

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

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**Legislative Document**

**No. 1803**

S.P. 702

In Senate, April 29, 2025

### **An Act to Amend the Laws Governing Optometric Practice**

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Received by the Secretary of the Senate on April 25, 2025. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant", is positioned above the printed name of the Secretary of the Senate.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BRENNER of Cumberland.  
Cosponsored by Representative FOLEY of Wells and  
Senators: BALDACCI of Penobscot, FARRIN of Somerset, HAGGAN of Penobscot,  
LAWRENCE of York, STEWART of Aroostook, Representatives: FAULKINGHAM of  
Winter Harbor, MASTRACCIO of Sanford, MATHIESON of Kittery.

1       **Be it enacted by the People of the State of Maine as follows:**

2               **Sec. 1. 32 MRSA §19101, sub-§11-A** is enacted to read:

3               **11-A. Hydrocodone combination product.** "Hydrocodone combination product"  
4               means a pharmaceutical containing specified doses of hydrocodone in combination with  
5               other drugs in specified amounts.

6               **Sec. 2. 32 MRSA §19101, sub-§24,** as enacted by PL 2023, c. 580, §8, is repealed  
7               and the following enacted in its place:

8               **24. Practice of optometry.** "Practice of optometry" has the same meaning as  
9               described in section 19102.

10              **Sec. 3. 32 MRSA §19102** is enacted to read:

11       **§19102. Practice of optometry**

12              The following provisions describe the practice of optometry for the purposes of this  
13              chapter.

14              **1. Definitions.** For the purposes of this section, unless the context otherwise indicates,  
15              the following terms have the following meanings.

16              A. "Diagnostic and therapeutic pharmaceutical agent" means any prescription or  
17              nonprescription drug delivered by any route of administration, which may be used or  
18              prescribed for the diagnosis, treatment, prevention or mitigation of abnormal  
19              conditions and diseases of the visual system or the human eye and its adnexa, including  
20              approved narcotics when used in the treatment of disorders or diseases of the eye and  
21              its adnexa.

22              B. "Ophthalmic surgery" means a procedure upon the human eye and its adnexa in  
23              which in vivo tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated or  
24              photo disrupted by the use of surgical instrumentation, including, but not limited to, a  
25              scalpel, cryoprobe, laser or electric cautery, or by the use of ionizing radiation.  
26              "Ophthalmic surgery" does not include any surgical procedures that do not involve the  
27              eye or its adnexa.

28              **2. Practice of optometry.** The practice of optometry is the evaluation, diagnosis,  
29              prevention or treatment of diseases, disorders or conditions of the human vision system,  
30              eyes and adjacent and associated structures, including:

31              A. Measuring the powers and range of vision of the human eye using subjective and  
32              objective means, including the use of lenses, prisms and automated testing devices, to  
33              determine its accommodative and refractive state and general scope of function of  
34              human vision;

35              B. The adaptation, sale and dispensing of frames and lenses in all their forms to  
36              overcome errors of refraction and restore as near as possible normal human vision;

37              C. Ordering appropriate diagnostic laboratory or imaging tests for the purpose of  
38              prescribing contact lenses for prosthetic or therapeutic purposes, including  
39              orthokeratology;

40              D. The dispensing of samples to initiate treatment;

41              E. The use or prescription of lenses, prisms, vision therapy and vision rehabilitation;

1       F. The prescription of diagnostic and therapeutic pharmaceutical agents for ocular  
2       disease, by any delivery system necessary, including schedule II narcotic agents limited  
3       to hydrocodone combination products and schedule III, IV and V controlled substances  
4       as described in 21 United States Code, Section 812;

5       G. The use and prescription of medical devices; and

6       H. Ophthalmic surgery, except for the performance of the procedures described in  
7       subsection 3.

8       The practice of optometry includes the adaptation, sale and dispensing of plano or zero  
9       power contact lenses and ordering appropriate diagnostic laboratory or imaging tests to  
10      facilitate the provision of contact lenses for cosmetic purposes.

