

235 CMR: BOARD OF REGISTRATION  
OF DISPENSING OPTICIANS

2.06: Applicability of 235 CMR 2.00 through 5.00: Exemptions

(1) Applicability to Individuals. No individual may perform, provide, or offer to perform or provide, any function or service which is included within the "practice of opticianry", as defined in 235 CMR 2.04, or hold himself or herself out to the public as able to engage in the practice of opticianry, as so defined, unless:

- (a) He or she holds a license to practice as a dispensing optician issued by the Board pursuant to M.G.L. c. 112, § 73E and 235 CMR 2.07 or 235 CMR 2.08; or
- (b) He or she is registered with the Board and with the Division of Apprentice Training as an apprentice optician pursuant to 235 CMR 4.00 and performs or provides all such functions or services in compliance with all applicable requirements of 235 CMR 4.00 and 453 CMR 7.00 including but not limited to the supervision requirements of 235 CMR 4.07; or
- (c) He or she may perform such functions or services authorized by 15 U.S.C. §§ 7601 through 7610 (2004); or
- (d) He or she is exempt from the licensure requirement pursuant to 235 CMR 2.06(3).

(2) Applicability to Business Organizations. No business organization or entity may perform, provide, or offer to perform or provide, any function or service which is included within the "practice of opticianry", as defined in 235 CMR 2.04, or hold itself to the public as being able to perform or provide any such functions or services, unless:

- (a) At least one individual who is employed by that business organization or entity holds a license to practice as a dispensing optician issued by the Board pursuant to M.G.L. c. 112, § 73E and 235 CMR 2.07 or 235 CMR 2.08, and that business organization or entity otherwise complies with all applicable requirements of 235 CMR 2.00; or
- (b) The business organization or entity is performing such functions or services authorized by 15 U.S.C. §§ 7601 through 7610 (2004).

(3) Exemption for Physicians and Optometrists. Notwithstanding the provisions of 235 CMR 2.06(1) and 235 CMR 2.06(2), the provisions of 235 CMR 2.00 through 5.00 shall not apply to:

- (a) A physician, duly licensed or otherwise authorized to practice medicine in the Commonwealth of Massachusetts by the Massachusetts Board of Registration in Medicine pursuant to M.G.L. c. 112, §§ 2 through 9B and 243 CMR; or
- (b) An optometrist duly registered or otherwise authorized to practice optometry in the Commonwealth of Massachusetts by the Massachusetts Board of Registration in Optometry pursuant to M.G.L. c. 112, §§ 66 through 73B and 246 CMR.

(4) Exemption for Pharmacies and Pharmacy Employees. Nothing in 235 CMR 2.00 through 235 CMR 5.00 shall be construed to prohibit any "registered pharmacy", as defined in 235 CMR 2.04, or any employee thereof, from physically delivering a set of ophthalmic lenses, spectacles, eyeglasses or contact lenses to a customer and receiving payment for the same, as long as no employee or agent of that registered pharmacy performs or attempts to perform any of the functions or services set forth in 235 CMR 2.04: Practice of Opticianry(a) through (e) without having first met the licensure requirements of 235 CMR 2.06(1).

(5) Exemption for Certain Services Performed by Unlicensed Employees of Optical Goods Establishments. Notwithstanding any other provisions of 235 CMR 2.00 through 5.00, it shall not be unlawful for an individual who is employed in an optical goods establishment, but who is not licensed by the Board as a dispensing optician, registered with the Board as an apprentice optician, or exempt from licensure under 235 CMR 2.06(3), to physically deliver a set of ophthalmic lenses, contact lenses, spectacles or eyeglasses to a customer and receive payment from the customer for the same, as long as:

- (a) There is a duly licensed dispensing optician, duly registered optometrist or duly licensed physician physically present on site in the optical goods establishment at the time the unlicensed individual delivers the lenses, spectacles or eyeglasses to the customer; and
- (b) The unlicensed individual does not attempt to perform any of the functions or services set forth in 235 CMR 2.04: Practice of Opticianry(a) through (e).