

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 100 By: Bergstrom of the Senate
3 and
4 Martinez of the House
5
6

7 [Massage Therapy Practice Act - repealer -
8 emergency]
9

10 AUTHORS: Remove Representative Martinez as principal House
11 author and substitute with Representative Newton
12 Add the following House Coauthor: Luttrell
13 AUTHOR: Remove Senate Bergstrom as principal Senate author and
14 substitute with Senator David

15 AMENDMENT NO. 1. Delete the stricken title, enacting clause and
16 entire bill and replace with:

17 "An Act relating to the practice of optometry;
18 amending 59 O.S. 2011, Sections 585 and 593, which
19 relate to revocation of licenses; removing certain
20 grounds for determination of unprofessional or
21 unethicial conduct; clarifying compliance with
22 certain signage requirements; providing certain
23 conduct not to be deemed unprofessional and
24 unethicial; updating statutory language; modifying
provisions related to rental of certain space;
amending 59 O.S. 2011, Section 944, which relates to
the sale of optical goods; providing that
optometrists may rent areas within retail stores;
providing that optical goods may be sold within a
retail store; defining terms; imposing requirements
related to assessment mechanisms with respect to
certain prescriptions; imposing duties on Oklahoma-
licensed optometric physicians, osteopathic

1 physicians or allopathic physicians; requiring
2 information to be provided prior to use of
3 assessment mechanisms; imposing requirement related
4 to practice standards; providing for scope and
5 applicability of requirements; imposing requirements
6 related to contact lens prescriptions; authorizing
7 information to be contained in prescription for
8 contact lenses; imposing requirements related to
9 visual aid glasses; prohibiting refusal with respect
10 to release of certain prescriptions; imposing
11 requirements related to expiration date of contact
12 lens prescriptions; imposing requirement related to
13 verification of information; imposing requirements
14 related to verification of information by telephonic
15 communications; prohibiting dispensing of contact
16 lenses through mail unless pursuant to prescription;
17 imposing duties on certain physicians; imposing
18 requirements related to contact lens fitting;
19 prohibiting shipment, mailing, delivery or sales of
20 contact lenses by persons or entities outside of the
21 state unless certain requirements are met; imposing
22 duties on the Attorney General; requiring
23 registration; specifying required information for
24 registration purposes; imposing record retention
requirements; requiring certain statements to be
provided requiring contact lenses; authorizing fees;
providing for administrative rules; providing for
civil penalty based on violation of statutory
requirements of administrative rules; providing for
administrative hearings; providing for appeals;
providing for applicability of provisions based upon
county population; prescribing method for
determination of population; prescribing time
periods based upon changes in population; updating
statutory references; repealing 59 O.S. 2011,
Sections 594 and 596, which relate to the retail
sale of optometric goods; providing for
codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2011, Section 585, is
amended to read as follows:

1 Section 585. A. The Board shall have the power to revoke or
2 suspend any certificate granted by it pursuant to the provisions of
3 this chapter, for fraud, conviction of crime, unprofessional and
4 unethetical conduct, ~~habitual drunkenness~~ alcohol or narcotic
5 impairment, exorbitant charges, false representation of goods, gross
6 incompetency, contagious disease, any violation of any rule or
7 regulation promulgated by the Board pursuant to the provisions of
8 this chapter or any violation of this chapter. The following acts
9 shall be deemed by the Board as unprofessional and unethetical
10 conduct:

11 1. Employment by a licensed optometrist of any person to
12 solicit from house to house the sale of lenses, frames, spectacles,
13 or optometric services or examinations; and

14 2. Selling, advertising, or soliciting the sale of spectacles,
15 eyeglasses, lenses, frames, mountings, eye examinations, or
16 optometric services by house-to-house canvassing either in person or
17 through solicitors; and

