

*** DRAFT - NOT YET FILED ***

4725-5-01

Solicitor, agent, etc.

The employing of any solicitor or agent for the purpose of securing patients or acting as a solicitor or agent in the referring of patients is prohibited.

Engaging in the division of fees for the referral of patients, or receiving of any article of value in return for a specific referral of a patient to utilize a particular service or business is prohibited.

The receipt of fees for actual services provided in the co-management of patients with a licensed physician or with a professional corporation as defined by the Revised Code is permitted.

Co-management schedule, guidelines and visits will be determined by consultation between the licensed physician and referring optometrist. The patient will be advised of the schedule of return visits and any guidelines to be followed.

The optometrist cannot accept payment from the referral entity, a licensed physician or a corporation, for pre-surgical visits or consultations. This helps to assure the neutrality of the consultation and any subsequent referral recommendations.

The only exchange of value permitted between the optometrist and the physician shall be payment for services actually performed. Payment must come from third-party payers, self-paid from the patient, or from a pre-existing agreement between the optometrist and physician that allows for break out fees for services provided when global compensation is involved. The optometrist must document sufficient information to describe the post-operative care rendered.

Any violation of this rule constitutes "dishonest and unprofessional conduct" as that phrase is used in section 4725.19 of the Revised Code.

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4725-5-02

Guarantee.

The advertising to guarantee any optometric service constitutes "dishonesty and unprofessional conduct" as that phrase is used in section 4725.19 of the Revised Code.

4725-5-10

Practicing under unlicensed control.

The performance of optometric services for the public while in the employ of or while under the direct or indirect control of any person or entity of any kind other than a holder of a certificate of [optometric](#) licensure, a corporation of holders of certificates of [optometric](#) licensure, a not for profit charitable corporation or foundation, or a professional corporation as defined in Chapter 1785. of the Revised Code, of holders of certificates of licensure constitutes "dishonesty and unprofessional conduct" as that phrase is used in section 4725.19 of the Revised Code.

For the purposes of this rule, nonprofit charitable corporations or foundations that are primarily financed by federal grants, state grants and endowments, such as "Prevent Blindness Ohio" and low vision centers, may employ optometrists as long as no control is exerted over optometric procedures that are deemed necessary by optometrists working at these locations.

4725-5-18

Delegation by optometrist of duties to ancillary personnel.

(A) Definitions:

- (1) "Delegation" means the transfer of authority for the performance of a selected optometric activity or task from a licensed optometrist authorized to perform the activity or task to ancillary personnel who do not have the authority to perform the activity or task independently. Delegation to ancillary personnel shall be performed under direct, general or administrative supervision of a licensed optometrist. Ancillary personnel need not be employees of the responsible licensed optometrist.
 - (2) "Direct supervision" means the responsible ~~licensee~~ licensed optometrist must be on the premises both while the procedure is being performed by the ancillary personnel and to interpret the data upon completion of the task.
 - (3) "General supervision" means that the ~~licensee~~ licensed optometrist assumes responsibility for the activities and tasks performed by ancillary personnel, but need not be present while they are performed. The ~~licensee~~ licensed optometrist must be available for consultation and direction except if involved in a personal emergency which makes them temporarily unavailable.
 - (4) "Administrative supervision" means supervision to an extent that the responsible ~~licensee~~ licensed optometrist need not be present, but must give proper instruction on procedures and assumes responsibility for the actions of ancillary personnel. The ~~licensee~~ licensed optometrist shall not be required to be available for immediate contact.
 - (5) "Ancillary personnel" means any person or persons working under the direct, general or administrative supervision of a licensed ~~practitioner~~ optometrist. Ancillary personnel may be delegated to perform ministerial duties, tasks and functions as assigned to them by the licensed ~~practitioner~~ optometrist.
- (B) Ancillary personnel may not, under any circumstances, be delegated diagnosis or treatment duties, refractions or interpretation of testing that requires optometric judgment.
- (C) Ancillary personnel may administer dilation and therapeutic drops into the eyes per the responsible licensed practitioner's optometrist's instructions and may instruct patients on the proper protocol on self administration of topical ocular pharmaceutical agents. These tasks must be performed under the direct supervision of a licensed optometrist.

