

CHAPTER 9
GUAM BOARD OF EXAMINERS FOR OPTOMETRY

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NOTE: Rule-making authority cited by the Guam Board of Examiners for Optometry for the formulation of the following regulations 10 GCA §12502. These Rules and Regulations were filed with the Legislative Secretary on March 13, 1987.

§9101. Legislative Authority. Public Law 16-123, Section 23, Article 5, Optometry, 10 GCA §12503 authorizes the Guam Board of Examiners for Optometry to establish rules and regulations for the implementation and enforcement of the provisions of Article 5.

§9102. Definitions. (a) *Age of majority* means those who have reached the age of at least 21 years.

(b) *College of Optometry* means an approved and accredited school of optometry in the United States or any approved and accredited foreign school of optometry.

(c) *Licensed optometrist* means those who have a current license to practice the healing art in optometry issued by the Guam Board of Examiners for Optometry.

(d) *Ophthalmic lens* means a lens which has a spherical, cylindrical or prismatic value and which is ground pursuant to a prescription, and intended to be used as eyeglasses or spectacles.

(e) *Contact lens* means any lens to be worn on the anterior segment of the human eye, to be prescribed, dispensed, employed, modified, provided, sold and fitted by a licensed optometrist or physician.

(f) *Prescription* means a formula written for ophthalmic lenses for a patient by a person duly licensed and containing the essential elements:

(1) optic power of spheres, cylinders and prisms, axes of cylinders, position of prism base, and if so desired by the prescriber, light transmission properties and lens curve values;

(2) assignation of pupillary distance; and

(3) name of patient, date of prescription, expiration date and the name and office location of prescriber.

(g) *Eyeglasses* means any optical device using ophthalmic lenses for the correction or relief of disturbances in and anomalies of human vision and includes spectacles and other devices using ophthalmic lenses.

(h) *Board* means the Guam Board of Examiners for Optometry.

§9103. License Required. (a) Unless licensed or exempted under these rules and regulations, no person shall:

(1) practice optometry;

(2) represent himself or offer his services as being able to practice optometry;

(3) prescribe eyeglasses or give a prescription to a patient; or

(4) duplicate or replace an ophthalmic lens, not including contact lenses, without a current prescription, or without a written authorization from the patient if the prescription is not available.

§9104. Organization, Meetings, Compensation, Powers, and Duties. (a) The Board shall annually elect a chairman, a vice- chairman and a secretary- treasurer, each of whom shall serve until his successor is elected and qualified.

(b) The Board shall meet at least twice each year for the purpose of examining candidates for licensure. Special meetings may be called by the chairman and shall be called upon the written request of a majority of the Board members. Candidates for licensure by endorsement shall be examined at the next regular meeting after the date of their application. A majority of the members shall constitute a quorum.

(c) The Board shall:

(1) administer and enforce the provisions of Article 5;

(2) adopt, with the approval of the commission on Licensure, all rules and regulations for the implementation and enforcement of the provisions of Article 5;

(3) adopt and use a seal;

(4) administer oaths and take testimony on any matters within the Board's jurisdiction;

(5) Keep an accurate record of all its meetings, receipts and reimbursements;

(6) keep a record of all examinations held, together with the names and addresses of all persons taking such examinations and the examination results;

(7) keep a book of registration in which the name, address and license number of all licenses shall be recorded together with a record of all license renewals, suspensions and revocations;

(8) grant and review licenses to practice optometry;

(9) deny, suspend or revoke licenses to practice optometry in accordance with the provisions of the administrative Adjudication Law for any cause stated in Article 5.

§9105. Fees. (a) The following fees shall be required in connection with the licensing of applicants:

(1) Application by examination	\$ 20.00
(2) Application by endorsement	\$ 20.00
(3) License for one year	... \$100.00
(4) Temporary work permit	\$ 10.00
(5) Inactive license	\$ 50.00
(50% of 6.1c.)	

§9106. Qualifications for Licensure as an Optometrist. (a) Each applicant for licensure as an optometrist shall furnish evidence satisfactory to the Board that the applicant:

(1) has reached the age of majority or 21 years of age.

(2) is of good moral character and of temperate habits.

(3) Each applicant shall furnish a notarized copy satisfactory to the Board of his diploma, certificate of graduation or transcript of record from a high school accredited to the University of Guam, or any college or university of equal standing.

(A) In lieu of such diploma, certificate or transcript, he may present a certificate or evidence of having successfully passed a qualified G.E.D. examination or of having passed an examination for entrance to the University of Guam or any other college of equal standing, provided that earned credits from another institution are acceptable to the University of Guam prior to entrance to the university.

