

LAWS AND RULES
REGULATING THE
PRACTICE OF
OPTICIANS, OCULARISTS
AND APPRENTICES

SECTIONS 4725.40 TO 4725.99
OHIO REVISED CODE

CHAPTERS 4726-03 TO 4726-17
OHIO ADMINISTRATIVE CODE



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DISPENSING OPTICIANS

4725.40 DEFINITIONS

As used in sections 4725.40 to 4725.59 of the Revised Code:

(A) "Optical aid" means an instrument or device prescribed by a physician or optometrist licensed by any state to correct human vision, including spectacles, eyeglasses, contact lenses, and accessories. Contact lenses shall be dispensed only in accordance with a written prescription designated for contact lenses.

(B) "Optical dispensing" means interpreting but not altering a prescription of a licensed physician or optometrist and designing, adapting, fitting, or replacing the prescribed optical aids, pursuant to such prescription, to or for the intended wearer; duplicating lenses, other than contact lenses, accurately as to power without a prescription; and duplicating nonprescription eyewear and parts of eyewear. "Optical dispensing" does not include selecting frames, transacting a sale, transferring an optical aid to the wearer after an optician has completed fitting it, or providing instruction in the general care and use of an optical aid, including placement, removal, hygiene, or cleaning.

(C) "Licensed dispensing optician" means a person holding a current, valid license issued under sections 4725.47 to 4725.51 of the Revised Code that authorizes the person to engage in optical dispensing. Nothing in this chapter shall be construed to permit a licensed dispensing optician to alter the specifications of a prescription.

(D) "Licensed spectacle dispensing optician" means a licensed dispensing optician authorized to engage in the dispensing of optical aids other than contact lenses.

(E) "Licensed contact lens dispensing optician" means a licensed dispensing optician authorized to engage only in the dispensing of contact lenses.

(F) "Licensed spectacle-contact lens dispensing optician" means a licensed dispensing optician authorized to engage in the dispensing of any optical aid.

(G) "Apprentice" means any person dispensing optical aids under the direct supervision of a licensed dispensing optician.

(H) "Prescription" means the written or verbal directions or instructions as specified by a physician or optometrist licensed by any state for preparing an optical aid for a patient.

(I) "Supervision" means the provision of direction and control through personal inspection and evaluation of work.

(J) "Licensed ocularist" means a person holding a current, valid license issued under

sections 4725.48 to 4725.51 of the Revised Code to engage in the practice of designing, fabricating, and fitting artificial eyes or prostheses associated with the appearance or function of the human eye.

[Effective July 20, 1994]

4725.41 PROHIBITIONS

Beginning one year after March 22, 1979, no person shall engage in optical dispensing or hold himself out as being engaged in optical dispensing, except as authorized under section 4725.47 of the Revised Code, unless he has fulfilled the requirements of sections 4725.48 to 4725.51 of the Revised Code and has been certified as a licensed dispensing optician by the Ohio optical dispensers board.

No person shall engage in the designing, fabricating, and fitting of an artificial eye or of prostheses associated with the appearance or function of the human eye unless he is licensed as an ocularist under to [sic] sections 4725.48 to 4725.51 of the Revised Code.

[Effective July 20, 1994]

4725.42 OHIO OPTICAL DISPENSERS BOARD

(A) There is hereby created the Ohio optical dispensers board, consisting of nine members:

- (1) Five dispensing opticians, at least one of whom shall be a contact lens dispensing optician and at least one of whom shall be a spectacle dispensing optician, licensed under sections 4725.48 to 4725.51 of the Revised Code, except as otherwise provided in this division;
- (2) One physician licensed by the state medical board who engages in the practice of ophthalmology;
- (3) One optometrist licensed by the state board of optometry;
- (4) Two members of the public who have no direct financial interest in or any other interest in the provision of optical aids or the performance of optical dispensing services. At least one of these members of the public shall be at least sixty years of age.

The initial dispensing optician members of the board shall meet the criteria for licensure as licensed dispensing opticians specified in section 4725.47 of the Revised Code.

