CHAPTER 25

Limitations on Dispensing of an Ophthalmic Contact Lens or Lenses

**SECTION 37‑25‑10.** Definitions.

 As used in this section:

 (1) “Contact lens prescription” means a written order bearing the original signature of a licensed optometrist or ophthalmologist or an oral order issued directly to a dispenser by a licensed optometrist or ophthalmologist which authorizes dispensing ophthalmic contact lenses to a patient, including contact lenses with or without power sold for any purpose.

 (2) “Person” means an individual, corporation, trust, partnership, incorporated or unincorporated association, and other legal entity.

 (3) “Department” means the South Carolina Department of Consumer Affairs.

HISTORY: 2005 Act No. 160, Section 1, eff June 14, 2005.

**SECTION 37‑25‑20.** Prescription required.

 It is unlawful for a person to dispense an ophthalmic contact lens or lenses without first having obtained a valid, unexpired contact lens prescription from a licensed optometrist or ophthalmologist.

HISTORY: 2005 Act No. 160, Section 1, eff June 14, 2005.

Library References

Health 305.

Westlaw Topic No. 198H.

C.J.S. Drugs and Narcotics Sections 15, 49 to 50, 110 to 111.

**SECTION 37‑25‑30.** Prescription; contents.

 A contact lens prescription must include:

 (1) ophthalmic information necessary to fabricate or dispense the lenses accurately, including the lens manufacturer, lens series, and the lens material, if applicable;

 (2) the diameter, axis, add power, cylinder, peripheral curve, optical zone, and center thickness, where applicable;

 (3) power and base curve;

 (4) name, license number, telephone number and, for written orders, the signature of the prescribing optometrist or ophthalmologist;

 (5) patient’s name and address, expiration date of the prescription, and number of refills or lenses permitted; and

 (6) the date of issuance.

HISTORY: 2005 Act No. 160, Section 1, eff June 14, 2005.

Library References

Health 305.

Westlaw Topic No. 198H.

C.J.S. Drugs and Narcotics Sections 15, 49 to 50, 110 to 111.

**SECTION 37‑25‑40.** Prescription; time valid.

 A prescription for a contact lens without power sold for any reason is valid for twelve months from the later of the date: (i) the prescription is authorized; or (ii) the last date of the contact lens evaluation by an optometrist licensed in accordance with Chapter 37, Title 40 or ophthalmologist licensed in accordance with Chapter 47, Title 40. A contact lens prescription may not be issued to expire beyond this twelve‑month period and may be only issued to expire before the end of this twelve‑month period if the expiration is ordered due to a health related reason noted in the patient’s medical chart.

HISTORY: 2005 Act No. 160, Section 1, eff June 14, 2005.

Library References

Health 305.

Westlaw Topic No. 198H.

C.J.S. Drugs and Narcotics Sections 15, 49 to 50, 110 to 111.

**SECTION 37‑25‑50.** Contact lens fitting; when complete and prescription written.

 A contact lens fitting is complete and a contact lens prescription may be written when customary professional standards have been followed including, at least:

 (1) the licensed optometrist or ophthalmologist has completed all measurements, tests, and examinations necessary to satisfy his or her professional judgment that the patient is a viable candidate to wear contact lenses, which determination may require more than one visit between the patient and the optometrist or ophthalmologist; and

 (2) contact lenses suitable for the patient’s eyes have been evaluated and fitted by the licensed optometrist or ophthalmologist to the patient’s eyes, and the optometrist or ophthalmologist is satisfied with the fitting based on the visual needs of the patient. An optometrist or an ophthalmologist may employ ophthalmic assistants or ancillary personnel to satisfy the customary professional standards in this section if those persons are under the direct supervision of the prescribing optometrist or ophthalmologist and the prescribing optometrist or ophthalmologist has direct on‑site contact with the patient.

HISTORY: 2005 Act No. 160, Section 1, eff June 14, 2005.

Library References

Health 305.

Westlaw Topic No. 198H.

C.J.S. Drugs and Narcotics Sections 15, 49 to 50, 110 to 111.

**SECTION 37‑25‑60.** Release of prescription.

 A contact lens prescription, written and signed by an optometrist licensed in accordance with Chapter 37, Title 40 or an ophthalmologist in accordance with Chapter 47, Title 40 must be released without additional charge, upon request of the patient, after the fitting is complete and upon payment in full for the examination and fitting.

HISTORY: 2005 Act No. 160, Section 1, eff June 14, 2005.

Library References

Health 305.

Westlaw Topic No. 198H.

C.J.S. Drugs and Narcotics Sections 15, 49 to 50, 110 to 111.

**SECTION 37‑25‑70.** Penalties; contested case hearing; order for enforcement.

 (A) A person who offers to dispense or dispenses contact lenses in violation of this chapter, in addition to another penalty provided by law, is subject to a civil penalty imposed by the Department of Consumer Affairs in an amount not to exceed five thousand dollars for each violation.

 (B) A person aggrieved by an order of the department may request a contested case hearing before the Administrative Law Court in accordance with the Administrative Law Court Rules of Procedure. The department may obtain an order from the Administrative Law Court for enforcement of the department’s orders as provided in the Administrative Procedures Act and the Administrative Law Court Rules of Procedure. The proceeding for enforcement must be initiated by filing a petition with the Administrative Law Court in accordance with the Administrative Law Court Rules of Procedure. A copy of the request for a contested case hearing must be served upon all parties of record.

HISTORY: 2005 Act No. 160, Section 1, eff June 14, 2005; 2008 Act No. 281, Section 1, eff June 5, 2008.

CROSS REFERENCES

Rules of procedure for the Administrative Law Court, see SC R ADMIN LAW CT Rule 1 et seq.

Library References

Health 211, 329.

Westlaw Topic No. 198H.

C.J.S. Drugs and Narcotics Sections 87 to 88, 164 to 167, 188 to 209.

C.J.S. Physicians, Surgeons, and Other Health‑Care Providers Section 52.

**SECTION 37‑25‑80.** Immunity.

 A licensed optometrist or ophthalmologist who has prescribed contact lenses or who releases a contact lens prescription pursuant to this chapter is not liable for damages due to injury resulting from violation of this chapter unless the person offering to dispense or dispensing the contact lenses and the person that prescribed the contact lenses are the same person.

HISTORY: 2005 Act No. 160, Section 1, eff June 14, 2005.

Library References

Health 670, 768.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 44.

C.J.S. Mental Health Sections 123 to 124.