

## Board for Opticians

### PRE-NOIRA CHECKLIST EXPLANATION SHEET

**1. Reasons for the Proposed Regulations (satisfies 1.b of the Pre-NOIRA section of EO25)**

The purpose of the proposal is make the following changes:

- A. To amend existing regulations governing the licensure of opticians, to establish a definitions section, clarify entry requirements for licensure, specify examination procedures and examination content for licensure and contact lens examinations, modify the procedures and provisions regarding renewal, reinstatement, (allowing a licensee to complete a review course under certain circumstances), and the standards of practice and conduct.
- B. To review several provisions of the regulations and simplify them thereby ensuring that the Board is meeting its statutory mandate to ensure minimal competence of all licensees without burdensome requirements.

**2. Legal Authority/Mandate (satisfies 1.a of the Pre-NOIRA section of EO25)**

Section 54.1-201 of the Code of Virginia states that the Board “shall promulgate regulations necessary to carry out the purposes of this chapter.”

**3. Statement of Essential Nature (satisfies 1.c of the Pre-NOIRA section of EO25)**

The regulations are essential to comply with state mandates and to increase the efficient and economical performance of an important governmental function by adopting the least burdensome alternatives allowed by state law.

The Board proposes to:

- **18 VAC 100-20-10** – The board proposes to define terms which cause confusion for applicants and the public in defining “apprentice,” “board,” “contact lens certified optician,” “department,” “fit and dispense,” “licensed optician,” “optician,” “opticianry,” and incorporate terms from Chapter 17 Code of Virginia, Section 54.1-1700.
- **18 VAC 100-20-20.A** – The board proposes to include language directing the applicant to furnish satisfactory evidence of entry requirements on an application provided by the board.

- **18 VAC 100-20-20.A.1** - The board proposes to include language specifically referencing the applicant. The board also proposes include a exemption to the minimum age for licensure if the person qualifies per §16.1-333 of the Code of Virginia.
- **18 VAC 100-20-20.A.2-5** - The board to include clarifying language specifying the “applicant” as the responsible party in each requirement.
- **18 VAC 100-20-20.A.6** – The board proposes to require non-resident applicants to file and maintain an irrevocable consent for DPOR to be the service agent for all actions filed in any Virginia court. This is in accordance with requirements set forth in Section 13.1-763 of the Code of Virginia.
- **18 VAC 100-20-20.A.7** - The board to include clarifying language specifying the “applicant” as the responsible party in this requirement. The board also proposes to include language requiring the applicant to certifying that he has read and understands Chapter 17 of Title 54.1 of the Code of Virginia and the regulations of the board.
- **18 VAC 100-20-40** – The board proposes to include the Department of Professional and Occupational Regulation standard examination language which limits the fee for examinations to \$200. Under current regulations if the examination cost increases the board cannot collect the increased fee until the regulation is changed.
- **18 VAC 100-20-50** – The board proposes to incorporate Department of Professional and Occupational Regulation standards for the conduct of the opticians’ examinations.
- **18 VAC 100-20-60** – The board proposes to clarify the contents of the optician examination, the policy regarding re-examination, establish a time frame for passing both portions of the examination, and to eliminate the passing score for the examination.
- **18 VAC 100-20-70** – The board proposes to clarify the contents of the contact lens certification examination and reexamination, as well as establish a time frame for passing both portions of the examination.
- **18 VAC 100-20-90** – The board proposes to change license renewal language to establish a staggered renewal date and the fees are not proposed for change.
- **18 VAC 100-20-100** – The board proposes to clarify license reinstatement language and proposes no change in current requirements.
- **18 VAC 100-20-110** – The board proposes to include ANSI Standards as part of its regulations. These are the acceptable minimal standards in the

industry today and ones which would be used as a measuring tool in a standard of practice case.

- **18 VAC 100-20-120** – The board proposes to include ANSI Standards as part of its regulations. These are the acceptable minimal standards in the industry today and ones which would be used as a measuring tool in a standard of practice case.
- **18 VAC 100-20-130** – The board proposes to clarify license placement in the work place as well as in multiple workplaces.
- **18 VAC 100-20-140** – The board proposes to change current language specifying “notification of change of address or name” to that consistent with other boards in the Department.
- **18 VAC 100-20-150.A** – The board proposes to clarify language authorizing it to discipline licensees. The board also proposes to replace the term “offense” in current regulations to the term “violation.”
- **18 VAC 100-20-150.A.1** – The board proposes change the referenced Code of Virginia Section to one that provides definitions for “non-prescribed controlled substances.
- **18 VAC 100-20-150.A.2** – The board proposes to clarify “professional incompetence or negligence” by including but not limiting compliance with Part V., Standards of Practice and Conduct, of the regulations.
- **18 VAC 100-20-150.A.3** – The board proposes to clarify language relating to the presenting of false or fraudulent qualification information on an application. This clarification also includes the changing of regulations numbering from §1.1 to 18 VAC 100-20-20.
- **18 VAC 100-20-150.A.5** – The board proposes to add language to limit the types of advertisements to those “related to opticianry.”
- **18 VAC 100-20-150.A.6** – The board proposes to strike language pertaining to various misdemeanors. The stricken language will be handled by Section 18 VAC 100-20-150.A.1 of these regulations. Further, the board proposes to add language requiring the licensee to provide a certified copy of any disciplinary action against him within ten days after all appeal rights have expired.
- **18 VAC 100-20-150.A.7** – The board proposes to add clarifying language which identifies the licensee as the person whom must supply documentary evidence of discipline in another jurisdiction.
- **18 VAC 100-20-150.A.8** – The board proposes to add language making it a violation to allow any person, except an optician apprentice or a student enrolled in a course in a school of opticianry to work under the direct supervision of a licensed optician.

- **18 VAC 100-20-150. B** The board proposes to add language stating that 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. This language is consistent with other Department of Professional and Occupational Regulation board regulations.
- **18 VAC 100-20-160** – The board proposes to add language making a licensee responsible for his actions or omissions in the performance of opticianry services as well as those of his agents and employees.
- **18 VAC 100-20-170** – The board proposes to establish review course requirements for licensees who must apply for reinstatement within 60 months of expiration of their license.

**4. Statement of Alternatives Considered (satisfies 1.d of the Pre-NOIRA section of EO25)**

The board confirms that the proposed regulations will be less burdensome and less intrusive than current regulations, while continuing to protect the health, welfare, and safety of the citizens of the Commonwealth by regulating individuals providing services in the opticianry profession. Other regulations were considered and rejected by the board in conjunction with industry professionals as more burdensome.

**5. Statement of Impact on Families**

The contemplated changes are expected to have no impact on families.