18 3. Acceptance of employment, either directly or indirectly, by
19 a licensed optometrist from an unlicensed optometrist or person
20 engaged in any profession or business or owning or operating any
21 profession or business to assist it, him, or them in practicing
22 optometry in this state; provided that renting a separate area or
23 room within or adjacent to a retail store pursuant to Section 944 of
24 this title shall not be considered as direct or indirect employment,

1 but any signage and advertisement of the optometric practice shall
2 conform with Section 943.1 of this title; and

3 4. Publishing or displaying, or knowingly causing or permitting
4 to be published or displayed by newspaper, radio, television, window
5 display, poster, sign, billboard, or any other advertising media any
6 statement or advertisement of any price or fee offered or charged by
7 an optometrist for any optometric services or materials including
8 lenses, frames, eyeglasses, or spectacles or parts thereof,
9 including statements or advertisements of discount, premium, or
10 gifts, if ~~said~~ the statements or advertisements are fraudulent,
11 deceitful, misleading or in any manner whatsoever tend to create a
12 misleading impression or are likely to mislead or deceive because in
13 context ~~said~~ the statements or advertisements make only a partial
14 disclosure of relevant facts; and

15 5. No person shall practice optometry under any name other than
16 the proper name of ~~said~~ the person and it shall be the same name as
17 used in the license issued by the Board of Examiners to ~~said~~ the
18 person; provided that renting a separate area or room and practicing
19 optometry within or adjacent to a retail store pursuant to Section
20 944 of this title shall not be considered a violation of this
21 section. Before any certificate is revoked or suspended, the holder
22 thereof shall be provided with notice and hearing as provided for in
23 the Administrative Procedures Act, Sections 301 through 326 of Title
24 75 of the Oklahoma Statutes. The Board, after the expiration of the

1 period of three (3) months after the date of ~~said~~ the revocation,
2 may entertain application for the reissuance of ~~said~~ the revoked
3 certificate and may reissue ~~said~~ the certificate upon payment of a
4 reinstatement fee not to exceed three times the annual renewal fee.
5 The Board shall have the right to promulgate such rules and
6 regulations as may be necessary to put into effect the provisions of
7 this chapter. ~~Said~~ The rules may prescribe which acts are
8 detrimental to the general public health or welfare and may
9 prescribe a minimum standard of sanitation, hygiene, and
10 professional surroundings, and which acts constitute unprofessional
11 or unethical conduct. ~~Said~~ The conduct shall be grounds for
12 revocation or suspension of the license or certificate issued
13 pursuant to the provisions of Section 584 of this title.

14 B. If an out-of-state license or certificate of an optometrist
15 who also holds an Oklahoma license or certificate is suspended or
16 revoked for any reason, his Oklahoma license may come under review
17 by the Board. Should the out-of-state suspension or revocation be
18 on grounds the same or similar to grounds for suspension or
19 revocation in Oklahoma, the Board, after notice and hearing pursuant
20 to the provisions of this section, may suspend or revoke the
21 certificate of ~~said~~ the optometrist to practice in Oklahoma.

22 C. The following acts shall not be deemed by the Board as
23 unprofessional and unethical conduct:
24

1 1. An optometrist practicing optometry within or adjacent to a
2 retail store pursuant to Section 944 of this title, regardless of
3 whether the retail store derives income from the sale of
4 prescription optical goods and materials; and

5 2. An optometrist renting a separate area or room within a
6 retail store pursuant to Section 944 of this title to practice
7 optometry.

8 SECTION 2. AMENDATORY 59 O.S. 2011, Section 593, is
9 amended to read as follows:

10 Section 593. It is the public policy of the State of Oklahoma
11 that optometrists rendering visual care to its citizens shall
12 practice in an ethical, professional manner; that their practices be
13 free from any appearance of commercialism; that the visual welfare
14 of the patient be the prime consideration at all times; and that
15 optometrists shall not be associated with any nonprofessional person
16 or persons in any manner which might degrade or reduce the quality
17 of visual care received by the citizens of this state; provided that
18 renting a separate area or room and practicing optometry within or
19 adjacent to a retail store pursuant to Section 944 of this title
20 shall not be considered a violation of this section.

