CHAPTER Plc 800 OPHTHALMIC DISPENS~~ING~~ERS/OPTICIANS

Statutory Authority: RSA 310:6, II; RSA 327-A:5, VI; RSA 327-A:12

Change the title of Part Plc 801 as follows:

PART Plc 801 ~~PURPOSE AND~~ APPLICABILITY; ~~FEES~~ ***SENDING NOTICES AND LICENSES***

Repeal Plc 801.01, effective 4-15-24 (Document #13885), as follows:

~~Plc 801.01 Purpose. The purpose of this chapter is to implement RSA 327-A relative to regulating the profession of ophthalmic dispensing, by establishing requirements for:~~

~~(a) Obtaining and renewing a certificate of registration to practice ophthalmic dispensing in New Hampshire;~~

~~(b) Obtaining the reinstatement of a certificate of registration to practice ophthalmic dispensing that has expired or been suspended or revoked; and~~

~~(c) The regulation of the practices of registered ophthalmic dispensers/opticians, including ethical and professional standards required to be met by registrants.~~

Readopt and renumber Plc 801.02, effective 4-15-24 (Document #13885), as Plc 801.01 as follows:

Plc 801.0***1***~~2~~ Applicability. This chapter shall apply to any individual who intends to practice or who does actually practice ophthalmic dispensing in New Hampshire, exclusive of those persons and practices excluded by RSA 327-A:13, reprinted in Appendix B.

Repeal Plc 801.03, effective 4-15-24 (Document #13885), as follows:

~~Plc 801.03 Fees. The registration fees shall be as specified in Plc 1002.36.~~

Adopt new Plc 801.02 and Plc 801.03 as follows:

Plc 801.02 Notifications; Issuance of Licenses. The office of professional licensure and certification (OPLC) shall send all notifications to applicants and licensees, and all licenses issued pursuant to this chapter, in accordance with Plc 301.03.

Plc 801.03 Incorporated Definitions. All terms used in these rules relative to procedures, applications, inspections, and fees that are defined in Plc 100, Plc 200, Plc 300, Plc 400, or Plc 1000 shall have the meaning specified in those chapters.

Change the title of Part Plc 802 as follows:

PART Plc 802 ***CHAPTER-SPECIFIC*** DEFINITIONS

Repeal Plc 802.01, effective 4-15-24 (Document #13885), as follows:

~~Plc 802.01 "Contact information" means the individual's designated email address, home or other personal telephone number, and home physical address and home mailing address, if different.~~

Readopt with amendment Plc 802.02, effective 4-15-24 (Document #13885), and renumber as Plc 802.01, to read as follows:

Plc 802.~~02~~***01*** "Continuing education credit" means one hour of continuing education.

Repeal Plc 802.03 through Plc 802.07, effective 4-15-24 (Document #13885), as follows:

~~Plc 802.03 "Designated email address" means the email address identified by an applicant or registrant as the address for the office of professional licensure and certification (OPLC) to use when sending notifications and licenses.~~

~~Plc 802.04 "Executive director" means the executive director of the OPLC or designee.~~

~~Plc 802.05 "License" means "license" as defined in RSA 541-A:1, VIII, namely "the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law." For purposes of this chapter, the term includes any similar form of approval to practice ophthalmic dispensing in any jurisdiction.~~

~~Plc 802.06 "Licensing bureau" means the organizational unit within the OPLC's division of licensing and board administration that is responsible for accepting and processing applications.~~

~~Plc 802.07 "Military spouse" means an individual who is legally married to an individual who is on active military duty.~~

Readopt with amendment Plc 802.08, effective 4-15-24 (Document #13885), and renumber as Plc 802.02, to read as follows:

Plc 802.~~08~~***02*** "Necessary knowledge and skills" means the knowledge and skills that are necessary to safely and competently provide ophthalmic dispensing services to the public, including:

(a) Prescription analysis and interpretation;

(b) The taking of measurements, including the pupillary distance, to determine the size, shape, and specifications of the spectacle lenses, frames, or lens forms best suited to the wearer's needs;

(c) The preparation and delivery of work orders to laboratory technicians engaged in grinding lenses and fabricating eyewear;

(d) The verification of the quality of finished ophthalmic products and the adjustment of lenses or frames to the intended wearer's face;

(e) The delivery of such ophthalmic products including instruction in hygiene and insertion and removal of contact lenses; and

(f) The adjustment, replacement, and reproduction of previously prepared ophthalmic lenses, frames, contact lenses, or other specially fabricated ophthalmic devices.

Repeal Plc 802.09, effective 4-15-24 (Document #13885), as follows:

~~Plc 802.09 "On active military duty" means on active duty in the U.S. armed forces. The term includes "active military".~~

Readopt with amendment Plc 802.10 through Plc 802.14, effective 4-15-24 (Document #13885), and renumber as Plc 802.03 through Plc 802.07, to read as follows:

Plc 802.~~10~~***03*** "~~Ophthalmic dispenser~~Optician" means "ophthalmic dispenser/optician" as defined in RSA 327-A:1, VII, reprinted in Appendix B.

