

Part 5

Unlawful and Unprofessional Conduct - Penalties

58-16a-501 Unlawful conduct.

"Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

- (1) buying, selling, or fraudulently obtaining, any optometry diploma, license, certificate, or registration;
- (2) aiding or abetting the buying, selling, or fraudulently obtaining, of any optometry diploma, license, certificate, or registration;
- (3) selling or providing contact lenses or ophthalmic lenses in a manner inconsistent with Section 58-16a-801 or intentionally altering a prescription unless the person selling or providing the lenses is a licensed optometrist or ophthalmologist; or
- (4) representing oneself as or using the title of "optometrist," "optometric physician," "doctor of optometry," or "O.D.," unless currently licensed under this chapter.

Amended by Chapter 256, 2012 General Session

58-16a-502 Unprofessional conduct.

"Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

- (1) using or employing the services of an optometric assistant to assist a licensee in any manner not in accordance with:
 - (a) the generally recognized practices and standards of ethics of the profession; or
 - (b) applicable state law or division rule;
- (2) failure to refer a patient to an appropriate licensed practitioner when:
 - (a) the patient's condition does not respond to treatment; or
 - (b) the treatment is not within the scope of competence or licensure of the licensee;
- (3) providing confidential information regarding a patient to any third party who does not have a legal and professional ground for obtaining the information;
- (4) knowingly prescribing, selling, giving away, or administering any prescription drug unless:
 - (a) for a legitimate medical purpose;
 - (b) upon a proper diagnosis indicating the use of the drug in the amount prescribed or provided; and
 - (c) in compliance with Section 58-17b-309;
- (5) giving or receiving directly or indirectly any fee, commission, rebate, or other compensation for professional services not actually and personally rendered, except as part of a legal relationship within a lawful professional partnership, corporation, or association;
- (6) failure to transfer pertinent and necessary information from a patient's medical records to another optometrist or physician when so requested by the patient or his representative, as designated in writing; or
- (7) failure to provide a contact lens prescription to a person who sells contact lenses in accordance with Section 58-16a-306.

Amended by Chapter 234, 2012 General Session

58-16a-503 Penalty for unlawful conduct.

- (1) Except as provided in Subsection (2), any person who violates the unlawful conduct provision defined in Section 58-16a-501 or Subsection 58-1-501(1)(a) or (1)(c) is guilty of a third degree felony.
- (2) A person who violates Subsection 58-16a-501(3) is guilty of a class C misdemeanor.

Amended by Chapter 160, 2000 General Session