Rhode Island Department of Health
Three Capitol Hill
Providence, RI 02908-5094

www.health.ri.gov

To: Members of the Community Interested in the:
Rules and Regulations Pertaining to Optometrists (R5-35.1-OPT)

From: Charles Alexandre, MS, RN, Chief
Office of Health Professions Regulation

Date: October 1, 2008

Please find a copy of proposed **draft *Rules and Regulations Pertaining to Optometrists*** that is attached for your review and comment. Generally, the purpose of the proposed amendments is to incorporate the provisions of Public Law 08-433 enacted by the Rhode Island General Assembly on July 8, 2008 that amended the optometric practice act to include the prescription of oral pharmaceutical agents, including oral steroids and narcotic and non-narcotic analgesics, any controlled substance listed in schedules III—V of Chapter 21-28 of the Rhode Island General Laws, as amended, within the scope of the optometrist's practice. Additionally, optometrists shall be required to adhere to electronic prescribing standards within thirty (30) months of receiving prescriptive authority (i.e., thirty months from the date the final rule takes effect).

Because of your interest and expertise in these matters, the Department would appreciate your review of the proposed draft regulations. An ***informal*** community review meeting has been scheduled on this matter for: **Tuesday, 21 October 2008** at **10:00 a.m.** in the **Health Policy Forum** of the Cannon Building (on the lower level).

If you have any questions about the proposed changes to these regulations, or if you wish to submit written comments, please direct them to me: **Charles.Alexandre@health.ri.gov** or 401-222-2828.

Please feel free to circulate additional copies of this document, as needed, to any interested person. Upon request, for persons with disabilities, copies of these proposed regulations are also available in Braille, large print, audio cassette, and electronic file (computer disk). Contact the Division of Health Services Regulation (401-222-1038 or RI Relay number dial 711) if you need such assistance. These proposed regulations also appear on the Department's website: **www.health.ri.gov/hsr/regulations/index.php** and the Secretary of State's website: **www.sec.state.ri.us/rules** (search under "proposed rules").

Your participation is appreciated. *Thank you.*

Attachment

RULES AND REGULATIONS

PERTAINING TO OPTOMETRISTS

(R5-35.1-OPT)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
Department of Health
January 1964

As Amended:

January 1974	August 1999
January 1983	November 2001
June 1987	January 2002 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)
June 1987 (E)	March 2003
October 1987(E)	January 2007 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)
January 1988 (E)	September 2007
March 1988	December 2007
December 1989	**September 2008 (Proposed)**
February 1990	
May 1992	
September 1993	
November 1993	

COMPILER'S NOTES:
Proposed Additions: Underlined
Proposed Deletions: ~~Strikeouts~~
Statutory language noted *in italics.*

INTRODUCTION

These *Rules and Regulations Pertaining to Optometrists (R5-35-OPT)* are promulgated pursuant to the authority conferred under section~~s 5-35-5 and 5-35-1.1~~ 5-35.1-22 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting prevailing standards for the licensure of optometrists in Rhode Island.

In accordance with the provisions of section 42-35-3 (c) of the General Laws of Rhode Island, as amended, consideration was given in arriving at the amendments as to: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. Based on the available information, no known alternative approach, duplication or overlap was identified.

These rules and regulations shall supersede any previous *Rules and Regulations Pertaining to Optometrists* promulgated by the Department of Health and filed with the Secretary of State.

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PART I ***Definitions***

Section 1.0 ***Definitions***

Wherever used in these rules and regulations, the following terms shall be construed to mean:

1.1 "***Act***" means Chapter 5-35 of the General Laws of Rhode Island, as amended, entitled "Optometrists."

1.2 "***Amplified optometrist***" means an optometrist licensed in this state to practice optometry and authorized by the Board to administer and prescribe ~~all topical~~ pharmaceutical agents in the treatment of conditions of the human eye and its appendages, including anterior uveitis and glaucoma, without surgery or other invasive techniques, and in accordance with the Act and the requirements herein.

1.3 "***Board***" means the Board of ~~Examiners for~~ Optometry established under the provisions of section ~~5-35-2~~ 5-35.1-13 of the Act.

