

**CHAPTER 458**  
**OPTICIANS, DISPENSING**

Section

- 458-1 Dispensing optician defined
- 458-2 Repealed
- 458-3 Powers and duties
- 458-4 to 6 Repealed
- 458-6.5 License; application; qualifications
- 458-6.6, 6.8 Repealed
- 458-6.9 Dispensing optician identification tags
- 458-7 Repealed
- 458-8 Expiration and renewal
- 458-9 Revocation or suspension of licenses
- 458-10 Subpoenas, oaths
- 458-11 Reinstatement
- 458-12, 12.5 Repealed
- 458-13 Acts prohibited
- 458-14 Exceptions; acts not prohibited
- 458-15 Penalties

## Cross References

Sunset evaluations modified, see §§26H-4 and 26H-5.

" **§458-1 Dispensing optician defined.** An individual is deemed to be engaged in the occupation of dispensing optician when the individual prepares and dispenses lenses, spectacles, eyeglasses, or appurtenances thereto to the intended wearer thereof on written prescription from physicians or optometrists duly licensed to practice their professions, and in accordance with the prescriptions interprets, measures, adapts, fits, and adjusts the lenses, spectacles, eyeglasses, or appurtenances thereto to the human face based on the prescription or for the aid or correction of visual or ocular anomalies of the human eyes, or when the individual offers to sell or sells non-corrective contact lenses. [L 1949, c 183, pt of §1; RL 1955, §69-1; HRS §458-1; am L 1981, c 86, §1; am L 1984, c 202, §1; am L 1997, c 301, §3; am L 2008, c 63, §1]

" **§458-2 REPEALED.** L 1997, c 301, §11.

" **§458-3 Powers and duties.** In addition to any other powers and duties authorized by law, the director of commerce and consumer affairs, subject to chapter 91, may adopt, amend, and repeal rules for the administration of this chapter.

The director shall appoint an advisory committee to serve as experts to the department in licensing matters. [L 1949, c 183, pt of §1; RL 1955, §69-3; am L Sp 1959 2d, c 1, §§6, 15; am L 1963, c 114, §3; am L 1965, c 96, §49; HRS §458-3; am L 1983, c 71, §1; am L 1985, c 255, §6; am L 1987, c 300, §3; am L 1992, c 202, §116; am L 1997, c 301, §4]

" **§§458-4 to 458-6 REPEALED.** L 1987, c 300, §§4 to 6.

" **§458-6.5 License; application; qualifications.** (a) An individual shall be licensed as a dispensing optician to engage in the occupation of dispensing optician.

(b) The applicant shall provide evidence of having:

- (1) The equivalent of a high school education and two years of opticianry work experience as required by administrative rules;
- (2) Graduation from an opticianry course accredited by the Commission on Opticianry Accreditation; or
- (3) A current and valid license as a dispensing optician in another state or territory of the United States and passage of the national examinations specified in subsection (c).

The applicant shall submit to the director an application for a license on a form prescribed by the director, which shall include the applicant's experience and signature, and an application fee.

(c) The applicant shall provide evidence of having passed the following examinations:

- (1) The National Opticianry Competency Examination;
- (2) The National Contact Lens Registry Examination; and
- (3) A nationally standardized practical examination may be required by the director as a prerequisite for dispensing optician licensure.

Any applicant who has previously passed both the National Opticianry Competency Examination and the National Contact Lens Registry Examination in a state or territory of the United States shall not be required to retake these examinations provided that the applicant's passing scores have been certified. [L 1987, c 300, §7; am L 1992, c 155, §1 and c 202, §117; am L 1997, c 301, §5]

#### **Cross References**

Professional testing services, see §26-9.

" **§§458-6.6 and 458-6.8 REPEALED.** L 1997, c 301, §§12, 13.

" **[§458-6.9] Dispensing optician identification tags.** Each licensed dispensing optician may wear an identification tag for the purpose of identifying to the customer that the person is a licensed dispensing optician. [L 1997, c 301, §1]

" **§458-7 REPEALED.** L 1997, c 301, §14.

" **§458-8 Expiration and renewal.** (a) A license issued under this chapter, unless sooner suspended or revoked, shall expire on July 1 of each even-numbered year, but may be biennially renewed by the license holder in good standing upon the payment of a biennial renewal fee. Failure to pay the biennial fee shall constitute a forfeiture of the license as of the date of expiration.

