

Note from the Codifier: The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days. For questions, you may contact the Office of Administrative Hearings at 919.431.3000 or email oah.postmaster@oah.nc.gov.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 40 – BOARD OF OPTICIANS

Notice is hereby given in accordance with G.S. 150B-21.1 that the Board of Opticians intends to adopt the rule cited as 21 NCAC 40 .0113.

Codifier of Rules approved this rule as an emergency rule effective April 9, 2020 and received for publication the following notice and proposed temporary rule on April 1, 2020.

Public Hearing:

Date: April 13, 2020

Time: 9:00 a.m.

Location: Via Conference Call: Dial in Number: 605-472-5447, Access Code: 906806

Reason for Proposed Temporary Action: A serious and unforeseen threat to the public health, safety or welfare. On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. COVID-19 is a respiratory disease that can result in serious illness or death. COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. On March 12, 2020, the Governor of North Carolina and the NC Department of Health and Human Services recommended high risk persons stay at home, that schools implement plans for distance or e-learning, that employers and employees use teleworking technologies, and that mass gatherings should cancel, postpone, and modify these events or offer online streaming services. On March 14, 2020, the Governor of North Carolina issues Executive Order No. 117 that prohibited mass gatherings, closed schools, and urged social distancing.

Comment Procedures: Comments from the public shall be directed to: Sue Hodgin, North Carolina State Board of Opticians, PO Box 6758, Raleigh, NC 27628-6758; phone (919) 420-1390; fax (919) 420-1361; email shodgins@ncopticiansboard.org. The comment period begins April 8, 2020 and ends April 30, 2020.

SECTION .0100 - LOCATION

21 NCAC 40 .0113 WAIVER

The Board may waive any rule in this Chapter that is not statutorily required if a licensee, business or training establishment, trainee, or continuing education course provider submits a written request. The Board may also waive any rule in this Chapter that is not statutorily required upon its own initiative. Factors the Board shall use in determining whether to grant the waiver are:

- (1) degree of disruption to the Board;
- (2) cost to the Board;
- (3) degree of benefit to the public;
- (4) whether the requesting party had control over the circumstances that required the requested waiver;
- (5) notice to and opposition by the public;
- (6) need for the waiver; and
- (7) previous requests for waivers submitted from the requesting party.

Authority G.S. 90-249; 150B-19(6).