

**ARTICLE 56-01
GENERAL ADMINISTRATION**

Chapter
56-01-01 Organization of Board

**CHAPTER 56-01-01
ORGANIZATION OF BOARD**

Section
56-01-01-01 Organization of Board of Optometry

56-01-01-01. Organization of board of optometry.

1. History and function. The 1903 legislative assembly passed legislation regulating the practice of optometry, codified as North Dakota Century Code chapter 43-13. This chapter establishes a seven-member board of optometry appointed by the governor. The board regulates the profession of optometry in the state.

2. Board membership. The board consists of seven members appointed by the governor. Five members are resident registered optometrists and have established optometric practices in the state. Members of the board serve five-year terms.

3. ~~Secretary Officers.~~ The board shall annually elect from their number a president and a secretary. The president shall preside at all meetings of the board. The secretary shall preside in the absence of the president.~~is a member of the board elected as secretary of the board. The secretary maintains records of board proceedings and is responsible for administration of the board's activities.~~

4. Inquiries. Inquiries regarding the board and any submissions to the board or any officers of the board shall ~~may~~ be ~~addressed~~ submitted to the ~~secretary~~ board administrator:

Alan J. King, OP
Secretary Board Administrator
State Board of Optometry
45 West Eighth Street
Dickinson, ND 58601

History: Amended effective December 1, 1987; October 1, 1989; January 1, 1992.
General Authority: NDCC 28-32-02.1, 43-13-13
Law Implemented: NDCC 28-32-02.1

**ARTICLE 56-02
OPTOMETRIST LICENSURE**

Chapter	
56-02-01	Optometrist Examination and Licensure
56-02-02	Continuing Education
56-02-03	Unethical Practices
56-02-04	Equipment, Examination, Prescription, and Fee Requirements
56-02-05	Certification - Pharmaceutical Agents, Controlled Substances, and Treatment of Glaucoma
56-02-06	Disciplinary Action - Procedure

**CHAPTER 56-02-01
OPTOMETRIST EXAMINATION AND LICENSURE**

Section	
56-02-01-01	Requirements for Licensure
56-02-01-02	Examination Questions Concerning Optometric Jurisprudence
56-02-01-03	Waiver of Practical Examination [Repealed]
56-02-01-04	Address of Each Optometric Office
56-02-01-05	Waiver of License Fee [Repealed]
56-02-01-06	Optometrist Compliance Verification
56-02-01-07	Licensure Fees

56-02-01-01. Requirements for licensure.

The board shall provide application forms to be completed by applicants and ~~set the date, time, place, and content of each examination for an initial license to practice optometry~~identify the examinations required of applicants and licensees to determine an individual's fitness under the law and this title for licensure. ~~Such~~The board shall require applicants to pass the North Dakota state optometry law examination and to pass written national tests ~~and standards as are~~ deemed reasonably necessary ~~and uniformly applied~~ by the board. The board requires applicants to take a practical examination and may require a licensee to take an examination on optometric knowledge and skills ~~may be required by the board to determine a candidate's fitness under the law and this title for such licensure.~~

History: Amended effective December 1, 1987; April 1, 1990.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-16, 43-13-17

56-02-01-02. Examination questions concerning optometric jurisprudence.

The board shall refuse to admit an applicant to its examination for license to practice optometry unless and until the applicant shall have answered in the affirmative each of the following questions pertaining to optometric jurisprudence, and shall have satisfied the board of the applicant's honesty and good faith in so answering the questions:

1. Do you consider optometry a profession?
2. Would you sacrifice profit for the benefit of your patient?
3. Will you cooperate with practitioners of other professions in your work as an optometrist?
4. Will you continue as a student and take advantage of all educational opportunities to the best of your ability?
5. Will you endeavor to raise the standard of optometry and assist in every way possible to create a better understanding among fellow optometrists, professionally, educationally, and ethically?
6. Do you realize that under North Dakota law, you can only be employed by a licensed optometrist, a physician licensed under chapter 43-17, a hospital, or a clinic operated by licensed optometrists or by licensed physicians?
7. Would you consult a fellow optometrist in the interest of your patient's welfare?
8. Will you familiarize yourself with the North Dakota optometry law and the rulings of the board, abide by the same, and assist the board and other officers in enforcement of the law?

History: Amended effective December 1, 1987; April 1, 1990; July 1, 2008.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-22, 43-13-28

56-02-01-03. Waiver of practical examination.

Determined repealed by the office of the Legislative Council under subsection 3 of North Dakota Century Code section 28-32-03 because statutory authority supersedes the rule under S.L. 1999, ch. 377.

56-02-01-04. Address of each optometric office.

Registered optometrists shall at all times keep the ~~secretary of the North Dakota state board of optometry~~ informed of the correct street addresses of each of their offices and their correct mailing addresses.

History: Amended effective December 1, 1987.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-11, 43-13-23

56-02-01-05. Waiver of license fee.

Repealed effective January 1, 1995.

