



Reprinted  
February 4, 2020

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## SENATE BILL No. 19

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DIGEST OF SB 19 (Updated February 3, 2020 3:15 pm - DI 104)

**Citations Affected:** IC 25-1; IC 25-24.

**Synopsis:** Telemedicine and ophthalmic matters. Removes the restriction on the prescribing of ophthalmic devices through telemedicine and sets conditions on when a provider may, through telemedicine, prescribe medical devices. Establishes conditions that must be met before a prescriber may issue a prescription for an ophthalmic device through telemedicine. Specifies that a contact lens seller or prescriber who fills a prescription or dispenses contact lenses or prescription eye glasses bears the full responsibility for the dispensing of the contact lenses or eye glasses. Prohibits making changes and substitutions to a prescription for contact lenses or prescription eye glasses unless under the direction of the prescriber. States that 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.

**Effective:** July 1, 2020.

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## Charbonneau, Messmer

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January 6, 2020, read first time and referred to Committee on Health and Provider Services.

January 30, 2020, amended, reported favorably — Do Pass.

February 3, 2020, read second time, amended, ordered engrossed.

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SB 19—LS 6421/DI 77





Reprinted  
February 4, 2020

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 BILL No. 19

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

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

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

- 5 (1) **An ophthalmologist licensed under IC 25-22.5.**  
6 (2) **An optometrist licensed under IC 25-24.**

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

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

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

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1 SECTION 4. IC 25-1-9.5-8, AS AMENDED BY P.L.211-2019,  
 2 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2020]: Sec. 8. (a) A prescriber may issue a prescription to a  
 4 patient who is receiving services through the use of telemedicine if the  
 5 patient has not been examined previously by the prescriber in person  
 6 if the following conditions are met:

7 (1) The prescriber has satisfied the applicable standard of care in  
 8 the treatment of the patient.

9 (2) The issuance of the prescription by the prescriber is within the  
 10 prescriber's scope of practice and certification.

11 (3) The prescription:

12 (A) meets the requirements of subsection (b); and

13 (B) is not for an opioid. However, an opioid may be prescribed  
 14 if the opioid is a partial agonist that is used to treat or manage  
 15 opioid dependence.

16 (4) The prescription is not for an abortion inducing drug (as  
 17 defined in IC 16-18-2-1.6).

18 ~~(5) The prescription is not for an ophthalmic device, including:~~

19 ~~(A) glasses;~~

20 ~~(B) contact lenses; or~~

21 ~~(C) low vision devices.~~

22 **(5) If the prescription is for a medical device, including an**  
 23 **ophthalmic device, the prescriber must use telemedicine**  
 24 **technology that is sufficient to allow the provider to make an**  
 25 **informed diagnosis and treatment plan that includes the**  
 26 **medical device being prescribed. However, a prescription for**  
 27 **an ophthalmic device is also subject to the conditions in**  
 28 **section 13 of this chapter.**

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

34 (1) The prescriber maintains a valid controlled substance  
 35 registration under IC 35-48-3.

36 (2) The prescriber meets the conditions set forth in 21 U.S.C. 829  
 37 et seq.

38 (3) The patient has been examined in person by a licensed Indiana  
 39 health care provider and the licensed health care provider has  
 40 established a treatment plan to assist the prescriber in the  
 41 diagnosis of the patient.

