

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

**John Thurston**

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Little Rock, Arkansas 72201-1094

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas State Board of Optometry

Department \_\_\_\_\_

Contact Kevin M. O'Dwyer E-mail kodwyer@htolaw.com Phone 501-372-4144

Statutory Authority for Promulgating Rules \_\_\_\_\_

**Rule Title:** Proposed Article - Chapter 5, Article IX - Prescribing Controlled Substances

**Intended Effective Date**  
(Check One)

**Date**

☐ Emergency (ACA 25-15-204)

Legal Notice Published .....

Nov. 6, 13, 20, 2018

☒ 10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment .....

2/14/2019

☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Reviewed by Legislative Council .....

5/17/2019

Adopted by State Agency .....

2/14/2019

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Kevin M. O'Dwyer

kodwyer@htolaw.com

May 30, 2019

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

  
Signature

Howard Flippin, DO

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Executive Director

Title

5/30/2019

Date

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WILLIAM H. TRICE III (1946-2014)

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May 30, 2019

Mr. John Thurston  
Secretary of State  
State Capitol – Room 026  
Little Rock, AR 72201-1094

**Re: My Client: Arkansas State Board of Optometry  
Proposed Article – Chapter 5, Article IX – Prescribing Controlled Substances**

To Whom It May Concern:

Enclosed is an Arkansas Register Transmittal Sheet and a copy of the Proposed Article – Chapter 5, Article IX – Prescribing Controlled Substances.

Please file this accordingly.

Sincerely,

**HOPE, TRICE, O'DWYER & WILSON, P.A.**



Kevin M. O'Dwyer  
Attorney for the Arkansas State Board of Optometry

KMO:ena  
Enclosure

cc: Howard Flippin, D.O., Executive Director  
[register@sos.arkansas.gov](mailto:register@sos.arkansas.gov)

## PROPOSED ARTICLE

### CHAPTER 5, ARTICLE IX – Prescribing Controlled Substances

#### Section 1 –

Arkansas optometrist licensed as optometric physician who applies for and possess a DEA number shall:

- A. Prescribe schedules II, III, IV, and V controlled substances only.
  - 1. It is incumbent of Optometrist to prescribe sufficient but minimal opiate medications. Any prescription for a Scheduled II or III opiate shall not exceed the total maximum manufacturer's recommended daily dose for a total of 72 hours' administration. Any refill of a prescription beyond the initial 72 hour prescription requires an inpatient visit and exam. Optometrist shall not prescribe more than 50 Morphine Milligram Equivalents (MME) per day.
  - 2. Patient record must be documented for a justification for the original prescription and for the need of any refill.
- B. Administer and prescribe controlled substances for the diagnosis and treatment of diseases and conditions of the eye, lids, and adnexa.
- C. Not sell any prescription medication including controlled substances.
- D. Be responsible for knowing and abiding by all state and federal regulations pertaining to controlled substances with emphasis on the "Mid-Level Practitioner's Manual", published by the DEA, and all State Board rules and regulations pertaining to controlled substances. Record the names and directions of prescribed controlled substances in the patient's record.
- E. A prescriber who has been found by the Arkansas State Board of Optometry to be in violation of a rule or law involving prescription drugs shall be required by the board to register with the Prescription Drug Monitoring Program and access patient information before writing a prescription for an opioid. The board, in its discretion, may remove this requirement after a period of time if the board deems removal of the requirement appropriate.
- F. Within the first two (2) years of being granted a license in the state, a prescriber shall obtain a minimum of three (3) hours of prescribing education approved by the Arkansas State Board of Optometry. The education approved by the board under this section shall include:
  - 1. Options for online and in-person programs; and
  - 2. Information on prescribing rules, regulations, and laws that apply to individuals who are licensed in the state.
  - 3. Information and instructions on prescribing controlled substances, record keeping and maintaining safe and professional boundaries.

## **PROPOSED ARTICLE**

- G. A prescriber shall check the information in the Prescription Drug Monitoring Program when prescribing:
  - 1. An opioid from Schedule II through Schedule III for every time prescribing the medication to a patient; and
  - 2. A benzodiazepine medication for the first time prescribing the medication to a patient.
- H. A practitioner who fails to access the Prescription Drug Monitoring Program as required is subject to disciplinary action by the Board.

### **Section 2 –**

- A. Only optometrists certified as optometric physicians, and/or approved by the Board, shall apply for or possess a DEA number to prescribe controlled substances.
- B. Optometrists not specifically approved by the Board to prescribe controlled substances:
  - 1. Cannot apply for, obtain or possess a DEA number.
  - 2. Cannot prescribe controlled substances without being in violation of State and Federal laws.