- (D) Ancillary personnel may perform ministerial duties, tasks and functions assigned to them by and performed under the general supervision of a licensed ~~practitioner~~ optometrist. This includes obtaining demographic information that allows the office to better serve the patients. Tasks and functions that may be performed shall include, but not be limited to, data gathering, preliminary testing, performing prescribed vision therapy and low vision therapy, delivery of eyeglasses, selection of frames and adjustments of frames. Ancillary personnel shall not alter, or change in any manner, a patient's prescription without express, written instructions by the licensed optometrist.
- (E) Ancillary personnel may perform tasks and duties assigned to them under the administrative supervision of a licensed ~~practitioner~~ optometrist including, but not limited to, sorting and cataloguing of patient records, while maintaining confidentiality. Ancillary personnel may respond to other healthcare professionals concerning patient records.
- (F) Ancillary personnel must demonstrate skill and ability prior to being delegated to do assigned tasks. A written policy must outline what procedures can be done and by whom. ~~This~~ The policy must also state that no professional judgments or interpretation of data are allowed in any situation.
- (G) Direct supervision is required when delegation of ancillary personnel occurs in a health care facility or other institutions offering health care except for routine administration of topical agents, delivery of eyeglasses, selection of frames, adjustment of frames and instruction to patients on insertion, removal and wearing regimen of contact lenses. Direct supervision is required to:
- (1) Evaluate the physical fit of a contact lens through the use of a "black light" and fluorescein or any similar substance; and
 - (2) To evaluate the physical fit of a contact lens through the use of a biomicroscope of other similar instrument with magnification qualities.
- (H) If in the performance of any delegated task the ancillary personnel becomes aware that the patient has a problem that limits the patient's ability to respond, the task will be immediately stopped. The supervising licensed optometrist will be advised of the situation before continuing.

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4725-5-19

Utilizing controlled substances for self and family members.

- (A) Accepted and prevailing standards of care presuppose a professional relationship between a patient and optometrist when the optometrist is prescribing controlled substances. By definition, an optometrist may never have such a relationship with himself or herself. Thus, an optometrist may not self-prescribe or self-administer controlled substances.
- (B) Accepted and prevailing standards of care require that an optometrist maintain detached professional judgment when utilizing controlled substances in the treatment of family members. An optometrist shall utilize controlled substances when treating a family member only in an ocular emergency situation which shall be documented in the patient's record.
- (C) For purposes of this rule, "family member" means a spouse, parent, child, sibling or other individual in relation to whom an optometrist's personal or emotional involvement may render that optometrist unable to exercise detached professional judgment in reaching diagnostic or therapeutic decisions.
- (D) Failure to comply with all or part of this rule constitutes a violation of divisions (B)(3), (B)(9) and/or (B)(13) of section 4725.19 of the Revised Code.

4725-7-01

Prescription specifications.

An optometrist shall include at least the following specifications in the writing of a prescription for contact lenses:

(A) Rigid contact lenses

- (1) Base curve
- (2) Peripheral curve or curves, including curvature and width
- (3) Overall diameter
- (4) Optical zone diameter
- (5) Power
- (6) Center thickness
- ~~(7) Color~~
- ~~(8)~~(7) Material
- ~~(9)~~(8) Name of patient
- ~~(10)~~(9) Date of examination
- ~~(11)~~(10) Issue date and expiration of prescription
- ~~(12)~~(11) Name, postal address, and telephone number ~~and facsimile telephone number~~ of prescriber.
- ~~(13)~~(12) In the case of a private label contact lens, name of manufacturer, trade name of private label brand and, if applicable, trade name of equivalent brand name.

(B) Soft contact lenses

- (1) Manufacturer and lens type
- (2) Power

(3) Base curve

(4) Overall diameter

~~(5) Color~~

~~(6)~~(5) Name of patient

~~(7)~~(6) Date of examination

~~(8)~~(7) Issue date and expiration of prescription

~~(9)~~(8) Name, postal address, and telephone number ~~and facsimile telephone number~~ of prescriber.

~~(10)~~(9) In the case of a private label contact lens, name of manufacturer, trade name of private label brand and, if applicable, trade name of equivalent brand name.

4725-7-03

Authority for modification.

~~An~~ A licensed optometrist ~~in whose practice an unlicensed person performs duties~~ shall not permit ~~such unlicensed~~ any person to modify or order modification of any optical accessory which requires a prescription except upon written instruction of a licensed optometrist or physician.

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4725-7-04

Permitted.

An optometrist may permit an unlicensed person to perform the following duties in the optometric practice:

- (A) Manufacture a rigid contact lens upon the written prescription of a licensed optometrist or physician, which prescription includes, as a minimum, the following: base curve, peripheral curve or curves (including curvature and width), over-all diameter, optical zone diameter, power, center thickness, color and material.
- (B) Modify a contact lens upon written detailed instructions of the optometrist or physician.
- (C) Verify finished lens(s) parameters prescribed by the optometrist in the practice, lenses prescribed elsewhere, or brought to the practice by prospective patients.
- (D) Teach contact lens hygiene and lens care.
- (E) Teach contact lens insertion and removal techniques.
- (F) Order or dispense contact lenses based upon the written prescription specifications of the language contained in rule 4725-7-01 of the Administrative Code.