42 (4) The prescriber has reviewed and approved the treatment plan



- 1 described in subdivision (3) and is prescribing for the patient  
 2 pursuant to the treatment plan.
- 3 (5) The prescriber complies with the requirements of the  
 4 INSPECT program (IC 25-26-24).
- 5 (c) A prescription for a controlled substance under this section must  
 6 be prescribed and dispensed in accordance with IC 25-1-9.3 and  
 7 IC 25-26-24.
- 8 SECTION 5. IC 25-1-9.5-13 IS ADDED TO THE INDIANA CODE  
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 10 1, 2020]: **Sec. 13. (a) As used in this section, "HIPAA" refers to the  
 11 federal Health Insurance Portability and Accountability Act.**
- 12 **(b) A prescriber may not issue a prescription for an ophthalmic  
 13 device unless the following conditions are met:**
- 14 **(1) If the prescription is for contact lenses or eyeglasses, the  
 15 patient must be at least eighteen (18) years of age but not  
 16 more than fifty-five (55) years of age.**
- 17 **(2) The patient must have completed a medical eye history  
 18 that includes information concerning the following:**
- 19 **(A) Chronic health conditions.**
- 20 **(B) Current medications.**
- 21 **(C) Eye discomfort.**
- 22 **(D) Blurry vision.**
- 23 **(E) Any prior ocular medical procedures.**
- 24 **(3) The patient must have had a prior prescription from a  
 25 qualified eye care professional that included a comprehensive  
 26 in person exam that occurred within two (2) years before the  
 27 initial use of telemedicine for a refraction under subdivision  
 28 (5)(A).**
- 29 **(4) If the patient desires a contact lens prescription, that  
 30 patient must have had a prior contact lens fitting by a  
 31 qualified eye care professional that occurred within two (2)  
 32 years before the initial use of telemedicine for a refraction  
 33 under subdivision (5)(A).**
- 34 **(5) The patient:**
- 35 **(A) may not use telemedicine more than two (2)  
 36 consecutive times within two (2) years from the date of the  
 37 examination that occurred under subdivision (3) for a  
 38 refraction without a subsequent in person comprehensive  
 39 eye exam; and**
- 40 **(B) must acknowledge that the patient has had a  
 41 comprehensive eye exam as required under clause (A)  
 42 before receiving an online prescription.**



- 1           **(6) The patient must allow the prescriber to access the**
- 2           **patient's medical records using an appropriate HIPAA**
- 3           **compliant process.**
- 4           **(7) The prescriber must ensure that the transfer of all**
- 5           **information, including the vision test and prescription,**
- 6           **comply with HIPAA requirements.**
- 7           **(8) The prescriber must use technology to allow the patient to**
- 8           **have continuing twenty-four (24) hour a day online access to**
- 9           **the patient's prescription as soon as the prescription is signed**
- 10           **by the prescriber.**

11           SECTION 6. IC 25-24-1-4.5 IS ADDED TO THE INDIANA CODE  
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 13 1, 2020]: **Sec. 4.5. (a) A contact lens seller or prescriber who fills a**  
 14 **prescription or dispenses contact lenses or prescription eye glasses**  
 15 **in Indiana bears the full responsibility for the accurate dispensing**  
 16 **of the contact lenses or prescription eye glasses as provided under**  
 17 **the prescription.**

- 18           **(b) A person may not at any time make any changes or**
- 19           **substitutions, including:**
- 20           **(1) the brand;**
- 21           **(2) the type of lenses; or**
- 22           **(3) ophthalmic parameters;**

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

27           SECTION 7. IC 25-24-1-4.7 IS ADDED TO THE INDIANA CODE  
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 29 1, 2020]: **Sec. 4.7. A prescriber is not liable for any damage or**  
 30 **injury to an individual resulting from the packaging,**  
 31 **manufacturing, or dispensing of the contact lenses or prescription**  
 32 **eye glasses unless the prescriber is also the seller.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 19, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"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) An ophthalmologist licensed under IC 25-22.5.**

**(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."**

Page 3, line 8, delete "prescriber" and insert "**eye care professional**".

Page 3, line 9, delete "." and insert "**that occurred within two (2) years before the initial use of telemedicine for a refraction under subdivision (5)(A).**".

Page 3, line 12, delete "." and insert "**that occurred within two (2) years before the initial use of telemedicine for a refraction under subdivision (5)(A).**".

Page 3, delete lines 30 through 36.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 19 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 9, Nays 1.

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## SENATE MOTION

Madam President: I move that Senate Bill 19 be amended to read as follows:

Page 3, line 36, delete "for an eye examination" and insert "**within two (2) years from the date of the examination that occurred under subdivision (3) for a refraction**".

Page 4, after line 8, begin a new paragraph and insert:

"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) A contact lens seller or prescriber who fills a prescription or dispenses contact lenses or prescription eye glasses in Indiana bears the full responsibility for the accurate dispensing of the contact lenses or prescription eye glasses as provided under the prescription.**

**(b) 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."**

Renumber all SECTIONS consecutively.

(Reference is to SB 19 as printed January 31, 2020.)

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