
Health Care & Wellness Committee

HB 1473

Brief Description: Concerning eye care.

Sponsors: Representatives Dent, Cody, Harris, Rodne, Macri, Caldier, Stonier, Vick and Jinkins.

Brief Summary of Bill

- Prohibits the dispensing or sale of corrective lenses without a prescription.
- Prohibits the writing of a prescription for corrective lenses without a comprehensive eye examination, which may not be conducted by remote technology without the involvement of an ophthalmologist or optometrist.
- Imposes requirements and standards relating to remote technology used to conduct eye examinations.

Hearing Date: 2/3/17

Staff: Jim Morishima (786-7191).

Background:

An ophthalmologist is a licensed physician or osteopathic physician who specializes in the care of the eyes and visual system. Ophthalmologists are subject to the same licensing requirements for other physicians and osteopathic physicians, including graduation from an accredited medical school, completion of post-graduate training, and passage of an examination.

Optometry consists of the examination of the human eye, the examination and ascertaining of any defects of the human vision system, and the analysis of the process of vision. In order to be licensed as an optometrist, a person must complete his or her high school education, graduate from an accredited school of optometry, and pass an examination.

A licensed dispensing optician is a person who prepares and dispenses lenses, spectacles, or eyeglasses based on written prescriptions from ophthalmologists or optometrists and measures, adopts, adjusts, and fabricates lenses, spectacles, or eyeglasses based on such prescriptions.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Licensing requirements for dispensing opticians include completion of an apprenticeship or educational program and passage of an examination.

Summary of Bill:

A person may not dispense corrective lenses or sell contact lenses or spectacles unless the person has a valid prescription from an ophthalmologist or optometrist and the seller of the contact lenses or spectacles is licensed to dispense corrective lenses. An ophthalmologist or optometrist may not write a prescription for lenses intended to correct an individual's refractive error without giving the individual a comprehensive eye examination and refraction. The comprehensive eye examination may not consist solely of objective refractive data or information obtained through the use of remote technology without the involvement or supervision of an ophthalmologist or optometrist.

A person may not offer or make available to consumers remote technology, unless the technology meets certain standards. The remote technology, defined as any automated equipment or testing device and any application designed to be used on a phone, computer, or Internet-based device that can be used to generate data to determine an individual's apparent refractive error without the physical presence and actual participation of an ophthalmologist or optometrist, must:

- be approved by the United States Food and Drug Administration for the intended use;
- be designed and operated in a manner that provides any accommodation required by the Americans with Disabilities Act; and
- gather and transmit any protected health information in compliance with the Health Insurance Portability and Accountability Act when used for the collection and transmission of diagnostic information.

If the remote technology is intended to be used to transmit diagnostic information and data to be read and interpreted by an ophthalmologist or optometrist, the physical location of the remote technology, or the web site or other location where a patient can access the remote technology, must prominently display the name and state license number of the individual who will read and interpret the diagnostic information. If the remote technology is intended to be used as the basis for an ophthalmologist or optometrist to write a prescription or perform any other service or procedure, the service or procedure must have a recognized Current Procedural Terminology (CPT) code. The owner, lessee, or operator of the remote technology must maintain liability insurance to cover claims made by individuals diagnosed or treated based on information. If remote technology is used to write a prescription or perform any other service or procedure, the provider must be held to the same standards of practice applicable to in-person clinical settings.

The Department of Health (DOH) must review any written complaint alleging a violation of these requirements. Regardless of whether a person has been harmed, the DOH must investigate the complaint if it has a reasonable basis to believe a violation has occurred or has been attempted. As part of an investigation, the DOH may hold hearings, administer oaths, and take testimony. Hearings must be conducted pursuant to the Administrative Procedures Act.

If the DOH finds a violation or attempted violation has occurred, it may impose a civil penalty between \$1,000 and \$10,000 for each violation. For a first violation, the DOH may issue a warning if the violation or attempted violation did not result in significant harm to human health.

The Attorney General may file a civil action seeking an injunction or other appropriate relief at the request of the DOH.

Appropriation: None.

Fiscal Note: Requested on January 26, 2017.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.