148.52 BOARD OF OPTOMETRY.

The Board of Optometry shall consist of two public members as defined by section 214.02 and five Minnesota licensed optometrists appointed by the governor. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09.

The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

History: (5785) 1915 c 127 s 1; 1925 c 239 s 1; 1929 c 420 s 1; 1973 c 638 s 20; 1975 c 136 s 16; 1976 c 222 s 61; 1976 c 239 s 56; 1991 c 199 art 1 s 42; 2015 c 71 art 10 s 1

148.53 POWERS OF BOARD.

The state Board of Optometry shall have the power to make any rules and to do any and all things not inconsistent with law which it may deem necessary or expedient for the effective enforcement of sections 148.52 to 148.62 or for the full and efficient performance of its duties thereunder.

History: (5786) 1915 c 127 s 2; 1925 c 239 s 2; 1929 c 420 s 2; 1985 c 248 s 70

148.54 BOARD; SEAL.

The Board of Optometry shall elect from among its members a president, vice president, and secretary and may adopt a seal.

History: (5787) 1915 c 127 s 3; 1925 c 239 s 3; 1949 c 267 s 1; 1975 c 136 s 17; 1976 c 222 s 62; 2015 c 71 art 10 s 2

148.56 OPTOMETRISTS.

Subdivision 1. Optometry defined. (a) Any person shall be deemed to be practicing optometry within the meaning of sections 148.52 to 148.62 who shall in any way:

(1) advertise as an optometrist; or

(2) employ any means, including the use of auto refractors or other automated testing devices, for the measurement of the powers of vision or the adaptation of lenses or prisms for the aid thereof; or

(3) possess testing appliances for the purpose of the measurement of the powers of vision; or

(4) diagnose any disease, optical deficiency or deformity, or visual or muscular anomaly of the visual system consisting of the human eye and its accessory or subordinate anatomical parts; or

(5) prescribe lenses, including plano or cosmetic contact lenses, or prisms for the correction or the relief of same; or

(6) employ or prescribe ocular exercises, orthoptics, or habilitative and rehabilitative therapeutic vision care; or
(7) prescribe or administer legend drugs to aid in the diagnosis, cure, mitigation, prevention, treatment, or management of disease, deficiency, deformity, or abnormality of the human eye and adnexa included in the curricula of accredited schools or colleges of optometry, and as limited by Minnesota statute and adopted rules by the Board of Optometry, or who holds oneself out as being able to do so.

(b) In the course of treatment, nothing in this section shall allow:

(1) legend drugs to be administered intravenously, intramuscularly, or by injection, except for treatment of anaphylaxis;

(2) invasive surgery including, but not limited to, surgery using lasers;

(3) Schedule II and III oral legend drugs and oral steroids to be administered or prescribed;

(4) oral antivirals to be prescribed or administered for more than ten days; or

(5) oral carbonic anhydrase inhibitors to be prescribed or administered for more than seven days.

Subd. 2. Unlawful practices. It shall be unlawful for any person who is not licensed as an optometrist in this state to:

(1) perform any of the actions contained in subdivision 1;

(2) fit, sell, or dispose of, or to take, receive, or solicit any order for the fitting, sale, or disposition of, any spectacles, eye glasses, or lenses for the correction of vision in any place within the state other than an established place of business where spectacles, eye glasses, or lenses are commonly sold and dealt in; or

(3) sell or dispose of, at retail, any spectacles, eye glasses, or lenses for the correction of vision in any established place of business or elsewhere in this state except under the supervision, direction, and authority of a duly licensed optometrist who holds a certificate under sections 148.52 to 148.62, and is in charge of and in personal attendance at the booth, counter, or place where such articles are sold or disposed of.

Subd. 3. Unregulated sales. Nothing in sections 148.52 to 148.62 shall be construed to apply to the sale of toy glasses, goggles consisting of plano-white or plano-colored lenses or ordinary colored glasses or to the replacement of duplications of broken lenses, nor to sales upon prescription from persons legally authorized by the laws of this state to examine eyes and prescribe glasses therefor, nor shall it apply to regularly licensed physicians and surgeons. Sections 148.52 to 148.62 also do not apply to the sale of spectacles, used for reading and containing only simple lenses having a plus power of up to and including 3.25, if no attempt is made to test the eyes. The term "simple lenses" does not include bifocals. The seller shall prominently display a sign on the counter or rack or other display device where the spectacles are offered for sale that reads as follows: "If you have experienced a vision loss, the selection of these glasses should not take the place of an eye exam."

Subd. 4. License required. It shall be unlawful for any person to engage in the practice of optometry without first procuring a license from the state Board of Optometry.

Subd. 5. Scope of practice exemption. Nothing in sections 148.52 to 148.62 shall prohibit the practice of a licensed or registered health care provider in Minnesota who is operating within the provider’s scope of practice under Minnesota law.

History: (5789) 1915 c 127 s 5; 1925 c 239 s 5; 1929 c 420 s 3; 1983 c 301 s 146; 1986 c 444; 1987 c 125 s 1; 2008 c 262 s 1; 2013 c 129 s 1,2
148.57 LICENSE.

Subdivision 1. Examination. (a) A person not authorized to practice optometry in the state and desiring to do so shall apply to the state Board of Optometry by filling out and swearing to an application for a license granted by the board and accompanied by a fee established by the board, not to exceed the amount specified in section 148.59. With the submission of the application form, the candidate shall prove that the candidate:

1. is of good moral character;
2. has obtained a clinical doctorate degree from a board-approved school or college of optometry, or is currently enrolled in the final year of study at such an institution; and
3. has passed all parts of an examination.

(b) The examination shall include both a written portion and a clinical practical portion and shall thoroughly test the fitness of the candidate to practice in this state. In regard to the written and clinical practical examinations, the board may:

1. prepare, administer, and grade the examination itself;
2. recognize and approve in whole or in part an examination prepared, administered and graded by a national board of examiners in optometry; or
3. administer a recognized and approved examination prepared and graded by or under the direction of a national board of examiners in optometry.

(c) The board shall issue a license to each applicant who satisfactorily passes the examinations and fulfills the other requirements stated in this section.

