

BOARD FOR OPTICIANS
PROPOSED REGULATIONS

PART I

GENERAL DEFINITIONS.

18 VAC 100-20-10 Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

“Apprentice” means a person at least 16 years of age who is covered by a written agreement with an employer and approved by the Virginia Apprenticeship Council.

“Board” means the Board for Opticians.

“Contact lens certified optician” means any person, not exempted by § 54.1-1701, who is a Virginia licensed optician and who has received a contact lens certification from the Board, who prepares, fits or dispenses contact lenses on prescription from licensed physicians or licensed optometrists for the intended wearers; or, refills a contact lenses prescription from a valid previously prepared prescription from a licensed physician or licensed optometrist.

“Department” means the Virginia Department of Professional and Occupational Regulation.

“Fit and dispense” means to measure, adapt, fit or adjust eyeglasses, spectacles, lenses, or

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appurtenances to the human face; or to verify the prescription to be correct in the prescription eyeglasses or prescription optical devices.

“Licensed optician” means any person, who is the holder of a license issued by the Board for Opticians.

“Optician” means any person, not exempted by § 54.1-1701, who prepares or dispenses eyeglasses, spectacles, lenses, or related appurtenances, for the intended wearers or users, on prescriptions from licensed physicians or licensed optometrists, or as duplications or reproductions of previously prepared eyeglasses, spectacles, lenses, or related appurtenances; or who, in accordance with such prescriptions, duplications or reproductions, measures, adapts, fits, and adjusts eyeglasses, spectacles, lenses, or appurtenances, to the human face.

“Opticianry” means the personal health service that is concerned with the art and science of ophthalmic optics as applied to the compounding, filling and adaptations of ophthalmic prescriptions, products, and accessories.

PART I. PART II
ENTRY REQUIREMENTS.

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~~18 VAC 100-20-10~~ **18 VAC 100-20-20 Qualifications of applicant.**

~~A. Any person desiring to sit for an examination shall submit an application on a form provided by the board with the required examination fee of \$55. All fees are nonrefundable and shall not be prorated.~~

~~A. An applicant for license shall furnish satisfactory evidence on an application provided by the Board establishing that:~~

~~B. Each applicant shall provide information on his application establishing that he:~~

~~1. Is The applicant is at least 18 years of age; unless emancipated under the provisions of § 16.1-333, of the Code of Virginia;~~

~~2. Is The applicant is a graduate of an accredited high school, or has completed the equivalent of grammar school and a four-year high school course, or is a holder of a certificate of general educational development;~~

~~3. Is The applicant is in good standing as a licensed optician in every jurisdiction where licensed;~~

~~4. Has not been convicted in any jurisdiction of a misdemeanor involving moral turpitude;~~

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~~sexual offense, drug distribution or physical injury, or any felony. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction; and:~~

5. ~~4.~~ ~~has~~ ~~The applicant has successfully~~ completed one of the following education requirements:

a. ~~An approved~~ ~~A~~ two-year course in a school of opticianry, including the study of topics essential to qualify to practice opticianry for practicing as an optician; or

b. A three-year apprenticeship with a minimum of one school year of related Instruction or home study while registered in the apprenticeship program in accordance with the standards established by the State Department of Labor and Industry Division of Apprenticeship Training and approved by the ~~Virginia State~~ Board for Opticians; ~~;~~ and

5. ~~The applicant has disclosed his current mailing address; and~~

6. ~~The non-resident applicant for a license has filed and maintained with the~~

~~Department an irrevocable consent for the Director of the Department to serve as service agent for all actions filed in any court in the Commonwealth; and~~

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~~7. The applicant shall certify, as part of the application, that the applicant has read and understands Chapter 17 of Title 54.1 of the Code of Virginia and the regulations of the Board.~~

~~**18 VAC 100-20-20 Examination Schedule.**~~

~~The Board shall schedule an examination to be held at least twice each calendar year at a time and place to be designated by the Board. The examination application and fee must be received 60 calendar days prior to the written examination.~~

