CHAPTER He-P 6000 OPTHALMIC DISPENSING
Statutory Authority: RSA 327-A:12

PART He-P 6001 DEFINITIONS

He-P 6001.01 Definitions.

(a) “Commissioner” means “commissioner” as defined in RSA 327-A:1, V, or his or her designee.

(b) “Continuing education credit” means one hour of continuing education approved by the commissioner.

(c) “Department” means “department” as defined in RSA 327-A:1, VI.

(d) “Ophthalmic dispenser” means “ophthalmic dispenser/optician” as defined in RSA 327-A:1, VII.

(e) “Ophthalmic dispensing” means “ophthalmic dispensing” as defined in RSA 327-A:1, I.

(f) “Plano lenses” means “plano lenses” as defined in RSA 327-A:1, IX.

(g) “Prescription” means “prescription for spectacle lenses” and “prescription for contact lenses” as defined in RSA 327-A:1, III and IV.

(h) “Registrant” means a person who is registered as an ophthalmic dispenser pursuant to He-P 6000.

Source. #5199, eff 8-7-91; EXPIRED 8-7-97

New. #6567, INTERIM, eff 8-22-97, EXPIRED 12-20-97

New. #6728, eff 4-1-98; ss by #7119, eff 10-16-99; ss by #7894, eff 5-21-03; ss by #8593, eff 3-28-06; ss by #10453, eff 10-31-13

PART He-P 6002 APPLICATION PROCEDURE AND FEES

He-P 6002.01 Initial Application.

(a) Each applicant for registration under RSA 327-A shall make application on a form provided by the commissioner.

(b) The submitted application for registration shall contain the following:

(1) Name of applicant;

(2) Home address and phone of applicant;

(3) Date of birth of applicant;

(4) The applicant’s social security number, which:

   a. Is required by RSA 161-B:11; VI-a;

   b. Is used only for enforcement of the laws governing child support; and

   c. Shall be held confidential by the department;

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(5) The name, address, and phone of the business where the applicant is employed as an ophthalmic dispenser;

(6) If a partnership, the name and address of each partner;

(7) If a corporation, the name and address of each corporate officer;

(8) The name of each state where the applicant holds or has held a license or registration to practice ophthalmic dispensing and the dates the applicant has practiced in each state;

(9) A statement as to whether the applicant has ever been denied a license or registration to practice ophthalmic dispensing, has had an ophthalmic dispensing license or registration revoked or suspended, or has had any other disciplinary action taken against his or her ophthalmic dispensing license or registration in this or any other state;

(10) Recent 2” x 2” photograph of applicant’s face; and

(11) Signature of applicant and date signed.

(c) The completed application shall be submitted to the commissioner and shall be accompanied by the registration fee set forth in He-P 6002.06 (a) (1).

(d) The commissioner shall either accept the application as being complete or notify the applicant in writing within 30 days of receipt of the application, that the application is incomplete, specifying what the applicant needs to submit to complete the application.

(e) Applicants who submit a complete application in accordance with He-P 6002.01 (a) through (c) and pay the registration fee set forth in He-P 6002.06 (a) (1) shall be granted registration as an ophthalmic dispenser.

(f) Registrations issued by the commissioner shall be effective for 2 full calendar years from the date of approval.

(g) Notwithstanding (e) above, the commissioner shall deny any application if the applicant:

(1) Has not met any one of the requirements of RSA 327-A or He-P 6002; or

(2) Has engaged in behavior justifying denial under RSA 327-A:9.

(h) The commissioner shall send the decision to deny the application to the applicant at the address shown on the application.

(i) Notification of denial shall be in accordance with He-P 6003.03 (a), (b) and (c).

Source. #5199, eff 8-7-91; EXPIRED 8-7-97

New. #6567, INTERIM, eff 8-22-97, EXPIRES 12-20-97

New. #6728, eff 4-1-98; ss by #7119, eff 10-16-99; ss by #7894, eff 5-21-03; ss by #8593, eff 3-28-06; ss by #10453, eff 10-31-13

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He-P 6002.02 Renewal Application.

(a) An ophthalmic dispenser who wishes to maintain his/her registration shall submit an application for renewal to the commissioner in accordance with RSA 327-A:14.

