

# ARIZONA STATE BOARD OF DISPENSING OPTICIANS

Five-Year Rule Review Report

A.A.C. Title 4, Chapter 20, Article 1

October 14, 2016

## INFORMATION THAT IS IDENTICAL FOR ALL THE RULES

The following information is identical for all of the rules and is not restated in the analysis of each rule.

1. Effectiveness of the Rules in Achieving Their Objectives

All of the rules are effective in achieving their objectives.

2. Written Criticisms

The Board has received no written criticisms of the rules during the last five years.

3. Authorization of the Rule by Existing Statute

All of the rules are generally authorized by A.R.S. §32-1673(A), which provides that the Board shall adopt rules to administer and enforce Title 32, Chapter 15.1.

4. Consistency with other rules made by the agency, current agency enforcement policy and current agency views regarding the wisdom of the rule.

The Board believes that each of the rules needs to be maintained so the Board can effectively perform its mandate. The following rules are consistent with state and federal statutes and rules:

- R4-20-101. Definitions
- R4-20-102. Application for a Dispensing Optician's License by Examination
- R4-20-103. Approval to take dispensing optician examination
- R4-20-104. Dispensing Optician Examinations
- R4-20-105. Practical Examination Procedures
- R4-20-106. Scoring of Examination; Failure to Pass
- R4-20-107. Application for a Dispensing Optician's License by Comity
- R4-20-109. Renewal of Dispensing Optician's License; Late Renewal; Reinstatement
- R4-20-110. Application for an Optical Establishment License
- R4-20-111. Time Frames for License Approvals
- R4-20-112. Fees
- R4-20-113. Display of Licenses, Nontransferability
- R4-20-114. Notice of Change of Status
- R4-20-115. Renewal of Optical Establishment License; Late Renewal; Re-application
- R4-20-116. Rehearing or Review of Decision
- R4-20-117. Scope of Practice
- R4-20-118. Unprofessional Conduct
- R4-20-119. Substandard Care

- R4-20-120. Continuing Education; Hours Required; Reporting
- R4-20-121. Continuing Education; Approval of Courses
- R4-20-122. Agency Record; Directory of Substantive Policy Statements
- R4-20-123. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statements; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact
- R4-20-124. Public Comments
- R4-20-125. Oral Proceedings
- R4-20-126. Written Criticism
- Table 1 Time-frames (in days)

5. Enforcement of the Rules

The Board consistently enforces all rules.

6. Clarity, Conciseness, and Understandability of the Rules

The following rules are clear, concise, and understandable:

- R4-20-101. Definitions
- R4-20-102. Application for a Dispensing Optician's License by Examination
- R4-20-103. Approval to take dispensing optician examination
- R4-20-104. Dispensing Optician Examinations
- R4-20-105. Practical Examination Procedures
- R4-20-106. Scoring of Examination; Failure to Pass
- R4-20-107. Application for a Dispensing Optician's License by Comity
- R4-20-109. Renewal of Dispensing Optician's License; Late Renewal; Reinstatement
- R4-20-110. Application for an Optical Establishment License
- R4-20-111. Time Frames for License Approvals
- R4-20-112. Fees
- R4-20-113. Display of Licenses, Nontransferability
- R4-20-114. Notice of Change of Status
- R4-20-115. Renewal of Optical Establishment License; Late Renewal; Re-application
- R4-20-116. Rehearing or Review of Decision
- R4-20-117. Scope of Practice
- R4-20-118. Unprofessional Conduct
- R4-20-119. Substandard Care
- R4-20-120. Continuing Education; Hours Required; Reporting
- R4-20-121. Continuing Education; Approval of Courses
- R4-20-122. Agency Record; Directory of Substantive Policy Statements
- R4-20-123. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statements; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact
- R4-20-124. Public Comments

- R4-20-125. Oral Proceedings
- R4-20-126. Written Criticism
- Table 1 Time-frames (in days)

7. Economic, Small Business, and Consumer Impact

The economic impact of the following rules has not differed from original economic impact statements at adoption of rules. All rules made have had minimal to moderate economic impact on the Board, other state agencies, private entities, small businesses, and consumers. Minimal means less than \$500, moderate means \$500, to \$1500 and substantial means more than \$1500. Current licensees total 1245.