1.4 "***Certified optometrist***" means an optometrist licensed in this state to practice optometry and authorized by the Board to administer and prescribe topical ocular pharmaceutical agents in the treatment of ocular conditions of the anterior segment of the human eye and its appendages, (with the exception of uveitis and glaucoma) without surgery or other invasive techniques, and in accordance with the requirements of the Act and the regulations herein.

1.5 ***"Department***" means the Rhode Island Department of Health.

1.6 "***Director***" means the Director, Rhode Island Department of Health.

1.7 ***Electronic signature"*** means 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.

1.8 ***"Electronic transmission prescription"*** means any prescription, other than an oral or written prescription, that is electronically transmitted from an optometrist authorized to prescribe to a pharmacy without alteration by a third party unless authorized by the optometrist or from one pharmacy to another pharmacy.

1.9 ***"Facsimile (FAX) prescription"*** means a written prescription or order that is transmitted by an electronic device that sends the exact image to the receiver (pharmacy) in a hard copy form.

~~1.7~~ 1.10 "***Optometrist"*** means an individual licensed in this state to practice optometry pursuant to the provisions of Chapter 5-35 of the General Laws and the rules and regulations herein.

~~1.8~~ 1.11 ***"Optometry"*** means the profession whose practitioners are engaged in the art and science of the evaluation of vision and the examination of vision and the examination and refraction of the human eye which includes: the employment of any objective or subjective means for the examination of the human eye or its appendages; the measurement of the powers or range of human vision or the determination of the accommodative and refractive powers of the human eye or the scope of its functions in

general and the adaptation of lenses, prisms, and/or frames for the aid thereof; the prescribing, directing the use of or administering ocular exercises, visual training, vision training, or orthoptics, and the use of any optical device in connection ~~therewith~~; *with these;* the prescribing of contact lenses for, or the fitting or adaptation of contact lenses to the human eye; the examination or diagnosis of the human eye to ascertain the presence of abnormal conditions or functions; and the ~~topical~~ application of pharmaceutical agents to the eye. Provided, however, that no optometrist licensed in this state shall perform any surgery for the purpose of detecting any diseased or pathological condition of the eye. ~~Provided however~~, *With respect to presently licensed optometrists*, only presently licensed optometrists who: (1) have satisfactorily completed a course in pharmacology, as it applies to optometry, at an institution accredited by a regional, ~~or~~ professional, *or academic* accreditation organization which is recognized by the national commission on accreditation, with particular emphasis on the ~~topical~~ application of drugs to the eye for the purposes of detecting any diseased or pathological condition of the eye; or the effects of any disease or pathological condition of the eye, approved by the Board of ~~Examiners in~~ Optometry and ~~the Chief of Pharmacy of~~ the Department; or (2)(i) have successfully passed all sections of the National Board of Examiners in Optometry (NBEO) examination; and (ii) the treatment and management of ocular disease (TMOD) examination shall be permitted to apply pharmaceutical agents ~~topically~~ to the eye for the purpose of detecting any diseased or pathological condition of the eye, or the effects of any disease or pathological condition of the eye.

1.12 *"**Pharmaceutical agents**" means any medications as determined by the Department, except those specified in schedules I and II as provided in Chapter 21-28* of the Rhode Island General Laws, as amended.

~~1.9~~ 1.13 ***"Vision training",*** as referenced in section ~~1.8~~ 1.11 herein, includes:

a) ***"Vision therapy"*** means the assessment, diagnosis, treatment, or prescription of treatment for conditions of the visual system or management of a patient with vision therapy, visual training, visual rehabilitation, orthopics or eye exercises. Anyone who holds him/herself out as being able to do so for the rehabilitation and/or treatment of physical, physiological, sensorimotor, neuromuscular or perceptual anomalies of the eyes or vision system or who prescribes or utilizes lenses, prisms, filters, occlusion, or other devices for the enhancement, rehabilitation and/or treatment of the visual system or prevention of visual dysfunctions, except under the supervision and management of a licensed optometrist, is engaged in the practice of optometry.