~~**18 VAC 100-20-30 Content of Optician examination.**~~

~~The optician examination given by the board will include the following topics:~~

- ~~1. Ophthalmic materials;~~
- ~~2. Ophthalmic optics and equipment;~~
- ~~3. Ophthalmic spectacle lens grinding;~~
- ~~4. Prescription interpretation;~~

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~~5. Theory of light;~~

~~6. Finishing, fitting and adjusting of eyeglasses and frames;~~

~~7. Ethics of relationship in respect to patient and physician or optometrist;~~

~~8. Anatomy and physiology, and~~

~~9. Administrative duties.~~

~~18 VAC 100-20-40 Passing grade and reexamination:~~

~~The passing grade shall be 70% on the written section and 70% on the practical section of the examination.~~

~~1. An applicant who fails any section shall be required to be reexamined on that section and shall pay the required reexamination fee \$70.~~

~~2. Any applicant who fails to pass the previously failed section within the next two successively scheduled examinations will be required to take and pass the entire examination and pay the full initial examination fee.~~

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~~18 VAC 100-20-50~~ **18 VAC 100-20-30** ~~Licensing of out-of-state Opticians licensed in another state.~~

A. An ~~out of state licensed~~ optician licensed in another state seeking to be licensed as an optician in Virginia shall submit an application on a form provided by the Board with the required fee of \$55. All fees are nonrefundable and shall not be prorated.

B. The Board, using the following standards, shall issue a license to a person licensed in another state who:

1. Has met the requirements equivalent to those listed in ~~§ 1.1 18 VAC 100-20-20~~; and
2. Has passed a substantially equivalent examination.

18 VAC 100-20-40 Fees.

A. ~~The fee for examination(s) shall consist of the combination of an administrative charge \$10.00 (spectacle), \$25.00 (contact lens), and the appropriate contract charges. Examination service contracts shall be established in compliance with the Virginia Public Procurement Act (§11-35 et seq. of the Code of Virginia). The total examination fee shall not exceed a cost of \$300 to the applicant.~~

B. ~~All application fees for licenses are nonrefundable and the date of receipt by the Board or its agent is the date which will be used to determine whether or not it is on time.~~

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C. Application and examination fees must be submitted with the application for licensure.

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The following fees shall apply:

<u>FEE TYPE</u>	<u>AMOUNT DUE</u>	<u>WHEN DUE</u>
Application for Licensure By Examination or Out-of-State Applicants	\$55	With application
Application for Contact Lens Certification By Examination or For Out-of-State Applicants	\$70	With application
Renewal	\$60	Up to the expiration date on the license with a 30 day grace period.
Late Renewal (in addition to Renewal Fee)	\$25	Up to 12 months after the expiration date on the license
Reinstatement	\$100	After 12 calendar months following the expiration date on the license.
Duplicate Wall Certificate	\$25	With written request

18 VAC 100-20-50 Examinations.

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All examinations required for licensure shall be approved by the Board and administered by the Board, or its agents or employees acting on behalf of the Board.

The Board shall schedule an examination to be held at least twice each calendar year at a time and place to be designated by the Board.

The applicant shall follow all rules established by the Board with regard to conduct at an examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the Board with regard to conduct at an examination shall be grounds for denial of application.

18 VAC 100-20-60 Content of optician examination and reexamination.

Applicants for licensure shall pass a written examination and a practical examination approved by the Board.

A. The optician examination given by the Board may include, but is not limited to, the following topics:

1. Ophthalmic materials;
2. Ophthalmic optics and equipment;

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3. Ophthalmic spectacle lens grinding;
4. Prescription interpretation;
5. Theory of light;
6. Finishing, fitting and adjusting of eyeglasses and frames;
7. Ethics of relationship in respect to patient and
physician or optometrist;
8. Anatomy and physiology; and
9. Applicable laws and regulations.

B. Any applicant who fails the written or practical examination, or both examinations, shall be required to be reexamined, on the failed examination(s) and shall pay the reexamination fee(s).

C. An applicant shall pass the written and practical examination within two years of the initial test date. After two years, the applicant shall file a new application and pay the required fee.