4725-7-05

Not permitted.

~~An~~ A licensed optometrist shall not permit ~~an unlicensed person~~ any ancillary personnel, including licensed opticians or ocularists, to perform the following duties in the optometric practice:

(A) Make the determination as to whether or not a patient may safely and comfortably wear contact lenses.

~~(B) Evaluate the physical fit of a contact lens through the use of a "black light" and fluorescein or any similar substance.~~

~~(C) Evaluate the physical fit of a contact lens through the use of a biomicroscope or other similar instrument with magnification qualities.~~

~~(D)~~ (B) Use a phoropter or hand-held lenses of any type for the purpose of determining the prescription or change in the prescription necessary for any optical accessory.

~~(E)~~ (C) Use a spectacle prescription or a prescription determined through the use of a lensometer, or its equivalent, on a pair of spectacles as a basis for designing, manufacturing or duplicating a new contact lens.

~~(F)~~ (D) Prescribe a schedule of wearing time for a patient.

~~(G)~~ (E) In any way attempt to exercise professional judgment or exercise professional skills which constitute the practice of optometry.

4725-7-06

Prescription release.

An optometrist will provide the patient on completion of the examination and diagnosis a copy of the prescription for any vision correcting item, device or procedure unless there are significant medical reasons which would prohibit the immediate release. The medical conditions restricting any release of the prescription must be documented in the patient's records.

- (A) Diagnosis for determining the contact lens prescription shall be considered a review of the proposed contact ~~lenses~~ lens(es) in the eye(s) of the patient after an appropriate wearing period following the initial examination. The diagnosis review may be waived at the discretion of the examining optometrist. Patients who have successfully been wearing contact lenses ~~and~~ whereby the examination does not require any major change in prescription or type of lens ~~would~~ are be eligible for the issuance of the prescription at the completion of the examination.
- (B) The examining optometrist may expire a contact lens prescription at the end of one year after the eye examination and completed diagnosis under normal circumstances. The prescription may be expired in less than one year based on the medical judgment of the examining optometrist with respect to the ocular health of the patient. The specific medical judgment must be documented in the patient's records.
- (C) The examining optometrist may expire a spectacle prescription at the end of two years after the eye examination and completed diagnosis under normal circumstances. The prescription may be expired in less than two years based on the medical judgment of the examining optometrist with respect to the ocular health of the patient. The specific medical judgment must be documented in the patient's records.
- (D) The patient cannot be required to sign any disclaimer or waiver in order to obtain a copy of the prescription to which the patient is legally entitled. The payment of the professional fee for the eye examination may be required prior to the issuance of any prescription. The acceptance of insurance, including medicaid or medicare cards or any required copayments, co-insurance or contact lens evaluation fees ~~are~~ is considered the payment of professional fees.

Failure to release a copy of the prescription to the patient as required constitutes a violation of section 4725.28 of the Revised Code. An optometrist does not have to release an expired prescription.

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4725-15-04

Board approval of pharmacology and ocular disease continuing education course is as follows.

- (A) The board will approve for optometric pharmacology continuing education compliance only those programs which relate to:
 - (1) General and ocular pharmacology
 - (2) Signs and symptoms of ocular disease
 - (3) The diagnosis, treatment and management of ocular disease
 - (4) Appropriate criteria for referring patients to physicians and co-managing patients with physicians
 - (5) The use of those instruments which are utilized in conjunction with the topical ocular pharmaceutical agents and therapeutic pharmaceutical agents approved pursuant to section 4725.01 of the Revised Code.
- (B) Speakers, lecturers and others participating in the presentation of the programs must be recognized by the board as possessing requisite qualifications and being expert and of recognized repute in their area of instruction.
- (C) The course content must reflect that it is comparable to those courses in pharmacology required by optometry boards of other states whose licensees are permitted the use of topical ocular pharmaceutical agents and therapeutic pharmaceutical agents in the course of their practice of optometry.
- (D) Programs must be available to all Ohio optometrists. Limitations may be necessary based on space, time or format of presentation and must be so noted on application. Any program that is too restrictive may be denied approval.
- (E) Programs must contribute to the advancement of professional skill and knowledge of the participants and enable them to render continuously better and more comprehensive optometric service to the recipients of their care. Programs cannot be used to market the sponsor's/presenter's products or services.

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4725-16-03

Prescribing controlled substances.