21 SECTION 3. AMENDATORY 59 O.S. 2011, Section 944, is
22 amended to read as follows:

23 Section 944. A. It shall be unlawful for any optometrist,
24 physician or other person doing, or purporting or pretending to do

1 eye examination or visual correction to receive or accept any
2 rebate, kickback, reward or premium from any optical company or any
3 other person, firm or corporation dealing in optical goods,
4 appliances or materials, or knowingly allow or permit any person
5 engaged in or interested in the sale of such optical goods,
6 appliances, or materials, to solicit business for any person
7 licensed under the provisions of Chapters 11 or 13 of ~~Title 59,~~
8 ~~Oklahoma Statutes~~ this title. It shall be unlawful for any
9 optometrist, physician, or other person to make an eye examination,
10 or do visual correction in any manner, either directly or indirectly
11 as an employee or associate of a person, firm, corporation, lay
12 body, organization, group or lay person and it shall be likewise
13 unlawful for any corporation, lay body, organization, group or lay
14 person in any manner to make an eye examination or perform any
15 visual correction through the means of engaging the services on a
16 salary, commission or any other compensatory basis of a person
17 licensed under the provisions of Chapters 11 or 13 of ~~Title 59,~~
18 ~~Oklahoma Statutes 1951~~ this title, provided that this sentence shall
19 not apply to the University of Oklahoma School of Medicine and
20 Hospitals, OSU College of Osteopathic Medicine or to a bona fide
21 resident physician of a licensed hospital, and provided further that
22 renting a separate area or room and practicing optometry within or
23 adjacent to a retail store shall not be considered a violation of
24 this section. ~~No~~

1 B. A person, firm, or corporation engaged in the business of
2 retailing merchandise to the general public shall may rent space,
3 sublease departments, or otherwise permit any person purporting to
4 do eye examination or visual care to occupy space in such a separate
5 area or room within a retail store to an optometrist or optometric
6 professional corporation for the practice of optometry in the
7 following counties:

8 1. For the period beginning November 1, 2019, through October
9 31, 2024, in counties having a population of three hundred thousand
10 (300,000) or more persons according to the latest Federal Decennial
11 Census or most recent population estimate;

12 2. For the period beginning November 1, 2024, through October
13 31, 2029, in counties having a population of one hundred thirty
14 thousand (130,000) persons or more according to the latest Federal
15 Decennial Census or most recent population estimate;

16 3. For the period beginning November 1, 2029, through October
17 31, 2036, in counties having a population of one hundred thousand
18 (100,000) persons or more according to the latest Federal Decennial
19 Census or most recent population estimate;

20 4. For the period beginning November 1, 2036, through October
21 31, 2042, in counties having a population of fifty thousand (50,000)
22 persons or more according to the latest Federal Decennial Census or
23 most recent population estimate; and

1 5. For the period beginning November 1, 2042, and for all
2 periods thereafter, all other counties of the state.

3 C. For separate areas or rooms rented for the practice of
4 optometry pursuant to subsection B of this section, the area or room
5 rented for the practice of optometry must be definite and apart from
6 space used by other occupants of the premises. Solid, opaque
7 partitions or walls from floor to ceiling, which may contain doors
8 and windows, must separate the area or room rented for the practice
9 of optometry from space used by other occupants. The area or room
10 rented for the practice of optometry must have a patient's entrance
11 opening on a public thoroughfare, such as a public street, hall,
12 lobby or corridor; provided that the space rented for the practice
13 of optometry can also be accessible for a patient from the retail
14 store if the access is through a second room with a door such that
15 the patient does not have access to the space rented for the
16 practice of optometry directly from the general retail area of the
17 retail store. Renting a separate area or room and practicing
18 optometry within or adjacent to a retail store shall not be
19 considered a rebate, kickback, reward or premium.

