

capacity and perform the duties, functions, and responsibilities required by statute until the completion of the term of office to which the person was elected or until a vacancy occurs in the office, whichever occurs earlier.

Subd. 4. PUBLISHING RESOLUTION; PETITION, REFERENDUM. The county board may provide for the appointment of a county office as permitted in this section if the resolution to make the office appointive is approved by at least 80 percent of the members of the county board. Before the adoption of the resolution, the county board must publish a resolution notifying the public of its intent to consider the option once each week for two consecutive weeks in the official publication of the county. Following the publication, the county board shall provide an opportunity at its next regular meeting for public comment relating to the option, prior to formally adopting the option. The resolution may be implemented without the submission of the question to the voters of the county unless, within 30 days after the second publication of the resolution, a petition requesting a referendum, signed by at least ten percent of the registered voters of the county, is filed with the county auditor. If a petition is filed, the resolution may be implemented unless disapproved by a majority of the voters of the county voting on the question at a regular or special election.

Subd. 5. EFFECTIVE DATE; LOCAL APPROVAL. This section is effective the day after the governing body of Polk county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Presented to the governor March 20, 2002

Signed by the governor March 22, 2002, 2:11 p.m.

CHAPTER 259—S.F.No. 2627

An act relating to health; requiring optometrists and ophthalmologists to give patients copies of their prescriptions for contact lenses; establishing other requirements for access to and the content of prescriptions for contact lenses; proposing coding for new law in Minnesota Statutes, chapter 145.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [145.711] DEFINITIONS.

Subdivision 1. APPLICATION. For purposes of sections 145.711 to 145.714, the following definitions apply.

Subd. 2. DISPENSING. “Dispensing” means the retail delivery of ophthalmic goods to a patient.

Subd. 3. FITTING. “Fitting” means the performance of mechanical procedures and measurements necessary to adapt and fit contact lenses after an eye examination

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and supervision of the trial wearing of the contact lenses, which may require revisions during the trial period.

Subd. 4. **OPHTHALMIC GOODS.** “Ophthalmic goods” means eyeglasses, one or more eyeglass components for which a prescription is required, or contact lenses.

Subd. 5. **OPHTHALMIC SERVICES.** “Ophthalmic services” means the measuring, fitting, adjusting, fabricating, or prescribing of ophthalmic goods after an eye examination.

Subd. 6. **OPTOMETRIST.** “Optometrist” means an individual licensed to practice optometry under sections 148.52 to 148.62.

Subd. 7. **PATIENT.** “Patient” means a person who has had an eye examination.

Subd. 8. **PRESCRIPTION.** “Prescription” means a written directive from an optometrist or physician for contact lenses that must include the manufacturer’s brand name, power, base curve, the name and telephone number of the prescribing optometrist or physician, patient’s name, and the expiration date of the prescription. If applicable, the prescription may also include diameter, axis, add power, cylinder, peripheral curve, optical zone, or center thickness.

Subd. 9. **PHYSICIAN.** “Physician” means an individual licensed to practice medicine under chapter 147.

Sec. 2. [145.712] REQUIREMENTS FOR CONTACT LENSES PRESCRIPTIONS.

Subdivision 1. **COPY OF PRESCRIPTION.** An optometrist or physician must provide a patient with a copy of the patient’s prescription upon completion of the patient’s eye examination and fitting. An optometrist or physician may refuse to give a patient a copy of the patient’s prescription until after the patient has paid for the eye examination and fitting, but only if the optometrist or physician would have required immediate payment from that patient if the examination had revealed that no ophthalmic goods were required.

Subd. 2. **PRESCRIPTION EXPIRATION DATE.** A prescription written by an optometrist or physician must expire two years after it is written, unless a different expiration date is warranted by the patient’s ocular health. If the prescription is valid for less than two years, the optometrist or physician must note the medical reason for the prescription’s expiration date in the patient’s record and must orally explain to the patient at the time of the eye examination the reason for the prescription’s expiration date.

Subd. 3. **PRESCRIPTION VERIFICATION.** An optometrist or physician must promptly respond to any request received from a physician, optometrist, optician, or contact lens retailer to verify a patient’s prescription information in order for the person requesting the information to accurately dispense the contact lenses. Verification must be requested by telephone, fax, or through electronic communications during the prescriber’s normal business hours. Consistently failing to respond to verification

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requests within a reasonable period of time is grounds for disciplinary action by the respective regulatory board.