Subd. 2. Endorsement. (a) An optometrist who holds a current license from another state, and who has practiced in that state not less than three years immediately preceding application, may apply for licensure in Minnesota by filling out and swearing to an application for license by endorsement furnished by the board. The completed application with all required documentation shall be filed at the board office along with a fee established by the board, not to exceed the amount specified in section 148.59. The application fee shall be for the use of the board and in no case shall be refunded.

(b) To verify that the applicant possesses the knowledge and ability essential to the practice of optometry in this state, the applicant must provide evidence of:

1. having obtained a clinical doctorate degree from a board-approved school or college of optometry;
2. successful completion of both written and practical examinations for licensure in the applicant's original state of licensure that thoroughly tested the fitness of the applicant to practice;
3. successful completion of an examination of Minnesota state optometry laws;
4. compliance with the requirements in section 148.575;
5. compliance with all continuing education required for license renewal in every state in which the applicant currently holds an active license to practice; and
6. being in good standing with every state board from which a license has been issued.

(c) Documentation from a national certification system or program, approved by the board, which supports any of the listed requirements, may be used as evidence. The applicant may then be issued a license if the requirements for licensure in the other state are deemed by the board to be equivalent to those of sections 148.52 to 148.62.

Subd. 3. [Repealed, 2015 c 71 art 10 s 34]
Subd. 4. [Repealed, 2015 c 71 art 10 s 34]
Subd. 5. Change of address. A person regulated by the board shall maintain a current name and address with the board and shall notify the board in writing within 30 days of any change in name or address. If a name change only is requested, the regulated person must request revised credentials and return the current credentials to the board. The board may require the regulated person to substantiate the name change by submitting official documentation from a court of law or agency authorized under law to receive and officially record a name change. If an address change only is requested, no request for revised credentials is required. If the regulated person's current credentials have been lost, stolen, or destroyed, the person shall provide a written explanation to the board.

Subd. 6. Expedited and temporary licensing for former and current members of the military.

(a) Applicants seeking licensure according to this subdivision must be:
(1) an active duty military member;
(2) the spouse of an active duty military member; or
(3) a veteran who has left service in the two years preceding the date of license application, and has confirmation of an honorable or general discharge status.

(b) A qualified applicant under this subdivision must provide evidence of:
(1) a current valid license, certificate, or permit in another state without history of disciplinary action by a regulatory authority in the other state; and
(2) a current criminal background study without a criminal conviction that is determined by the board to adversely affect the applicant's ability to become licensed.

(c) A temporary license issued under this subdivision is effective for six months from the initial temporary licensure date.

(d) During the temporary license period, the individual shall complete the licensed optometrist application for licensure.

(e) In order to remain licensed after the expiration of the temporary license, an individual must meet the requirements in section 148.57, subdivisions 1 and 2.

History: 1982 c 388 s 4; 1993 c 121 s 5; 2003 c 62 s 2; 2008 c 262 s 5; 2015 c 71 art 10 s 3-5; 2015 c 77 art 2 s 18

148.574 PROHIBITIONS RELATING TO LEGEND DRUGS.

Notwithstanding sections 151.37 and 152.12, an optometrist is prohibited from dispensing legend drugs at retail, unless the legend drug is within the scope designated in section 148.56, subdivision 1, and is administered to the eye through an ophthalmic good as defined in section 145.711, subdivision 4.

History: 1982 c 388 s 4; 1993 c 121 s 5; 2003 c 62 s 2; 2008 c 262 s 5; 2015 c 71 art 10 s 6

148.575 CERTIFICATE REQUIRED FOR USE OF TOPICAL LEGEND DRUGS.

Subdivision 1. [Repealed, 2015 c 71 art 10 s 34]

Subd. 2. Requirements defined. A licensed optometrist shall comply with the following requirements for the use of legend drugs:
(1) successful completion of at least 100 hours of study in the examination, diagnosis, and treatment of conditions of the human eye with legend drugs;
(2) successful completion of two years of supervised clinical experience in differential diagnosis of eye disease or disorders as part of optometric training or one year of that experience and ten years of actual clinical experience as a licensed optometrist; and
(3) successful completion of a nationally standardized examination approved or administered by the board on the subject of treatment and management of ocular disease.

Subd. 3. [Repealed, 2015 c 71 art 10 s 34]

Subd. 4. Accreditation of courses. The Board of Optometry may approve courses of study in general or ocular pharmacology and examination, diagnosis, and treatment of conditions of the human eye only if they are taught by an institution that meets the following criteria:
(1) the institution has facilities for both didactic and clinical instruction in pharmacology and ocular disease treatment;
(2) the institution certifies to the Board of Optometry that the course of instruction is comparable in content to courses of instruction required by other health-related licensing boards whose license holders or registrants are permitted to administer pharmaceutical agents in their professional practice for either diagnostic or therapeutic purposes or both; and
(3) the institution is accredited by a regional or professional accrediting organization recognized by the Council for Higher Education Accreditation or its successor agency.

Subd. 5. [Repealed, 2015 c 71 art 10 s 34]

Subd. 6. [Repealed, 2015 c 71 art 10 s 34]

History: 1993 c 121 s 6; 2003 c 62 s 3; 4; 2008 c 262 s 6; 2015 c 71 art 10 s 7

148.576 [Repealed, 2015 c 71 art 10 s 34]

148.577 STANDARD OF CARE.

A licensed optometrist is held to the same standard of care in the use of those legend drugs as physicians licensed by the state of Minnesota.

History: 1993 c 121 s 8; 2003 c 62 s 6; 2015 c 71 art 10 s 8

148.578 [Repealed, 1997 c 7 art 2 s 67]
148.58 [Repealed, 1976 c 222 s 209]

148.59 LICENSE RENEWAL; LICENSE AND REGISTRATION FEES.

A licensed optometrist shall pay to the state Board of Optometry a fee as set by the board in order to renew a license as provided by board rule. No fees shall be refunded. Fees may not exceed the following amounts but may be adjusted lower by board direction and are for the exclusive use of the board:
(1) optometry licensure application, $160;
(2) optometry annual licensure renewal, $135;
(3) optometry late penalty fee, $75;
(4) annual license renewal card, $10;
(5) continuing education provider application, $45;
(6) emeritus registration, $10;
(7) endorsement/reciprocity application, $160;
(8) replacement of initial license, $12; and
(9) license verification, $50.

