



February 14, 2020

ENGROSSED SENATE BILL No. 19

DIGEST OF SB 19 (Updated February 12, 2020 6:32 pm - DI 77)

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

Synopsis: Electronic technology for ophthalmic prescriptions. 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. 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. Prohibits the optometry board from establishing restrictive standards concerning the practice of ocular telemedicine or ocular telehealth.

Effective: July 1, 2020.

Charbonneau, Messmer, Raatz

(HOUSE SPONSORS — KIRCHHOFFER, VERMILION, BARRETT)

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.

February 4, 2020, engrossed. Read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 10, 2020, read first time and referred to Committee on Public Health.

February 13, 2020, amended, reported — Do Pass.

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February 14, 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.

ENGROSSED SENATE BILL No. 19

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) **A physician licensed under IC 25-22.5 who practices**
6 **ophthalmology.**
7 (2) **An optometrist licensed under IC 25-24.**
8 SECTION 2. IC 25-1-9.5-2.8 IS ADDED TO THE INDIANA
9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2020]: **Sec. 2.8. As used in this chapter,**
11 **"ophthalmic device" means either of the following:**
12 (1) **Eye glasses.**
13 (2) **Contact lenses.**
14 SECTION 3. IC 25-1-9.5-4.5 IS ADDED TO THE INDIANA
15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2020]: **Sec. 4.5. As used in this chapter,**
17 **"refraction" means a test that is performed to measure an**

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1 **individual's prescription for eye glasses or contact lenses.**

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

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

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

- 35 (1) The prescriber maintains a valid controlled substance
 36 registration under IC 35-48-3.
 37 (2) The prescriber meets the conditions set forth in 21 U.S.C. 829
 38 et seq.
 39 (3) The patient has been examined in person by a licensed Indiana
 40 health care provider and the licensed health care provider has
 41 established a treatment plan to assist the prescriber in the
 42 diagnosis of the patient.



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



- 1 comprehensive eye exam as required under clause (A)
 2 before receiving an online prescription.
- 3 (6) The patient may allow the prescriber to access the
 4 patient's medical records using an appropriate HIPAA
 5 compliant process.
- 6 (7) The prescriber must ensure that the transfer of all
 7 information, including the vision test and prescription,
 8 comply with HIPAA requirements.
- 9 (8) The prescriber must use technology to allow the patient to
 10 have continuing twenty-four (24) hour a day online access to
 11 the patient's prescription as soon as the prescription is signed
 12 by the prescriber.
- 13 SECTION 6. IC 25-24-1-4.5 IS ADDED TO THE INDIANA CODE
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 2020]: **Sec. 4.5. A person may not at any time make any changes
 16 or substitutions, including:**
- 17 (1) the brand;
 18 (2) the type of lenses; or
 19 (3) ophthalmic parameters;
 20 to a prescription for an individual for contact lenses or
 21 prescription eye glasses unless under the direction of the prescriber
 22 who issued the prescription for the contact lenses or prescription
 23 eye glasses.
- 24 SECTION 7. IC 25-24-1-4.7 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2020]: **Sec. 4.7. A prescriber is not liable for any damage or
 27 injury to an individual resulting from the packaging,
 28 manufacturing, or dispensing of the contact lenses or prescription
 29 eye glasses unless the prescriber is also the seller.**
- 30 SECTION 8. IC 25-24-1-5.5 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2020]: **Sec. 5.5. The board may not establish standards
 33 concerning the practice of ocular telemedicine or ocular telehealth
 34 that are more restrictive than the standards that are set:**
- 35 (1) under this article; or
 36 (2) by rule and applicable to the practitioner's in-person
 37 ocular practice.



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.)

LEISING

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 19, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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Page 1, line 5, delete "An ophthalmologist licensed under IC 25-22.5." and insert "**A physician licensed under IC 25-22.5 who practices ophthalmology.**".

Page 3, line 29, after "prescription," insert "**at the discretion of the eye care professional,**".

Page 3, line 30, after "fitting" insert "**or evaluation**".

Page 4, line 1, delete "must" and insert "**may**".

Page 4, line 13, delete "(a) A contact lens seller or prescriber who fills a".

Page 4, delete lines 14 through 17.

Page 4, line 18, delete "(b)".

Page 4, run in lines 13 through 18.

Page 4, after line 32, begin a new paragraph and insert:

"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.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 19 as reprinted February 4, 2020.)

KIRCHHOFER

Committee Vote: yeas 12, nays 0.

