

4725-5-05

Code of ethics.

Licensed optometrists, opticians, ~~and ophthalmologists~~ and registered apprentices shall have codes of ethical practice as stated in 4725.66 of the Revised Code for all licensees and registrants.

- (A) "Unprofessional conduct" means any departure from or failure to conform to the minimal standards of acceptable and prevailing practice and shall also include, but not be limited to the provision of professional services which are detrimental to person(s) being served. The obtaining of any fee by fraud or misrepresentation or filing any claim forms without providing the service represented constitutes "dishonesty and unprofessional conduct" as that phrase is used in section 4725.19 of the Revised Code.
- (B) "Dual relationship" means when more than one role occurs between the licensee and person(s) being served professionally. A dual relationship is prohibited when the relationship between the licensee and person(s) being professionally served involves a sexual or intimate relationship or other conduct that constitutes a conflict of interest.
- (C) "Patient" means a person for whom the licensee has provided health care services, whether provided by mutual consent or implied consent, or provided without consent pursuant to a court order. Once a licensee-patient relationship is established, a person remains a patient until the relationship is terminated. Patient includes any of the following:
- (1) ~~"Client" as referred to in ORC 4725.33. A person who is receiving or has received health care services from the licensee without termination of the licensee-patient relationship; or~~
 - (2) A person who is receiving or has received health care services from the licensee without termination of the licensee-patient relationship; or
 - ~~(2)~~(3) A person who meets the criteria of a key third party, as that term is defined in paragraph (D) of this rule.
- (D) "Key third party" means an individual closely involved in the patient's decision-making regarding health care services, including but not limited to, the patient's spouse or partner, parents, child, sibling, or guardian. For purposes of this chapter, an individual's status as a key third party ceases upon the termination of the licensee-patient relationship or upon termination of the individual's relationship with the patient.
- (E) "Chaperone" means a third person who, with the patient's consent, is present during a

medical examination.

(F) "Former patient" means one of the following:

- (1) A person for whom the licensee has not rendered health care services since the licensee-patient relationship was terminated; or
- (2) A person who has otherwise been admitted, discharged, or referred to another licensee for care subsequent to receipt of health care services by a licensee in an emergency setting or on an episodic basis, and such action has been recorded in the person's medical record or chart.

(G) "Sexual misconduct" means conduct that exploits the licensee-patient relationship in a sexual way, whether verbal or physical, committed without consent, by force, intimidation, coercion or manipulation and may include the expression of thoughts, feelings, or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual abuse or misconduct can be committed by a person of any gender, and it can occur between people of the same or different genders. Sexual misconduct includes sexual impropriety, sexual contact or sexual interaction as follows:

- (1) "Sexual impropriety" means conduct by the licensee that is seductive, sexually suggestive, disrespectful of patient privacy, or sexually demeaning to a patient, including but not limited to, the following:
 - (a) Making comments that are not clinically relevant about or to the patient, including but not limited to, making sexual comments about a patient's body or underclothing, making sexualized or sexually demeaning comments to a patient, criticizing the patient's sexual orientation, or making comments about potential sexual performance;
 - (b) Soliciting a date or romantic relationship with a patient;
 - (c) Participation by the licensee in conversation regarding the sexual problems, sexual preferences, or sexual fantasies of the licensee; and
 - (d) Requesting details of the patient's sexual history, sexual problems, sexual preferences, or sexual fantasies.

(2) "Sexual contact" includes, but is not limited to, the following:

- (a) Touching a breast or any body part that has sexual connotation for the licensee or patient, for any purpose; and
 - (b) Touching of the patient's genitals.
- (3) "Sexual interaction" means conduct between a licensee and patient, whether or not initiated by, consented to, or participated in by a patient, that is sexual or may be reasonably interpreted as sexual, including but not limited to, the following:
- (a) Sexual intercourse, genital to genital contact;
 - (b) Kissing in a romantic or sexual manner; and
 - (c) Offering to provide health care services, ~~such as~~ and or drugs, in exchange for sexual favors.
- (H) "Board" means the state vision professionals board.
- (I) "Conduct" includes, but is not limited to the following:
- (1) Behaviors, gestures, or expressions, whether verbal or physical that is committed without consent, by force, intimidation, coercion, or manipulation; or
 - (2) The creation, receipt, exchange, saving, or sending of images or communications, whether verbal or written, via a telecommunications device; or
 - (3) The exploitation of a ~~client~~ patient means to take unfair advantage of a person(s) being professionally served; or the violating of client confidentiality with a failure to protect and keep confidential any personal health information without the authorization or consent of person(s) professionally served or where prohibited by law; or
 - (4) The conflict of interest means personal, financial, or other considerations influenced or compromised professional judgment and objectivity to person(s) professionally served; or
 - (5) The informed consent means authorization by persons served, research

participants engaged, or parents and/or guardians of persons served to a proposed course of action after the communication of adequate information regarding expected outcomes and potential risks. Informed consent may be verbal unless written consent is required; or

(6) To protect the public confidence, public behavior shall reflect a high level of moral and ethical behaviors; or

(7) When making public statements, licensees shall:

(a) Provide information about professional services and products that do not contain misrepresentations or claims that are false, deceptive, or misleading;

(b) Provide accurate information about the nature and management of communicative disorders, the professions, and services rendered to persons served, supervised professionally or participants in research; and

(c) Announce services in a manner consonant with the highest professional standards.

