

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 12:00 p.m. on April 10, 2002 in Room 231-N of the Capitol.

All members were present except:

Committee staff present: Mr. Norm Furse, Revisor of Statutes
Ms. Emalene Correll, Kansas Legislative Research Department
Ms. Lisa Montgomery, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee:

Others attending: See attached guest list.

Final action on HB2285 - an act concerning optometry; relating to contact lens

Upon calling the meeting to order, Chairperson Susan Wagle asked the Committee to turn to HB2285 in their books. She stated there were some technical amendments that needed to be made to the bill and asked Mr. Norm Furse, Revisor of Statutes, to explain them.

Mr. Furse said that the main technical amendment could be found on page 3. He stated that what the bill does is separate out for regulatory purposes, the board of examiners in optometry for those persons who are licensed optometrists and the board of healing arts for persons who are licensed to practice medicine and surgery (ophthalmologists). In essence, he stated, this verbiage on page 3 sets out what needs to be done to pull the two boards apart so that the board of examiners in optometry would have control of the persons who are registered as licensees and disciplinary actions if there are violations of this act by their licensees and the board of healing arts would have control over their licensees and disciplinary actions. Mr. Furse stated that in the middle of the balloon, is similar language (see lines 15 thru 25) for the board of healing arts except money is deposited in healing arts fee fund. He suggested that what needs to be done is set up a separate section for the board of healing arts similar to this language for the board of optometry so that pulls that material out of those two entities.

On page 1 of this balloon, the change is just to specify sections 1 to 5 refer to this act, and it may be 1 to 6 when he pulls the healing arts act language out. On page 2 of New Sec. 4., there are two additional items:

- 1) in line 5 it states, "persons who fall within the scope of section 3, and amendments thereto, may dispense contact lenses through the mail upon meeting..." He ask that the Committee consider limiting this to read after the word mail, "to Kansas residence", since the state of Kansas does not have the authority to say whether it can dispense prescriptions generally through the mail;
- 2) in lines 33 and 34, it states "refer all to questions relating to eye care for the lenses prescribed to the licensee" and then refers to "licensed to practice medicine and surgery". But here, of course, Mr. Furse said, the act has licensed optometrists and licensed ophthomologists. He suggests that the Committee delete "licensed to practice medicine and surgery".

He then referred to a third item on page 3, lines 12 and 13 stating that when the bill gets recut, it would relate to both boards. He stated, the bill reads, "Upon a finding of any violation of this act or any optometry law in Kansas, the board may assess a civil fine." Currently, both the board of healing arts statutes and optometry licensure act statutes have a civil fine penalty, so the need to repeat "or any optometry law in Kansas" is unnecessary, as there is already a civil penalty similar to this, thus tie it down just to the prescription lens part of the act.

Mr. Furse then passed out the statues for both the healing arts act and the optometry law regarding civil fines of which the optometry law is already covered (in 65.1526), stating this would be considered a technical deletion. A copy of Mr. Furse's balloon is (Attachment 1) attached hereto and incorporated into the Minutes by reference.

Chairperson Wagle then asked if there were questions of Mr. Furse. The lone question came from Senator Brungardt who referred to the interpretation "mail" on page 2, line 5, asking if this referred to businesses such as FedEx and UPS.

The Chair then commented that she does not feel the technical cleanup is controversial. She also reminded the Committee that Mr. Furse wanted an amendment that is not on page 2 adding "to Kansas residence", page 3 striking the words on lines 12 "or any optometry law in Kansas", and the license to practice medicine and surgery on page 2, lines 33 and 34. She then stated that since this is the technical, she would entertain one motion for this cleanup. Senator Seineger then made a motion that the Committee adopt the technical cleanup. It was seconded by Senator Harrington, and the motion carried.

Next the Chair announced that the Committee has been requested to consider several amendments. She stated that first she wanted to put the consumer first and one thing the Committee does as a Public Health Committee is make sure everyone in Kansas has access to care at the best price. She then stated she would pass out all of the amendments and let the Committee act.

The first amendment was requested during the hearing by the Kansas Optometric Association. A copy of this amendment is (Attachment 2) attached hereto and incorporated into the Minutes by reference.