(b) At least 60 days prior to the expiration of a registration, the commissioner shall:

1. Notify, in writing, the registrants whose registrations are to expire that their registrations are due to expire; and

2. Include an application for renewal of registration with the written notice.

(c) At least 30 days prior to the expiration of a registration, the registrant shall submit to the commissioner:

1. An application that contains the following:

   a. The applicant’s first, middle and last name;

   b. The applicant’s home mailing address;

   c. The name and address of the business where the applicant is employed as an ophthalmic dispenser;

   d. The name of each state where the applicant holds or has held a license or registration to practice ophthalmic dispensing and the dates the applicant has practiced in each state;

   e. A statement as to whether the applicant has ever been denied a license or registration to practice ophthalmic dispensing, has had an ophthalmic dispensing license or registration revoked or suspended, or has had any other disciplinary action taken against his or her ophthalmic dispensing license or registration in this or any other state;

   f. Signature of applicant certifying that the information on the application is true and accurate; and

   g. The date signed;

2. The following documentation of having met the continuing education requirements of RSA 327-A:14 and He-P 6002.05:

   a. The completed continuing education section of the application form provided by the commissioner which contains the following:

      1. The name of the continuing education event;

      2. The location of the event;

      3. The date(s) of the event;

      4. The name and address of the sponsor of the event;

      5. The number of continuing education hours for each event; and

      6. The signature of the registrant; and
b. Copies of all certificates of continuing education credits listed on the form required by a. above; and

(3) The renewal fee required by He-P 6002.06 (a) (2).

(d) The commissioner shall either accept the application as being complete or notify the applicant in writing within 30 days that the application is incomplete, specifying what the applicant needs to submit to complete the application.

(e) Applications for renewal shall be approved if:

(1) The application contains the information and fee required by He-P 6002.02 (c) and He-P 6002.06 (a) (2);

(2) The registrant is in compliance with He-P 6000 and RSA 327-A; and

(3) The registrant has not engaged in an act that would result in denial under RSA 327-A:9.

(f) Renewal registrations shall be effective for 2 years from the date of expiration of the prior registration.

(g) The commissioner shall deny any application in accordance with He-P 6003.03 if the applicant:

(1) Has not met any one of the requirements of RSA 327-A:7 and RSA 327-A:14 or He-P 6002.02; or

(2) Has engaged in behavior justifying denial under 327-A:9.

(h) Notification of denial of renewal shall be in accordance with He-P 6003.03 (a), (b) and (c).

Source. #5199, eff 8-7-91; EXPIRED 8-7-97

New. #6567, INTERIM, eff 8-22-97, EXPIRES 12-20-97
(formerly He-P 6301.02)

New. #6728, eff 4-1-98; ss by #7119, eff 10-16-99; ss by
#7894, eff 5-21-03; ss by #7894, eff 5-21-03; ss by #8593, eff
3-28-06; ss by #10453, eff 10-31-13

He-P 6002.03 Expired Registration.

(a) If an application for renewal is received after the expiration date of the registration, the registration shall be expired.

(b) An ophthalmic dispenser whose registration has expired in accordance with (a) above shall not practice ophthalmic dispensing until he or she has obtained a registration in accordance with RSA 327-A and He-P 6000.

(c) An ophthalmic dispenser whose registration has expired in accordance with (a) above, and wishes to reapply for a registration, shall reapply for an initial ophthalmic dispensing registration in accordance with He-P 6002.01.
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(d) If an ophthalmic dispenser reapplies for an initial registration in accordance with (c) above, the applicant shall also include with the initial application documentation of having met the continuing education requirements of He-P 6002.05.

Source. #5199, eff 8-7-91; EXPIRED 8-7-97

New. #6567, INTERIM, eff 8-22-97, EXPIRES 12-20-97 (formerly He-P 6301.03)

New. #6728, eff 4-1-98; ss by #7119, eff 10-16-99; ss by #7894, eff 5-21-03; ss by #8593, eff 3-28-06; ss by #10453, eff 10-31-13

He-P 6002.04 Change of Address and Timely Submission of Application.