20 D. No lessor shall include a requirement in any lease of real
21 property pursuant to which an optometrist or the professional
22 business entity owned by the optometrist is required to maintain
23 specific hours of operation or which provides for payment of rent or
24 reduction of rent based on the gross revenues of the optometrist or

1 the professional business entity, whether characterized as
2 production goals, patient visits or similar economic metrics or that
3 requires or provides any type of incentive through the lease terms
4 based on referrals by the optometrist or the professional business
5 entity owned by the optometrist for purposes of the sale of any form
6 of tangible personal property sold by the lessor, including, but not
7 limited to, eyeglasses, frames, eye care products, eyeglass
8 accessories or similar tangible personal property related to care of
9 the human eye.

10 E. A person, firm or corporation engaged in the business of
11 retailing merchandise to the general public may sell optical goods,
12 appliances or materials and function as an optical supplier in a
13 retail store, regardless of whether a majority of the retail store's
14 income is derived from the sale of prescription optical goods,
15 appliances and materials or whether an optometrist is practicing
16 optometry in such retail store.

17 F. Optical goods, appliances or materials shall be subject to
18 all provisions regarding below cost sales set forth in the Unfair
19 Sales Act created in Section 598.1 et seq. of Title 15 of the
20 Oklahoma Statutes.

21 G. Nothing in this section shall prohibit a person licensed
22 under Chapter 11 or Chapter 13 of ~~Title 59, Oklahoma Statutes,~~ this
23 title from organizing or maintaining a professional association with
24 other persons so licensed.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 646.1 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Assessment mechanism":

6 a. means automated or virtual equipment, application or
7 technology designed to be used on a telephone, a
8 computer or an Internet-based device that may be used
9 either in person or remotely to conduct an eye
10 assessment, and

11 b. includes artificial intelligence devices and any
12 equipment, electronic or nonelectronic, that is used
13 to perform an eye assessment;

14 2. "Contact lens" means any lens placed directly on the surface
15 of the eye, regardless of whether or not it is intended to correct a
16 visual defect, including any cosmetic, therapeutic or corrective
17 lens;

18 3. "Eye assessment" means an assessment of the ocular health
19 and/or visual refractive status of a patient that may include but is
20 not limited to objective refractive data or information generated by
21 an automated testing device, including an autorefractor or Internet-
22 based assessment method, in order to establish a medical diagnosis
23 or refractive diagnosis for the correction of vision disorders;

24

1 4. "Person" means an individual, corporation, trust,
2 partnership, incorporated or unincorporated association and any
3 other legal entity;

4 5. "Prescription" means a handwritten or electronic order
5 issued by a licensed optometric physician, osteopathic physician or
6 allopathic physician, or an oral order issued directly by a licensed
7 optometric physician, osteopathic physician or allopathic physician;

8 6. "Seller" means an individual or entity that sells contact
9 lenses or visual aid glasses and dispenses them to Oklahoma
10 residents in any manner; and

11 7. "Visual aid glasses":

12 a. means eyeglasses, spectacles or lenses designed or
13 used to correct visual defects, including spectacles
14 that may be adjusted by the wearer to achieve
15 different types or levels of visual correction or
16 enhancement, and

17 b. does not include optical instruments or devices that
18 are:

19 (1) not intended to correct or enhance vision,

20 (2) sold without consideration of the visual status

21 of the individual who will use the optical

22 instrument or device, including sunglasses that

23 are designed and used solely to filter out light,

24 or

1 (3) completely assembled eyeglasses or spectacles
2 designed and used solely to magnify.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 646.2 of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 A. An assessment mechanism to conduct an eye assessment or to
7 generate a prescription for contact lenses or visual aid glasses to
8 a patient in Oklahoma shall:

9 1. Provide synchronous or asynchronous interaction between the
10 patient and the Oklahoma-licensed optometric physician, osteopathic
11 physician or allopathic physician;