Plc 802.~~11~~***04*** "Ophthalmic dispensing" means "ophthalmic dispensing" as defined in RSA 327-A:1, I, reprinted in Appendix B.

Plc 802.~~12~~***05*** "Plano lenses" means "plano lenses" as defined in RSA 327-A:1, IX, reprinted in Appendix B.

Plc 802.~~13~~***06*** "Prescription" means "prescription for spectacle lenses" and "prescription for contact lenses" as defined in RSA 327-A:1, III and IV, respectively, reprinted in Appendix B.

Plc 802.~~14~~***07*** "Registrant" means an individual who is registered as an ~~ophthalmic dispenser~~ optician pursuant to RSA 327-A and Plc 800.

Repeal Plc 802.15, effective 4-15-24 (Document #13885), as follows:

~~Plc 802.15 "Working day" means any Monday through Friday, excluding days on which state offices are closed in observance of holidays.~~

PART Plc 803 INITIAL REGISTRATION

Readopt Plc 803.01 and Plc 803.02, effective 4-15-24 (Document #13885), as follows:

Plc 803.01 Eligibility for Initial Registration as an Ophthalmic Dispenser/Optician. Any individual not currently or previously registered as an ophthalmic dispenser/optician in New Hampshire who wishes to register as an ophthalmic dispenser/optician shall:

(a) Be at least 18 years of age; and

(b) Have obtained a high school diploma or have passed a test that resulted in the receipt of a certificate of high school equivalency.

Plc 803.02 Supervision and Training Required.

(a) No individual shall engage in activities that require the necessary knowledge and skills without being registered under RSA 327-A and Plc 800.

(b) Any registered optician who has no prior education or training in the necessary knowledge and skills shall not engage in activities that require the necessary knowledge and skills without being supervised and trained by a registered optician or other licensed eye care professional having at least one year of experience, until such time as the supervising professional determines that the individual being trained has acquired the necessary knowledge and skills to act independently.

Readopt with amendment Plc 803.03 and Plc 803.04, effective 4-15-24 (Document #13885), to read as follows:

Plc 803.03 Application for Initial Registration. Any individual who wishes to engage in ophthalmic dispensing who is not already registered in New Hampshire shall ***submit to the office of professional licensure and certification (OPLC) the following:***

(a) ~~Any individual who wishes to engage in ophthalmic dispensing who is not already registered in New Hampshire shall file~~ ***A completed and submit to the office of professional licensure and certification (OPLC) the "Universal Application for Initial License" that provides the information required by Plc 304.03 and is signed and attested to as specified in Plc 304.05;*** ~~an application for an initial registration in accordance with this section. by complying with Plc 304.01, subject to the following:~~

~~(b) The applicant shall submit the following to the licensing bureau:~~

(~~1~~***b***) ~~A completed "Universal Application for Initial License" as tailored for ophthalmic dispensing registrations, dated March 2023, that On or with the~~ ***A completed "Addendum to the Universal Application for Initial License for Ophthalmic Dispensing" effective x/2027*** , the applicant shall provide~~s~~ the additional information specified in ~~Plc 304.03 and~~ Plc 803.04(a) and ~~is signed and attested to as specified in Plc 304.06; (2)~~ ~~T~~the documentation specified in ~~Plc 304.04 and~~ Plc 803.~~05~~04(b)~~, as applicable~~; ~~and~~

~~(b) No criminal background check shall be required; and~~

(~~3~~***c***) The fee ~~shall be the application processing and licensing fee~~ specified in Plc 1002.36, provided that ~~if the~~ an applicant who is active military or a military spouse~~, no fee~~ shall ~~be required~~ not pay the fee.

Plc 803.04 Additional Information and Documentation Required for Initial Registration. In addition to the information required by Plc 304.03, the applicant shall ~~identify whether the applicant:~~ ***submit a completed an "Addendum to the Universal Application for Initial License for Ophthalmic Dispensing" dated 12/2026 and provide the following:***

(~~a~~1) ***(a) The applicant's full name;***

(b) Attestation that the applicant has:

(1) Graduated from high school or obtained an equivalency certificate; and

(~~b~~2) ~~Solely for the purpose of assisting the OPLC in assessing the program, has:~~

~~a.~~ P~~p~~assed the National Opticianry Competency Examination (NOCE) offered by the American Board of Opticianry and National Contact Lens Examiners (ABO-NCLE);***and request the testing organization to transmit the results directly to the licensing bur***eau. ~~or~~

(3) ~~b.~~ T~~t~~aken courses to learn the necessary knowledge and skills, and if so, where; or

(4) ~~c~~. R~~r~~eceived direct training in the necessary knowledge and skills, such as by working with a licensed optician.

Repeal Plc 803.05, effective 4-15-24 (Document #13885), as follows:

~~Plc 803.05 Documentation Required for Initial Registration.(b) In addition to the information and documentation required by Plc 304.04, the applicant shall: (a) submit proof of being 18 years old or older, in the form of an official government identification card showing date of birth or an official birth certificate.~~

Readopt with amendment Plc 803.06, effective 4-15-24 (Document #13885), and renumber as Plc 803.05, to read as follows:

Plc 803.~~06~~***05*** ~~Initial Review~~ Processing of Applications for Initial Registration; ~~Abandonment~~ Decisions.