11      **3. Ophthalmic surgical procedures excluded from practice of optometry.** The  
12      following ophthalmic surgery procedures are excluded from the practice of optometry,  
13      except for the preoperative and postoperative care for those procedures:

14      A. Retina laser procedures;

15      B. Penetrating keratoplasty or corneal transplant of any kind;

16      C. Surgery performed with general anesthesia, regional anesthesia or monitored  
17      anesthesia care or the administration of such anesthesia;

18      D. Injection into the vitreous chamber of the eye to treat any retinal or macular disease;

19      E. Laser-assisted in situ keratomileusis;

20      F. Corneal implants;

21      G. Surgery related to removal of the eye from a living human being;

22      H. Surgery requiring full thickness incision or excision of the cornea or sclera;

23      I. Surgery requiring incision of the iris and ciliary body, including diathermy or  
24      cryotherapy;

25      J. Vitrectomy;

26      K. Retinal surgery;

27      L. Surgical extraction of an intraocular or crystalline lens;

28      M. Surgical implantation of an intraocular lens;

29      N. Incisional or excisional surgery of the extraocular muscles;

30      O. Surgery of the eyelid for confirmed malignancies or for incisional cosmetic or  
31      incisional mechanical repair;

32      P. Surgery of the orbit;

33      Q. Incisional or excisional surgery of the lacrimal system; and

34      R. Surgery requiring full thickness conjunctivoplasty, including pterygium or  
35      pinguecula excision.

36      **4. Credentialing requirements for surgical and laser procedures.** A person may  
37      not perform ophthalmic surgery or laser procedures unless the person has satisfied the  
38      credentialing requirements established by the board.

1        This section does not prevent a person from doing the mechanical work associated with  
2 adapting, fitting, bending, adjusting, providing, replacing or duplicating eyeglasses with  
3 ophthalmic lenses.

4        This chapter may not be construed to limit the ability of an optometrist to use diagnostic  
5 or therapeutic instruments using laser, light, radiofrequency or ultrasound technology in  
6 the performance of eye care or limit an optometrist's ability to perform ophthalmic surgical  
7 procedures other than those surgical procedures excluded under subsection 3 as long as the  
8 optometrist has satisfied the appropriate credentialing requirements of the board.

9        **Sec. 4. 32 MRSA §19103** is enacted to read:

10        **§19103. Scope of practice**

11        The following provisions govern the determination of the scope of practice of  
12 optometry.

13        **1. Rules; board authority.** The board shall adopt rules to further define the scope of  
14 practice of optometry as set out in section 19102.

15        **2. Scope of practice and public health emergencies.** The board, when there is a  
16 public health emergency, may authorize an optometrist with a license under section 19304,  
17 subsection 2, paragraph A, B or C to administer an inoculation that would not otherwise be  
18 permitted within the optometrist's scope of practice under this chapter in order to support  
19 systemic public health needs.

20        **Sec. 5. 32 MRSA §19201-A** is enacted to read:

21        **§19201-A. Exclusive authority**

22        The board has exclusive authority to determine what constitutes the practice of  
23 optometry as set out in section 19102 and as further defined by the board by rule. This  
24 chapter may not be construed to permit any agency, board or other entity of this State other  
25 than the board to determine what constitutes the practice of optometry.

26        The board has sole jurisdiction to exercise any other powers and duties of the board  
27 established under this chapter.

28        **Sec. 6. 32 MRSA §19202, sub-§8,** as enacted by PL 2023, c. 580, §8, is amended  
29 to read:

30        **8. Authority to order a mental or physical examination.** The authority to direct a  
31 licensee or license applicant, who by virtue of an application for and acceptance of a license  
32 to practice under this chapter is considered to have given consent, to submit to an  
33 examination of the board's choice. With respect to a licensee, the board may order that  
34 licensee to submit to an examination whenever information is received by the board that  
35 would cause the board to reasonably determine that the licensee may be suffering from a  
36 mental illness or physical illness that may be interfering with competent practice under this  
37 chapter or from the use of intoxicants or drugs to an extent that the use is preventing the  
38 licensee from practicing optometry competently and safely. A licensee or license applicant  
39 examined pursuant to an order of the board may not prevent the testimony of the examining  
40 individual or prevent the acceptance into evidence of the report of the examining individual  
41 in a proceeding under this chapter. The board may petition the District Court for immediate  
42 suspension of license if the licensee fails to comply with an order of the board to submit to  
43 a mental or physical examination pursuant to this subsection; ~~and~~

1           **Sec. 7. 32 MRSA §19202, sub-§9**, as enacted by PL 2023, c. 580, §8, is amended  
2 to read:

3           **9. Report.** The duty to submit to the commissioner, on or before August 1st of each  
4 year, the board's annual report of its operations and financial position for the preceding  
5 fiscal year ending June 30th, together with comments and recommendations the board  
6 considers essential; and

7           **Sec. 8. 32 MRSA §19202, sub-§10** is enacted to read:

8           **10. Advisory opinions; declaratory rulings.** The authority to issue advisory opinions  
9 and declaratory rulings related to this chapter and any rules adopted pursuant to this  
10 chapter.