12 2. Collect the patient's medical history, previous prescription
13 for corrective eyewear and length of time since the patient's most
14 recent in-person comprehensive eye health examination;

15 3. Provide any applicable accommodation required by the federal
16 Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq., as
17 amended;

18 4. Gather and transmit protected health information in
19 compliance with the federal Health Insurance Portability and
20 Accountability Act of 1996, as amended;

21 5. Be used to perform a procedure with a recognized Current
22 Procedural Terminology code maintained by the American Medical
23 Association, if applicable; and
24

1 6. Maintain liability insurance, through its owner or lessee,
2 in an amount adequate to cover claims made by individuals examined,
3 diagnosed, or treated based on information and data, including any
4 photographs, and scans, and other digital data generated by the
5 assessment mechanism.

6 B. An Oklahoma-licensed optometric physician, osteopathic
7 physician or allopathic physician shall:

8 1. Read and interpret the diagnostic information and data,
9 including any photographs and scans, gathered by the assessment
10 mechanism;

11 2. Verify the identity of the patient requesting treatment via
12 the assessment mechanism;

13 3. Create and maintain a medical record for each patient, which
14 is for use during the ongoing treatment of a patient and complies
15 with all state and federal laws regarding maintenance and
16 accessibility and is HIPAA-compliant;

17 4. Provide a handwritten or electronic signature, along with
18 their Oklahoma state license number, certifying their diagnosis,
19 evaluation, treatment of the patient, and prescription or
20 consultation recommendations for the patient;

21 5. Utilize an assessment mechanism for an eye assessment or to
22 generate a prescription for visual aid glasses only if:

23 a. the patient is at least eighteen (18) years of age,
24 and

1 b. the patient has received an in-person comprehensive
2 eye health examination by an optometric physician,
3 osteopathic physician or allopathic physician within
4 the previous twelve (12) months; and

5 6. Utilize an assessment mechanism to generate a prescription
6 for contact lenses only if:

7 a. the patient is at least eighteen (18) years of age,
8 and

9 b. the patient has received an in-person comprehensive
10 eye health examination by an optometric physician,
11 osteopathic physician or allopathic physician:

12 (1) for the initial prescription and one follow-up or
13 first renewal of the initial prescription, or

14 (2) within twelve (12) months after the follow-up or
15 first renewal of the initial prescription, and
16 every twelve (12) months thereafter.

17 C. Prior to using an assessment mechanism, each Oklahoma
18 patient shall be provided with and shall accept as a term of use a
19 disclosure that includes the following information:

20 1. This assessment is not a replacement for an in-person
21 comprehensive eye health examination;

22 2. This assessment cannot be used to generate an initial
23 prescription for contact lenses or a follow-up or first renewal of
24 the initial prescription;

1 3. This assessment may only be used if the patient has had an
2 in-person comprehensive eye health examination within the previous
3 twelve (12) months if the patient is conducting an eye assessment or
4 receiving a prescription for visual aid glasses; and

5 4. The United States Centers for Disease Control and Prevention
6 (CDC) advises contact lens wearers to be examined by an eye doctor
7 one time a year or more often if needed.

8 D. Evaluation, treatment and consultation recommendations by an
9 Oklahoma-licensed optometric physician, osteopathic physician or
10 allopathic physician utilizing an assessment mechanism as required
11 in this section, including issuing a prescription via electronic
12 means, shall be held to the same standards of appropriate practice
13 guidelines and standard of care as those in traditional in-person
14 clinical settings.

