

# NEWSLETTER

## Vermont Board of Opticians

Secretary of State, Office of Professional Regulation

**Topics in this newsletter include: Chairperson's Report, Changes in Legislation (i.e., structure change to an advisory group, reduction in fees), and so on.**

### Board Members

The members of the Vermont Board of Opticians and their term expiration dates are as follows: **Joan C. Wagner**, Chairperson, South Burlington, Vermont; **Dale R. Davenport**, Vice-Chair, Wallingford, Vermont; and **Donald L. Prim**, Secretary, Essex Junction, Vermont.

### Staff

Carla Preston is the Board's Unit Administrator. You may reach Ms. Preston at (802) 828-2875; Fax: (802) 828-2465; or via E-mail: [cpreston@sec.state.vt.us](mailto:cpreston@sec.state.vt.us).

Larry S. Novins, Esq. serves as the Board's Counsel.

Patty Skinner is the Board's Administrative Assistant. Ms. Skinner may be reached at (802) 828-2837; Fax: (802) 828-2465; E-Mail: [pskinner@sec.state.vt.us](mailto:pskinner@sec.state.vt.us)  
Our Web site is:  
[www.vtprofessionals.org](http://www.vtprofessionals.org)

### From the Chairperson

The Vermont Board of Opticians is pleased to bring you its second Newsletter. We have had quite an active two years and would like to share the highlights of our accomplishments and discussions. In this issue you will find information about statutory amendments, policies, continuing education, statistics, and important reminders.

Perhaps the most visible change which occurred this year was the legislative initiative which amends our regulatory structure to an advisory group. When faced with a substantial fee increase to cover the Board's rising operating expenses, the Board chose to examine the merits and drawbacks of an advisor model. After carefully considering the proposal and its alternative, the Board unanimously agreed that this is a model which makes sense for our profession. We aim to maintain and strengthen the standards of our profession while doing it in a more efficient manner.

The new regulatory model is used by 14 other professions in Vermont including *all* professions which have initiated regulation since 1996. The advisor model provides us the same level of support from the Office of Professional Regulation we have always enjoyed, ensures that all current laws and rules governing the behavior of opticians in Vermont will remain the same, and continues to protect the public, which is the first responsibility of any Board or advisor group. The fact that the advisor model requires continued input and monitoring of the profession by licensed individuals in the field is key. We feel it is imperative that Vermont opticians play an active role in setting and maintaining the standard of our profession.

The most immediate effect of our move to an advisor model is that our professional licensing renewal fees will be lowered to \$200. We hope the reduced financial burden will not only encourage others to join the

profession, but will also allow those currently practicing to maintain their licensing status well into the future. In the following sections of this newsletter you will find a more detailed discussion of the advisor model proposal as well as the amended legislation itself.

The Board appreciates all those who contributed to the discussion as we considered this transition. The newly appointed advisor group (consisting of current Board members) plans to hold regular meetings throughout the year. If you have an interest in becoming an advisor to the profession or in attending a meeting, please let us know! You can find the meeting schedule in this newsletter or at the OPR website.

In this mailing we are also including a separate sheet on Continuing Education Resources which we hope you will find useful in your quest to increase your knowledge and skills, prepare for national exams, maintain your license, or simply stay current and informed—all of which directly benefit the individuals you serve day in and day out!

*Joan C. Wagner, Chairperson*

### **Board to Advisory Model**

As of July 1, 2006, the law will go into effect that changed the model of regulation from that of a Board to an advisory group.

The following information is an excerpt from the Memorandum which was sent to all licensees in March of 2006. The amended legislation is also included in this newsletter.

As you know, our licensing fees as opticians and trainees are used to pay the costs of regulating our profession. By law, optician licensing fees cannot not be shared with any other profession, and the members of other professions regulated through the Office of Professional Regulation (“OPR”) do not contribute to the costs of regulating opticians.

Last fall the OPR conducted its periodic review of the expenditures and revenues for opticians. Our last fee increase was nine years ago. As of FY2005 the Board was carrying forward a fund deficit of approximately \$17,000.00 which is projected to continue to grow because expenditures have exceeded fee income by approximately \$3,000.00 in each of the past two licensing cycles. Vermont law does not permit us to carry such a deficit. The only way to eliminate this deficit given the number of licensees in our profession is to raise the current licensing fees from \$350.00 to \$500.00 for opticians and from \$70.00 to \$150.00 for optician trainees. Because of the small numbers of licensees (approximately 125), opticians would have one of the highest licensing fees of all the 44

professions regulated by OPR.

