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History: Chapter Opt 7 as it existed on January 31, 1971 was repealed, and a new chapter Opt 7 was created, Register, January, 1971, No. 181, effective 2-1-71; chapter Opt 6, Issuance of License as it existed on August 31, 1985 was repealed and chapter Opt 7 was repealed and recreated as chapter Opt 6, Register, August, 1985, No. 356, effective 9-1-85; Chapter Opt 6 was renumbered Chapter Opt 5, effective April 1, 1989.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 Intent. The intent of the board in adopting the rules in this chapter is to establish minimum standards of conduct for optometrist and to specify reasons the board may reprimand, deny, limit, suspend, or revoke any license or certificate of registration.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89; r. (1), renum. (2) to be Opt 5.01, Register, September, 1997, No. 501, eff. 10-1-97; CR 15-078: am. Register December 2016 No. 732, eff. 1-1-17.

Opt 5.02 Definitions. As used in this chapter:

(1) "Contact lens prescription" means a prescription order for a contact lens that includes all of the following:

(a) The specifications needed to adequately duplicate a contact lens.

(b) The name, signature and license number of the prescribing optometrist.

(c) The date of the prescription.

(d) The date of expiration.

(e) Provisions for a reasonable number of refills.

(3) "Grossly incompetent" means the failure of a licensee or certificate holder to exercise that degree of care and skill which is exercised by the average practitioner who holds the same type of license or certificate, acting in the same or similar circumstances. Grossly incompetent specifically includes the failure to have in good working order adequate equipment and instruments as are necessary to perform the minimum eye examination.

(4) "Lens prescription" means a written or electronic order that contains the specifications for ophthalmic materials for a particular patient for the purpose of treating the refractive or functional abilities of the visual system or the enhancement of visual performance.

(5) "Limited eye screening" means an event where no spectacle prescription, contact lens prescription or treatment or management plan is generated.

(6) "Signature" means a handwritten mark or an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

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; renum. (1), (3) and (4) to be Opt 1.02 (1), (4) and (5), (2) to be (1), cr. (2), Register, June, 1990, No. 414, eff. 7-1-90; cr. (intro.) and (1), renum. (1) to be (1m) and am., Register, September, 1997, No. 501, eff. 10-1-97; CR 01-060: renum. (1), (1m) and (2) to be (2) to (4) and am. (4), cr. (1), Register December 2001 No. 552, eff. 1-1-02; CR 05-036: cr. (5) Register January 2006 No. 601, eff. 2-1-06; CR 06-116: cr. (6) Register May 2007 No. 617, eff. 6-1-07; CR 13-017: am. (4) Register November 2013 No. 695, eff. 12-1-13; CR 15-078: am. (3) Register December 2016 No. 732, eff. 1-1-17; **CR 25-027: r. (2) Register December 2025 No. 840, eff. 1-1-26.**

Opt 5.03 Unprofessional Conduct. Unprofessional conduct by an optometrist includes any of the following:

(1) Engaging in any practice which constitutes a danger to health, welfare, or safety of a patient or the public.

(2) Engaging in conduct in the practice of optometry which evidences a lack of knowledge or ability to apply professional principles or skills.

(3) Practicing or attempting to practice beyond the scope of practice.

(4) Practicing in a manner which demonstrates the optometrist is grossly incompetent.

(5) Obtaining a license through fraud.

(6) Obtaining or attempting to obtain anything of value by fraudulent representation in the practice of optometry.

(7) Practicing or attempting to practice while the ability to perform services is impaired by physical, mental or emotional disorder, drugs, or alcohol.

(8) Practicing while knowingly having an infectious or contagious disease, except when practicing telehealth.

(9) Any conduct of a character likely to deceive or defraud the public.

(10) Loaning of an optometric license or certificate to anyone.

(11) Splitting or dividing any fee for optometric service with any person, except an associate licensed optometrist.

(12) Using the title "Doctor", or the initials "Dr.", in printed form unless the optometrist has been granted the title of doctor of optometry by an optometric college and unless the optometrist indicates in printing in the same communication that he or she is an optometrist.

(13) Failing to notify the board of any change in address or change in location of practice within 30 days.

(14) Failing to furnish to the board upon request information concerning the mode and location of practice.

(15) Failing to permit the board or a board representative to inspect his or her office, equipment and records during regular office hours.

(16) Failing to have in good working order adequate equipment and instruments as are necessary to perform the minimum eye examination procedures specified in s. Opt 1.02 (4).

(17) (a) Except as provided in par. (b), failing to perform the minimum eye examination at any of the following:

1. The patient's initial examination with the optometrist.

2. Any examination conducted more than one year after a minimum eye examination.

3. A minimum eye examination for the fitting of contact lenses as defined in s. Opt 1.02 (5).

(b) It shall not be unprofessional conduct to fail to perform the minimum eye examination in any of the following instances:

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

1. Where the patient refuses or is unable to participate in any procedure of the minimum eye examination.

2. At an examination for the diagnosis and management of eye disease or for the removal of superficial foreign bodies from an eye or from an appendage to the eye.

