

Chapter 18.195 RCW
CONSUMER ACCESS TO VISION CARE ACT

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RCW 18.195.010 Findings—Intent. The legislature finds that in the newly reformed health care delivery system it is necessary to clarify providers' roles to ensure that they are working together to maximize patient access while controlling costs. This is especially important in the vision care industry, where the potential for confusion exists due to some overlapping scopes of practice among licensed providers.

The legislature finds that boards regulating health care professions should be mindful of the necessary balance between public safety and access to affordable care, and adopt rules that are consistent with their legislative intent. The risk that this balance may be lost is especially high in the optical industry, where competitive pressures have led to the involvement of the federal trade commission. The legislature recognizes its role in ensuring appropriate access to vision care for state residents by clarifying necessary prescription content and ensuring prescription release to the patient. [1994 c 106 s 1.]

RCW 18.195.020 Definitions. For purposes of this chapter, the following definitions apply:

(1) "Dispensing" means the retail delivery of ophthalmic goods to the patient by a prescriber or optician.

(2) "Eye examination" means a testing process administered by a prescriber that includes the process of determining the refractive condition of a patient's eyes. If requested by the patient, it also determines the appropriateness of contact lenses.

(3) "Fitting" means the performance of mechanical procedures and measurements necessary to adapt and fit eyeglasses or contact lenses from a written prescription. In the case of contact lenses, the prescription must be in writing and fitting includes the selection of the physical characteristics of the lenses including conversion of the spectacle power to contact lens equivalents, lens design, material and manufacturer of the lenses, and supervision of the trial wearing of the lenses which may require incidental revisions during the fitting period. The revisions may not alter the effect of the written prescription.

(4) "Ophthalmic goods" means eyeglasses or a component or components of eyeglasses, and contact lenses.

(5) "Ophthalmic services" means the measuring, fitting, adjusting, and fabricating of ophthalmic goods subsequent to an eye examination.

(6) "Optician" means a person licensed under chapter 18.34 RCW.

(7) "Patient" means a person who has had an eye examination.

(8) "Practitioner" includes prescribers and opticians.

(9) "Prescriber" means an ophthalmologist or optometrist who performs eye examinations under chapter 18.53, 18.57, or 18.71 RCW.

(10) "Prescription" means the written directive from a prescriber for corrective lenses and consists of the refractive powers. If the patient wishes to purchase contact lenses, the prescription must contain a notation that the patient is "OK for contacts" or similar language confirming there are no contraindications for contacts.

(11) "Secretary" means the secretary of the department of health.
[1994 c 106 s 2.]

RCW 18.195.030 Prohibited practices—Separation of examination and dispensing—Notice—Duplication of lenses. (1) No prescriber shall:

(a) Fail to provide to the patient one copy of the patient's prescription at the completion of the eye examination. A prescriber may refuse to give the patient a copy of the patient's prescription until the patient has paid for the eye examination, but only if that prescriber would have required immediate payment from that patient had the examination revealed that no ophthalmic goods were required;

(b) Condition the availability of an eye examination or prescription, or both, to a patient on a requirement that the patient agree to purchase ophthalmic goods from the prescriber or a dispenser approved by the prescriber;

(c) Fail to include a notation of "OK for contacts" or similar language on the prescription if the prescriber would have fitted the patient himself or herself, provided there are no contraindications for contacts, and if the patient has requested contact lenses. Such a notation will indicate to the practitioner fitting the contact lenses that the initial fitting and follow-up must be completed within six months of the date of the eye examination. The prescriber will inform the patient that failure to complete the initial fitting and obtain the follow-up evaluation by a prescriber within the six-month time frame will void the "OK for contacts" portion of the prescription. The prescriber who performs the follow-up will place on the prescription "follow-up completed," or similar language, and include his or her name and the date of the follow-up. Patients who comply with both the initial fitting and follow-up requirements will then be able to obtain replacement contact lenses until the expiration date listed on the prescription. If the prescriber concludes the ocular health of the eye presents a contraindication for contact lenses, a verbal explanation of that contraindication must be given to the patient by the prescriber at the time of the eye examination and documentation maintained in the patient's records. However, a prescriber may exclude categories of contact lenses where clinically indicated;

(d) Include a prescription expiration date of less than two years, unless warranted by the ocular health of the eye. If a prescription is to expire in less than two years, an explanatory notation must be made by the prescriber in the patient's record and a

verbal explanation given to the patient at the time of the eye examination;

(e) Charge the patient a fee in addition to the prescriber's examination fee as a condition to releasing the prescription to the patient. However, a prescriber may charge a reasonable, additional fee for verifying ophthalmic goods dispensed by another practitioner if that fee is imposed at the time the verification is performed; or

(f) Place on the prescription, or require the patient to sign, or deliver to the patient a form or notice waiving or disclaiming the liability or responsibility of the prescriber for the accuracy of the eye examination or the accuracy of the ophthalmic goods and services dispensed by another practitioner. In prohibiting the use of waivers and disclaimers of liability under this subsection, it is not the intent of the legislature to impose liability on an ophthalmologist or optometrist for the ophthalmic goods and services dispensed by another seller pursuant to the ophthalmologist's or optometrist's prescription.

(2) Nothing contained in this title shall prevent a prescriber or optician from measuring the refractive power of eyeglass lenses and duplicating the eyeglass lenses upon the request of a patient. [1994 c 106 s 3.]

RCW 18.195.040 Prescription not referring to contacts—Verification of performance—Notice—Prescription time limit—Safety notice—Noncompliance. (1) If the patient chooses to purchase contact lenses from an optician and the prescription is silent regarding contact lenses, the optician shall contact the prescriber and request a written prescription with a notation of "OK for contacts" or similar language. However, if no evaluation for contact lenses had been done during the eye examination, the prescriber may decline to approve the prescription for contact lenses without further evaluation.

(2) If a patient chooses to purchase contact lenses from an optician, the optician shall advise the patient, in writing, that a prescriber is to verify the performance of the initial set of contact lenses on the eyes within six months of the date of the eye examination or the "OK for contacts" portion of the prescription will be void. The patient shall be requested to sign the written advisement and the signed document will be maintained as part of the patient's records. If the patient declines to sign the document, it shall be noted in the record.

(3) No practitioner may dispense contact lenses based on a prescription that is over two years old.

(4) All fitters and dispensers of contact lenses shall distribute safety pamphlets to their patients in order to improve consumer decisions as well as health-related decisions.

(5) It is unprofessional conduct under chapter 18.130 RCW for a practitioner to fail to comply with this section. [1994 c 106 s 4.]

RCW 18.195.050 Rule making—Effect. (1) The secretary shall adopt rules necessary to implement the purposes of this chapter. The secretary is specifically directed to adopt rules that maximize competition in the delivery of vision care limited only by the existing scope of practice of the professions and by provisions

preventing demonstrated and substantial threats to the public's vision health.

(2) This chapter and the rules adopted by the secretary pursuant to this section shall supersede rules adopted pursuant to chapter 18.34, 18.53, 18.57, or 18.71 RCW that conflict with this chapter. To the extent that, in the secretary's opinion, these rules conflict with the purposes of this chapter, the secretary may declare such rules null and void. [1994 c 106 s 6.]

RCW 18.195.900 Short title. This chapter may be cited as the consumer access to vision care act. [1994 c 106 s 7.]

RCW 18.195.901 Construction. Nothing in this chapter shall be construed as expanding the scope of practice of a vision care practitioner beyond that currently authorized by state law. [1994 c 106 s 5.]