

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 100

By: **David** of the Senate

and

Newton of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to the practice of optometry;
12 amending 59 O.S. 2011, Sections 585 and 593, which
13 relate to revocation of licenses; removing certain
14 grounds for determination of unprofessional or
15 unethical conduct; clarifying compliance with certain
16 signage requirements; providing certain conduct not
17 to be deemed unprofessional and unethical; updating
18 statutory language; modifying provisions related to
19 rental of certain space; amending 59 O.S. 2011,
20 Section 944, which relates to the sale of optical
21 goods; providing that optometrists may rent areas
22 within retail stores; providing that optical goods
23 may be sold within a retail store; defining terms;
24 imposing requirements related to assessment
 mechanisms with respect to certain prescriptions;
 imposing duties on Oklahoma-licensed optometric
 physicians, osteopathic physicians or allopathic
 physicians; requiring information to be provided
 prior to use of assessment mechanisms; imposing
 requirement related to practice standards; providing
 for scope and applicability of requirements; imposing
 requirements related to contact lens prescriptions;
 authorizing information to be contained in
 prescription for contact lenses; imposing
 requirements related to visual aid glasses;
 prohibiting refusal with respect to release of
 certain prescriptions; imposing requirements related

1 to expiration date of contact lens prescriptions;
2 imposing requirement related to verification of
3 information; imposing requirements related to
4 verification of information by telephonic
5 communications; prohibiting dispensing of contact
6 lenses through mail unless pursuant to prescription;
7 imposing duties on certain physicians; imposing
8 requirements related to contact lens fitting;
9 prohibiting shipment, mailing, delivery or sales of
10 contact lenses by persons or entities outside of the
11 state unless certain requirements are met; imposing
12 duties on the Attorney General; requiring
13 registration; specifying required information for
14 registration purposes; imposing record retention
15 requirements; requiring certain statements to be
16 provided requiring contact lenses; authorizing fees;
17 providing for administrative rules; providing for
18 civil penalty based on violation of statutory
19 requirements of administrative rules; providing for
20 administrative hearings; providing for appeals;
21 providing for applicability of provisions based upon
22 county population; prescribing method for
23 determination of population; prescribing time periods
24 based upon changes in population; updating statutory
references; defining terms; providing for
requirements related to certain vision care plans;
imposing requirements related to vision care
contracts; restricting certain charges; 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.

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

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

22 Section 585. A. The Board shall have the power to revoke or
23 suspend any certificate granted by it pursuant to the provisions of
24 this chapter, for fraud, conviction of crime, unprofessional and

1 unethical conduct, ~~habitual drunkenness~~ alcohol or narcotic
2 impairment, exorbitant charges, false representation of goods, gross
3 incompetency, contagious disease, any violation of any rule or
4 regulation promulgated by the Board pursuant to the provisions of
5 this chapter or any violation of this chapter. The following acts
6 shall be deemed by the Board as unprofessional and unethical
7 conduct:

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

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

15 3. Acceptance of employment, either directly or indirectly, by
16 a licensed optometrist from an unlicensed optometrist or person
17 engaged in any profession or business or owning or operating any
18 profession or business to assist it, him, or them in practicing
19 optometry in this state; provided that renting a separate area or
20 room within or adjacent to a retail store shall not be considered as
21 direct or indirect employment, but any signage and advertisement of
22 the optometric practice shall conform with Section 943.1 of this
23 title; and
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1 4. Publishing or displaying, or knowingly causing or permitting
2 to be published or displayed by newspaper, radio, television, window
3 display, poster, sign, billboard, or any other advertising media any
4 statement or advertisement of any price or fee offered or charged by
5 an optometrist for any optometric services or materials including
6 lenses, frames, eyeglasses, or spectacles or parts thereof,
7 including statements or advertisements of discount, premium, or
8 gifts, if ~~said~~ the statements or advertisements are fraudulent,
9 deceitful, misleading or in any manner whatsoever tend to create a
10 misleading impression or are likely to mislead or deceive because in
11 context ~~said~~ the statements or advertisements make only a partial
12 disclosure of relevant facts; and