15 E. This section shall not:

16 1. Limit the discretion of an Oklahoma-licensed optometric
17 physician, osteopathic physician or allopathic physician to direct a
18 patient to utilize any telehealth service deemed appropriate for any
19 treatment and care of the patient;

20 2. Limit the sharing of patient information, in whatever form,
21 between an optometric physician, osteopathic physician or allopathic
22 physician; or

23 3. Apply beyond ocular health and eye care.
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1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 646.3 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A contact lens prescription shall include the following:

5 1. The ophthalmic information necessary to accurately fabricate
6 or dispense the lenses, including the lens manufacturer, lens
7 series/brand name and the lens material, if applicable;

8 2. Power and base curve;

9 3. Name, license number, telephone number and, for written
10 orders, the signature of the prescribing optometric physician,
11 osteopathic physician or allopathic physician;

12 4. Patient's name and address, expiration date of the
13 prescription and number of refills or lenses permitted; and

14 5. The date of issuance.

15 B. A contact lens prescription may also include the diameter,
16 axis, add power, cylinder, peripheral curve, optical zone and center
17 thickness.

18 C. A prescription for visual aid glasses shall include the
19 following:

20 1. The name, license number, telephone number and, for written
21 orders, the signature of the prescribing optometric physician,
22 osteopathic physician or allopathic physician;

23 2. The patient's name;

24 3. The date of issuance; and

1 4. The value of all parameters the licensed optometric
2 physician, osteopathic physician or allopathic physician has deemed
3 necessary to dispense corrective lenses appropriate for a patient.

4 D. A licensed optometric physician, osteopathic physician or
5 allopathic physician shall not refuse to release a prescription for
6 contact lenses or visual aid glasses to a patient.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 646.4 of Title 59, unless there
9 is created a duplication in numbering, reads as follows:

10 Unless a health-related reason for the limitation is noted in
11 the patient's medical records, contact lens prescriptions shall not
12 have an expiration date of less than twelve (12) months from the
13 date the prescription is authorized or the last date of the contact
14 lens evaluation by a licensed optometric physician, osteopathic
15 physician or allopathic physician, whichever date is later. In no
16 event shall a contact lens prescription be valid twelve (12) months
17 after the date of authorization by a licensed optometric physician,
18 osteopathic physician or allopathic physician.

19 SECTION 8. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 646.5 of Title 59, unless there
21 is created a duplication in numbering, reads as follows:

22 A. All contact lens sellers and any person authorized in
23 accordance with the requirements of the Consumer Protection in Eye
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1 Care Act to dispense contact lenses in this state shall verify the
2 contact lens prescription by the following:

3 1. Receipt of a written or faxed valid contact lens
4 prescription signed by the prescribing optometric physician,
5 osteopathic physician or allopathic physician; or

6 2. An electronic or oral affirmative communication of the
7 complete contact lens prescription from the prescribing optometric
8 physician, osteopathic physician or allopathic physician.

9 B. If a contact lens seller or any person authorized to
10 dispense contact lenses in this state finds it necessary to contact
11 the prescribing optometric physician, osteopathic physician or
12 allopathic physician via telephone in order to verify a contact lens
13 prescription, the following protocols shall be followed:

14 1. Calls shall be made during regular business hours, which for
15 purposes of this act shall be defined as Monday through Friday
16 during the hours of 8 a.m. and 5 p.m. CST excluding legal holidays;

17 2. Any verification requests shall include the name, address
18 and telephone number of the patient;

19 3. The toll-free telephone number shall be included in voice
20 mail or messages left on answering machines;

21 4. Contact lens prescriptions shall not be mailed, sent,
22 delivered or dispensed before verification by the optometric
23 physician, osteopathic physician or allopathic physician;

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1 5. Touch-tone telephone options offered by a contact lens
2 seller or any person authorized to dispense contact lenses in this
3 state shall not constitute verification;

4 6. Response-time options stated by a contact lens seller or any
5 person authorized to dispense contact lenses in this state shall not
6 constitute verification; and

7 7. Calls shall comply with federal statutes.

8 C. In the absence of a prescription as defined and described in
9 Section 10 of this act, it shall be a violation of the Consumer
10 Protection in Eye Care Act to dispense contact lenses through the
11 mail or otherwise to an Oklahoma resident.