56-02-01-06. Optometrist compliance verification.

The board may require any licensed optometrist to submit written answers to questions regarding the optometrist's compliance with this title or North Dakota Century Code chapter 43-13. The board may require that such answers be given under oath.

History: Effective December 1, 1987.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-14, 43-13-22

56-02-01-07. Licensure fees.

The following fees must be paid to the board:

1. A fee ~~fixed by the board, not to exceed~~of two hundred ~~fifty~~ dollars, must accompany an application for ~~examination for~~ a license to practice optometry.
2. A fee ~~fixed by the board, not to exceed five of two~~ hundred dollars, must be paid by any optometrist seeking to be licensed in this state by reciprocity.
3. A fee ~~fixed by the board, not to exceed five of two~~ hundred dollars, must be paid annually for renewal of a license to practice optometry.

History: Effective April 1, 1990; amended effective January 1, 1995.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-17, 43-13-18, 43-13-20

56-02-01-09. Licensure Renewal.

The board shall provide forms upon which applications for renewal shall be submitted. Renewal applications shall be submitted annually, during December of each year. A license may be renewed by the board upon the satisfactory submission of:

- a. A completed application for renewal form.
- b. The fee for renewal of a license.
- c. Documents indicating the applicant for renewal has met continuing education requirements.

56-02-01-10. Military spouse licensure.

The board shall license individuals that meet the definition of military spouse set forth in North Dakota Century Code section 43-51-01 who meet the following requirements.

1. The military spouse demonstrates competency in optometry through methods or standards determined by the board which must include experience in optometry for at least two of the four years preceding application.
2. The board determines the issuance of the license will not substantially increase risk of harm to the public.

The board may require the submission of any information it deems necessary to assist it in making its determination. The board may deny a license if the board determines the applicant does not meet the above requirements. If the board determines that the applicant substantially meets the above requirements, the board may issue a provisional license. When issuing a provisional license, the board may explain the steps necessary for the applicant to fully meet the above requirements and be issued a non-provisional license. A provisional license shall be automatically granted by the board if the board does not deny or grant the license within thirty days of application. The board may place conditions on any license or provisional license. Military spouses shall not be assessed fees for the issuance of a license or provisional license under this section. A provisional license may be valid for up to two years. Provisional licenses expire if:

1. The board grants the application for license.
2. The board denies the application for licensure.
3. The provisional license expires.
4. The board revokes the provisional license to protect the public safety.
5. The applicant fails to meet any steps or conditions the board placed on the provisional license.

CHAPTER 56-02-02 CONTINUING EDUCATION

Section

- 56-02-02-01 Postgraduate Educational Requirements
- 56-02-02-02 Compliance With Educational Requirements
- 56-02-02-03 Notification by Secretary of the Board [Repealed]
- 56-02-02-04 Certificate of Compliance
- 56-02-02-05 Secretary to Keep Records of Compliance

56-02-02-01. Postgraduate Continuing educational requirements.

1. The continuing educational requirements that are in effect through December 31, 2021, are as follows. As a condition of the annual renewal of the license to practice optometry, every registered optometrist licensee shall have attended, during the three-year period preceding the date of renewal fifty classroom hours of optometric educational programs required by North Dakota Century Code section 43-13-20, hereinafter called educational requirements.
2. -The continuing educational requirements that take effect on January 1, 2022, are as follows:
 - a. Licensees shall submit a renewal application form in December of every year. When renewing a license in odd-numbered years the board shall confirm that the licensee attended, during the two-year period preceding the date of renewal, no less than forty hours of optometric educational programs required by North Dakota Century Code section 43-13-20, hereinafter called educational requirements.
 - b. Licensees whose initial license was issued by the board during an odd-numbered year need not need submit proof of continuing education when renewing the licensee in December of that first year of licensure.
 - c. Licensees whose initial license was issued by the board during an even-numbered year shall submit proof of completing twenty continuing education when renewing the licensee in December of the subsequent odd-numbered year.

History: Amended effective December 1, 1987; April 1, 1990; November 1, 1997; July 1, 2008.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-20

56-02-02-02. Compliance with educational requirements.

The required number of hours of educational requirements may be obtained by one or more of the following methods:

1. Educational programs, clinics, seminars, meetings, or study sessions without or within North Dakota ~~that may be~~ approved by the state board of optometry. A request for approval for a particular educational program, clinic, seminar, meeting, or study session must be made to the board at least thirty days prior to the educational meeting and the board shall either grant or deny its approval of such educational meeting within a reasonable period of time in advance of such educational meeting.
2. In situations of extenuating circumstances that result in a hardship and upon receipt by the board of satisfactory evidence of such circumstances, the board may approve ~~specific home study educational material for part or all of such~~ extensions of the deadlines for meeting educational requirements.

History: Amended effective December 1, 1987; January 1, 1995.

General Authority: NDCC 43-13-20

Law Implemented: NDCC 43-13-20

56-02-02-03. Notification by secretary of the board.

