

House Bill 1292

By: Representatives Brown of the 130th and Snelling of the 99th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to
2 control of hazardous conditions, preventable diseases, and metabolic disorders, so as to
3 provide for a patient to purchase contact lenses from a retailer of his or her choice including
4 through the mail; to prohibit the prescription of private label or store brand contact lenses;
5 to provide for a patient to receive immediately a copy of his or her prescription for contact
6 lenses; to provide for a maximum expiration date for a prescription for contact lenses; to
7 provide for a maximum supply of contact lenses within 60 days of the expiration date of a
8 prescription; to eliminate the requirement to inform contact lens recipients to return to their
9 prescriber to check their contact lenses; to provide for immediate response to a request from
10 an agent for the patient for a contact lens prescription verification; to provide for notice to
11 the patient of the right to purchase contact lenses from a retailer of the patient's choice
12 including through the mail; to provide for related matters; to repeal conflicting laws; and for
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to control of
17 hazardous conditions, preventable diseases, and metabolic disorders, is amended by striking
18 in its entirety Code Section 31-12-12, relating to restrictions on sale or dispensing of contact
19 lenses, responsibilities relating to prescriptions, criminal violation, and enforcement, and
20 inserting in its place the following:

21 "31-12-12.

22 (a) ~~No person shall sell, dispense, or serve as a conduit for the sale or dispensing of the~~
23 ~~first set of contact lenses issued pursuant to a prescription to the ultimate user of such~~
24 ~~contact lenses in this state, except persons licensed and regulated by Chapter 29, 30, or 34~~
25 ~~of Title 43. Such lenses are deemed sold or dispensed within the state at the time the person~~
26 ~~for whom prescribed takes delivery. No person licensed and regulated by Chapter 30 or 34~~

1 of Title 43 who provides written prescriptions for contact lenses to patients shall condition
 2 the availability of an eye examination to any person on a requirement that the patient agree
 3 to purchase any ophthalmic goods from the prescriber, or limit the prescription of contact
 4 lenses to private label or store brand contact lenses.

5 ~~(b) All contact lenses used in the determination of a contact lens prescription are~~
 6 ~~considered to be diagnostic lenses. After the diagnostic period and the contact lenses have~~
 7 ~~been adequately fitted and the patient released from immediate follow-up care by persons~~
 8 ~~licensed and regulated by Chapter 29, 30, or 34 of Title 43, the prescribing optometrist or~~
 9 ~~ophthalmologist shall, upon the request of the patient, at no cost, provide a prescription in~~
 10 ~~writing for replacement contact lenses. A person shall not dispense or adapt contact lenses~~
 11 ~~without first receiving authorization to do so by a written prescription, except when~~
 12 ~~authorized orally to do so by a person licensed and regulated by Chapter 30 or 34 of Title~~
 13 ~~43.~~

14 ~~(c) Patients who comply with such fitting and follow-up requirements as may be~~
 15 ~~established by the prescribing optometrist or ophthalmologist may obtain replacement~~
 16 ~~contact lenses until the expiration date listed on the prescription.~~

17 (d) At such time as an eye examination is completed by a person licensed and regulated
 18 by Chapter 30 or 34 of Title 43 and a determination made that a prescription for contact
 19 lenses is appropriate for the patient, the prescriber shall immediately provide the patient
 20 with a copy of the patient's prescription. A prescriber may refuse to give the patient a copy
 21 of the patient's prescription until the patient has paid for all services rendered in connection
 22 with the prescription.

23 ~~(e) Except for replacement contact lenses sold or dispensed by persons licensed and~~
 24 ~~regulated by and operating pursuant to Chapter 29, 30, or 34 of Title 43, no replacement~~
 25 No contact lenses may be sold or dispensed except pursuant to a prescription which:

- 26 (1) Conforms to state and federal regulations governing such forms and includes the
- 27 name, address, and state licensure number of a prescribing practitioner;
- 28 (2) Explicitly states an expiration date of not more than ~~12~~ 24 months from the date of
- 29 the last prescribing contact lens examination, unless a medical or refractive problem
- 30 affecting vision requires an earlier expiration date;
- 31 ~~(3) Explicitly states the number of refills;~~
- 32 ~~(4)~~(3) Explicitly states that it is for contact lenses and indicates the lens brand name and
- 33 type, other than a private label or store brand, including all specifications necessary for
- 34 the ordering or fabrication of lenses; and
- 35 ~~(5)~~(4) Is kept on file by the person selling or dispensing the replacement contact lenses
- 36 for at least 24 months after the prescription is filled.

1 A dispenser shall not dispense more than a six-month supply of contact lenses within 60
 2 days of a prescription's expiration date.

3 ~~(f) Except for persons licensed and regulated by Chapter 29, 30, or 34 of Title 43, any~~
 4 ~~person, firm, or corporation that dispenses or sells contact lenses on the prescription of a~~
 5 ~~practitioner licensed in this state shall, at the time of delivery of the lenses, inform the~~
 6 ~~recipient in writing that he or she should return to a prescriber to ascertain the accuracy and~~
 7 ~~suitability of the prescribed lenses. The prescriber shall not be responsible for any damages~~
 8 ~~or injury resulting from negligence in packaging or manufacturing of the prescribed lenses.~~

9 (g) Anyone who fills a prescription bears the full responsibility of the accuracy of the
 10 contact lenses provided under the prescription. At no time, without the direction of a
 11 prescriber, shall any changes or substitutions be made in the brand or type of lenses the
 12 prescription calls for with the exceptions of tint change if requested by the patient.
 13 However, if a prescription specifies 'only' a specific color or tinted lens, those instructions
 14 shall be observed.

15 ~~(h) No person, other than persons licensed and regulated by Chapter 29, 30, or 34 of Title~~
 16 ~~43, shall sell, dispense, or serve as a conduit for the sale or dispensing of contact lenses to~~
 17 ~~the ultimate user of such contact lenses in this state through the mail or any other means~~
 18 ~~other than direct, in-person delivery to such ultimate user by such person after having~~
 19 ~~personally ascertained by reliable means the identity of the deliverer. Any person licensed~~
 20 and regulated by Chapter 30 or 34 of Title 43 who issues a prescription for contact lenses
 21 for a patient shall immediately respond to a request for prescription verification from an
 22 agent of the patient, including by electronic or oral means.

23 (i) Any person licensed and regulated by Chapter 30 or 34 of Title 43 who issues a
 24 prescription for contact lenses for a patient shall post a notice in an area of his or her office
 25 accessible and clearly visible to patients informing patients that they have the right to
 26 purchase any contact lenses prescribed from a retailer of their choice, including purchases
 27 through the mail.

28 ~~(i)(j)~~ Any person who violates the provisions of subsection (a) or (e) of this Code section
 29 shall be guilty of a misdemeanor of a high and aggravated nature.

30 ~~(j)(k)~~ Proceedings to enforce the provisions of this Code section may be brought by any
 31 board created under Chapter 29, 30, or 34 of Title 43 or by any other interested person
 32 through criminal prosecution, injunction, or other appropriate remedy."

33 SECTION 2.

34 All laws and parts of laws in conflict with this Act are repealed.