

Representative Katherine M. Bryson proposes the following substitute bill:

UTAH OPTOMETRY PRACTICE ACT

AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Katherine M. Bryson

This act modifies the Utah Optometry Practice Act by changing the definition of "contact lens prescription." The act conforms state law to federal regulations on standards for privacy of individually identifiable health information. The act requires a provider who prescribes a private label contact lens for a patient to include on the prescription the name of the manufacturer, the trade name of the private label brand, and, if applicable, the trade name of the equivalent national brand.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

58-16a-102, as last amended by Chapter 160, Laws of Utah 2000

58-16a-306, as last amended by Chapter 160, Laws of Utah 2000

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-16a-102** is amended to read:

58-16a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Optometrist Licensing Board created in Section 58-16a-201.

(2) "Contact lens" means any lens that:

(a) has a spherical, cylindrical, or prismatic power or curvature;

(b) is made pursuant to a current prescription; [~~and~~] or

(c) is intended to be worn on the surface of the eye.

(3) (a) "Contact lens prescription" means a written or verbal order for contact lenses



26 that includes:

- 27 (i) the commencement date of the prescription;
- 28 (ii) the base curve, power, diameter, material or brand name, and expiration date;
- 29 (iii) for a written order, the signature of the prescribing optometrist or physician; and
- 30 (iv) for a verbal order, a record maintained by the recipient of:
 - 31 (A) the name of the prescribing optometrist or physician; and
 - 32 (B) the date when the prescription was issued or ordered.

33 (b) A prescription may include:

- 34 (i) a limit on the quantity of lenses that may be ordered under the prescription if~~[(A)~~
35 ~~the prescription is for more than one contact per eye; or(B)]~~ required for medical reasons
36 documented in the patient's files; and

- 37 (ii) the expiration date of the prescription, which ~~[may not]~~ shall be ~~[less than one year]~~
38 two years from the commencement date, unless documented medical reasons require
39 ~~[continuous monitoring, nor more than two years]~~ otherwise.

40 (c) ~~[A prescription shall be valid for two years if the]~~ When a provider prescribes a
41 private label contact lens for a patient the prescription [does not] shall include [an expiration
42 date:]:

- 43 (i) the name of the manufacturer;
- 44 (ii) the trade name of the private label brand; and
- 45 (iii) if applicable, the trade name of the equivalent national brand.

46 (4) "Contact lens prescription verification" means a written request from a person who
47 sells contact lenses that:

- 48 (a) is sent to the prescribing optometrist or physician; and
- 49 (b) seeks the confirmation of the accuracy of a patient's prescription.

50 (5) "Eye and its adnexa" means the human eye and all structures situated within the
51 orbit, including the conjunctiva, lids, lashes, and lacrimal system.

52 (6) "Fitting of a contact lens" means:

- 53 (a) the using of a keratometer to measure the human eye;
- 54 (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and
- 55 (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit
56 and performance, to determine a tentative contact lens prescription for a patient if the patient:

- 57 (i) has not worn contact lenses before; or
- 58 (ii) has changed to a different type or base curve.
- 59 (7) "Laser surgery" means surgery in which human tissue is cut, burned, or vaporized
- 60 by means of laser or ionizing radiation.
- 61 (8) "Ophthalmic lens" means any lens used to treat the eye and that:
- 62 (a) has a spherical, cylindrical, or prismatic power;
- 63 (b) is made pursuant to an unexpired prescription; and
- 64 (c) is intended to be used in eyeglasses or spectacles.
- 65 (9) "Optometric assistant" means an unlicensed individual:
- 66 (a) working under the direct and immediate supervision of a licensed optometrist; and
- 67 (b) engaged in specific tasks assigned by the licensed optometrist in accordance with
- 68 the standards and ethics of the profession.
- 69 (10) "Optometrist" or "optometric physician" means an individual licensed under this
- 70 chapter.
- 71 (11) "Optometry" and "practice of optometry" mean any one or any combination of the
- 72 following practices:
- 73 (a) examination of the human eye and its adnexa to detect and diagnose defects or
- 74 abnormal conditions;
- 75 (b) determination or modification of the accommodative or refractive state of the
- 76 human eye or its range or power of vision by administration and prescription of pharmaceutical
- 77 agents or the use of diagnostic instruments;
- 78 (c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact
- 79 lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to
- 80 diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its
- 81 adnexa;
- 82 (d) display of any advertisement, circular, sign, or device offering to:
- 83 (i) examine the eyes;
- 84 (ii) fit glasses or contact lenses; or
- 85 (iii) adjust frames;
- 86 (e) removal of a foreign body from the eye or its adnexa, that is not deeper than the
- 87 anterior 1/2 of the cornea;

88 (f) consultation regarding the eye and its adnexa with other appropriate health care
89 providers, including referral to other appropriate health care providers; and

90 (g) a person, not licensed as an optometrist, directing a licensee under this chapter to
91 withhold or alter the eye care services the licensee has ordered.

92 (12) "Pharmaceutical agent" means any diagnostic or therapeutic drug or combination
93 of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation
94 of abnormal conditions or symptoms of the eye and its adnexa.

95 (13) "Physician" has the same meaning as defined in Subsection 58-67-102(7).

96 ~~[(13)]~~ (14) "Prescription drug" has the same definition as in Section 58-17a-102.

97 ~~[(14)]~~ (15) "Unexpired" means a prescription that was issued:

98 (a) not more than two years prior to presentation of the prescription for an ophthalmic
99 lens; or

100 (b) in accordance with Subsection (3) for a contact lens.

101 Section 2. Section **58-16a-306** is amended to read:

102 **58-16a-306. Contact lens prescription -- Qualifications.**

103 (1) An optometrist or ~~[ophthalmologist]~~ physician issuing a contact lens prescription
104 shall:

105 (a) be licensed under this title to practice in Utah;

106 (b) ensure the final contact lens prescription is accurate;

107 (c) present a written copy of the prescription to the patient after fitting ~~[unless]; and~~

108 ~~[(i) there are unpaid fees associated with the examination or treatment; or]~~

109 ~~[(ii) providing a copy is not in the best medical interests of the patient in the~~

110 ~~professional judgement of the prescribing optometrist or physician; and]~~

111 (d) provide a copy of the patient's contact lens prescription to a person who sells
112 contact lenses upon the request of the patient or the person selling the contact lenses.

113 (2) An optometrist or physician may not be held liable as a result of providing a
114 prescription to a patient as required by Subsection (1).

115 (3) Application of the provisions of this section shall be consistent with 45 C.F.R. Parts
116 160 and 164, Standards for Privacy of Individually Identifiable Health Information.