Rather than presenting the Board with an ultimatum, the Director of OPR set forth an alternative. If regulation of opticians was changed to the “advisor” form used by many professions regulated by OPR, opticians would be able to take advantage of joining a large licensing pool of over 4,000 licensees. This model of regulation is the one used by all professions regulated after 1996. Because of cost-sharing, the advisor form of regulation is less expensive than the Board model. Rather than a fee increase, by switching to the advisor form of regulation, the costs of regulating opticians would go down. **This year, the biennial renewal fee for advisor professions is reduced to \$200.00.**

The Board believes a change from a Board form of regulation to an “advisor form” of regulation is in the best interest of the public whose protection is the Board’s first responsibility, and is also in the best interest of the profession.

The amendment results in few changes in the day to day operation of the profession.

Opticians will remain licensed. All current laws and rules governing the behavior of Opticians in Vermont will remain the same. Two opticians would be appointed by the Secretary of State to advise the

office regarding optician regulation. As it has always been, no changes to statutes or rules would occur without the input of the advisors who are in touch with other members of our profession.

Our decision was driven by economics and the reality of a large fee increase for renewals. How our profession is regulated will not affect your status as a licensee. This decision does not change the status of opticians as a regulated licensed profession. You will remain licensed and all current laws and rules governing the behavior of Opticians in Vermont will remain the same. It is possible that lower licensing fees may encourage others to join our profession.

The Major Differences Between the Advisor and Board Models of Regulation are noted below.

\*Two licensed advisors rather than five Board members.

\*The director regulates the profession, with the advice of experienced members of the profession (advisors), rather than the Board.

\*Disciplinary cases heard by a law-trained administrative law officer, rather than a board hearing panel.

Similarities:

\*Licensing status and laws relating to the profession remain unchanged.

\*Administrative support is the same.

\*Rule making process is the same.

\*Reviews of applications are still done by experienced members of the profession (the advisors).

**Statutory Amendments**  
Effective July 1, 2006  
*This legislative amendment makes the necessary changes to become an advisory group versus a board. (Underlined text is new and struck-out text would be removed.)*

26 V.S.A. § 2651.  
DEFINITIONS

As used in this chapter:

(1) ~~“Board” means the opticians’ licensing board created under this chapter.~~

(2) ~~“Director” means the director of the board of opticians created under this chapter~~ office of professional regulation.

(3)~~(2)~~ “Optician” is a person who is qualified and licensed under this chapter to interpret and fill prescriptions of ophthalmologists or optometrists for ophthalmic lenses or repair and reproduce previously prepared ophthalmic lenses and frames, prepare and deliver work orders to technicians engaged in grinding lenses and fabricate eyewear, verify the accuracy of

ophthalmic lenses, and adjust and disperse lenses, specially fabricated optical devices, frames, and appurtenances.

~~(4)~~(3) “Optometrist” means a person licensed under chapter 30 of Title 26.

~~(5)~~(4) “Ophthalmologist” means a licensed physician who has had special training in the field of ophthalmology.

~~(6)~~(5) “Registered optician trainee” means a person registered as an optician trainee under this chapter.

26 V.S.A. § 2661. ~~CREATION OF BOARD; TERM OF OFFICE~~ DIRECTOR; DUTIES  
~~A board of examiners of opticians is created consisting of five members. Board members shall be appointed by the governor pursuant to sections 129b and 2004 of Title 3. The board shall be composed of four licensed practicing opticians and one consumer who shall not be or have been employed in the health care field, all of whom shall be residents of this state.~~

(a) The director shall:

(1) provide general information to applicants for licensure as opticians;

(2) explain appeal procedures to opticians and applicants and complaint procedures to the public;

(3) administer fees established by law;

(4) receive applications for licensure, issue licenses to applicants qualified under this chapter, deny or renew licenses and issue, revoke, suspend, condition, and reinstate licenses as ordered by an administrative law officer;

(5) refer complaints and disciplinary matters to an administrative law officer.

(b) The director may, after consultation with the advisor appointees, adopt rules necessary to perform the director's duties under this chapter.

26V.S.A. §2662.