~~18 VAC 100-20-60~~ 18 VAC 100-20-70 Endorsement to fit contact lenses.; examination.

The board Board shall administer a contact lens examination to Virginia licensed opticians

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~~desiring to obtain an endorsement of "Contact Lens Competency" to fit contact lenses. The "Contact Lens Competency Endorsement" shall be mandatory for licensed opticians to fit contact lenses as set out in Virginia Code §§ 54.1-1705 and 54.1-1706, and the contact lens endorsement shall not be issued unless the individual's license is in good standing.~~

- ~~1. The applicant must achieve a passing score of 70% on the contact lens examination.~~
- ~~2. The fee for the contact lens examination or reexamination shall be \$70. All fees are nonrefundable and shall not be prorated.~~

18 VAC 100-20-80 Content of contact lens endorsement examination and reexamination.

A. ~~The contact lens endorsement examination administered by the Board may include, but is not limited to, the following topics:~~

1. Rigid lens verification;
2. Lens identification;
3. Keratometry;
4. Slit lamp;
5. Slides; (fitting patterns, edge patterns, quality stains)

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6. Insertion/removal

B. Any applicant who fails the written or practical contact lens examination(s), or both examinations, who desires to retake the examination(s), shall be required to be reexamined on the failed examination(s) and shall pay the reexamination fee(s).

C. An applicant shall pass the written and practical examination within two years of the initial test date. After two years, the applicant shall file a new application and pay the required fee.

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PART H. PART III.

RENEWAL/REINSTATEMENT.

~~18 VAC 100-20-70~~ 18 VAC 100-20-90 License renewal required.

~~A. Licenses issued under these regulations shall expire on December 31 of each even-numbered year. The Department of Commerce shall mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice shall not relieve the licensee of the obligation to renew.~~

~~A. Licenses issued under this regulation shall expire 24 months from the last day of the month in which the license was issued.~~

~~B. Each licensee applying for renewal shall return the renewal notice and fee of \$60 to the Department of Professional and Occupational Regulation no later than 5 p.m. on the expiration date shown on the license. If the licensee fails to receive the renewal notice, a copy of the license may be submitted with the required fee.~~

~~B. The Board shall mail a renewal application form to the licensee at the last known mailing address. Failure to receive this notice does not relieve the licensee of the obligation to renew. Prior to the expiration date shown on the license, each licensee desiring to renew his license must return all the required forms and the appropriate fee to the Board as outlined in 18 VAC 100-20-40 of these regulations. If the licensee fails to receive the renewal notice, a copy of the existing license shall be submitted with the required fee.~~

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~~C. Applicants for renewal of a license shall continue to meet the standards for entry set forth in subdivisions B 3 and 4 of § 1.1 of this regulation.~~

~~C. Licensees shall be required to renew their license by submitting the appropriate fee made payable to the Treasurer of Virginia. Any licensee who fails to renew within 30 days after the license expires, shall pay a late renewal fee, in addition to the renewal fee, as set out in 18 VAC 100-20-40 of these regulations.~~

~~D. The Board may deny renewal of a license for the same reasons as it may refuse initial licensure.~~

~~D. The Board, in its discretion, and for just cause, may deny renewal of a license. Upon such denial, the applicant for renewal may request that a proceeding be held in accordance with the provision of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).~~

~~18 VAC 100-20-80 License reinstatement required:~~

~~A. If the license fails to renew his license after 30 days following the expiration date, he must reapply for reinstatement of his license on a form provided by the board.~~

~~B. Additional fees for reinstatement are required as follows:~~

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~~1. If the renewal application is received by the department more than 30 days after the expiration date of the license, a late fee of \$25 is required.~~

~~2. If the renewal application is received by the department more than 180 days after the expiration date of the license, a fee equal to four times the renewal fee is required.~~

~~C. Applicants for reinstatement of a license shall continue to meet the standards for entry as set forth in subdivisions of B 3 and 4 of § 1.1 of this regulation.~~

~~D. The board may deny reinstatement of a license for the same reasons as it may refuse initial licensure.~~