The second is an amendment on page 1 that the Chair requested because she stated, she felt like prescriptions should be readily available to patients for contact lens prescriptions. The Chair mentioned that this was a one page amendment deleting the words "upon request". A copy of this amendment is (Attachment 3) attached hereto and incorporated into the Minutes by reference.

The next three amendments were requested from 1-800-CONTACTS:

The first amendment, found on page 1, Sec. 2 new (d), requests that when ophthalmologists or optometrists are asked to verify a prescription within four hours during regular business hours subsequent to the receipt of the request. A copy of this amendment is (Attachment 4) attached hereto and incorporated into the Minutes by reference.

In the second amendment, also found on page 1, line 24, 1-800-CONTACTS requested that a "period of less than 12 months" be changed to a "period of less than 24 months". A copy of this amendment is (Attachment 5) attached hereto and incorporated into the Minutes by reference.

In the third amendment, 1-800-CONTACTS requested that in New Sec.3, line 41, it has been requested is that instead of the board of optometry regulating the contact lens providers that language is stricken. A copy of this amendment is (Attachment 6) attached hereto and incorporated into the Minutes by reference.

The Chair then announced that Senator Steineger would like to move that we adopt the amendment that strikes "upon request" and this makes it an automatic release for prescriptions. Senator Harrington seconded the motion and the motion carried.

The Chair commented on the remaining amendments stating that the biggest problem the contact lens providers are having from her communication to both sides, is that they are having a problem being regulated by the board of optometry and it is felt that this board would not be fair regulation and the AG was really unacceptable to optometrists, but did feel like if we had to move the regulation they would prefer, and there was a willingness, to be moved to KDHE or to the board of pharmacy. This amendment, the Chair stated, was not being offered before the Committee today.

A discussion ensued among Senators Brungardt, Wagle, Praeger, Haley, Jordan, Harrington, and Barnett, and Ms. Correll and Mr. Furse ranging from interpretation of the law, enforcement mechanism that works but is fair, the need for a funding source, conflict of interest, mail order pharmaceutical dispenser in competition with the pharmacist, co-mingling fees, violation of statute, verification of prescriptions, collection of fees, to if this were moved to the pharmacy board would this change enforcement on civil penalties.

The Chair then announced that again, she does not have an amendment to place the contact lens providers under pharmacy, AG, or KDHE and feels the people would like for the Committee to deal with the question of where is that the fairest place to regulate the mail order contact lens and that it is for this Committee to decide.

The Chair then recognized Senator Barnett who asked if the Board of Healing Arts was discussed and the Chair answered, "Yes, this was a possibility". She stated that she has been visiting with both sides all morning and the optometrist definitely prefer not to have the regulation removed, but, asking Mr. Gary Robbins, in behalf of the Kansas Optometric Association, if the regulation of this were moved, where would he prefer this to go. Mr. Robbins responded with the board of healing arts or pharmacy, assuming all of the penalties and everything stays the same, if you are talking about the registered pharmacies. She then asked 1-800-CONTACTS, that since they do not want to be under the board of optometry. Mr. Steve Kearney, in behalf of 1-800-CONTACTS, responded, any of the above places would be preferable and in order of preference to them would be KDHE and then the board of pharmacy.

A discussion then ensued between Senators Wagle and Salmans and Mr. Furse regarding the registration for a dispenser and the cost according to the way the bill is drafted when it was under the board of optometry. Mr. Furse referred to page 2, line 8, stating the bill reads "registration fees shall not exceed the annual fee for an initial or renewal permit." It was agreed that the dollar amount was \$150.00 which would have to be approved by rules and regs, then it would be back under a state statute.

The Chair then asked for any suggestions from the Committee on what they want to do. Senator Harrington made a conceptual motion to place the regulation under the board of healing arts of dispensers and enforcement and registration, so that the fees would go to the healing arts. Senator Steineger seconded the motion. The motion carried.

The Chair then recognized Mr. Furse who then stated that this would leave the New Sec.4 and those requirements as amended by the Committee, and basically, this would change in New Sec. 5, the registration enforcement from optometry to healing arts.

