
By: **Senators Roesser, Hollinger, Stoltzfus, and McCabe**
Introduced and read first time: February 6, 1998
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Optometrists and Physicians - Replacement Contact Lens Prescriptions**

3 FOR the purpose of requiring licensed optometrists and physicians to ensure that
4 each prescription for certain types of contact lenses meet certain requirements;
5 specifying requirements for the dispensing of replacement contact lenses;
6 authorizing a certain patient to request a copy of a contact lens prescription
7 from certain licensees; requiring certain licensees to provide their patients with
8 a copy of a prescription containing certain information; specifying that certain
9 licensees are exempt from liability for certain injuries to or conditions of their
10 patients; requiring a person who dispenses contact lenses to dispense
11 replacement lenses only upon receipt of a written prescription; requiring a
12 person who dispenses contact lenses to maintain certain records for a certain
13 time period; authorizing the State Board of Examiners in Optometry and the
14 State Board of Physician Quality Assurance to impose a civil fine under certain
15 circumstances; and generally relating to the prescription and dispensing of
16 replacement contact lenses.

17 BY adding to
18 Article - Health Occupations
19 Section 11-404.4, 11-504, 14-507, and 14-608
20 Annotated Code of Maryland
21 (1994 Replacement Volume and 1997 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Health Occupations**

25 11-404.4.

26 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

28 (2) "REPLACEMENT CONTACT LENS PRESCRIPTION" MEANS A
29 PRESCRIPTION PREPARED BY A LICENSED OPTOMETRIST CONTAINING THE

1 INFORMATION SPECIFIED IN THIS SECTION AND WRITTEN EXPRESSLY FOR THE
2 PURPOSE OF DUPLICATING LENSES WHICH HAVE ALREADY BEEN PROPERLY FITTED.

3 (3) "IMMEDIATE FOLLOW-UP CARE" IS THAT PERIOD OF CONTACT LENS
4 FITTING TIME REQUIRED TO REACH A CONTACT LENS PRESCRIPTION THAT IS
5 APPROPRIATE TO THE DOCUMENTED CLINICAL NEEDS OF THE PATIENT.

6 (B) A LICENSED OPTOMETRIST SHALL ENSURE THAT EACH REPLACEMENT
7 CONTACT LENS PRESCRIPTION THAT THE LICENSED OPTOMETRIST PRESCRIBES FOR
8 CONTACT LENSES:

9 (1) CONTAINS ALL THE INFORMATION NECESSARY FOR THE
10 REPLACEMENT CONTACT LENS PRESCRIPTION TO BE PROPERLY DISPENSED,
11 INCLUDING BUT NOT LIMITED TO THE:

12 (I) LENS MANUFACTURER;

13 (II) TYPE OF LENS;

14 (III) POWER OF THE LENS;

15 (IV) BASE CURVE;

16 (V) LENS SIZE;

17 (VI) NAME OF THE PATIENT;

18 (VII) DATE THE PRESCRIPTION WAS GIVEN TO THE PATIENT;

19 (VIII) NAME AND OFFICE LOCATION OF THE LICENSED OPTOMETRIST
20 WHO WRITES THE REPLACEMENT CONTACT LENS PRESCRIPTION; AND

21 (IX) EXPIRATION DATE OF THE REPLACEMENT CONTACT LENS
22 PRESCRIPTION; AND

23 (2) IS REDUCED TO WRITING AND PLACED IN THE PATIENT'S
24 PERMANENT FILE.

25 (C) (1) AFTER A LICENSED OPTOMETRIST RELEASES THE PATIENT FROM
26 IMMEDIATE FOLLOW-UP CARE, THE PATIENT MAY REQUEST THE REPLACEMENT
27 CONTACT LENS PRESCRIPTION FROM THE LICENSED OPTOMETRIST.

28 (2) (I) ON THE REQUEST OF A PATIENT OF A LICENSED OPTOMETRIST,
29 AND WITHOUT COST TO THE PATIENT, THE LICENSED OPTOMETRIST SHALL PROVIDE
30 TO A NAMED AGENT OF THE PATIENT A COPY OF THE PATIENT'S REPLACEMENT
31 CONTACT LENS PRESCRIPTION.

32 (II) UPON THE WRITTEN REQUEST OF A PATIENT OF A LICENSED
33 OPTOMETRIST, AND WITHOUT COST TO THE PATIENT, THE LICENSED OPTOMETRIST
34 SHALL PROVIDE TO A NAMED AGENT OF THE PATIENT A COPY OF THE PATIENT'S
35 REPLACEMENT CONTACT LENS PRESCRIPTION.

