

HOUSE BILL No. 2285

By Committee on Federal and State Affairs

2-5

AN ACT concerning optometry; amending and supplementing the optometry law; amending K.S.A. 65-1504b, 65-1513 and 65-1523 and K.S.A. 2000 Supp. 65-1501a and repealing the existing sections.

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

Section 1. K.S.A. 2000 Supp. 65-1501a is hereby amended to read as follows: 65-1501a. ~~For the purposes of this act the following terms shall have the meanings respectively ascribed to them~~ *As used in this act*, unless the context requires otherwise:

(a) "Board" means the board of examiners in optometry established under K.S.A. 74-1501 and amendments thereto.

(b) "License" means a license to practice optometry granted under the optometry law.

(c) "Licensee" means a person licensed under the optometry law to practice optometry.

(d) "Adapt" means the determination, selection, fitting or use of lenses, prisms, orthoptic exercises or visual training therapy for the aid of any insufficiencies or abnormal conditions of the eyes after or by examination or testing.

(e) "Lenses" means any type of ophthalmic lenses, which are lenses prescribed or used for the aid of any insufficiencies or abnormal conditions of the eyes.

(f) "Prescription" means a verbal or written order directly from a licensee giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the specifications and directions for lenses, prisms, orthoptic exercises, low vision rehabilitation services or visual training therapy to be used for the aid of any insufficiencies or abnormal conditions of the eyes, including instructions necessary for the fabrication or use thereof ~~and~~, the date of issue *and an expiration date which may not be less than two years from the date of issue unless medically documented reasons therefor have been noted in the patient's file and a written explanation therefor has been delivered to the patient.*

(g) "Prescription for topical pharmaceutical drugs or oral drugs" means a verbal or written order directly from a licensee expressly certified

1 to prescribe drugs under the optometry law and giving or containing the
2 name and address of the prescriber, the license registration number of
3 the licensee, the name and address of the patient, the name and quantity
4 of the drug prescribed, directions for use, the number of refills permitted,
5 the date of issue and expiration date.

6 (h) "Topical pharmaceutical drugs" means drugs administered topi-
7 cally and not by other means for the examination, diagnosis and treatment
8 of the human eye and its adnexae.

9 (i) "Dispense" means to deliver prescription-only medication or oph-
10 thalmic lenses to the ultimate user pursuant to the lawful prescription of
11 a licensee and dispensing of prescription-only medication by a licensee
12 shall be limited to a twenty-four-hour supply or minimal quantity nec-
13 essary until a prescription can be filled by a licensed pharmacist.

14 (j) "Diagnostic licensee" means a person licensed under the optom-
15 etry law and certified by the board to administer or dispense topical phar-
16 maceutical drugs for diagnostic purposes.

17 (k) "Therapeutic licensee" means a person licensed under the optom-
18 etry law and certified by the board to prescribe, administer or dispense
19 topical pharmaceutical drugs for therapeutic purposes and oral drugs,
20 following completion of a fifteen-hour course approved by the board per-
21 taining to the use of oral drugs in ocular therapeutics, except that a person
22 applying for therapeutic licensure who has graduated after January 1,
23 1999, from a school or college of optometry approved by the board shall
24 not be required to take such course. Therapeutic licensees on the effec-
25 tive date of this act shall complete the fifteen-hour course described in
26 this subsection before May 31, 2000.

27 (l) "Glaucoma licensee" means a person described in subsections (j)
28 and (k) ~~of this section~~ who is also licensed under the optometry law to
29 manage and treat adult open-angle glaucoma by nonsurgical means, in-
30 cluding the prescribing, administering and dispensing of topical phar-
31 maceutical drugs and oral drugs.

32 (m) "False advertisement" means any advertisement which is false,
33 misleading or deceptive in a material respect. In determining whether
34 any advertisement is misleading, there shall be taken into account not
35 only representations made or suggested by statement, word, design, de-
36 vice, sound or any combination thereof, but also the extent to which the
37 advertisement fails to reveal facts material in the light of such represen-
38 tations made.

39 (n) "Advertisement" means all representations disseminated in any
40 manner or by any means, for the purpose of inducing, or which are likely
41 to induce, directly or indirectly, the purchase of professional services or
42 ophthalmic goods.

43 (o) "Health care provider" ~~shall have~~ *has* the meaning ascribed to

1 ~~that term in subsection (f) of~~ *provided by* K.S.A. 40-3401 and amend-
2 ments thereto.

3 (p) "Medical facility" ~~shall have~~ *has* the meaning ascribed to that term
4 ~~in subsection (c) of~~ *provided by* K.S.A. 65-411 and amendments thereto.

5 (q) "Medical care facility" ~~shall have~~ *has* the meaning ascribed to that
6 ~~term in~~ *provided by* K.S.A. 65-425 and amendments thereto.

