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**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 2. HEALING ARTS [500 - 4999.129]** ( Division 2 enacted by Stats. 1937, Ch. 399. )

**CHAPTER 5.5. Registered Dispensing Opticians [2550 - 2568]** ( Chapter 5.5 added by Stats. 1939, Ch. 955. )

**ARTICLE 2.5. Nonresident Ophthalmic Lens Dispensers [2564.70 - 2564.80]** ( Article 2.5 heading added by Stats. 2021, Ch. 630, Sec. 65. )

**2564.70.** This act may be cited as the "Nonresident Ophthalmic Lens Dispenser Registration Act."

(Added by renumbering Section 2546 by Stats. 2021, Ch. 630, Sec. 26. (AB 1534) Effective January 1, 2022.)

**2564.71.** (a) A person located outside California shall not ship, mail, furnish, or deliver in any manner, ophthalmic lenses at retail to a patient at a California address unless the person is registered with the California State Board of Optometry.

(b) With regard to any person subject to registration pursuant to this section, only spectacle lenses and replacement contact lenses provided pursuant to a valid prescription as described in Section 2564.76 may be shipped, mailed, furnished, or delivered directly to a patient.

(Added by renumbering Section 2546.1 by Stats. 2021, Ch. 630, Sec. 27. (AB 1534) Effective January 1, 2022.)

**2564.73.** The board may adopt, amend, or repeal any rules and regulations that are reasonably necessary to carry out this article.

(Added by renumbering Section 2546.3 by Stats. 2021, Ch. 630, Sec. 29. (AB 1534) Effective January 1, 2022.)

**2564.74.** (a) Application for registration as a nonresident ophthalmic lens dispenser shall be made on forms prescribed by the board, accompanied by the fee prescribed by this article, and shall bear the signature of the individual, or individuals if a copartnership, or the president or secretary if a corporation, and shall contain the name or fictitious or assumed name, if applicable, under which the person proposes to do business, location of the business, registration number issued by the board, if applicable, and the designation of an agent for service of process in California.

(b) The board shall be notified in writing within 30 days of any change of name or fictitious or assumed name, location of business, corporate officer, or agent of service.

(Added by renumbering Section 2546.4 by Stats. 2021, Ch. 630, Sec. 30. (AB 1534) Effective January 1, 2022.)

**2564.75.** In order to obtain and maintain registration, a nonresident ophthalmic lens dispenser shall:

(a) Be in good standing and either registered or otherwise authorized in the state or jurisdiction in which the selling facility is located and from which the ophthalmic lenses are sold.

(b) Comply with all directions and requests for information made by the board as authorized under this article.

(c) Maintain records of ophthalmic lenses shipped, mailed, furnished, or delivered to patients in California for a period of at least three years.

(d) Provide a toll-free telephone service for responding to patient questions and complaints during the applicant's regular hours of operation, but in no event less than six days per week and 40 hours per week. The toll-free number shall be included in literature provided with each mailed ophthalmic lens prescription. All questions relating to eye care for the lens prescribed shall be referred back to the ophthalmic lens prescriber.

(e) Provide the following or a substantially equivalent written notification to the patient whenever contact lenses are supplied:

WARNING: IF YOU ARE HAVING ANY UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE, OR REDNESS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR

## LENSES AGAIN.

(f) Disclose in any price advertisement any required membership fees or enrollment fees and indicate that shipping costs may apply unless the advertisement specifically and clearly states otherwise.

(g) Provide a toll-free telephone number, facsimile line, and email address that are dedicated to prescribers and their authorized agents for the purposes of confirmation of ophthalmic lens prescriptions. These numbers, along with an email address, shall be included in any communication with the prescriber when requesting confirmation of an ophthalmic lens prescription.

(h) It shall be considered a deceptive marketing practice for any nonresident ophthalmic lens dispenser to publish or cause to be published any advertisement or sales presentation relating to ophthalmic lenses representing that ophthalmic lenses may be obtained without confirmation of a valid prescription.