Repealed effective December 1, 1987.

56-02-02-04. Certificate of compliance Categories of educational requirements. All optometrists licensed in this state must file with the secretary a certification of educational program compliance with the optometrist's annual license fee on forms which shall be provided by the secretary. No more than ~~twenty-five percent of the total~~ six hours ~~certified within a two-year reporting cycle~~ may be in practice management. No more than ~~twenty-five percent~~ sixteen of the total hours ~~certified within a two-year reporting cycle~~ may be earned by ~~correspondence~~ means other than in-person, face-to-face sessions. Submission of proof that a licensee has completed a course on cardiopulmonary resuscitation approved by the board, and that is deemed by the course provider as being valid through the two-year reporting cycle, may be accepted as the equivalent of two hours.

History: Amended effective December 1, 1987; January 1, 1995.

General Authority: NDCC 43-13-20

Law Implemented: NDCC 43-13-20

56-02-02-05. Secretary to keep records of verify compliance.

The secretary, or the secretary's designee, shall ~~keep accurate~~verify records of the number of ~~classroom~~ hours which registered optometrists have credited toward meeting the educational requirements. At least six months prior to the end of any applicable registration period, the secretary shall give notice, ~~by certified mail,~~ to any registered optometrist who is six or more hours short of meeting the educational requirements for the ~~threetwo~~-year period ending on the date of renewal. Such notice must advise the registered optometrist of the number of hours of optometric educational programs which must be completed within the balance of the ~~threetwo~~-year period in order to comply with this section and North Dakota Century Code section 43-13-20.

History: Amended effective December 1, 1987.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-20

CHAPTER 56-02-03 UNETHICAL PRACTICES

Section

56-02-03-01 Cappers and Steerers Prohibited

56-02-03-02 Code of Ethics

56-02-03-01. Cappers and steerers prohibited.

The use of so-called "cappers" and "steerers" and splitting of fees for the purpose of obtaining patients is unlawful. For a person registered under the North Dakota optometry law to make a house-to-house canvass or otherwise, either in person or through solicitors or agents, for the purpose of selling glasses, eye examinations, or other optometric services, is declared unprofessional and unlawful. It is prima facie evidence that an optometrist is obtaining business by using and employing suppliers as a "capper" or "steerer" in violation of this section and the law where there is any arrangement, agreement, or practice whereby a supplier of ophthalmic materials:

1. Provides office space for a practicing optometrist.
2. Pays rent for the office space occupied by a practicing optometrist.
3. Pays the professional fees of a practicing optometrist.
4. Pays for any advertising for a practicing optometrist.
5. Pays commissions to a practicing optometrist upon ophthalmic materials furnished to the optometrist or the optometrist's patients.
6. Refers prospective purchasers of ophthalmic materials to a specific optometrist.
7. Otherwise directs prospective purchasers of ophthalmic materials to a specific optometrist.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-13

56-02-03-02. Code of ethics.

Unethical conduct is conduct contrary to the ethics of the optometric profession as hereinafter set forth. The following code of ethics is adopted as a standard by the board of optometry. It shall be the ideal, the resolve, and the duty of all holders of certificates of registration to practice optometry in North Dakota to:

1. Keep the visual welfare of the patient uppermost at all times.
2. Keep inviolate all confidences committed to the optometrist in the optometrist's professional relationship with the patient.
3. Support organized optometry in its efforts to advance and promote the highest ideals of professional service.
4. Refrain from any exaggeration of a patient's condition.
5. Keep informed as to developments in the profession and to contribute the optometrist's share to the general knowledge and advancement of the profession by all means within the optometrist's power.
6. Refrain from all criticism reflecting upon the skill of a colleague.
7. Refuse to be employed by a person other than a licensed optometrist, a physician licensed under North Dakota Century Code chapter 43-17, a hospital, or a clinic operated by licensed optometrists or by licensed physicians.
8. Refrain from employing fraud, deceit, misrepresentation, or fraudulent advertising in the practice of optometry.
 - a. No person licensed to practice as an optometrist may:
 - (1) Seek to obtain patients by advertising or other forms of solicitation in a manner that is false, fraudulent, deceitful, misleading, or deceptive.
 - (2) On the person's own behalf or on behalf of a partner, associate, association, corporation, organization, group, individual, or any other optometrist affiliated with the person, use or participate, directly or indirectly, in a false, fraudulent, deceitful, misleading, or deceptive statement or claim.
 - b. No person licensed to practice as an optometrist may, directly or indirectly, make any false, fraudulent, deceitful, misleading, or deceptive statements to any person or the public which:
 - (1) Create false, fraudulent, misleading, deceptive, or unjustified expectations of favorable results.