~~E. When an individual fails to renew his license after a period of one year after the expiration date, he must apply as follows:~~

~~1. Submit an application on a form provided by the board establishing that he has met all of the requirements of §§ 1.1 B 5 a or 1.1 B 5 b and a fee of \$100;~~

~~2. Take and receive a passing score or 70% on the practical examination and 70% on the written examination on his first attempt, and~~

~~3. Meet the requirements of §§ 1.1 B 5 or 1.1 B 5 b before sitting for the written examination and the practical examination again if the applicant fails to pass both the written and the practical examination~~

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on his first attempt:

PART IV.

REINSTATEMENT.

18 VAC 100-20-100 Reinstatement required.

A. If a licensee fails to renew his license within twelve months after the expiration date on the license, the licensee must apply for reinstatement on a form provided by the Board.

1. Individuals for reinstatement shall continue to meet the standards of entry as set out in 18 VAC 100-20-20.A3, 4, 5, 6, and 7 of these regulations.
2. Individuals for reinstatement shall submit the required fee as set out in 18 VAC 100-20-40 of these regulations.

B. Twenty-four months after expiration of the license, the individual may be reinstated, if he can show proof of continuous, active, ethical and legal practice outside of Virginia. If not, the individual must show proof of completion of a Board approved review course which measures current competence. Credit will not be allowed for any review course which has not been approved by the Board prior to administration of the course.

C. Sixty months after expiration of the license, the individual, who cannot show proof

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~~of continuous, active, ethical and legal practice outside of Virginia, shall be required to apply as a new applicant for licensure. He shall be required to meet all current education requirements and retake the Board's written and practical examination.~~

~~D. The Board, in its discretion, and for just cause, may deny reinstatement of a license. Upon such denial, the applicant for reinstatement may request that a proceeding be held in accordance with the provisions of the Administrative Process Act (§ 9-6.14: et seq. of the Code of Virginia).~~

~~E. A licensee who reinstates his license shall be regarded as having been continually licensed without interruption. Therefore, the licensee shall remain under the disciplinary authority of the Board during the entire period and may be held accountable for his activities during this period. Nothing in these regulations shall divest the Board of its authority to discipline a licensee for a violation of the law or regulations during the period of licensure as set out in this provision.~~

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~~PART III. PART V.~~

STANDARDS OF PRACTICE AND CONDUCT.

18 VAC 100-20-110 Lenses and frames standards are, as follows:

A. Power Tolerance (diopters)

Sphere:	Plano to ± 6.50 _____	± 13 diopter
	Above ± 6.50 _____	$\pm 2\%$
Cylinder:	Plano - 2.00 _____	± 13 diopter
	-2.12 to -4.50 _____	± 15 diopter
	above -4.50 _____	$\pm 4\%$

B. Cylinder Axis

Cyl. Power Diopters	Degrees \pm
$0.12 - 0.37$ _____	7°
$0.50 - 0.75$ _____	5°
$0.87 - 1.50$ _____	3°
1.62 and above _____	2°

C. Distance P.D.

Contribution to net horizontal prism from processing should not exceed 2/3 prism diopter. A maximum of ± 2.5 mm variation from the specified distance PD is permissible in higher power lens combinations.

D. Prism Tolerances (Vertical)

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Contribution to imbalance from processing should not exceed 1/3 prism diopters. A maximum of 1.0mm difference in vertical level is permissible in higher power lens combinations.

E. Segment Location

Vertical _____ ± 1.0 mm

Horizontal _____ ± 2.5 mm

Tilt or twist in the case of a flat-top segment, the tilt of its horizontal axis should be less than 1/2 mm in differential elevation between the segment edges.

F. Multifocal Additions

Plano + 8.00 _____ ± 1.3 diopter

Above + 8.00 _____ ± 1.8 diopter

G. Thickness

Standard dress thickness for minus power lenses should be 2.0 mm at optical center. Plus power lenses should have an edge thickness of 1.5 mm - 2.00 mm or 2.4 mm for Nylon type frames. When specified thickness is prescribed, the tolerance should be ± 0.3 mm. Lenses to be used for occupational or safety purposes must be 3.00 mm at its thinnest point.

