

AN ACT

To amend sections 4725.01, 4725.09, 4725.16, 4725.23, 4725.26, 4725.28, 4725.40, and 4731.44 and to enact sections 4725.011 and 4725.091 of the Revised Code to modify the laws governing the State Board of Optometry and the practice of optometry, including the laws authorizing optometrists to administer and prescribe drugs, and to require the Ohio Optical Dispensers Board to regulate the dispensing of cosmetic contact lenses.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4725.01, 4725.09, 4725.16, 4725.23, 4725.26, 4725.28, 4725.40, and 4731.44 be amended and sections 4725.011 and 4725.091 of the Revised Code be enacted to read as follows:

Sec. 4725.01. As used in this chapter:

(A)(1) The "practice of optometry" means the application of optical principles, through technical methods and devices, in the examination of human eyes for the purpose of ascertaining departures from the normal, measuring their functional powers, adapting optical accessories for the aid thereof, and detecting ocular abnormalities that may be evidence of disease, pathology, or injury.

(2) In the case of a licensed optometrist who holds a topical ocular pharmaceutical agents certificate, the "practice of optometry" has the same meaning as in division (A)(1) of this section, except that it also includes administering topical ocular pharmaceutical agents ~~for the purposes set forth in division (A)(1) of this section.~~

(3) In the case of a licensed optometrist who holds a therapeutic pharmaceutical agents certificate, the "practice of optometry" has the same meaning as in ~~divisions~~ division (A)(1) ~~and (2)~~ of this section, except that it also includes employing all of the following:

(a) Employing, applying, administering, and prescribing instruments, devices, and procedures, other than invasive procedures, ~~and therapeutic pharmaceutical agents for the following purposes:~~

~~(a) Examination of examination, investigation, diagnosis, treatment, or prevention of any disease, injury, or other abnormal condition of the visual system;~~

~~(b) Treatment or cure of any disease, injury, or other abnormal condition of the anterior segment of the human eye Employing, applying, administering, and prescribing topical ocular pharmaceutical agents;~~

~~(c) Employing, applying, administering, and prescribing therapeutic pharmaceutical agents;~~

~~(d) Assisting an individual in determining the individual's blood glucose level by using a commercially available glucose-monitoring device. Nothing in this section precludes a licensed optometrist who holds a therapeutic pharmaceutical agents certificate from using any particular type of commercially available glucose-monitoring device.~~

~~(B) "Topical ocular pharmaceutical agents agent" means:~~

~~(1) Proparacaine hydrochloride in a potency not exceeding five-tenths of one per cent ophthalmic solution;~~

~~(2) Benoxinate hydrochloride in a potency not exceeding four-tenths of one per cent ophthalmic solution;~~

~~(3) Phenylephrine hydrochloride in a potency not exceeding two and five-tenths per cent ophthalmic solution;~~

~~(4) Hydroxyamphetamine hydrobromide in a potency not exceeding one per cent ophthalmic solution;~~

~~(5) Tropicamide in a potency not exceeding one per cent ophthalmic solution;~~

~~(6) Cyclopentolate in a potency not exceeding one per cent ophthalmic solution;~~

~~(7) Any other topical ocular pharmaceutical agents if the primary indications for their use are consistent with the purposes set forth in division (A)(1) of this section, their new drug application is approved by and the potency in which they may be used for evaluative purposes has been established by the federal food and drug administration after January 1, 1983, and their use for the purposes set forth in division (A)(1) of this section has been approved by rule of the state board of optometry a drug or dangerous drug that is a topical drug and used in the practice of optometry as follows:~~

~~(1) In the case of a licensed optometrist who holds a topical ocular pharmaceutical agents certificate, for evaluative purposes in the practice of optometry as set forth in division (A)(1) of this section;~~

~~(2) In the case of a licensed optometrist who holds a therapeutic pharmaceutical agents certificate, for purposes of examination,~~

investigation, diagnosis, treatment, or prevention of any disease, injury, or other abnormal condition of the visual system.

