
WEST VIRGINIA CODE CHAPTER 30
ARTICLE 8A

WV Legislature

§30-8A-1. Definitions.

As used in this article:

"Contact lens" means a lens placed directly on the surface of the eye, regardless of whether it is intended to correct a visual defect. Contact lens includes, but is not limited to, a cosmetic, therapeutic, or corrective lens;

"Board" means the West Virginia Board of Optometry;

"Diagnostic contact lens" means a contact lens used to determine a proper contact lens fit;

"Direct supervision" means supervision that occurs when a licensee is actually present in the building;

"Examination and evaluation" means an assessment of the ocular health and visual status of a patient that does not consist solely of objective refractive data or information generated by an automated refracting device or other automated testing device for the purpose of writing a valid prescription;

"Licensee" means a person who is authorized to engage in the practice of optometry under §30-8-1 *et seq.* of this code;

"Special requirements" means the type of lens design, lens material, tint, or lens treatments;

"Spectacles" means an optical instrument or device worn or used by an individual that has one or more lenses designed to correct or enhance vision to address the visual needs of the individual wearer. This includes spectacles that may be adjusted to achieve different types or levels of visual correction or enhancement;

"Valid prescription" means one of the following, as applicable:

(1) For a contact lens, a written or electronic order by a licensee who has conducted an examination and evaluation of a patient and has determined a satisfactory fit for the contact lens based on an analysis of the physiological compatibility of the lens or the cornea and the physical fit and refractive functionality of the lens on the patient's eye. To be a valid prescription under this subdivision, it shall at least include the following:

(A) A statement that the prescription is for a contact lens;

(B) The contact lens type or brand name, or for a private label contact lens, the name of the manufacturer, trade name of the private label brand, and, if applicable, trade name of the equivalent or similar brand;

(C) All specifications necessary to order and fabricate the contact lens, including, if applicable, the power, material, base curve or appropriate designation, and diameter;

- (D) The quantity of contact lenses to be dispensed;
 - (E) The number of refills;
 - (F) Specific wearing instructions and contact lens disposal parameters;
 - (G) The patient's name;
 - (H) The date of the examination and evaluation;
 - (I) The date the prescription is originated;
 - (J) The prescribing licensee's name, address, and telephone number;
 - (K) The prescribing licensee's written or electronic signature, or other form of authentication; and
 - (L) An expiration date of not less than one year from the date of the examination and evaluation or a statement of the reasons why a shorter time is appropriate based on the medical needs of the patient;
- (2) For spectacles, a written or electronic order by a licensee who has examined and evaluated a patient. To be a valid prescription under this subdivision, it shall include at least the following:
- (A) A statement that the prescription is for spectacles;
 - (B) As applicable and as specified for each eye, the lens power including the spherical power, cylindrical power including axis, prism, and power of the multifocal addition;
 - (C) Any special requirements, the omission in the opinion of the prescribing licensee, would adversely affect the vision or ocular health of the patient;
 - (D) The patient's name;
 - (E) The date of the examination and evaluation;
 - (F) The date the prescription is originated;
 - (G) The prescribing licensee's name, address, and telephone number;
 - (H) The prescribing licensee's written or electronic signature, or other form of authentication; and
 - (I) An expiration date of not less than one year from the date of the examination and evaluation or a statement of the reasons why a shorter time is appropriate based on the medical needs of the patient.

§30-8A-2. Prescriptions.

(a) Except as otherwise provided in subsection (b), spectacles and contact lenses are medical devices and are subject to the requirements of this article.

(b) The requirements of this article do not apply to the following:

- (1) A diagnostic contact lens that is used by a licensee during an examination and evaluation;
- (2) An optical instrument or device that is not intended to correct or enhance vision; or
- (3) An optical instrument or device that is sold without consideration of the visual status of the individual who will use the optical instrument or device.

§30-8A-3. Prohibited Actions.

A person may not:

- (1) Employ objective or subjective physical means to determine the accommodative or refractive condition; the range, power of vision or muscular equilibrium of the human eye or prescribe spectacles or contact lenses based on that determination unless that activity is performed by a licensee or performed by a person under direct supervision.
- (2) Dispense, give, or sell spectacles or contact lenses unless dispensed, given, or sold pursuant to a valid prescription.
- (3) Use an automated refractor or other automated testing device to generate objective refractive data unless that use is under direct supervision.

§30-8A-4. Enforcement.

- (a) The board shall enforce the provisions of this article.
- (b) The board may promulgate a legislative rule in accordance with the provisions of article three, chapter twenty-nine-a of this code regarding the implementation of this article.
- (c) The board is not required to wait until harm to human health has occurred to initiate an investigation under this section.
- (d) If a person is in violation of this article and is licensed by another board, the board shall refer to the appropriate licensing board to enforce the provisions of their article.

§30-8A-5. Criminal Penalty for violation.

A person violating this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000.

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