

21 NCAC 42E .0104 ACCESS TO AND CONTROL OVER PRACTICE

- (a) The licensee shall maintain full and independent control of the scheduling and provision of his optometric services.
- (b) Each licensee is responsible for and shall retain full and independent control of information disseminated to the public through any advertising or other commercial medium when such information relates to optometric services being provided by the licensee whether or not such advertising is paid for or sponsored by the optometrist. Provided however, it shall not be a violation of this subsection to include in an advertisement not disseminated by the licensee a statement advertising the availability of optometric services, including eye examinations, by an independent doctor of optometry adjacent to or in proximity to a retail optical establishment, or a statement containing substantially similar language.
- (c) The licensee shall have physical access to his practice location at all times.
- (d) Whenever any licensee enters into a lease or rental agreement to locate his practice within the exterior walls of a commercial or retail establishment, that practice location shall include an outside entrance to assure such access as may be needed by the optometrist and his patients to his optometric practice at all times. Further, the practice location within the commercial or retail establishment may have interior access from and to a public aisle, but such interior access shall not pass through or into any retail optical space within the establishment to the effect that the optometric practice shall be operated under the complete control of the optometrist.
- (e) A licensee shall not enter into any lease, rental agreement, or agreement or contract of employment for the provision of optometric services which infringes upon his independent professional judgment with regard to the operation of his practice or the care of his patients. Provisions within a lease, rental agreement, or agreement or contract of employment for the provision of optometric services or provisions within any master lease to which a lease is subject which would violate this Rule include, but are not limited to, provisions which control or attempt to control: malpractice liability insurance beyond a requirement that the licensee maintain a professionally-reasonable amount of malpractice liability insurance; regulation of the optometrist's business hours beyond 50 hours a week, except that the optometrist may agree to furnish coverage in excess of 50 hours a week either personally or by providing a temporary or relief optometrist to provide such coverage; custody and control of the optometrist's patient records; the scheduling or rescheduling of patient examinations or follow-up care; the setting or discounting of professional fees, except for participation in managed care or other third-party programs; or the specification of particular drugs or optical goods to be dispensed to or prescribed for a patient. Any lease which is subject to a master lease to which the optometrist does not have ready access for purposes of assuring compliance with this Rule shall be deemed in violation of this Rule and Rule .0201 of Section .0200 of this Subchapter.

*History Note: Authority G.S. 90-117.5; 90-121.2;
Eff. June 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.*