

Date:

(Filing No. S- )

**HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

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**STATE OF MAINE**

**SENATE**

**132ND LEGISLATURE**

**SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 702, L.D. 1803, “An Act to Amend the Laws Governing Optometric Practice”

Amend the bill by striking out everything after the enacting clause and inserting the following:

**Sec. 1. 32 MRSA §19101, sub-§24**, as enacted by PL 2023, c. 580, §8, is repealed and the following enacted in its place:

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

**Sec. 2. 32 MRSA §19102** is enacted to read:

**§19102. Practice of optometry**

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

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

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

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

**COMMITTEE AMENDMENT**

1           **2. Practice of optometry.** The practice of optometry is the evaluation, diagnosis,  
2 prevention or treatment of diseases, disorders or conditions of the human vision system,  
3 eyes and adjacent and associated structures, including, in addition to all forms of care and  
4 treatment approved on the effective date of this subsection:

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

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

11           C. The adaptation, sale and dispensing of plano or zero power contact lenses;

12           D. Ordering appropriate diagnostic laboratory or imaging tests for the purpose of  
13 prescribing contact lenses for prosthetic or therapeutic purposes, including  
14 orthokeratology;

15           E. Ordering appropriate diagnostic laboratory or imaging tests to facilitate the  
16 provision of contact lenses for cosmetic purposes;

17           F. The dispensing of samples to initiate treatment;

18           G. The use or prescription of lenses, prisms, vision therapy and vision rehabilitation;

19           H. The prescription of diagnostic and therapeutic pharmaceutical agents for ocular  
20 disease, by any delivery system necessary, including controlled substances included in  
21 schedules III, IV and V as described in 21 United States Code, Section 812;

22           I. The use and prescription of medical devices;

23           J. The prescription of oral and topical antihistamines or anti-allergy medication,  
24 including the prescription of medicated contact lenses;

25           K. The prescription of topical anti-inflammatory medication and oral nonsteroidal anti-  
26 inflammatories and corticosteroids;

27           L. The prescription of oral and topical anti-glaucoma medications, including oral  
28 acetazolamide;

29           M. The use of therapeutic ultrasound, radio frequency and intense pulsed light  
30 treatments; and

31           N. Ophthalmic surgery as expressly provided in this paragraph:

32                 (1) The intradermal injection of a neuromuscular blocking agent into the eyelids;  
33                 and

34                 (2) The independent performance of corneal collagen cross-linking involving an  
35                 intact corneal epithelium.

36           Notwithstanding any provision of this chapter to the contrary, a person may not  
37 perform ophthalmic surgery in accordance with this paragraph until the board has  
38 finally adopted rules in accordance with subsection 4 and sections 19103 and 19204.

1           **3. Ophthalmic surgery procedures excluded from practice of optometry.** Any  
2 ophthalmic surgery procedures not expressly described in subsection 2, paragraph N are  
3 excluded from the practice of optometry.

4           **4. Credentialing requirements for ophthalmic surgery procedures.** A person may  
5 not perform ophthalmic surgery unless the person has satisfied the credentialing  
6 requirements established in rule by the board. Rules adopted pursuant to this subsection are  
7 major substantive rules as described in Title 5, chapter 375, subchapter 2-A.

8           **5. Mechanical work associated with eyeglasses with ophthalmic lenses.** This section  
9 does not prevent a person from doing the mechanical work associated with adapting, fitting,  
10 bending, adjusting, providing, replacing or duplicating eyeglasses with ophthalmic lenses.

11           **Sec. 3. 32 MRSA §19103** is enacted to read:

12           **§19103. Scope of practice; board authority**

13           The board shall adopt rules to further define the scope of practice of optometry in  
14 accordance with section 19102, subsections 2 and 3. Rules adopted pursuant to this section  
15 are major substantive rules as described in Title 5, chapter 375, subchapter 2-A.