Subd. 4. PROHIBITED CONDUCT. When filling a contact lens prescription, no optometrist, physician, or contact lens retailer may:

(1) substitute or in any way dispense a different contact lens than the contact lens ordered on the prescription;

(2) dispense a contact lens for a period of time beyond the written expiration date;
or

(3) dispense contact lenses that are not based on prescription parameters pursuant to a valid prescription.

Subd. 5. DISPENSING RECORDS. A copy of the dispensing records must be kept on file at the dispensing location for a period of no less than two years.

Sec. 3. [145.713] OPTOMETRIST AND PHYSICIAN PRACTICES.

Subdivision 1. PROHIBITED CONDUCT. No optometrist or physician may:

(1) condition the availability of an eye examination or the release of a prescription to a patient on a requirement that the patient agree to purchase ophthalmic goods from the optometrist or physician who performed the eye examination or from another specified optometrist or physician;

(2) charge a patient a fee in addition to the optometrist's or physician's examination and fitting fees as a condition of releasing the prescription to the patient. An optometrist or physician may charge a reasonable additional fee for fitting ophthalmic goods dispensed by another practitioner if that fee is imposed at the time the fitting is performed; or

(3) prescribe a manufacturer's brand name contact lens that can only be dispensed through the prescribing physician or optometrist's office.

Subd. 2. CONTRAINDICATIONS FOR CONTACT LENSES. If an optometrist or physician determines that a patient's ocular health presents a contraindication for contact lenses, the optometrist or physician must orally inform the patient of the contraindication and must document the contraindication in the patient's records. An optometrist or physician may exclude categories of contact lenses where clinically indicated.

Subd. 3. WAIVERS OF LIABILITY PROHIBITED. No optometrist or physician may place on a patient's prescription, require a patient to sign, or deliver to a patient a form or notice waiving liability or responsibility for the accuracy of the eye examination or the accuracy of the ophthalmic goods and ophthalmic services dispensed by another practitioner. Prohibiting waivers of liability under this subdivision does not impose liability on an optometrist or physician for the ophthalmic goods or ophthalmic services dispensed by another practitioner pursuant to the optometrist's or physician's prescription.

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Sec. 4. [145.714] ENFORCEMENT.

Failure to comply with sections 145.711 to 145.713 shall be grounds for disciplinary action by the board of optometry or the board of medical practice.

Presented to the governor March 20, 2002

Signed by the governor March 22, 2002, 2:07 p.m.

CHAPTER 260—S.F.No. 3115

An act relating to state government; regulating state energy savings contracts; amending Minnesota Statutes 2000, section 16C.14.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2000, section 16C.14, is amended to read:

16C.14 ENERGY EFFICIENCY INSTALLMENT PURCHASES.

Subdivision 1. **CONTRACT CONDITIONS.** The commissioner may contract to purchase by installment payments capital or other equipment or services intended to improve the energy efficiency or reduce the energy costs of a state building or facility if:

(1) the term of the contract does not exceed ~~ten~~ 15 years, with not more than a ~~ten-year~~ 15-year payback beginning at the completion of the project;

(2) the entire cost of the contract is a percentage of the resultant savings in energy costs only and measurable operational costs. "Savings in energy cost" means a comparison of energy cost and energy usage under the precontract conditions, including reasonable projections of energy cost and usage if no change is made to the precontract conditions, against energy cost and usage with the changes made under the contract. If it is impractical not cost effective to directly measure energy cost and/or energy usage, reasonable engineering estimates may be substituted for measured results. "Savings in measurable operational costs" may include savings from inventory reductions and outside maintenance expense, but do not include savings from in-house staff labor;

(3) the contract for purchase must be completed using a solicitation;

(4) the commissioner has determined that the contract vendor is a responsible vendor;

(5) the contract vendor can finance or obtain financing for the performance of the contract without state assistance or guarantee; and

(6) the state may unilaterally cancel the agreement if the legislature fails to appropriate funds to continue the contract or if the contractor at any time during the

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