(a) ~~Within 30 days of receipt of an application for initial registration~~ ***Applications*** submitted pursuant to Plc 803.03, ~~the licensing bureau~~ shall ~~process the application~~ ***be processed*** as provided in Plc 304.06.

(b) The application shall be subject to the abandonment provisions of Plc 304.06(h) and the withdrawal provisions of Plc 304.07.

~~(c) If the application is abandoned, the application processing and licensing fee shall not be refunded.~~

Repeal Plc 803.07 and Plc 803.08, effective 4-15-24 (Document #13885), as follows:

~~Plc 803.07 Withdrawal of Application for Initial Registration.~~
~~(a) An applicant may withdraw the application for registration at any time prior to being notified of a decision under Plc 803.08, by proceeding in accordance with Plc 304.07.~~
~~(b) If the application is withdrawn, the application processing and licensing fee shall not be refunded.~~

~~Plc 803.08 Review of Complete Applications for Initial Registration; Decisions.~~

~~(a) After determining that an application is complete, the licensing bureau shall review the application to determine whether and notify the applicant meets all applicable criteria to be registered as an ophthalmic dispenser. of its decision in accordance with Plc 304.08 and Plc 304.09.~~
~~(b) The licensing bureau shall approve an application for initial licensure and register the applicant if:~~

~~(1) The applicant has complied with Plc 803.03 and meets the qualifications listed in Plc 803.01; and~~

~~(2) No information has been submitted that demonstrates the applicant has engaged in any of the conduct listed in RSA 327-A:9, which is reprinted in Appendix B.~~

~~(c) The licensing bureau shall notify the applicant of the decision on the application in writing sent to the applicant's designated email address.~~

~~(d) If the licensing bureau determines that the applicant has not demonstrated that all requirements to be registered are met, then:~~

~~(1) The licensing bureau shall deny the application; and~~

~~(2) The notice sent pursuant to (c), above, shall:~~

~~a. Specifically identify the reason(s) for the denial; and~~

~~b. Inform the applicant that the denial shall become final unless the applicant requests a hearing in writing within 30 days.~~

~~(e) If the application is denied, the application processing and licensing fee shall not be refunded.~~

Readopt with amendment Plc 803.09 and Plc 803.10, effective 4-15-24 (Document #13885), and renumber as Plc 803.06 and Plc 803.07 to read as follows:

Plc 803.~~10~~***06*** Challenging a Denial of Initial Registration; Challenging Registration Conditions. An applicant who wishes to challenge the denial of an application for initial registration or who wishes to challenge conditions included in a registration shall do so as provided in Plc 304.10.

Plc 803.~~09~~***07*** Initial Registrations: Issuance and Duration.

(a) ~~Each i~~Initial registrations ~~as an ophthalmic dispenser~~ shall be issued in accordance with Plc 304.11. ~~by the OPLC shall specify:~~

~~(1) The name of the registrant;~~

~~(2) The effective date of the registration; and~~

~~(3) The registration number.~~

(b) Initial registrations shall~~:~~ be valid as provided in Plc 304.12.

~~(1) Be valid for 2 years from the date of issuance as provided in RSA 310:8, II, provided that the timely filing of a complete renewal application shall continue the validity of the license being renewed until final action is taken on the renewal application;~~

~~(2) Expire 2 years from the date on which the license was issued unless a timely and complete renewal application is filed or the license is sooner suspended or revoked in accordance with Plc 807; and~~

~~(3) Be subject to renewal.~~

Repeal Plc 803.11, effective 4-15-24 (Document #13885), as follows:

~~Plc 803.11 Facilitated Registration for Active Duty Military and Military Spouses.~~

~~(a) An applicant for licensure who is on active military duty or who is a military spouse shall apply for licensure as provided in Plc 803.03, except that no application processing fee shall be required.~~

~~(b) Each applicant who applies for facilitated licensing under this section shall be eligible to obtain a facilitated license if the applicant meets the qualifications for licensure summarized in Plc 803.01.~~

~~(c) Any individual who obtains a facilitated license under this section shall comply with all license renewal requirements specified in Plc 805 if the individual wishes to continue to work as a ophthalmic dispenser in New Hampshire after the term of the initial registration.~~

PART Plc 804 REGISTRANT OBLIGATIONS; CONTINUING EDUCATION

Readopt with amendment Plc 804.01, effective 4-15-24 (Document #13885), to read as follows:

Plc 804.01 Registrant Obligations to Notify, Display Registration.

(a) Each registrant shall~~:~~ comply with Plc 307.02 relative to required notifications, updates of contact information, and providing information on how complaints can be filed.

~~(1) Notify the licensing bureau within 10 working days when a change of name occurs; and~~
~~(2) Update the OPLC's records within 10 working days when a change of personal contact information occurs.~~

(b) Registrants shall display their certificates of registration ~~A~~as required by RSA 327-A:8~~, registrants shall display their registrations so as to be visible to customers in their principal place of business~~.