b) ***"Low vision rehabilitation***" means the evaluation, diagnosis, and management of the low vision patient, including but not limited to, prescription, low vision rehabilitation therapy, education and interdisciplinary consultation when indicated. Any person who prescribes or provides comprehensive low vision care for the rehabilitation and/or treatment of the visually impaired or legally blind patient, prescribes corrective spectacles, contact lenses, prisms, or filters, employs any means for the adaptation of lenses, low vision devices, prisms, filters, evaluates the need for, recommends, or prescribes optical, electronic or other low vision devices; or recommends or provides low vision rehabilitation services independent of a clinical treatment plan prescribed by an optometrist or ophthalmologist shall be considered to be engaged in the practice of optometry.

PART II ***Licensure and Certification Requirements for Optometrists***

Section 2.0 ***Licensure and Certification Requirements***

2.1 Any person practicing or offering to practice optometry in this state must be licensed as an optometrist in Rhode Island in accordance with the statutory and regulatory requirements herein.

2.1.1 Furthermore, optometrists licensed in this state who desire to administer and prescribe ~~topical~~ pharmaceutical agents in the treatment of ocular conditions of the human eye and its appendages, without the use of surgery or other invasive techniques, must be certified by the Board in accordance with the requirements herein. Provided, however, that as of March 20, 1997**,** individuals who are licensed and certified to prescribe certain topical therapeutic pharmaceutical agents may continue to prescribe said medications in accordance with that certification; and those individuals who hold diagnostic pharmaceutical privileges as of March 20, 1997**,** may continue to exercise those privileges.

2.2 Any optometrist who utilizes latex gloves shall do so in accordance with the provisions of the ***Rules and Regulations Pertaining to the Use of Latex Gloves by Health Care Workers, in Licensed Health Care Facilities, and by Other Persons, Firms, or Corporations Licensed or Registered by the Department*** promulgated by the Department of Health.

Pain Assessment

2.3 All health care providers licensed by this state to provide health care services and all health care facilities licensed under Chapter 23-17 of the Rhode Island General Laws, as amended, shall assess patient pain in accordance with the requirements of the ***Rules and Regulations Related to Pain Assessment (R5-37.6-PAIN)*** promulgated by the Department.

Section 3.0 ***Qualifications For Licensure and Certification***

Basic Licensure Requirements

3.1 An applicant seeking licensure to practice optometry in this state must:

a) be of good moral character;

b) be not less than eighteen (18) years of age;

c) have graduated from a school or college of optometry which maintains a course in optometry of no less than four (4) years and approved by the Accreditation Council on Optometric Education (ACOE) or other accrediting body as approved by the Board;

d) have successfully passed all sections of the National Board Examination;

e) Candidates seeking initial licensure in Rhode Island must be certified in the use of therapeutic pharmaceuticals in accordance with the requirements of section ~~5-35-1.2~~

5-35.1-1 (7) of the General Laws, and have successfully completed the educational and certification requirements related to the amplification of privileges to treat anterior uveitis and glaucoma of section 3.2 herein.

Therapeutic Pharmaceutical Requirements Related to Amplification of Privileges to Treat Anterior Uveitis and Glaucoma

3.2 All applicants for initial licensure or any licensed applicant who seek certification to use all ~~topical~~ therapeutic pharmaceuticals used in the treatment of conditions of the human eye and its appendages including, but not limited to, the removal of superficial foreign bodies from the eye and the treatment of the diseases of anterior uveitis and glaucoma, without the use of surgery or other invasive techniques, shall have completed the International Association of Boards of Optometry examination in "The Treatment and Management of Ocular Disease" administered after January 1, 1999.

Sections 3.2.1 and 3.2.2 apply to optometrists who have graduated from a college of optometry prior to January 1, 2007:

3.2.1 Upon successful completion of the written National Board of Examiners in Optometry (NBEO) examination, in "The Treatment and Management of Ocular Disease" administered after January 1, 1999, a duly licensed optometrist may prescribe all such ~~topical~~ pharmaceuticals exclusive of those used in the treatment of glaucoma. Prescriptive privileges for those ~~topical~~ pharmaceuticals used in the treatment of glaucoma will commence upon completion of subsection 3.2.2 (below) and acceptance of such by the Board.