(4) is a citizen of the United States or is a permanent resident of the United States or is a resident alien. A resident alien is hereby defined as an immigrant who is residing in the United States or the Territory of Guam and is eligible for and has applied for citizenship to the United States.

(5) has graduated and been issued a Doctor of Optometry degree from a school or college of optometry approved and accredited by the Council on Optometric Education for the American Optometric Association.

(6) Applicants who meet the above requirements except for that part pertaining to graduation from schools recognized and accredited by the Council on Optometric Education may be considered for licensing upon furnishing satisfactory evidence that the course of instruction is equivalent to the course of instruction given by an accredited school and of having completed the full number of academic years of undergraduate courses required for graduation in an accredited school or college of optometry.

(A) A list of the schools or colleges of optometry approved and accredited by the Council of Optometric Education for the American Optometric Association will be kept on file with the Board.

(7) The Board may deny a license to any person having any one of the following:

(A) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea or nolo contendere. Any action which the Board may take following the establishment of a conviction may be taken when the time for appeal has lapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order.

(B) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(C) Done any act which if done by a licentiate or profession in question, would be grounds for suspension or revocation of license.

(D) The Board may deny a license to a person if the applicant knowingly made a false statement of fact required to be revealed in the application for a license.

(E) No person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criterion of rehabilitation as developed by the Board.

§9107. Licensure by Examination. (a) An applicant meeting the qualifications as set forth in Section II shall:

(1) file an application under oath, on forms supplied by the Board along with the required application fee as established by the Board.

(2) satisfactorily pass the written portion of the Board examination. The National Board of Examiners is a nonprofit organization whose specific purpose is to provide examining services for the profession of optometry and to undertake such related activities as may seem in the interest of improving test standards and performances; therefore, the Guam Board of Examiners as officially adopted as its official written examination the tests provided by the National Board of Examiners in Optometry. Each applicant shall be required to write Parts I, II, III unless the applicant can

show evidence of having previously successfully attained a passing grade in any of the three parts, in which the case the applicant will be required to take only the part not previously passed. This examination shall be offered twice each calendar year. The examination shall consist of Parts I, II and III. Each applicant shall be required to attain a passing grade of 75% in each of the three parts. Failure to attain a grade of 75% in any of the three parts shall render the applicant ineligible to receive a license to practice optometry on Guam. Upon payment of an additional applicable fee, an applicant will be permitted to retake the part or section of the part previously failed and upon receiving a passing grade of 75% or better in that section or part, shall be considered for licensing.

(3) In addition to the above, each applicant may exercise his option to write the section on Ocular Pharmacology if he so desires; however, should the applicant write the section on Ocular Pharmacology and fail to attain a passing grade of 75%, it will not affect his overall score.

(4) In addition to the written examination, each applicant shall demonstrate by oral, clinical and practical methods to the satisfaction of the Board proficiency with the following:

- (i) Complete the analytical refraction, including case history, proposed therapy, and final prescription for glasses.
- (ii) Use of the retinoscope.
- (iii) Use of ophthalmoscope, hand held.
- (iv) Use of keratometer.
- (v) use of binocular slit-lamp
- (vi) Use of tonometer, either applanation or non-contact type.
- (vii) Use of lensometer.
- (viii) Use of radioscope.

(b) A temporary work permit may be authorized to an applicant who actually takes the written examination as scheduled and which permit will be valid from the time of the examination and until the results are known to the Board. This permit is not renewable.

(c) A temporary work permit may be granted to a fourth (4th) year student who is attending an approved and accredited school of optometry as defined in Section VII provided that:

(1) the applicant has a letter of recommendation and approval from the dean of the college of optometry for the school which he is attending stating that he is a 4th year student in good and regular standing academically.

(2) the school has recommended the applicant for a period of externship to enhance or complete his optometric training.

(3) the temporary permit shall be valid for not more than ninety (90) days from date of issue and upon payment of applicable fee.

(4) the applicant shall be allowed to perform optometric procedures only under the direct supervision and control of an optometrist licensed to practice on Guam.

The purpose of this permit is to allow a 4th year student to obtain actual hands-on training and experience in an actual practical in-office manner.

§9108. Licensure by Endorsement. (a) Each applicant meeting the qualifications set forth in Section 12506 and Section VII of the Rules and Regulations of the Guam Board of Optometry shall file his application for licensure by endorsement on forms supplied by the Board. In addition, the applicant must furnish proof satisfactory to the Board that:

(1) he holds a current valid license for any of the fifty states of the United States.

(2) he has graduated from a school or college of optometry approved and accredited by the Board.

