

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE F. PROFESSIONS RELATED TO EYES AND VISION

CHAPTER 353. CONTACT LENS PRESCRIPTION ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 353.001. SHORT TITLE. This chapter may be cited as the Contact Lens Prescription Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 353.002. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 5.318(3), eff. April 2, 2015.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 3.031(3), eff. September 1, 2015.

(2-a) "Direct communication" includes communication by telephone, facsimile, or electronic mail.

(3) "Disposable contact lenses" means soft contact lenses that:

(A) are dispensed in sealed packages;

(B) are sterilized and sealed by the manufacturer; and

(C) according to the physician's, optometrist's, or therapeutic optometrist's instructions concerning wear, have a recommended lens replacement interval of less than three months.

(3-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838 , Sec. 3.031(3), eff. September 1, 2015.

(5) "Optometrist" means a person licensed to practice optometry or therapeutic optometry by the Texas Optometry Board.

(6) "Pharmacist" means a person licensed to practice pharmacy by the Texas State Board of Pharmacy.

(7) "Physician" means a person licensed to practice medicine by the Texas Medical Board.

(8) "Therapeutic optometrist" means a person licensed

to practice therapeutic optometry by the Texas Optometry Board.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 101 (H.B. 1025), Sec. 2.001, eff.
September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.035, eff.
April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.318(3),
eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec.
3.031(3), eff. September 1, 2015.

Sec. 353.003. EFFECT OF CHAPTER. This chapter does not
prevent or restrict a physician from:

- (1) treating or prescribing for a patient; or
 - (2) directing or instructing a person under the
physician's control or supervision who assists a patient according
to a specific direction, order, instruction, or prescription.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 353.004. PUBLIC INFORMATION ON PRESCRIPTION RELEASE.
The Texas Optometry Board shall prepare and provide to the public
and appropriate state agencies information regarding the release
and verification of contact lens prescriptions.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 101 (H.B. 1025), Sec. 2.002, eff.
September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.036, eff.
April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.024,
eff. September 1, 2015.

SUBCHAPTER C. SALE OR DELIVERY OF CONTACT LENSES

Sec. 353.101. PROHIBITED SELLING OR DISPENSING. (a) A
person, other than the prescribing physician, optometrist, or

therapeutic optometrist, may not fill a contact lens prescription or sell or dispense contact lenses to a consumer in this state unless the person:

(1) receives from the prescribing physician, optometrist, or therapeutic optometrist or the consumer, directly or by facsimile, a contact lens prescription that has not expired and that conforms to the requirements of this chapter; or

(2) verifies by direct communication a contact lens prescription to be filled.

(b) A person receiving a direct communication under Subsection (a)(2) shall maintain a record of the communication.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 101 (H.B. 1025), Sec. 2.004, eff. September 1, 2005.

Sec. 353.1015. VERIFICATION PROCEDURE. (a) When seeking verification of a contact lens prescription, a person dispensing contact lenses shall provide the prescribing physician, optometrist, or therapeutic optometrist with the following information:

(1) the patient's full name and address;

(2) contact lens power, manufacturer, base curve or appropriate designation, and diameter, as appropriate;

(3) quantity of lenses ordered;

(4) the date on which the patient requests lenses to be dispensed;

(5) the date and time of the verification request; and

(6) the name, telephone number, and facsimile number of a person at the contact lens dispenser's company with whom to discuss the verification.

(b) A prescription is considered verified under this section if:

(1) the prescribing physician, optometrist, or therapeutic optometrist by a direct communication confirms that the prescription is accurate;

(2) the prescribing physician, optometrist, or

therapeutic optometrist informs the person dispensing the contact lenses that the prescription is inaccurate and provides the correct prescription information; or

(3) the prescribing physician, optometrist, or therapeutic optometrist fails to communicate with the person dispensing the contact lenses not later than the eighth business hour after the prescribing physician, optometrist, or therapeutic optometrist receives from the person dispensing the contact lenses the request for verification.

