

## South Carolina Board of Examiners in Opticianry

### Position Statement

#### Definition of “Delivery of Contact Lenses”

Effective January 28, 2007

The Board of Examiners in Opticianry has been asked to clarify what it expects of licensees concerning compliance with S.C. Code 40-38-300, particularly the provision that “no contact lenses may be dispensed during the optician’s absence.” The term “dispense” is not defined in the Title 40, Chapter 38. Any statute must be interpreted to give effect to the intent of the legislature that enacted it. The exclusive purpose of the legislature in regulating professional practice of opticianry is to protect the public welfare through the requirements of specialized skill and training for work that is distinguishable from ordinary labor. S.C. Code §40-1-10(B).

The most common definitions of “dispense” in health care context refer to the preparation and giving out of medicines. The statutory definition of “dispense” in a related South Carolina statute defines “dispensing” as the transfer of possession of a one or more doses of a medical device to the consumer pursuant to a lawful order. S.C. Code §40-43-30(14). This definition, in the South Carolina Pharmacy practice act, goes on to specifically distinguish between the professional and nonprofessional duties associated with dispensing. Thus, by that definition the interpretation and assessment of the prescription and the determination that the contact lens is appropriately labeled and ready for transfer is considered to be dispensing for which a license is required. The actual sales transaction and delivery of the device is not considered dispensing.

This concept is equally sound in the context of S.C. Code 40-38-300. A contact lens dispensing license is required to accept a prescription, interpret it, and assure that the prescribed devices are appropriately labeled and ready for transfer. The actual sales transaction is not dispensing. Thus no prescription may be accepted, interpreted or assessed of the prescription and no determination may be made that contact lenses are appropriately labeled and ready for transfer when the contact lens dispensing licensee is not present. The actual sales of contact lenses that have been selected and labeled under professional supervision can be completed in the contact lens dispensing licensee’s absence.

No disciplinary action will be taken by the South Carolina Board of Examiners in Opticianry where a contact lens dispensing licensee complies with this interpretation. This is a statement of the Board of Examiners in Opticianry concerning its interpretation of the requirements for professional practice of opticianry in South Carolina and should not be construed to control billing issues, insurance issues or employment contracts.