AMENDED

April 26, 2016

**H. 4728**

Introduced by Reps. Long, Erickson, Douglas, Ridgeway, Hixon, Jefferson, Whitmire, Tallon, Daning, Anthony, Hiott, Ballentine, Allison, Bowers, Spires, W.J. McLeod, Williams, Bales, Nanney, Knight, Southard, V.S. Moss, Gagnon, Willis, Huggins, Corley, Taylor, Herbkersman, King, Felder, Hicks, Loftis, Simrill, Pope, Riley, McCoy, Henderson, Hosey, D.C. Moss and Brannon

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Read the first time January 26, 2016.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 45 TO TITLE 44 TO ENACT THE “EYE CARE CONSUMER PROTECTION LAW” SO AS TO ESTABLISH REQUIREMENTS FOR A PERSON WHO SELLS SPECTACLES OR CONTACT LENSES USING REFRACTIVE DATA OR INFORMATION GENERATED BY AN AUTOMATED TESTING DEVICE.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 24

Eye Care Consumer Protection

Section 40‑24‑10. For purposes of this chapter:

(1) ‘Contact lenses’ means a lens placed directly on the surface of the eye, regardless of whether it is intended to correct a visual defect, and includes, but is not limited to, cosmetic, therapeutic, and corrective lenses.

(2) ‘Dispense’ means the act of providing a pair of spectacles or contact lenses to a patient.

(3) ‘Eye examination’ means an assessment of all or a portion of the ocular health profile, which must include a complete written or electronic medical history, as well as an assessment of the visual status of a patient.

(4) ‘Kiosk’ means automated equipment or an automated application, which is designed to be used on a phone, computer, or internet‑based device that can be used in person or remotely to provide refractive data or information.

(5) ‘Patient’ means a person who submits to an eye examination in this State.

(6) ‘Prescription’ means a provider’s handwritten or electronic order to correct refractive error that is based on an eye examination.

(7) ‘Provider’ means an individual licensed by the South Carolina Board of Examiners in Optometry or the South Carolina Board of Medical Examiners.

(8) ‘Spectacles’ means an optical instrument or device worn or used by an individual that has one or more lenses designed to correct or remediate vision deficits or needs of the individual wearer and are commonly known as glasses, including spectacles that may be adjusted by the wearer to achieve different types or levels of visual correction or enhancement, and excluding over‑the‑counter spectacles not intended to correct or enhance vision or sold without consideration of the visual status of the individual using the spectacles.

(9) ‘Visual status’ means the assessment of the visual acuity, accommodation amplitudes at the discretion of the provider, and ocular alignment of the eyes in an uncorrected state and the best corrected visual acuity achievable with the aid of a spectacle or contact lens prescription; however, the assessment must not be based solely on objective refractive data or information generated by an automated testing device, including an auto refractor or other electronic refractive‑only testing device, to provide a medical diagnosis or to establish a refractive error for a patient as part of an eye examination.

Section 40‑24‑20. (A) A person in this State may not dispense spectacles or contact lenses to a patient without a valid prescription from a provider.

(B) To be valid, a prescription must contain an expiration date on spectacles or contact lenses of one year from the date of examination by the provider or a statement of the reasons why a shorter time is appropriate based on the medical needs of the patient. The prescription must take into consideration medical findings made and refractive error discovered during the eye examination. If a provider determines a patient is a suitable candidate for a prescription for contact lenses or spectacles, a provider may not thereafter refuse to issue a prescription for spectacles or contact lenses to a patient.

(C) A prescription for spectacles or contact lenses may not be based solely on the refractive eye error of the human eye or be generated by a kiosk.

(D) Violation of this section constitutes misconduct as provided for in Sections 40‑37‑110 and 40‑47‑110. A provider who violates this section is subject to the penalties authorized in Chapter 37, Title 40 or Chapter 47, Title 40, as applicable.”

SECTION 2. This act takes effect upon approval by the Governor.

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