



Ohio Revised Code Section 4725.53 Disciplinary actions.

Effective: April 6, 2023

Legislation: House Bill 509

(A) Except as provided in division (D) of this section, the state vision professionals 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 crime involving moral turpitude or a disqualifying offense as those terms are defined in section 4776.10 of the Revised Code;
- (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 the licensee's 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 copayment 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 the licensee will waive the payment of all or any part of a deductible or copayment 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;

(13) Violating the code of ethical conduct adopted under section 4725.66 of the Revised Code.

(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 copayments:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copays 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.

(D) The board shall not refuse to grant a license to an applicant because of a conviction unless the



refusal is in accordance with section 9.79 of the Revised Code.

(E) If a violation described in this section has caused, is causing, or is about to cause substantial and material harm, the board may issue an order requiring that person to cease and desist from engaging in the violation. Notice of the order shall be mailed by certified mail, return receipt requested, immediately after its issuance to the person subject to the order and to all persons known to be involved in the violation. The board may thereafter publicize or otherwise make known to all interested parties that the order has been issued.

The notice shall specify the particular act, omission, practice, or transaction that is subject to the cease-and-desist order and shall set a date, not more than fifteen days after the date of the order, for a hearing on the continuation or revocation of the order. The person shall comply with the order immediately upon receipt of notice of the order.

The board may, on the application of a party and for good cause shown, continue the hearing. Chapter 119. of the Revised Code applies to the hearing to the extent that that chapter does not conflict with the procedures set forth in this section. The board shall, within fifteen days after objections are submitted to the hearing officer's report and recommendation, issue a final order either confirming or revoking the cease-and-desist order. The final order may be appealed as provided under section 119.12 of the Revised Code.

The remedy under this division is cumulative and concurrent with the other remedies available under this section or section 4725.54 of the Revised Code.