History: (5792) 1915 c 127 s 8; 1925 c 239 s 8; 1949 c 267 s 4; 1959 c 378 s 1; 1967 c 381 s 4; 1973 c 62 s 6; 1976 c 222 s 64; 1986 c 444; 2015 c 71 art 10 s 2

148.595 TEMPORARY MILITARY PERMIT; FEE.

The Board of Optometry shall establish a temporary permit in accordance with section 197.4552. The fee for the temporary military permit is $250.

History: 2014 c 312 art 4 s 10

148.60 EXPENSES.

The expenses of administering sections 148.52 to 148.62 shall be paid from appropriations made to the Board of Optometry.

History: (5793) 1915 c 127 s 9; 1925 c 239 s 9; 1955 c 847 s 14; 1973 c 638 s 21; 1975 c 136 s 19; 1976 c 222 s 65

148.603 GROUNDS FOR DISCIPLINARY ACTION.

The board may refuse to grant a license or may impose disciplinary action as described in section 148.607 against any optometrist for the following:
(1) failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or in rules of the board. The burden of proof shall be on the applicant to demonstrate the qualifications or the satisfaction of the requirements;
(2) obtaining a license by fraud or cheating, or attempting to subvert the licensing examination process. Conduct which subverts or attempts to subvert the licensing examination process includes, but is not limited to: (i) conduct which violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination; (ii) conduct which violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or (iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf;
(3) conviction, during the previous five years, of a felony or gross misdemeanor, reasonably related to the practice of optometry. Conviction as used in this section shall include a conviction of an offense which if committed in this state would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered thereon;
(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's optometry license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction;

(5) advertising which is false or misleading, which violates any rule of the board, or which claims without substantiation the positive cure of any disease;

(6) violating a rule adopted by the board or an order of the board, a state or federal law, which relates to the practice of optometry, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or practice of optometry which is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, which in any of the cases, proof of actual injury need not be established;

(8) failure to supervise an optometrist's assistant or failure to supervise an optometrist under any agreement with the board;

(9) aiding or abetting an unlicensed person in the practice of optometry, except that it is not a violation of this section for an optometrist to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of that person's license or registration or delegated authority;

(10) adjudication as mentally incompetent, mentally ill, or developmentally disabled, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise;

(11) engaging in unprofessional conduct which includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing practice in which case actual injury to a patient need not be established;

(12) inability to practice optometry with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to sections 144.291 to 144.298 or to furnish a medical record or report required by law;

(15) fee splitting, including without limitation:(i) paying, offering to pay, receiving, or agreeing to receive a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of patients or the prescription of drugs or devices; and (ii) dividing fees with another optometrist, other health care provider, or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional and the optometrist has disclosed the terms of the division;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;
(18) prescribing a drug or device for other than accepted therapeutic or experimental or investigative purposes authorized by the state or a federal agency;  
(19) engaging in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient;  
(20) failure to make reports as required by section 148.604 or to cooperate with an investigation of the board as required by section 148.606;  
(21) knowingly providing false or misleading information that is directly related to the care of a patient; and  
(22) practice of a board-regulated profession under lapsed or nonrenewed credentials.

History: 2000 c 413 s 2; 2003 c 66 s 3; 2015 c 71 art 10 s 10

148.604 REPORTING OBLIGATIONS.

Subdivision 1. Permission to report. A person who has knowledge of any conduct constituting grounds for discipline under sections 148.52 to 148.62 may report the violation to the board.

Subd. 2. Institutions. Any hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the board any action taken by the institution or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition an optometrist's privilege to practice or treat patients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action. The institution or organization shall also report the resignation of any optometrist prior to the conclusion of any disciplinary proceeding, or prior to the commencement of formal charges but after the optometrist had knowledge that formal charges were contemplated or in preparation. Each report made under this subdivision must state the nature of the action taken, state in detail the reasons for the action, and identify the specific patient medical records upon which the action was based. No report shall be required of an optometrist voluntarily limiting the practice of the optometrist at a hospital provided that the optometrist notifies all hospitals where the optometrist has privileges of the voluntary limitation and the reasons for it.

Subd. 3. Licensed professionals. A licensed optometrist shall report to the board personal knowledge of any conduct by any optometrist which the person reasonably believes constitutes grounds for disciplinary action under sections 148.52 to 148.62, including any conduct indicating that the person may be incompetent, may have engaged in unprofessional conduct, or may be physically unable to safely engage in the practice of optometry.

Subd. 4. Self-reporting. An optometrist shall report to the board any personal action which would require that a report be filed with the board by any person, health care facility, business, or organization pursuant to subdivisions 2 and 3.

Subd. 5. Deadlines; forms; rulemaking. Reports required by subdivisions 2 to 4 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to ensure prompt and accurate reporting.

Subd. 6. Subpoenas. The board may issue subpoenas for the production of any reports required by subdivisions 2 to 4 or any related documents.

History: 2015 c 71 art 10 s 11
148.605 IMMUNITY.

Subdivision 1. Reporting. Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the board pursuant to section 148.604 or for otherwise reporting to the board violations or alleged violations of section 148.603, if they are acting in good faith and in the exercise of reasonable care.

Subd. 2. Investigation; indemnification. (a) Members of the board, persons employed by the board, and consultants retained by the board for the purpose of investigation of violations, the preparation of charges, and management of board orders on behalf of the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under sections 148.52 to 148.62, if they are acting in good faith and in the exercise of reasonable care.

(b) Members of the board and persons employed by the board or engaged in maintaining records and making reports regarding adverse health care events are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under sections 148.52 to 148.62, if they are acting in good faith and in the exercise of reasonable care.

(c) For purposes of this section, a member of the board or a consultant described in paragraph (a) is considered a state employee under section 3.736, subdivision 9.

History: 2015 c 71 art 10 s 12

148.606 OPTOMETRIST COOPERATION.

An optometrist who is the subject of an investigation by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation and providing copies of patient medical records, as reasonably requested by the board, to assist the board in its investigation. If the board does not have written consent from a patient permitting access to the patient's records, the optometrist shall delete any data in the record which identifies the patient before providing it to the board. The board shall maintain any records obtained pursuant to this section as investigative data pursuant to chapter 13.