11           **Sec. 9. 32 MRSA §19204**, as enacted by PL 2023, c. 580, §8, is amended to read:  
12 **§19204. Rulemaking Rule-making authority**

13           The board shall adopt rules that are necessary for the implementation of this chapter.  
14 The rules may include, but need not be limited to, requirements for licensure, license  
15 renewal and license reinstatement as well as practice setting standards, including scope of  
16 practice, that apply to individuals licensed under this chapter. Rules adopted pursuant to  
17 this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

18           **Sec. 10. 32 MRSA §19304, sub-§2, ¶A**, as enacted by PL 2023, c. 580, §8, is  
19 amended by amending subparagraph (1) to read:

20           (1) An optometrist who holds a therapeutic advanced glaucoma license may  
21 dispense drug samples at no charge and may use and prescribe any therapeutic  
22 pharmaceutical, for ocular conditions including for the treatment of glaucoma. An  
23 optometrist with a therapeutic advanced glaucoma license may prescribe any drug  
24 identified in schedules III, IV and V and schedule II narcotic agents limited to  
25 hydrocodone combination products as described in 21 United States Code, Section  
26 812, for any purpose associated with ocular conditions and diseases except for oral  
27 chemotherapeutic agents, oral immunosuppressive agents and oral  
28 immunostimulant agents.

29           **Sec. 11. 32 MRSA §19304, sub-§2, ¶A**, as enacted by PL 2023, c. 580, §8, is  
30 amended by amending subparagraph (2) to read:

31           (2) ~~Nothing in this~~ This paragraph may not be construed to permit the optometric  
32 use of pharmaceutical agents that are:

33           (a) Controlled substances identified in schedules I and II as described in 21  
34 United States Code, Section 812, except for schedule II narcotic agents limited  
35 to hydrocodone combination products; and

36           ~~(b) Administered exclusively by subdermal injection, intramuscular injection,~~  
37 ~~intravenous injection, subcutaneous injection or retrobulbar injection, except~~  
38 ~~injections for the emergency treatment of anaphylactic shock; and~~

39           (c) For the specific treatment of a systemic disease unless the pharmaceutical  
40 agent is used specifically for an ocular disease.

**Sec. 12. 32 MRSA §19312, sub-§2, ¶D**, as enacted by PL 2023, c. 580, §8, is amended to read:

D. The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that an optometrist may fill a prescription of another optometrist or a physician without a copy of the prescription. Mail order contact lens suppliers must be licensed by and register with the Maine Board of Pharmacy pursuant to Title 32, section 13751 and are subject to discipline by that board for violations of that board's rules and the laws governing the board. An individual who fills a contact lens prescription shall maintain a copy of that prescription for a period of 5 10 years. A dispensing party other than an optometrist with an optometrist-patient relationship shall forward a copy of the details of a prescription for contact lenses to the optometrist with the optometrist-patient relationship.

**Sec. 13. 32 MRSA §19602**, as enacted by PL 2023, c. 580, §8, is amended to read:

**§19602. Telehealth services permitted**

A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this ~~subchapter~~ chapter and in accordance with standards of practice.

**Sec. 14. 32 MRSA §19605**, as enacted by PL 2023, c. 580, §8, is amended to read:

**§19605. Rulemaking**

The board shall adopt rules governing the provision of telehealth services by a person licensed under this chapter in accordance with section 19204. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services.

## SUMMARY

This bill amends provisions of the law governing optometrists.

The bill provides a more detailed explanation of what constitutes the practice of optometry. The definition of "practice of optometry" in current law does not include surgical procedures. Under the bill, certain types of ophthalmic surgeries are included in the practice of optometry and certain procedures are specifically excluded. An optometrist may only perform ophthalmic surgery if the optometrist meets credentialing requirements established by the State Board of Optometry. The bill also broadens the authority of an optometrist to dispense drugs by expanding the types of drugs an optometrist may dispense to include schedule II narcotics limited to pharmaceuticals containing specified doses of hydrocodone combined with doses of another drug and by removing language that prohibits an optometrist from administering drugs by injection or intravenously. The bill directs the board to adopt rules to further define the scope of practice of optometry and establish credentialing requirements for surgical procedures.

The bill clarifies that the board, and no other board or commission in the State, has the authority to define the scope of practice of optometry and to exercise the powers of the board. The bill authorizes the board to issue advisory opinions and declaratory rulings.

1           The bill also makes minor changes to the provisions relating to telehealth services and  
2           filling contact lense and spectacle prescriptions.