

**NOTE:** As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used for other purposes.

The most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR: Coll DATE TYPED: 2/16/03 HB 497

SHORT TITLE: Contact Lens Prescriptions to Patients SB \_\_\_\_\_

ANALYST: Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

Relates and conflicts with HB248

### SOURCES OF INFORMATION

#### Responses Received From

Regulation & Licensing (RLD)  
Board of Medical Examiners (BME)

### SUMMARY

#### Synopsis of Bill

House Bill 497 allows patients to have copies of their contact or corneal lens prescription. HB 497 still requires clinical assessment of the patient by the optometrist and verification of the prescription by the optometrist, but makes it easier for a patient to go to a “seller”.

#### Significant Issues

RLD has provided the following related to HB 497. The bill:

1. Deletes important provisions related to requirements for prescriptions for eyeglasses and pharmaceutical agents. The repeal of the contents of a prescription includes repeal of the contents of a contact lens prescription or a spectacle prescription.

2. Removes the sale or dispensing of contact lenses, which are medical prosthetic devices, from the defined practice of optometry, thus allowing anybody to sell contacts at retail upon a valid prescription;
3. Adds definition of a contact lens seller, but does not include restrictions, requirements, qualifications, etc., on who can be a “seller”. Hence, a seller could be a flea market vendor, a beauty supply owner, a clothing store owner, etc. as long as the buyer provides a valid prescription;
3. Does not include any requirements for positive verification of contact lens prescriptions by the seller;
4. Establishes the contact lens prescription expiration period to be a mandatory minimum of 24- months (unless documented medical conditions warrant a shorter period), but does not provide for a maximum date of expiration;
5. Deletes an important provision that requires the contact lens fitting to be performed in the optometrist or physician’s office. Since fitting is included in the definition of the scope of practice of optometry, only those exempt from the optometry law, physicians, can fit contact lenses; and
6. Does not include language that would require retail (third-party) sellers and dispensers of contact lenses to meet any requirements and to register to sell these medical prosthetic devices regulated by the FDA and the Pharmacy Board.

### **FISCAL IMPLICATIONS**

RLD claims there will be an increased workload for the Optometry Board and they will need additional resources, but RLD did not give a specific amount.

### **ADMINISTRATIVE IMPLICATIONS**

RLD notes increased complaints will increase administrative costs, and require more staff and board time to process, review, and take action on these complaints. Since the Optometry Board shares two FTEs with two other boards, this increased workload will have a detrimental affect on performance measures and customer service for all three boards.

### **OTHER SUBSTANTIVE ISSUES**

Optometrists are health providers bound by patient confidentiality laws. Release of medical records requires a signed patient release. HB497 requires optometrists to release patient information without a signed written release by the patient.

HB497 does not establish any provisions to ensure that the contact lens seller obeys the laws and regulations established by the FDA or the State when they sell contact lenses to New Mexico consumers.

**DW/njw**