~~(c) Each registrant shall know, and have available in the registrant's office or other place of business, information regarding how complaints can be filed with the OPLC.~~

~~(d) Each registrant shall inform the licensing bureau within 10 working days of any of the circumstances identified in Plc 307.02.~~

Readopt Plc 804.02, effective 4-15-24 (Document #13885), as follows:

Plc 804.02 Registrant Responsibilities for Renewal. Each registrant shall:

(a) Know when the individual's registration is due to expire; and

(b) File an application for renewal prior to the expiration of the current registration in accordance with Plc 805 if the registrant wishes to continue to practice in New Hampshire.

Readopt with amendment Plc 804.03, effective 4-15-24 (Document #13885), to read as follows:

Plc 804.03 Continuing Education.

(a) As required by RSA 327-A:14, registered ~~ophthalmic dispensers~~ opticians shall complete a minimum of 8 continuing education credits during the 2 year period prior to each renewal of registration.

(b) The credits shall be earned through any combination of live synchronous classes, whether attended remotely or in person, remote classes, or other online mechanisms.

(c) Continuing education events approved by the ABO-NCLE shall qualify for continuing education credits without pre-approval by the executive director.

(d) Events that are not approved by the ABO-NCLE shall be pre-approved by the executive director as described in Plc 804.04 to qualify for continuing education credits.

Readopt Plc 804.04, effective 4-15-24 (Document #13885), as follows:

Plc 804.04 Pre-Approval of Continuing Education Programs by the Executive Director.

(a) Requests for pre-approval of programs for continuing education credits shall be submitted by the organization sponsoring the event.

(b) Organizations requesting pre-approval of programs for continuing education credits shall submit requests to the executive director, in writing, at least 60 days prior to the scheduled event.

(c) Requests for pre-approval of programs for continuing education credits shall include:

(1) The name of the program;

(2) The location of the program;

(3) The sponsor or presenter of the program;

(4) The email address and telephone number of the sponsor or presenter;

(5) The email address and daytime telephone number of an individual who is authorized by the sponsor or presenter to interact with the OPLC regarding the application;

(6) A complete description of the program, including how the program will contribute to the advancement, extension, or enhancement of the professional skills and technical knowledge of ophthalmic dispensers;

(7) The total length of the program and the length of each segment if applicable;

(8) The date(s) on which the program is expected to be offered; and

(9) The number of continuing education credits being requested for the program.

(d) The executive director shall approve the proposed continuing education program if the program:

(1) Is sponsored by a national, regional, or state optical company or trade or professional association; and

(2) Contributes to the advancement, extension, or enhancement of the professional skills and the technical knowledge of ophthalmic dispensers.

Readopt with amendment Plc 804.05, effective 4-15-24 (Document #13885), to read as follows:

Plc 804.05 Documentation Requirements; Audits. ~~(a)~~ Each registrant shall retain documentation of participating in continuing education programs ~~for the current registration term and the most recent renewal period~~ in accordance with Plc 308.04 and shall be subject to the audit provisions of that section.

~~(b) Upon being notified by the OPLC that an on-line system administered by a third-party organization is available to manage continuing competence compliance, each registrant shall use the on-line system to track and report the completion of continuing education.~~

~~(c) The executive director shall audit registrant participation in continuing education by:~~

~~(1) Randomly selecting 10% of registrants each year to be audited; and~~

~~(2) Notifying each selected registrant of the audit by email sent to the registrant's designated email address.~~

~~(d) The notice sent pursuant to (c)(2), above, shall direct the registrant to submit documentation for the continuing education claimed by the registrant for the most recent renewal period to the executive director by a specified date, which shall be no sooner than 30 days from the date of the notice.~~

~~(e) In response to the notice, a registrant selected for audit shall submit the following to the executive director no later than the date specified in the notice.~~

~~(1) Documentation of attendance for a seminar or event, or documentation of successful completion of a self-directed program; or~~

~~(2) For any time period covered by the on-line system, a copy of the on-line records, subject to (f), below.~~

~~(f) In lieu of submitting a copy of the on-line records, a registrant selected for audit may provide the executive director with direct access to the on-line records.~~

PART Plc 805 REGISTRATION RENEWAL AND REINSTATEMENT

Readopt Plc 805.01, effective 4-15-24 (Document #13885), as follows:

Plc 805.01 Eligibility for Registration Renewal. To be eligible for renewal of a registration to practice ophthalmic dispensing, an individual shall:

(a) Have completed not less than 8 hours of continuing education, as required by RSA 327-A:14 and as described in Plc 804.03;

(b) Have paid all administrative and civil penalties imposed for violations relating to the practice of ophthalmic dispensing, if any; and

(c) Meet the eligibility for renewal criteria specified in Plc 308.02.

Readopt with amendment Plc 805.02 and Plc 805.03, effective 4-15-24 (Document #13885), to read as follows:

Plc 805.02 Notification of Pending License Expiration.

(a) ~~At least 60 days prior to the expiration of a registration, t~~The licensing bureau shall~~:~~ notify each registrant of the pending expiration of the individual's registration in accordance with Plc 308.03.