(B) The governor, with the advice and consent of the senate, shall make appointments to the board. Terms of office shall be for five years, each term commencing on the twenty-third day of March and ending on the twenty-second day of March. Each member of the board shall hold office from the date of his appointment until the end of the term for which he was appointed, except that if a successor member has not been appointed by the

end of the term, the member shall continue in office until such appointment.

No member shall serve more than two consecutive terms. Any vacancy occurring prior to the expiration of a member's term shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy shall hold office for the remainder of the unexpired term of the predecessor member of the board.

[Effective July 24, 1990]

4725.43 ORGANIZATION AND MEETINGS

The Ohio optical dispensers board shall elect a president and such other officers from its members, as may be prescribed by rule. The officers of the board shall hold their respective offices for a term of one year.

The board shall meet at least once in each calendar year in Columbus. A majority of the board shall constitute a quorum for the purpose of conducting business of the board. No action of the board is valid without the concurrence of five members. The board shall also meet at such additional times and in such places as are specified by rule or directed by the president, or pursuant to a written request submitted to the executive secretary-treasurer by two other officers or by any two members.

[Effective July 24, 1990]

4725.44 DUTIES; RULES; LIMITS

(A) The Ohio optical dispensers board shall be responsible for the administration of sections 4725.40 to 4725.59 of the Revised Code and, in particular, shall process applications for licensure as licensed dispensing opticians; schedule, administer, and supervise the qualifying examinations for licensure; or contract with a testing service to schedule, administer, and supervise the qualifying examination for licensure; issue licenses to qualified individuals; revoke and suspend licenses; and maintain adequate records with respect to its operations and responsibilities.

(B) The board shall adopt, amend, or rescind rules, pursuant to Chapter 119. of the Revised Code, for the licensure of dispensing opticians, and such other rules as are required by or necessary to carry out the responsibilities imposed by sections 4725.40 to 4725.59 of the Revised Code.

(C) The board shall have no authority to adopt rules governing the employment of dispensing opticians, the location or number of optical stores, advertising of optical products or services, or the manner in which such products can be displayed.

[Effective September 21, 1984]

4725.45 EXECUTIVE SECRETARY-TREASURER; FEES IN EXCESS OF STATUTORY AMOUNTS

(A) The Ohio optical dispensers board shall employ an executive secretary-treasurer, who shall serve at the pleasure of the board. Before entering upon the discharge of the duties imposed upon him by sections 4725.40 to 4725.59 of the Revised Code or by the board, the executive secretary-treasurer shall give a bond, with sufficient sureties, in an amount to be determined by the board for the faithful discharge of the duties of his office. The premium for such bond shall be paid as are other expenditures of the board. Such bond, with the approval of the board and oath of office endorsed thereon, shall be deposited with the secretary of state and kept in his office.

(B) The executive secretary-treasurer shall perform such duties as are prescribed by the board and shall keep complete accounts of all funds received in the performance of his official duties and of all vouchers presented by him to the director of budget and management for the disbursement of funds.

(C) The board may employ such additional employees as may be necessary for the administration and enforcement of sections 4725.40 to 4725.59 of the Revised Code.

(D) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be signed by the president of the board and the executive secretary-treasurer.

(E) The board, subject to the approval of the controlling board, may establish examination and license renewal fees in excess of the amounts provided in sections 4725.48, 4725.49, and 4725.51 of the Revised Code, provided that such fees do not exceed those amounts by more than fifty per cent.

[Effective July 1, 1993]

4725.46 COMPENSATION

(A) Each member of the Ohio optical dispensers board shall receive compensation pursuant to division (J) of section 124.15 of the Revised Code, but shall not receive step advancements, for each day actually employed in the discharge of his official duties, and his actual and necessary expenses.

(B) The executive secretary-treasurer shall receive compensation as fixed by the board and his actual and necessary expenses incurred in the discharge of his official duties.