1 (III) THE REPLACEMENT CONTACT LENS PRESCRIPTION THAT THE
2 LICENSED OPTOMETRIST PROVIDES THE PATIENT UNDER SUBPARAGRAPH (I) OF
3 THIS PARAGRAPH:

4 1. SHALL CONTAIN THE INFORMATION NECESSARY FOR THE
5 PROPER DUPLICATION OF THE CURRENT PRESCRIPTION OF THE PATIENT;

6 2. SHALL CONTAIN AN EXPIRATION DATE FOR THE
7 REPLACEMENT CONTACT LENS PRESCRIPTION OF NOT MORE THAN 2 YEARS FROM
8 THE TIME THE PATIENT WAS FIRST EXAMINED; AND

9 3. MAY CONTAIN WEARING GUIDELINES OR SPECIFIC
10 INSTRUCTIONS FOR USE OF THE CONTACT LENSES BY THE PATIENT, OR BOTH.

11 (D) THE LICENSED OPTOMETRIST SHALL ENTER INTO THE PATIENT'S
12 MEDICAL RECORD FOR VALID CLINICAL REASONS FOR A SHORTER EXPIRATION DATE
13 AND SHALL PROVIDE THE PATIENT WITH A WRITTEN EXPLANATION OF THE
14 CLINICAL REASONS FOR A SHORTER EXPIRATION DATE.

15 (E) A LICENSED OPTOMETRIST IS NOT LIABLE FOR AN INJURY TO OR A
16 CONDITION OF A PATIENT OF THE LICENSED OPTOMETRIST THAT RESULTS FROM
17 NEGLIGENCE IN THE PACKAGING, MANUFACTURING, OR DISPENSING OF CONTACT
18 LENSES BY A PERSON OTHER THAN THE LICENSED OPTOMETRIST.

19 (F) A LICENSED OPTOMETRIST WHO RELEASES A REPLACEMENT CONTACT
20 LENS PRESCRIPTION TO A PATIENT MAY PROVIDE THE PATIENT WITH A WRITTEN
21 STATEMENT THAT WEARING IMPROPERLY FITTED CONTACT LENSES MAY CAUSE
22 HARM TO THE PATIENT'S EYES AND THAT THE PATIENT SHOULD HAVE AN EYE
23 EXAMINATION IF THERE ARE ANY CHANGES IN THE PATIENT'S VISION, INCLUDING
24 PAIN OR VISION LOSS.

25 (G) A PERSON WHO DISPENSES REPLACEMENT CONTACT LENSES MAY
26 DISPENSE THEM UPON RECEIPT OF A WRITTEN, VALID, AND UNEXPIRED
27 REPLACEMENT CONTACT LENS PRESCRIPTION.

28 (H) A LICENSED OPTOMETRIST WHO FILLS A CONTACT LENS PRESCRIPTION
29 SHALL MAINTAIN A RECORD OF THAT PRESCRIPTION IN ACCORDANCE WITH § 4-403
30 OF THE HEALTH - GENERAL ARTICLE.

31 (I) THE BOARD MAY IMPOSE A CIVIL FINE OF NO MORE THAN \$1,000 ON A
32 LICENSED OPTOMETRIST WHO DISPENSES CONTACT LENSES WITHOUT A
33 REPLACEMENT CONTACT LENS PRESCRIPTION OR FILLS AN EXPIRED REPLACEMENT
34 CONTACT LENS PRESCRIPTION FOR CONTACT LENSES.

35 11-504.

36 (A) A PERSON MAY NOT SELL OR DISPENSE REPLACEMENT CONTACT LENSES
37 BY MAIL WITHOUT A WRITTEN, VALID, AND UNEXPIRED REPLACEMENT CONTACT
38 LENS PRESCRIPTION SIGNED BY A LICENSED OPTOMETRIST OR A LICENSED
39 PHYSICIAN.

1 (B) THE SELLING OR DISPENSING OF REPLACEMENT CONTACT LENSES BY
2 MAIL BY ANY PERSON WITHOUT A WRITTEN, VALID, AND UNEXPIRED REPLACEMENT
3 CONTACT LENS PRESCRIPTION SIGNED BY A LICENSED OPTOMETRIST OR A
4 LICENSED PHYSICIAN SHALL BE CONSIDERED AN UNLAWFUL PRACTICE OF
5 OPTOMETRY.

6 (C) ANY PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS
7 SUBJECT TO A FINE BY THE STATE BOARD OF EXAMINERS IN OPTOMETRY NOT
8 EXCEEDING \$500 FOR THE FIRST OFFENSE AND NOT EXCEEDING \$1,000 FOR THE
9 SECOND OR SUBSEQUENT OFFENSE.