12 SECTION 9. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 646.6 of Title 59, unless there
14 is created a duplication in numbering, reads as follows:

15 A. Any seller or any person authorized to dispense contact
16 lenses or visual aid glasses in this state who fills a prescription
17 bears the full responsibility for the accurate dispensing of the
18 contact lenses or visual aid glasses provided under the
19 prescription. At no time shall any changes or substitutions be
20 made, including brand, type of lenses or ophthalmic parameters,
21 without the direction of the optometric physician, osteopathic
22 physician or allopathic physician who issued the contact lens or
23 visual aid glasses prescription.

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1 B. The optometric physician, osteopathic physician or
2 allopathic physician shall not be liable for any damages for injury
3 resulting from the packaging or manufacturing of the contact lenses
4 or visual aid glasses.

5 SECTION 10. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 646.7 of Title 59, unless there
7 is created a duplication in numbering, reads as follows:

8 A contact lens fitting shall be complete and a contact lens
9 prescription may be written when:

10 1. The optometric physician, osteopathic physician or
11 allopathic physician has completed all measurements, tests and
12 examinations necessary to satisfy his or her professional judgment
13 that the patient is a viable candidate to wear contact lenses,
14 recognizing that more than one visit between the patient and the
15 optometric physician, osteopathic physician or allopathic physician
16 may be required; and

17 2. Contact lenses suitable for the patient's eyes have been
18 evaluated and fitted by the optometric physician, osteopathic
19 physician or allopathic physician to the patient's eyes and the
20 optometric physician, osteopathic physician or allopathic physician
21 is satisfied with the fitting based on ocular health and the visual
22 needs of the patient.

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1 The patient shall be entitled to receive a copy of the contact
2 lens prescription with the appropriate number of lenses to fulfill
3 the prescription until its expiration date.

4 SECTION 11. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 646.8 of Title 59, unless there
6 is created a duplication in numbering, reads as follows:

7 No person located outside of Oklahoma shall ship, mail, deliver
8 or sell contact lenses or visual aid glasses to a patient at an
9 Oklahoma address unless:

10 1. Registered with the Attorney General of the State of
11 Oklahoma; and

12 2. In possession of a valid contact lens or visual aid glasses
13 prescription as defined and described in this section.

14 SECTION 12. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 646.9 of Title 59, unless there
16 is created a duplication in numbering, reads as follows:

17 The Attorney General shall require and provide for the annual
18 registration of all contact lens sellers located outside of the
19 state that dispense contact lenses to Oklahoma residents, including
20 those providing contact lenses via the Internet. A contact lens
21 seller's registration shall be granted upon the disclosure and
22 certification by the seller of all of the following:

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1 1. The seller is licensed or registered to distribute contact
2 lenses in the state in which the dispensing facility is located and
3 from which the contact lenses are dispensed;

4 2. The location, names and titles of all owners, partners,
5 corporate officers and the person who is responsible for overseeing
6 the dispensing of contact lenses to residents of this state;

7 3. The seller has complied with and shall continue to comply
8 with all lawful directives and appropriate requests for information
9 from the appropriate agency of each state in which the seller is
10 licensed or registered;

11 4. The seller shall respond to all requests for information
12 from the Attorney General within thirty (30) days from receipt of
13 the request;

14 5. The seller shall maintain records of contact lenses
15 dispensed to residents of this state for a period of ten (10) years,
16 and the records shall be readily available for inspection by the
17 Attorney General upon demand;

18 6. The seller shall provide a toll-free telephone service
19 during its regular hours of operation for the sole purpose of
20 responding to the patients in this state concerning questions and
21 complaints. All questions relating to eye care shall be referred to
22 the doctor prescribing the contact lenses;

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1 7. The seller shall provide a toll-free telephone service
2 during its regular hours of operation solely for optometric
3 physicians, osteopathic physicians and allopathic physicians;