[September 21, 1984]

4725.47 APPLICATION OF OPTICAL DISPENSER FOR LICENSE; ISSUANCE; RENEWAL

(A) Within one year from the effective date of this section, any person who has or is engaged in optical dispensing and who desires to continue or recommence the practice of optical dispensing without having to satisfy the requirements of sections 4725.48 to 4725.50 of the Revised Code, shall submit a properly completed written application on an approved form, accompanied by a fee of fifty dollars, to the Ohio optical dispensers board. The application shall contain information sufficient to establish that the applicant:

(1) Is at least eighteen years of age;

(2) Is of good moral character, as defined by rules adopted under division (B) of section 4725.44 of the Revised Code;

(3) Is free of contagious or infectious disease, as defined by rules adopted under division (B) of section 4725.44 of the Revised Code;

(4) Is a graduate of an accredited high school of any state, or has received an education equivalent thereto; and

(5) Has successfully completed a course, as prescribed by board rule, in a school for optical dispensing education approved by the board, or has had at least one year of optical dispensing experience, as prescribed by rule of the board, or has completed a combination of such prescribed schooling and experience, as prescribed by rule of the board. The applicant shall submit sufficient proof, as determined by rule of the board, of the completion of such schooling or experience.

(B) If an application submitted under division (A) of this section establishes that the applicant meets the criteria set forth therein, the board shall license the applicant as a licensed dispensing optician of the state. Such licensee shall be designated as a spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician, in accordance with the requirements of sections 4725.40 to 4725.59 of the Revised Code.

(C) Any license issued under this section shall be renewed in accordance with section 4725.51 of the Revised Code.

[Effective September 21, 1984]

4725.48 APPLICATION TO BECOME LICENSED OPTICAL DISPENSER OR OCULARIST; QUALIFICATIONS

(A) Any person who desires to engage in optical dispensing, except as provided in section 4725.47 of the Revised Code, shall file a properly completed written application for an examination with the Ohio optical dispensers board or with the testing service the board has contracted with pursuant to section 4725.49 of the Revised Code. The application for examination shall be made on a form provided by the board or testing service and shall be accompanied by an examination fee the board shall establish by rule. Applicants must return the application to the board or testing service at least sixty days

prior to the date the examination is scheduled to be administered.

(B) Except as provided in section 4725.47 of the Revised Code, any person who desires to engage in optical dispensing shall file a properly completed written application for a license with the board with the appropriate license fee as set forth under section 4725.50 of the Revised Code.

No person shall be eligible to apply for a license under this division, unless the person is at least eighteen years of age, is of good moral character, is free of contagious or infectious disease, has received a passing score, as determined by the board, on the examination administered under division (A) of this section, is a graduate of an accredited high school of any state, or has received an equivalent education and has successfully completed either of the following:

(1) Two years of supervised experience under a licensed dispensing optician, optometrist, or physician engaged in the practice of ophthalmology, up to one year of which may be continuous experience of not less than thirty hours a week in an optical laboratory;

(2) A two-year college level program in optical dispensing that has been approved by the board and that includes, but is not limited to, courses of study in mathematics, science, English, anatomy and physiology of the eye, applied optics, ophthalmic optics, measurement and inspection of lenses, lens grinding and edging, ophthalmic lens design, keratometry, and the fitting and adjusting of spectacle lenses and frames and contact lenses, including methods of fitting contact lenses and post-fitting care.

(C) Any person who desires to obtain a license to practice as an ocularist shall file a properly completed written application with the board accompanied by the appropriate fee and proof that the applicant has met the requirements for licensure. The board shall establish, by rule, the application fee and the minimum requirements for licensure, including education, examination, or experience standards recognized by the board as national standards for ocularists. The board shall issue a license to practice as an ocularist to an applicant who satisfies the requirements of this division and rules adopted pursuant to this division.

[Effective July 20, 1994]

4725.49 OHIO OPTICAL DISPENSERS BOARD; EXAMINATIONS

(A) The Ohio optical dispensers board may provide for the examination of applicants by designing, preparing, and administering the qualifying examinations or by contracting with a testing service that is nationally recognized as being capable of determining competence to dispense optical aids as a licensed spectacle dispensing optician, a licensed contact lens dispensing optician, or a licensed spectacle-contact lens dispensing optician. Any examination used shall be designed to measure specific performance requirements, be professionally constructed and validated, and be independently and objectively administered and scored in order to determine the applicant's competence to

dispense optical aids.