~~(1) Notify, in writing to the registrant's designated email address, each registrant whose registration is expiring that:~~

~~a. The registration is due to expire;~~

~~b. Failure to file a complete and timely application for renewal shall result in the registration expiring;~~

~~c. If the registration expires, the registrant shall not be able to work legally in New Hampshire unless and until a registration is reinstated;~~

~~d. The application for reinstatement shall require a new application processing and licensing fee; and~~

~~e. The application processing and licensing fee paid with the renewal application shall not be refunded; and~~

~~(2) Include with the notice a copy of the application identified in Plc 805.03(a) or, when the application becomes available on-line, a registration code for the registrant to use to renew on-line, if a code is necessary.~~

~~(b) A registrant who wishes to renew who does not receive an application or registration code shall contact OPLC customer support at~~ CustomerSupport@oplc.nh.gov ~~to obtain an application or code.~~

(~~c~~b) If an application for renewal is received by the OPLC after the expiration date of the registration, the registration shall be expired.

(~~d~~c) An ophthalmic dispenser whose registration has expired shall not practice ophthalmic dispensing in New Hampshire unless and until the registration ~~has been~~ is reinstated.

(~~e~~d) An ophthalmic dispenser whose registration has expired who wishes to be reauthorized to practice ophthalmic dispensing shall apply for reinstatement of the registration in accordance with Plc 805.~~10~~08.

Plc 805.03 Applying for Registration Renewal. A registrant who wishes to renew a registration to practice ophthalmic dispensing shall ~~submit the following to the licensing bureau~~ apply by complying with Plc 308.05, subject to the following:

~~(a) A completed "Universal Application for License Renewal" as tailored for ophthalmic dispensing registrations, dated March 2023, that provides the information required by Plc 308.06 and is signed and attested to as specified in Plc 308.08;~~

~~(b) The information and documentation required by Plc 308.07, as applicable;~~

~~(c) On or with the supplement required by Plc 308.05(b)(2), the applicant shall provide t~~The information ~~and attestation relative to meeting continuing education requirements, as specified in Plc 805.04; and~~

(~~d~~***a***) The fee shall be the application processing and licensing fee specified in Plc 1002.36, provided that applicants ~~applying for facilitated registration as~~ who are active military or a military spouse shall not pay the fee.

Repeal Plc 805.04, effective 4-15-24 (Document #13885), as follows:

~~Plc 805.04 Information and Attestation Relative to Continuing Education.~~

~~(a) An applicant for renewal of an ophthalmic dispensing registration shall provide the following information relative to continuing education:~~

~~(1) The total number of continuing education credits earned by the applicant since the beginning of the current registration term; and~~

~~(2) The following information for each continuing education program for which credit is claimed:~~

~~a. The name of the program;~~

~~b. The beginning and ending date(s) of the program;~~

~~c. The name and address of the sponsor of the program; and~~

~~d. The total number of continuing education hours claimed for the program.~~

~~(b) Submission of the information shall constitute the applicant's attestation that the applicant has met all continuing education requirements of RSA 327-A:14 and Plc 800.~~

Readopt with amendment Plc 805.05, effective 4-15-24 (Document #13885), and renumber as Plc 805.04 to read as follows:

Plc 805.0~~4~~***5*** ~~Initial Review~~ Processing of Renewal Applications; Decisions.

(a) ~~Within 30 days of receipt of an application submitted pursuant to Plc 805.03, the licensing bureau shall process the application~~ ***Applications shall be reviewed*** as provided in Plc 308.09.

(b) The application shall be subject to the abandonment and withdrawal provisions of Plc 308.10.

Repeal Plc 805.06 and Plc 805.07, effective 4-15-24 (Document #13885), as follows:

~~Plc 805.06 Withdrawal or Abandonment of Renewal Application.~~

~~(a) An applicant may withdraw an application to renew a registration at any time prior to being notified of a decision under Plc 805.07 by proceeding in accordance with Plc 308.10.~~

~~(b) A renewal application shall be deemed to be abandoned if the applicant files an incomplete application and does not provide all information necessary to complete the application when directed to do so pursuant to Plc 308.09.~~

~~(c) If the application is withdrawn or abandoned, the application processing and licensing fee shall not be refunded.~~

~~Plc 805.07 Review of Complete Renewal Applications; Decisions.~~

(~~a~~***c***) The licensing bureau shall review complete applications and notify the applicant of its decision as provided in Plc 308.11 and RSA 541-A:29, II.

~~(b) The licensing bureau shall issue a renewal the license of any registration if the applicant who:~~

~~(1) Has submitted an application that meets the requirements of Plc 805.03;~~

~~(2) Meets the eligibility for renewal criteria specified in Plc 308.02 and Plc 805.01;~~

~~(3) Has not been shown, through an adjudicative proceeding, to not be in compliance with RSA 327-A and Plc 800; and~~

~~(4) Has not been shown, through an adjudicative proceeding, to have engaged in an act that would result in denial under RSA 327-A:9.~~

~~(c) The licensing bureau shall notify the applicant of the decision on the application in writing sent to the applicant's designated email address.~~

~~(d) If the licensing bureau determines that the applicant has not demonstrated that all requirements to obtain a license are met, then:~~

~~(1) The licensing bureau shall deny the application; and~~

~~(2) The notice sent pursuant to (c), above, shall inform the applicant of the reason(s) for the denial and that the denial shall be final in 30 days unless the applicant requests a hearing in writing within 30 days.~~

~~(e) If the application is denied, the application processing and licensing fee shall not be refunded.~~

Readopt with amendment Plc 805.08 and Plc 805.09, effective 4-15-24 (Document #13885), and renumber as Plc 805.05 and Plc 805.06 to read as follows:

Plc 805.~~08~~***05*** Renewal Registration: Issuance and Duration.

