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SENATE BILL NO. 1321

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 26, 2017)

(Patron Prior to Substitute—Senator Carrico)

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

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. *Ophthalmic prescription defined; who may 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.

"Ophthalmic prescription" means a handwritten or electronic order of a provider that includes (i) in the case of contact lenses, all information required by the Fairness to Contact Lens Consumers Act, 15 U.S.C. §§ 7601 et seq., (ii) in the case of prescription eyeglasses, all information required by the Ophthalmic Practice Rule, also known as the Eyeglass Rule, 16 C.F.R. Part 456, and (iii) necessary and appropriate information for the dispensing of prescription eyeglasses or contact lenses for a patient, including the provider's name, physical address at which the provider practices, and telephone number.

"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. For the purpose of a provider prescribing spectacles, eyeglasses, lenses, or contact lenses to a patient, a provider shall establish a bona fide provider-patient relationship by an examination (i) in person, (ii) through face-to-face interactive, two-way, real-time communication, or (iii) store-and-forward technologies when all of the following conditions are met: (a) the provider obtains an updated medical history at the time of prescribing; (b) the provider makes a diagnosis at the time of prescribing; (c) the provider conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (d) the ophthalmic prescription is not determined solely by use of an online questionnaire; (e) the provider is actively licensed in the Commonwealth and authorized to prescribe; and (f) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations.

C. The requirements of this section shall not apply to (i) the sale of eyeglasses not designed to correct or enhance vision by addressing the visual needs of the individual wearer and that may be known as over-the-counter eyeglasses or readers or (ii) a licensed optician providing services in accordance with § 54.1-1509.

D. The provisions of this section shall not apply to ophthalmic prescriptions written prior to July 1, 2017.