(B) The board shall ensure that it, or the testing service it contracts with, does all of the following:

(1) Provides public notice as to the date, time, and place for each examination at least ninety days prior to the examination;

(2) Offers each qualifying examination at least twice each year in Columbus, except as provided in division (C) of this section;

(3) Provides to each applicant all forms necessary to apply for examination;

(4) Provides all materials and equipment necessary for the applicant to take the examination.

(C) If the number of applicants for any qualifying examination is less than ten, the examination may be postponed. The board or testing service shall provide the applicant with written notification of the Postponement and of the next date the examination is scheduled to be administered.

(D) No limitation shall be placed upon the number of times that an applicant may repeat any qualifying examination, except that, if an applicant fails an examination for a third time, the board may require that the applicant, prior to retaking the examination, undergo additional study in the areas of the examination in which the applicant experienced difficulty.

[Effective July 20, 1994]

4725.50 CERTIFICATE OF LICENSURE; FEE; DISPLAY

(A) Except for a person who qualifies for licensure as an ocularist, each person who qualifies for licensure under sections 4725.40 to 4725.59 of the Revised Code shall receive from the Ohio optical dispensers board, under its seal, a certificate of licensure entitling him to practice as a licensed spectacle dispensing optician, licensed contact lens dispensing optician, or a licensed spectacle-contact lens dispensing optician. The appropriate certificate of licensure shall be issued by the board no later than sixty days after it has notified the applicant of his approval for licensure.

(B) The licensure fee shall be fifty dollars for applications submitted in January through March; thirty-seven dollars and fifty cents, in April through June; twenty-five dollars, in July through September; and twelve dollars and fifty cents, in October through December.

(C) Each licensed dispensing optician shall display his certificate of licensure in a

conspicuous place in his office or place of business. If a licensed dispensing optician maintains more than one office or place of business, he shall display a duplicate copy of such certificate at each location. The board shall issue duplicate copies of the appropriate certificate of licensure for this purpose upon the filing of an application form therefor and the payment of a five-dollar fee for each duplicate copy.

[Effective July 20, 1994]

4725.51 RENEWAL; CONTINUING EDUCATION

(A) Each license issued under sections 4725.40 to 4725.59 of the Revised Code shall expire on the first day of January in the year after it was issued. Each person holding a valid, current license may apply to the Ohio Optical Dispensers Board for the extension of the license under the standard renewal procedures of Chapter 4745. of the Revised Code. Each application for renewal shall be accompanied by a renewal fee the board shall establish by rule and shall contain evidence that the applicant has completed a continuing education program within the immediately preceding one-year period as follows:

(1) Licensed spectacle dispensing opticians shall have pursued four hours of study in spectacle dispensing, approved by the board;

(2) Licensed contact lens dispensing opticians shall have pursued eight hours of study in contact lens dispensing, approved by the board.

(3) Licensed spectacle-contact lens dispensing opticians shall have pursued courses of study under divisions (A) (1) and (2) of this section.

(4) Licensed ocularists shall have pursued courses of study as prescribed by rule of the Board.

(B) No person who fails to renew his license under division (A) of this section shall be required to take a qualifying examination under section 4725.48 of the Revised Code as a condition of renewal, provided that the application for renewal and proof of the requisite continuing education hours are submitted within ninety days from the date the license expired and the applicant pays the annual renewal fee and a penalty of seventy-five dollars. The board may provide, by rule, for an extension of the grace period for licensed dispensing opticians who are serving in the armed forces of the United States and for waiver of the continuing education requirements or the penalty in cases of hardship or illness.

(C) The board shall approve continuing education programs and shall adopt rules as necessary for approving the programs. Approved programs shall be scheduled, sponsored, and conducted in accordance with the board's rules.

[Effective July 20, 1994]

4725.52 APPRENTICES

Any licensed dispensing optician may supervise a maximum of three apprentices who shall be permitted to engage in optical dispensing only under the supervision of the licensed dispensing optician.

A person serving as an apprentice shall register annually with the Ohio optical dispensers board either on a form provided by the board or in the form of a statement giving the name and address of the supervising licensed dispensing optician, the location at which the apprentice will be employed, and any other information required by the board. Each registrant shall pay a registration fee of ten dollars.