3. Where written verification of all examination findings has been received from a licensed optometrist or an ophthalmologist, stating that a minimum eye examination, as defined in s. Opt 1.02 (4), has been performed for the patient within the 6 month period immediately preceding the date of the patient's visit.

4. Where a limited eye screening is performed.

(18) Advertising in a manner that is false, fraudulent, misleading, or deceptive including any of the following:

(a) Statements creating false, fraudulent, or unjustified expectations of favorable results including advertising professional superiority or the performance of professional services in a superior manner.

(b) Making comparisons with other optometrists which are false, fraudulent, misleading, or deceptive.

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

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

(19) Delegating the prescribing of pharmaceutical agents or the removal of foreign bodies from an eye or from an appendage to the eye, to an unlicensed person.

(20) Delegating the performance of tasks related to the practice of optometry to an unlicensed person that exceeds that person's competence, education, training, or experience.

(21) Failing to exercise supervision over an unlicensed person, as provided under s. Opt 1.03.

(22) Failing to record and include in each patient's record the information required under s. Opt 5.10.

(24) Failing to release, at no cost to the patient, a copy of the patient's spectacle lens prescription or contact lens prescription following release of the patient from contact lens fitting and initial follow-up care.

Note: Federal Trade Commission Rules 16 CFR 315.3 and CFR 456.2 require the release of spectacle and contact lens prescriptions.

(25) Failing to release a patient's records in accordance with s. 146.83, Stats.

(26) Failing to obtain informed consent under s. Opt 5.045.

(27) Violating any provision of ch. 449, Stats., or any rule of the board.

History: CR 15-078: cr. Register December 2016 No. 732, eff. 1-1-17; CR 21-005: am. (16), (17) (a) 3., (b) 3., r. (23) Register June 2022 No. 798, eff. 7-1-22; CR 24-029: am. (8) Register June 2025 No. 834, eff. 7-1-25.

Opt 5.045 Informed Consent. (1) Any optometrist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments. The reasonable optometrist standard is the standard for informing a patient under this section. The reasonable optometrist standard requires disclosure only of information that a reasonable optometrist would know and disclose under the circumstances.

(2) The optometrist's duty to inform the patient under this section does not require disclosure of any of the following:

(a) Detailed technical information that in all probability a patient would not understand.

(b) Risks apparent or known to the patient.

(c) Extremely remote possibilities that might falsely or detrimentally alarm the patient.

(d) Information in emergencies where failure to provide treatment would be more harmful to the patient than treatment.

(e) Information in cases where the patient is incapable of consenting.

(f) Information about alternate modes of treatment for any condition the optometrist has not included in his or her diagnosis at the time the optometrist informs the patient.

(3) If the patient is a minor or incompetent, the patient's parent or legal guardian shall be informed of all disclosures required under sub. (1).

(4) An optometrist shall be responsible for informing a patient upon initiation of scheduling a visit, or within a reasonable amount of time in the event of a change of circumstances, if the visit is going to be performed by telehealth. The patient shall be provided with the name and contact information of the optometrist providing the telehealth care.

History: CR 15-078: cr. Register December 2016 No. 732, eff. 1-1-17; CR 21-005: cr. (3) Register June 2022 No. 798, eff. 7-1-22; CR 24-029: cr. (4) Register June 2025 No. 834, eff. 7-1-25.

Opt 5.10 Patient records. (1) An optometrist shall record and include in each patient's record all of 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.

(e) Name, signature and license number of the examining optometrist.

(f) Documentation that alternate modes of treatment have been communicated to the patient and prior informed consent has been obtained from the patient. If the patient is a minor or incompetent, documentation that prior consent for treatment was received from the patient's parent or legal guardian.

(2) Patient records shall be maintained for at least 6 years.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89; am. (3), cr. (4), Register, June, 1990, No. 414, eff. 7-1-90; am. (1) (intro.) to (d), Register, September, 1997, No. 501, eff. 10-1-97; CR 01-060: am. (3), Register December 2001 No. 552, eff. 1-1-02; CR 15-078: am. (1) (intro.), cr. (1) (f), am. (2), r. (3), (4) Register December 2016 No. 732, eff. 1-1-17; CR 21-005: r. (1) (d), am. (1) (f) Register June 2022 No. 798, eff. 7-1-22.

Opt 5.20 Telehealth. (1) The standards of practice and professional conduct under this chapter apply to an optometrist regardless of whether health care service is provided in person or by telehealth.

(2) An optometrist who uses a telehealth visit to provide optometry services to a patient located in this state shall either be licensed as an optometrist by the board, shall apply for a temporary credential under the requirements of s. 440.094, Stats., or shall have endorsement and licensure by the board under s. 449.055, Stats., and ch. Opt 4.

History: CR 24-029: cr. Register June 2025 No. 834, eff. 7-1-25.