The next order of business was the Kansas Optometric Association amendments. The Chair suggested that the Committee make sure these were not in conflict with what they just did. She did mention that there were problems on page 1 regarding lenses changing the color of a person's eyes. A motion was made to adopt all of the Kansas Optometric Association's amendments. This was seconded by Senator Steineger. The motion carried.

The Chair then recognized Senator Haley who asked if the Committee had dealt with the first sentence on page 2 in the technical cleanup, to practice medicine and surgery. He stated he remembers dealing with it on line 33, but didn't not remember this being in the motion. The Chair recognized Mr. Furse who stated that this was okay because they have excluded the optometrists in line 43 on page 1, the K.S.A. 65-1505 reference.

The Chair then stated that it has been moved by Senator Praeger that the Committee pass the bill as amended favorably. Seconded by Senator Steineger. The motion carried.

In the final order of business, the Chair stated that there are some issues in the Committee, including occupational therapists, naturopaths, physical therapists, the bill that was heard yesterday, so they would be meeting at a later date. She thanked the Committee for their patience and for working together today.

Adjournment

Adjournment time was at 1:30 p.m.

The next meeting is on call of the Chair.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

25 in att.

GUEST LIST

DATE: April 10, 2002

NAME	REPRESENTING
Ron Garbus	Cole Vision
Michele Whit	1-800-CONTACTS
Scott Schneider	Cole Vision
Sean Harrington	Observer
Alex Padilla	Observer
Marlee Carpenter	KCCF
Bill Brady	KS Optometric Assoc.
Julie Hein	KS Optometric Assoc.
John Peterson	KS Optometric Assn
Ron Hein	KS Optometric Assn

Substitute for HOUSE BILL No. 2285

By Committee on Health and Human Services

2-25

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

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. ~~[This act]~~ shall be known as the patient's contact lens
14 prescription release act.

15 Sec. 2. K.S.A. 65-1504b is hereby amended to read as follows: 65-
16 1504b. (a) *Each patient shall be entitled to receive upon request a copy*
17 *of such patient's contact lens prescription once the same prescription has*
18 *been determined and the adaptation period has been completed. Any pre-*
19 *scription for a specific brand of contact lenses available only from the*
20 *licensee or person licensed to practice medicine and surgery, but which*
21 *are generally marketed under an alternate brand, must disclose the name*
22 *of the manufacturer and the trade name of the alternate brand. No contact*
23 *lens prescription may be limited by an expiration date or otherwise to a*
24 *period of less than 12 months from either the date the prescription is first*
25 *determined or the last date of the contact lens evaluation by a licensee or*
26 *a person licensed to practice medicine and surgery, whichever date is*
27 *later, unless a health related reason for the limitation is noted in the*
28 *patient's medical record.*

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

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

41 New Sec. 3. For purposes of this section and section 4 and amend-
42 ments thereto a person dispensing contact lenses means a person or entity
43 not licensed under K.S.A. 65-1505, and amendments thereto, or licensed

[Sections 1 to 5, inclusive, and amendments thereto

0-1

Senate Public Health & Welfare Committee
Date: April 10, 2002 12:00
Attachment #1

1 to practice medicine and surgery in Kansas who mails or dispenses contact
2 lenses to patients in Kansas pursuant to a contact lens prescription which
3 such person or entity did not determine.

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

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

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

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

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

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

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

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

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

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

43 (i) fills contact lens prescriptions according to the strict directions of

1-2

1-3

1 a licensee or person licensed to practice medicine and surgery in Kansas,
2 without any deviation or substitution of lenses; and

3 (j) consents in writing to the personal and subject matter jurisdiction
4 of the district courts and board of examiners in optometry for actions
5 arising out of this act.

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

12 (b) Upon a finding of any violation of this act or any optometry law
13 in Kansas, in lieu of or in addition to any other action, the board may
14 assess a civil fine not in excess of \$10,000 against such person dispensing
15 contact lenses under this act. The board shall remit all moneys received
16 by it under this section to the state treasurer in accordance with the
17 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
18 such remittance the state treasurer shall deposit the entire amount in the
19 state treasury. The state treasurer shall then deposit into the optometry

20 fund an amount from such deposits equal to the board's actual costs,
21 including attorney fees, related to fine assessment and enforcement as
22 certified by the president of the board. All expenditures from such funds
23 shall be made in accordance with appropriation acts upon warrants of the
24 director of accounts and reports issued pursuant to vouchers approved
25 by the president of the board or by a person designated by the president.