A person who is gaining experience under the supervision of A licensed optometrist or ophthalmologist that would qualify him under division (B)(1) of section 4725.48 of the Revised Code to take the examination for optical dispensing is not required to register with the board.

[Effective April 15, 1991]

4725.53 SUSPENSION, REVOCATION, OR REFUSAL OF LICENSE; FINES OR RESTITUTION ORDERS

(A) The Ohio optical dispensers board, by a majority vote of its members, may refuse to grant a license and, in accordance with Chapter 119. of the Revised Code, may suspend or revoke the license of a licensed dispensing optician or impose a fine or order restitution pursuant to division (B) of this section on any of the following grounds:

- (1) Conviction of a felony or a crime involving moral turpitude;
- (2) Obtaining or attempting to obtain a license by fraud or deception;
- (3) Obtaining any fee or making any sale of an optical aid by means of fraud or misrepresentation;
- (4) Habitual indulgence in the use of controlled substances or other habit-forming drugs, or in the use of alcoholic liquors to an extent that affects professional competency;
- (5) Finding by a court of competent jurisdiction that the applicant or licensee is incompetent by reason of mental illness and no subsequent finding by the court of competency;
- (6) Finding by a court of law that the licensee is guilty of incompetence or negligence in the dispensing of optical aids;
- (7) Knowingly permitting or employing a person whose license has been suspended or revoked or an unlicensed person to engage in optical dispensing;
- (8) Permitting another person to use his license;

(9) Engaging in optical dispensing not pursuant to the prescription of a licensed physician or licensed optometrist, but nothing in this section shall prohibit the duplication or replacement of previously prepared optical aids, except contact lenses shall not be duplicated or replaced without a written prescription;

(10) Violation of sections 4725.40 to 4725.59 of the Revised Code;

(11) Waiving the payment of all or any part of a deductible or co-payment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers optical dispensing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider.

(12) Advertising that he will waive the payment of all or any part of a deductible or co-payment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers optical dispensing services, would otherwise be required to pay.

(B) The board may impose a fine of not more than five hundred dollars for a first occurrence of an action that is grounds for discipline under this section and of not less than five hundred nor more than one thousand dollars for a subsequent occurrence, or may order the licensee to make restitution to a person who has suffered a financial loss as a result of the licensee's failure to comply with sections 4725.40 to 4725.59 of the Revised Code.

(C) Notwithstanding divisions (A)(11) and (12) of this section, sanctions shall not be imposed against any licensee who waives deductibles and co-payments:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or co pays shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Such consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

[Effective October 20, 1994]

4725.54 COMPLAINTS AGAINST LICENSEES; ILLEGAL PRACTICE; INJUNCTIVE RELIEF

(A) Any person having knowledge of a violation of sections 4725.40 to 4725.59 of the Revised Code by a licensed dispensing optician or an apprentice or of any other ground specified in section 4725.53 of the Revised Code for denying, suspending, or revoking a license, may submit a written complaint, specifying the precise violations or grounds, to the Ohio Optical Dispensers Board. If the board determines, in accordance with the

procedures of Chapter 119. of the Revised Code, that the charges are sustained by the evidence presented, it may suspend or revoke the license of the person against whom the charges were preferred.

(B) If the board discovers or is informed that any person is or has been engaged in optical dispensing without having received a license under sections 4725.40 to 4725.59 of the Revised Code, it shall inform the prosecuting attorney for the county in which the alleged unlicensed activity took place. The prosecuting attorney shall take all legal action necessary to terminate such illegal practice of optical dispensing and to prosecute the offender under section 4725.41 of the Revised Code.

(C) In addition to other remedies provided in this chapter, the board may request the attorney general or the prosecuting attorney of a county in which a violation of sections 4725.40 to 4725.59 of the Revised Code occurs to apply to the court of common pleas of the county for an injunction to restrain the activity that constitutes a violation.