- (2) Make comparisons with other optometrists which are false, fraudulent, deceitful, misleading, or deceptive.
 - (3) Contain representations that would be likely to cause a reasonable person to misunderstand or be deceived.
- c. Any public statement or advertisement concerning ophthalmic services or materials, including, but not limited to, lenses, frames, spectacles, contact lenses, or parts thereof, must include the following explanation, warnings, or disclaimers.
- (1) Any advertisement of prescription spectacles or contact lenses is required to contain language to the effect that an eye doctor's prescription is required for the purchase of such prescription spectacles or contact lenses.
 - (2) Any price advertisement of prescription spectacles or contact lenses is required to contain the following information or be subject to the following conditions:
 - (a) A statement of whether or not the cost of an examination by an eye doctor is included in the price.
 - (b) If any advertised goods are to be available to the public at the advertised price, the advertisement must state the time limitation on the offer.
 - (c) The total quantity available under any advertisement shall be the amount reasonably anticipated to meet the anticipated market demand therefor unless "rainchecks" are given and filled within a reasonable time. If limited quantities are available, the advertisement must so state and give the number available whenever reasonably possible.
 - (d) Any statement or advertisement which offers a discount on the price of ophthalmic materials or services (collectively "items") must specify the regular price of the materials or services if the total discounted items included in such statement or advertisement are five or less. For any such materials or services so advertised, the regular price must be conspicuously posted at the location where such materials and services are available for purchase and made available by telephone or other reasonable inquiry. If the total

discounted items exceed five and the regular price is not so specified, then the statement or advertisement must include the statement that the "regular price is available upon request".

- (e) Any statement or advertisement which involves professional services shall be deemed to include the usual and customary services. If such services are not included, then it must be disclosed what services are included in the price quoted and specifically whether the price includes professional examination and prescription and whether additional charges may be made for related or subsequent services required in individual cases.
 - (f) When contact lenses are advertised, a statement must be included giving the brand name, whether the price or discounted price includes an eye examination and all required accessories and, if not, what the examination, fitting, and followup care is, consists of, and what accessories are included in the advertised price.
- d. Any statement or advertisement which purports to provide a "guaranteed cure" of any condition as a result of ophthalmic services or materials is false and misleading. This provision is not to be construed as prohibiting the advertising and giving of refunds to dissatisfied customers.
 - e. Any statement or advertisement which makes unsubstantiated claims comparing prices or quality of services or materials, or both, such as "best examination", or "lowest prices" as an inducement shall be presumed to be misleading. All offers of "free" merchandise or service must be made with extreme care so as to avoid any possibility that consumers will be misled or deceived. When making "free" or similar offers, all the terms, conditions, and obligations upon which receipt and retention of the "free" item are contingent must be set forth clearly and conspicuously at the outset of the offer so as to leave no reasonable probability that the terms of the offer might be misunderstood. If an offer is introductory:
 - (1) No "free" offer should be made in connection with the introduction of a new product or service offered for sale at a specified price unless the offerer expects, in good faith, to discontinue the offer after a limited time and to commence

selling the product or service promoted, separately, at the same price at which it was promoted with the "free" offer; and

- (2) In such offers, no representation may be made that the price is for one item and that the other is "free" unless the offerer expects, in good faith, to discontinue the offer after a limited time and to commence selling the product or service promoted, separately, at the same price at which it was promoted with a "free" offer.
- f. Any optometrist who practices optometry under, or uses in connection with the practice of optometry as allowed by law and these regulations, any assumed name, corporate name, partnership name, trade name, or any name other than the name under which the optometrist is certified and licensed to practice optometry in North Dakota shall file an affidavit with the secretary of the North Dakota state board of optometry on forms provided by it stating such name and the individual names of optometrists practicing under such name; provided, however, that optometrists may practice under the name of a properly certified and registered professional corporation and that optometrists practicing as partners may practice under the full or last names of the partners. Optometrists who are employed by other licensed resident optometrists shall practice in their own names, but may practice in an office listed under the name of the individual optometrists or partnership of optometrist or professional corporation by whom they are employed. No optometrists may practice under any name that falsely, fraudulently, deceitfully, misleadingly, or deceptively portrays the services rendered or goods sold under such name.
 - g. Copies (photocopies, tape recordings, videotapes, or other original or accurate reproductions) of all advertising disseminated by or on behalf of an optometrist in this state must be kept as a part of the business records of such optometrist for one year from the date of such advertising.
9. A licensee may only practice optometry in the following settings:
 - a. As an individual optometrist in a private practice.
 - b. As an employee of an optometrist or physician licensed to practice in the state of North Dakota.
 - c. As an employee of a clinic operated by licensed optometrists or by licensed physicians.

- d. As an employee of a hospital.
- e. As a member of a group composed of optometrists or physicians licensed to practice in North Dakota.
- f. As an optometrist practicing under an independent contract in a setting which is not a hospital or clinic operated by licensed optometrists or licensed physicians, provided the optometrist is responsible for the following:
 - (1) The type, extent, availability, and quality of optometric services.
 - (2) The type of ophthalmic materials available, prescribed, or dispensed.
 - (3) Files and records relating to patients and the optometric practice.
 - (4) Optometric prescriptions.
 - (5) Scheduling and availability of optometric services.
 - (6) Time limitations on patient examinations.
 - (7) Volume of optometric patients.
 - (8) Fee schedules for optometric services and materials, and the establishment thereof, including billing methods.
 - (9) Information disseminated to the public regarding optometric services.