(a) Renewal certifications shall be issued in accordance with Plc 308.13(a).

(b) Renewal certifications shall be valid as provided in Plc 308.13(b).

~~(a) Each renewal registration issued by the OPLC shall specify:~~

~~(1) The name of the registrant;~~

~~(2) The effective dates of the registration; and~~

~~(3) The registration number.~~

~~(b) Each renewal registration shall:~~

~~(1) Be valid for 2 years from the date of issuance, provided that the timely filing of a complete renewal application shall continue the validity of the registration being renewed until final action is taken on the renewal application;~~

~~(2) Expire 2 years from the date on which the registration was issued unless a timely and complete renewal application is filed or the registration is sooner suspended or revoked pursuant to Plc 807; and~~

~~(3) Be subject to renewal biennially.~~

Plc 805.~~09~~***06*** Challenging a Denial of Registration Renewal; Challenging Registration Conditions. An applicant who wishes to challenge the denial of an application for registration renewal or who wishes to challenge conditions included in the registration shall do so as provided in Plc 308.12.

Repeal Plc 805.10, effective 4-15-24 (Document #13885), as follows:

~~Plc 805.10 Reinstatement of a Registration After Expiration.~~

~~(a) An individual whose registration has expired shall not practice in New Hampshire unless and until the individual has obtained a license in accordance with RSA 327-A and Plc 800.~~

~~(b) An individual whose registration has expired who wishes to obtain a license in New Hampshire shall apply for reinstatement by filing a complete application for renewal, including obtaining the required number of continuing education credits.~~

Adopt new Plc 805.07 to read as follows:

Plc 805.07 Obtaining Certification After Expiration, Suspension, or Revocation. The procedures in Plc 312 shall govern obtaining ~~of~~ a certification after expiration, suspension, or revocation.

Repeal Plc 805.11, effective 4-15-24 (Document #13885), as follows:

~~Plc 805.11 Reinstatement of a Registration After Suspension or Revocation.~~

~~(a) Reinstatement of a registration previously suspended or revoked shall be in accordance with Plc 312.05, subject to (b) and (c), below.~~

~~(b) Pursuant to RSA 327-A:11, if a registration is revoked or an application is denied, no such registration shall be issued to such former registrant or applicant for at least 6 months from the date the revocation or denial was deemed final, provided that the individual may request the executive director to exercise the discretion authorized by RSA 327-A:11, I by requesting a waiver in accordance with Plc 211.~~

~~(c) An ophthalmic dispenser whose registration has been revoked or denied and who wishes to reapply for a registration shall reapply for an initial ophthalmic dispensing registration in accordance with Plc 803.03.~~

PART Plc 806 ETHICAL AND PROFESSIONAL STANDARDS

Readopt with amendment Plc 806.01, effective 4-15-24 (Document #13885), to read as follows:

Plc 806.01 Applicability.

(a) The standards in this part shall apply to each individual who applies to be registered under RSA 327-A or who is registered under RSA 327-A.

(b) Violations of these standards shall constitute unprofessional conduct that subjects the violator to disciplinary proceedings pursuant to Plc ***200***~~807~~.

Readopt Plc 806.02, effective 4-15-24 (Document #13885), as follows:

Plc 806.02 Ethical Standards. Each individual who is subject to this chapter shall:

(a) Ensure that any commercial interests of the individual or the individual's employer are not permitted to override the independent exercise of professional judgment with regard to a patient, or to compromise the standard of care provided, or to affect their cooperation with other healthcare providers;

(b) If an employer, refrain from exerting pressures on staff that may compromise patient welfare;

(c) Provide each patient with information that is sufficient to allow the patient to make informed decisions about the patient's care;

(d) If a patient's needs are beyond the scope or skills of the ophthalmic dispenser, advise the patient of this and refer the patient to a practitioner who has the necessary skills, knowledge, qualifications, and experience to address the patient's needs;

(e) Engage in activities only in those areas in which the individual is trained and competent;

(f) Maintain comprehensive, accurate, and up-to-date clinical records;

(g) Maintain appropriate privacy protections for all clinical records; and

(h) Delegate tasks only to personnel who are appropriately qualified and competent to perform the assigned task.

