

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1847

Chapter 106, Laws of 1994

53rd Legislature
1994 Regular Session

VISION CARE CONSUMER ASSISTANCE ACT

EFFECTIVE DATE: 6/9/94

Passed by the House February 7, 1994
Yeas 94 Nays 0

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1994
Yeas 46 Nays 0

JOEL PRITCHARD

President of the Senate

Approved March 28, 1994

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1847** as passed by the House of Representatives and the Senate on the dates hereon set forth.

MARILYN SHOWALTER

Chief Clerk

FILED

March 28, 1994 - 11:12 a.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1847

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Ludwig, Dyer, Jones, Kremen and Rayburn)

Read first time 01/21/94.

1 AN ACT Relating to the vision care consumer assistance act; and
2 adding a new chapter to Title 18 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** LEGISLATIVE INTENT. The legislature finds
5 that in the newly reformed health care delivery system it is necessary
6 to clarify providers' roles to ensure that they are working together to
7 maximize patient access while controlling costs. This is especially
8 important in the vision care industry, where the potential for
9 confusion exists due to some overlapping scopes of practice among
10 licensed providers.

11 The legislature finds that boards regulating health care
12 professions should be mindful of the necessary balance between public
13 safety and access to affordable care, and adopt rules that are
14 consistent with their legislative intent. The risk that this balance
15 may be lost is especially high in the optical industry, where
16 competitive pressures have led to the involvement of the federal trade
17 commission. The legislature recognizes its role in ensuring
18 appropriate access to vision care for state residents by clarifying

1 necessary prescription content and ensuring prescription release to the
2 patient.

3 NEW SECTION. **Sec. 2.** DEFINITIONS. For purposes of this chapter,
4 the following definitions apply:

5 (1) "Dispensing" means the retail delivery of ophthalmic goods to
6 the patient by a prescriber or optician.

7 (2) "Eye examination" means a testing process administered by a
8 prescriber that includes the process of determining the refractive
9 condition of a patient's eyes. If requested by the patient, it also
10 determines the appropriateness of contact lenses.

11 (3) "Fitting" means the performance of mechanical procedures and
12 measurements necessary to adapt and fit eyeglasses or contact lenses
13 from a written prescription. In the case of contact lenses, the
14 prescription must be in writing and fitting includes the selection of
15 the physical characteristics of the lenses including conversion of the
16 spectacle power to contact lens equivalents, lens design, material and
17 manufacturer of the lenses, and supervision of the trial wearing of the
18 lenses which may require incidental revisions during the fitting
19 period. The revisions may not alter the effect of the written
20 prescription.

21 (4) "Ophthalmic goods" means eyeglasses or a component or
22 components of eyeglasses, and contact lenses.

23 (5) "Ophthalmic services" means the measuring, fitting, adjusting,
24 and fabricating of ophthalmic goods subsequent to an eye examination.

25 (6) "Optician" means a person licensed under chapter 18.34 RCW.

26 (7) "Patient" means a person who has had an eye examination.

27 (8) "Practitioner" includes prescribers and opticians.

28 (9) "Prescriber" means an ophthalmologist or optometrist who
29 performs eye examinations under chapter 18.53, 18.57, or 18.71 RCW.

30 (10) "Prescription" means the written directive from a prescriber
31 for corrective lenses and consists of the refractive powers. If the
32 patient wishes to purchase contact lenses, the prescription must
33 contain a notation that the patient is "ok for contacts" or similar
34 language confirming there are no contraindications for contacts.

35 (11) "Secretary" means the secretary of the department of health.

36 NEW SECTION. **Sec. 3.** SEPARATION OF EXAMINATION AND DISPENSING.

37 (1) No prescriber shall:

1 (a) Fail to provide to the patient one copy of the patient's
2 prescription at the completion of the eye examination. A prescriber
3 may refuse to give the patient a copy of the patient's prescription
4 until the patient has paid for the eye examination, but only if that
5 prescriber would have required immediate payment from that patient had
6 the examination revealed that no ophthalmic goods were required;

7 (b) Condition the availability of an eye examination or
8 prescription, or both, to a patient on a requirement that the patient
9 agree to purchase ophthalmic goods from the prescriber or a dispenser
10 approved by the prescriber;

11 (c) Fail to include a notation of "ok for contacts" or similar
12 language on the prescription if the prescriber would have fitted the
13 patient himself or herself, provided there are no contraindications for
14 contacts, and if the patient has requested contact lenses. Such a
15 notation will indicate to the practitioner fitting the contact lenses
16 that the initial fitting and follow-up must be completed within six
17 months of the date of the eye examination. The prescriber will inform
18 the patient that failure to complete the initial fitting and obtain the
19 follow-up evaluation by a prescriber within the six-month time frame
20 will void the "ok for contacts" portion of the prescription. The
21 prescriber who performs the follow-up will place on the prescription
22 "follow-up completed," or similar language, and include his or her name
23 and the date of the follow-up. Patients who comply with both the
24 initial fitting and follow-up requirements will then be able to obtain
25 replacement contact lenses until the expiration date listed on the
26 prescription. If the prescriber concludes the ocular health of the eye
27 presents a contraindication for contact lenses, a verbal explanation of
28 that contraindication must be given to the patient by the prescriber at
29 the time of the eye examination and documentation maintained in the
30 patient's records. However, a prescriber may exclude categories of
31 contact lenses where clinically indicated;