(c) If a prescribing physician, optometrist, or therapeutic optometrist timely informs the person dispensing the contact lenses that the prescription is inaccurate or invalid, the person may not dispense the contact lenses.

(d) If a prescribing physician, optometrist, or therapeutic optometrist notifies the person dispensing the contact lenses that the prescription is inaccurate or invalid, the prescribing physician, optometrist, or therapeutic optometrist shall:

(1) specify the basis for the inaccuracy or invalidity of the prescription; and

(2) correct the prescription.

Added by Acts 2005, 79th Leg., Ch. 101 (H.B. [1025](#)), Sec. 2.005, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 3.025, eff. September 1, 2015.

Sec. 353.102. ACCURACY REQUIRED. A person who dispenses contact lenses under this chapter from a contact lens prescription shall fill the prescription accurately subject to Section [353.103](#). Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 353.103. AUTHORIZED MODIFICATION OF PRESCRIPTION.

(a) If a patient presents a contact lens prescription to be filled or asks a person who dispenses contact lenses to verify a contact lens prescription under Section [353.1015](#), but requests that fewer than the total number of lenses authorized by the prescription be dispensed, the person dispensing the lenses shall note on the

prescription or verification:

- (1) the number of lenses dispensed;
- (2) the number of lenses that remain eligible to be dispensed under the prescription; and
- (3) the name, address, and telephone number of the person dispensing the lenses.

(b) A notation under Subsection (a) is a permanent modification of the prescription. Except as provided by this subsection, a contact lens prescription may not be modified.

(c) The person dispensing the lenses shall:

- (1) maintain a photocopy of the prescription or verification, as modified, in the person's records as if the copy were the prescription to be filled; and
- (2) return a prescription to the patient so that the patient may have the additional lenses dispensed elsewhere.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 101 (H.B. [1025](#)), Sec. 2.006, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 3.026, eff. September 1, 2015.

Sec. 353.104. EMERGENCY REFILL. (a) If a patient needs an emergency refill of the patient's contact lens prescription, a physician, optometrist, or therapeutic optometrist may telephone or fax the prescription to a person who dispenses contact lenses or may verify a prescription under Section [353.1015](#).

(b) A fax or telephone record received under Subsection (a) must include the name, address, telephone number, and license number of the physician, optometrist, or therapeutic optometrist.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 101 (H.B. [1025](#)), Sec. 2.006, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 3.027, eff. September 1, 2015.

Sec. 353.105. ALTERATION OF PRESCRIPTION PROHIBITED. (a) Except as provided by Subsection (b) and Section 353.103, a person dispensing contact lenses may not alter a contact lens prescription.

(b) A person dispensing contact lenses may fill a contact lens prescription that requires a contact lens manufactured by a particular company with another lens manufactured by that company if the lens required by the prescription and the lens with which the prescription is filled are the same lens but are sold by the company under multiple labels to different contact lens dispensers.

Added by Acts 2005, 79th Leg., Ch. 101 (H.B. 1025), Sec. 2.007, eff. September 1, 2005.

SUBCHAPTER D. CONTACT LENS PRESCRIPTIONS

Sec. 353.151. DIRECTIONS FOR INDEPENDENT DISPENSER; DELEGATION. (a) If a physician's directions, instructions, or orders are to be performed or a physician's prescription is to be filled by a person who is independent of the physician's office, the directions, instructions, orders, or prescription must be:

- (1) in writing or verified under Section 353.1015;
- (2) of a scope and content and communicated to the person in a form and manner that, in the professional judgment of the physician, best serves the health, safety, and welfare of the physician's patient; and
- (3) in a form and detail consistent with the person's skill and knowledge.

(b) A person who dispenses contact lenses may measure the eye or cornea and may evaluate the physical fit of lenses for a particular patient of a physician if the physician has delegated in writing those responsibilities regarding that patient to the person in accordance with Subsection (a) and Section 351.005.