~~QUALIFICATIONS OF MEMBERS ADVISOR APPOINTEES~~

~~Members of the board shall have attained the age of majority and shall be residents of this state. Members who are opticians shall have been actively practicing as opticians in this state for not less than three years.~~

(a) The secretary of state shall appoint two licensed opticians as set forth in section 129b of Title 3. One of the initial appointments may be for less than a five-year term.

Appointees shall have not less than three years' experience as an optician immediately preceding appointment and shall be actively engaged in optician

practice in Vermont during incumbency.

(b) The director shall seek the advice of the optician advisors in carrying out the provisions of this chapter. Advisor appointees shall be entitled to compensation and necessary expenses in the amount provided in section 1010 of Title 32 for attendance at any meeting called by the director for this purpose.

26 V.S.A. § 2665. POWERS AND DUTIES OF ~~BOARD~~ THE DIRECTOR

(a) The ~~board~~ director shall:

\* \* \*

(b) The ~~board~~ director shall not:

\* \* \*

26 V.S.A. § 2672.

QUALIFICATIONS

No person may be examined or licensed under this chapter, except as otherwise provided in this chapter, unless the applicant has attained the age of majority and possesses the following qualifications:

(1) Has obtained a high school education or its equivalent and has completed at least a two-year course of study in a school of ophthalmic dispensing approved by the board or a school which is a candidate for accreditation by an accreditation agency approved by the United States Department of Education and by the director; or

(2) Has completed three years of practical training and experience,

approved by the ~~board~~ director, under the supervision of a licensed optician, ophthalmologist, or optometrist.

26 V.S.A. § 2673.

EXAMINATION; LICENSES

(a) Examinations for licenses shall be conducted ~~by the board~~ at least once each year and shall be devised in form and substance to evaluate fairly the applicant's qualifications to practice as a licensed optician. The examination shall include, but not be limited to, ophthalmic materials, laboratory, practical and physiological optics, prescription interpretation, dispensing preparation, adjustment of lenses, spectacles, eyeglasses, prisms, tinted lenses, and appurtenances, the use of lensometers or equivalent instruments, adjusting instruments, and pupillary and facial measurements.

(b) Any applicant passing the examination and meeting the requirements established by the ~~board~~ director shall be issued a license under this chapter.

26 V.S.A. § 2674. OPTICIAN TRAINEE; REGISTRATION

(a) Any person entering into employment for the purpose of obtaining practical experience and skill as a licensed optician shall register as an optician trainee with the ~~board~~ office within 60 days of entering the employment. The computation of any period of training shall

commence at the date of the registration.

(b) The application for registration shall be certified by the employer and by the applicant and accompanied by an application fee. The board office may issue to the applicant an optician trainee's certificate. Every registered optician trainee who continues to act as an optician trainee shall, biennially, renew his or her optician trainee's certificate of registration by paying a renewal fee.

\* \* \*

26 V.S.A. § 2676. LICENSE;  
RENEWAL;  
REINSTATEMENT

(a) A license issued under this chapter shall be valid for a period of two years. A person may renew the license biennially by payment of the renewal fee to the board office.

\* \* \*

(c) A license which has expired because a licensee has not sought renewal may be reinstated on payment of a renewal fee and a late renewal penalty. The licensee shall not be required to pay renewal fees during periods when the license was expired. However, if a license remains expired for a period of four years, the director may require reexamination of the licensee, as well as payment of a renewal fee, late renewal penalty, and reinstatement fee.

\* \* \*

26 V.S.A. § 2677.  
REVOCATION; SUSPENSION  
AND REFUSING OF  
RENEWAL  
OF LICENSE

The board director may, in its his or her discretion, refuse to issue, suspend, revoke, or refuse to renew a license when the applicant or licensee engages in any of the following conduct or the conduct set forth in section 129a of Title 3:

\* \* \*

(4) Violates, induces others to violate, or cooperates with others in violating any of the rules and regulations of the board profession; or

### Changes to Title 3

3 V.S.A. § 127 is amended to read:  
Effective July 1, 2006

127. UNAUTHORIZED  
PRACTICE

(a) When the office receives a complaint of unauthorized practice, the director shall refer the complaint to the appropriate board for investigation.