13 5. No person shall practice optometry under any name other than
14 the proper name of ~~said~~ the person and it shall be the same name as
15 used in the license issued by the Board of Examiners to ~~said~~ the
16 person; provided that renting a separate area or room and practicing
17 optometry within or adjacent to a retail store shall not be
18 considered a violation of this section. Before any certificate is
19 revoked or suspended, the holder thereof shall be provided with
20 notice and hearing as provided for in the Administrative Procedures
21 Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes.
22 The Board, after the expiration of the period of three (3) months
23 after the date of ~~said~~ the revocation, may entertain application for
24 the reissuance of ~~said~~ the revoked certificate and may reissue ~~said~~

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

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

19 C. The following acts shall not be deemed by the Board as
20 unprofessional and unethical conduct:

21 1. An optometrist practicing optometry within or adjacent to a
22 retail store, regardless of whether the retail store derives income
23 from the sale of prescription optical goods and materials; and
24

1 2. An optometrist renting a separate area or room within a
2 retail store to practice optometry.

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

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

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

18 Section 944. A. It shall be unlawful for any optometrist,
19 physician or other person doing, or purporting or pretending to do
20 eye examination or visual correction to receive or accept any
21 rebate, kickback, reward or premium from any optical company or any
22 other person, firm or corporation dealing in optical goods,
23 appliances or materials, or knowingly allow or permit any person
24 engaged in or interested in the sale of such optical goods,

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

20 B. A person, firm, or corporation engaged in the business of
21 retailing merchandise to the general public ~~shall~~ may rent ~~space,~~
22 ~~sublease departments, or otherwise permit any person purporting to~~
23 ~~do eye examination or visual care to occupy space in such~~ a separate
24 area or room within a retail store to an optometrist or optometric

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

17 C. No lessor shall include a requirement in any lease of real
18 property pursuant to which an optometrist or the professional
19 business entity owned by the optometrist is required to maintain
20 specific hours of operation or which provides for payment of rent or
21 reduction of rent based on the gross revenues of the optometrist or
22 the professional business entity, whether characterized as
23 production goals, patient visits or similar economic metrics or that
24 requires or provides any type of incentive through the lease terms

1 based on referrals by the optometrist or the professional business
2 entity owned by the optometrist for purposes of the sale of any form
3 of tangible personal property sold by the lessor, including, but
4 limited to, eyeglasses, frames, eye care products, eyeglass
5 accessories or similar tangible personal property related to care of
6 the human eye.

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

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

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

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

1 As used in this act:

2 1. "Assessment mechanism":

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

8 b. includes artificial intelligence devices and any
9 equipment, electronic or nonelectronic, that is used
10 to perform an eye assessment;

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

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

21 4. "Person" means an individual, corporation, trust,
22 partnership, incorporated or unincorporated association and any
23 other legal entity;

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

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

8 7. "Visual aid glasses":

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

14 b. does not include optical instruments or devices that
15 are:

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

17 (2) sold without consideration of the visual status
18 of the individual who will use the optical
19 instrument or device, including sunglasses that
20 are designed and used solely to filter out light,
21 or

22 (3) completely assembled eyeglasses or spectacles
23 designed and used solely to magnify.

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

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

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

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

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

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

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

22 6. Maintain liability insurance, through its owner or lessee,
23 in an amount adequate to cover claims made by individuals examined,
24 diagnosed, or treated based on information and data, including any

1 photographs, and scans, and other digital data generated by the
2 assessment mechanism.

3 B. An Oklahoma-licensed optometric physician, osteopathic
4 physician or allopathic physician shall:

5 1. Read and interpret the diagnostic information and data,
6 including any photographs and scans, gathered by the assessment
7 mechanism;

8 2. Verify the identity of the patient requesting treatment via
9 the assessment mechanism;

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

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

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

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

22 b. the patient has received an in-person comprehensive
23 eye health examination by an optometric physician,
24

1 osteopathic physician or allopathic physician within
2 the previous twelve (12) months; and

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

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

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

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

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

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

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

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

23 3. This assessment may only be used if the patient has had an
24 in-person comprehensive eye health examination within the previous

1 twelve (12) months if the patient is conducting an eye assessment or
2 receiving a prescription for visual aid glasses; and

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

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

13 E. This section shall not:

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

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

21 3. Apply beyond ocular health and eye care.

22 SECTION 6. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 646.3 of Title 59, unless there
24 is created a duplication in numbering, reads as follows:

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

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

5 2. Power and base curve;

6 3. Name, license number, telephone number and, for written
7 orders, the signature of the prescribing optometric physician,
8 osteopathic physician or allopathic physician;

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

11 5. The date of issuance.