16           **Sec. 4. 32 MRSA §19202, sub-§8**, as enacted by PL 2023, c. 580, §8, is amended  
17 to read:

18           **8. Authority to order a mental or physical examination.** The authority to direct a  
19 licensee or license applicant, who by virtue of an application for and acceptance of a license  
20 to practice under this chapter is considered to have given consent, to submit to an  
21 examination of the board's choice. With respect to a licensee, the board may order that  
22 licensee to submit to an examination whenever information is received by the board that  
23 would cause the board to reasonably determine that the licensee may be suffering from a  
24 mental illness or physical illness that may be interfering with competent practice under this  
25 chapter or from the use of intoxicants or drugs to an extent that the use is preventing the  
26 licensee from practicing optometry competently and safely. A licensee or license applicant  
27 examined pursuant to an order of the board may not prevent the testimony of the examining  
28 individual or prevent the acceptance into evidence of the report of the examining individual  
29 in a proceeding under this chapter. The board may petition the District Court for immediate  
30 suspension of license if the licensee fails to comply with an order of the board to submit to  
31 a mental or physical examination pursuant to this subsection; ~~and~~

32           **Sec. 5. 32 MRSA §19202, sub-§9**, as enacted by PL 2023, c. 580, §8, is amended  
33 to read:

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

38           **Sec. 6. 32 MRSA §19202, sub-§10** is enacted to read:

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

42           **Sec. 7. 32 MRSA §19204**, as enacted by PL 2023, c. 580, §8, is amended to read:

1 **§19204. Rulemaking Rule-making authority**

2 The board shall adopt rules that are necessary for the implementation of this chapter.  
3 The rules may include, but need not be limited to, requirements for licensure, license  
4 renewal and license reinstatement as well as practice setting standards, including scope of  
5 practice, that apply to individuals licensed under this chapter. Rules relating to scope of  
6 practice and credentialing standards are major substantive rules as defined in Title 5,  
7 chapter 375, subchapter 2-A. All other rules adopted pursuant to this chapter are routine  
8 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

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

13 (a) Controlled substances identified in schedules I and II as described in 21  
14 United States Code, Section 812; and

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

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

20 **Sec. 9. 32 MRSA §19308**, as enacted by PL 2023, c. 580, §8, is amended to read:

21 **§19308. Standard of care**

22 A licensee shall be held to the same standard of care in diagnosis, treatment and  
23 management of patient care as that degree of skill and proficiency commonly exercised by  
24 a physician with a specialty in eye care in this State. A licensee shall ensure that the services  
25 provided are consistent with the licensee's scope of practice, including the licensee's  
26 education, training, experience, ability, licensure and certification. A licensee shall carry  
27 malpractice insurance in an amount established by the board.

28 **Sec. 10. 32 MRSA §19312, sub-§2, ¶D**, as amended by PL 2025, c. 390, Pt. A,  
29 §53, is further amended to read:

30 D. The dispensing party may dispense contact lenses only upon receipt of a written  
31 prescription, except that an optometrist may fill a prescription of another optometrist  
32 or a physician without a copy of the prescription. Mail order contact lens suppliers  
33 must be licensed by and register with the Maine Board of Pharmacy pursuant to section  
34 13751 and are subject to discipline by that board for violations of that board's rules and  
35 the laws governing the board. An individual who fills a contact lens prescription shall  
36 maintain a copy of that prescription for a period of 5 10 years. A dispensing party other  
37 than an optometrist with an optometrist-patient relationship shall forward a copy of the  
38 details of a prescription for contact lenses to the optometrist with the optometrist-  
39 patient relationship.

40 **Sec. 11. 32 MRSA §19602**, as enacted by PL 2023, c. 580, §8, is amended to read:

41 **§19602. Telehealth services permitted**

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

5 **Sec. 12. 32 MRSA §19605**, as enacted by PL 2023, c. 580, §8, is amended to read:

6 **§19605. Rulemaking**

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

11 **Sec. 13. Task Force to Study the Optometry Practice Laws and**  
12 **Recommend Changes to Modernize Board Oversight and to Update the**  
13 **Licensure and Scope of Practice Provisions established.** The Task Force to Study  
14 the Optometry Practice Laws and Recommend Changes to Modernize Board Oversight and  
15 to Update the Licensure and Scope of Practice Provisions, referred to in this section as "the  
16 task force," is established.