(c) If a physician notes on a spectacle prescription "fit for contacts" or similar language and has, as required by Subsections (a) and (b), specifically delegated to a specific person the authority to make the additional measurements and evaluations necessary for a fully written contact lens

prescription, the person may dispense contact lenses to the patient even though the prescription is less than a fully written contact lens prescription.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 101 (H.B. [1025](#)), Sec. 2.008, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. [202](#)), Sec. 3.028, eff. September 1, 2015.

Sec. 353.152. REQUIREMENTS FOR CONTACT LENS PRESCRIPTION.

(a) A contact lens prescription must contain, at a minimum:

- (1) the patient's name;
- (2) the date the prescription was issued;
- (3) the manufacturer of the contact lens to be dispensed, if needed;
- (4) the expiration date of the prescription;
- (5) the signature of the physician, optometrist, or therapeutic optometrist or a verification of the prescription described by Section [353.1015](#);
- (6) if the prescription is issued by an optometrist, specification information required by Texas Optometry Board rule; and
- (7) if the prescription is issued by a physician, specification information required by Texas Medical Board rule.

(b) The Texas Optometry Board and the Texas Medical Board may adopt rules regarding the contents of a prescription for contact lenses.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 101 (H.B. [1025](#)), Sec. 2.009, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.042, eff. April 2, 2015.

Sec. 353.153. TERM OF PRESCRIPTION. A physician, optometrist, or therapeutic optometrist may not issue a contact

lens prescription that expires before the first anniversary of the date the patient's prescription parameters are determined, unless a shorter prescription period is warranted by the patient's ocular health or by potential harm to the patient's ocular health.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 353.154. SHORT-TERM PRESCRIPTION. If a physician, optometrist, or therapeutic optometrist writes a contact lens prescription for a period of less than one year, the physician, optometrist, or therapeutic optometrist shall:

(1) give the patient a verbal explanation of the reason for the action at the time of the action; and

(2) maintain in the patient's records a written explanation of the reason.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 353.155. EXTENSION OF PRESCRIPTION. (a) A physician, optometrist, or therapeutic optometrist may extend the expiration date for a contact lens prescription without completing another eye examination.

(b) On request by a patient, a prescribing physician, optometrist, or therapeutic optometrist shall authorize at least once a two-month extension of the patient's contact lens prescription. The physician, optometrist, or therapeutic optometrist may extend the prescription in accordance with Section [353.104](#).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 353.156. PATIENT ACCESS TO PRESCRIPTION; TIMING. (a) A physician, optometrist, or therapeutic optometrist who performs an eye examination and fits a patient for contact lenses shall:

(1) prepare and give a contact lens prescription to the patient; and

(2) as directed by any person designated to act on behalf of the patient, provide the prescription or verify the prescription as provided by Section [353.1015](#).

(b) If the contact lens prescription results from an initial

or annual eye examination, the physician, optometrist, or therapeutic optometrist shall prepare and give the prescription to the patient at the time the physician, optometrist, or therapeutic optometrist determines the parameters of the prescription.

(c) On receipt of a prescription request from a patient who did not receive an original contact lens prescription during an initial or annual eye examination, the physician, optometrist, or therapeutic optometrist shall provide the patient with the prescription at any time during which the prescription is valid. Except as provided by Section 353.158(1), if the patient requests the physician, optometrist, or therapeutic optometrist to deliver the prescription to the patient or to another person, the physician, optometrist, or therapeutic optometrist may charge to the patient the cost of delivery.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 101 (H.B. 1025), Sec. 2.010, eff. September 1, 2005.

Sec. 353.157. LIMITATIONS ON OR REFUSAL TO GIVE PRESCRIPTION. (a) A physician, optometrist, or therapeutic optometrist may exclude categories of contact lenses from a contact lens prescription if the exclusion is clinically indicated.

(b) Notwithstanding Section 353.156, a physician, optometrist, or therapeutic optometrist may refuse to give a contact lens prescription to a patient if:

(1) the patient's ocular health presents a contraindication for contact lenses;

(2) refusal is warranted due to potential harm to the patient's ocular health;

(3) the patient has a medical condition indicating that:

(A) the patient's ocular health would be damaged if the prescription were released to the patient; or

(B) further monitoring of the patient is needed;

(4) the patient has not paid for the examination and fitting or has not paid other financial obligations to the

physician, optometrist, or therapeutic optometrist if the patient would have been required to make an immediate or similar payment if the examination revealed that ophthalmic goods were not required; or

(5) the request is made after the first anniversary of the date of the patient's last eye examination.