A licensed optometrist, who holds a therapeutic pharmaceutical agents certificate and a valid DEA license number is authorized to employ, apply, administer and prescribe controlled substances that are determined to be appropriate for use in the practice of optometry pursuant to the following:

- (A) A preparation used for the treatment of pain that contains not more than sixty mg of codeine per dosage unit and also contains other active nonnarcotic ingredients (e.g. acetaminophen or aspirin) in a recognized therapeutic amount;
- (B) A preparation used for the treatment of pain that contains not more than 7.5 mg of hydrocodone per dosage unit and also contains other active nonnarcotic ingredients (e.g. acetaminophen, aspirin, ibuprofen) in a recognized therapeutic amount;
- (C) The total quantity prescribed shall not exceed a single four-day supply of controlled substances per episode of illness, injury and/or treatment; and
- (D) The product contains or consists of a drug or dangerous drug that was an analgesic included in the practice of optometry under a therapeutic pharmaceutical agents certificate immediately prior to the effective date of this amendment, was not a controlled substance at that time, and subsequently becomes a schedule II, III, IV, or V controlled substance. Controlled substances may only be prescribed by an optometrist if the product's FDA approved labeling contains an indication for pain.

The failure to comply with all or part of this rule constitutes a violation of divisions (B)(3), (B)(9), and/or (B)(13) of section 4725.19 of the Revised Code.

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4725-16-04

Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).

(A) For purposes of this rule:

- (1) "OARRS" means the "Ohio Automated Rx Reporting System" drug database established and maintained pursuant to section 4729.75 of the Revised Code.
- (2) "OARRS report" means a report of information related to a specified patient generated by the drug database established and maintained pursuant to section 4729.75 of the Revised Code.
- (3) "Personally furnish" means the distribution of drugs by a prescriber to the prescriber's patients for use outside the prescriber's practice setting.
- (4) "Protracted basis" means a period in excess of twelve continuous weeks.
- (5) "Reported drugs" means all the drugs listed in rule 4729-37-02 of the Administrative Code that are required to be reported to the drug database established and maintained pursuant to section 4729.75 of the Revised Code, including:
 - (a) Controlled substances in schedules II, III, IV, and V, and
 - (b) All dangerous drug products containing carisoprodol or tramadol.
 - (c) Other non-controlled dangerous drug products as listed in rule 4729-37-02 of the Administrative Code in the definitions as paragraph (A)(5)(b) of this rule.

(B) If an optometrist believes or has reason to believe that a patient may be abusing or diverting drugs, the optometrist shall use sound clinical judgment in determining whether or not the reported drug should be prescribed or personally furnished to the patient under the circumstances.

- (1) To assist in this determination, the optometrist shall access OARRS and document receipt and assessment of the information received if the patient exhibits the following signs of drug abuse or diversion:
 - (a) Selling prescription drugs;
 - (b) Forging or altering a prescription;

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- (c) Stealing or borrowing reported drugs;
 - (d) Increasing the dosage of reported drugs in amounts that exceed the prescribed amount;
 - (e) Having a drug screen result that is inconsistent with the treatment plan or refusing to participate in a drug screen;
 - (f) Having been arrested, convicted or received diversion, or intervention in lieu of conviction for a drug related offense while under the physician's care;
 - (g) Receiving reported drugs from multiple prescribers, without clinical basis; or
 - (h) Having a family member, friend, law enforcement officer, or health care professional express concern related to the patient's use of illegal or reported drugs.
- (2) Other signs of possible abuse or diversion which may necessitate accessing OARRS include, but are not limited to the following:
- (a) A known history of chemical abuse or dependency;
 - (b) Appearing impaired or overly sedated during an office visit or exam;
 - (c) Requesting reported drugs by specific name, street name, color, or identifying marks;
 - (d) Frequently requesting early refills of reported drugs;
 - (e) Frequently losing prescriptions for reported drugs;
 - (f) A history of illegal drug use;
 - (g) Sharing reported drugs with another person; or
 - (h) Recurring emergency department visits to obtain reported drugs.

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(C) An optometrist prescribing or personally furnishing reported drugs to treat a patient on a protracted basis shall, at a minimum, document receipt and assessment of an OARRS report in the following circumstances:

(1) Once the optometrist has reason to believe that the treatment will be required on a protracted basis; and

(2) At least once annually, thereafter.

(D) An optometrist shall document receipt and assessment of all OARRS reports in the patient record.

(1) Initial reports requested in compliance with this rule shall cover a time period of at least one year;

(2) Subsequent reports requested in compliance with this rule shall, at a minimum, cover the period from the date of the last report to present.

(E) In the event an OARRS report is not available prior to writing a prescription for a reported drug or personally furnishing the reported drug, an optometrist shall document in the patient record why the OARRS report was not available.

(F) Paragraph (C) of this rule does not apply to a hospice patient in a hospice care program as those terms are defined in section 3712.01 of the Revised Code.