(C) "Therapeutic pharmaceutical agent" means ~~a topical ocular pharmaceutical agent or any of the following drugs~~ a drug or dangerous drugs ~~drug~~ that is used for examination, investigation, diagnosis, treatment, or prevention of any disease, injury, or other abnormal condition of the visual system ~~or for treatment or cure of disease, injury, or other abnormal condition of the anterior segment of the human eye and is an anti-microbial, anti-allergy, anti-glaucoma, topical anti-inflammatory, or cycloplegic agent, or an analgesic:~~

- (1) ~~A topical ophthalmic preparation;~~
- (2) ~~Oral dosage of any of the following drugs:~~
 - (a) ~~Acetazolamide;~~
 - (b) ~~Astemizole;~~
 - (c) ~~Dichlorphenamide;~~
 - (d) ~~Diphenhydramine;~~
 - (e) ~~Glycerin in a fifty per cent solution;~~
 - (f) ~~Isosorbide in a forty five per cent solution;~~
 - (g) ~~Methazolamide;~~
 - (h) ~~Analgesics that may be legally sold without prescription;~~
 - (i) ~~Terfenadine;~~
 - (j) ~~Ampicillin in a two hundred fifty milligram or five hundred milligram dosage;~~
 - (k) ~~Cefaclor in a two hundred fifty milligram or five hundred milligram dosage;~~
 - (l) ~~Cephalexin in a two hundred fifty milligram or five hundred milligram dosage;~~
 - (m) ~~Dicloxacillin in a two hundred fifty milligram or five hundred milligram dosage;~~
 - (n) ~~Doxycycline in a fifty milligram or one hundred milligram dosage;~~
 - (o) ~~Erythromycin in a two hundred fifty milligram, three hundred and thirty three milligram, or five hundred milligram dosage;~~
 - (p) ~~Penicillin VK in a two hundred fifty milligram or five hundred milligram dosage;~~
 - (q) ~~Tetracycline in a two hundred fifty milligram or five hundred milligram dosage.~~
- (3) Any other oral dosage of a drug or dangerous drug that is listed by rule in the practice of optometry by a licensed optometrist who holds a therapeutic pharmaceutical agents certificate, and is any of the following:
 - (1) An oral drug or dangerous drug in one of the following

classifications:

(a) Anti-infectives, including antibiotics, antivirals, antimicrobials, and antifungals;

(b) Anti-allergy agents;

(c) Antiglaucoma agents;

(d) Analgesics, including only analgesic drugs that are available without a prescription, analgesic drugs or dangerous drugs that require a prescription but are not controlled substances, and schedule III controlled substances authorized by the state board of optometry in rules adopted under section 4725.091 of the Revised Code;

(e) Anti-inflammatories, excluding all drugs or dangerous drugs classified as oral steroids other than methylpredisolone, which may be used under a therapeutic pharmaceutical agents certificate only if all of the following conditions are met:

(i) The drug is prescribed for use in allergy cases;

(ii) The drug is prescribed for use by an individual who is eighteen years of age or older;

(iii) The drug is prescribed on the basis of an individual's particular episode of illness;

(iv) The drug is prescribed in an amount that does not exceed the amount packaged for a single course of therapy.

(2) Epinephrine administered by injection to individuals in emergency situations to counteract anaphylaxis or anaphylactic shock. Notwithstanding any provision of this section to the contrary, administration of epinephrine in this manner does not constitute performance of an invasive procedure.

(3) An oral drug or dangerous drug that is not included under division (C)(1) of this section, if the drug or dangerous drug is approved, exempt from approval, certified, or exempt from certification by the federal food and drug administration for ophthalmic purposes and the drug or dangerous drug is specified in rules adopted by the state board of optometry under section 4725.09 of the Revised Code.