4 8. The seller shall provide the following or a substantially
5 equivalent written notification to the patient whenever contact
6 lenses are supplied: WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING
7 SYMPTOMS, REMOVE YOUR CONTACT LENSES IMMEDIATELY AND CONSULT YOUR
8 EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED
9 EYE DISCOMFORT, WATERING, VISION CHANGE OR REDNESS; and

10 9. The seller's license or registration, in the state in which
11 the seller is licensed or registered, has not been suspended or
12 revoked, but should the seller be the subject of any investigation
13 undertaken by the licensing or registering state or federal agency,
14 or should the seller's license or registration be suspended or
15 revoked, then the seller shall immediately notify the Attorney
16 General of such actions.

17 SECTION 13. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 646.10 of Title 59, unless there
19 is created a duplication in numbering, reads as follows:

20 The Attorney General shall charge a fee for investigation and
21 registration of nonresident dispensers of contact lenses and visual
22 aid glasses.

1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 646.11 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 The Attorney General shall have the authority to promulgate
5 administrative regulations to carry out the provisions of this act.

6 SECTION 15. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 646.12 of Title 59, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Any person who dispenses, offers to dispense or attempts to
10 dispense contact lenses or visual aid glasses in violation of the
11 Consumer Protection in Eye Care Act or the administrative
12 regulations promulgated by the Attorney General concerning the
13 dispensing of contact lenses or visual aid glasses shall, in
14 addition to any other penalty provided by law, pay a civil penalty
15 to the Office of the Attorney General in an amount not to exceed
16 Eleven Thousand Dollars (\$11,000.00) for each violation.

17 B. Any person charged in a complaint filed by the Attorney
18 General with violating any of the provisions of the Consumer
19 Protection in Eye Care Act shall be entitled to an administrative
20 hearing conducted in accordance with the Administrative Procedures
21 Act.

22 C. Any person aggrieved by a final order issued under the
23 authority of this section shall have the right of an appeal by
24 filing a petition with the district court in accordance with the

1 procedures for individual proceedings as provided by the
2 Administrative Procedures Act.

3 SECTION 16. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 646.13 of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 The provisions of Sections 4 through 15 of this act shall be
7 applicable:

8 1. For the period beginning November 1, 2019, through October
9 31, 2024, in counties having a population of three hundred thousand
10 (300,000) or more persons according to the latest Federal Decennial
11 Census or most recent population estimate;

12 2. For the period beginning November 1, 2024, through October
13 31, 2029, in counties having a population of one hundred thirty
14 thousand (130,000) persons or more according to the latest Federal
15 Decennial Census or most recent population estimate;

16 3. For the period beginning November 1, 2029, through October
17 31, 2036, in counties having a population of one hundred thousand
18 (100,000) persons or more according to the latest Federal Decennial
19 Census or most recent population estimate;

20 4. For the period beginning November 1, 2036, through October
21 31, 2042, in counties having a population of fifty thousand (50,000)
22 persons or more according to the latest Federal Decennial Census or
23 most recent population estimate; and

24

1 ENGROSSED SENATE
BILL NO. 100

By: Bergstrom of the Senate

2
3 and

4 Martinez of the House

5
6 [Massage Therapy Practice Act - repealer -
7 emergency]
8

9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 19. REPEALER Sections 1, 2, 3, 4, 5, 6, 7, 8, 9,
11 10, 11, 12 and 13, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018,
12 Sections 4200.1, 4200.2, 4200.3, 4200.4, 4200.5, 4200.6, 4200.7,
13 4200.8, 4200.9, 4200.10, 4200.11, 4200.12 and 4200.13), are hereby
14 repealed.

15 ~~SECTION 20. It being immediately necessary for the preservation~~
16 ~~of the public peace, health or safety, an emergency is hereby~~
17 ~~declared to exist, by reason whereof this act shall take effect and~~
18 ~~be in full force from and after its passage and approval.~~
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