32 (d) Include a prescription expiration date of less than two years,
33 unless warranted by the ocular health of the eye. If a prescription is
34 to expire in less than two years, an explanatory notation must be made
35 by the prescriber in the patient's record and a verbal explanation
36 given to the patient at the time of the eye examination;

37 (e) Charge the patient a fee in addition to the prescriber's
38 examination fee as a condition to releasing the prescription to the
39 patient. However, a prescriber may charge a reasonable, additional fee

1 for verifying ophthalmic goods dispensed by another practitioner if
2 that fee is imposed at the time the verification is performed; or

3 (f) Place on the prescription, or require the patient to sign, or
4 deliver to the patient a form or notice waiving or disclaiming the
5 liability or responsibility of the prescriber for the accuracy of the
6 eye examination or the accuracy of the ophthalmic goods and services
7 dispensed by another practitioner. In prohibiting the use of waivers
8 and disclaimers of liability under this subsection, it is not the
9 intent of the legislature to impose liability on an ophthalmologist or
10 optometrist for the ophthalmic goods and services dispensed by another
11 seller pursuant to the ophthalmologist's or optometrist's prescription.

12 (2) Nothing contained in this title shall prevent a prescriber or
13 optician from measuring the refractive power of eyeglass lenses and
14 duplicating the eyeglass lenses upon the request of a patient.

15 NEW SECTION. **Sec. 4.** MAXIMIZING COMPETITION IN THE OPTICAL
16 INDUSTRY. (1) If the patient chooses to purchase contact lenses from
17 an optician and the prescription is silent regarding contact lenses,
18 the optician shall contact the prescriber and request a written
19 prescription with a notation of "ok for contacts" or similar language.
20 However, if no evaluation for contact lenses had been done during the
21 eye examination, the prescriber may decline to approve the prescription
22 for contact lenses without further evaluation.

23 (2) If a patient chooses to purchase contact lenses from an
24 optician, the optician shall advise the patient, in writing, that a
25 prescriber is to verify the performance of the initial set of contact
26 lenses on the eyes within six months of the date of the eye examination
27 or the "ok for contacts" portion of the prescription will be void. The
28 patient shall be requested to sign the written advisement and the
29 signed document will be maintained as part of the patient's records.
30 If the patient declines to sign the document, it shall be noted in the
31 record.

32 (3) No practitioner may dispense contact lenses based on a
33 prescription that is over two years old.

34 (4) All fitters and dispensers of contact lenses shall distribute
35 safety pamphlets to their patients in order to improve consumer
36 decisions as well as health-related decisions.

37 (5) It is unprofessional conduct under chapter 18.130 RCW for a
38 practitioner to fail to comply with this section.

1 NEW SECTION. **Sec. 5.** EXPANSION OF SCOPE OF PRACTICE. Nothing in
2 this chapter shall be construed as expanding the scope of practice of
3 a vision care practitioner beyond that currently authorized by state
4 law.

5 NEW SECTION. **Sec. 6.** RULE MAKING. (1) The secretary shall adopt
6 rules necessary to implement the purposes of this chapter. The
7 secretary is specifically directed to adopt rules that maximize
8 competition in the delivery of vision care limited only by the existing
9 scope of practice of the professions and by provisions preventing
10 demonstrated and substantial threats to the public's vision health.

11 (2) This chapter and the rules adopted by the secretary pursuant to
12 this section shall supersede rules adopted pursuant to chapter 18.34,
13 18.53, 18.57, or 18.71 RCW that conflict with this chapter. To the
14 extent that, in the secretary's opinion, these rules conflict with the
15 purposes of this chapter, the secretary may declare such rules null and
16 void.

17 NEW SECTION. **Sec. 7.** SHORT TITLE. This chapter may be cited as
18 the consumer access to vision care act.

19 NEW SECTION. **Sec. 8.** CAPTIONS NOT LAW. Section captions as used
20 in this chapter constitute no part of the law.

21 NEW SECTION. **Sec. 9.** SEVERABILITY. If any provision of this act
22 or its application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 10.** CODIFICATION DIRECTION. Sections 1 through
26 9 of this act shall constitute a new chapter in Title 18 RCW.

Passed the House February 7, 1994.

Passed the Senate March 3, 1994.

Approved by the Governor March 28, 1994.

Filed in Office of Secretary of State March 28, 1994.