(3) he has been actively engaged in the practice of optometry in the jurisdiction of licensure or in the federal service for seven consecutive years immediately prior to the year in which application is made.

(4) In addition to the above, the applicant must demonstrate by oral, clinical and practical methods in the presence of the majority of the Board the following:

(i) Complete analytical refraction, including case history, examination findings, proposed therapy, and final prescription for glasses.

(ii) Use of retinoscope.

(iii) Use of ophthalmoscope, hand held.

(iv) Use of keratometer.

(v) Use of binocular slit-lamp.

(vi) Use of tonometer, applanation or Non-contact types.

(vii) Use of lensometer.

(viii) Use of radioscope.

(5) A temporary work permit may be granted to an applicant who is a graduate of an approved and accredited optometry school as defined in Section VII and who holds a current valid license in any jurisdiction of the United States. This permit shall be for a period not to exceed ninety (90) days from date of issue and shall be valid upon payment of the applicable fee.

§9109. Use of Diagnostic Drugs. (a) The Board shall issue a certificate for the use of topical diagnostic ocular pharmaceutical agents to those optometrists licensed in Guam who have completed application for the use of these drugs on forms provided by the Board and who have submitted proof of the following:

(1) Completed a course in Ocular Pharmacology offered by an institution approved and accredited by a regional or national accreditation organization as it applies to Ocular Pharmacology.

(2) Having completed a postgraduate course of at least seventy (70) hours in Ocular Pharmacology as it applies to optometry. Course must be accredited and approved by the Board.

(3) Certificate must be displayed in a conspicuous place in the licensee's principal office or place of business.

§9110. Grandfather Clause. (a) Any person practicing as an optometrist on Guam prior to December 31, 1982 shall automatically be issued a license to practice optometry on Guam and shall be entitled to the annual renewal of his license.

(b) In order that the above described person shall be properly identified, the Board has adopted the following requirements:

(1) An application be filed on forms supplied by the Board showing evidences satisfactory to the Board that:

(i) the applicant is a citizen of the United States, a permanent resident or resident alien.

(ii) the applicant has graduated from a recognized school of optometry.

(iii) the applicant has been licensed in another jurisdiction other than Guam.

(iv) the applicant was in active practice on Guam prior to December 31, 1982.

(c) The Board has established a grace period of sixty (60) days from the effective date of these rules and regulations in which applications for licensure under the grandfather clause will be accepted. After that time, an applicant may be required to take an examination to determine that he still has the required proficiency necessary for the practice of optometry in Guam.

§9111. License Renewal. (a) Each license shall be renewed annually on or before October 1 of each year by remitting to the secretary the proper fee established by the Board and proof of the licensee having fulfilled the continued education requirement as required by regulation of the Board.

Notice of renewal shall be sent to each licensee at least thirty (30) days prior to October 1. This notice shall legally have been given when sent to the latest address furnished by the licensee to the Board. Failure to receive notice does not relieve a person of the responsibility of renewing one's license.

(1) Failure of a licensee to renew his license by November 1, shall subject the licensee to a late charge of 25% of the regular renewal fee.

(2) Any license not renewed by December 31 of each year shall be automatically revoked. A license so revoked may be renewed by payment of a late fee charge of 50% of the regular renewal fee if paid within the 120 days of the regular renewal date of October 1. In the event a license is not renewed within the 120

days limit but does not exceed one (1) year from the October 1 renewal date, the license may be renewed by payment of a late fee charge of twice that of the regular renewal fee.

(3) A license that remains revoked for more than one (1) year from December 31 because of failure to pay the renewal fee may be renewed only by requiring the licensee to be examined by oral, clinical and practical methods in the presence of a majority of the Board in the same areas as those for new licensees. A special fee of \$50.00 shall be charged in addition to the fee of twice and regular fee for late renewal charge.

(b) Each optometrist applying for the renewal of his license shall furnish evidence satisfactory to the board that he has acquired at least one day of continuing education in the year preceding renewal. One day shall be defined as attending or requiring continuing education for six hours. The secretary of the Board shall send written notice of the continuing education requirement at least thirty (30) days prior to September 1 of each year to the last known address of each licensee. Failure to receive notice does not relieve a person of the responsibility of submitting evidence of the continuing education requirement.

(c) Failure to meet the continuing education requirement by October 1 shall be grounds for revocation of an optometrist's license. A license revoked for this reason may be reinstated by the Board upon presentation of evidence that the licensee has met the continuing education requirements.

(d) After each optometrist has received his license but before engaging in actual practice he shall notify the secretary of the Board, in writing, of the address at which he intends to practice and any subsequent changes in the location of his practice.

