

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 19

AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-1-9.5-2.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 2.2. As used in this chapter, "eye care professional" means either of the following:**

- (1) **A physician licensed under IC 25-22.5 who practices ophthalmology.**
- (2) **An optometrist licensed under IC 25-24.**

SECTION 2. IC 25-1-9.5-2.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 2.8. As used in this chapter, "ophthalmic device" means either of the following:**

- (1) **Eye glasses.**
- (2) **Contact lenses.**

SECTION 3. IC 25-1-9.5-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 4.5. As used in this chapter, "refraction" means a test that is performed to measure an individual's prescription for eye glasses or contact lenses.**

SECTION 4. IC 25-1-9.5-8, AS AMENDED BY P.L.211-2019, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 8. (a) A prescriber may issue a prescription to a**

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patient who is receiving services through the use of telemedicine if the patient has not been examined previously by the prescriber in person if the following conditions are met:

- (1) The prescriber has satisfied the applicable standard of care in the treatment of the patient.
- (2) The issuance of the prescription by the prescriber is within the prescriber's scope of practice and certification.
- (3) The prescription:
 - (A) meets the requirements of subsection (b); and
 - (B) is not for an opioid. However, an opioid may be prescribed if the opioid is a partial agonist that is used to treat or manage opioid dependence.
- (4) The prescription is not for an abortion inducing drug (as defined in IC 16-18-2-1.6).
- ~~(5) The prescription is not for an ophthalmic device, including:~~
 - ~~(A) glasses;~~
 - ~~(B) contact lenses; or~~
 - ~~(C) low vision devices.~~
- (5) If the prescription is for a medical device, including an ophthalmic device, the prescriber must use telemedicine technology that is sufficient to allow the provider to make an informed diagnosis and treatment plan that includes the medical device being prescribed. However, a prescription for an ophthalmic device is also subject to the conditions in section 13 of this chapter.**

(b) Except as provided in subsection (a), a prescriber may issue a prescription for a controlled substance (as defined in IC 35-48-1-9) to a patient who is receiving services through the use of telemedicine, even if the patient has not been examined previously by the prescriber in person, if the following conditions are met:

- (1) The prescriber maintains a valid controlled substance registration under IC 35-48-3.
- (2) The prescriber meets the conditions set forth in 21 U.S.C. 829 et seq.
- (3) The patient has been examined in person by a licensed Indiana health care provider and the licensed health care provider has established a treatment plan to assist the prescriber in the diagnosis of the patient.
- (4) The prescriber has reviewed and approved the treatment plan described in subdivision (3) and is prescribing for the patient pursuant to the treatment plan.
- (5) The prescriber complies with the requirements of the



INSPECT program (IC 25-26-24).

(c) A prescription for a controlled substance under this section must be prescribed and dispensed in accordance with IC 25-1-9.3 and IC 25-26-24.

SECTION 5. IC 25-1-9.5-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 13. (a) As used in this section, "HIPAA" refers to the federal Health Insurance Portability and Accountability Act.**

(b) A prescriber may not issue a prescription for an ophthalmic device unless the following conditions are met:

(1) If the prescription is for contact lenses or eyeglasses, the patient must be at least eighteen (18) years of age but not more than fifty-five (55) years of age.

(2) The patient must have completed a medical eye history that includes information concerning the following:

(A) Chronic health conditions.

(B) Current medications.

(C) Eye discomfort.

(D) Blurry vision.

(E) Any prior ocular medical procedures.

(3) The patient must have had a prior prescription from a qualified eye care professional that included a comprehensive in person exam that occurred within two (2) years before the initial use of telemedicine for a refraction under subdivision (5)(A).

(4) If the patient desires a contact lens prescription, at the discretion of the eye care professional, that patient must have had a prior contact lens fitting or evaluation by a qualified eye care professional that occurred within two (2) years before the initial use of telemedicine for a refraction under subdivision (5)(A).

(5) The patient:

(A) may not use telemedicine more than two (2) consecutive times within two (2) years from the date of the examination that occurred under subdivision (3) for a refraction without a subsequent in person comprehensive eye exam; and

(B) must acknowledge that the patient has had a comprehensive eye exam as required under clause (A) before receiving an online prescription.

(6) The patient may allow the prescriber to access the patient's medical records using an appropriate HIPAA



compliant process.

(7) The prescriber must ensure that the transfer of all information, including the vision test and prescription, comply with HIPAA requirements.

(8) The prescriber must use technology to allow the patient to have continuing twenty-four (24) hour a day online access to the patient's prescription as soon as the prescription is signed by the prescriber.

SECTION 6. IC 25-24-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 4.5. A person may not at any time make any changes or substitutions, including:**

- (1) the brand;**
- (2) the type of lenses; or**
- (3) ophthalmic parameters;**

to a prescription for an individual for contact lenses or prescription eye glasses unless under the direction of the prescriber who issued the prescription for the contact lenses or prescription eye glasses.

SECTION 7. IC 25-24-1-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 4.7. A prescriber is not liable for any damage or injury to an individual resulting from the packaging, manufacturing, or dispensing of the contact lenses or prescription eye glasses unless the prescriber is also the seller.**

SECTION 8. IC 25-24-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 5.5. The board may not establish standards concerning the practice of ocular telemedicine or ocular telehealth that are more restrictive than the standards that are set:**

- (1) under this article; or**
- (2) by rule and applicable to the practitioner's in-person ocular practice.**



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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