

DEPARTMENT OF ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
2100 BOARD OF EXAMINERS IN OPTOMETRY
Statutory Authority: 24 Delaware Code, Section 2104(a)(1) (24 **Del.C.** §2104(a)(1))
24 **DE Admin. Code** 1900

FINAL

ORDER

Pursuant to 29 **Del.C.** §10118 and 24 **Del.C.** §2104(a)(1) and for the reasons stated hereinafter, the Delaware Board of Examiners in Optometry (“the Board”) issues this Order adopting its proposed amendment to Board Rule 3.4.

Nature of the Proceedings

The Board proposes to amend Rule 3.4 to strike the limitation on the number of interns or externs permitted in a practice at any period of time. Notice of the public hearing on the Board’s proposal was published in the *Delaware Register of Regulations* on April 1, 2005, and in two Delaware newspapers of general circulation, all in accordance with 29 **Del.C.** §10115. The public hearing was held as noticed on May 12, 2005. The Board deliberated on the proposed amendment following the public hearing and unanimously voted to adopt the rule revision as published.

Summary of Evidence

The Board received no written comments in response to the notice of its intention to amend Rule 3.4 regarding the number of interns permitted in a practice. No public comment was received at the May 12, 2005 public hearing.

Findings of Fact and Conclusions

The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Commission’s Rules. The Commission received no written or verbal comments on the proposed amendment.

The Board finds that the proposed amendment to the Rule 3.4 is necessary to clarify that the purpose of rule 3.4 is to ensure that supervisors provide one-on-one supervisions of interns and externs. The rule already provides that no supervisor may be a supervisor for more than one intern or extern at a time. The amendment clarifies that the one intern or extern per supervisor limitation is for the duration of the internship or externship. This requirement is in the best interests of the public as it ensures that the work performed by the intern or extern is overseen by a Delaware licensed optometrist or ophthalmologist who will take responsibility for that work.

The Board finds that the requirement of one-on-one supervision and the limitation of one intern or extern per supervisor during the period of internship are sufficient to ensure that the interns and externs are adequately supervised. The Board further finds that there is no rationale for limiting the number of interns or externs in a given practice where multiple optometrists may be employed and available to provide individual supervision to an intern or extern provided that the supervisory limitations of the rule are met.

The Board is further persuaded that the amendment will not adversely affect the public and ensures that an intern’s or extern’s clinical experience is in keeping with the standard of care in Delaware.

NOW, THEREFORE, by a unanimous vote of a quorum of the Board of Examiners of Optometry,

IT IS HEREBY ORDERED this 12th day of May, 2005 that:

1. The proposed amendment to the Board’s Rules and Regulations is approved and adopted in the exact text attached hereto as Exhibit “A”.
2. The effective date of this Order is ten (10) days from the date of its publication in the *Register of Regulations*, pursuant to 29 **Del.C.** §10118(e).
3. The Board reserves the jurisdiction and authority to issue such other and further orders in this matter as may be necessary or proper.

BY ORDER OF THE BOARD OF EXAMINERS IN OPTOMETRY (as authenticated by a quorum of the Board)

Dr. Carl Maschauer, President
Dr. Sonja Biddle, Professional Member
Nichole Anderson-Easton (Not present), Professional Member
Dr. Allan Tocker (Not present), Professional Member
Ruth Banta, Public Member

The amendment to Rule 3.4. is as follows:

3.0 Internship

3.1 An internship is a course of study in which applicants receive part of their clinical training in a Board approved private practice setting in Delaware, or other Board approved setting, under the supervision of a licensed optometrist or ophthalmologist. An active, licensed Optometrist or Ophthalmologist may act as a supervisor. Any applicant's participation in such an internship program must be approved by the Board and is subject to the following terms and conditions:

3.1.1 A letter from the practitioner with whom the applicant will be interning stating the goals, duties and the number of hours he/she will be working. If the applicant is not doing his/her internship with a therapeutically certified optometrist or ophthalmologist, he/she must also complete an additional one hundred (100) hours of clinical internship with a therapeutically certified Optometrist, Medical doctor or Osteopathic physician.

3.1.2 Each applicant who will be participating in the internship program must provide the name and address of the supervisor and the dates of the internship for approval by the Board before the internship may begin provided that, in the event an applicant has made a good faith effort to submit all necessary licensure materials for approval of the internship, and in the event that the Board is unable to meet to review said licensure materials due to the absence of a sufficient number of statutorily appointed Board members, as occurred in July-August, 2003, the Board may approve said internship starting as of the date when the applicant has submitted all licensure materials.

3.1.3 A letter must be received by the Board from the supervisor verifying the completion of the internship.

3.1.4 For purposes of this Section and 29 **Del.C.** §2110, the term "duration" shall be defined as "a period of no less than six (6) months and no greater than the period ending on the date of the next Board meeting following the end of the six (6) month period." No intern may practice on a temporary license beyond the duration of the internship.

3.2 Subject to the approval requirements stated above, a candidate's internship requirements may be satisfied while the candidate is a member of the Armed Forces if he/she:

3.2.1 Functions as a fully credentialed therapeutically certified optometric practitioner; and (for purposes of this Section equivalent to the Air Force regulations).

3.2.2 Performs his optometric duties on a full-time basis in a completely equipped eye clinic.

3.3 Full-time: minimum of 35 hours per week.

3.4 All supervisors must supervise the interns on a one-to-one basis whenever an applicant performs a task which constitutes the practice of optometry. No supervisor may be a supervisor for more than one intern, or student extern, ~~at a time: during the period of the internship or externship. Only one intern shall be permitted in any practice for any period of time.~~

3.5 All acts which constitute the practice of optometry under 24 **Del.C.** §2101(a) may be performed by the intern only under the following conditions:

3.5.1 The supervisor shall be on the premises and immediately available for supervision at all times;

3.5.2 All intern evaluations of any patient shall be reviewed by the supervisor prior to final determination of the patient's case before the patient leaves the premises; and

3.5.3 A supervisor shall at all times effectively supervise and direct the intern.

3.6 A violation of any of the conditions enumerated in this rule may be grounds for the Board to revoke their approval of an internship program. The Board may also revoke its approval of an internship program if it determines that either the supervising optometrist or the intern has engaged in any conduct described by 24 **Del.C.** §2113(a). Furthermore, any violation of the terms of this rule by a supervising optometrist who is a licensed optometrist shall be considered unprofessional conduct and a violation of 24 **Del.C.** §2113(a)(7).

2 DE Reg 85 (5/1/99)

7 DE Reg. 912 (1/1/04)

8 DE Reg. 536 (10/01/04)

***Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Examiners in Optometry is available at:**

<http://dpr.delaware.gov/boards/optometry/index.shtml>

8 DE Reg. 1697 (06/01/05)