~~***Therapeutic Pharmaceutical Requirements to Treat Glaucoma:***~~

3.2.~~2~~.1.1 Submit a completed form for each patient providing evidence that the applicant has performed written consultations which satisfy the following requirements:

i) The applicant has consulted with an ophthalmologist or optometrist with amplified privileges to treat glaucoma, who is licensed in good standing, and who has been treating glaucoma for no less than three (3) years regarding no less than twenty (20) glaucoma-related patients and the ophthalmologist or optometrist with amplified privileges to treat glaucoma, who is licensed in good standing, and who has been treating glaucoma for no less than three (3) years has provided written confirmation of this consultation.

ii) Up to ten (10) of these glaucoma-related patients may have been diagnosed as glaucoma-related up to one (1) year prior to completion of the requirements in subsection 3.2.1 above. All twenty (20) glaucoma-related patients shall be followed for a minimum of one (1) year or until the patient is stabilized (i.e., symptoms controlled, vision loss arrested, medication changes not required) whichever is longer; and

iii) For each glaucoma-related patient, the applicant shall develop, in consultation with the ophthalmologist or optometrist with amplified privileges to treat glaucoma, who is licensed in good standing, and who has been treating glaucoma for no less than three (3) years the following:

A) A confirmatory evaluation and diagnosis by the ophthalmologist or optometrist with amplified privileges to treat glaucoma, who is licensed in good standing, and who has been treating glaucoma for no less than three (3) years;

B) A written plan for diagnostic workup for each patient. This workup shall be in accordance with the prevailing community standard of care; and

C) A treatment plan for each patient which shall take into account the assessment of the optic nerve, the level of the intraocular pressure, and stability of the clinical course.

iv) The methodology of consultation required in sections ~~3.2.2~~ 3.2.1.1 (i) and ~~3.2~~ 3.2.1.1 (ii) shall be left to the professional discretion of the ophthalmologist or optometrist with amplified privileges to treat glaucoma, who is licensed in good standing, and who has been treating glaucoma for no less than three (3) years and the applicant; provided, however, the applicant may submit to the Board of Examiners in Optometry the completed form once the patient has reached the agreed upon treatment plan (including target pressure and compliance with medications).

Section 4.0 ***Application for License, Certification and Fees***

Licensure Application

4.1 Application for licensure shall be made on forms provided by the Department, which shall be completed, notarized and submitted to the Department. Such application shall be accompanied by the following documents:

~~a)~~ ~~a certified copy of birth certificate or proof of legal entry into the United States~~;

~~b)~~ a) a recent identification passport-type photograph of the applicant, approximately 2 x 2 inches in size;

~~c)~~ b) ***if by endorsement,*** a statement from the board of examiners in optometry in each state in which the applicant has held or holds licensure to be submitted to the Board of this state attesting to the licensure status of the applicant during the time period the applicant held licensure in said state;

~~d)~~ c) supporting certified transcripts of education credentials as required in section 3.1 herein. Such documentation must consist of original statements and/or photocopies bearing the signature of the dean or registrar and the imprint of the school seal;

~~e)~~ d) the results of the written National Board Examination submitted directly to the Board by the National Board;

~~f)~~ e) the application fee of ~~seventy~~ ninety dollars (~~$70.00~~) ($90.00) made payable to the General Treasurer, state of Rhode Island (non-refundable and non-returnable); and

~~g)~~ f) such other information as the Board and/or Department may deem necessary.

Section 5.0 ***Examinations***

Examinations For Licensure

5.1 Applicants for licensure to practice optometry shall be required to successfully complete all parts and all sections of the National Board Examination of the National Board of Examiners in Optometry (NBEO) in order to test the applicant's knowledge and skills to practice optometry in this state pursuant to the statutory and regulatory requirements herein.