12 B. A contact lens prescription may also include the diameter,
13 axis, add power, cylinder, peripheral curve, optical zone and center
14 thickness.

15 C. A prescription for visual aid glasses shall include the
16 following:

17 1. The name, license number, telephone number and, for written
18 orders, the signature of the prescribing optometric physician,
19 osteopathic physician or allopathic physician;

20 2. The patient's name;

21 3. The date of issuance; and

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

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

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

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

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

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

23
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- 1 1. Receipt of a written or faxed valid contact lens
2 prescription signed by the prescribing optometric physician,
3 osteopathic physician or allopathic physician; or
- 4 2. An electronic or oral affirmative communication of the
5 complete contact lens prescription from the prescribing optometric
6 physician, osteopathic physician or allopathic physician.
- 7 B. If a contact lens seller or any person authorized to
8 dispense contact lenses in this state finds it necessary to contact
9 the prescribing optometric physician, osteopathic physician or
10 allopathic physician via telephone in order to verify a contact lens
11 prescription, the following protocols shall be followed:
- 12 1. Calls shall be made during regular business hours, which for
13 purposes of this act shall be defined as Monday through Friday
14 during the hours of 8 a.m. and 5 p.m. CST excluding legal holidays;
- 15 2. Any verification requests shall include the name, address
16 and telephone number of the patient;
- 17 3. The toll-free telephone number shall be included in voice
18 mail or messages left on answering machines;
- 19 4. Contact lens prescriptions shall not be mailed, sent,
20 delivered or dispensed before verification by the optometric
21 physician, osteopathic physician or allopathic physician;
- 22 5. Touch-tone telephone options offered by a contact lens
23 seller or any person authorized to dispense contact lenses in this
24 state shall not constitute verification;

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

4 7. Calls shall comply with federal statutes.

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

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

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

21 B. The optometric physician, osteopathic physician or
22 allopathic physician shall not be liable for any damages for injury
23 resulting from the packaging or manufacturing of the contact lenses
24 or visual aid glasses.

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

4 A contact lens fitting shall be complete and a contact lens
5 prescription may be written when:

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

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

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

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

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

4 1. Registered with the Attorney General of the State of
5 Oklahoma; and

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

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

11 The Attorney General shall require and provide for the annual
12 registration of all contact lens sellers located outside of the
13 state that dispense contact lenses to Oklahoma residents, including
14 those providing contact lenses via the Internet. A contact lens
15 seller's registration shall be granted upon the disclosure and
16 certification by the seller of all of the following:

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

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

23 3. The seller has complied with and shall continue to comply
24 with all lawful directives and appropriate requests for information

1 from the appropriate agency of each state in which the seller is
2 licensed or registered;

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

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

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

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

18 8. The seller shall provide the following or a substantially
19 equivalent written notification to the patient whenever contact
20 lenses are supplied: WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING
21 SYMPTOMS, REMOVE YOUR CONTACT LENSES IMMEDIATELY AND CONSULT YOUR
22 EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED
23 EYE DISCOMFORT, WATERING, VISION CHANGE OR REDNESS; and
24

1 9. The seller's license or registration, in the state in which
2 the seller is licensed or registered, has not been suspended or
3 revoked, but should the seller be the subject of any investigation
4 undertaken by the licensing or registering state or federal agency,
5 or should the seller's license or registration be suspended or
6 revoked, then the seller shall immediately notify the Attorney
7 General of such actions.

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

11 The Attorney General shall charge a fee for investigation and
12 registration of nonresident dispensers of contact lenses and visual
13 aid glasses.

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

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

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

22 A. Any person who dispenses, offers to dispense or attempts to
23 dispense contact lenses or visual aid glasses in violation of the
24 Consumer Protection in Eye Care Act or the administrative

1 regulations promulgated by the Attorney General concerning the
2 dispensing of contact lenses or visual aid glasses shall, in
3 addition to any other penalty provided by law, pay a civil penalty
4 to the Office of the Attorney General in an amount not to exceed
5 Eleven Thousand Dollars (\$11,000.00) for each violation.

