

MAINE STATE LEGISLATURE

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L.D. 1956

Date: 3/1/24

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HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1258, L.D. 1956, "An Act to Amend the Laws Governing Optometrists"

Amend the bill by inserting after section 1 the following:

Sec. 2. 10 MRSA §8001-A, sub-§6, as enacted by PL 1989, c. 450, §5, is repealed and the following enacted in its place:

6. State Board of Optometry. Optometry, State Board of:

Amend the bill in section 2 in paragraph A in the 2nd line (page 1, line 10 in L.D.) by striking out the following: "149" and inserting the following: '151'

Amend the bill in section 2 in paragraph A in the last line (page 1, line 11 in L.D.) by striking out the following: "chapter 48" and inserting the following: 'chapter 48 chapter 36, 48 or 145'

Amend the bill in section 4 in the last paragraph in the 2nd line (page 1, line 16 in L.D.) by striking out the following: "149" and inserting the following: '151'

Amend the bill in section 5 in the last paragraph in the 2nd line (page 1, line 25 in L.D.) by striking out the following: "149" and inserting the following: '151'

Amend the bill in section 6 in §3300-E in the first indented paragraph in the first line (page 1, line 35 in L.D.) by striking out the following: "section 3275" and inserting the following: 'section 3275 chapter 36, 48 or 145'

Amend the bill in section 7 in the amending clause in the first line (page 1, line 39 in L.D.) by striking out the following: "149" and inserting the following: '151'

Amend the bill in section 7 in c. 149 in the first line (page 1, line 40 in L.D.) by striking out the following: "149" and inserting the following: '151'

Amend the bill in section 7 in c. 149 in sub-c. 1 in §19101 by inserting after subsection 12 the following:

COMMITTEE AMENDMENT

1 **'13. In person. "In person" means, with regard to a visit between a licensee and a**
2 **patient, that the licensee and the patient are physically in the same room.'**

3 Amend the bill in section 7 in c. 149 in sub-c. 1 in §19101 in subsection 20 in paragraph
4 C in the 2nd line (page 3, line 30 in L.D.) by striking out the following: "whether or not"
5 and inserting the following: 'and'

6 Amend the bill in section 7 in c. 149 in sub-c. 1 in §19101 in subsection 20 in paragraph
7 C in the last line (page 3, line 31 in L.D.) by inserting after the following: "individual" the
8 following: ', unless the standard of care requires that an individual be seen without an in-
9 person visit, such as in an emergent situation as reasonably determined by the licensee'

10 Amend the bill in section 7 in c. 149 in sub-c. 1 in §19101 in subsection 20 in the first
11 blocked paragraph in the 3rd line (page 3, line 34 in L.D.) by striking out the following:
12 "in the following circumstances."

13 Amend the bill in section 7 in c. 149 in sub-c. 1 in §19101 in subsection 20 in the first
14 blocked paragraph in the 5th line (page 3, line 36 in L.D.) by striking out the following:
15 "care; or" and inserting the following: 'care'

16 Amend the bill in section 7 in c. 149 in sub-c. 1 in §19101 in subsection 24 in the last
17 line (page 4, line 19 in L.D.) by striking out the following: "or 48, respectively." and
18 inserting the following: ', 48 or 145'

19 Amend the bill in section 7 in c. 149 in sub-c. 1 in §19101 in subsection 26 in the 2nd
20 line (page 4, line 25 in L.D.) by inserting after the following: "to" the following: 'diagnose.'

21 Amend the bill in section 7 in c. 149 in sub-c. 1 in §19101 by renumbering the
22 subsections to read consecutively.

23 Amend the bill in section 7 in c. 149 in sub-c. 2 in §19204 in the first indented
24 paragraph in the 4th line (page 6, line 20 in L.D.) by striking out the following: "section"
25 and inserting the following: 'chapter'

26 Amend the bill in section 7 in c. 149 in sub-c. 3 in §19303 in subsection 1 in paragraph
27 B in the first 2 lines (page 7, lines 12 and 13 in L.D.) by striking out the following: "Title
28 10, section 8003, subsection 5-A, paragraph A or under any other" and inserting the
29 following: 'section 19402 or under any other applicable'

30 Amend the bill in section 7 in c. 149 in sub-c. 3 in §19303 in subsection 1 in paragraph
31 C in the first 2 lines (page 7, lines 14 and 15 in L.D.) by striking out the following: "Title
32 10, section 8003, subsection 2-A, paragraph D and"

33 Amend the bill in section 7 in c. 149 in sub-c. 3 in §19303 in subsection 1 in paragraph
34 C in the last line (page 7, line 15 in L.D.) by inserting after the following: "3" the following:
35 'and Title 10, chapter 901'

36 Amend the bill in section 7 in c. 149 in sub-c. 3 in §19303 in subsection 2 in the first 3
37 lines (page 7, lines 17 to 19 in L.D.) by striking out the following: "Rules adopted pursuant
38 to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter
39 2-A."