Licensure by Endorsement

5.2 A license to practice optometry may be issued without examination to an applicant who has been duly licensed by examination as an optometrist under the laws of another state or jurisdiction provided:

a) the applicant meets the qualifications to practice optometry in this state in accordance with section 3.0 herein;

b) that such state accords a like privilege to holders of licenses issued in this state and the applicant has not failed to pass the exam required in this state; and

c) the applicant submits the license application form with supporting certified documentation of credentials and application fee of ninety dollars ($90.00) made payable to the General Treasurer, State of Rhode Island.

Section 6.0 ***Issuance and Renewal of License and Fee***

6.1 Upon completion of the aforementioned requirements, the Director may issue a license to those applicants found to have satisfactorily met all the requirements herein. Said license and/or certification shall expire annually on the 31st day of January, unless sooner suspended or revoked.

6.2 On or before the 31st day of December of each year, the Department shall mail an application for renewal of license to each person to whom a license has been issued or renewed during the current year. Every person licensed who intends to practice optometry during the ensuing year shall file a renewal application duly executed together with the renewal fee for licensure of one hundred seventy dollars ($170.00) (non-refundable/non-returnable) made payable to the General Treasurer, state of Rhode Island on or before the 31st day of January in each year.

6.3 Upon receipt of a renewal application accompanied by evidence of completion of the prescribed continuing education program requirements as set forth in section 7.0 herein, including

payment of fee, the accuracy of the application shall be verified and license shall be granted effective 1 February of that year.

6.4 In case of neglect or refusal to pay, said Department may revoke or suspend such license provided, however, that no license shall be so suspended or revoked without first giving sixty (60) days notice in each such case of neglect or refusal and within such period any such optometrist shall have the right to receive a renewal of such license on payment of the renewal fee, together with an added penalty of seventy dollars ($70.00) (non-refundable/non-returnable).

6.5 Retirement from practice for a period not exceeding five (5) years shall not deprive the holder of a license of the right to renew such license upon payment of all annual renewal fees remaining unpaid, and a further fee of ~~seventy~~ fifty dollars (~~$70.00~~) ($50.00) (non-refundable/non-returnable).

Section 7.0 ***Continuing Education***

For Re-Licensure for those Optometrists with Amplified Therapeutic Privileges:

7.1 Every optometrist licensed to practice optometry with amplified therapeutic privileges in this state under the provisions of the Act and these rules and regulations herein shall on or before the 31st day of January of every year attest to the Board that he/she possesses satisfactory evidence of having completed in the preceding calendar year, no less than twenty (20) hours of continuing education in optometry or other related health field, in course(s) that shall include ten (10) or more hours of approved courses in pharmacology for the treatment and management of ocular conditions of the eye offered, sponsored, or administered by any of the following organizations:

- American Optometric Association and its affiliated associations;
- Schools/colleges of optometry;
- Any course approved by the Council on Optometric Practitioners Education (COPE);
- American Medical Association – Category I;
- American Academy of Ophthalmology – Category I;
- All courses that meet the requirements of eligibility for Category I of the American Optometric Association Optometric Recognition Award;
- American Academy of Optometry.

For Re-Licensure for those Optometrists without Amplified Therapeutic Privileges:

7.2 Optometrists licensed to practice optometry without therapeutic privileges must show evidence of sixteen (16) hours of continuing education in optometry or other related health fields in the calendar year preceding the most recent license renewal.

7.3 The Board may waive the continuing education requirement in specific circumstances for due cause such as hardship or for any sufficient reason, if satisfactory evidence is submitted to the Board to that effect.

7.4 Optometrists initially licensed after the February 1st renewal date shall be exempt from the continuing education requirements stated herein until the date of the next renewal cycle (i.e., January 31st of the next year).

7.5 It shall be the sole responsibility of the individual optometrist to obtain documentation from the recognized sponsoring or co-sponsoring organizations, agencies or other, of his or her participation in the learning experience and the number of dated credits earned. Furthermore, it shall be the sole responsibility of the individual to safeguard the documents for review by the Board, if required. These documents shall be retained by each licensee for no less than two (2) years and are subject to random audit by the Department.