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

32 [New Sec. 6.] The board of examiners in optometry shall administer
33 and enforce the provisions of this act, and the board is hereby granted
34 such specific powers as are necessary for the purpose of administering
35 and enforcing such law, including adopting rules and regulations, which
36 rules and regulations shall not be inconsistent with the provisions of this
37 act.

38 Sec. 7. K.S.A. 65-1504b is hereby repealed.

39 Sec. 8. This act shall take effect and be in force from and after its
publication in the statute book.

who is registered or licensed by the board of examiners in
optometry and who is

The state board of healing arts may revoke the license of any
person who is licensed by the state board of healing arts and who
is dispensing contact lenses in Kansas for failure to comply with
the requirements of K.S.A. 65-1504b and amendments thereto.

of examiners in optometry for persons other than persons licensed
by the state board of healing arts to practice medicine and
surgery or the state board of healing arts, in lieu of or in
addition to any other action, upon a finding of any violation of
this act by a person licensed by the state board of healing arts
to practice medicine and surgery

of examiners in optometry

Similar language to lines 15 through 25 for board of healing arts
except money deposited in healing arts fee fund.

for persons other than persons licensed by the state board of
healing arts to practice medicine and surgery,

If a person dispensing contact lenses who is licensed by the
state board of healing arts is operating in violation of the
patient's contact lens prescription release act, the state board
of healing arts or the attorney general may commence an action to
enjoin such person from further violations of the act or from
mailing, shipping or otherwise dispensing contact lenses in
Kansas.

(d)

for persons other than those licensed by the state board of
healing arts, and the state board of healing arts shall
administer and enforce the provisions of this act for persons
licensed by the state board of healing arts and each such

Substitute for HOUSE BILL No. 2285

By Committee on Health and Human Services

2-25

KS Optometric Assn.

Senate Public Health & Welfare Committee
Date: April 10, 2002 12 p.m.
Attachment #2

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

11
12 *Be it enacted by the Legislature of the State of Kansas:*

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

15 Sec. 2. K.S.A. 65-1504b is hereby amended to read as follows: 65-
16 1504b. (a) *Each patient shall be entitled to receive upon request a copy*
17 *of such patient's contact lens prescription once the same prescription has*
18 *been determined and the adaptation period has been completed. Any pre-*
19 *scription for a specific brand of contact lenses available only from the*
20 *licensee or person licensed to practice medicine and surgery, but which*
21 *are generally marketed under an alternate brand, must disclose the name*
22 *of the manufacturer and the trade name of the alternate brand. No contact*
23 *lens prescription may be limited by an expiration date or otherwise to a*
24 *period of less than 12 months from either the date the prescription is first*
25 *determined or the last date of the contact lens evaluation by a licensee or*
26 *a person licensed to practice medicine and surgery, whichever date is*
27 *later, unless a health related reason for the limitation is noted in the*
28 *patient's medical record.*

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

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

41 New Sec. 3. For purposes of this section and section 4 and amend-
42 ments thereto a person dispensing contact lenses means a person or entity
43 not licensed under K.S.A. 65-1505, and amendments thereto, or licensed

An ophthalmic lens shall include a contact lens with or without power.

(deleted "or dispenses")

1 to practice medicine and surgery in Kansas who mails ~~or dispenses~~ contact
2 lenses to patients in Kansas pursuant to a contact lens prescription which
3 such person or entity did not determine.

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

13 (a) Is licensed or registered to dispense contact lenses in the state
14 where the dispensing facility is located ~~;~~ _____

if required.

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

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

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

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

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

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

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

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

43 (i) fills contact lens prescriptions according to the strict directions of

2-2

1 a licensee or person licensed to practice medicine and surgery in Kansas,
2 without any deviation or substitution of lenses; and

3 (j) consents in writing to the personal and subject matter jurisdiction
4 of the district courts and board of examiners in optometry for actions
5 arising out of this act.