(1) Any notices the Board is required to give shall be considered legally given when delivered to the last address furnished by the licensee to the Board.

(e) In the event a person who has been qualified and issued a license to practice optometry on Guam should decide not to maintain an active practice but desires to maintain a current license, an inactive status has been created by the Board whereby an inactive license may be granted upon receipt of request, provided that the person granted this type of license shall continue to fulfill the

continuing education requirement as required each year and shall remit a yearly renewal fee of 50% of the regular fee. Additionally, should the person remain on inactive for a period of more than five continuous years, he may be required to submit to a practical examination by the Board before being issued an active license and resuming active practice.

§9112. Refusal, Suspension or Revocation of License.

(a) The Board may refuse to issue, or may suspend or revoke any license for anyone of the following reasons:

(1) Conviction of a felony, as shown by a certified copy of the record of the court of conviction.

(i) The Board may reissue a license to a person who has been convicted of a felony upon being shown substantial evidence that the person has been rehabilitated in a manner to the satisfaction of the Board.

(2) Malpractice as evidenced by a conviction in a court of law.

(3) Incompetence: A series of complaints brought to the attention of the Board by a number of patients shall warrant investigation by the Board. Should the investigation show evidence of incompetence, the Board may require the accused licensee to be examined by oral, clinical and practical methods. If the licensee is found to be incompetent by a majority of the Board, then his license may be revoked.

(4) Continued practice by a licensee who knowingly has contracted an infectious or contagious disease.

(5) False, misleading or deceptive statement or advertising or attempting to practice under a name different than one's own.

(6) Habitual drunkenness or habitual use of addictive drugs.

(7) Aiding, abetting or allowing an unlicensed person to practice in this territory.

(8) Lending, leasing or in any manner placing his certificate at the disposal of or in the service of any person not licensed to practice optometry on Guam.

(9) Employing, procuring or inducing an unlicensed person to practice optometry on Guam.

(i) It is unlawful for a licensed optometrist to employ, procure or induce an unlicensed person to practice optometry under the licensee's direct supervision.

(10) Violating any of the provisions of this article or of the rules and regulations adopted by the Board.

§9113. Offenses. (a) Each of the following acts committed by any person constitutes a misdemeanor for the first offense and a felony for the second and subsequent offenses:

(1) Practicing or attempting to practice optometry without a current license issued by the Board.

(2) Permitting any person in one's employ supervision or control to practice optometry unless the person is licensed or exempted by this article.

(3) Making a willfully false oath or affirmation where such is required by these rules.

(4) Selling or using any designation or certificate tending to imply that one is an optometrist unless licensed by the Guam of Board of Examiners for Optometry.

(5) Refusal upon request by a patient for whom the practitioner has conducted an examination to provide that patient with a copy of his eyeglass lens prescription providing the prescription is not over (1) one year old. Contact lens prescription and parameter are hereby excluded from this rule.

(6) Duplicate or replace an ophthalmic lens, except contact lenses, without a current prescription not more than two (2) years old or without written authorization from the patient if the prescription is not available.

(7) Practicing optometry during any period of time in which one's license has been suspended or revoked.

(8) Except for licensed optometrists, using any trial lenses, trial frames, graduated test cards, electronic refractors, or other appliances or instruments for the purpose of examining the eyes or rendering assistance to anyone who desires to have an examination of the eyes, or rendering assistance to anyone in a retail store or optical shop which sells

ready-made glasses for the purpose of determining correct dioptric power to aid in the correction of a sight anomaly.

(9) It shall be unlawful for any optician, optical, or prescription laboratory to accept or fill any prescription not signed by an optometrist licensed under this chapter or a physician licensed to practice on Guam.

(i) Each optician shall keep on file the signed prescriptions for at least one year and shall surrender or present these prescriptions to a member of the Guam Board of Examiners should it be so requested.

(10) It is not the intent of this Section to prevent any qualified school nurse, qualified special education teacher, or qualified person in public service from ascertaining the possible need of vision services, provided that such person, clinic or program does not attempt to diagnose or prescribe ophthalmic lenses for purposes of correcting a vision anomaly or recommend any particular practitioner.

§9114. Exemptions. (a) Nothing in this article shall be construed to apply to licensed physicians or surgeons or person, clinics or programs under their direct supervision and control. However, no persons, clinics or program under the responsible supervision and control of a licensed physician or surgeon shall use either loose or fixed trial lenses, a refractor or electronic device or other appliances or instruments for the sole purpose of determining the prescription for eyeglasses or contact lenses. The fitting of a contact lens to a patient shall be performed personally by a qualified physician or surgeon at his own personal place of practice.