

## Chapter Opt 5

## UNPROFESSIONAL CONDUCT

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**History:** Chapter Opt 7 as it existed on January 31, 1971 was repealed, and a new chapter Opt 7 was created, Register, January, 1971, No. 181, effective 2-1-71; chapter Opt 6, Issuance of License as it existed on August 31, 1985 was repealed and chapter Opt 7 was repealed and recreated as chapter Opt 6, Register, August, 1985, No. 356, effective 9-1-85; Chapter Opt 6 was renumbered Chapter Opt 5, effective April 1, 1989.

**Opt 5.01 Authority and intent.** (1) The rules in this chapter are adopted under authority in ss. 15.08 (5) (b), 227.11 (2) and 449.07, Stats.

(2) The intent of the optometry examining board in adopting the rules is to establish minimum standards of conduct for optometrists and to specify reasons for taking disciplinary action against a licensee.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89.

**Opt 5.02 Definitions.** (1) "Extended-wear contact lenses" as used in s. Opt 5.14 means contact lenses which have received federal food and drug administration approval for marketing for extended wear and are prescribed for use on an extended wear (overnight) schedule.

**Note:** Extended-wear contact lenses require premarket approval under section 515 of the Federal Food, Drug and Cosmetic Act, 21 USC 360e (1985). A copy of this provision is available at the board office, 1400 East Washington Avenue, Madison, Wisconsin 53702.

(2) "Gross incompetence" as that term is used in s. 449.07, Stats., means the failure to exercise that degree of care and skill which is exercised by the average practitioner in the class to which the optometrist belongs, acting in the same or similar circumstances. Gross incompetence specifically includes the inability to proficiently operate equipment and instruments described in s. Opt 5.07.

(3) "Minimum examination for the fitting of contact lenses" means the performance of all the following procedures:

- (a) Performing a minimum visual examination;
- (b) Determining lens specifications;
- (c) Evaluating the physical fit of diagnostic and prescribed lenses by means of a slit lamp;
- (d) Prescribing a time schedule for a patient's wearing the contact lenses; and,
- (e) Performing progress evaluations and recording in the patient record the recommended date of the patient's next visit.

(4) "Minimum visual examination" means the performance of all the following procedures:

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- (a) Recording a complete case history of the patient;
- (b) Measuring far and near visual acuity;
- (c) Conducting an ophthalmoscopic and external examination;
- (d) Measuring corneal curvature;
- (e) Performing retinoscopy;
- (f) Evaluating convergence and accommodation;
- (g) Obtaining far and near subjective findings;
- (h) Evaluating muscle balance;
- (i) Measuring intraocular pressure; and,
- (j) Recording prescription and far and near visual acuity obtained.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. cr. (1), eff. 12-17-85; renum. (1) to (3) to be (2) to (4), cr. (1), Register, June, 1986, No. 366, eff. 7-1-86; renum. Register, March, 1989, No. 399, eff. 4-1-89.

**Opt 5.03 Delegation.** Portions of the minimum visual examination, which are included in the definition of routine visual screening specified in s. Opt 1.02 (4), may be delegated to an unlicensed person working under the immediate supervision of the optometrist conducting the examination. The examining optometrist shall evaluate the findings of all tests delegated in the minimum visual examination.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89.

**Opt 5.04 Improper use of title.** It shall be unprofessional conduct for an optometrist to use the title "Doctor" in printed form unless the optometrist has been granted the title of doctor of optometry by an optometric college and unless the optometrist indicates that he or she is an optometrist.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89.

**Opt 5.05 Change of address.** An optometrist shall inform the board of any change in address or change in location of practice. It shall be unprofessional conduct to fail to comply with this section.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89.

**Opt 5.06 Inspection.** It shall be unprofessional conduct for an optometrist to fail to furnish to the board upon request information concerning the mode and location of practice. Every optometrist shall permit the inspection by a board member or representative of his or her office, equipment and records during regular office hours.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89.

**Opt 5.07 Adequate equipment.** It shall be unprofessional conduct for an optometrist to fail to have in good working order adequate equipment  
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and instruments as are necessary to perform the minimum visual examination specified in s. Opt 5.02 (4).

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; correction made under s. 13.93 (2m) (b) 7, Stats., Register, June, 1986, No. 366; renum. Register, March, 1989, No. 399, eff. 4-1-89; correction made under s. 13.93 (2m) (b) 7, Stats., Register, March, 1989, No. 399.

**Opt 5.08 Performing minimum visual examination.** Except in cases where the patient refuses or is unable to participate in any procedure of the minimum visual examination, it shall be unprofessional conduct for an optometrist to fail to perform the minimum visual examination:

- (1) At the patient's initial examination with the optometrist;
- (2) At any examination following a minimum visual examination by one year or more; or,
- (3) At an examination for the fitting of contact lenses.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89.