[Effective April 5, 1991]

4725.55 OFFENSES

No person shall do any of the following:

(A) Sell or barter, or offer to sell or barter, a certificate of licensure as a dispensing optician issued under sections 4725.40 to 4725.59 of the Revised Code;

(B) Use, or attempt to use, a license which is illegally purchased or acquired under division (A) of this section, obtained by fraud or deception, counterfeited, materially altered or otherwise modified without prior approval of the Ohio Optical Dispensers Board, or suspended or revoked under section 4725.53 or 4725.54 of the Revised Code;

(C) Materially alter or otherwise modify a license in any manner, unless authorized by the Ohio Optical Dispensers Board;

(D) Willfully and knowingly make any false statement in an application required under sections 4725.40 to 4725.59 of the Revised Code.

[Effective September 21, 1984]

4725.56 REBATES PROHIBITED

No licensed dispensing optician, or employee or agent of a licensed dispensing optician shall pay or offer to pay a rebate or commission of any nature, or offer any other thing of value, to a licensed physician or licensed optometrist for referring patients to the licensed dispensing optician.

[Effective September 21, 1984]

4725.57 LICENSEE OF ANOTHER STATE

An applicant for licensure as a licensed dispensing optician who is licensed or registered in another state shall be accorded the full privileges of practice within this state, upon the payment of a seventy-five-dollar fee and the submission of a certified copy of the license or certificate issued by such other state, without the necessity of examination, if the board determines that the applicant meets the criteria for division (A) of section 4725.48 of the Revised Code and further determines that the educational background or experience of the applicant satisfies the requirements of division (B) of section 4725.48 of the Revised Code.

[Effective July 26, 1991]

4725.58 NOTICE TO PATIENT FOR FINAL EVALUATION OF CONTACT LENSES

After each licensed contact lens dispensing optician has dispensed contact lenses pursuant to the written prescription of a licensed physician or a licensed optometrist, the licensee shall, in writing, immediately inform the patient to return back to the prescribing physician or optometrist for final evaluation.

[Effective September 21, 1984]

4725.59 EXEMPTIONS FROM LICENSING

Sections 4725.40 to 4725.59 of the Revised Code do not apply to:

(A) Any physician licensed by the state medical board, or to persons while in the employment and under the supervision of a physician at his office;

(B) Licensed optometrists under sections 4725.01 to 4725.16 of the Revised Code, or to persons while in the employment and under the supervision of an optometrist at his office.

Nothing in sections 4725.40 to 4725.59 of the Revised Code shall prevent or restrict any individual, firm, or corporation from employing or from engaging in optical dispensing through persons licensed or registered under such sections.

[Effective September 21, 1984]

4725.99 PENALTIES

(A) Whoever violates section 4725.02 of the Revised Code shall be fined not more than five hundred dollars for a first offense; for each subsequent offense such person shall be fined not less than five hundred nor more than one thousand dollars, or imprisoned not less than six months nor more than one year.

(B) Whoever violates section 4725.41 of the Revised Code is guilty of a misdemeanor of the second degree for a first offense, and a misdemeanor of the first degree for each subsequent offense.

(C) Whoever violates section 4725.55 or 4725.56 of the Revised Code is guilty of a misdemeanor of the second degree.

(D) Whoever violates division (A) of section 4725.21 of the Revised Code is guilty of a minor misdemeanor for a first offense; for each subsequent offense, such person is guilty of a misdemeanor of the second degree. Any violation constitutes a separate offense on each successive day continued.

(E) Whoever violates division (B) of section 4725.21 of the Revised Code is guilty of a misdemeanor of the third degree.

(F) Whoever violates section 4725.113 of the Revised Code is guilty of a minor misdemeanor for a first offense; for each subsequent offense, such person shall be fined up to one thousand dollars.

[Effective May 19, 1992]

**ANNOTATIONS
NOTES OF DECISIONS AND OPINIONS**

Prescriptions 1

1. Prescriptions

Optician or other lay person lacks authority under RC 4725.01 to 4725.14 to make any determination concerning whether or not a person may be fitted with glasses or contact lenses, to prescribe lenses, and to fit glasses to the eyes in any manner other than by frame bending, and to alter or in any way change the prescription given by licensed optometrist or physician; and minimum standards which constitute a prescription for contact lenses, while not expressly provided by general assembly, have been promulgated by state board of optometry in rule OP-7-01 (OAC 4725-7-01) under authority granted to it in RC 4725.04, and control prescriptions written by licensed optometrists in this state. OAG 71-014.