

**2021 -- H 5612 SUBSTITUTE A**

LC001805/SUB A/4

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2021**

**A N A C T**

**RELATING TO HEALTH AND SAFETY -- THE CONSUMER PROTECTION IN EYE CARE ACT**

Introduced By: Representative William W. O'Brien

Date Introduced: February 18, 2021

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 95

4 THE CONSUMER PROTECTION IN EYE CARE ACT

5 **23-95-1. Short title.**

6 This act shall be known and may be cited as "the Consumer Protection in Eye Care Act."

7 **23-95-2. Definitions.**

8 (a) As used in this chapter:

9 (1) "Assessment mechanism" means automated or virtual equipment, application, or  
10 technology designed to be used on a telephone, a computer, or an Internet-accessible device that  
11 may be used either in person or remotely to conduct an eye assessment, and includes artificial  
12 intelligence devices and any equipment, electronic or nonelectronic, that is used to perform an eye  
13 assessment.

14 (2) "Contact lens" means any lens placed directly on the surface of the eye, regardless of  
15 whether or not it is intended to correct a visual defect, including any cosmetic, therapeutic, or  
16 corrective lens.

17 (3) "Eye assessment" means an assessment of the ocular health and visual status of a patient  
18 that may include, but is not limited to, objective refractive data or information generated by an

1 automated testing device, including an autorefractor, in order to establish a medical diagnosis for  
2 the correction of vision disorders.

3 (4) "Person" means an individual, corporation, trust, partnership, incorporated or  
4 unincorporated association, and any other legal entity.

5 (5) "Prescription" means a handwritten or electronic order issued by a provider that  
6 includes:

7 (i) In the case of contact lenses, all information required by the Fairness to Contact Lens  
8 Consumers Act, 15 U.S.C. §§ 7601 et seq.;

9 (ii) In the case of visual aid glasses, all information required by the Ophthalmic Practice  
10 Rules, also known as the Eyeglass Rule, 16 C.F.R. Part 456; and

11 (iii) Necessary and appropriate information for the dispensing of visual aid glasses or  
12 contact lenses for a patient, including the provider's name, license number, physical address at  
13 which the provider practices, and telephone number.

14 (6) "Provider" means a health care professional licensed under chapters 35.1 or 37 of title  
15 5 of the general laws.

16 (7) "Visual aid glasses" means eyeglasses, spectacles, or lenses designed or used to correct  
17 visual defects, including spectacles that may be adjusted by the wearer to achieve different types  
18 or levels of visual correction or enhancement. Visual aid glasses do not include optical instrument  
19 or devices that are:

20 (i) Not intended to correct or enhance vision;

21 (ii) Sold without consideration of the visual status of the individual who will use the optical  
22 instrument or device, including nonprescription sunglasses, plano lenses that are clear, colored or  
23 tinted, or lenses that are designed and used solely to filter out light;

24 (iii) Completely assembled eyeglasses or spectacles designed and used solely to magnify;  
25 or

26 (iv) Nonprescription eyewear exempted from the provisions of § 5-35.1-10, namely simple  
27 reading magnifying glasses, toy glasses, goggles consisting of plano white or plano colored lenses,  
28 or ordinary colored glasses.

29 **23-95-3. Assessment Mechanisms.**

30 (a) An assessment mechanism to conduct an eye assessment or to generate a prescription  
31 for contact lenses or visual aid glasses in Rhode Island shall:

32 (1) Provide synchronous or asynchronous interaction between the patient and the provider;

33 (2) Collect the patient's medical history, previous prescription for corrective eyewear, and  
34 length of time since the patient's most recent in-person comprehensive eye health examination.

1 (3) Disclose to patients and require acceptance in advance as a term of use that:

2 (i) This assessment is not a replacement of an in-person comprehensive eye health  
3 examination;

4 (ii) This assessment cannot be used to generate an initial prescription for contact lenses or  
5 a follow-up or first renewal of the initial prescription.

