

AMENDMENTS TO LB 398

(Amendments to Standing Committee amendments, AM0975)

1 1. Insert the following new sections:

2 "Sec. 86. Sections 86 to 92 of this act shall be known
3 and may be cited as the Mail Order Contact Lens Act.

4 Sec. 87. For purposes of the Mail Order Contact Lens
5 Act:

6 (1) Contact lens prescription means a written order
7 bearing the original signature of an optometrist or physician or an
8 oral or electromagnetic order issued by an optometrist or physician
9 that authorizes the dispensing of contact lenses to a patient and
10 meets the requirements of section 88 of this act;

11 (2) Department means the Department of Health and Human
12 Services Regulation and Licensure;

13 (3) Mail-order ophthalmic provider means an entity that
14 ships, mails, or in any manner delivers dispensed contact lenses to
15 Nebraska residents;

16 (4) Optometrist means a person licensed to practice
17 optometry pursuant to sections 71-1,133 to 71-1,136.09; and

18 (5) Physician means a person licensed to practice
19 medicine and surgery pursuant to sections 71-1,102 to 71-1,107.14.

20 Sec. 88. (1) A mail-order ophthalmic provider may
21 dispense contact lenses in Nebraska or to a Nebraska resident if
22 the contact lens prescription is valid. Such prescription is valid
23 of it (a) contains the patient's name, date ordered, expiration

1 date, instructions for use, optometrist or physician identifying
2 information, date of patient's last examination, fabrication, and
3 related information, and (b) has not expired.

4 (2) Each contact lens prescription shall be valid for the
5 duration of the prescription as indicated by the optometrist or
6 physician or for a period of twelve months from the date of
7 issuance, whichever period expires first. Upon expiration, an
8 optometrist or physician may extend the prescription without
9 further examination.

10 (3) An optometrist or physician shall offer the
11 prescription to a patient following the fitting process and payment
12 of all fees for services rendered. The patient shall mail the
13 prescription or send a copy by facsimile or other electronic means
14 to the mail-order ophthalmic provider.

15 Sec. 89. The department shall require and provide for an
16 annual registration for all mail-order ophthalmic providers located
17 outside of this state, including those providing services via the
18 Internet, that dispense contact lenses to Nebraska residents. The
19 department shall grant mail-order ophthalmic provider's
20 registration upon the disclosure and certification by such provider
21 of the following:

22 (1) That it is licensed or registered to dispense contact
23 lenses in the state where the dispensing facility is located and
24 from where the contact lenses are dispensed, if required;

25 (2) The location, names, and titles of all principal
26 corporate officers and the person who is responsible for overseeing
27 the dispensing of contact lenses to Nebraska residents;

1 (3) That it complies with directions and appropriate
2 requests for information from the regulating agency of each state
3 where it is licensed or registered;

4 (4) That it will respond directly and within a reasonable
5 period of time to all communications from the department concerning
6 emergency circumstances arising from the dispensing of contact
7 lenses to Nebraska residents;

8 (5) That it maintains its records of contact lenses
9 dispensed to Nebraska residents so that such records are readily
10 retrievable;

11 (6) That it will cooperate with the department in
12 providing information to the regulatory agency of any state where
13 it is licensed or registered concerning matters related to the
14 dispensing of contact lenses to Nebraska residents;

15 (7) That it conducts business in a manner that conforms
16 to the requirements of section 88 of this act;

17 (8) That it provides a toll-free telephone service for
18 responding to patient questions and complaints during its regular
19 hours of operation and agrees to (a) include the toll-free number
20 in literature provided with mailed contact lenses and (b) refer all
21 questions relating to eye care for the lenses prescribed back to
22 the contact lens prescriber; and

23 (9) That it provides the following, or substantially
24 equivalent, written notification to the patient whenever contact
25 lenses are supplied:

26 WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING
27 SYMPTOMS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE

1 PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE
2 DISCOMFORT, WATERING, VISION CHANGE, OR REDNESS.

3 Sec. 90. The mail-order ophthalmic provider shall pay a
4 fee equivalent to the annual fee for an initial or renewal permit
5 to operate a pharmacy in Nebraska as established in and at the
6 times provided for in section 71-1,147.07 prior to January 1, 2002,
7 and in the Health Care Facility Licensure Act on and after January
8 1, 2002. Such fees shall be remitted to the State Treasurer for
9 credit to the Nebraska Pharmaceutical Fund prior to January 1,
10 2002, and to the Department of Health and Human Services Regulation
11 and Licensure Cash Fund on and after January 1, 2002.

12 Sec. 91. The department, upon the recommendation of the
13 Board of Pharmacy, the Board of Optometry, or the Board of Medicine
14 and Surgery, shall notify the Attorney General of any possible
15 violations of the Mail Order Contact Lens Act. If the Attorney
16 General has reason to believe that an out-of-state person is
17 operating in violation of the act, the Attorney General may
18 commence an action in the district court of Lancaster County to
19 enjoin such person from further mailing, shipping, or otherwise
20 delivering contact lenses into Nebraska.

21 Sec. 92. The department, upon the joint recommendation
22 of the Board of Pharmacy, Board of Optometry, and Board of Medicine
23 and Surgery, may adopt and promulgate rules and regulations for
24 enforcement of the Mail Order Contact Lens Act."

25 2. Re-number the remaining sections and correct internal
26 references accordingly.

27 3. Correct the operative date provision and repealer so

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- 1 that the sections added by this amendment become operative on their
- 2 effective date with the emergency clause.