History: 2015 c 71 art 10 s 13

148.607 DISCIPLINARY ACTIONS.

When the board finds that a licensed optometrist under section 148.57 has violated a provision or provisions of sections 148.52 to 148.62, it may do one or more of the following:

(1) revoke the license;
(2) suspend the license;
(3) impose limitations or conditions on the optometrist's practice of optometry, including the limitation of scope of practice to designated field specialties; the imposition of retraining or rehabilitation requirements; the requirement of practice under supervision; or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination or other review of skill and competence;
(4) impose a civil penalty not exceeding $10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the optometrist of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding; and
(5) censure or reprimand the licensed optometrist.

History: 2015 c 71 art 10 s 14
148.61 PENALTY.

   Subdivision 1. [Repealed, 1945 c 242 s 14]
   Subd. 2. [Renumbered 148.511, subdivision 1]
   Subd. 3. [Renumbered 148.101]
   Subd. 4. [Renumbered 148.511, subd 2]
   Subd. 5. **Gross misdemeanor.** Every person not licensed by the board pursuant to section 148.57 who practices optometry in this state shall be guilty of a gross misdemeanor.

History: (5794) 1915 c 127 s 10; 1925 c 239 s 10; 2000 c 413 s 3

148.62 APPLICATION.

Sections 148.52 to 148.62 shall not be construed as forbidding any person licensed to practice any profession in this state from engaging in such profession as it may now be defined by law.

History: (5796-1) 1925 c 239 s 13
CONTACT LENS PRESCRIPTIONS.

145.711 DEFINITIONS.

Subdivision 1.  Application.  For purposes of sections 145.711 to 145.714, the following definitions apply.

Subd. 2.  Dispensing. "Dispensing" means the retail delivery of ophthalmic goods to a patient.

Subd. 3.  Fitting. "Fitting" means the performance of mechanical procedures and measurements necessary to adapt and fit contact lenses after an eye examination and supervision of the trial wearing of the contact lenses, which may require revisions during the trial period.

Subd. 4.  Ophthalmic goods. "Ophthalmic goods" means eyeglasses, one or more eyeglass components for which a prescription is required, or contact lenses.

Subd. 5.  Ophthalmic services. "Ophthalmic services" means the measuring, fitting, adjusting, fabricating, or prescribing of ophthalmic goods after an eye examination.

Subd. 6.  Optometrist. "Optometrist" means an individual licensed to practice optometry under sections 148.52 to 148.62.

Subd. 7.  Patient. "Patient" means a person who has had an eye examination.

Subd. 8.  Prescription. "Prescription" means a written directive from an optometrist or physician for contact lenses that must include the manufacturer's brand name, power, base curve, the name and telephone number of the prescribing optometrist or physician, patient's name, and the expiration date of the prescription. If applicable, the prescription may also include diameter, axis, add power, cylinder, peripheral curve, optical zone, or center thickness.

Subd. 9.  Physician. "Physician" means an individual licensed to practice medicine under chapter 147.

HIST: 2002 c 259 s 1

145.712 REQUIREMENTS FOR CONTACT LENSES PRESCRIPTIONS.

Subdivision 1.  Copy of prescription. An optometrist or physician must provide a patient with a copy of the patient's prescription upon completion of the patient's eye examination and fitting. An optometrist or physician may refuse to give a patient a copy of the patient's prescription until after the patient has paid for the eye examination and fitting, but only if the optometrist or physician would have required immediate payment from that patient if the examination had revealed that no ophthalmic goods were required.

Subd. 2.  Prescription expiration date. A prescription written by an optometrist or physician must expire two years after it is written, unless a different expiration date is warranted by the patient's ocular health. If the prescription is valid for less than two years, the optometrist or physician must note the medical reason for the prescription's expiration date in the patient's record and must orally explain to the patient at the time of the eye examination the reason for the prescription's expiration date.

Subd. 3.  Prescription verification. An optometrist or physician must promptly respond to any request received from a physician, optometrist, optician, or contact lens retailer to verify a patient's prescription
information in order for the person requesting the information to accurately dispense the contact lenses. Verification must be requested by telephone, fax, or through electronic communications during the prescriber's normal business hours. Consistently failing to respond to verification requests within a reasonable period of time is grounds for disciplinary action by the respective regulatory board.

Subd. 4. **Prohibited conduct.** When filling a contact lens prescription, no optometrist, physician, or contact lens retailer may:

1. substitute or in any way dispense a different contact lens than the contact lens ordered on the prescription;
2. dispense a contact lens for a period of time beyond the written expiration date; or
3. dispense contact lenses that are not based on prescription parameters pursuant to a valid prescription.

Subd. 5. **Dispensing records.** A copy of the dispensing records must be kept on file at the dispensing location for a period of no less than two years.

HIST: 2002 c 259 s 2

145.713 OPTOMETRISTS AND PHYSICIAN PRACTICES.

Subdivision 1. **Prohibited conduct.** No optometrist or physician may:

1. condition the availability of an eye examination or the release of a prescription to a patient on a requirement that the patient agree to purchase ophthalmic goods from the optometrist or physician who performed the eye examination or from another specified optometrist or physician;
2. charge a patient a fee in addition to the optometrist's or physician's examination and fitting fees as a condition of releasing the prescription to the patient. An optometrist or physician may charge a reasonable additional fee for fitting ophthalmic goods dispensed by another practitioner if that fee is imposed at the time the fitting is performed;
3. prescribe a manufacturer's brand name contact lens that can only be dispensed through the prescribing physician or optometrist's office.

Subd. 2. **Contraindications for contact lenses.** If an optometrist or physician determines that a patient's ocular health presents a contraindication for contact lenses, the optometrist or physician must orally inform the patient of the contraindication and must document the contraindication in the patient's records. An optometrist or physician may exclude categories of contact lenses where clinically indicated.

Subd. 3. **Waivers of liability prohibited.** No optometrist or physician may place on a patient's prescription, require a patient to sign, or deliver to a patient a form or notice waiving liability or responsibility for the accuracy of the eye examination or the accuracy of the ophthalmic goods and ophthalmic services dispensed by another practitioner. Prohibiting waivers of liability under this subdivision does not impose liability on an optometrist or physician for the ophthalmic goods or ophthalmic services dispensed by another practitioner pursuant to the optometrist's or physician's prescription.