Readopt with amendment Plc 806.03, effective 4-15-24 (Document #13885), to read as follows:

Plc 806.03 Professional Obligations. Each individual who is subject to this chapter shall:

(a) Comply with RSA 327-A, Plc 300~~307.05 as reprinted in Appendix C~~, and Plc 800;

(b) Comply with any disciplinary or remedial orders issued by the executive director within any time periods specified;

(c) Interact with colleagues and patients with honesty and integrity;

(d) Not misrepresent professional qualifications or credentials;

(e) Cooperate with inspections and with lawful investigations by the executive director;

(f) Treat all individuals with whom the individual interacts in a professional capacity with respect and civility;

(g) Maintain sexual boundaries by:

(1) Refraining from any behavior that exploits the practitioner ~~patient~~ client relationship in a sexual way; and

(2) Avoiding any behavior that is sexual or sexually demeaning, or that could be reasonably interpreted as such, even when initiated by or consented to by the ~~patient~~ client or ~~a~~ colleague;

(h) Not engage in hazing or sexual, verbal, or physical harassment of any individual when interacting in a professional capacity; and

(i) Not discriminate based on age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, physical or mental disability, national origin, or any other class of individuals protected by law.

PART Plc 807 PROCEDURES FOR COMPLAINTS; DISCIPLINARY ACTIONS; WAIVERS

Readopt Plc 807.01 through Plc 807.03 effective 4-15-24 (Document #13885), as follows:

Plc 807.01 Complaint Procedure. Any person who wishes to file a complaint against an ophthalmic dispenser, or against an individual who is practicing ophthalmic dispensing without a registration, shall do so in accordance with Plc 204.

Plc 807.02 Complaint Investigation. Complaints alleging a violation of RSA 327-A or Plc 800, or both, shall be investigated as provided in Plc 204.

Plc 807.03 Revocation, Denial, and Disciplinary Action. Administrative disciplinary actions against an applicant or registrant, such as application denial, suspension or revocation of registration, or the imposition of a fine, shall be initiated and pursued as provided in Plc 206 and Plc 311.

Readopt with amendment Plc 807.04, effective 4-15-24 (Document #13885), to read as follows:

Plc 807.04 Administrative Fines. ~~(a) The executive director shall issue a written notice to any individual proposed to be subjected to an administrative fine that notifies the individual:~~

~~(1) Of the violation(s) for which the administrative fine is proposed;~~

~~(2) Of the amount of the proposed administrative fine;~~

~~(3) That the individual may request a hearing prior to the imposition of the fine; and~~

~~(4) Of the deadline for requesting a hearing, which shall be no sooner than 20 days from the date of the notice.~~

~~(b) If the recipient of the notice requests a hearing, the hearing shall be conducted in accordance with the provisions in Plc 200 and RSA 541-A that govern adjudicative proceedings.~~

~~(c) If the individual who is proposed to be fined waives the right to a hearing and chooses to pay the proposed fine, the fine shall be paid by sending payment in cash or by check or money order made payable to "Treasurer – State of New Hampshire" to the OPLC within 30 days of receipt of the notice of fine.~~

~~(d)~~ Administrative fines for violations of RSA 317-A or Plc 800 shall be imposed in accordance with RSA 310:12 and Plc 311 based on the following schedule of fines:

(~~1~~a) For submitting false or fraudulent material information on or with an application, the fine shall be $250 per item of material***ly*** false information submitted~~,~~ to a maximum of $3,000;

(~~2~~b) For falsifying a registration to practice ophthalmic dispensing, the fine shall be $250 for each day the individual practices ophthalmic dispensing under the falsified registration, to a maximum of $3,000;

(~~3~~c) For practicing ophthalmic dispensing, including the dispensing of plano lenses, without a registration, the fine shall be $250 per client served, to a maximum of $3,000;

(~~4~~d) For failing to submit a plan of correction in accordance with Plc 312.05, the fine shall be $250 for each month or portion thereof the plan is not submitted, to a maximum of $3,000;

(~~5~~e) For failing to implement and maintain a plan of correction, the fine shall be $250 per item not implemented, to a maximum of $3,000;

(~~6~~f) For failing to cooperate during an investigation, the fine shall be $250 per occurrence of non-cooperation, to a maximum of $3,000; and

(~~7~~g) For failing to display the certificate of registration as required by RSA 327-A:8, the fine shall be $250 per month or portion thereof the certificate of registration is not displayed, to a maximum of $3,000.

~~(e) If the executive director believes a fine is appropriate for a violation that is not included in (d), above, the amount of the fine to be sought shall be no more than $250 for each offense and scaled to reflect the scope and severity of the violation based on:~~

~~(1) How much the misconduct deviated from the requirement;~~

~~(2) Whether the misconduct was committed negligently, recklessly, or intentionally; and~~

~~(3) The extent of harm or potential for harm that occurred.~~

~~(f) As provided in RSA 327-A:17, the imposition of an administrative fine shall not preclude the imposition of further penalties or administrative actions.~~

Readopt Plc 807.05, effective 4-15-24 (Document #13885), as follows:

Plc 807.05 Waivers. Applicants or registrants seeking waivers of specific rules in this chapter shall submit a written request for waiver in accordance with Plc 211.

