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SENATE BILL NO. 1321

Offered January 11, 2017

Prefiled January 10, 2017

A *BILL to amend the Code of Virginia by adding a section numbered 54.1-2400.01:2, relating to requirements for ophthalmic prescriptions; eye examinations; penalty.*

Patrons—Carrico, Barker, Howell and Lucas; Delegates: Bagby, Bell, John J., Bell, Richard P., Bulova, Carr, Cole, Cox, Fowler, Greason, Hope, Kilgore, Kory, Krizek, Landes, Lindsey, Price, Robinson, Yancey and Yost

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-2400.01:2 as follows:

§ 54.1-2400.01:2. *Eye examination, ophthalmic prescription defined; who may perform eye examinations and provide ophthalmic prescriptions.*

A. As used in this section:

"Contact lens" means any lens that is placed directly on the surface of the eye, whether or not the lens is intended to correct a visual defect, including any cosmetic, therapeutic, or corrective contact lens.

"Eye examination" means the physical assessment of the ocular health and visual status of a patient that include evaluation of the eye and human vision system for the presence or symptoms of abnormal conditions or diseases.

"Ophthalmic prescription" means a handwritten or electronic order of a provider that includes necessary and appropriate information for the dispensing of prescription eyeglasses or contact lenses for a patient.

"Provider" means an ophthalmologist licensed by the Board of Medicine pursuant to Chapter 29 (§ 54.1-2900 et seq.) or an optometrist licensed by the Board of Optometry pursuant to Chapter 32 (§ 54.1-3200 et seq.).

B. An eye examination shall be required prior to issuance of an ophthalmic prescription. Such examination shall be performed by a provider with whom the patient has a bona fide provider-patient relationship in such a manner as to allow simultaneous interaction between the patient and the provider during the examination. Eye examinations for the purpose of issuance of an ophthalmic prescription for contact lenses or for the purpose of evaluation of contact lenses prescribed for a patient shall additionally include a determination by the provider of a satisfactory fit of the contact lenses based on the analysis of the physiological compatibility of the lenses on the cornea and the physical fit and refractive functionality of the lenses on the patient's eye, and the completion of follow-up care after the initial fitting of contact lenses. No eye examination shall (i) consist solely of collection of objective refractive data; (ii) be performed solely through use of audio-only telephone, email message, or facsimile transmission or through completion of an electronic online questionnaire; or (iii) solely rely on the use of an automated testing device, including an autorefractor, for the purpose of the establishment of a medical diagnosis, issuance of an ophthalmic prescription, or treatment of ocular or refractive conditions or the correction of vision disorders.

C. An ophthalmic prescription shall contain (i) the patient's name; (ii) the date of the examination; (iii) the date of the prescription; (iv) the prescribing provider's name, physical address, and telephone number and the name of the practice by which the prescribing provider is employed, if any; (v) the written or electronic signature of the prescribing provider or other form of authentication; (vi) the number of the license issued to the prescribing provider by the Board of Medicine or Board of Optometry; (vii) an attestation by the prescribing provider that the ophthalmic prescription was issued by the provider rendering the eye examination required by this section; (viii) an expiration date, if medically appropriate; and (ix) a statement of whether the prescription is for eyeglasses or contact lenses.

D. Ophthalmic prescriptions for contact lenses shall contain, in addition to the information required pursuant to subsection C, (i) all specifications necessary to order and fabricate the contact lenses, including power, material, base curve or appropriate designation, and diameter, if applicable; (ii) the quantity of contact lenses to be dispensed; (iii) the number of refills of the prescription; and (iv) specific wearing instructions and disposal parameters, if any.

E. No person shall dispense eyeglasses or contact lenses unless the patient provides to such person an ophthalmic prescription that meets the requirements of this section. However, the requirements of this

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57 subsection shall not apply to the sale of eyeglasses not designed to correct or enhance vision by
58 addressing the visual needs of the individual wearer and that may be known as over-the-counter
59 eyeglasses or readers.

60 F. No provider shall require a patient to purchase ophthalmic goods, pay additional fees, or sign a
61 waiver or release in exchange for a copy of an ophthalmic prescription. Additionally, no provider shall
62 disclaim liability or responsibility for the accuracy of an eye examination conducted in accordance with
63 this section.

64 G. Any person who violates the provisions of this section shall be guilty of a Class 2 misdemeanor
65 and may be subject to enforcement action in accordance with the requirements of § 54.1-2506, Chapter
66 29 (§ 54.1-2900 et seq.), or Chapter 32 (§ 54.2-3200 et seq.), as appropriate.

67 H. The provisions of this section shall not apply to ophthalmic prescriptions written (i) prior to July
68 1, 2017, or (ii) by an ophthalmologist or optometrist practicing outside of Virginia who is legally
69 authorized to perform eye examinations in accordance with the laws of that state, provided that such eye
70 examination complies with the requirements of subsection B.