

201 KAR 13:080. Operation and inspection of optical establishments.

RELATES TO: KRS 326.010(2), 326.010(3), 326.030, 326.070, 326.090(2), 326.990

STATUTORY AUTHORITY: KRS 326.020(3)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.030 provides that a person shall not engage in the practice of ophthalmic dispensing unless he is licensed. KRS 326.090(2) authorizes the board to impose a fine against any person who operates an optical establishment without the supervision of a Kentucky-licensed ophthalmic dispenser. KRS 326.090(1) authorizes the board to suspend or revoke a license to practice ophthalmic dispensing for a violation of KRS Chapter 326. KRS 326.020(3)(a) authorizes the board to promulgate administrative regulations necessary to implement the chapter. This administrative regulation establishes a procedure for the operation and inspection of an optical establishment to determine if the establishment has complied with the licensing requirements.

Section 1. Definitions.

- (1) "Operates an optical establishment" means to engage in business activities at an optical establishment, including the activities of the owner of the optical establishment and the authorized representative of the owner in the management of the optical establishment and its employees.
- (2) "Optical establishment" is defined in KRS 326.010(3).
- (3) "Person" is defined in KRS 446.010(27).
- (4) "Supervision" means the oversight of the practice of ophthalmic dispensing at an optical establishment by a Kentucky-licensed ophthalmic dispenser who is physically present on the premises.

Section 2. Optical Establishment Supervisor.

- (1) Each optical establishment shall have a Kentucky-licensed ophthalmic dispenser to provide supervision for the establishment.
- (2) An ophthalmic dispenser who leaves the employment of an optical establishment shall notify the board within five (5) working days of his departure from that optical establishment.

Section 3.

- (1) A board member, employee of the board, or an authorized agent may enter an optical establishment which is required to be under the supervision of a Kentucky-licensed ophthalmic dispenser during regular business hours to determine:
 - (a) If the optical establishment is under the supervision of a Kentucky-licensed ophthalmic dispenser;
 - (b) If every person practicing ophthalmic dispensing at the optical establishment is in compliance with the statutes and administrative regulations applying to the practice of ophthalmic dispensing; and
 - (c) The name of each person or persons who operates the optical establishment.
- (2) The provisions of this administrative regulation shall not apply to a person who is exempted under KRS 326.070.

Section 4. A licensed ophthalmic dispenser or apprentice ophthalmic dispenser shall produce the appropriate license or identification for each person employed within the optical establishment upon request.

Section 5. A licensed ophthalmic dispenser shall permit the complete inspection of an optical establishment used in the practice of ophthalmic dispensing upon request.

Section 6. A licensed ophthalmic dispenser or apprentice ophthalmic dispenser shall display his license in a conspicuous place in the office in which he practices. He shall also produce,

upon request, a current identification card issued by the board.

Section 7.

(1) The board may impose a fine not to exceed \$1000 for a violation of KRS 326.090(2).

(2) The procedure for imposing a fine on a person for violation of KRS 326.090(2) shall be conducted in accordance with KRS Chapter 13B and 326.100.

(23 Ky.R. 4250; Am. 858; eff. 10-13-1997; 34 Ky.R. 618; 968; eff. 11-19-2007; Crt eff. 2-21-2020.)