(D) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(E) "Drug" and "dangerous drug" have the same meanings as in section 4729.01 of the Revised Code.

~~(E)~~(F) "Invasive procedure" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, administering medication by injection, or the removal of intraocular foreign bodies.

~~(F)~~(G) "Visual system" means the human eye and its accessory or subordinate anatomical parts.

~~(G)~~(H) "Certificate of licensure" means a certificate issued by the state board of optometry under section 4725.13 of the Revised Code authorizing the holder to practice optometry as provided in division (A)(1) of this section.

~~(H)~~(I) "Topical ocular pharmaceutical agents certificate" means a certificate issued by the state board of optometry under section 4725.13 of the Revised Code authorizing the holder to practice optometry as provided in division (A)(2) of this section.

~~(I)~~(J) "Therapeutic pharmaceutical agents certificate" means a certificate issued by the state board of optometry under division (A)(3) or (4) of section 4725.13 of the Revised Code authorizing the holder to practice optometry as provided in division (A)(3) of this section.

Sec. 4725.011. In prescribing and dispensing vision correction devices under a therapeutic pharmaceutical agents certificate, a licensed optometrist may prescribe and dispense any device that has vision correction as its primary purpose but also combines with that purpose the delivery of a drug or dangerous drug through the device, if the drug delivered by the device would otherwise be a topical ocular pharmaceutical agent or oral therapeutic pharmaceutical agent. Devices authorized by this section include, but are not limited to, vision-correcting contact lenses that deliver such drugs or dangerous drugs.

Sec. 4725.09. (A) The state board of optometry shall adopt rules as it considers necessary to govern the practice of optometry and to administer and enforce sections 4725.01 to 4725.34 of the Revised Code. All rules adopted under sections 4725.01 to 4725.34 of the Revised Code shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The board, in consultation with the state board of pharmacy, shall adopt rules specifying any oral ~~dosages~~ of drugs or dangerous drugs that are therapeutic pharmaceutical agents under division (C)(3) of section 4725.01 of the Revised Code.

(C) The board shall adopt rules that establish standards to be met and procedures to be followed with respect to the delegation by an optometrist of the performance of an optometric task to a person who is not licensed or otherwise specifically authorized by the Revised Code to perform the task. The rules shall permit an optometrist who holds a topical ocular pharmaceutical agents certificate or therapeutic pharmaceutical agents certificate to delegate the administration of drugs included in the optometrist's scope of practice.

The rules adopted under this division shall provide for all of the following:

(1) On-site supervision when the delegation occurs in an institution or other facility that is used primarily for the purpose of providing health care, unless the board established a specific exception to the on-site supervision requirement with respect to routine administration of a topical drug;

(2) Evaluation of whether delegation is appropriate according to the acuity of the patient involved;

(3) Training and competency requirements that must be met by the person administering the drugs;

(4) Other standards and procedures the board considers relevant.

Sec. 4725.091. (A) The state board of optometry shall adopt rules governing the authority of licensed optometrists to employ, apply, administer, and prescribe schedule III controlled substances under a therapeutic pharmaceutical agents certificate. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and in consultation with the state board of pharmacy.

(B) All of the following apply to the state board of optometry in the adoption of rules under this section:

(1) The board shall not permit an optometrist to employ, apply, administer, or prescribe a schedule III controlled substance other than a drug included in section 3719.41 of the Revised Code within the schedule III narcotics-narcotic preparations category.

(2) The board shall limit the schedule III controlled substances that optometrists may employ, apply, administer, or prescribe to the drugs that the board determines are appropriate for use in the practice of optometry under a therapeutic pharmaceutical agents certificate.

(3) With regard to the prescribing of schedule III controlled substances, the board shall establish prescribing standards to be followed by optometrists who hold therapeutic pharmaceutical agents certificates. The board shall take into account the prescribing standards that exist within the health care marketplace.

