

SENATE BILL REPORT

SB 6239

AS REPORTED BY COMMITTEE ON HEALTH & LONG-TERM CARE,
FEBRUARY 6, 1992

Brief Description: Enacting the vision care consumer assistance act.

SPONSORS: Senators West, Wojahn, Sellar and Niemi

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass as amended.

Signed by Senators West, Chairman; L. Smith, Vice Chairman; Newhouse, Niemi, and Wojahn.

Staff: Sarena Seifer (786-7417)

Hearing Dates: February 6, 1992

BACKGROUND:

The scope of practice of licensed ophthalmologists, optometrists and opticians includes the dispensing and fitting of eyeglasses and contact lenses. This area of overlap has led to intense competition in the optical industry and to concerns about consumer choice and access to eye examinations, eyeglasses and contact lenses.

In current practice, a contact lens prescription is an eyeglass prescription which can contain an authorization for contact lenses. The prescription is given to the consumer who may choose to purchase eyeglasses and/or contacts from an optician, optometrist or ophthalmologist.

In 1986, the Joint Administrative Rules Committee reviewed and overturned an Optometry Board rule that defined the minimum information necessary for the release of extended wear contact lens prescriptions. The definition included dioptic power, base curve, lens material and design, the manufacturer's identification, and patient instructions regarding cleaning and disinfecting the lenses and date of follow-up care with the prescribing optometrist. In 1991, the Attorney General of Washington issued an opinion that the Optometry Board has the authority to govern the practice of optometry, define a contact lens prescription, and set standards of prescribing.

The Optometry Board continues to discuss various rules defining prescription, including a rule that would define a contact lens prescription to include the fitting information and the requirement of trial wearing of the lenses. Concerns have been raised regarding the anti-competitive nature of such a definition, as it may limit consumer choice and access to opticians.

SUMMARY:

The bill may also be cited as the Vision Care Consumer Assistance Act.

The Legislature finds that the risk of a health professions board adopting a rule that restricts competition is especially high in the optical industry.

The Legislature finds that the state has a role in ensuring appropriate access to care for consumers in the optical industry.

Vision care practitioners referred to in the act include licensed dispensing opticians, optometrists, physicians and osteopathic physicians.

Vision care is the examination of ocular health and refractive powers of the eye, and the prescription and/or furnishing of ophthalmic goods which are defined as eyeglasses, any component of eyeglasses, contact lenses, measuring, fitting, adjusting and fabricating.

A prescription is the written direction from a vision care practitioner for therapeutic or corrective lenses and consists of the refractive powers. If a patient requests contact lenses, the prescription must also contain a notation that the patient is okay for contacts to indicate that there are no contraindications for contacts. It cannot contain additional information unless there is a specific reason related to the ocular health of the eye and the explanation is noted on the prescription. The prescription's expiration date cannot be less than two years, unless warranted by the ocular health of the eye. In such cases, an explanatory notation must be made in the patient's record, and a verbal explanation given to the patient at the completion of the eye examination.

If a consumer chooses to purchase contact lenses from an optician and the prescription does not mention contact lenses, the optician must call the prescriber for permission to fit contact lenses. This permission must be provided unless a particular reason is noted.

If a consumer chooses to purchase contact lenses from an optician, the optician must recommend that the consumer return to the prescriber for a follow-up evaluation, and must send the contact lens fitting information to the prescriber.

The prescribing vision care practitioner cannot require that a patient purchase ophthalmic goods in order to have an eye examination. The prescriber cannot charge a patient additional fees over and above the prescriber's examination fee for the release of a prescription to a patient or for verbally authorizing the use of a prescription for contact lenses. An additional fee may be charged for verifying ophthalmic goods dispensed by another seller.

The Secretary of the Department of Health must adopt rules to implement the purposes of the act, including the establishment of minimum contact lens equipment standards for dispensing opticians. The Secretary is specifically directed to adopt rules that maximize competition in the delivery of vision care, and given the authority to declare null and void any rules adopted by any vision care profession that conflict with the purposes of this act.

Nothing in the act is to be interpreted as expanding the scope of practice of any vision care practitioner.

It is unprofessional conduct for a vision care practitioner to fail to comply with the requirements of the act.

The act contains a severability clause.

SUMMARY OF PROPOSED COMMITTEE AMENDMENT:

All prescriptions must state whether or not they can be used for contact lenses. As a result, verbal permission by the prescriber to fit contacts is not required.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The bill protects the scope of practice of opticians, which is being threatened by a possible Optometry Board ruling. Prescriptions must be defined to maximize competition in the optical industry, and preserve consumer access to the vision care provider of choice.

TESTIMONY AGAINST:

The bill expands the scope of practice of opticians to include the interpretation of prescriptions. Opticians are not educated or trained for this purpose. The Attorney General of Washington has issued an opinion that the Optometry Board has the authority to define a contact lens prescription and set standards for prescribing.

TESTIFIED: Diane Charles, Opticians Association of Washington (pro); Bob Zeck, Opticians Association of Washington (pro); George Tyler (pro); Randy Ray, Pearle, Inc. (pro); Bill Erxleben, Washington Optometric Association (con)