- R4-20-101. Definitions
- R4-20-102. Application for a Dispensing Optician’s License by Examination
- R4-20-103. Approval to take dispensing optician examination
- R4-20-104. Dispensing Optician Examinations
- R4-20-105. Practical Examination Procedures
- R4-20-106. Scoring of Examination; Failure to Pass
- R4-20-107. Application for a Dispensing Optician's License by Comity
- R4-20-109. Renewal of Dispensing Optician's License; Late Renewal; Reinstatement
- R4-20-110. Application for an Optical Establishment License
- R4-20-111. Time Frames for License Approvals
- R4-20-112. Fees
- R4-20-113. Display of Licenses, Nontransferability
- R4-20-114. Notice of Change of Status
- R4-20-115. Renewal of Optical Establishment License; Late Renewal; Re-application
- R4-20-116. Rehearing or Review of Decision
- R4-20-117. Scope of Practice
- R4-20-118. Unprofessional Conduct
- R4-20-119. Substandard Care
- R4-20-120. Continuing Education; Hours Required; Reporting
- R4-20-121. Continuing Education; Approval of Courses
- R4-20-122. Agency Record; Directory of Substantive Policy Statements
- R4-20-123. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statements; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact
- R4-20-124. Public Comments
- R4-20-125. Oral Proceedings
- R4-20-126. Written Criticism
- Table 1 Time-frames (in days)

8. Status of the completion of action indicated in the previous five-year review report.

Amendments were proposed and completed to R4-20-102, R4-20-109, and R4-20-119. Changes to R4-20-120, required a change in Statute before changes could be made to the rule. Statute changes were made in 2015, however changes to the rule were denied.

9. Analysis of stringency compared to federal laws.

No rules in this chapter are more stringent than federal laws.

10. For rules adopted after July 29, 2010 that required the issuance of regulatory permit, license, or agency authorization, whether the rule complies with section 41-1037.

The amendment made to R4-20-109, is in compliance with A.R.S. §41-1037. Taking out the requirement for ABO and NCLE results actually decreases the cost burden on the licensee.

11. Proposed Course of Action

None - A request was made to change rules to increase the number of continuing education credits required. The legislature passed SB1010 in 2015, to increase the cap on the number of continuing education credits required within a three year period. Request was made to the Governor's office on May 11, 2016, to increase the requirement in rule; however the Governor's office has denied exemption to moratorium on September 1, 2016. The Board does not anticipate the Governor's office allowing any changes to be made

No course of action is proposed for:

- R4-20-101. Definitions
- R4-20-102. Application for a Dispensing Optician's License by Examination
- R4-20-103. Approval to take dispensing optician examination
- R4-20-104. Dispensing Optician Examinations
- R4-20-105. Practical Examination Procedures
- R4-20-106. Scoring of Examination; Failure to Pass
- R4-20-107. Application for a Dispensing Optician's License by Comity
- R4-20-109. Renewal of Dispensing Optician's License; Late Renewal; Reinstatement
- R4-20-110. Application for an Optical Establishment License
- R4-20-111. Time Frames for License Approvals
- R4-20-112. Fees
- R4-20-113. Display of Licenses, Nontransferability
- R4-20-114. Notice of Change of Status
- R4-20-115. Renewal of Optical Establishment License; Late Renewal; Re-application
- R4-20-116. Rehearing or Review of Decision

- R4-20-117. Scope of Practice
- R4-20-118. Unprofessional Conduct
- R4-20-119. Substandard Care
- R4-20-120. Continuing Education; Hours Required; Reporting
- R4-20-121. Continuing Education; Approval of Courses
- R4-20-122. Agency Record; Directory of Substantive Policy Statements
- R4-20-123. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statements; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact
- R4-20-124. Public Comments
- R4-20-125. Oral Proceedings
- R4-20-126. Written Criticism

## ANALYSIS OF INDIVIDUAL RULES

### R4-20-101. Definitions

1. Objective

The objective of the rule is to interpret and explain words used in opticianry law.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1673(A).

### R4-20-102. Application for a Dispensing Optician's License by Examination

1. Objective

The objective is to specify materials necessary to process an application for examination.

3. Authorization

This rule is specifically authorized by A.R.S.§§31-1681 through 1684.

### R4-20-103. Approval to take dispensing optician examination

1. Objective

The objective is to specify time requirements for submission of the application for examination and the process for approval of the application.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1682.

R4-20-104. Dispensing Optician Practical Examinations

1. Objective

The objective of this rule is to explain when examinations are given, examination contents, and other conditions for taking the State Board Practical Examination.

3. Authorization

This rule is specifically authorized by A.R.S.§§32-1682 and 1683.

R4-20-105. Practical Examination Procedures

1. Objective

The objective of this rule is to specify the Board's method of administering the State Board Practical Examination.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1682.