(a) Registrants shall immediately notify the commissioner when a change of home or office address occurs.

(b) Failure to receive an application for renewal of the current registration sent by the department shall not excuse the ophthalmic dispenser from the obligation to submit an application for renewal at least 30 days prior to the expiration of the current registration in accordance with He-P 6002.02 (c).

Source. #7119, eff 10-16-99; ss by #7353, eff 8-24-00; ss by #7894, eff 5-21-03; ss by #8593, eff 3-28-06; ss by #10453, eff 10-31-13

He-P 6002.05 Continuing Education.

(a) Registered ophthalmic dispensers shall complete a minimum of 8 continuing education credits during the 2 year period prior to each renewal of registration in accordance with RSA 327-A:14.

(b) At least 5 of the continuing education credits shall be earned through live didactic courses.

(c) Home study programs shall include audio, video, or computer programs with successful completion of a written examination.

(d) Applicants for renewal shall submit documentation concerning continuing education credits with the application for renewal in accordance with He-P 6002.02 (c) (2).

(e) Continuing education events approved by the American Board of Opticianry or the National Contact Lens Examiners shall be accepted by the commissioner for continuing education credits.

(f) Events which are not approved by the American Board of Opticianry or the National Contact Lens Examiners shall be pre-approved by the commissioner as described in (g) through (j) below in accordance with RSA 327-A:14 for continuing education credits.

(g) Requests for pre-approval for continuing education credits shall be submitted by the association or organization sponsoring the event.

(h) Associations and organizations requesting pre-approval for continuing education credits shall submit their requests to the commissioner, in writing, at least 60 days prior to the scheduled event.

(i) Requests for pre-approval for continuing education credits pursuant to RSA 327-A:14 shall include:
(1) The name of the course, seminar, or event;
(2) The location of the course, seminar, or event;
(3) The sponsor or presenter of the course, seminar or event;
(4) The address and telephone number of the sponsor or presenter;
(5) A complete description of the course, seminar, or event;
(6) The date(s) of the course, seminar, or event; and
(7) The number of continuing education credits being requested.

(j) The commissioner shall approve the proposed continuing education course if the course:

(1) Is sponsored by any national, regional, or state optical company, trade, or professional group; and

(2) Contributes to the advancement, extension, or enhancement of the professional skills and the technical knowledge of opticians.

(k) Continuing education requirements shall be completed prior to the expiration date of the registration.

(l) Registrants shall maintain accurate records of continuing education credits.

(m) Certificates and documents of evidence of continuing education credits shall be retained by the registrant for a period of 3 years.

(n) Original certificates and documents of evidence of continuing education hours shall be subject to inspection by the department upon request.

(o) Excess continuing education credits earned throughout the registration period shall not be carried forward into the next registration period.

Source. #7119, eff 10-16-99; ss by #7894, eff 5-21-03; ss by #8593, eff 3-28-06; ss by #10453, eff 10-31-13

He-P 6002.06 Fees.

(a) The registration fees shall be as follows:

(1) The initial registration fee shall be $110; and

(2) The renewal registration fee shall be $110.

(b) Registration fees shall be non-refundable pursuant to RSA 327-A:7.

Source. #8593, eff 3-28-06; ss by #10453, eff 10-31-13
PART He-P 6003 COMPLAINTS, DISCIPLINARY ACTION, REVOCATION, DENIAL

He-P 6003.01 Complaint Procedure.

(a) Any person may file a complaint against an ophthalmic dispenser, or against a person who is practicing ophthalmic dispensing without a registration.

(b) All complaints filed in accordance with (a) above shall be in writing.

(c) The complainant shall include the following in his or her complaint:

(1) The name of the ophthalmic dispenser or unregistered person;

(2) The business address and telephone number of the ophthalmic dispenser or unregistered person;

(3) The name and address of the complainant; and

(4) The specific facts or circumstances giving rise to the complaint.

(d) Complaints received by the department which are not in accordance with He-P 6003.01 (a) through (c) shall not be accepted.