40 Amend the bill in section 7 in c. 149 in sub-c. 3 in §19309 in subsection 1 in paragraph
41 C in the first line (page 9, line 38 in L.D.) by inserting after the following: "eye" the
42 following: 'in an in-person clinical setting by the licensee in accordance with any

1 requirements and restrictions imposed by this chapter and in accordance with the standard
2 of care'

3 Amend the bill in section 7 in c. 149 in sub-c. 3 in §19309 in subsection 1 in paragraph
4 E in the first line (page 9, line 40 in L.D.) by striking out the following: "plan; and" and
5 inserting the following: 'plan;'

6 Amend the bill in section 7 in c. 149 in sub-c. 3 in §19309 in subsection 1 by inserting
7 after paragraph E the following:

8 'F. If performing a refraction, the performance of an objective and subjective
9 refraction, when practicable; and'

10 Amend the bill in section 7 in c. 149 in sub-c. 3 in §19309 in subsection 1 by relettering
11 the paragraphs to read alphabetically.

12 Amend the bill in section 7 in c. 149 in sub-c. 4 in §19401 in subsection 1 in the last
13 line (page 12, line 30 in L.D.) by inserting after the following: "board" the following: ',
14 including but not limited to complaints against any person, whether or not licensed under
15 this chapter, related to actions or activities involving a kiosk or telehealth'

16 Amend the bill in section 7 in c. 149 in sub-c. 4 in §19402 in subsection 1 in the first 3
17 lines (page 13, lines 20 to 22 in L.D.) by striking out the following: "refuse to issue,
18 suspend, revoke or refuse to renew a license and may impose other disciplinary action as
19 authorized in this subsection" and inserting the following: 'deny or refuse to renew a license
20 or suspend or revoke a license and may impose other discipline'

21 Amend the bill in section 7 in c. 149 in sub-c. 4 in §19402 in subsection 1 in paragraph
22 B in the last 2 lines (page 13, lines 27 and 28 in L.D.) by striking out the following:
23 "occupation or profession for which the person is licensed" and inserting the following:
24 'practice of optometry'

25 Amend the bill in section 7 in c. 149 in sub-c. 4 in §19402 in subsection 2 in the first
26 line (page 14, line 26 in L.D.) by striking out the following: "Imposition" and inserting the
27 following: 'Complaint resolution and imposition'

28 Amend the bill in section 7 in c. 149 in sub-c. 4 in §19402 in subsection 2 in the first
29 line (page 14, line 26 in L.D.) by striking out the following: "Following a hearing, the board
30 may" and inserting the following: 'The board may resolve a complaint through consent
31 agreements or may, following a hearing,'

32 Amend the bill in section 7 in c. 149 in sub-c. 4 in §19402 in subsection 2 in the last 2
33 lines (page 14, lines 28 and 29 in L.D.) by striking out the following: ", and for any basis
34 of violation consistent with Title 10, chapter 901" and inserting the following: 'for
35 violations of this chapter, Title 10, chapter 901 or any other applicable law'

36 Amend the bill in section 7 in c. 149 in sub-c. 6 in §19605 by striking out all of the first
37 indented paragraph (page 16, lines 5 to 8 in L.D.) and inserting the following:

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

1 Amend the bill in section 7 in c. 149 in sub-c. 7 in §19701 in subsection 2 in the 2nd
2 line (page 16, line 17 in L.D.) by striking out the following: "within 30 days of" and
3 inserting the following: 'no later than 30 days prior to'

4 Amend the bill in section 7 in c. 149 in sub-c. 7 in §19702 by striking out all of the 2nd
5 indented paragraph (page 16, lines 25 to 27 in L.D.).

6 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
7 number to read consecutively.

8 SUMMARY

9 This amendment makes the following changes to the bill.

10 1. It adds a definition of "in person" as it relates to a visit between an optometrist and
11 a patient.

12 2. It provides that an optometrist-patient relationship begins when there has been an in-
13 person encounter between the optometrist and the patient, unless the standard of care
14 requires that a patient be seen without an in-person encounter, such as in an emergent
15 situation.

16 3. It changes the definition of "therapeutic pharmaceutical" to include a pharmaceutical
17 agent used to diagnose ocular conditions or diseases.

18 4. It establishes that minimum standards for an eye examination include a physical
19 examination of each eye in an in-person clinical setting and, if a refraction is performed,
20 the performance of an objective and subjective refraction when practicable.

21 5. It provides that the State Board of Optometry may investigate complaints against
22 any person relating to actions or activities involving a kiosk or telehealth and makes other
23 changes to the authority of the board to resolve complaints and impose discipline.

24 6. It clarifies the timing of when an optometrist who is closing a practice is required to
25 create and maintain a written directive identifying the optometrist who is willing to assume
26 responsibility for the practice, to maintain continuity of treatment and to transfer medical
27 information.

28 7. It makes technical changes to cross-references in the bill and removes unnecessary
29 language.