HIST: 2002 c 259 s 3

145.714 ENFORCEMENT.

Failure to comply with sections 145.711 to 145.713 shall be grounds for disciplinary action by the Board of Optometry or the Board of Medical Practice.

HIST: 2002 c 259 s 4
OPTOMETRISTS

6500.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Act.** "Act" means the Minnesota Optometric Practice Act, Minnesota Statutes, sections 148.52 to 148.62.

Subp. 2a. **Board-recognized reviewer.** "Board-recognized reviewer" means an organization, approved by the board, that has and maintains current knowledge of the optometric profession to determine whether the program content meets the criteria in part 6500.1200.

Subp. 3. **Board.** "Board" means the Minnesota Board of Optometry.

Subp. 4. **Clinical rounds.** "Clinical rounds" means a group of people sponsored by a clinic or a hospital assembled for discussion of information.

Subp. 4a. **Contact hour.** "Contact hour" means an instructional session or clinical round, or both, of at least 50 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities. The minimum credit which may be approved for any continuing education credit course is one hour. Further increments must be in 30-minute minimums.

Subp. 5. **Contact hour equivalents.** "Contact hour equivalents" means the number of hours of home study equivalent to one hour of continuing education credit.

Subp. 6. **Home study.** "Home study" means the utilization of educational programs and materials outside the classroom setting, the preparation and presentation of a lecture, and preparation and publication of optometry-related subjects.

STAT AUTH: MS s 148.53; 214.12
HIST: 11 SR 1793; 23 SR 883

6500.0150 [Renumbered 6500.0950]
6500.0200 [Repealed, 23 SR 883]

6500.0300 PURPOSE AND APPLICATION.

These rules are intended to clarify and implement Minnesota Statutes, section 148.52 et seq., to the end that the provisions thereunder may be best effectuated and the public interest most effectively served.

These rules shall be applicable to all persons licensed to practice optometry in the state of Minnesota pursuant to the provisions of Minnesota Statutes, section 148.52 et seq., and, in pertinent part, to those persons applying to the Minnesota Board of Optometry for a license to practice optometry in the state of Minnesota.

STAT AUTH: MS s 148.53
6500.0400 PROFESSIONAL CONDUCT.

Subpart 1. Title. When using the title "Doctor" or its abbreviation "Dr.", the abbreviation "O.D." shall not be used as a suffix to the name. However, when using the title or abbreviation before the name, the name shall be followed by the explanatory term "Optometrist."

Subp. 2. Use of hyphenated title. For an optometrist to use a hyphenated term connecting the practice of optometry with any business properly considered foreign to the subject of eyes and refraction is considered misleading and constitutes unprofessional conduct.

Subp. 3. Employment of cappers or steerers. Any optometrist employing or engaging for a salary, fee, or commission any person, firm, or corporation to steer, solicit, lure, or entice any person to come to the optometrist's office or branch office for optometric service is considered as employing "cappers" or "steerers" to obtain business and this constitutes unprofessional conduct.

Subp. 4. Transfer of practice. In the event an optometric practice is transferred to a duly licensed optometrist, said transferee may, through professional cards, stationery, signs, or other permissible forms of announcement, identify the transferee as having acquired the practice, provided that no such announcement shall be used or displayed more than two years after the date of transfer. During said two-year period the name or names of those from whom the practice was transferred shall not appear in letters larger than the letters used in the name of the transferee.

STAT AUTH: MS s 148.53
HIST: 17 SR 1279

6500.0500 DISPLAY AND DISCLOSURE OF NAME.

The name of the optometrist shall be displayed prominently at any office or establishment where such person examines eyes.

All receipts relating to payment for eye examinations shall indicate the name of the examining optometrist.

STAT AUTH: MS s 148.53

6500.0600 PRESCRIPTION.

Prescriptions furnished to the patient shall be signed by the examining optometrist. No licensed optometrist shall sign or cause to be signed a prescription without first making a personal examination of the eyes of the person for whom the prescription is made.

STAT AUTH: MS s 148.53

6500.0700 RECORDS.

Subpart 1. Content of records. In the absence of compelling reasons to the contrary, it shall be considered either grossly incompetent or unprofessional conduct, or both, for an optometrist licensed to practice optometry in this state to fail to keep a record of the following minimum procedures on all patients:

A. case history;
B. visual acuity without correction;
C. ocular pathology;
D. refractive findings, both far and near;
E. binocular findings;
F. prescription given, if any, with visual acuity attained; and
G. patient referral, if any.

Subp. 2. Storage. Any and all patient records required at subpart 1 shall be maintained for at least five years.

STAT AUTH: MS s 148.53

6500.0800 INCORPORATING UNDER THE PROFESSIONAL CORPORATIONS ACT.

Subpart 1. Incorporation. One or more licensed optometrists may form a corporation under the Professional Corporations Act as stated in Minnesota Statutes, section 319A.01 et seq. With reference to the formation and maintenance of such professional optometric corporations, the following rules shall apply.

Subp. 2. Filing. No professional optometric corporation shall begin to render professional service in this state until it has filed with the board executive secretary a copy of its articles of incorporation.

Subp. 3. Corporate name. Either the abbreviation "O.D." or the word "Optometry," "Optometric," or "Optometrist(s)" shall appear in the corporate name. Where the word "Doctor" or its abbreviation is used as a prefix with the name of the optometrist, the abbreviation "O.D." shall not be used as a suffix.

Subp. 4. Display of individual name. Where an optometrist is working as an employee of a professional optometric corporation, the name of that optometrist shall be displayed prominently at any establishment where such person is rendering professional services.

STAT AUTH: MS s 148.53
HIST: 17 SR 1279

6500.0900 REQUIRED CONTINUING EDUCATION.

All optometrists licensed in this state are required, as a prerequisite to license renewal, to attend within a two-year period courses totaling at least 40 clock hours of study of educational optometric programs approved by the board under parts 6500.1000 to 6500.1700. The first two-year period shall include the calendar years 2000 and 2001. On becoming ineligible for license renewal for failure to comply with continuing education requirements, an optometrist shall be suspended from further practice. The board shall reinstate any such suspended license upon receipt of satisfactory proof that the suspended licensee has made up the deficient hours of study.