Section 8.0 ***Practice of Optometry***

8.1 Pursuant to section 3.2 herein, optometrists with amplified privileges, as defined in section 1.2 herein, may:

a) remove superficial foreign bodies from the conjunctiva, lid and cornea without surgery or other invasive techniques; and

b) administer and prescribe ~~topical~~ pharmaceutical agents as provided herein for the treatment of ocular conditions of the human eye and its appendages without surgery or other invasive techniques, and in accordance with the prevailing standards of practice as those of duly licensed physicians providing similar services.

c) Treatment of glaucoma shall exclude treatment of infantile and congenital glaucoma. Treatment of acute angle closure glaucoma shall be limited to initiation of immediate emergency care.

Scope of Medications

Optometrists Without Amplified Therapeutic Privileges

8.2 Medications which may be used by certified optometrists qualified to administer and prescribe topical therapeutic pharmaceutical agents in the treatment of conditions of the human eye and its_appendages but not holding amplified privileges in accordance with section 3.2 herein, include topical medication (mast cell inhibitors or stabilizers), lubricants, decongestants, mucolytics, antibiotics, and steroids with a clinical potency not exceeding 1/4% methyl-prednisolone or equivalent.

Optometrists With Amplified Therapeutic Privileges

8.3 Optometrists authorized by the Board as having amplified privileges, in accordance with section 3.2 herein, may utilize all ~~topical~~ pharmaceutical agents in the treatment of conditions of the human eye and its appendages, including anterior uveitis and glaucoma, without surgery or other invasive techniques, and in accordance with the requirements herein.

Scheduled Medications

8.3.1 Every optometrist licensed to practice optometry with amplified therapeutic privileges in this state may prescribe *oral pharmaceutical agents, including oral steroids and narcotic and non-narcotic analgesics, within the scope of the optometrist's practice*, and in accordance with the following:

- A prescription for oral nonsteroidal anti-inflammatories shall not exceed one seven-day supply;
- A prescription for oral steroids shall not exceed one seven-day supply;
- A prescription for any controlled substance listed in schedules III—V of Chapter 21-28 of the Rhode Island General Laws, as amended, shall not exceed one 72-hour supply.

8.3.2 *No optometrist shall deliver any medication by injection.*

8.3.3 In order to prescribe any controlled substance listed in Chapter 21-28 of the Rhode Island General Laws, a licensed optometrist shall:

8.3.3.1 Obtain a state registration for prescribing controlled substances by completing the application for registration, and submitting it with its specified filing fee to:

Rhode Island Department of Health, Pharmacy Unit
Three Capitol Hill, Room 205
Providence, RI 02908-5097

8.3.3.2 Obtain a federal registration for controlled substances by completing application form DEA-224, or its successor form, and submitting it with its specified filing fee.

8.3.3.3 The Director will determine whether issuance of a registration is consistent with the public interest, and may refuse registration where the issuance of said registration would be inconsistent with the public interest, according to the provisions of Chapter 21-28 of the Rhode Island General Laws, as amended.

Minimum/Initial Examination of New Patients

8.4 Pursuant to section ~~5-35-18~~ 5-35.1-16 of the Act, every person practicing optometry shall perform an examination of the patient that is in accordance with the prevailing community standard of care, and record same in the patient's medical record.

Minimum Equipment for Optometric Practice

8.5 At any location where an optometrist practices his or her profession, an optometrist shall have any equipment that a reasonable and prudent person practicing optometry would have available in order to meet the needs of his/her patients.

Spectacle or Eyeglass Prescriptions

8.6 A spectacle prescription shall contain all of the information necessary for the accurate fabrication, fitting and dispensing of the spectacles (eyeglasses). All spectacle prescriptions shall be in accordance with the requirements of the Federal Trade Commission's "Ophthalmic Practice Rules" of reference 1 herein.

8.7 A contact lens prescription shall contain all of the information necessary for the accurate fitting and dispensing of the contact lens. All such prescriptions shall be in accordance with the requirements of the Federal Trade Commission's "Contact Lens Rule" of reference 2 herein.

