

HOUSE BILL No. 2745

By Committee on Health and Human Services

1-29

AN ACT concerning optometry; relating to contact lens; amending
K.S.A. 65-1504b and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. This act shall be known as the patient's contact lens prescription release act.

Sec. 2. K.S.A. 65-1504b is hereby amended to read as follows: 65-1504b. (a) *Each patient shall be entitled to receive upon request a copy of such patient's contact lens prescription once the same prescription has been determined and the adaptation period has been completed. No contact lens prescription may be limited by an expiration date or otherwise to a period of less than 12 months from either the date the prescription is first determined or the last date of the contact lens evaluation by a licensee or a person licensed to practice medicine and surgery, whichever date is later, unless a health related reason for the limitation is noted in the patient's medical record.*

(b) It shall be unlawful for any person to dispense an ophthalmic lens or lenses without first having obtained a ~~prescription~~ *prescription valid, unexpired prescription as defined in K.S.A. 65-1501a, and amendments thereto*, or order therefor from a duly licensed optometrist or a person licensed to practice medicine and surgery.

(c) *It shall be unlawful for any person to dispense contact lenses within 60 days prior to the prescription expiration date for such contact lenses in a greater quantity than necessary to complete the prescription, however, nothing in this act shall be interpreted to prohibit a contact lens prescription from being rewritten by a licensee prior to its expiration. The rewritten prescription shall then become the patient's current contact lens prescription.*

New Sec. 3. For purposes of this section and section 4 and amendments thereto a person dispensing contact lenses means a person or entity not licensed under K.S.A. 65-1505, and amendments thereto, or licensed to practice medicine and surgery in Kansas who mails contact lenses to patients in Kansas pursuant to a contact lens prescription which such person or entity did not determine.

New Sec. 4. Persons who fall within the scope of section 3, and

1 amendments thereto, may dispense contact lenses through the mail upon
2 meeting the criteria of this section and payment of a registration fee set
3 by the board of examiners in optometry. Registration fees shall not exceed
4 the annual fee for an initial or renewal permit to practice optometry in
5 this state as provided in K.S.A. 65-1505 and amendments thereto. Ap-
6 proval of the registration for dispensing contact lenses shall be provided
7 by the board upon certification by the person dispensing the contact
8 lenses that such person:

9 (a) Is licensed or registered to dispense contact lenses in the state
10 where the dispensing facility is located;

11 (b) provides the location, names and titles of all principal corporate
12 officers and of the person who is responsible for overseeing the dispensing
13 of contact lenses in Kansas;

14 (c) complies with directions and appropriate requests for information
15 from the regulating agency of each state where such licensee is licensed
16 or registered;

17 (d) certifies that such licensee will respond directly and within a rea-
18 sonable period of time, not to exceed 15 days, to all communications from
19 the board concerning the dispensing of contact lenses in Kansas;

20 (e) maintains records of contact lenses and their corresponding valid,
21 unexpired prescription dispensed in Kansas;

22 (f) agrees to cooperate with the board in providing information to the
23 regulatory agency of any state where it is licensed or registered concern-
24 ing matters related to the dispensing of contact lenses in Kansas;

25 (g) provides a toll-free telephone service for responding to questions
26 and complaints from individuals in Kansas during the licensee's regular
27 hours of operation and agrees to (a) include the toll-free number in lit-
28 erature provided with mailed contact lenses and (b) refer all questions
29 relating to eye care for the lenses prescribed to the licensee licensed to
30 practice medicine and surgery who determined the contact lens
31 prescription;

32 (h) provides the following, or substantially equivalent, written noti-
33 fication to the patient whenever contact lenses are supplied:

34 **WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING**
35 **SYMPTOMS, REMOVE YOUR LENSES IMMEDIATELY AND**
36 **CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEAR-**
37 **ING YOUR LENSES AGAIN: UNEXPLAINED EYE DISCOM-**
38 **FORT, WATERING, VISION CHANGE OR REDNESS;**

39 (i) fills contact lens prescriptions according to the strict directions of
40 a licensee or person licensed to practice medicine and surgery in Kansas,
41 without any deviation or substitution of lenses; and

42 (j) consents in writing to the personal and subject matter jurisdiction
43 of the district courts and board of examiners in optometry for actions

1 arising out of this act.

2 New Sec. 5. (a) The board of examiners in optometry may revoke
3 the registration or license of any person dispensing contact lenses in Kan-
4 sas under this act for failure to comply with the requirements set forth
5 in sections 1 through section 4, and amendments thereto, and the Kansas
6 optometry law pursuant to K.S.A. 65-1501 *et seq.*, and amendments
7 thereto.

8 (b) Upon a finding of any violation of this act or any optometry law
9 in Kansas, in lieu of or in addition to any other action, the board may
10 assess a civil fine not in excess of \$10,000 against such person dispensing
11 contact lenses under this act. The board shall remit all moneys received
12 by it under this section to the state treasurer in accordance with the
13 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
14 such remittance the state treasurer shall deposit the entire amount in the
15 state treasury. The state treasurer shall then deposit into the optometry
16 fee fund an amount from such deposits equal to the board's actual costs,
17 including attorney fees, related to fine assessment and enforcement as
18 certified by the president of the board. All expenditures from such funds
19 shall be made in accordance with appropriation acts upon warrants of the
20 director of accounts and reports issued pursuant to vouchers approved
21 by the president of the board or by a person designated by the president.

22 (c) If a person dispensing contact lenses is operating in violation of
23 the patient's contact lens prescription release act or the Kansas optometry
24 law or both, the board of examiners in optometry or the attorney general
25 may commence an action to enjoin such person from further violations
26 of the act or from mailing, shipping or otherwise delivering contact lenses
27 in Kansas.

28 Sec. 6. K.S.A. 65-1504b is hereby repealed.

29 Sec. 7. This act shall take effect and be in force from and after its
30 publication in the statute book.

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