6 B. Any person charged in a complaint filed by the Attorney
7 General with violating any of the provisions of the Consumer
8 Protection in Eye Care Act shall be entitled to an administrative
9 hearing conducted in accordance with the Administrative Procedures
10 Act.

11 C. Any person aggrieved by a final order issued under the
12 authority of this section shall have the right of an appeal by
13 filing a petition with the district court in accordance with the
14 procedures for individual proceedings as provided by the
15 Administrative Procedures Act.

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

19 The provisions of Sections 1 through 15 of this act shall be
20 applicable:

21 1. For the period beginning November 1, 2019, through October
22 31, 2024, in counties having a population of three hundred thousand
23 (300,000) or more persons according to the latest Federal Decennial
24 Census or most recent population estimate;

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

5 3. For the period beginning November 1, 2029, through October
6 31, 2036, in counties having a population of one hundred thousand
7 (100,000) persons or more according to the latest Federal Decennial
8 Census or most recent population estimate;

9 4. For the period beginning November 1, 2036, through October
10 31, 2042, in counties having a population of fifty thousand (50,000)
11 persons or more according to the latest Federal Decennial Census or
12 most recent population estimate; and

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

15 SECTION 17. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 646.100 of Title 59, unless
17 there is created a duplication in numbering, reads as follows:

18 A. As used in this section:

19 1. "Contractual discount" means a reduction from a vision care
20 provider's usual and customary rate for covered services and
21 materials required under a participating provider agreement;

22 2. "Covered materials" means materials for which reimbursement
23 from the carrier or vision care plan is provided to a vision care
24 provider by a covered person's plan contract, or for which a

1 reimbursement would be available but for the application of the
2 enrollee's contractual limitations of deductibles, copayments or
3 coinsurance;

4 3. "Covered services" means services for which reimbursement
5 from the carrier or vision care plan is provided to a vision care
6 provider by an enrollee's plan contract, or for which a
7 reimbursement would be available but for the application of the
8 enrollee's contractual limitations of deductibles, copayments or
9 coinsurance;

10 4. "Materials" means ophthalmic devices including but not
11 limited to lenses, devices containing lenses, ophthalmic frames and
12 other lens mounting apparatus, prisms, lens treatments and coatings,
13 contact lenses and prosthetic devices to correct, relieve or treat
14 defects or abnormal conditions of the human eye or its adnexa;

15 5. "Services" means the professional work performed by a vision
16 care provider;

17 6. "Vision care plan" means an entity that creates, promotes,
18 sells, provides, advertises or administers an integrated or stand-
19 alone vision benefit plan, or a vision care insurance policy or
20 contract which provides vision or medically necessary benefits to an
21 enrollee pertaining to the provision of covered services or covered
22 materials; and

23 7. "Vision care provider" means a licensed doctor of optometry
24 practicing under the authority of the applicable provisions of Title

1 59 of the Oklahoma Statutes or a licensed medical or osteopathic
2 doctor practicing under the authority of the applicable provisions
3 of Title 59 of the Oklahoma Statutes that has also completed a
4 residency in ophthalmology.

5 B. A carrier shall not require an optometrist to participate in
6 a vision care plan as a condition for entering into a contract with
7 that carrier for the provision of medically necessary physician
8 services within the scope of practice of an optometrist.

9 C. Nothing in this section shall be construed to prevent a
10 carrier from entering into a contract with a vision care plan.

11 D. No contract between a carrier or a vision care plan and a
12 vision care provider may seek to or require that a vision care
13 provider provide services or materials at a fee limited or set by
14 the carrier or vision care plan unless the services or materials are
15 reimbursed as covered services or covered materials under the
16 contract.

17 E. A vision care provider shall not charge more for services
18 and materials that are noncovered services or noncovered materials
19 to an enrollee of a vision care plan or carrier than the provider's
20 usual and customary rate for those services and materials.

21 F. No contract between a carrier or vision care plan and a
22 vision care provider shall restrict or limit, either directly or
23 indirectly, the vision care provider's choice of sources and
24

1 suppliers of services or materials or use of optical labs provided
2 by the vision care provider to an enrollee.

3 SECTION 18. REPEALER 59 O.S. 2011, Sections 594 and 596,
4 are hereby repealed.

5 SECTION 19. This act shall become effective November 1, 2019.

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7 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
8 04/11/2019 - DO PASS, As Amended and Coauthored.

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