(e) A copy of He-P 6003.01 (a) through (d) shall be conspicuously posted, along with the following address and phone number, in each ophthalmic dispensing office and store:

Department of Health and Human Services
Office of Professional Licensing
121 South Fruit Street
Concord New Hampshire 03301
(603) 271-9254

Source. #6567, INTERIM, eff 8-22-97, EXPIRED: 12-20-97

New. #6728, eff 4-1-98; ss by #7119, eff 10-16-99; ss by #7894, eff 5-21-03; ss by #8593, eff 3-28-06; ss by #10453, eff 10-31-13

He-P 6003.02 Complaint Investigation.

(a) Complaints alleging a violation of RSA 327-A and/or He-P 6000 shall be investigated by the commissioner.

(b) If the complaint is accepted, the commissioner shall contact and individually question the complainant and the registrant, or unregistered person, about the complaint in an effort to determine if the complaint can be substantiated.

(c) The registrant, or unregistered person, shall cooperate with the department by providing the department with any information requested by the commissioner relative to the complaint.

(d) Upon the completion of the investigation, the commissioner shall make a determination based on information received during the investigation as to whether the complaint is substantiated.

(e) Copies of the investigative findings shall be sent to the complainant and the registrant, or unregistered person, indicating whether the complaint is substantiated.
(f) Except in the case of violations which warrant revocation pursuant to He-P 6003.03 (j) (1), if the complaint is substantiated, the registrant shall submit to the commissioner and implement a written plan of correction within 15 days of the receipt of the findings.

(g) A written plan of correction shall be required if the registrant:

(1) Has failed to follow the order of a prescription of an ophthalmologist or optometrist;

(2) Has made a material false statement or concealed a material fact in connection with his or her application for registration;

(3) Has used dishonest or misleading advertising; or

(4) Has failed to comply with any other provisions of He-P 6000 or RSA 327-A.

Source. #6567, INTERIM, eff 8-22-97, EXPIRED: 12-20-97

New. #6728, eff 4-1-98; ss by #7119, eff 10-16-99; ss by #7894, eff 5-21-03; ss by #8593, eff 3-28-06; ss by #10453, eff 10-31-13

He-P 6003.03 Revocation, Denial, and Disciplinary Action.

(a) Prior to an administrative action against an applicant, registrant, or unregistered person such as denial, suspension or revocation of registration, or the imposition of a fine, the department shall send to the applicant, registrant, or unregistered person a written notice which sets forth:

(1) The reason(s) for the proposed action;

(2) The action to be taken by the department; and

(3) The rights of the applicant, registrant, or unregistered person to an adjudicative proceeding.

(b) Failure of the applicant, registrant, or unregistered person to request a hearing within 30 days of receipt of the notice shall result in the proposed action becoming final and immediately imposed.

(c) If the applicant, registrant, or unregistered person requests a hearing in writing within 30 days of receipt of the notice, no action shall be imposed on the applicant, registrant, or unregistered person pending the completion of an adjudicative process conducted in accordance with RSA 541-A and He-C 200.

(d) The commissioner shall suspend a registration in accordance with (a) through (c) above if the registrant:

(1) Fails to submit and implement a plan of correction within 15 days pursuant to He-P 6003.02 (f) and (g);

(2) Fails to maintain a plan of correction;

(3) Does not cooperate with an investigation by the commissioner to the extent required by these rules;

(4) Has given false information on his or her renewal application relative to continuing education; or
(5) Fails to pay an administrative fine in accordance with He-P 6003.04.

(e) If a registration is suspended in accordance with (d) (1) above, and the registrant requests a hearing in accordance with (c) above, the scope of the hearing shall be on the violations of He-P 6000 or RSA 327-A that resulted in the requiring of a plan of correction.

(f) If the outcome of a hearing held in accordance with (e) above is that the department did not have valid grounds to order the submission and implementation of a plan of correction, then the suspension shall not be imposed.

(g) If the outcome of a hearing held in accordance with (e) above is that the department's order requiring the submission of corrective action is upheld, the suspension shall take effect immediately and remain in effect until such time as the corrective action is submitted and approved in accordance with (h) below.

(h) The length of suspension shall be until such time as the registrant:

   (1) Complies with the requirements for which the suspension was issued; and

   (2) Has paid all fines, if any, associated with the suspension; or

   (3) Has his/her registration revoked in accordance with He-P 6003.03 (j) (2).