R4-20-106. Scoring of Examination; Failure to Pass

1. Objective

The objective of this rule is to define the scores required to pass the examinations and procedures followed after failure of the State Board Practical examination.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1682.

R4-20-107. Application for a Dispensing Optician's License by Comity

1. Objective

The objective of this rule is to explain the process by which an optician licensed in another state with similar requirements to Arizona may become licensed as an optician in Arizona.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1683(5)(a).

R4-20-109. Renewal of Dispensing Optician's License; Late Renewal; Reinstatement

1. Objective

The objective of this rule is to specify time and procedural requirements for renewal and reinstatement of an optician's license.

3. Authorization

This rule is specifically authorized by A.R.S. §§32-1682 and 1684.

R4-20-110. Application for an Optical Establishment License

1. Objective

The objective of this rule is to specify requirements and procedures for issuance of an original optical establishment license.

3. Authorization

This rule is specifically authorized by A. R.S. §32-1684.01

R4-20-111. Time Frames for License Approvals

1. Objective

The objective of this rule is to specify time-frames within which the Board will make a decision to grant or deny a license application.

3. Authorization

This rule is specifically authorized by A.R.S. §§32-1681 and 41-1073.

R4-20-112. Fees

1. Objective

The objective of this rule is to set fees for license application, license issuance, renewal, establishment license fees and fees for copies of public records.

3. Authorization

This rule is specifically authorized by A.R.S. §32-1685.



R4-20-113. Display of licenses, nontransferability

1. Objective

The objective of this rule is to ensure the conspicuous, public display of current optician and optical establishment licenses.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1673.

R4-20-114. Notice of change of status

1. Objective

The objective of this rule is to keep the Board informed of current home and employment address and telephone numbers of opticians and current ownership of optical establishments.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1673.

R4-20-115. Renewal of Optical Establishment License

1. Objective

The objective of this rule is to specify time and procedural requirements for renewal of an optical establishment license.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1684.01.

R4-20-116. Rehearing or Review of Decision

1. Objective

The objective of this rule is to provide for a rehearing or review process of a Board decision.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1691.01.

R4-20-117. Scope of practice

1. Objective

The objective of this rule is to specify what a dispensing optician may do within statutory guidelines.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1673.

R4-20-118. Unprofessional Conduct

1. Objective

The objective of the rule is to set forth specific acts that would constitute unprofessional conduct.

3. Authorization

This rule is specifically authorized by A.R.S.§§32-1673 and 1696.

R4-20-119. Substandard Care

1. Objective

The objective of this rule is to set forth specific acts that would constitute substandard care.

3. Authorization

This rule is specifically authorized by A.R.S.§§32-1673 and 1696.

R4-20-120. Continuing Education; Hours Required; Reporting

1. Objective

The objective of this rule is to provide requirements for continuing education.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1687.

R4-20-121. Continuing Education; Approval of Courses

1. Objective

The objective of the rule is to specify courses approved for continuing education and guidelines for courses submitted for approval.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1687.

R4-20-122. Agency Record; Directory of Substantive Policy Statements

1. Objective

The objective of the rule is to make clear where and when the agency record and directory of substantive policy statements are available.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1673 & §41-1091.

R4-20-123. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statements; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact

1. Objective

The objective of the rule is to provide direction for persons wishing to petition for rulemaking.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1673 & §41-1033.

R4-20-124. Public Comments

1. Objective

The objective of the rule is to provide a time frame for public comments on rulemaking.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1673& §41-1023.

R4-20-125. Oral Proceedings

1. Objective

The objective of the rule is to provide procedures for requesting oral proceedings

3. Authorization

This rule is specifically authorized by A.R.S.§32-1673& §41-1023.

R4-20-126. Written Criticism

1. Objective

The objective of the rule is to provide procedures for handling written criticism of existing rules.

3. Authorization

This rule is specifically authorized by A.R.S.§32-1673& §41-1023.

Table 1 Time-frames (in days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time- frame
Approval to Take a Dispensing Optician Examination (R4-20-102)	A.R.S. § 32-1682	90	30	60
License by Examination (R4-20-102)	A.R.S. § 32-1682 A.R.S. § 32-1684	60	30	30
License by Comity (R4-20-107)	A.R.S. §32-1683	90	30	60
Optical Establishment License R4-20-110	A.R.S. § 32-1684.01	60	30	30
Optician’s License Renewal (R4-20-109)	A.R.S. § 32-1682	60	30	30
Establishment License Renewal (R4-20-115)	A.R.S. § 32-1684.01	60	30	30