10 (D) THE BOARD SHALL INVESTIGATE ANY ALLEGED VIOLATION OF § 11-404.4
11 OF THIS TITLE AND MAY, NOTWITHSTANDING § 11-205 OF THIS TITLE:

12 (1) ISSUE SUBPOENAS, ADMINISTER OATHS, AND EXAMINE WITNESSES;
13 AND

14 (2) ATTEMPT TO ENFORCE ANY PROVISION OF THIS TITLE BY
15 INJUNCTION OR OTHER APPROPRIATE PROCEEDINGS.

16 (E) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT INSTEAD
17 OF CRIMINAL PROSECUTION UNDER § 11-505 OF THIS SUBTITLE.

18 14-507.

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (2) "REPLACEMENT CONTACT LENS PRESCRIPTION" MEANS A
22 PRESCRIPTION PREPARED BY A LICENSED PHYSICIAN CONTAINING THE
23 INFORMATION SPECIFIED IN THIS SECTION AND WRITTEN EXPRESSLY FOR THE
24 PURPOSE OF DUPLICATING LENSES WHICH HAVE ALREADY BEEN PROPERLY FITTED.

25 (3) "IMMEDIATE FOLLOW-UP CARE" IS THAT PERIOD OF CONTACT LENS
26 FITTING TIME REQUIRED TO REACH A CONTACT LENS PRESCRIPTION THAT IS
27 APPROPRIATE TO THE DOCUMENTED CLINICAL NEEDS OF THE PATIENT.

28 (B) A LICENSED PHYSICIAN SHALL ENSURE THAT EACH REPLACEMENT
29 CONTACT LENS PRESCRIPTION THAT THE LICENSED OPTOMETRIST PRESCRIBES FOR
30 CONTACT LENSES:

31 (1) CONTAINS ALL THE INFORMATION NECESSARY FOR THE
32 REPLACEMENT CONTACT LENS PRESCRIPTION TO BE PROPERLY DISPENSED,
33 INCLUDING BUT NOT LIMITED TO THE:

34 (I) LENS MANUFACTURER;

35 (II) TYPE OF LENS;

36 (III) POWER OF THE LENS;

- 1 (IV) BASE CURVE;
- 2 (V) LENS SIZE;
- 3 (VI) NAME OF THE PATIENT;
- 4 (VII) DATE THE PRESCRIPTION WAS GIVEN TO THE PATIENT;
- 5 (VIII) NAME AND OFFICE LOCATION OF THE LICENSED PHYSICIAN
6 WHO WRITES THE REPLACEMENT CONTACT LENS PRESCRIPTION; AND
- 7 (IX) EXPIRATION DATE OF THE REPLACEMENT CONTACT LENS
8 PRESCRIPTION; AND

9 (2) IS REDUCED TO WRITING AND PLACED IN THE PATIENT'S
10 PERMANENT FILE.

11 (C) (1) AFTER A LICENSED OPTOMETRIST RELEASES THE PATIENT FROM
12 IMMEDIATE FOLLOW-UP CARE, THE PATIENT MAY REQUEST THE REPLACEMENT
13 CONTACT LENS PRESCRIPTION FROM THE LICENSED PHYSICIAN.

14 (2) (I) ON THE REQUEST OF A PATIENT OF A LICENSED PHYSICIAN,
15 AND WITHOUT COST TO THE PATIENT, THE LICENSED PHYSICIAN SHALL PROVIDE TO
16 A NAMED AGENT OF THE PATIENT A COPY OF THE PATIENT'S REPLACEMENT
17 CONTACT LENS PRESCRIPTION.

18 (II) UPON THE WRITTEN REQUEST OF A PATIENT OF A LICENSED
19 PHYSICIAN, AND WITHOUT COST TO THE PATIENT, THE LICENSED PHYSICIAN SHALL
20 PROVIDE TO A NAMED AGENT OF THE PATIENT A COPY OF THE PATIENT'S
21 REPLACEMENT CONTACT LENS PRESCRIPTION.

22 (III) THE REPLACEMENT CONTACT LENS PRESCRIPTION THAT THE
23 LICENSED PHYSICIAN PROVIDES THE PATIENT UNDER SUBPARAGRAPH (I) OF THIS
24 PARAGRAPH:

25 1. SHALL CONTAIN THE INFORMATION NECESSARY FOR THE
26 PROPER DUPLICATION OF THE CURRENT PRESCRIPTION OF THE PATIENT;

27 2. SHALL CONTAIN AN EXPIRATION DATE FOR THE
28 REPLACEMENT CONTACT LENS PRESCRIPTION OF NOT MORE THAN 2 YEARS FROM
29 THE TIME THE PATIENT WAS FIRST EXAMINED; AND

30 3. MAY CONTAIN WEARING GUIDELINES OR SPECIFIC
31 INSTRUCTIONS FOR USE OF THE CONTACT LENSES BY THE PATIENT, OR BOTH.