History: Amended effective December 1, 1987; July 1, 2008.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-22(6)

CHAPTER 56-02-04 EQUIPMENT, EXAMINATION, PRESCRIPTION, AND FEE REQUIREMENTS

Section

56-02-04-01 Minimum Equipment Requirements

56-02-04-02 Minimum Examination Requirements

56-02-04-03 Minimum Prescription and Fee Standards

56-02-04-04 Failure to Comply With Minimum Equipment, Examination, and Prescription Standards

56-02-04-01. Minimum equipment requirements.

The minimum requirements of office equipment and accessories for optometrists, all of which shall be maintained in good working condition at each location where examinations are conducted, shall be those customarily used and available according to the prevailing standards of the profession in the state of North Dakota.

History: Amended effective December 1, 1987.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-22

56-02-04-02. Minimum examination requirements.

The minimum care which an optometrist shall provide in all cases shall include the patient's case history, records, examination, diagnosis, and treatment as meet the generally accepted standard of care for the practice of optometry, but not less than required by law and these rules. An optometrist shall keep and maintain permanent records of each patient for a minimum of six years from the last contact with the patient documenting the care, case history, records, examination, diagnosis, and treatment of each patient.

History: Amended effective January 1, 1995.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-13, 43-13-13.2, 43-13-13.3

56-02-04-03. Minimum prescription and fee standards.

1. Optometrists shall make available to their patients a copy of their spectacle (not contact lenses) prescription upon request. Every spectacle prescription shall have noted thereon an expiration date not to exceed thirty-six months.
2. Optometrists shall make available to their patients a copy of their contact lens prescription upon completion of the fitting. An optometrist may require

payment of fees for an eye examination, fitting, and evaluation before the release of a contact lens prescription, but only if the optometrist requires immediate payment in the case of an examination that reveals no requirement for ophthalmic goods. For purposes of the preceding sentence, presentation of proof of insurance coverage for that service shall be deemed to be a payment. Every contact lens prescription shall have noted thereon an expiration date not to exceed twelve months.

3. Every licensed optometrist shall make available to the patient, upon request, information showing how the fee was calculated, including the amount charged for professional services rendered and for the laboratory cost of the ophthalmic materials used.

History: Amended effective December 1, 1987; January 1, 1995; July 1, 2008.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-22

56-02-04-04. Failure to comply with minimum equipment, examination, and prescription standards.

In the absence of compelling reason to the contrary, it shall be considered grossly incompetent for an optometrist to willfully or repeatedly fail or neglect to comply with the minimum equipment, examination, and prescription standards of this chapter.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-13

CHAPTER 56-02-05
CERTIFICATION - PHARMACEUTICAL AGENTS, CONTROLLED SUBSTANCES,
AND TREATMENT OF GLAUCOMA

Section

- 56-02-05-01 Authority to Administer Pharmaceutical Agents
- 56-02-05-02 Examination and Course Requirements
- 56-02-05-03 Therapeutic Pharmaceutical Agents Examination Requirement
- 56-02-05-04 Prior Classroom and Clinical Experience
- 56-02-05-05 Oral or Written Examination or Both
- 56-02-05-06 Continuing Education Requirements
- 56-02-05-07 Fees [Repealed]
- 56-02-05-08 Prescribing Controlled Substances
- 56-02-05-09 Certification to Treat Glaucoma
- 56-02-05-10 Glaucoma Treatment Certification Requirements
- 56-02-05-11 Glaucoma Treatment Consultation [Repealed]

56-02-05-01. Authority to administer pharmaceutical agents.

The board may authorize persons engaging in the practice of optometry to administer pharmaceutical agents. In issuing an original or renewal license to practice optometry, the board shall provide appropriate identification to be affixed in a prominent place on the license to practice optometry indicating whether the registered person has been certified to prescribe and use diagnostic or therapeutic pharmaceutical agents, or both.

History: Effective December 1, 1987; amended effective April 1, 1990.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-13.2

56-02-05-02. Examination and course requirements.

Only those optometrists who have duly applied to the board and satisfactorily passed an examination and completed courses prescribed by the board, including courses in general and ocular pharmacology, cardiopulmonary resuscitation, and first aid for adverse reactions, shall be permitted the use of diagnostic pharmaceutical agents. No course or courses in pharmacology may be approved by the board unless taught by an institution having the capability for both the didactic and clinical instruction in pharmacology, the institution is accredited by a regional or professional accrediting organization or the United States department of education, and unless transcript credit for the course or courses is certified to the board by the institution as being equivalent in both hours and content to those courses in pharmacology required of health professional students graduating after June 1972.

