Readopt with amendment Opt 101.01, effective 12-5-01 (Document #7607), to read as follows:

CHAPTER Opt 100 ORGANIZATION, DEFINITIONS AND PUBLIC INFORMATION

PART Opt 101 PURPOSE AND SCOPE

Opt 101.01 Purpose and Scope. The~~ rules of this title implement the following authority and responsibilities of the~~ B***b***oard ***of registration*** of ~~O~~***o***ptometry ***is to adopt rules relative to***:

(a) ~~Examination and licensing of optometrists~~ ***How an applicant shall be examined including what constitutes a passing grade;***

(b) ~~Oversight and discipline of licensees~~ ***The qualifications of applicants in addition to those requirements set by statute***;

(c) ~~Development of~~ ***The*** ethical and other professional standards to be followed by licensees; and

(d) ~~Development~~ ***Requirements for*** ~~of~~ continuing professional education***, in addition to those requirements set by RSA 327:33 and RSA 327:33-a; and***

(e) The criteria ~~requirements and other prerequisites~~ for the renewal or reinstatement of licenses.

PART Opt 102 DEFINITIONS

Readopt with amendment Opt 102.01 and Opt 103, effective 5-10-25 (Document #14211), to read as follows:

Opt 102.01 Terms Used. As used in these rules, the following terms shall have the meanings indicated:

(a) "Board" means the board of registration in optometry ~~created~~ ***established*** by RSA 327:2;

(b) "Licensee" means a person holding a license, certificate, or registration issued by the office of professional licensure and certification (OPLC);

(c) "Out of state contact lens dispenser" means any non-pharmacy business organization physically located outside of New Hampshire that offers contact lenses for retail sale to customers inside New Hampshire;

(d) "Prescription" means the written specifications for a spectacle lens or contact lens, necessary for the manufacture of such lens;

(e) "Pharmaceutical agent" means "pharmaceutical agent" as defined in RSA 327:1, III, namely, "the following pharmaceutical products:

(a) Non-legend, over the counter, agents;

(b) Mydriatic and cycloplegic agents which are topically applied.

(c) Miotic agents ~~approved pursuant to RSA 327:6-a, VI~~.

(d) Antibiotics,~~ sulfonomides~~, ***sulfonamides*** and combinations thereof, which are topically applied or orally administered to treat or alleviate the effects of disease or abnormal conditions of the human eye, adnexa, and eyelids, or structures posterior to the iris, approved pursuant to RSA 327:6-a, VI.

(e) Anti-allergy medications, including but not limited to antihistamines, decongestants, and mast-cell stabilizers which are topically applied.

(f) Anesthetics and dyes which are topically applied.

(g) Ocular lubricants and hypertonic agents which are topically applied.

(h) Orally administered analgesic agents used for the purpose of alleviating pain caused by a disease or abnormal condition of the human eye or eyelid, or structures posterior to the iris. This may include class III and IV controlled substances ~~approved pursuant to RSA 327:6-a, VI and included in the formulary~~.

(i) Other pharmaceutical agents, any solely diagnostic agents, and diagnostic agents combined with pharmaceutical agents as defined in this paragraph ***and included in the formulary*** ~~and as approved~~ pursuant to RSA 327:6-a, VI.

(j) Non-steroidal anti-inflammatory agents approved pursuant to RSA 327:6-a, VI.

(k) Anti-glaucoma agents provided that an optometrist may dispense or prescribe such agents if the optometrist has met the requirements of RSA 327:6-c.

(l) Corticosteroids which are topically applied, as approved by the board.

(m) Antivirals ~~which are approved pursuant to RSA 327:6-a, VI~~.

(n) Corticosteroids or antivirals, provided that optometrists with patients on corticosteroids or antivirals who demonstrate no improvement in 10 days shall be referred to an ophthalmologist.

(o) Influenza, COVID-19, and shingles vaccines which have been approved by the Food and Drug Administration to adults."

(f) "Therapeutic pharmaceutical agents (TPA)" means such agents used in the diagnosis and treatment of illnesses of the eyes;

(g) "TPA-certified" means that the licensee has obtained the necessary training and qualifications to administer therapeutic pharmaceutical agents in the practice of optometry; and

(h) "TPA/G-certified" means that the licensee has obtained the necessary training and qualifications to administer therapeutic pharmaceutical agents in the practice of optometry, including the treatment of glaucoma.
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PART Opt 103 AGENCY ORGANIZATION

Opt 103.01 Composition of the Board.

(a) The board shall consist of 5 members ***each to be appointed by the governor, with the approval of the council, to a term of 5 years***~~who meet the eligibility requirements of RSA 327:2~~.

(b) In January of each year, the board shall elect one member to serve as chair and one member to serve as vice chair for the coming year.

(c) The chair and vice chair shall serve no more than 2 consecutive one-year terms.

Opt 103.02 Office Hours, Office Location, Mailing Address, Telephone, and TTY/TDD.

(a) The board's offices are located at:

Office of Professional Licensure and Certification
7 Eagle Square

Concord, NH 03301

(b) The offices are open to the public Monday through Friday, excluding state legal holidays, from 8:00 a.m. to 4:00 p.m.

(c) Correspondence shall be addressed to the board at the location stated in ***Plc 103.03*** ~~Opt 103.02(a)~~.