7 (r) "Co-management" means confirmation by an ophthalmologist of
8 a licensee's diagnosis of adult open-angle glaucoma together with a writ-
9 ten treatment plan which includes (1) all tests and examinations sup-
10 porting the diagnosis, (2) a schedule of tests and examinations necessary
11 to treat the patient's condition, (3) a medication plan, (4) a target intra-
12 ocular pressure, (5) periodic review of the patient's progress and (6) cri-
13 teria for referral of the patient to an ophthalmologist for additional treat-
14 ment or surgical intervention, except that any co-management plan may
15 be modified only with the consent of both the ophthalmologist and the
16 optometrist and the modification noted in writing on the patient's record.

17 (s) "Co-management period" means that period of time during which
18 an optometrist co-manages patients either suspected of having or diag-
19 nosed as having adult open-angle glaucoma with an ophthalmologist.

20 (t) "Ophthalmologist" means a person licensed to practice medicine
21 and surgery by the state board of healing arts who specializes in the di-
22 agnosis and medical and surgical treatment of diseases and defects of the
23 human eye and related structures.

24 (u) "Low vision rehabilitation services" means the evaluation, diag-
25 nosis, management and care of the low vision patient including low vision
26 rehabilitation therapy, education and interdisciplinary consultation under
27 the direction and supervision of an ophthalmologist or optometrist.

28 (v) "Oral drugs" means oral antibacterial drugs, oral antiviral drugs,
29 oral antihistamines, oral analgesic drugs, oral steroids and oral antiglau-
30 coma drugs.

31 (w) "Optometrist" means a person licensed to practice optometry.

32 (x) "Physician" means a person licensed to practice medicine and
33 surgery.

34 Sec. 2. K.S.A. 65-1504b is hereby amended to read as follows: 65-
35 1504b. (a) It shall be unlawful for any person to dispense an ophthalmic
36 ~~lense lens~~ or lenses without first having obtained a, *or verified or at-*
37 *tempted to verify, the lens* prescription or order therefor from a ~~duly~~
38 ~~licensed the~~ optometrist or a ~~person licensed to practice medicine and~~
39 ~~surgery~~ *physician who issued the prescription or order.*

40 (b) *If an optometrist or physician verifies a contact lens prescription*
41 *to a seller of lenses in interstate commerce and such seller makes a sale to*
42 *a resident of Kansas, such optometrist or physician is released from all*
43 *liability and damage that may be proximately caused as a result of the*

1 *lenses not being dispensed accurately and in accordance with the*
2 *prescription.*

3 (c) *Verification of a lens prescription in interstate commerce may be*
4 *established and or initiated by telephone, facsimile or any other electronic*
5 *means of communication to the optometrist or physician who prescribed*
6 *the lens or lenses. A record of prescription verification or attempted pre-*
7 *scription verification shall be maintained by the person dispensing the*
8 *lens or lenses for a period of two years.*

9 (d) *Verification of a lens prescription shall be presumed following a*
10 *request for verification if the optometrist or physician fails or refuses to*
11 *respond within a medically reasonable period of time.*

12 (e) *It is a complete defense to a prosecution for violation of this section*
13 *that the person being prosecuted, in good faith, attempted to verify or*
14 *obtain a copy of the lens prescription prior to dispensing the lens or lenses.*

15 Sec. 3. K.S.A. 65-1513 is hereby amended to read as follows: 65-
16 1513. Any person who violates any of the provisions of this act shall be
17 guilty of a class C misdemeanor ~~for the first offense, and for the second~~
18 ~~and each subsequent offense shall be guilty of a class B misdemeanor.~~ It
19 is the duty of the respective county and district attorneys to prosecute all
20 violators of this act.

21 Sec. 4. K.S.A. 65-1523 is hereby amended to read as follows: 65-
22 1523. The board in its discretion, in addition to any other remedies pro-
23 vided in this act, may apply to a court of competent jurisdiction for in-
24 junctive relief to restrain *a licensee from* violations of the provisions of
25 this act; *and* lawful rules and regulations promulgated by the board under
26 authority of this act.

27 New Sec. 5. (a) Health care providers who are authorized to issue
28 prescriptions for eyeglasses or contact lenses pursuant to Kansas law shall
29 provide every patient or the patient's agent with a copy of the patient's
30 eyeglass and/or contact lens prescription immediately following the de-
31 termination of the prescription.

32 (b) Every health care provider who sells eyeglasses or contact lenses
33 shall post a notice, adjacent to the place in their office where payment is
34 made for services, informing the patient that: "You are entitled to a copy
35 of your eyeglass or contact lens prescription following its determination."
36 The notice shall be in plain view and in at least ¼ inch type.

37 (c) This section shall be part of the optometry law.

38 Sec. 6. K.S.A. 65-1504b, 65-1513 and 65-1523 and K.S.A. 2000 Supp.
39 65-1501a are hereby repealed.

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

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