(8) Licensees shall subscribe to these principles and the code of ethics adopted by the board and agree to abide by the rules of the board and Chapter 4725. of the Revised Code.

(9) Licensees shall report to the board any violation of the board rules or any breach of the code of ethics that a licensee becomes aware.

(10) Licensees who have knowledge that a colleague is unable to provide professional services with reasonable skill and safety shall report the information to the appropriate authority, internally if a mechanism exists and, otherwise, externally.

(11) Licensees shall notify the board in writing of a conviction; been found guilty; or entered a plea of guilty or nolo contendere to any felony or misdemeanor convictions, other than minor traffic violations, including the case number and the court, within thirty days from the date of the conviction, plea, or finding of guilt.

(12) Individuals who have been publicly sanctioned or denied a license or a

professional credential by any professional association, professional licensing authority or board, or other professional regulatory body shall self-report by notifying the board in writing of the final action or disposition and shall provide a copy of the final action, sanction or disposition within thirty days.

(J) Fundamental rules considered essential. Violation of the code of ethics shall be considered unprofessional conduct.

(1) Licensees shall maintain professional behavior.

(a) Licensees shall not engage in dishonesty, fraud, deceit, misrepresentation, or other illegal conduct that adversely reflects on the profession or the individual.

(b) Individuals shall work collaboratively, when appropriate, with members of one's own profession and/or members of other professions to deliver the highest quality of care.

(c) Licensees shall maintain a professional relationship with the board.

(i) Licensees shall conduct the practice according to Chapter 4725: of the Revised Code and ~~agency~~ 4725 of the Administrative Code.

(ii) Licensees shall cooperate with all lawful requests of the board within thirty calendar days.

(iii) The denial or revocation of licensure in another state, or from another board in this state, may result in denial or revocation of licensure by the board.

(2) Licensees shall maintain records and keep confidentiality of person(s) served, including:

(a) Maintaining adequate and timely records of professional services rendered.

(b) Providing appropriate access to records of person(s) served professionally.

(c) Not disclosing to unauthorized persons any confidential information obtained from any person(s) served, supervised professionally, or

participants in research without the written consent of person(s) served or his/her legal guardian unless required by law.

(d) Being compliant with all state and federal laws and regulations relating to records keeping, records access and patient confidentiality.

(3) Licensees shall exhibit professional behavior in the delivery of services by:

(a) Accurately representing his/her education, training, credentials and competence.

(b) Providing only services for which licensee is properly trained.

(c) Continuing professional development to enhance licensee professional competence and expertise throughout licensee's career.

(d) Providing reasonable notice and information about alternatives for obtaining care in the event that the licensee can no longer provide professional services.

(e) Accepting for treatment, persons:

(i) Who can reasonably be expected to benefit from services and continue with treatment when there is reasonable expectation of further benefit.

(ii) Following the exercise of independent professional and evidence-based judgment, regardless of referral source or prescription, and keeping paramount the best interests of patient being served.

(f) Ensuring that all equipment used in the provision of services or conduct of research is in proper working order and is properly calibrated.

(g) A guarantee of services of any sort, express or implied, oral or written, is contrary to professional ethics.

(h) Using every resource available, including referrals to other specialists as needed, to effect maximum improvement in person(s) served. Licensees shall:

- (i) Identify competent, dependable referral sources for person(s) served professionally;
 - (ii) Be compliant with all state and federal laws and regulations governing the scope of practice of optometry, opticianry ~~and ophthalmology~~ and the dispensing and selling of products; and
 - (iii) Make use of equipment, technology and instrumentation consistent with accepted professional guidelines in their areas of practice.
- (4) Licensees supervising apprentices shall prohibit anyone under licensee supervision from engaging in any practice that violates Chapter 4725- of the Revised Code ~~and or agency~~ 4725 of the Administrative Code including the code of ethics.
 - (a) Supervisors shall:
 - (i) Provide direct and indirect supervision; and
 - (ii) Maintain adequate records of direct and indirect supervision rendered.
 - (b) Licensees shall:
 - (i) Not delegate any service requiring the professional competence of a licensed optician to anyone unqualified; and
 - (ii) Ensure opticians do not represent to the public as an optometrist and apprentices do not represent to the public as an optician.
- (5) Business practices shall be compliant with regional, state and federal laws.
 - (a) Licensees shall:
 - (i) Charge fees commensurate with services rendered;
 - (ii) Not charge for services not rendered;
 - (iii) Abide by federal, state and regional laws regarding billing for

services and products rendered; and

- (iv) Not enter into relationships, which pose a conflict of interest and shall not engage in commercial or professional activities that conflict with the licensees' responsibilities to the person served.
- (b) Licensees who present or participate at meetings and/or consultants who provide instruction shall disclose to participants potential conflicts of interest.
- (c) Licensees shall be compliant with state and federal laws and regulations regarding business practices, sales practices, including safe harbor and antitrust laws.
- (d) Licensees owning stock or having financial interests in a company whose products the licensee sells, dispenses or recommends shall disclose to person(s) served the relationship and financial or consultative interest.