(4) The board shall establish standards and procedures for employing, applying, administering, and prescribing schedule III controlled substances under a therapeutic pharmaceutical agents certificate by taking into consideration and examining issues that include the appropriate length of drug therapy, appropriate standards for drug treatment, necessary monitoring systems, and any other factors the board considers relevant.

Sec. 4725.16. (A) Each certificate of licensure, topical ocular pharmaceutical agents certificate, and therapeutic pharmaceutical agents

certificate issued by the state board of optometry shall expire annually on the last day of December, and may be renewed in accordance with this section and the standard renewal procedure established under Chapter 4745. of the Revised Code.

An optometrist seeking to continue to practice optometry shall file with the board an application for license renewal. The application shall be in such form and require such pertinent professional biographical data as the board may require.

(B) All licensed optometrists shall annually complete continuing education in subjects relating to the practice of optometry, to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure comprehensive care to the public. The board shall prescribe by rule the continuing optometric education that licensed optometrists must complete. The length of study shall be ~~determined by the board but shall be not less than six nor more than twenty-five clock hours each year, except that the board shall prescribe an additional five~~ including ten clock hours of instruction in pharmacology to be completed by all licensed optometrists ~~who hold topical ocular pharmaceutical agents certificates or therapeutic pharmaceutical agents certificates.~~

Unless the continuing education required under this division is waived or deferred under division (D) of this section, the continuing education must be completed during the twelve-month period beginning on the first day of October and ending on the last day of September. If the board receives notice from a continuing education program indicating that an optometrist completed the program after the last day of September, and the optometrist wants to use the continuing education completed after that day to renew the license that expires on the last day of December of that year, the optometrist shall pay the penalty specified under section 4725.34 of the Revised Code for late completion of continuing education.

At least once annually, the board shall mail to each licensed optometrist a list of courses approved in accordance with standards prescribed by board rule. Upon the request of a licensed optometrist, the executive director of the board shall supply a list of additional courses that the board has approved subsequent to the most recent mailing of the list of approved courses.

(C)(1) Annually, by not later than the first day of November, the board shall mail to each licensed optometrist a notice regarding license renewal and to each licensed optometrist who may be eligible for renewal. The notice shall be sent to the optometrist's last address shown in the board's records. If the board knows that the optometrist has completed the required

~~continuing optometric education for the year, the board may include with the notice an application for license renewal. The application shall be in such form and require such pertinent professional biographical data as the board may require. An optometrist seeking to continue to practice optometry shall file the renewal application with the board. Filing the~~

(2) Filing a license renewal application with the board shall serve as notice by the optometrist that the continuing optometric education requirement has been successfully completed. If

~~If~~ the board finds that an optometrist has not completed the required continuing optometric education, the board shall disapprove the optometrist's application. The board's disapproval of renewal is effective without a hearing, unless a hearing is requested pursuant to Chapter 119. of the Revised Code. ~~The~~

(3) The board shall refuse to accept an application for renewal from any applicant whose license is not in good standing or who is under disciplinary review pursuant to section 4725.19 of the Revised Code. Notice

(4) Notice of an applicant's failure to qualify for renewal shall be served upon the applicant by mail, which. The notice shall be sent on or before not later than the fifteenth day of November to the applicant's last address shown in the board's records.

(D) In cases of certified illness or undue hardship, the board may waive or defer for up to twelve months the requirement of continuing optometric education, except that in such cases the board may not waive or defer the continuing education in pharmacology required to be completed by optometrists who hold topical ocular pharmaceutical agents certificates or therapeutic pharmaceutical agents certificates. The board shall waive the requirement of continuing optometric education for any optometrist who is serving in the armed forces of the United States or who has received an initial certificate of licensure during the nine-month period which ended on the last day of September.