History: Effective December 1, 1987.
General Authority: NDCC 43-13-13
Law Implemented: NDCC 43-13-13.2

56-02-05-03. Therapeutic pharmaceutical agents examination requirement.

In addition to section 56-02-05-02, an applicant for certification to use therapeutic pharmaceutical agents shall be required to pass the "treatment and management of ocular disease" section of the optometrist examination approved by the international association of boards of examination in optometry, inc., and the national board of optometry examination in ocular therapy, or such other substituted courses as the board may approve.

History: Effective December 1, 1987.
General Authority: NDCC 43-13-13
Law Implemented: NDCC 43-13-13.2

56-02-05-04. Prior classroom and clinical experience.

For the purpose of fulfilling the minimum educational statutory requirements for certification to prescribe and administer pharmaceutical agents, the board may approve prior classroom and clinical experience hours dealing with diagnosis, treatment, and management of ocular diseases. Clinical experience must be hours in the office or clinic of a licensed ophthalmologist or an optometrist certified to prescribe and administer diagnostic and therapeutic pharmaceutical agents in North Dakota.

History: Effective December 1, 1987.
General Authority: NDCC 43-13-13
Law Implemented: NDCC 43-13-13.2

56-02-05-05. Oral or written examination or both.

The board may require an examination for administering or prescribing pharmaceutical agents which may be either written or oral, or both, and cover subjects in general pharmacology, ocular pharmacology, and ocular pharmacology applied to relevant clinical procedures.

History: Effective December 1, 1987.
General Authority: NDCC 43-13-13
Law Implemented: NDCC 43-13-13.2

56-02-05-06. Continuing education requirements.

For those optometrists who are certified in the use of pharmaceutical agents, one-half of the total hours of continuing education required by this title shall have emphasis in the treatment and management of diseases of the eye and its adnexa.

History: Effective December 1, 1987.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-13.2

56-02-05-07. Fees.

Repealed effective April 1, 1990.

56-02-05-08. Prescribing controlled substances.

The secretary of the board shall certify to the federal drug enforcement agency each licensed optometrist authorized by the board to prescribe controlled substances. When used in this chapter, the term "controlled substances" means only those controlled pharmaceutical agents specifically authorized by North Dakota Century Code chapter 43-13 to be prescribed by optometrists.

1. Optometrists desiring to prescribe controlled substances must obtain and have a current drug enforcement agency registration number for schedule 3 as required for mid-level practitioners prior to prescribing controlled substances.
2. Optometrists desiring to prescribe controlled substances must comply with all federal, state, and local laws and regulations governing controlled substances, including the definition of controlled substances as found in North Dakota Century Code chapter 43-13. Violation of any such controlled substance laws or regulations may be grounds for criminal or civil prosecution under applicable law as well as disciplinary action by the board.
3. Optometrists are prohibited from possessing or dispensing any controlled substance as part of their practice. An optometrist may possess a controlled substance only when being treated for a legitimate medical condition and when such substance is administered or prescribed by a person licensed and authorized to do so.

4. Optometrists who are authorized by the board to prescribe controlled substances and registered with the drug enforcement agency may only issue a prescription for a controlled substance listed in schedule 3 while acting in the normal course of the accepted standard of practice. The issuance of each such prescription must be for a legitimate medical purpose.
5. Optometrists who are authorized by the board to prescribe controlled substances and registered with the drug enforcement agency are prohibited from prescribing controlled substances for themselves.
6. Optometrists who are authorized by the board to prescribe controlled substances and registered with the drug enforcement agency are prohibited from prescribing controlled substances to persons known or suspected to be addicted to controlled substances.
7. The refill section of a prescription order issued by an authorized optometrist for a controlled substance must have the word "NO" written in it. The numeral "0" in this section or leaving the section blank is prohibited.
8. All controlled substance prescription orders issued by an authorized optometrist must have the number of dosage units (tablets) written out in the English language and, in addition, Arabic numbers must be recorded (e.g., "three" and in addition "3").
9. The controlled substance prescription order must be signed only by the issuing licensed optometrist authorized by the board to prescribe controlled substances and registered with the drug enforcement agency.
10. All prescription orders for controlled substances issued by an optometrist must be dated on and signed on the day when issued and must contain the full name and address of the patient, drug name, strength, dosage form, quantity prescribed, and directions for use and the name, address, and drug enforcement agency registration number of the licensed optometrist.
11. The licensed optometrist must maintain a separate written log of each controlled substance prescription issued. The log must be made available to the board upon request and must contain the patient's name, address, and date of prescription; the drug name, strength, and dosage form; and the quantity of controlled substances prescribed. The log must be made available to the drug enforcement agency or other law enforcement agencies as required by law.

History: Effective November 1, 1997.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-01, 43-13-22

56-02-05-09. Certification to treat glaucoma.

No optometrist may treat glaucoma until certified to do so as a therapeutically certified optometrist by the North Dakota state board of optometry.