H. Base Curve

When specified, the base curve should be supplied within ± 0.75 diopter.

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I. Warpage

The cylindrical surface power induced in the base curve of a lens should not exceed 1 diopter. This recommendation need not apply within 6mm of the mounting eyewire.

I. Localized errors (aberration)

Areas outside a 20mm radius from the specified major reference point or optical center need not be tested for aberration. Progressive lenses are exempt from this requirement.

18 VAC 100-20-120 Contact lens standards are, as follows:

To fit contact lenses, the following shall be done:

1. The prescription (RX) must show evidence that contact lenses may be worn by the patient before the prescription can be filled by the licensed optician. Verbal approval from the optometrist or ophthalmologist or its agents or employees is acceptable. The licensed optician must make a notation in the patient's record of the name of the authorizing optometrist or ophthalmologist and the date of the authorization.

2. The optician must use all the following to fit contact lenses:

- a. Slit Lamp;
- b. Keratometer;
- c. Standardized Snellen type acuity chart.

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~~18 VAC 20-90~~ **18 VAC 100-20-130 Display of license.**

Every person to whom a current license has been granted under these regulations shall visibly display it his unaltered license in a conspicuous place in plain view of the public in public view the principal office in which they work. A duplicate license which has been notarized shall be posted in any branch offices.

~~18 VAC 100-20-100~~ **18 VAC 100-20-140 Notification of Change of Address or Name.**

A licensee shall notify the board in writing no later than 60 days after the occurrence of a change of address or name:

Notice in writing shall be given to the Board in the event of any change of name or address. Such notice shall be mailed to the Board within 30 days of the change of name or address. The Board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the Board in writing of any change of name or address.

~~18 VAC 100-20-110~~ **18 VAC 100-20-150 Discipline: Grounds for disciplinary action.**

A. The board Board may is empowered to revoke, suspend, refuse to grant or renew a license and may is empowered to impose a fine up to \$1000 the statutory limit, as authorized under §

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~~54.1-202 of the Code of Virginia, per~~ offense violation on a licensee for any of the following reasons:

1. Using ~~alcohol or~~ non-prescribed controlled substances as defined in ~~Chapter 34 (Section 54.1-3400 3401~~ of the Code of Virginia ~~or alcohol~~ at the work place during working hours;
2. Displaying professional incompetence or negligence, ~~including but not limited to failure to comply with Part V. of these regulations~~ in the performance of opticianry;

3. ~~Fraudulently certifying that an applicant possesses the qualifications required under § 1.1; Presenting false or fraudulent information on his application certifying that he possesses the qualifications required under 18 VAC 100-20-20;~~

4. Violating or inducing others to violate any provisions of Chapters 1, 2, 3 or 17 of Title 54.1 of the Code of Virginia, or of any other statute applicable to the practice of the profession herein regulated, or of any provisions of these regulations;

5. Publishing or causing to be published any advertisement ~~related to opticianry~~ that is fraudulent, false, deceptive, or misleading;

6. Having been convicted in any jurisdiction of a misdemeanor ~~involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony which directly relates to the profession of opticianry. The Board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of opticianry.~~ Any plea of nolo contendere shall be considered a conviction for the purposes of this section. ~~The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where the conviction occurred shall be forwarded to the board within 10 days of~~

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~~entry and shall be admissible as prima facie evidence of such conviction, or The _____ licensee shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the licensee to the Board within ten days after all appeal rights have expired;~~

7. Having been disciplined by another jurisdiction in the practice of opticianry.

Documentary evidence of such discipline shall be submitted ~~by the licensee to the board~~ Board within 10 days of ~~entry: after all appeal rights have expired; or~~

8. ~~Allowing any person to engage in the practice of opticianry, except an optician apprentice or student enrolled in a course in a school of opticianry under the direct supervision of a licensed optician.~~

~~B. A finding of improper or dishonest conduct in the practice of the profession by a court of competent jurisdiction shall be cause for disciplinary action.~~

18 VAC 100-20-160 Accountability of licensee.

~~A licensee shall be responsible for his acts or omissions and for the acts of his agents or employees or his staff in the performance of opticianry services.~~

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18 VAC 100-20-170 Approval of review courses.

