

**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 definitions of "contact lens prescription" and "contact lens prescription verification." The act ~~allows one issuing a contact lens prescription to not provide the patient with a written copy if not in the best interests of the patient as noted in the patient's file and explained to the patient at the time of the examination~~ CONFORMS STATE LAW TO FEDERAL REGULATIONS ON STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION ~~h~~ . The act expands "unlawful conduct" to include issuing a contact lens prescription with a restriction that limits the parameters to a private label lens not available to the optical industry as a whole and provides a penalty for that unlawful conduct.

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

58-16a-501, as last amended by Chapter 160, Laws of Utah 2000

58-16a-503, 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) "Business day" means all days, except Sundays and federal holidays.

~~(2)~~ (3) "Contact lens" means any lens that:

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



28 (b) is made pursuant to a current prescription; and

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

30 [~~(3)~~] (4) (a) "Contact lens prescription" means a written or verbal order for contact
31 lenses that includes:

32 (i) the commencement date of the prescription;

33 (ii) the base curve, power, diameter, material or brand name, and expiration date;

34 (iii) for a written order, the signature of the prescribing optometrist or physician; and

35 (iv) for a verbal order, a record maintained by the recipient of:

36 (A) the name of the prescribing optometrist or physician; and

37 (B) the date when the prescription was issued or ordered.

38 (b) A prescription may include:

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

42 (ii) the expiration date of the prescription, which may not be less than [~~one year~~] two
43 years from the commencement date, unless documented medical reasons require continuous
44 monitoring[, ~~nor more than two years~~].

45 [~~(c) A prescription shall be valid for two years if the prescription does not include an~~
46 ~~expiration date.~~]

47 [~~(4)~~] (5) "Contact lens prescription verification" means a written request from a person
48 who sells contact lenses that:

49 (a) is [~~sent~~] communicated to the prescribing optometrist or physician; and

50 (b) seeks the confirmation of the accuracy of a patient's prescription.

51 [~~(5)~~] (6) "Eye and its adnexa" means the human eye and all structures situated within
52 the orbit, including the conjunctiva, lids, lashes, and lacrimal system.

53 [~~(6)~~] (7) "Fitting of a contact lens" means:

54 (a) the using of a keratometer to measure the human eye;

55 (b) utilizing refractive data provided by a licensed optometrist or ophthalmologist; and

56 (c) trial fitting of contact lenses, which includes a period of time for evaluation for fit
57 and performance, to determine a tentative contact lens prescription for a patient if the patient:

58 (i) has not worn contact lenses before; or

59 (ii) has changed to a different type or base curve.

60 [~~(7)~~] (8) "Laser surgery" means surgery in which human tissue is cut, burned, or
61 vaporized by means of laser or ionizing radiation.

62 [~~(8)~~] (9) "Ophthalmic lens" means any lens used to treat the eye and that:

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

64 (b) is made pursuant to an unexpired prescription; and

65 (c) is intended to be used in eyeglasses or spectacles.

66 [~~(9)~~] (10) "Optometric assistant" means an unlicensed individual:

67 (a) working under the direct and immediate supervision of a licensed optometrist; and

68 (b) engaged in specific tasks assigned by the licensed optometrist in accordance with
69 the standards and ethics of the profession.

70 [~~(10)~~] (11) "Optometrist" or "optometric physician" means an individual licensed under
71 this chapter.

72 [~~(11)~~] (12) "Optometry" and "practice of optometry" mean any one or any combination
73 of the following practices:

74 (a) examination of the human eye and its adnexa to detect and diagnose defects or
75 abnormal conditions;

76 (b) determination or modification of the accommodative or refractive state of the
77 human eye or its range or power of vision by administration and prescription of pharmaceutical
78 agents or the use of diagnostic instruments;

79 (c) prescription, ordering, administration, or adaptation of ophthalmic lenses, contact
80 lenses, ophthalmic devices, pharmaceutical agents, laboratory tests, or ocular exercises to
81 diagnose and treat diseases, defects, or other abnormal conditions of the human eye and its
82 adnexa;

83 (d) display of any advertisement, circular, sign, or device offering to:

84 (i) examine the eyes;

85 (ii) fit glasses or contact lenses; or

86 (iii) adjust frames;

87 (e) removal of a foreign body from the eye or its adnexa, that is not deeper than the
88 anterior 1/2 of the cornea;

89 (f) consultation regarding the eye and its adnexa with other appropriate health care

90 providers, including referral to other appropriate health care providers; and

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

93 ~~[(12)]~~ (13) "Pharmaceutical agent" means any diagnostic or therapeutic drug or
94 combination of drugs that has the property of assisting in the diagnosis, prevention, treatment,
95 or mitigation of abnormal conditions or symptoms of the eye and its adnexa.

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)]~~ (4) 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 issuing a contact lens prescription shall:

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

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

106 (c) present a written copy of the prescription to the patient after fitting ~~h~~ ~~[unless:]~~ ; AND ~~h~~

107 ~~h~~ ~~[(f) there are unpaid fees associated with the examination or treatment; or~~

108 ~~—(ii) providing a copy is not in the best medical interests of the patient in the~~
109 ~~professional judgement of the prescribing optometrist or physician and those medical interests~~

110 ~~are noted in the patient's file and verbally explained to the patient at the time of the exam; and] h~~

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).

114a ~~h~~ (3) APPLICATION OF THE PROVISIONS OF THIS SECTION SHALL BE CONSISTENT WITH
114b 45 CFR PARTS 160 AND 164, STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH
114c INFORMATION. ~~h~~

115 Section 3. Section **58-16a-501** is amended to read:

116 **58-16a-501. Unlawful conduct.**

117 "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

118 (1) buying, selling, or fraudulently obtaining, any optometry diploma, license,
119 certificate, or registration;

120 (2) aiding or abetting the buying, selling, or fraudulently obtaining, of any optometry

121 diploma, license, certificate, or registration;

122 (3) selling contact lenses in a manner inconsistent with Section 58-16a-801 or
123 intentionally altering a prescription unless the person selling the lenses is a licensed optometrist
124 or ophthalmologist; [or]

125 (4) representing oneself as or using the title of "optometrist," "optometric physician,"
126 "doctor of optometry," or "O.D.," unless currently licensed under this chapter[-]; or

127 (5) issuing a contact lens prescription with a restriction that limits the parameters to a
128 private label lens not available to the optical industry as a whole.

129 Section 4. Section **58-16a-503** is amended to read:

130 **58-16a-503. Penalty for unlawful conduct.**

131 (1) Except as provided in Subsection (2), any person who violates the unlawful
132 conduct provision defined in Section 58-16a-501 or Subsection 58-1-501(1)(a) or (1)(c) is
133 guilty of a third degree felony.

134 (2) A person who violates Subsection 58-16a-501(3) or (5) is guilty of a class C
135 misdemeanor.

Legislative Review Note
as of 11-14-02 10:59 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-02 3:19 PM

The Business and Labor Interim Committee recommended this bill.

Fiscal Note
Bill Number HB0012

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08-Jan-03

11:36 AM

State Impact

No fiscal impact

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst