484.005, 484.007(1) FS. Law Implemented 484.007(1)(d)4. FS. History–New 10-12-80, Formerly 21P-16.08, Amended 3-5-87, 5-13-90, 9-30-92, Formerly 21P-16.008, Amended 5-2-94, Formerly 61G13-16.008, Amended 2-21-96, 4-10-97, Formerly 59U-16.008, Amended 1-12-03.*

#### **64B12-16.009 Required Sponsor Time Records.**

(1) Any licensed optician, optometrist or physician who undertakes sponsorship of an apprentice shall maintain accurate and complete records of time worked by the apprentice.

(2) The records shall include the dates and times of actual work hours and the location where the work was performed.

(3) The sponsor shall maintain these apprentice work records for a period of 6 years from the date the sponsor undertook the apprentice's training or for one year subsequent to the date the apprentice is licensed as an optician, whichever occurs first.

(4) These records shall be maintained for the required period, even if apprenticeship is terminated.

(5) The sponsor shall provide copies of these time records to the apprentice upon the apprentice's request and payment of reasonable copying costs.

(6) The sponsor shall provide copies of these time records to the Board upon request.

(7) Failure to comply with the requirements of this rule is a violation of Sections 484.014(1)(g) and (f), F.S., and will subject the sponsor to discipline and denial of sponsorship status.

*Specific Authority 484.005, 484.007(1) FS. Law Implemented 484.007(1)(d)4. FS. History--New 8-2-87, Amended 1-26-88, 9-30-92, Formerly 21P-16.009, 61G13-16.009, 59U-16.009.*

## **64B29, FLORIDA ADMINISTRATIVE CODE**

### **CHAPTER 64B29-1 OPTICAL ESTABLISHMENTS REGISTRATION**

64B29-1.001 Optical Establishment Registration

64B29-1.002 Optical Establishment Inspection

#### **64B29-1.001 Optical Establishment Registration.**

(1) Except as provided in Section 484.018, F.S., every person desiring to operate an optical establishment in this state must submit a completed MQA Form # OE-001, Application for Optical Establishment Permit, effective November 2009, incorporated herein by reference, which can be obtained from the Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258 or at [www.doh.state.fl.us/mqa/opticianry](http://www.doh.state.fl.us/mqa/opticianry) to the Department of Health along with a non-refundable application fee of \$100.00.

(2) The owner of a permitted optical establishment in this state shall submit a completed MQA Form # OE-001, Application for Optical Establishment Permit, to the Department of Health whenever the owner changes the location of the optical establishment for which no fee shall be charged.

(3) The owner of a permitted optical establishment in this state shall submit a completed MQA Form # OE-001, Application for Optical Establishment Permit, to the Department of Health along with a non-refundable application fee of \$25.00 whenever the owner changes the name of the optical establishment.

(4) Within thirty (30) days of the change of ownership of an optical establishment, the new owner must submit a completed MQA Form # OE-001, Application for Optical Establishment Permit, to the Department of Health along with a non-refundable application fee of \$100.00. Within thirty (30) days of the change of ownership, the prior owner must return the original permit for the optical establishment to the Department of Health and must notify the agency of the change of ownership.

(5) After receipt of the non-refundable application fee and submission of a completed application, the Department of Health shall issue a permit entitling the owner to operate the optical establishment and ownership until such time as there is a change in ownership or location. However, the Department of Health shall deny the request for a permit of any optical establishment if it finds that any owner has failed to comply with this rule.

*Rulemaking Authority 456.004, 456.037, 456.072, 484.007(3), 484.013(4), 484.014(4) FS. Law Implemented 456.004(1), (5), 456.025(7), 456.072, 484.007(3), 484.013(4), 484.014(4) FS. History--New 11-25-96, Formerly 59EE-1.001, Amended 2-23-10.*

#### **64B29-1.002 Optical Establishment Inspection.**

(1) Each optical establishment registered by the Department of Health to operate in the State of Florida shall be subject to periodic inspections at least once every other year by department personnel or agents. Each establishment where regulated optical devices are sold, whether or not registered by the Department, is subject to inspection for violations. Such inspections shall be conducted at reasonable hours considering the regular business hours of the establishment and may occur without notice when the establishment is occupied.

(2) The inspection of the optical establishment shall include the following:

(a) Notation of possible errors or discrepancies with regard to the registration information provided to the department.

(b) Determination whether a change of ownership occurred and if so whether the permit was returned to the department for cancellation within 30 days after a change in ownership of the establishment.

(c) Determination if any provisions of Chapter 484, Part 1, F.S., or the rules promulgated pursuant thereto have been violated including:

1. Whether prescriptions written by an allopathic or osteopathic physician or by an optometrist for any lenses, spectacles, eyeglasses, contact lenses, or other optical devices are kept on file for a period of two (2) years; and

2. Whether a violation of Section 484.014 or 456.072, F.S., has occurred.

(d) Determination that the minimum equipment required by Rule 64B12-10.007, F.A.C., is maintained in each office in which an optician practices opticianry. The equipment required is pupillary gauges, thickness gauge, one set of hand tools necessary for fitting of eye glasses, one lensometer or vertometer or similar instrument, one colmascope or similar instrument, if glass lenses are manufactured on the premises, one frame heater, one lens measure, set of sample frames and mountings, keratometer or similar instrument and slit lamp or similar instrument if fitting and adapting contact lenses, and a set of trial soft contact lenses, if fitting and adapting contact lenses.

(e) Determination of whether a licensed optician is on the premises when optical devices are prepared or dispensed, not including their fabrication.

(f) Verification that the establishment is permitted pursuant to Section 484.007, F.S.

*Specific Authority 484.007, 484.014, 484.015 FS. Law Implemented 484.007, 484.012, 484.014, 484.015 FS. History—New 5-27-03, Amended 8-22-05, 2-2-06.*

## **CHAPTER 64B29-2 DISCIPLINE**

- 64B29-2.001 Disciplinary Guidelines
- 64B29-2.002 Citations
- 64B29-2.003 Mediation
- 64B29-2.004 Notice of Compliance

### **64B29-2.001 Disciplinary Guidelines.**

Except for any inapplicable offenses, the Department adopts the provisions in Rule 64B12-8.020, F.A.C., as the appropriate disciplinary guidelines to be imposed by the Department.

*Specific Authority 456.072, 456.079 FS. Law Implemented 456.072, 456.079, 484.014(4) FS. History—New 3-6-05.*

### **64B29-2.002 Citations.**

Except for any inapplicable offenses, the Department adopts the provisions in Rule 64B12-8.021, F.A.C., as the citation provisions to be imposed by the Department.

*Specific Authority 456.072, 456.077 FS. Law Implemented 456.073, 456.077, 484.014(4) FS. History—New 3-6-05.*

### **64B29-2.003 Mediation.**

Except for any inapplicable offenses, the Department adopts the provisions in Rule 64B12-8.022, F.A.C., as the offenses that may be resolved through mediation.

*Specific Authority 456.078 FS. Law Implemented 456.078, 484.014(4) FS. History—New 3-6-05.*

### **64B29-2.004 Notice of Compliance.**

Except for any inapplicable minor rule violations, the Department adopts the provisions in Rule 64B12-8.023, F.A.C., as the minor violations which shall result in a notice of noncompliance.

*Specific Authority 120.695 FS. Law Implemented 456.073, 484.014(4) FS. History—New 3-6-05.*