STAT AUTH: MS s 148.53; 148.57; 148.59; 214.06; 214.12
HIST: 9 SR 1690; 17 SR 1279; 23 SR 883

6500.0950 HOME STUDY AND OTHER PROGRAMS.

Subpart 1. Home study and contact hours. Licensees may acquire 15 hours of continuing education credits through home study in each two-year compliance period. Licensees may utilize self-instruction components presented in vision care periodicals, the Internet, audio and audiovisual taped programs, and other program materials specifically designed for self-instruction. All programs must include a self-test. One continuing education credit may be earned for each hour of self-instruction activity. Continuing education credits may include both instructional and testing activities. Licensees may also earn continuing education credits through contact hour equivalents. One contact hour is equivalent to one continuing education credit. Contact hour equivalents include the activities in items A to C.
A. The presentation of a lecture before an audience of optometric or other health professionals will result in one contact hour for each hour of presentation. For one time only, the lecturer can also acquire two contact hours for preparation of the lecture for each hour of presentation. A syllabus or lecture manuscript shall be furnished to the board to document the presented program.

B. Licensees may earn continuing education credits for the preparation of articles accepted for publication in optometric journals or other health-related journals and for the preparation of books accepted for publication. A maximum of three hours of continuing education credits will be granted for acceptance and publication of articles in optometric or health-related journals. A maximum of nine hours of continuing education credits will be granted for acceptance and publication of books on optometry-related subjects.

C. Licensees may earn continuing education credits for participation in organized volunteer programs helping underserved people throughout the world by providing medical eye care and eyeglasses. A maximum of seven continuing education credits may be granted for each volunteer program.

Subp. 2. Approval of other education programs. Upon written request, the board may approve the use of education methods not listed in subpart 1, and may determine the number of earned contact hours. Board approval will be determined on the following criteria:

A. Whether or not the program is likely to contribute to the advancement and extension of professional skill and knowledge in the practice of optometry.

B. Whether the sponsor or author of the program is recognized by the board as being qualified to design a program for education in the field of optometry.

C. As a condition of approval of a program of self-instruction, the board may require that the author, sponsor, or licensee furnish the board with copies of instructional materials and testing tools.

STAT AUTH: MS s 148.53; 214.12
HIST: 11 SR 1793; 23 SR 883

6500.1000 STUDY COMPLIANCE PERIOD.

The optometric study compliance period must begin on January 1 and encompass two calendar years, concluding on December 31 of the second year. No credit for attendance shall be given unless the board determines that an educational program complied with the criteria in part 6500.1200.

STAT AUTH: MS s 148.53; 148.57; 148.59; 214.06; 214.12
HIST: 9 SR 1690; 23 SR 883

6500.1100 CONTINUING EDUCATION PROGRAMS.

A program sponsor requesting approval by the board must submit a program, schedule, and course description to the board executive secretary not less than 21 days prior to the date of the program. The board shall respond to all applications within a reasonable time. The board may, upon application by a Minnesota licensee, waive the requirement for the submission of advance information and request for prior approval of courses not previously denied. Nothing in this part shall permit the board to approve of an educational program which has not complied with the criteria in part 6500.1200. Courses not eligible for credit shall be so identified by the program sponsor.

STAT AUTH: MS s 148.53; 148.57; 148.59; 214.06; 214.12
HIST: 9 SR 1690; 23 SR 883
6500.1200 CRITERIA FOR JUDGING AND APPROVING CONTINUING EDUCATION.

Board approval of continuing education programs shall be determined as described in items A to G.
   A. Whether or not the program is likely to contribute to the advancement and extension of professional skill and knowledge in the practice of optometry.
   B. Whether or not the speakers, lecturers, and others participating in the presentation of any such program are recognized by the board as being highly qualified in their field.
   C. Whether or not the proposed course, if it is to be conducted within the state of Minnesota, is open to all optometrists licensed in this state.
   D. Whether or not the tuition fee charged for courses conducted within the state of Minnesota is the same for nonmembers of the course sponsoring organization as it is for members. Any difference in tuition charged to nonmembers as opposed to members of the sponsoring organization shall be reasonable and related to the sponsoring organization's expense in operating the continuing education.
   E. As a condition of approval of an educational program hereunder, the board may require that the program director furnish it with satisfactory evidence of attendance of all Minnesota licensees.
   F. Programs and or courses deemed by the board to be a sales promotion of a product or service may be denied approval of continuing education credit. Such programs and or courses may be presented without continuing education credit by the sponsor when so noted on the program.
   G. Courses meeting approval criteria standards and receiving approval from a board-recognized reviewer of continuing education shall be accepted for credit by the board.

STAT AUTH: MS s 148.53; 214.12
HIST: 23 SR 883

6500.1300 NOTICE OF ADDITION OR DELETION OF APPROVED PROGRAMS.

The board may, after due consideration, mail written notice stating the reason to a continuing education sponsor, within 30 days of program presentation, to add or delete continuing education credit hours of previously approved continuing education due to change in content or actual hours of presentation.

STAT AUTH: MS s 148.53; 214.12
HIST: 23 SR 883

6500.1400 PROOF OF ATTENDANCE.

Certificates of attendance of continuing education courses shall be submitted by the optometrist to the board executive secretary at the time the optometrist applies for license renewal and shall contain the following information:
   A. the name of the sponsoring organization;
   B. the name, signature, and address of the licensee;
   C. the course title and instructor name;
   D. number of hours in attendance;
   E. the date of the educational program; and
   F. such other evidence of attendance as the board may deem necessary.

STAT AUTH: MS s 148.53; 214.12  HIST: 17 SR 1279; 23 SR 883
6500.1500 CREDIT HOURS.

The board reserves the right to determine the number of hours credit for any continuing education under part 6500.1100. Credit shall not be given for more than six hours attendance of continuing education in practice management, or more than 15 hours of home study continuing education, in the two-year compliance period.

STAT AUTH: MS s 148.53; 148.57; 148.59; 214.06; 214.12
HIST: 9 SR 1690; 23 SR 883

6500.1600 EXEMPTIONS FROM REQUIRED ATTENDANCE.

Any licensee serving in the regular armed forces of the United States during any part of the 12 months immediately preceding the annual license renewal date is exempt from continuing education requirements. Any licensee first licensed by examination or reciprocity in the first year of the compliance period is exempt from continuing education requirements for that year, but is responsible for 20 hours of continuing education for the second year of the compliance period. Any licensee first licensed by examination or reciprocity in the second year of the compliance period is exempt from continuing education requirements for the entire compliance period.

