
SENATE BILL 5489

State of Washington 64th Legislature 2015 Regular Session

By Senators Hewitt, Keiser, and Parlette

Read first time 01/22/15. Referred to Committee on Health Care.

1 AN ACT Relating to pricing agreements between contact lens
2 manufacturers or distributors and retailers; and amending RCW
3 18.195.030.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 18.195.030 and 1994 c 106 s 3 are each amended to
6 read as follows:

7 (1) No prescriber shall:

8 (a) Fail to provide to the patient one copy of the patient's
9 prescription at the completion of the eye examination. A prescriber
10 may refuse to give the patient a copy of the patient's prescription
11 until the patient has paid for the eye examination, but only if that
12 prescriber would have required immediate payment from that patient
13 had the examination revealed that no ophthalmic goods were required;

14 (b) Condition the availability of an eye examination or
15 prescription, or both, to a patient on a requirement that the patient
16 agree to purchase ophthalmic goods from the prescriber or a dispenser
17 approved by the prescriber;

18 (c) Fail to include a notation of "OK for contacts" or similar
19 language on the prescription if the prescriber would have fitted the
20 patient himself or herself, provided there are no contraindications
21 for contacts, and if the patient has requested contact lenses. Such a

1 notation will indicate to the practitioner fitting the contact lenses
2 that the initial fitting and follow-up must be completed within six
3 months of the date of the eye examination. The prescriber will inform
4 the patient that failure to complete the initial fitting and obtain
5 the follow-up evaluation by a prescriber within the six-month time
6 frame will void the "OK for contacts" portion of the prescription.
7 The prescriber who performs the follow-up will place on the
8 prescription "follow-up completed," or similar language, and include
9 his or her name and the date of the follow-up. Patients who comply
10 with both the initial fitting and follow-up requirements will then be
11 able to obtain replacement contact lenses until the expiration date
12 listed on the prescription. If the prescriber concludes the ocular
13 health of the eye presents a contraindication for contact lenses, a
14 verbal explanation of that contraindication must be given to the
15 patient by the prescriber at the time of the eye examination and
16 documentation maintained in the patient's records. However, a
17 prescriber may exclude categories of contact lenses where clinically
18 indicated;

19 (d) Include a prescription expiration date of less than two
20 years, unless warranted by the ocular health of the eye. If a
21 prescription is to expire in less than two years, an explanatory
22 notation must be made by the prescriber in the patient's record and a
23 verbal explanation given to the patient at the time of the eye
24 examination;

25 (e) Charge the patient a fee in addition to the prescriber's
26 examination fee as a condition to releasing the prescription to the
27 patient. However, a prescriber may charge a reasonable, additional
28 fee for verifying ophthalmic goods dispensed by another practitioner
29 if that fee is imposed at the time the verification is performed; or

30 (f) Place on the prescription, or require the patient to sign, or
31 deliver to the patient a form or notice waiving or disclaiming the
32 liability or responsibility of the prescriber for the accuracy of the
33 eye examination or the accuracy of the ophthalmic goods and services
34 dispensed by another practitioner. In prohibiting the use of waivers
35 and disclaimers of liability under this subsection, it is not the
36 intent of the legislature to impose liability on an ophthalmologist
37 or optometrist for the ophthalmic goods and services dispensed by
38 another seller pursuant to the ophthalmologist's or optometrist's
39 prescription.

1 (2) Nothing contained in this title shall prevent a prescriber or
2 optician from measuring the refractive power of eyeglass lenses and
3 duplicating the eyeglass lenses upon the request of a patient.

4 (3)(a) It is unlawful for a manufacturer or distributor of
5 prescription contact lenses to prevent, by any means, including
6 through a unilateral policy or agreement, any retailer from selling
7 or advertising such contact lenses to consumers below any specified
8 price, or to otherwise limit the ability of any retailer to determine
9 prices at which contact lenses are offered or advertised to
10 consumers, or to restrict options available to contact lens consumers
11 by discriminating in the distribution of contact lenses based on the
12 channel of trade or based on whether the retailer is, or is
13 associated with a person or entity, authorized by law to prescribe or
14 dispense such contact lenses.

15 (b) The legislature finds that the violation of this subsection
16 (3) is a matter vitally affecting the public interest for the purpose
17 of applying the consumer protection act, chapter 19.86 RCW. Such a
18 violation is an unfair or deceptive act in trade or commerce and an
19 unfair method of competition for the purpose of applying the consumer
20 protection act, chapter 19.86 RCW.

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