(b) A person practicing a regulated profession without authority may, upon the complaint of the attorney general or a state's attorney or an attorney assigned by the office of professional regulation, be enjoined there from by the superior court where the violation occurred or the Washington County superior court and may be assessed a civil penalty of not more than

\$1,000.00. The attorney general or an attorney assigned by the office of professional regulation may elect to bring an action seeking only a civil penalty of not more than \$1,000.00 for practicing a regulated profession without authority before the board having regulatory authority over the profession. Hearings shall be conducted in the same manner as disciplinary hearings. A civil penalty imposed by a board or administrative law officer under this subsection shall be deposited in the professional regulatory fee fund established in section 124 of this title for the purpose of providing education and training for board members and advisor appointees. The director shall detail in the annual report receipts and expenses from these civil penalties.

(c) In addition to other provisions of law, unauthorized practice shall be punishable by a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Prosecution may occur upon the complaint of the attorney general or a state's attorney or an attorney assigned by the office of professional regulation under this section and shall not act as a bar to civil or administrative proceedings involving the same conduct.

(d) A person practicing a licensed profession without authority shall not institute any proceedings in this state for the

enforcement of any right or obligation if at the time of the creation of the right or obligation ~~it~~ the unlicensed person was acting without authority.

(d)~~(e)~~ The provisions of this section shall be in addition to any other remedies or penalties for unauthorized practice established by law.

3 V.S.A. § 129(a) is amended to read:

(a) In addition to any other provisions of law, a board may exercise the following powers:

\* \* \*

(5) Discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for ~~an offense~~ conduct which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct.

\* \* \*

(12) ~~Treat as incomplete any license application submitted with a check subsequently returned for insufficient funds~~  
Waive or modify continuing education requirements for persons on active duty in the United States armed forces.

3 V.S.A. § 129a(a) is amended to read:

(a) In addition to any other provision of law, the following conduct by a licensee constitutes

unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items, or any combination of items, whether or not the conduct at issue was committed within or outside the state, shall constitute unprofessional conduct:

\* \* \*

(11) Failing to report to the office a conviction of any felony or any offense related to the practice of the profession in a Vermont district court, a Vermont superior court, a federal court, or a court outside Vermont within 30 days.

\* \* \*

(13) Performing treatments or providing services which the licensee is not qualified to perform or which are beyond the scope of the licensee's education, training, capabilities, experience, or scope of practice.

(14) Failing to report to the office within 30 days a change of name or address.

### Statutory Amendment

Effective July 1, 2005

Please note some of the language amended in 2005 appears in the previous sections, which will be effective on July 1, 2006.

26 V.S.A. § 2651 (b).

### DEFINITIONS

As used in this chapter:

\* \* \*

(6) "Registered optician trainee" means a person registered as a an optician trainee under this chapter.

26 V.S.A. § 2671.

### APPLICATIONS

Any person who desires to practice as an optician shall file a written application for a license and the application fee with the ~~secretary of the board~~ office on forms provided by the ~~board~~ office. An applicant shall submit satisfactory proof that he or she meets the qualifications under section 2672 of this title ~~and shall deposit an application fee with the secretary.~~

26 V.S.A. § 2672.

### QUALIFICATIONS

No person may be examined or licensed under this chapter, except as otherwise provided in this chapter, unless ~~he~~ the applicant has attained the age of majority and possesses the following qualifications:

\* \* \*

26 V.S.A. § 2674. OPTICIAN TRAINEE; REGISTRATION

(c) No optician may have more than two optician trainees under his or her supervision during any given period of time, nor shall any establishment employ more than two optician trainees for every full-time optician in its employment. ~~A~~ An optician trainee must be under direct personal supervision of an optician, optometrist, or ophthalmologist. ~~An optician provides~~ A supervisor shall

provide direct personal supervision of a an optician trainee, while the optician trainee is working, by being physically present for consultation or intervention on the premises where the trainee is working. Merely being available at another optical facility for consultation does not constitute direct personal supervision.

26 V.S.A. § 2676. LICENSE;  
RENEWAL;  
REINSTATEMENT

\* \* \*

(b) Any person whose license expired, provided the period of expiration has been less than ~~two~~ five years, may ~~renew~~ reinstate that license by paying the renewal fee plus the late renewal penalty.