STAT AUTH: MS s 148.53; 148.57; 148.59; 214.06; 214.12
HIST: 9 SR 1690; 23 SR 883

6500.1700 REQUIREMENTS IN SPECIFIED SUBJECTS.

The board may, when compelled by advancement in scope of practice or emerging public health issues, and by mailing written notice thereof to each licensed optometrist on or before January 1, require all optometrists to attend specified subjects of continuing education. Any specified subject credit hours shall be applied to the compliance period requirement.

STAT AUTH: MS s 148.53; 214.12
HIST: 23 SR 883

6500.1800 APPLICATION FEES.

Subpart 1. Board administered examination. An application for examination in this state shall be accompanied by a $75 fee. In the event the applicant fails to pass the examination, upon application and the payment of an additional fee of $50, the applicant may retake the examination at a time which the board schedules an examination.

Subp. 2. Nationally administered examination. An applicant for licensure in this state who:
   A. has applied for a national examination; or
   B. has successfully completed a national examination shall submit an application to the board accompanied by a $75 fee.

STAT AUTH: MS s 16A.128; 148.53; 148.57; 148.59; 214.06
HIST: 12 SR 1775; 18 SR 468
6500.1900 LICENSE CERTIFICATE ISSUANCE FEE.

Each applicant who meets all applicable requirements for licensure under the act and these rules shall be issued a license certificate by the board. The fee for this license certificate shall be $12. Upon proof of loss or damage of an original license certificate and payment of an additional $12 fee, a replacement certificate may be issued by the board. Each applicant who meets all applicable requirements for use of drugs in patient care shall be issued a certificate by the board. The fee for this certificate is $10. A replacement certificate may be issued by the board. Each applicant who meets all requirements for the use of legend drugs as set forth in Minnesota Statutes, section 148.575, shall be issued a certificate by the board. The fee for this certificate is $50. Duplicate or replacement certificates shall be issued by the board for a fee of $20 per certificate.

STAT AUTH: MS s 16A.128; 148.53; 148.57; 148.59; 214.06
HIST: 12 SR 1775; 18 SR 1340

6500.2000 INDIVIDUAL ANNUAL LICENSE RENEWAL.

Subpart 1. Fee. On or before January 1 of each year, the board shall receive a license renewal fee of $105 from every licensed optometrist who desires to continue to be entitled to practice in this state.
Subp. 2. Address of practice. At the time of paying the fee required by this part, the optometrist shall inform the board of the address or addresses of the place or places where the practice is conducted. The optometrist shall also inform the board of any change in the address or addresses of the practice during the 12-month period within one month of the change.
Subp. 3. Compliance with continuing education requirements. As specified in parts 6500.0900 to 6500.1700, submission to the board of satisfactory proof of compliance with continuing education requirements is and shall be a condition precedent to annual license renewal.
Subp. 4. Default; revocation of license. When an optometrist defaults in payment of the annual renewal fee under subpart 1, the board may invoke the procedures of part 6500.2800 for the revocation of the license; provided that the payment of the fee at or before the completion of the procedures of part 6500.2800, with such additional sum not exceeding $35 as may be fixed by the board, shall excuse the default. In the event any default remains unexcused at the completion of the procedures of part 6500.2800 and a license is revoked for nonpayment of renewal fees, the board may, in its discretion, refuse to issue a new license to any person whose license has been so revoked until such time as that person repasses or, if previously licensed by reciprocity, passes the examinations and complies with all other requirements for initial licensure by examination in this state.
Subp. 5. Practicing optometry without a current license. Practicing optometry without a renewed or current license shall have the same force, effect, and potential legal consequences as practicing optometry without a license.

STAT AUTH: MS s 148.53; 214.06
HIST: 9 SR 1690; 13 SR 2933; 19 SR 734

6500.2100 [Repealed]

6500.2200 FEE PAYMENT; NONREFUNDABLE.

All fees required in this chapter shall be submitted only by check or money order, made payable to the board. No such fee or any portion of a fee paid or payable to the board is refundable.

STAT AUTH: MS s 148.57 subs 1,2; 148.59; 214.06
6500.2300 CLINICAL PRACTICAL EXAMINATION.

Subpart 1. Requirements. A clinical practical examination must be given in sections covering pathology, contact lenses, refraction, and any other sections the board deems necessary. The examination administrators shall give written notice of the sections on which the applicant will be examined. No applicant will be required to be examined on a subject on which other applicants are not examined.

Subp. 2. Pass-fail scoring. The following grade requirements apply to all applicants:
   A. In a board constructed examination, a score of less than 75 percent of the total number of section points constitutes failure of the entire examination. A single score of less than 65 percent of any single section constitutes failure of the entire examination.
   B. In a nationally constructed examination, a passing score shall be set by the National Board of Examiners in Optometry and accepted by the board of optometry of this state.

STAT AUTH: MS s 148.53; 148.57; 148.59; 214.06; 214.12
HIST: 9 SR 1690; 18 SR 468

6500.2400 JURISPRUDENCE EXAMINATION.

Subpart 1. Requirements. An examination on Minnesota optometric jurisprudence shall be given and must be passed with a score of 65 percent or better. An applicant who fails the Minnesota jurisprudence examination and passes a board constructed or nationally constructed clinical examination may repeat the jurisprudence examination only. If the clinical examination is failed, the entire examination must be retaken, including the Minnesota jurisprudence examination.

Subp. 2. Scheduling. An applicant for licensure in this state may:
   A. take the jurisprudence examination in conjunction with a nationally presented examination according to the procedures set by the examining organization; or
   B. schedule an appointment to take the jurisprudence examination with the executive director of the board.

STAT AUTH: MS s 148.53; 148.57; 148.59; 214.06; 214.12
HIST: 9 SR 1690; 18 SR 468

6500.2700 OPTOMETRIST EMERITUS REGISTRATION.

Subpart 1. Application. Any optometrist duly licensed to practice optometry in Minnesota pursuant to Minnesota Statutes, sections 148.52 to 148.62, who declares that he or she is retired from active practice of optometry may apply to the board for emeritus registration on the annual license renewal form. To qualify, the optometrist must be retired and must not be subject to any disciplinary action or be subject to an order of the board imposing a suspended, conditional, or restricted license to practice optometry.