History: Effective November 1, 1997.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-01, 43-13-13.3

56-02-05-10. Glaucoma treatment certification requirements. Before being certified to treat glaucoma an optometrist must have:

1. Received a passing score on the clinical science part (part II) of the comprehensive examination given by the national board of examiners in optometry;
2. Received a passing score dated after January 1, 1992, on the treatment and management of ocular disease special examination given by the national board of examiners in optometry; or
3. Received a passing score in a course of study approved by the board equivalent to either the treatment and management of ocular disease or part II.

History: Effective November 1, 1997.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-01, 43-13-13.3

56-02-05-11. Glaucoma treatment consultation.

Determined repealed by the office of the Legislative Council pursuant to North Dakota Century Code section 28-32-06 because the statutory basis for the rules was eliminated by S.L. 2001, ch. 374, § 1.

**CHAPTER 56-02-06
DISCIPLINARY ACTION - PROCEDURE**

Section

- 56-02-06-01 Disciplinary Action
- 56-02-06-02 Disciplinary Procedure [Repealed]
- 56-02-06-03 Appeals [Repealed]
- 56-02-06-04 Disciplinary Grounds
- 56-02-06-05 Disciplinary Reports

56-02-06-01. Disciplinary action.

The board may take such disciplinary action as it deems reasonably necessary under the provisions of North Dakota Century Code chapter 43-13 when it appears to the satisfaction of the majority of the members of the board that any provisions of title 56 or North Dakota Century Code chapter 43-13 have been violated.

History: Effective December 1, 1987; amended effective April 1, 1990.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-21.1, 43-13-22, 43-13-23, 43-13-24,43-13-25, 43-13-26

56-02-06-02. Disciplinary procedure.

Repealed effective April 1, 1990.

56-02-06-03. Appeals.

Repealed effective April 1, 1990.

56-02-06-04. Disciplinary grounds.

Without limiting the disciplinary powers of the board or grounds for discipline by the board, disciplinary action may be imposed against an optometrist upon any of the following grounds:

1. The use of any false, fraudulent, or forged statement, document, or information or the use of any fraudulent, deceitful, dishonest, or immoral practice in connection with the application for issuance or renewal of a license.

2. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate any provision of the law or the rules adopted by the board.
3. The willful or grossly negligent failure to comply with the provisions of federal, state, or local laws, rules, or regulations governing the practice of the profession.
4. The making of false or misleading statements about the optometrist's skill or the efficacy of any medicine, treatment, or remedy.
5. The making of or filing a report or record which an optometrist knows to be false; intentionally or negligently failing to file a report or record required by federal or state law or rules; willfully impeding or obstructing such filing; or inducing another person to do so. Such reports or records include only those which the optometrist is required to make or file as a licensed optometrist.
6. The submission of fraudulent billing or reports to a third-party payer or obtaining any fee by fraud, deceit, or misrepresentation.
7. Failing to maintain a patient record and a billing record for each patient which accurately reflects the evaluation or treatment of the patient and the bills charged to the patient. Unless otherwise provided, all patient records must be retained for at least six years from the last contact with the patient.
8. Knowingly making or signing any false certificate or other document relating to the practice of optometric care which falsely represents the existence or nonexistence of a state of facts.
9. The performance of any dishonorable, unethical, or unprofessional conduct which has or is likely to deceive, defraud, or harm the public or endanger the public health, welfare, or safety.
10. Participation in any act of fraud or misrepresentation.
11. The publication or circulation of false, misleading, or otherwise deceptive statements concerning the practice of optometry.
12. The practice of optometry under a false name or under an unauthorized assumed name.
13. Conviction of a crime which is substantially related to the qualifications, functions, or duties of an optometrist.

14. Conviction of a felony or any offense involving moral turpitude, dishonesty, or corruption.
15. The commission of any act involving moral turpitude or dishonesty, whether the act is committed in the course of the individual's activities as an optometrist or otherwise.
16. The inability to practice optometry with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.
17. The violation of any state or federal statute or regulation relating to controlled substances.
18. The unlawful prescription, sale, administration, distribution, or gift of any drug legally classified as a controlled substance or as an addictive or dangerous drug.
19. The lack of appropriate documentation in medical records for diagnosis, testing, and treatment of patients.
20. The failure to transfer medical records to another optometrist or to supply copies thereof to the patient or to the patient's representative when requested to do so in writing by the patient or the patient's designated representative. A reasonable charge for record copies may be assessed.
21. The willful or negligent violation of the confidentiality between doctor and patient, except as required by law.
22. A continued pattern of inappropriate care.
23. Gross negligence in the practice of optometry.
24. The administration of treatment or the use of diagnostic or therapeutic procedures which are clearly excessive according to customary practices and standards.
25. Aiding or abetting the practice of optometry by an unlicensed, incompetent, or impaired person or the failure to properly monitor an assistant.
26. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which a licensee knows or has reason to know that the licensee is not competent to perform, or performing without adequate consultation professional services which a licensee is authorized to perform only in consultation with a licensed

optometrist or medical doctor, except in an emergency situation where a person's life or health is in danger.