*(Added by renumbering Section 2546.5 by Stats. 2021, Ch. 630, Sec. 31. (AB 1534) Effective January 1, 2022.)*

**2564.76.** (a) Ophthalmic lenses may be sold only upon receipt of a written prescription or a copy of a written prescription and may be sold in quantities consistent with the prescription's established expiration date and the standard packaging of the manufacturer or vendor. If the written prescription or a copy of it is not available to the dispenser, the dispenser shall confirm the prescription by direct communication with the prescriber or the prescriber's authorized agent before furnishing, shipping, mailing, or delivering any lens, and maintain a record of the communication. A prescription shall be deemed confirmed upon the occurrence of one of the following:

(1) The prescriber or the prescriber's agent confirms the prescription by communication with the dispenser.

(2) The prescriber fails to communicate with the dispenser within eight business hours after the dispenser requests confirmation, or the prescriber fails to communicate with the dispenser by the next business day on or before the same time of day that the dispenser requested confirmation, whichever is sooner. For purposes of this paragraph, "business day" means each day except a Sunday or a federal holiday.

(b) If a prescriber communicates with a dispenser before the time period described in paragraph (2) of subdivision (a) elapses and informs the dispenser that the ophthalmic lens prescription is invalid, the dispenser shall not fill the prescription. The prescriber shall specify in the communication with the dispenser the basis for invalidating the prescription.

(c) A dispenser shall not alter any of the specifications of an ophthalmic lens prescription, other than the color, or substitute a different manufacturer, brand, or other physical property of the lens.

(d) Notwithstanding the provisions of this section, if the ophthalmic lens is manufactured by a company, but sold under multiple private labels by that same company to individual providers, the dispenser may fill the prescription with an ophthalmic lens manufactured by that company if the ophthalmic lens prescription and the related parameters are not substituted, changed, or altered for a different manufacturer or brand.

*(Added by renumbering Section 2546.6 by Stats. 2021, Ch. 630, Sec. 32. (AB 1534) Effective January 1, 2022.)*

**2564.77.** (a) A certificate may be denied, to the extent authorized by Section 480, or suspended, revoked, or otherwise subjected to discipline for any of the following:

(1) Incompetence, gross negligence, or repeated similar negligent acts performed by the registrant or any employee of the registrant.

(2) An act of dishonesty or fraud.

(3) Committing any act or being convicted of a crime constituting grounds for denial of licensure or registration under Section 480.

(4) Any violation of Section 2564.75 or 2564.76.

(b) The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all powers granted therein.

*(Added by renumbering Section 2546.7 by Stats. 2021, Ch. 630, Sec. 33. (AB 1534) Effective January 1, 2022.)*

**2564.78.** Every registration issued to a nonresident ophthalmic lens dispenser shall expire 24 months after the initial date of issuance. To renew an unexpired registration, the registrant shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this article.

*(Added by renumbering Section 2546.8 by Stats. 2021, Ch. 630, Sec. 34. (AB 1534) Effective January 1, 2022.)*

**2564.79.** The amount of fees prescribed in connection with the registration of nonresident ophthalmic lens dispensers is that established by the following schedule:

- (a) The application fee for a nonresident ophthalmic lens dispenser shall be a minimum of one hundred fifty dollars (\$150) and shall not exceed two hundred dollars (\$200).
- (b) The initial registration fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).
- (c) The renewal fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).
- (d) The delinquency fee shall be a minimum of fifty dollars (\$50) and shall not exceed seventy-five dollars (\$75).
- (e) The fee for replacement of a lost, stolen, or destroyed registration shall be twenty-five dollars (\$25).
- (f) The California State Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d), and these revised fees shall not exceed the reasonable regulatory cost.
- (g) The fees collected pursuant to this chapter shall be deposited in the Optometry Fund, and shall be available, upon appropriation, to the California State Board of Optometry for the purposes of this chapter.

*(Added by renumbering Section 2546.9 by Stats. 2021, Ch. 630, Sec. 35. (AB 1534) Effective January 1, 2022.)*

**2564.80.** (a) Any person who violates any of the provisions of this chapter shall be subject to a fine of not less than one thousand dollars (\$1,000) nor more than thirty-five thousand dollars (\$35,000) per violation. The fines collected pursuant to this section shall be available upon appropriation to the California State Board of Optometry for the purposes of administration and enforcement.

(b) The California State Board of Optometry shall adopt regulations implementing this section and shall consider the following factors, including, but not limited to, applicable enforcement penalties, prior conduct, gravity of the offense, and the manner in which complaints will be processed.

(c) The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

*(Added by renumbering Section 2546.10 by Stats. 2021, Ch. 630, Sec. 36. (AB 1534) Effective January 1, 2022.)*