Subp. 2. Status of registrant. The emeritus registration is not a license which permits the registrant to practice optometry as defined in Minnesota Statutes, sections 148.52 to 148.62, and the rules of the board.

Subp. 3. Continuing education. The continuing education requirements of part 6500.0900 are not applicable to emeritus registration.

Subp. 4. Change to active status. The emeritus optometrist must:
   A. apply to the board for reinstatement of his or her active license; and
B. comply with the continuing education requirements for the time period in which the license was in emeritus status. This requirement must be fulfilled prior to petitioning the board for reinstatement of license.

Subp. 5. **Renewal cycle or fees.** Being registered as an emeritus optometrist will not subject the person to the annual license renewal cycle or renewal fee. Each applicant who meets all requirements for registration as emeritus optometrist shall be issued a certificate. The fee for this certificate is $10. A replacement certificate may be issued by the board.

**6500.2800 TERMS AND RENEWAL OF LICENSE.**

Subpart 1. **Terms.** An initial license issued by the board is valid from the date issued until renewed or terminated according to this part. An annually renewed license issued by the board is valid from January 1 of the year for which it is issued until renewed or terminated according to this part.

Subp. 2. **Renewal of application including information regarding continuing education and fees.** An optometrist shall submit an application for renewal of license together with the necessary fee no later than December 31 of the year preceding that for which the license renewal is requested. Application for renewal will be considered timely if received by the board no later than December 31 or postmarked on December 31. If the postmark is illegible, the application will be considered timely if received in the board office by United States first class mail on the first workday after December 31. The application form must provide a place for the renewal applicant's signature and must solicit information to include but not be limited to the applicant's office address or addresses, the number of the applicant's license, and any other information that may be reasonably requested by the board.

For those licensees who have not submitted evidence of compliance with their two-year continuing education requirement or special course requirement in parts 6500.0900 and 6500.1700, the board will include in its written notice relating to annual renewal that the licensee shall submit verified evidence of having taken the required number of continuing education credit hours listed in part 6500.0900 or specified under part 6500.1700 in order to have the license renewed.

Subp. 3. **Failure to submit renewal application.** The following procedures will be followed by the board for all licensees who have failed to submit the annual application under subpart 2, including information about continuing education and applicable fees as provided in subpart 5.

A. Any time after January 1, the board will send to the last address on file with the board, a notice to all licensees who have not made application for renewal of their license. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and the information required about continuing education as specified in subpart 2 which must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by submitting the renewal application and applicable fees and information required about continuing education or by notifying the board that the licensee has voluntarily terminated the license, will result in expiration of the license and terminating the right to practice.

B. If the application for renewal, including required information about continuing education and the applicable annual and late fees or notice of voluntarily termination is not received by the board by the dates specified in the notice, the license will expire and the licensee's right to practice will
terminate as of the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

C. Notwithstanding items A and B, the expiration date shall be extended six months when a licensee fails to meet the continuing education requirements in parts 6500.0900 and 6500.1700. The license will expire at the end of the six-month extension if the licensee does not submit within that time evidence of having complied with the required continuing education. In those cases where a licensee was physically incapable at the end of the two-year reporting cycle of taking continuing education courses, the expiration date shall be extended for six months for the purpose of giving the person the opportunity to take the necessary number of continuing education course hours. The licensee must submit clear and convincing evidence of physical incapability. The license expires at the end of the six-month extension if the licensee does not submit within that time evidence of taking a number of continuing education course hours necessary to comply with parts 6500.0900 and 6500.1700.

In either instance referenced above, a licensee may submit a request for extension of the six-month period. The board will grant the extension only in cases of extreme hardship or compelling reasons. Financial hardship caused by loss of license shall not meet the standards. The burden rests on the licensee to prove that the extension should be granted which in no case shall exceed an additional six months.

Subp. 4. Reinstatement. A license that has expired under this part may be reinstated under part 6500.2900.

Subp. 5. Contested case proceeding. The board, in lieu of the process in subpart 3, may initiate a contested case hearing to revoke or suspend a license for failure to submit fees and continuing education information requested on the renewal application, at the same time it initiates disciplinary proceedings against the licensee for other grounds specified in Minnesota Statutes, sections 148.52 to 148.62, and parts 6500.0400 to 6500.1700.
Subp. 3. **Revoked or suspended license.** No license that has been suspended or revoked by the board may be reinstated unless the applicant for reinstatement provides evidence of full rehabilitation from the offense for which the license was suspended or revoked and complies with all other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license may not be reinstated until the applicant has successfully completed the requirements in subpart 2. The board may require the licensee to pay all costs of the proceedings resulting in the suspension or revocation of a license under part 6500.2800 or pursuant to its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay all costs of the proceedings resulting in the disciplinary action.

Subp. 4. **Licensure application not precluded.** Nothing in this part prohibits an optometrist from applying for licensure under Minnesota Statutes, section 148.57, subdivisions 1 and 2.

Subp. 5. **Exemptions.** A licensee who pays an annual license renewal fee and meets any of the following conditions is exempt from complying with the continuing education requirements if the licensee files an affidavit with the board specifying the condition applicable to the licensee:

A. resides permanently outside the state and does not practice within the state;
B. is retired from practice and does not perform any optometric services on a voluntary or free basis;

or
C. is permanently disabled and unable to practice optometry.

Subp. 6. **Expiration of exemption.** A licensee claiming exemption under subpart 5 who subsequently decides to resume practice shall submit to the board, before resuming practice, a written notice of the intended change and evidence of having completed the continuing education requirements equivalent to what requirements would have been without the exemption immediately preceding the date of receipt of the notice of the intent to resume practice. If the licensee has not complied with the continuing education requirements, the licensee must comply with part 6500.2900, subpart 2; if the licensee has been exempt from complying with the continuing education requirements, the licensee may not resume practice until notified by the board that the evidence submitted is acceptable. The licensee will be placed in the continuing education cycle that would have applied if the exemption had not been claimed.

STAT AUTH: MS s 16A.128; 148.53; 214.06
HIST: 12 SR 1564