APPENDIX A: STATE STATUTES IMPLEMENTED

Rule	**State Statute(s) Implemented**
Plc 801.01(repeal)	RSA 327-A
Plc 801.01 – Plc 801.03	RSA 327-A:2 and RSA 327-A:13
Plc 802.01 (repeal)	
Plc 802.01(formerly Plc 802.02)	RSA 327-A:5, VI
Plc 802.03-Plc 802.07 (repeal)	
Plc 802.02 (formerly Plc 802.08)	RSA 327-A:5, VI
Plc 802.09 (repeal)	
Plc 802.03-802.07 (formerly Plc 802.10-Plc 802.17)	RSA 327-A:5, VI

Plc 802.15 (repeal)	
Plc 803.01 – Plc 803.05	RSA 310:4, II(c)
Plc 803.05 (repeal)	
Plc 803.05 (formerly Plc 803.06)	RSA 310:4, II(c)
Plc 803.07 and Plc 803.08 (repeal)	
Plc 803.06 (formerly Plc 803.10)	RSA 310:4, II(c)
Plc 803.07 (formerly Plc 803.09)	RSA 310:8, II
Plc 803.11 (repeal)	
Plc 804.01	RSA 327-A:8
Plc 804.02	RSA 327-A:2
Plc 804.03 – Plc 804.04	RSA 327-A:14
Plc 804.05	RSA 310:8
Plc 805.01- Plc 805.03	RSA 327-A:14
Plc 805.04 (repeal)	
Plc 805.04 (formerly Plc 805.05)	RSA 327-A:14
Plc 805.06 and Plc 805.07 (repeal)	
Plc 805.05- Plc 805.06 (formerly Plc 805.08 and Plc 805.09)	RSA 327-A:14
Plc 805.10 (repeal)	
Plc 805.07	RSA 327-A:14
Plc 805.11 (repeal)	
Plc 806	RSA 327-A:12, IV
Plc 807	RSA 310:9, RSA 310:10; RSA 310:11; RSA 310:12

APPENDIX B: STATUTORY PROVISIONS

327-A:1 Definitions. – In this chapter:

I. "Ophthalmic dispensing" means the design, verification, and delivery to the intended wearer of lenses, frames, and other specially fabricated optical devices upon prescription. It includes, but is not limited to, prescription analysis and interpretation; the taking of measurements, including the pupillary distance, to

determine the size, shape, and specifications of the spectacle lenses, frames, or lens forms best suited to the wearer's needs; the preparation and delivery of work orders to laboratory technicians engaged in grinding lenses and fabricating eyewear; the verification of the quality of finished ophthalmic products, the adjustment of lenses or frames to the intended wearer's face; the delivery of such ophthalmic products including instruction in hygiene and insertion and removal of contact lenses; and the adjustment, replacement, and reproduction of previously prepared ophthalmic lenses, frames, contact lenses, or other specially fabricated ophthalmic devices. It does not include the alteration without permission of the prescriber of any prescriptions, nor does it include the fitting of contact lenses which may only be performed by ophthalmologists or optometrists pursuant to law regulating such practices, unless the ophthalmic dispenser is in possession of a statement of delegation authorizing the fitting of contact lenses.

II. “Fitting contact lenses” means measurement of the shape of the eye, as well as determining the lens specifications, including base curve, size, shape, thickness, color, and material composition.

III. “Prescription for spectacle lenses” means a dated and signed, written or oral direction not more than 24 months old from an ophthalmologist or optometrist for therapeutic or corrective lenses which states the prescribed refractive power and when necessary, the vertex distance, cylinder axis, and prism. The oral prescription must be recorded and kept on file for one year by the ophthalmic dispenser.

IV. “Prescription for contact lenses” means a dated and signed, written direction specifying that it is for contact lenses or plano lenses, and shall include at least the power, size, curvature, color, and material composition of the lenses. A prescription for contact lenses may also include, at the prescriber's professional discretion, other parameters or instructions such as lens manufacturer, prescription expiration date, number of permitted refills, and a statement prohibiting substitutions. Such parameters or instructions shall be honored by a person filling the prescription. Unless otherwise specified by the prescriber for health reasons, a contact lens prescription shall expire one year from the date of issue.

VII. “Ophthalmic dispenser/optician” means anyone who sells or dispenses, upon prescription, spectacles, eyeglasses or contact lenses.

VIII. “Statement of delegation” means a written, signed statement from the prescribing ophthalmologist or optometrist which authorizes a named ophthalmic dispenser to fit the prescription for contact lenses. The statement shall be written on the prescription for contact lenses or shall be a letter which shall be attached to the prescription for contact lenses.

IX. “Plano lenses” means contact lenses with no refractive power.

Source. 1989, 389:1. 1995, 310:157, 158. 1998, 308:1. 2011, 121:4, 5. 2015, 276:92, 108, XXI, eff. July 1, 2015. 2022, 298:1, eff. Jan. 1, 2023**.**

327-A:13 Persons and Practices Not Affected. – Nothing in this chapter shall apply to:

I. Licensed physicians and surgeons authorized to practice medicine or surgery and licensed optometrists authorized to practice optometry under the laws of this state.

II. [Repealed.]

III. Any individual, firm, or corporation employing persons registered under this chapter.

IV. The activities of any employee of an ophthalmic dispenser, licensed physician, or optometrist if the employee is not engaged in ophthalmic dispensing as defined in RSA 327-A:1, I. Such activities shall include, but not be limited to, the sale of related products, work performed by laboratory technicians, and the making of minor mechanical repairs on eyeglasses or frames.

Source. 1989, 389:1. 1998, 308:3. 1999, 221:1, 2, eff. Sept. 4, 1999.