

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2016**

Bill Number: S. 215 Name of Bill: An act relating to the regulation of vision insurance plans

Agency/ Dept: DFR Author of Bill Review: Emily Kisicki, Asst. General Counsel

Date of Bill Review: 5/6/16 Related Bills and Key Players \_\_\_\_\_

Status of Bill: (check one): ☐ Upon Introduction ☐ As passed by 1<sup>st</sup> body ☒ As passed by both

**Recommended Position:**

☐ Support ☒ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

**Analysis of Bill**

**1. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*

The bill prohibits vision care or health insurance plans from limiting an optometrist, ophthalmologist or independent optician's ability to use out-of-network products, services, materials, or optical laboratories.

**2. Is there a need for this bill?** *Please explain why or why not.*

No – this is a private contractual issue between the insurers (vision care plan provider) and optometrists who contract for provision of services to plan members.

**3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**

The bill charges the Department with enforcing the provisions of the bill outside the scope of its proper regulatory authority (DFR does not regulate private contractual relations between businesses) which is problematic. The Commissioner testified several times before several committees about the dangerous precedent this would establish.

**4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

Unlikely to impact other Departments, may touch DVHA for Medicaid plans.

**5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*  
N/A

**6. Other Stakeholders:**

**6.1 Who else is likely to support the proposal and why?**

The Vermont Optometrist Association – this association (represented by the Shouldice lobbying firm) was the driving force behind the bill despite having been told by DFR for the past several years that this is not a regulatory issue but one of market competition and private contractual relations. DFR was told originally by the optometrists that certain vision plan contracts were impeding their ability to make more money. They quickly recast the issue as a “consumer protection” issue in order to gain traction before the legislature. It was introduced by Senator Mullin.

**6.2 Who else is likely to oppose the proposal and why?**

The National Association of Vision Care Plans – they contend that it is a private contractual issue and consumers may be harmed by higher pricing when an optometrist chooses out-of-network options.

**7. Rationale for recommendation:** *Justify recommendation stated above.*

The Department recommends that the Governor **veto** this bill. It is unnecessary, and inappropriately inserts the Department into private commercial contractual relationships between plan providers and optometrists.

**8. Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

This bill is unnecessary however, at a minimum, section 4(f) that gives enforcement responsibility to the Department should be changed. Enforcement should not be with the Department but placed with another entity (Attorney General's consumer protection office, the Green Mountain Care Board or DVHA, perhaps).

**9. Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?**

N/A

~~Secretary/Commissioner~~ has reviewed this document: *Susan L. Hagan* Date: 5/9/16