**Opt 5.09 Performing minimum examination for fitting of contact lenses.** Except in cases where the patient is unable to participate, it shall be unprofessional conduct for an optometrist to fail to perform an examination as defined in s. Opt 5.02 (3) in the fitting of contact lenses for a patient.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; correction made under s. 13.93 (2m) (b) 7, Stats., Register, June, 1986, No. 366; renum. Register, March, 1989, No. 399, eff. 4-1-89; correction made under s. 13.93 (2m) (b) 7, Stats., Register, March, 1989, No. 399.

**Opt 5.10 Patient records.** (1) It shall be unprofessional conduct to fail to record and include in each patient's record the following information:

- (a) Name and date of birth of the patient;
- (b) Date of examination and examination findings, including a clear and legible record of the tests performed, the results obtained, the prescription ordered and the patient's far and near visual acuity obtained with the prescription ordered;
- (c) Date of the prescription;
- (d) Lens verification of lenses dispensed, including the date of verification and identification of the person verifying the lenses; and,
- (e) Name, signature and license number of the examining optometrist.

(2) It shall be unprofessional conduct to fail to maintain patient records for at least 6 years.

(3) It shall be unprofessional conduct for an optometrist to provide a patient with a copy of a prescription without considering whether the prescription may have changed, is outdated or may become outdated. In any of these instances, it shall be unprofessional conduct to fail to print or stamp across the face of the record copy, "Warning: This prescription may be outdated and may not be relied upon for proper fit and correction" or, "Warning: This prescription expires on \_\_\_\_\_, and may not be relied upon after this date for a proper fit or correction" or, "Expired."

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89.

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**Opt 5.11 Verification.** (1) It shall be unprofessional conduct for an optometrist to fail to verify, or fail to ascertain that a delegate of the optometrist's verified, before delivery, the accuracy with which the prescription of the lenses dispensed by the optometrist or the optometrist's employer is compounded and to record the verification as required in s. Opt 5.10 (1) (d). In the case of contact lenses, it shall be unprofessional conduct to fail to include in the record the parameters and any available lot number.

(2) It shall be unprofessional conduct for an optometrist to deliver ophthalmic lenses if the lenses do not meet requirements set forth in Table 1, ANSI Z80.1-1972, requirements for first-quality prescription ophthalmic lenses, approved November 1, 1971, by the American national standards institute, inc.

**Note:** The standard incorporated above as reference may be obtained from the Standards Institute located at 1430 Broadway, New York, NY 10018.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89.

**Opt 5.12 Supervision.** It shall be unprofessional conduct for an optometrist to fail to exercise immediate supervision over individuals to whom the optometrist has delegated the task of routine visual screening.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89.

**Opt 5.13 Unprofessional advertising.** (1) Unprofessional advertising means any false, fraudulent, misleading or deceptive statement made to the public by an optometrist, including statements that:

(a) Create false, fraudulent or unjustified expectations of favorable results;

(b) Make comparisons with other optometrists which are false, fraudulent, misleading or deceptive; or,

(c) Contain representations that would be likely to cause a reasonable person to misunderstand or be deceived.

(2) No licensed optometrist may:

(a) Seek to obtain patients by advertising or other forms of solicitation in a manner that is false, fraudulent, misleading or deceptive;

(b) Maintain a professional relationship with any other person or firm advertising in a manner that is false, fraudulent, misleading or deceptive.

**History:** Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89.

**Opt 5.14 Disclosure.** (1) It shall be unprofessional conduct for an optometrist to fail to provide to any patient receiving extended-wear contact lenses a separate, written disclosure in not less than 12 point type, which includes the following language:

“As with any drug or device, the use of extended-wear contact lenses is not without risk. A small, but significant, percentage of individuals wearing extended-wear lenses develop potentially serious complications which can lead to permanent eye damage.

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If you have any unexplained eye pain or redness, watering of the eye or discharge, cloudy or foggy vision, decrease in vision or sensitivity to light, remove your lenses and make arrangements to see your eye-care professional before wearing your lenses again.

Regular inspection by a licensed eye-care professional is important to evaluate your eyes' tolerance of extended wear lenses."

(2) The disclosure shall in addition indicate that a regular schedule of cleaning and disinfection is necessary and indicate a recommended schedule of follow-up appointments for evaluation of adaptation to contact lens wear.

(3) Information about replacement lenses, service agreements, warranties, refunds and other business items should not be part of the required disclosure. Instructions for proper lens care and recommended solutions should also be distributed separately.

(4) The disclosure shall be signed by the patient prior to the patient's receipt of the lenses. If the patient is a minor or incompetent, the patient's parent or legal guardian shall sign the disclosure. The patient or legal guardian shall be given a copy of the disclosure, and a signed copy of the disclosure shall be placed in the patient record of the individual for whom the lenses are dispensed.

(5) An optometrist may dispense replacement extended-wear lenses without providing the written disclosure required in sub. (1), if the patient for whom the lenses are dispensed already has a signed disclosure form in his or her patient file.

History: Emerg. cr. eff. 12-17-85; cr. Register, June, 1986, No. 366, eff. 7-1-86; renum. Register, March, 1989, No. 399, eff. 4-1-89.