6 (iii) This assessment may only be used if the patient has had an in-person comprehensive  
7 eye health examination within the previous twenty-four (24) months if the patient is conducting an  
8 eye assessment or receiving a prescription for visual aid glasses; and

9 (iv) The United States Centers for Disease Control and Prevention (CDC) advises contact  
10 lens wearers to visit an eye doctor one time a year or more often if needed.

11 **23-95-4. Provider responsibilities.**

12 (a) To use an assessment mechanism to conduct an eye assessment or to generate a  
13 prescription, a person shall be an actively licensed provider acting within their scope of practice,  
14 and the provider shall:

15 (1) Conform to the standard of eye health care expected of traditional in-person clinical  
16 settings as appropriate to the patient's age and presenting condition, including when the standard of  
17 care requires the use of diagnostic testing and performance of a physical examination, which may  
18 be carried out through the use of peripheral devices appropriate to the patient's condition.

19 (2) Not use the data or information obtained from an eye assessment as the sole basis for  
20 issuing a prescription.

21 (3) Read and interpret the diagnostic information and data, including any photographs and  
22 scans, gathered by the assessment mechanism.

23 (4) Verify the identity of the patient requesting treatment via the assessment mechanism.

24 (5) Verify the patient is at least eighteen (18) years of age.

25 (6) For issuing prescriptions for visual aid glasses, verify that the patient has received an  
26 in-person comprehensive eye examination by a provider within the previous twenty-four (24)  
27 months.

28 (7) For issuing prescriptions for contact lenses, verify that the patient has received an in-  
29 person comprehensive eye health examination by a provider:

30 (i) For the initial prescription and one follow-up or first renewal of the initial prescription;  
31 or

32 (ii) Within twenty-four (24) months after the follow-up or first renewal of the initial  
33 prescription, and every twenty-four (24) months thereafter.

34 (8) Create and maintain a medical record for each patient, which is for use during the

1 ongoing treatment of a patient, and complies with all state and federal laws regarding maintenance  
2 and accessibility.

3 (9) Provide a handwritten or electronic signature, along with their Rhode Island state  
4 license number, certifying their diagnosis, evaluation, treatment, prescription, or consultation  
5 recommendations of the patient.

6 **23-95-5. Penalties.**

7 (a) Any person who violates any provision of this chapter or the rules or regulations  
8 promulgated by the department of health shall, in addition to any other penalty provided by law,  
9 pay a civil penalty to the state in an amount not to exceed ten thousand dollars (\$10,000) for each  
10 violation, to be deposited as general revenue.

11 (b) Any person charged in a complaint filed by the department of health or the office of the  
12 attorney general with violating any of the provisions of this chapter shall be entitled to an  
13 administrative hearing conducted in accordance with chapter 35 of title 42.

14 (c) Any person aggrieved by a final order issued under the authority of this chapter shall  
15 have the right of an appeal by filing a petition in the state superior court.

16 (d) Nothing in this chapter shall restrict the department of health from enforcing  
17 disciplinary action against a provider pursuant to chapters 35.1 and 37 of title 5, and any rules or  
18 regulations promulgated thereunder.

19 **23-95-6. Rules and Regulations.**

20 The department of health shall adopt and promulgate reasonable rules and regulations to  
21 carry out the provisions of this chapter.

22 **23-95-7. Severability.**

23 If any provision of this chapter, or of any rule or regulation promulgated under this chapter,  
24 or the application of this chapter to any person or circumstances is held invalid by a court of  
25 competent jurisdiction, the remainder of the chapter, rule, or regulation, and the application of this  
26 provision to other persons or circumstances, shall not be affected.

27 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HEALTH AND SAFETY -- THE CONSUMER PROTECTION IN EYE CARE  
ACT

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- 1 This act would provide for consumer protection in eye care services by developing
- 2 standards and enforcement protocols in the provision of eye care services.
- 3 This act would take effect upon passage.

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