Review courses set out in these regulations shall be approved by the Board, except those provided by institutions, schools and universities approved by the State Council of Higher Education for Virginia, for which continuing education units are awarded. Training courses requiring Board approval shall be approved by the Board prior to commencing in accordance with the following:

A. Training activities for which experience credit may be granted must be conducted in general conformance with the guidelines of the International Association for Continuing Education and Training. The Board reserves the right to waive any of the requirements of the Association's Guidelines on a case-by-case basis. Only classroom, laboratory and field trip contact time will be used to compute training credits. No credit will be given for breaks, meals, or receptions.

1. Organization. The Board will only approve training offered by a sponsor who is an identifiable organization with a mission statement outlining its functions, structure, process and philosophy, and that has a staff of one or more persons with the authority to administer training.

2. Training Records. The Board will only approve training offered by a sponsor who maintains training records for all participants for a minimum of 5 years, and who has a written policy on retention and release of training records.

3. Instructors. The Board will only approve training conducted by personnel who

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have demonstrated competence in the subject being taught, an understanding of the learning objective, a knowledge of the learning process to be used, and a proven ability to communicate.

4. Objectives. The Board will only approve courses that have a series of stated objectives that are consistent with the job requirements of an optician. The training content must be consistent with those objectives.

5. Course completion requirements. For successful completion of a training program, participants must attend 90% or more of the class contact time and must demonstrate their learning through written examinations, completion of a project, self-assessment, oral examination, or other assessment technique.

B. The Board shall consider the following information, to be submitted by the instructor, institution, school or university on forms provided by the Board, at least 45 days prior to the scheduled training activity:

1. Course information
 - a. Course title,
 - b. Planned audience,
 - c. Name of sponsor,
 - d. Name, address, phone number of contact person,
 - e. Schedule presentation dates,
 - f. Detailed course schedule, hour-by-hour,

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- g. List of planned breaks,
 - h. Scheduled presentation location(s), and
 - i. Relevancy of course to opticianry licensing.

- 2. Instructor qualifications
 - a. Name of instructor,
 - b. Title of instructor, and
 - c. Summary of qualifications to teach this course.

- 3. Training materials
 - a. Course objectives - A listing of the course objectives stated in terms of the skills, knowledge, or attitude the participant will be able to demonstrate as a result of the training,
 - b. Course outline - A detailed outline showing the planned activities that will occur during the training program, including major topics, planned presentation sequence, laboratory and field activities, audio-visual presentations, and other major activities,
 - c. Course reference materials - A list of the name, publisher and publication date for commercially available publications; for reference materials developed by the course sponsor or available exclusively through the course, a copy of the reference materials,
 - d. Audio-visual support materials - A listing of any commercially available audio-visual support material that will be used in the program; a brief description of any sponsor or instructor generated audio-visual material that will be used, and

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e. Handouts - Identification of all commercially available handout material that will be used; copies of all other planned handouts.

4. Determination of successful completion - A description of the means that will be used to determine the successful completion of the training program by individual attendees, such as examinations, projects, personal evaluations by the instructor, or other recognized evaluation techniques.

C. Recurring training programs - If there are plans to present the same course of instruction routinely at multiple locations with only minor modifications and changes, the Board may approve the overall program rather than individual presentations if so requested by the sponsor.

1. The Board shall consider all of the information listed above except those items related to specific offerings of the course.
2. Board approval may be granted for a specific period of time or for an indefinite period.
3. Board approval will apply only to those specific offerings certified by the sponsoring organization as having been conducted by instructors meeting the established criteria and in accordance with the Board approved courses, outlines and objectives.
4. To maintain approval of the program, changes made to the program since initial

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approval must be submitted to the Board for review and approval. Changes must be approved by the Board prior to any training subsequent to the changes.