~~(E) The board shall approve all applications for renewal that are not disapproved or refused under division (C) of this section.~~ An optometrist whose renewal application has been approved may renew each certificate held by paying to the treasurer of state the fees for renewal specified under section 4725.34 of the Revised Code. On payment of all applicable fees, the board shall issue a renewal of the optometrist's certificate of licensure, topical ocular pharmaceutical agents certificate, and therapeutic pharmaceutical agents certificate, as appropriate.

~~(F) A notice shall be sent to every licensed optometrist who fails to file the renewal application provided under division (C) of this section, at the~~

~~optometrist's last address, at least one month in advance of the last day of December, which is the date of expiration. A second notice shall be sent Not later than the fifteenth day of December, the board shall mail a second notice regarding license renewal to each licensed optometrist who may be eligible for renewal but did not respond to the notice sent under division (C)(1) of this section. The notice shall be sent to the optometrist's last address shown in the board's records. If an optometrist fails to file a renewal application after the second notice is sent, the board shall send a third notice regarding license renewal prior to any action under division (I) of this section to classify the optometrist's certificates as delinquent, to every optometrist failing to respond to the preceding notice.~~

(G) The failure of an optometrist to apply for license renewal or the failure to pay the applicable annual renewal fees on or before the date of expiration, shall automatically work a forfeiture of the optometrist's authority to practice optometry in this state.

(H) The board shall accept renewal applications and renewal fees that are submitted from the first day of January to the last day of April of the year next succeeding the date of expiration. An individual who submits such a late renewal application or fee shall pay the late renewal fee specified in section 4725.34 of the Revised Code.

(I)(1) If the certificates issued by the board to an individual have expired and the individual has not filed a complete application during the late renewal period, the individual's certificates shall be classified in the board's records as delinquent.

(2) Any optometrist subject to delinquent classification may submit a written application to the board for reinstatement. For reinstatement to occur, the applicant must meet all of the following conditions:

(a) Submit to the board evidence of compliance with board rules requiring continuing optometric education in a sufficient number of hours to make up for any delinquent compliance;

(b) Pay the renewal fees for the year in which application for reinstatement is made and the reinstatement fee specified under division (A)(8) of section 4725.34 of the Revised Code;

(c) Pass all or part of the licensing examination accepted by the board under section 4725.11 of the Revised Code as the board considers appropriate to determine whether the application for reinstatement should be approved;

(d) If the applicant has been practicing optometry in another state or country, submit evidence that the applicant's license to practice optometry in the other state or country is in good standing.

(3) The board shall approve an application for reinstatement if the conditions specified in division (I)(2) of this section are met. An optometrist who receives reinstatement is subject to the continuing education requirements specified under division (B) of this section for the year in which reinstatement occurs.

Sec. 4725.23. (A) The state board of optometry shall investigate evidence that appears to show that a person has violated any provision of sections 4725.01 to 4725.34 of the Revised Code or any rule adopted under those sections. Investigations of alleged violations shall be supervised by the member of the board appointed by the board to act as the supervising member of investigations. The supervising member shall not participate in the final vote that occurs in an adjudication of the case.

(B) In investigating a possible violation, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony. A subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board and the board's supervising member of investigations. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of sections 4725.01 to 4725.34 of the Revised Code or any rule adopted under those sections and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is an optometrist licensed under ~~by~~ this chapter, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the optometrist refuses to accept delivery.

Each witness who appears before the board in obedience to a subpoena

shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

(C) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with other licensing boards and governmental agencies that are investigating alleged professional misconduct and with law enforcement agencies and other governmental agencies that are investigating or prosecuting alleged criminal offenses. A board or agency that receives the information shall comply with the same requirements regarding confidentiality as those with which the state board of optometry must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the board or agency that applies when the board or agency is dealing with other information in its possession. The information may be admitted into evidence in a criminal trial in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about persons whose confidentiality was protected by the state board of optometry when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

Sec. 4725.26. Division (A) of section 4725.02 of the Revised Code does not apply to the following:

(A) Physicians authorized to practice medicine and surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code;

(B) Persons who sell optical accessories but do not assume to adapt them to the eye, and neither practice nor profess to practice optometry;

(C) An instructor in a school of optometry that is located in this state and approved by the state board of optometry under section 4725.10 of the Revised Code who holds a valid current license to practice optometry from a licensing body in another jurisdiction and limits the practice of optometry to the instruction of students enrolled in the school.