(b) The holder of an expired license may have the same restored within one year of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty fee. A person whose license has been forfeited and who fails to restore the license as provided in this section shall apply as a new applicant. [L 1949, c 183, pt of §1; am L 1955, c 113, §1; RL 1955, §69-8; am L 1961, c 142, §6; HRS §458-8; am L

1975, c 118, §21; am L 1984, c 7, §52; am L 1987, c 300, §10; am L 1997, c 301, §6]

" **§458-9 Revocation or suspension of licenses.** In addition to any other actions authorized by law, the director, in conformity with chapter 91, may revoke or suspend any license issued under this chapter for any cause authorized by law, including but not limited to fraud or dishonesty in obtaining the license, for dishonesty, fraud, gross negligence, or incompetency in the occupation of dispensing optician, or for violation of this chapter. [L 1949, c 183, pt of §1; RL 1955, §69-9; HRS §458-9; am L 1987, c 300, §11; am L 1992, c 202, §118; am L 1997, c 301, §7]

" **§458-10 Subpoenas, oaths.** In all proceedings before the director, the director shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence, as are possessed by circuit courts. In case of disobedience by any person or persons of any order of the director or any subpoena issued by the director or of the refusal of any witness to testify to any matter regarding which the witness may be questioned lawfully, any circuit judge on application by the director shall compel obedience as in the case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. [L 1949, c 183, pt of §1; RL 1955, §69-10; am L 1965, c 96, §50; HRS §458-10; am L 1973, c 31, pt of §21; gen ch 1985; am L 1992, c 202, §119; am L 1997, c 301, §8]

" **§458-11 Reinstatement.** The director may reinstate without examination the license of any dispensing optician issued under this chapter which has been revoked or may modify the suspension of any such license which has been suspended. [L 1949, c 183, pt of §1; RL 1955, §69-11; HRS §458-11; am L 1987, c 300, §12; am L 1992, c 202, §120; am L 1997, c 301, §9]

" **§458-12 REPEALED.** L 1992, c 202, §219.

" **§458-12.5 REPEALED.** L 1997, c 301, §15.

" **§458-13 Acts prohibited.** It shall be unlawful to do any of the following:

- (1) To engage in the occupation of dispensing optician without first having been issued a dispensing optician license under this chapter;
- (2) To advertise in any manner that would tend to mislead or deceive the public;

- (3) To dispense, furnish, or supply the services and appliances to the intended wearer or user thereof, except upon a prescription issued by a licensed physician, or optometrist; provided that duplications, replacements, reproductions, and repetitions, without change in the refractive value may be done without prescription by individuals holding a license of dispensing optician issued under this chapter;
- (4) To fit or duplicate, or offer, undertake, or attempt to fit or duplicate hard and soft contact lenses or artificial eyes except under the written orders and personal supervision of an ophthalmologist or optometrist or fail to provide notice as required by section 458-12.5;
- (5) For a dispensing optician to grant, allow, credit, or pay, directly or indirectly, openly or secretly, any price differential, rebate, refund, discount, commission, credit, kickback, or other allowance, whether in the form of money or otherwise, to any oculist, optometrist, physician, or practitioner of any other profession (A) for or on account of the referring or sending by any oculist, optometrist, physician, or practitioner to the dispensing optician of any person for the rendition of any of the services performed or articles or appliances furnished by a dispensing optician as described in section 458-1, or (B) for or on account of the rendition of any services or the furnishing of any articles or appliances to a person so referred or sent by any oculist, optometrist, physician, or practitioner. Every scheme, agreement, undertaking, arrangement, or device shall also be deemed in violation of section 481-7. The license of every dispensing optician who violates this paragraph shall be revoked; or
- (6) For a dispensing optician to permit any unlicensed person to take facial measurements, fit or adjust lenses or frames or duplicate frames unless the unlicensed person is acting under the direct personal supervision of a licensed dispensing optician. "Direct personal supervision" means the licensed optician is present on the premises of the optical dispensing establishment and is available for consultation by the unlicensed person. [L 1949, c 183, pt of §1; RL 1955, §69-13; am L 1963, c 38, §1; HRS §458-13; am L 1979, c 163, §1; am L 1981, c 86, §7; am L 1984, c 202, §4; am L 1987, c 300, §15; am L 1997, c 301, §10]

### Note

Section 458-12.5 referred to in text is repealed.

" **§458-14 Exceptions; acts not prohibited.** (a) Nothing in this chapter applies to any physician, optometrist, or ophthalmologist licensed under the laws of the State, nor shall anything in this chapter prohibit the sale of glasses, sun glasses, colored glasses, or eye devices if they do not have refractive values and are not contact lenses.

(b) Nothing in this chapter shall be construed to prohibit a certified ocularist as recognized by the American Society of Ocularists from performing within the scope of such certification; provided that the ocularist performs only those functions dealing with the designing, fitting, and fabricating of artificial eyes, and not contact lenses of refractive value, and is under the supervision of a licensed ophthalmologist or optometrist. The ocularist shall inform the board in writing of the name of the supervising ophthalmologist or optometrist. [L 1949, c 183, pt of §1; RL 1955, §69-14; HRS §458-14; am L 1988, c 198, §1; am L 2008, c 63, §2]

" **§458-15 Penalties.** Any person who violates this chapter shall be fined not more than \$500, or imprisoned not more than one year, or both. [L 1949, c 183, pt of §1; RL 1955, §69-15; HRS §458-15]