

**367.6802 Assessment mechanism required to conduct eye assessment or to generate prescription for corrective eyewear -- Duties of optometrist, osteopath, or physician -- Required disclosures to patient -- Construction of statute -- Appropriate practice standards.**

- (1) An assessment mechanism to conduct an eye assessment or to generate a prescription for contact lenses or visual aid glasses to a patient in Kentucky shall:
  - (a) Provide synchronous or asynchronous interaction between the patient and the Kentucky-licensed optometrist, osteopath, or physician;
  - (b) Collect the patient's medical history, previous prescription for corrective eyewear, and length of time since the patient's most recent in-person comprehensive eye health examination;
  - (c) Provide any applicable accommodation required by the federal Americans with Disabilities Act, 42 U.S.C. secs. 12101 et seq., as amended;
  - (d) Gather and transmit protected health information in compliance with the federal Health Insurance Portability and Accountability Act of 1996, as amended;
  - (e) Be used to perform a procedure with a recognized Current Procedural Terminology code maintained by the American Medical Association, if applicable; and
  - (f) Maintain liability insurance, through its owner or lessee, in an amount adequate to cover claims made by individuals diagnosed or treated based on information and data, including any photographs and scans, generated by the assessment mechanism.
- (2) A Kentucky-licensed optometrist, osteopath, or physician shall:
  - (a) Read and interpret the diagnostic information and data, including any photographs and scans, gathered by the assessment mechanism;
  - (b) Verify the identity of the patient requesting treatment via the assessment mechanism;
  - (c) Create and maintain a medical record for each patient, which is for use during the ongoing treatment of a patient, and complies with all state and federal laws regarding maintenance and accessibility;
  - (d) Provide a handwritten or electronic signature, along with their Kentucky state license number, certifying their diagnosis, evaluation, treatment, prescription, or consultation recommendations of the patient;
  - (e) Utilize an assessment mechanism for an eye assessment or to generate a prescription for visual aid glasses only if:
    1. The patient is at least eighteen (18) years of age; and
    2. The patient has received an in-person comprehensive eye health examination by an optometrist, osteopath, or physician within the previous twenty-four (24) months; and
  - (f) Utilize an assessment mechanism to generate a prescription for contact lenses only if:

1. The patient is at least eighteen (18) years of age; and
  2. The patient has received an in-person comprehensive eye health examination by an optometrist, osteopath, or physician:
    - a. For the initial prescription and one (1) follow-up or first renewal of the initial prescription; or
    - b. Within twenty-four (24) months after the follow-up or first renewal of the initial prescription, and every twenty-four (24) months thereafter.
- (3) Prior to using an assessment mechanism, each Kentucky patient shall be provided with and shall accept as a term of use a disclosure that includes the following information:
- (a) This assessment is not a replacement for an in-person comprehensive eye health examination;
  - (b) This assessment cannot be used to generate an initial prescription for contact lenses or a follow-up or first renewal of the initial prescription;
  - (c) This assessment may only be used if the patient has had an in-person comprehensive eye health examination within the previous twenty-four (24) months if the patient is conducting an eye assessment or receiving a prescription for visual aid glasses; and
  - (d) The United States Centers for Disease Control and Prevention (CDC) advises contact lens wearers to visit an eye doctor one (1) time a year or more often if needed.
- (4) Evaluation, treatment, and consultation recommendations by a Kentucky-licensed optometrist, osteopath, or physician utilizing an assessment mechanism as required in this section, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional in-person clinical settings.
- (5) This section shall not:
- (a) Limit the discretion of a Kentucky-licensed optometrist, osteopath, or physician to direct a patient to utilize any telehealth service deemed appropriate for any treatment and care of the patient;
  - (b) Limit the sharing of patient information, in whatever form, between an optometrist, osteopath, or physician; or
  - (c) Apply beyond ocular health and eye care.

**Effective:** July 14, 2018

**History:** Created 2018 Ky. Acts ch. 44, sec. 8, effective July 14, 2018.