(D) A student ~~at~~ enrolled in a school of optometry, located in this or

another state and approved by the board under section 4725.10 of the Revised Code, while ~~enrolled~~ the student is participating in this state in an optometry training program ~~and acting~~ provided or sponsored by the school, if the student acts under the direct, personal supervision and control of an optometrist licensed by the board or authorized to practice pursuant to division (C) of this section.

(E) An individual who is licensed or otherwise specifically authorized by the Revised Code to engage in an activity that is included in the practice of optometry.

(F) An individual who is not licensed or otherwise specifically authorized by the Revised Code to engage in an activity that is included in the practice of optometry, but is acting pursuant to the rules for delegation of optometric tasks adopted under section 4725.09 of the Revised Code.

Sec. 4725.28. (A) As used in this section, "supplier" means any person who prepares or sells optical accessories or other vision correcting items, devices, or procedures.

(B) A licensed optometrist, on completion of a vision examination and diagnosis, shall give each patient for whom the optometrist prescribes any vision correcting item, device, or procedure, one copy of the prescription, without additional charge to the patient. The prescription shall include the following:

(1) The date of its issuance;

(2) Sufficient information to enable the patient to obtain from the supplier of the patient's choice, the optical accessory or other vision correcting item, device, or procedure that has been prescribed;

(3) In the case of contact lenses, all information specified as part of a contact lens prescription, as defined in the "Fairness to Contact Lens Consumers Act," 117 Stat. 2024 (2003), 15 U.S.C. 7610.

(C) Any supplier who fills a prescription for contact lenses furnished by an optometrist shall furnish the patient with written recommendations to return to the prescribing optometrist for evaluation of the contact lens fitting.

(D) Any supplier, including an optometrist who is a supplier, may advertise to inform the general public of the price that the supplier charges for any vision correcting item, device, or procedure. Any such advertisement shall specify the following:

(1) Whether the advertised item includes an eye examination;

(2) In the case of lenses, whether the price applies to single-vision or multifocal lenses;

(3) In the case of contact lenses, whether the price applies to rigid or

soft lenses and whether there is an additional charge related to the fitting and determination of the type of contact lenses to be worn that is not included in the price of the eye examination.

(E) The state board of optometry shall not adopt any rule that restricts the right to advertise as permitted by division (D) of this section.

(F) Any municipal corporation code, ordinance, or regulation or any township resolution that conflicts with a supplier's right to advertise as permitted by division (D) of this section is superseded by division (D) of this section and is invalid. A municipal corporation code, ordinance, or regulation or a township resolution conflicts with division (D) of this section if it restricts a supplier's right to advertise as permitted by division (D) of this section.

Sec. 4725.40. As used in sections 4725.40 to 4725.59 of the Revised Code:

(A) "Optical aid" means ~~an instrument or device~~ both of the following:

(1) Spectacles or other instruments or devices that are not contact lenses, if the spectacles or other instruments or devices may aid or correct human vision and have been prescribed by a physician or optometrist licensed by any state to correct human vision, including spectacles, eyeglasses, contact lenses, and accessories. Contact;

(2) Contact lenses, regardless of whether they address visual function, if they are designed to fit over the cornea of the eye or are otherwise designed for use in or on the eye or orbit.

All contact lenses shall be dispensed only in accordance with a valid written prescription designated for contact lenses, including the following:

(a) Zero-powered plano contact lenses;

(b) Cosmetic contact lenses;

(c) Performance-enhancing contact lenses;

(d) Any other contact devices determined by the Ohio optical dispensers board to be contact lenses.

