

Luxottica Retail North America

Voluntary Guidelines Regarding Co-Location of Optometrists and Optical Dispensers

The following statements are Luxottica Retail North America (LRNA) guidelines for the co-location of independent contractor (subleasing) optometrists with optical dispensaries owned and operated by LRNA. The statements are not intended to replace, amend, or interpret state and federal laws, rules, and regulations that govern the practice of optometry, opticianry, or the relationship between these entities. Nor are these statements intended to replace, amend or interpret any contractual agreement between LRNA and optometrists.

Position Statement:

Optometrists should be free to provide eye care to patients in the form of practice and business affiliation of their choice, except as otherwise provided by state law. LRNA and co-located optometrists should work together to provide co-located eye care services and eyewear products (including both spectacle and contact lens prescriptions) to patients in an ethical, professional manner, free from improper influences that would interfere with the appropriate exercise of professional judgment. The visual welfare of the patient shall be the prime consideration of the optometrist and LRNA at all times.

Principles of Co-Location:

Compliance with State and Federal Laws- Optometrists and LRNA shall comply with all applicable state and federal laws related to health care, licensure, eye care, and eyewear dispensing.

Professional Optometric Judgment- LRNA shall not interfere with or attempt to control the professional judgment of the optometrist. The professional judgment of the optometrist means those decisions or acts related to eye care that by law may not be made or performed by an optical dispenser or lay person, and which may be made or performed by a licensed optometrist. LRNA will not limit or attempt to hinder the optometrist in providing any eye care service that the optometrist is licensed to perform. LRNA will not engage in business practices that limit or restrict, or that are likely to limit or restrict, the optometrist's ability to determine:

- The amount of time necessary to perform an eye exam or conduct a patient visit;
- The tests and procedures to be performed during an eye exam, or a patient visit;
- Whether and when to schedule appointments, including the recall of patients;
- When to refer a patient to another health care provider for further evaluation or treatment;
- The appropriate prescription or prescriptions that will best serve the patient;
- The fee(s) the optometrist will charge for his/her services;
- Whether to utilize individuals who are employed by the optical dispenser, to serve as support staff for the practice where allowed by law;
- The extent to which after-hours access to the optometrist's office is necessary in order to meet emergency patient needs.

Business Decisions- Except as otherwise provided by state law, optometrists should be free to make business decisions in agreements with optical dispensers. These would include a doctor's agreement:

- Not to sell some or all ophthalmic products;
- Not to open or enter into a business agreement with a competing dispensary during and for a reasonable period after the co-location, within a reasonable distance from the practice/dispensary where the co-location exists;
- To ensure that the optometric office is open and available to provide service to patients at agreed upon hours. LRNA will in good faith consider the optometrist's reasonable request to occasionally deviate from the agreed days and hours of operation for personal or professional reasons, provided the optometrist uses his or her best efforts to staff the office with a licensed optometrist and to inform patients and the optical dispenser of any schedule changes in a timely manner;
- To participate in specific insurance and managed vision care contracts, provided the optometrist is able to contract independently with other insurance and managed vision care plans of his or her choosing;
- To pay rent based on a flat fee, or a percentage or formula in direct relationship to optometric revenues. Rent shall not be based on the number or volume of patients or the number of prescriptions written or filled at the optical dispensary;
- On the amount to pay for the use of individuals employed by the optical dispenser and for other business services from the optical dispenser, including support for clerical and administrative tasks;
- To obtain minimum insurance, including professional malpractice insurance and commercial general liability insurance, naming the optical dispenser as an additional insured, provided that the optometrist is free to choose his or her own carrier.

Competence- The optometrist and LRNA will recognize the value of sharing information and supporting each other's efforts to stay knowledgeable about and proficient in the use of new technology, processes and products used by eye care and eyewear professionals.

Collaboration- Except as otherwise provided by law, the optometrist and LRNA will aspire to work jointly and individually to promote ocular health and good vision, including as appropriate, consulting with each other, and as needed, other health care and eye care professionals, in all instances where such communication advances the interest of the patient.

Patient Relationships- The optometrist shall be free to maintain a separate telephone listing and number, website and e-mail address, distinct from those of LRNA, which shall belong to the optometrist at the end of the affiliation between the optometrist and LRNA. Telephone numbers, websites and e-mail addresses belonging to LRNA and used by the optometrist during the period of co-location shall remain the property of LRNA following the end of the affiliation.

Records- Optometric records are the property of the owner of the optometric practice; optical dispensing records are the property of LRNA. Non-employee staff may access optometric records only as specifically authorized by the owner of the optometric practice for a bona fide treatment or healthcare operations purpose, and after appropriate training regarding compliance with applicable privacy laws and office protocols. All records must be stored in accordance with applicable laws.