27. The representation to a patient that a manifestly incurable condition, sickness, disease, or injury can be cured.
28. Physical or verbal harassment, abuse, misconduct, or exploitation related to the licensee's practice of optometry.
29. The payment or receipt, directly or indirectly, of any fee, commission, rebate, or other compensation for optometric services not actually or personally rendered, or for patient referrals; this prohibition does not affect the lawful distributions of professional partnerships, corporations, limited liability companies, or associations.
30. The offering, delivering, receiving, or accepting of any rebate, refund, commission, preference, patronage, dividend, discount, or other consideration as compensation or inducement for referring patients to any person.
31. The employment or use of persons known as cappers or steerers to obtain business.
32. Participation in agreements or arrangements with any person, corporation, limited liability company, partnership, association, firm, or others involving rebates, kickbacks, fee-splitting, or special charges in exchange for professional optometric services, including the giving, selling, donating, or otherwise furnishing or transferring, or the offer to give, sell, donate, or otherwise furnish or transfer money, goods, or services free or below cost to any person as compensation or inducement for placement of business with that optometric office or optometrist.
33. Advertising or soliciting for patronage that is not in the public interest, which includes:
 - a. Advertising or soliciting which is false, fraudulent, deceptive, or misleading.
 - b. Advertising or soliciting which guarantees any service or result.
 - c. Advertising or soliciting which makes any claim relating to professional services or products or the cost or price thereof which cannot be substantiated by the licensee.

- d. Advertising or soliciting which makes claims of professional superiority which cannot be substantiated by the licensee.
- 34. The violation of any action, stipulation, condition, or agreement imposed by the board.
- 35. The failure to furnish the board, its investigators, or representatives information legally requested.
- 36. The imposition by another state or jurisdiction of disciplinary action against a licensee based upon acts or conduct by the optometrist that would constitute grounds for disciplinary action as set forth in this section. A certified copy of the record of disciplinary action taken by the other state or jurisdiction is conclusive evidence of that action.

History: Effective January 1, 1995.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-21.1, 43-13-22, 43-13-26.1

56-02-06-05. Disciplinary reports.

Every optometrist shall promptly report to the secretary of the board any disciplinary action brought against such optometrist by any state or federal board or agency.

History: Effective January 1, 1995.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-21.1, 43-13-22, 43-13-26.1

ARTICLE 56-02
OPTOMETRIST LICENSURE

Chapter
56-02-07 Prescription Drug Monitoring Program

CHAPTER 56-02-07
PRESCRIPTION DRUG MONITORING PROGRAM

Section
56-02-07-01 Optometrist Prescribers and Use of the Prescription Drug Monitoring Program.

56-02-07-02 Exceptions to the review requirement.

56-02-07-01. Optometrist Prescribers and Use of the Prescription Drug Monitoring Program.

Subject to the exceptions described in North Dakota Administrative Code section 56-02-07-02, prior to the initial prescribing of any controlled substance, including samples, an optometrist authorized by the drug enforcement administration to prescribe, administer, sign for, dispense, or procure pharmaceuticals shall authorize an employee to review or personally request and review the prescription drug monitoring program report for all available prescription drug monitoring program data on the patient within the previous twelve months, and shall do all of the following:

1. Assess a patient's drug monitoring program data every twelve months during the patient's treatment with a controlled substance.
2. Review the patient's prescription drug monitoring program data if the patient requests early refills or demonstrates a pattern of taking more than the prescribed dosage.
3. Review the patient's prescription drug monitoring program data if there is a suspicion of or a known drug overuse, diversion or abuse by the patient.
4. Document the assessment of the patient's prescription drug monitoring program data.
5. Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence.
6. Request and review prescription drug monitoring program data on the patient if the practitioner becomes aware that a patient is receiving controlled substances from multiple prescribers.

7. Request and review the patient's prescription drug monitoring program data if the prescriber has a reasonable belief that the patient may be seeking the controlled substance, in whole or in part, for any reason other than the treatment of an existing medical condition.

History: Effective 2019.

General Authority: NDCC 43-13-01(5); 43-13-13

Law Implemented: NDCC 19-03.5-09; 43-13-13(2)

56-02-07-02. Exceptions to the review requirement.

An optometrist shall not be required to review a patient's prescription drug monitoring program data if any of the following apply:

1. The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care.
2. The optometrist obtains a report through a Board-approved risk assessment tool for health care providers that accesses patient prescription information from prescription drug monitoring program databases, analyzes the data, and provides a risk based score that includes prescription drug monitoring program data.
3. The optometrist prescribes a controlled substance after the performance of a primary eye care procedure and no more than a seventy-two (72) hour supply of the controlled substance is prescribed.

History: Effective 2019.

General Authority: NDCC 43-13-01(5); 43-13-13

Law Implemented: NDCC 19-03.5-09; 43-13-13(2)