32 (D) THE LICENSED PHYSICIAN SHALL ENTER INTO THE PATIENT'S MEDICAL
33 RECORD FOR VALID CLINICAL REASONS FOR A SHORTER EXPIRATION DATE AND
34 SHALL PROVIDE THE PATIENT WITH A WRITTEN EXPLANATION OF THE CLINICAL
35 REASONS FOR A SHORTER EXPIRATION DATE.

1 (E) A LICENSED PHYSICIAN IS NOT LIABLE FOR AN INJURY TO OR A
2 CONDITION OF A PATIENT OF THE LICENSED PHYSICIAN THAT RESULTS FROM
3 NEGLIGENCE IN THE PACKAGING, MANUFACTURING, OR DISPENSING OF CONTACT
4 LENSES BY A PERSON OTHER THAN THE LICENSED PHYSICIAN.

5 (F) A LICENSED PHYSICIAN WHO RELEASES A REPLACEMENT CONTACT LENS
6 PRESCRIPTION TO A PATIENT MAY PROVIDE THE PATIENT WITH A WRITTEN
7 STATEMENT THAT WEARING IMPROPERLY FITTED CONTACT LENSES MAY CAUSE
8 HARM TO THE PATIENT'S EYES AND THAT THE PATIENT SHOULD HAVE AN EYE
9 EXAMINATION IF THERE ARE ANY CHANGES IN THE PATIENT'S VISION, INCLUDING
10 PAIN OR VISION LOSS.

11 (G) A PERSON WHO DISPENSES REPLACEMENT CONTACT LENSES MAY
12 DISPENSE THEM UPON RECEIPT OF A WRITTEN, VALID, AND UNEXPIRED
13 REPLACEMENT CONTACT LENS PRESCRIPTION.

14 (H) A LICENSED PHYSICIAN WHO FILLS A CONTACT LENS PRESCRIPTION
15 SHALL MAINTAIN A RECORD OF THAT PRESCRIPTION IN ACCORDANCE WITH § 4-403
16 OF THE HEALTH - GENERAL ARTICLE.

17 (I) THE BOARD MAY IMPOSE A CIVIL FINE OF NO MORE THAN \$1,000 ON A
18 LICENSED PHYSICIAN WHO DISPENSES CONTACT LENSES WITHOUT A
19 REPLACEMENT CONTACT LENS PRESCRIPTION OR FILLS AN EXPIRED REPLACEMENT
20 CONTACT LENS PRESCRIPTION FOR CONTACT LENSES.

21 14-608.

22 (A) A PERSON MAY NOT SELL OR DISPENSE REPLACEMENT CONTACT LENSES
23 BY MAIL WITHOUT A WRITTEN, VALID, AND UNEXPIRED REPLACEMENT CONTACT
24 LENS PRESCRIPTION SIGNED BY A LICENSED OPTOMETRIST OR A LICENSED
25 PHYSICIAN.

26 (B) THE SELLING OR DISPENSING OF REPLACEMENT CONTACT LENSES BY
27 MAIL BY ANY PERSON WITHOUT A WRITTEN, VALID, AND UNEXPIRED REPLACEMENT
28 CONTACT LENS PRESCRIPTION SIGNED BY A LICENSED OPTOMETRIST OR PHYSICIAN
29 SHALL BE CONSIDERED AN UNLAWFUL PRACTICE OF MEDICINE.

30 (C) ANY PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS
31 SUBJECT TO A FINE BY THE STATE BOARD OF PHYSICIAN QUALITY ASSURANCE NOT
32 EXCEEDING \$500 FOR THE FIRST OFFENSE AND NOT EXCEEDING \$1,000 FOR THE
33 SECOND OR SUBSEQUENT OFFENSE.

34 (D) THE BOARD SHALL INVESTIGATE ANY ALLEGED VIOLATION OF § 14-507 OF
35 THIS TITLE AND MAY ATTEMPT TO ENFORCE ANY PROVISION OF THIS TITLE BY
36 INJUNCTION OR OTHER APPROPRIATE PROCEEDINGS.

37 (E) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT INSTEAD
38 OF CRIMINAL PROSECUTION UNDER § 14-607 OF THIS SUBTITLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1998.