

## **201 KAR 5:037. Advertising.**

RELATES TO: KRS 320.295, 326.060

STATUTORY AUTHORITY: KRS 320.240(4), (7), 320.295

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.295 prohibits false, misleading, or deceptive advertising. This administrative regulation describes what an advertisement shall include to avoid being characterized as false, misleading, or deceptive.

### Section 1.

- (1) An advertisement shall state if additional charges may be incurred in an eye examination for related services in individual cases.
- (2) An advertisement of price for visual aid glasses, including contact lenses, alone shall clearly state: "does not include eye examination".
- (3) Any optometrist who has been subjected to any disciplinary measures for advertising violations may be required by the board to secure prepublication approval of all advertisements by the board for any period of time which the board deems appropriate.

Section 2. In the absence of compelling reasons to the contrary, a minimum examination, as described in 201 KAR 5:040, Section 7, shall be performed when advertising an eye examination.

### Section 3.

- (1) The advertisement of eye glass lenses shall include: single vision or specified type of multifocal lenses.
- (2) Advertisement of contact lenses shall include:
  - (a) Description of type of lens; for example, "soft, tinted, extended wear toric";
  - (b) Whether or not professional fees are included in the advertised price.
- (3) If dispensing fees are not included in the advertisement of visual aid glasses, the advertisement shall so state.

### Section 4.

- (1) Except as provided in subsection (2) of this section, a person, individually or while employed or connected with a corporation or association, shall not advertise the fitting of contact lenses unless he is an optometrist, physician or osteopath.
- (2) An ophthalmic dispenser may advertise that he fits contact lenses if all fittings occur in the presence, and under the supervision, of an optometrist, physician or osteopath.

### Section 5.

- (1) Advertising shall be prohibited if it represents an optometrist as a specialist in an optometric specialty if he has not:
  - (a) Been certified by a certifying board which has been approved by the Kentucky Board of Optometric Examiners; and
  - (b) Furnished proof of his certification to the Kentucky Board of Optometric Examiners.
- (2) Uses a coded or special name for a visual material or service that has an established trade name, if the coded or special name would deceive consumers.

### Section 6.

- (1) A prescription may contain the following or similar language: "The (below) (above) contains those measurements and directions which are included in a prescription for spectacle lenses. The person fitting or attempting to fit contact lenses will probably have to take additional measurements and make interpretations of those measurements as they relate to this prescription. Under Kentucky law only optometrists, osteopaths and physicians are authorized to fit contact lenses. Ophthalmic dispensers may fit contact

lenses in the presence of and under the supervision of an optometrist, osteopath or physician."

(2) The signed spectacle prescription shall be given to the patient upon request at the completion of the examination and payment of fees.

Section 7. An optometrist shall use the letters "OD" or "O.D." in any advertisement where an optometrist uses letters to denote an optometry degree.

(5 Ky.R. 954; eff. 11-7-1979; 17 Ky.R. 2488; 2943; eff. 4-5-1991; 27 Ky.R. 2867; 28 Ky.R. 557; eff. 9-10-2001; 29 Ky.R. 1299; eff. 1-15-2003.)