Electronic Prescribing Standards

8.8 *Optometrists shall be required to adhere to electronic prescribing standards within thirty (30) months of receiving prescriptive authority as defined in subsection 5-35.1-12(a)* of the Rhode Island General Laws, as amended, and section 8.0 herein.

8.9 Electronic prescribing standards shall include the following:

8.9.1 Technological devices for the transmission or communication of prescriptions between optometrists and pharmacists may be used in accordance with the following requirements:

a) The transmission of prescriptions for controlled substances shall be in compliance with the provisions of Chapters 21-28 ("Controlled Substances Act") and 5-37.3 ("Confidentiality of Health Care Information Act") of the General Laws of Rhode Island, as amended, and all other applicable federal and state laws;

1. In compliance with federal requirements, the transmission of prescriptions for controlled substances by technological devices shall consist of a copy of the original prescription that has been signed by the optometrist.

2. In compliance with federal requirements, an electronic signature by the optometrist for controlled substance prescriptions is prohibited.

b) Unless otherwise prohibited by law, prescriptions may be transmitted by electronic means or facsimile from the optometrist to the dispensing pharmacy. The facsimile copy of the prescription may serve as the hard copy of the prescription except for prescription orders for Schedule II drugs in accordance with the provisions of Chapter 21-28 of the Rhode Island General Laws, as amended.

c) In addition to all other information required to be included on a prescription, an electronically transmitted prescription and facsimile prescriptions shall include the date of transmission, and the identity of the receiving pharmacy.

d) The patient shall have the right to choose the manner in which his/her prescription is transmitted to the pharmacy.

e) The patient shall have the right to choose the pharmacy to which his/her prescription is transferred.

f) Technological devices shall not be used to circumvent documentation, verification, or any provisions of Chapter 5-19.1 of the General Laws of Rhode Island, as amended. Neither shall they be used to commit any other action that may be deemed unprofessional conduct.

Section 9.0 ***Denial, Suspension or Revocation of License and/or Certification***

9.1 In addition to any and all other remedies provided in the Act, pursuant to section ~~5-35-19~~ 5-35.1-18 of the Act, the Director may, after due notice and hearing, as provided in the Act and section 11.0 herein, refuse to grant, refuse to renew, suspend or revoke any license and/or certification provided for in the Act to any person who is ~~not of good moral character or who has been~~ guilty of ~~gross~~ unprofessional conduct or conduct of a character likely to deceive or defraud the public or for any fraud or deception committed in obtaining such license or certification. ~~Gross u~~Unprofessional conduct is defined as including, but is not limited to, the following:

a) Conviction of felony or any crime or misdemeanor involving moral turpitude as evidenced by a certified copy of the record of the court convicting;

b) *Conviction of one or more of the offenses set forth in section 23-17-37* of the Rhode Island General Laws, as amended;

~~b)~~ c) Knowingly placing the health of a client at serious risk without maintaining proper precautions;

~~c)~~ d) Advertising by means of false or deceptive statements*;*

~~d) Peddling from door to door*;*~~

e) ~~Habitual intoxication or addiction to the use of drugs~~; *The use of drugs or alcohol to an extent that impairs the person's ability to properly engage in the profession;*

f) The use of any false or fraudulent statement in any document connected with his or her practice;

g) The obtaining of any fee by fraud or willful misrepresentation of any kind either to a patient or insurance plan;

~~h) Willfully betraying professional secrets;~~

~~i)~~ h) Knowingly performing any act which in any way aids or assists an unlicensed person to practice in violation of the Act;

~~j)~~ i) Violating or attempting to violate, directly or indirectly, or assisting in, or abetting, the violation of, or conspiring to violate, any of the provisions of this chapter or regulations previously or hereafter issued pursuant to the Act;

~~k)~~ j) ~~Gross~~ Incompetence*;*

~~l)~~ k) Repeated acts of ~~immorality or repeated acts of~~ gross misconduct;

~~m)~~ l) An optometrist providing services to a person who is making a claim as a result of a personal injury, who charges or collects from the person any amount in excess of the reimbursement to the optometrist by the insurer as a condition of providing or continuing to provide services or treatment; and/or

~~n)~~ m) ~~Any departure from or failure to conform to the minimal standards of acceptable and prevailing optometry practice.~~ *Failure to conform to acceptable and prevailing community standard of optometric practice;*

n) *Advertising by written or spoken words of a character tending to deceive or mislead the public;*

o) *Practicing his or her profession under any oral or written contract, arrangement or understanding where anyone, not licensed to practice optometry in this state shares, directly or indirectly, in any fees received by that licensed optometrist;*

p) *Grave and repeated misuse of any ocular pharmaceutical agent; or*

q) *The use of any agent or procedure in the course of optometric practice by an optometrist not properly authorized under* the Act.