(c) A license which has expired because a licensee has not sought renewal may be reinstated on payment of a renewal fee and a late renewal penalty. The licensee shall not be required to pay renewal fees during periods when the license was expired. ~~However, if such a license remains expired for a period of four years, the board shall send notice under this section to the former licensee at his last known address. Thirty days after the notice is sent, the right to renew the license without examination is suspended. Once the right to renew is suspended, it may be reinstated only by decision of the board acting on petition of the former licensee. During that proceeding, the board may~~

~~require re-examination of the licensee, as well as payment of a renewal fee, late renewal penalty and a reinstatement fee.~~

(d) Licenses which have lapsed for more than five years may be reinstated by:

(1)(A) demonstrating more than 1,000 hours' licensed practice in another state over the preceding two years; or

(B) successfully completing the national licensing examination within one year prior to applying for reinstatement; and

(2) paying of the renewal fee and late renewal penalty.

### **Proposed Changes to 3 V.S.A.**

These changes affect all professions regulated by the Secretary of State's Office.

Changes to Title 3 § 127 and 129a were made in 2005 and in 2006.

See our Web site for details.

### **Miscellaneous Fees**

- 1) \$20 fee for verification of your licensure status to be sent to another state.
- 2) \$20 fee for replacement license.
- 3) \$20 fee for replacement wall certificate.

### **Reminders**

1) It is your responsibility to report changes of name and/or address to this Office within 30 days (See 3 V.S.A. 129a). You may amend your address via fax or E-mail. You must provide evidence of your name change (i.e., copy of marriage license, divorce decree, or other court documents).

2) You must now report within 30 days convictions, felonies, or other criminal offenses related to the profession (26 V.S.A. 129a (a) (11)).

3) Name tags including position shall be worn by all and licenses should be displayed clearly.

3) If you have Trainees working under your direct supervision, you are required to follow the laws and rules governing this practice. See Board Rule 2.6 below and on our Web site for more information.

### **2.6 HOW TO REGISTER AS A TRAINEE**

If an individual plans to get training and experience by working for a licensed optician, ophthalmologist or optometrist, that individual must register as a trainee with the Board within 60 days of starting work. The period of traineeship begins on the date of registration.

A registered trainee must complete a minimum of 30 hours

per week for three years of practical training approved by the Board under the direct personal supervision of a licensed optician, optometrist, or ophthalmologist within Vermont or another state which requires the supervisor to be licensed. A detailed description of the training to be received and the supervisor's name and license number will accompany the application for registration. Upon review of this description and any further review it may undertake, the Board may in its discretion allow the trainee to complete his or her training in this manner.

### Complaints

What follows is a composite of some of the issues that may result in the filing of a complaint against a practitioner. Having a complaint filed against you can be extremely disruptive and upsetting. If a case alleges unprofessional conduct, as defined by the Board's laws and rules, the Office will order an investigation.

Although many complaints do not result in disciplinary action, they are still investigated. Many of those complaints that are closed might have been avoided altogether if the practitioner had better communicated with the patient. Many insurance carriers, and many states now ask if you are, or have ever been the subject of an investigation.

If a complaint is filed and the Investigative Team finds unprofessional conduct, the Board may take disciplinary action after a hearing. We hope that you will read this carefully, it does not cover every possible scenario, but it may help you avoid common pitfalls that result in a complaint, and/or disciplinary action.

1) Poor communication. Be sure to communicate well between yourself and your clients, between yourself and your colleagues, and between yourself and your employees.

2) Attitude. The Investigative Teams find that many cases are brought to the Office of Professional Regulation because the professional had an "attitude" that was flippant or perhaps condescending.

3) Unauthorized Practice. Working without proper registration or license to do so, or allowing unlicensed or unregistered persons to practice.

### Web Site

The Board's Web site, [www.vtprofessionals.org](http://www.vtprofessionals.org) is a great resource for information. There you may find the current laws and rules, our current applications, policies, links to related sites, etc. You may check the status of a license. You may also look up the name of businesses and check their

status (Corporations Division).

### Statistics

For your information we currently have 111 Active Opticians (95 Resident; 16 Non-Resident); 38 Optician Trainees (37 Resident; 1 Non-Resident).

Please note that all of our meetings are public, and we encourage you to attend. Meeting dates for the rest of 2006 are tentatively scheduled as follows: September 12; and December 12<sup>th</sup>. Please contact the Office if you plan to attend a meeting.

### For Testing Information Contact

**ABO/NCLE**  
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### Contact us

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