(B) "Optical dispensing" means interpreting but not altering a prescription of a licensed physician or optometrist and designing, adapting, fitting, or replacing the prescribed optical aids, pursuant to such prescription, to or for the intended wearer; duplicating lenses, other than contact lenses, accurately as to power without a prescription; and duplicating nonprescription eyewear and parts of eyewear. "Optical dispensing" does not include selecting frames, transacting a sale, transferring an optical aid to the wearer after an optician has completed fitting it, or providing instruction in the general care and use of an optical aid, including placement, removal, hygiene, or cleaning.

(C) "Licensed dispensing optician" means a person holding a current, valid license issued under sections 4725.47 to 4725.51 of the Revised Code that authorizes the person to engage in optical dispensing. Nothing in this chapter shall be construed to permit a licensed dispensing optician to alter the specifications of a prescription.

(D) "Licensed spectacle dispensing optician" means a licensed dispensing optician authorized to engage in the dispensing of optical aids other than contact lenses.

(E) "Licensed contact lens dispensing optician" means a licensed dispensing optician authorized to engage only in the dispensing of contact lenses.

(F) "Licensed spectacle-contact lens dispensing optician" means a licensed dispensing optician authorized to engage in the dispensing of any optical aid.

(G) "Apprentice" means any person dispensing optical aids under the direct supervision of a licensed dispensing optician.

(H) "Prescription" means the written or verbal directions or instructions as specified by a physician or optometrist licensed by any state for preparing an optical aid for a patient.

(I) "Supervision" means the provision of direction and control through personal inspection and evaluation of work.

(J) "Licensed ocularist" means a person holding a current, valid license issued under sections 4725.48 to 4725.51 of the Revised Code to engage in the practice of designing, fabricating, and fitting artificial eyes or prostheses associated with the appearance or function of the human eye.

Sec. 4731.44. (A) As used in this section, "supplier" has the same meaning as in section 4725.28 of the Revised Code.

(B) An individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery, on completion of a vision examination and diagnosis, shall give each patient for whom the individual prescribes any vision correcting item, device, or procedure, one copy of the prescription, without additional charge to the patient. The prescription shall include the following:

(1) The date of its issuance;

(2) Sufficient information to enable the patient to obtain from the supplier of the patient's choice, the vision correcting item, device, or procedure that has been prescribed;

(3) In the case of contact lenses, all information specified as part of a contact lens prescription, as defined in the "Fairness to Contact Lens Consumers Act," 117 Stat. 2024 (2003), 15 U.S.C. 7610.

(C) Any supplier who fills a prescription for contact lenses furnished by an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery shall furnish the patient with written recommendations to return to the prescribing doctor for evaluation of the contact lens fitting.

(D) Any supplier, including an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery who is a supplier, may advertise to inform the general public of the price that the supplier charges for any vision correcting item, device, or procedure. An advertisement of that nature shall specify the following:

(1) Whether the price includes an eye examination;

(2) In the case of lenses, whether the price applies to single-vision or multifocal lenses;

(3) In the case of contact lenses, whether the price applies to rigid or soft lenses and whether there is an additional charge related to the fitting and determination of the type of contact lenses to be worn that is not included in the price of the eye examination.

(E) The state medical board shall not adopt any rule that restricts the right to advertise as permitted by division (D) of this section.

(F) Any municipal corporation code, ordinance, or regulation or any township resolution that conflicts with a supplier's right to advertise as permitted by division (D) of this section is superseded by division (D) of this section and is invalid. A municipal corporation code, ordinance, or regulation or a township resolution conflicts with division (D) of this section if it restricts a supplier's right to advertise as permitted by division (D) of this section.

SECTION 2. That existing sections 4725.01, 4725.09, 4725.16, 4725.23, 4725.26, 4725.28, 4725.40, and 4731.44 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 149

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____