PART III ***Advertising, Violations, Practices, Procedures and Severability***

Section 10.0 ***Advertising***

10.1 Pursuant to section ~~5-35-20(b)~~ 5-35.1-9(2)(ii) of the General Laws of Rhode Island, as amended, no optometrist licensed by and practicing in this state shall advertise by written or spoken word of a character tending to deceive or mislead the public.

10.2 An optometrist who holds him/herself out to be a specialist in a specific field of optometry practice shall include a statement in all advertisements that reads as follows, "The Rhode Island Department of Health licenses all optometrists in the general practice of optometry. The Department does not license or certify any optometrist as an expert or specialist in any field of practice."

10.3 In addition to section 10.1 herein any and all advertising conducted by any optometrist shall conform to the provisions of Chapter 6-13.1 of the General Laws of Rhode Island, as amended, entitled "Deceptive Trade Practices Act."

10.4 Any person practicing pursuant to the provisions of Chapter ~~5-35~~ 5-35.1 of the General Laws of Rhode Island, as amended, shall be required to post his name on the premises where the services are being offered in such a manner as to be clearly visible to the public at the entrance to the premises and on any sign visible outside of the premises which offers the delivery of optometric services.

10.5 Advertisement of any type (electronic or print media) shall also include the name(s) and address(es) of the responsible optometrist(s).

Section 11.0 ***Violations***

11.1 Any violations of the statutory and regulatory requirements herein shall be subject to the statutory sanctions as set forth in section ~~5-35-27~~ 5-35.1-20 of the Act and provides that any person who violates the provisions of the Act is punished by a fine of not more than two hundred dollars ($200) or is imprisoned for not more than three (3) months for each offense.

Section 12.0 ***Rules Governing Practices and Procedures***

12.1 All hearings and reviews required under the provisions of the Act shall be held in accordance with the provisions of the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP).*

Section 13.0 ***Severability***

13.1 If any provision of these rules and regulations or the application thereof to any individual or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the regulations which can be given effect, and to this end the provisions of the regulations are declared to be severable.

References

1. Federal Trade Commission, "Ophthalmic Practice Rules," Title 16 *Code of Federal Regulations*, Part 456, May 1, 1992 and subsequent amendments thereto. Available online: http://www.access.gpo.gov/nara/cfr/waisidx_03/16cfr456_03.html and related statute: 15 United States Code 57a; 5 U.S.C. 552.

2. Federal Trade Commission, "The Contact Lens Rule," Title 16 *Code of Federal Regulations*, Part 315, July 2, 2004 and subsequent amendments thereto. Available online: http://www.access.gpo.gov/nara/cfr/waisidx_05/16cfr315_05.html and related statute: 15 United States Code 7601--7610.

3. Chapter 21-28 of the Rhode Island General Laws, as amended, "Uniform Controlled Substances Act." Available online: http://www.rilin.state.ri.us/Statutes/TITLE21/21-28/INDEX.HTM

4. *Rules and Regulations Related to Pain Assessment (R5-37.6-PAIN*), Rhode Island Department of Health, May 2003 and subsequent amendments thereto. Available online: http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/DOH_2531.pdf

5. *Rules and Regulations Pertaining to the Use of Latex Gloves by Health Care Workers, in Licensed Health Care Facilities, and by Other Persons, Firms, or Corporations Licensed or Registered by the Department (R23-73-LAT),* Rhode Island Department of Health, May 2002 and subsequent amendments thereto. Available online: http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/DOH_2008_.pdf

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