(d) The office of professional licensure and certification (OPLC) telephone number is (603) 271-2152.

(e) The OPLC's TTY/TTD number is 1-800-735-2964.

Readopt with amendment Opt 104.02, effective 5-10-25 (Document #14211), to read as follows:

Opt 104.02 Records Requests. Requests for records shall be made in accordance with Plc 10***4***~~3~~.

PART Opt 105 MEETINGS, DELIBERATIONS AND DECISIONS

Readopt with amendment Opt 105.01, effective 7-28-00 (Document #7325), to read as follows:

Opt 105.01 Meetings. The board shall meet 6 times a year and at such additional times as shall be called for by the ***chair*** ~~president~~ or by vote of the board.

Readopt with amendment Opt 105.02, effective 5-10-25 (Document #14211), to read as follows:

Opt 105.02 Quorum. A quorum shall be ***a majority of the members currently serving on the board.*** ~~required to hold a meeting, conduct a hearing, or receive information of any kind, and final action shall be taken only by the affirmative vote of a majority of the board members eligible to participate in the matter in question~~.

Change the heading for Part 106 to read as follows:

PART Opt 106 ~~APPOINTMENT OF~~ ***BOARD SUB***COMMITTEES

Readopt with amendment Opt 106.01, effective 5-10-25, (Document #14211), to read as follows:

Opt 106.01 ~~C~~***Sub***ommittees. ~~A committee shall consist of one or more board members who have been directed by the board to research matters and make recommendations on those matters which are within the scope of the board's authority.~~ ***Plc 214 shall govern subcommittees***

CHAPTER Opt 200 RULES OF PRACTICE AND PROCEDURE

PART Opt 201 APPLICABILITY AND WAIVER OF SUBSTANTIVE RULES

Readopt with amendment Opt 201.01, effective 5-11-24 (Document #13899), to read as follows:

Opt 201.01 Rules of Practice and Procedure. The Plc 200 rules shall govern with regards to all procedures for:

(a) ***The conduct of adjudicative and non-adjudicative*** ~~Adjudicatory~~ proceedings;

(b) Rulemaking submissions, considerations, and dispositions of rule making petitions;

(c) Public comment hearings;

(d) Declaratory rulings;

(d) All statements of policy and interpretation;

(e) Explanation of adopted rules; ~~and~~

(f) Voluntary surrender of licenses***;***

(g) The receipt and investigation of misconduct complaints;

(h) Expungement;

(i) Subcommittees; and

(j) The waiver of administrative rules.

Repeal Opt 201.02, effective 5-11-24 (Document #13899), as follows:

~~Opt 201.02 Waiver of Administrative Rules.~~

~~(a) The board shall initiate a waiver of a substantive rule upon its own motion by providing affected parties with notice and opportunity to be heard, and issuing an order which finds that waiver would be necessary to advance the purpose of the rules of the board.~~

~~(b) Individuals who wish to request a waiver of a rule shall submit a written request to the board, which includes:~~

~~(1) The rule for which a waiver is requested;~~

~~(2) The anticipated length of time the requested waiver will be needed;~~

~~(3) The reason for requesting the waiver;~~

~~(4) Evidence of how the waiver will provide for the health and safety of the consumer or licensee;~~

~~(5) A time-limited written compliance plan which sets forth plans to achieve compliance including an estimated date of compliance; and~~

~~(6) The signature of the applicant.~~

~~(c) The board shall consider the following when determining whether to approve or deny a waiver:~~

~~(1) If adherence to the rule would cause the petitioner unnecessary or undue hardship;~~

~~(2) If the requested waiver is necessary because of any neglect or misfeasance on the part of the practitioner;~~

~~(3) If enforcement of the rule would injure a third person(s); and~~

~~(4) If waiver of the rule would injure a third person(s).~~

~~(d) The board shall approve a waiver of an administrative rule request only if:~~

~~(1) Granting a waiver does not have the effect of waiving or modifying a provision of RSA 327;~~

~~(2) The petitioner has shown good cause exists pursuant to (c) above to waive the rule; and~~

~~(3) The board determines that the individual's plans for compliance with the rule includes an estimated date of compliance and eventual compliance.~~

~~(e) If the board, after receiving and reviewing a request for a waiver, requires further information or documentation to grant or deny the waiver, the board shall:~~

~~(1) Notify the applicant in writing within 30 days; and~~

~~(2) Specify the information or documentation the board requires.~~

~~(f) The board shall issue a written approval or denial of the waiver within 60 days of the date the request is received, unless additional information or documentation is required. If additional information and documentation is required, then the board shall issue a written approval or denial within 60 days of receiving the requested information or documentation.~~

APPENDIX A - Statutes Implemented

Rule	Specific State Statute the Rule Implements
Opt 101.01	RSA 327:31
Opt 102.01	RSA 541-A:16, I(a); RSA 327:1, III
Opt 103.01	RSA 541-A:16, I(a)
Opt 103.02	RSA 541-A:16, I(a)
Opt 104.02	RSA 541-A:16, I(a)
Opt 105.01	RSA 541-A:16, I(a)
Opt 105.02	RSA 541-A:16, I(a)
Opt 106.01	RSA 310:6, II; RSA 310:2, IV
Opt 201.01	RSA 310:6, II; RSA 310:2, IV
Opt 201.02 (repeal)	RSA 541-A:16, I(b)