(i) Upon reinstatement of a suspended registration, the applicant shall not be required to pay an additional registration fee, and the expiration date shall be the expiration date of the previously suspended registration.

(j) The commissioner shall revoke a registration in accordance with (a) through (c) above if the registrant:

   (1) Has been found guilty of fraud or fraudulent practices in accordance with RSA 327-A:9, III; or

   (2) Has failed to comply with any conditions for the removal of a suspension within 90 days of the suspension taking effect.

(k) Upon suspension or revocation of a registration, the registrant shall return his or her certificate of registration in accordance with RSA 327-A:10.

(l) Pursuant to RSA 327-A:11, if a registration is revoked or an application is denied, no such registration shall be issued to such former registrant or applicant for at least 6 months from the date the revocation or denial was deemed final.

(m) An ophthalmic dispenser whose registration has been revoked or denied and who wishes to reapply for a registration in accordance with (l) above shall reapply for an initial ophthalmic dispensing registration in accordance with He-P 6002.01.
(n) In addition to (m) above, a registration shall not be granted to any applicant until the applicant has complied with the requirements for which the revocation or denial was issued, and has paid all fines, if any, associated with the revocation or denial.

Source. #6567, INTERIM, eff 8-22-97, EXPIRED: 12-20-97

New. #6728, eff 4-1-98; ss by #7119, eff 10-16-99; ss by #7894, eff 5-21-03; ss by #8593, eff 3-28-06; ss by #10453, eff 10-31-13

He-P 6003.04 Administrative Fines.

(a) When the commissioner has determined that a violation or violations of RSA 327-A or He-P 6000 have occurred, the commissioner shall impose an administrative fine of $250.00 for each offense in accordance with RSA 327-A: 17.

(b) If the person, applicant or registrant who is fined waives the right to a hearing and chooses to pay the imposed fine, the fine shall be paid to and received by the department within 30 days of receipt of the notice of fine.

(c) The fine payment shall be sent to the commissioner.

(d) Administrative fines shall be imposed in accordance with RSA 327-A:17 and He-P 6003.04 (a) for violations of RSA 327-A or He-P 6000, including, but not limited to, the following:

(1) Submitting false or fraudulent information on or with an application;

(2) Falsification of a registration to practice ophthalmic dispensing;

(3) Practicing ophthalmic dispensing, including the dispensing of plano lenses, without a registration;

(4) Failure to submit a plan of correction in accordance with He-P 6003.02 (f);

(5) Failure to implement and maintain a plan of correction;

(6) Failure to cooperate during an investigation;

(7) Failure to display certificate of registration in accordance with RSA 327-A:8; and

(8) Failure to display the complaint procedures in accordance with He-P 6003.01 (e).

Source. #6567, INTERIM, eff 8-22-97, EXPIRED: 12-20-97

New. #6728, eff 4-1-98; ss by #7119, eff 10-16-99; ss by #7894, eff 5-21-03; ss by #8593, eff 3-28-06; ss by #10453, eff 10-31-13

He-P 6003.05 Waivers.

(a) Applicants or registrants seeking waivers of specific rules in this chapter shall submit a written request for waiver to the commissioner which includes the following:

(1) Specific reference to the rule for which a waiver is being sought;
(2) Full explanation of why a waiver is necessary; and

(3) Full explanation of alternatives proposed by the applicant or registrant, which shall be equally as protective of public health as the rule from which a waiver is sought.

(b) The commissioner shall approve a request for waiver if:

(1) The commissioner concludes that authorizing deviation from strict compliance with the rule from which waiver is sought does not contradict the intent of the rule;

(2) The alternative proposed by the applicant or registrant ensures that the objective or intent of the rule from which waiver is sought will be accomplished: and

(3) The alternative proposed by the applicant or registrant does not violate any statutory provision.

(c) If a waiver is approved, the applicant’s or registrant’s subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.

(d) No waiver shall be granted for a period to exceed 2 years.

Source. #7894, eff 5-21-03; ss by #8593, eff 3-28-06; ss by #10453, eff 10-31-13
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