(c) If a physician, optometrist, or therapeutic optometrist refuses to give a patient the patient's contact lens prescription for a reason permitted under Subsection (b), the physician, optometrist, or therapeutic optometrist must:

(1) give the patient a verbal explanation of the reason for the action at the time of the action; and

(2) maintain in the patient's records a written explanation of the reason.

(d) Subsection (b) does not prohibit a physician, optometrist, or therapeutic optometrist from giving a patient the patient's contact lens prescription.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 353.158. PROHIBITED ACTION BY PHYSICIAN, OPTOMETRIST, OR THERAPEUTIC OPTOMETRIST. A physician, optometrist, or therapeutic optometrist may not:

(1) charge a patient a fee in addition to or as part of the examination fee and fitting fee as a condition for issuing or verifying a contact lens prescription; or

(2) condition the availability to a patient of an eye examination, a fitting for contact lenses, the issuance or verification of a contact lens prescription, or a combination of those services on a requirement that the patient agree to purchase contact lenses or other ophthalmic goods from the physician, optometrist, or therapeutic optometrist or from a specific ophthalmic dispenser.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 101 (H.B. [1025](#)), Sec. 2.011, eff. September 1, 2005.

Sec. 353.159. WAIVER OR DISCLAIMER OF LIABILITY PROHIBITED. A contact lens prescription may not contain, and a physician, optometrist, or therapeutic optometrist may not require a patient to sign, a form or notice that waives or disclaims the liability of the physician, optometrist, or therapeutic optometrist for the accuracy of:

(1) the eye examination on which a contact lens prescription provided to the patient is based; or

(2) a contact lens prescription provided to the patient.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. LIABILITY AND ENFORCEMENT

Sec. 353.201. LIABILITY FOR USE OF PRESCRIPTION. A physician, optometrist, or therapeutic optometrist is not liable for a patient's subsequent use of a contact lens prescription if:

(1) the physician, optometrist, or therapeutic optometrist does not reexamine the patient; and

(2) the patient's condition, age, general health, and susceptibility to an adverse reaction caused by or related to the use of contact lenses or other factors result in the patient no longer being a proper candidate for the contact lens prescribed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 353.204. ENFORCEMENT PROCEEDINGS. (a) The appropriate regulatory agency, the attorney general, or the district or county attorney for the county in which an alleged violation of this chapter occurs shall, on receipt of a verified complaint, initiate an appropriate administrative or judicial proceeding to enforce this chapter and the rules adopted under this chapter.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 838, Sec. 3.031(9), eff. September 1, 2015.

(c) The Texas Medical Board is responsible for enforcing this chapter with regard to a violation of this chapter by a physician. A violation of this chapter by a physician is considered

to be a violation of Subtitle B.

(d) The Texas Optometry Board is responsible for enforcing this chapter with regard to a violation of this chapter by an optometrist or a therapeutic optometrist. A violation of this chapter by an optometrist or a therapeutic optometrist is considered to be a violation of Chapter 351.

(e) The Texas State Board of Pharmacy is responsible for enforcing this chapter with regard to a violation of this chapter by a pharmacist. A violation of this chapter by a pharmacist is considered to be a violation of Subtitle J.

(f) The attorney general or an attorney representing the state may bring an action for an injunction to prohibit a person from violating this chapter or a rule adopted under this chapter. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 583 (S.B. 869), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.044, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 3.031(9), eff. September 1, 2015.

Sec. 353.206. CIVIL PENALTY. In addition to granting injunctive or other relief provided by law, a court may impose a civil penalty for a violation of this chapter or a rule adopted under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 353.207. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter.

(b) An offense under this section is a Class B misdemeanor. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.