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

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

26 (c) If a person dispensing contact lenses is operating in violation of
27 the patient's contact lens prescription release act or the Kansas optometry
28 law or both, the board of examiners in optometry or the attorney general
29 may commence an action to enjoin such person from further violations
30 of the act or from mailing, shipping or otherwise ~~dispensing~~
31 in Kansas:

delivering

32 New Sec. 6. The board of examiners in optometry shall administer
33 and enforce the provisions of this act, and the board is hereby granted
34 such specific powers as are necessary for the purpose of administering
35 and enforcing such law, including adopting rules and regulations, which
36 rules and regulations shall not be inconsistent with the provisions of this
37 act.

38 Sec. 7. K.S.A. 65-1504b is hereby repealed.

39 Sec. 8. This act shall take effect and be in force from and after its
40 publication in the statute book.

Substitute for HOUSE BILL No. 2285

By Committee on Health and Human Services

2-25

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. Any prescription for a specific brand of contact lenses available only from the licensee or person licensed to practice medicine and surgery, but which are generally marketed under an alternate brand, must disclose the name of the manufacturer and the trade name of the alternate brand. 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~~ 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

Senate Public Health & Welfare Committee
Date: April 10, 2002 12 pm.
Attachment #3

Substitute for HOUSE BILL No. 2285

By Committee on Health and Human Services

2-25

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. Any prescription for a specific brand of contact lenses available only from the licensee or person licensed to practice medicine and surgery, but which are generally marketed under an alternate brand, must disclose the name of the manufacturer and the trade name of the alternate brand. 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 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

(d) Upon request a contact lens prescription verification shall be provided by the licensed optometrist or person licensed to practice medicine or surgery who determined the prescription within four hours during regular business hours subsequent to the receipt of the request.

Senate Public Health & Welfare Committee
Date: April 10, 2002, 12 pm
Attachment #4

Substitute for HOUSE BILL No. 2285

By Committee on Health and Human Services

2-25

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. Any prescription for a specific brand of contact lenses available only from the licensee or person licensed to practice medicine and surgery, but which are generally marketed under an alternate brand, must disclose the name of the manufacturer and the trade name of the alternate brand. 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.

24

(b) It shall be unlawful for any person to dispense an ophthalmic lens or lenses without first having obtained a 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

Senate Public Health & Welfare Committee
Date: April 10, 2002, 12 D.M.
Attachment #5

Substitute for HOUSE BILL No. 2285

By Committee on Health and Human Services

2-25

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. Any prescription for a specific brand of contact lenses available only from the licensee or person licensed to practice medicine and surgery, but which are generally marketed under an alternate brand, must disclose the name of the manufacturer and the trade name of the alternate brand. 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 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.

(a)

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

Senate Public Health & Welfare Committee
Date: April 10, 2002, 12:00 pm.
Attachment # 6

1 to practice medicine and surgery in Kansas who mails or dispenses contact
2 lenses to patients in Kansas pursuant to a contact lens prescription which
3 such person or entity did not determine.

(b)

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

this section

to Kansas residents

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

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

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

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

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

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

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

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

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

43 (i) fills contact lens prescriptions according to the strict directions of

the filing of a registration statement with the consumer protection division of the office of the attorney general. The registration statement shall be on a form and provide such information as the attorney general may prescribe.

And by renumbering sections accordingly

1 a licensee or person licensed to practice medicine and surgery in Kansas,
2 without any deviation or substitution of lenses; and

3 (j) consents in writing to the personal and subject matter jurisdiction
4 of the district courts and board of examiners in optometry for actions
5 arising out of this act.

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

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

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

32 New Sec. 6. The board of examiners in optometry shall administer
33 and enforce the provisions of this act, and the board is hereby granted
34 such specific powers as are necessary for the purpose of administering
35 and enforcing such law, including adopting rules and regulations, which
36 rules and regulations shall not be inconsistent with the provisions of this
37 act.

38 Sec. 7. K.S.A. 65-1504b is hereby repealed.

39 Sec. 8. This act shall take effect and be in force from and after its
40 publication in the statute book.

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