17 **1. Task force membership.** Notwithstanding Joint Rule 353, the task force consists  
18 of 11 members appointed as follows:

19 A. Two members of the Senate, appointed by the President of the Senate, at least one  
20 of whom must be a member of the Joint Standing Committee on Health Coverage,  
21 Insurance and Financial Services;

22 B. Two members of the House of Representatives, appointed by the Speaker of the  
23 House of Representatives, at least one of whom must be a member of the Joint Standing  
24 Committee on Health Coverage, Insurance and Financial Services;

25 C. Two members who are practicing as licensed optometrists in the State, one of whom  
26 must be a member of the State Board of Optometry, one appointed by the President of  
27 the Senate and one appointed by the Speaker of the House of Representatives;

28 D. Two members who are practicing as licensed ophthalmologists in the State, one  
29 appointed by the President of the Senate and one appointed by the Speaker of the House  
30 of Representatives;

31 E. One member representing the Board of Licensure in Medicine, appointed by the  
32 Board of Licensure in Medicine;

33 F. One member representing the Maine Board of Pharmacy, appointed by the Maine  
34 Board of Pharmacy; and

35 G. One member representing the Department of Professional and Financial Regulation,  
36 Office of Professional and Occupational Regulation, appointed by the Governor.

37 **2. Chairs.** The first-named Senate member is the Senate chair and the first-named  
38 House of Representatives member is the House chair of the task force.

39 **3. Appointments; convening of task force.** All appointments must be made no later  
40 than 30 days following the effective date of this Act. The appointing authorities shall notify  
41 the Executive Director of the Legislative Council once all appointments have been  
42 completed. After appointment of all members, the chairs shall call and convene the first

1 meeting of the task force. If 30 days or more after the effective date of this Act a majority  
2 of but not all appointments have been made, the chairs may request authority and the  
3 Legislative Council may grant authority for the task force to meet and conduct its business.

4 **4. Duties.** The task force shall conduct a study of the Maine Revised Statutes, Title 32,  
5 chapter 151 and any laws associated with the provisions of that chapter to recommend:

6 A. Structural and administrative changes to modernize oversight of the State Board of  
7 Optometry; and

8 B. Changes to update the licensure and scope of practice provisions for optometrists  
9 to more accurately reflect their education and training and the practice settings and  
10 delivery models for optometry services in this State.

11 The task force shall review and identify best practices from similar efforts in other states.  
12 The task force may hold hearings and invite testimony from experts and the public to gather  
13 information.

14 **5. Staff assistance.** The Legislative Council shall provide necessary staffing services  
15 to the task force, except that Legislative Council staff support is not authorized when the  
16 Legislature is in regular or special session.

17 **6. Stakeholder participation.** The task force may invite stakeholders to participate in  
18 meetings or subcommittee meetings of the task force to ensure that the task force has the  
19 information and expertise necessary to fulfill its duties.

20 **7. Reporting date.** Notwithstanding Joint Rule 353, the task force shall report any  
21 recommendations pursuant to section 4 to the joint standing committee of the Legislature  
22 having jurisdiction over matters concerning the practice of optometry on or before February  
23 1, 2027. The joint standing committee may report out a bill to the 133rd Legislature in 2027  
24 related only to the task force's recommendations to modernize oversight of the State Board  
25 of Optometry and to continue the task force process. The joint standing committee may  
26 report out a bill to the Second Regular Session of the 133rd Legislature to update the  
27 licensure and scope of practice provisions for optometrists.

28 **Sec. 14. Appropriations and allocations.** The following appropriations and  
29 allocations are made.

30 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**  
31 **Optometry - Board of 0385**

32 Initiative: Provides funding for consulting services and rulemaking.

33 <b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2025-26</b>	<b>2026-27</b>
34 All Other	\$0	\$77,918
35		
36 OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$77,918

37  
38 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
39 number to read consecutively.

**SUMMARY**

This amendment, which is the minority report of the committee, replaces the bill. The amendment does the following.

The amendment makes changes to the provisions of the law governing optometrists by providing 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. The amendment, which is more limited in scope than the majority report, includes only 2 specific ophthalmic surgeries in the practice of optometry and all other procedures are specifically excluded. The amendment directs the State Board of Optometry to adopt major substantive rules, subject to legislative approval before final adoption, to further define the scope of practice of optometry and establish credentialing requirements. An optometrist may not perform ophthalmic surgery as provided in the amendment until the board has finally approved major substantive rules regarding an optometrist's scope of practice and credentialing standards.

The amendment also broadens the authority of an optometrist to dispense and administer certain medications independently and removes language that prohibits an optometrist from administering drugs by injection or intravenously. The amendment authorizes the board to issue advisory opinions and declaratory rulings. The amendment requires an optometrist to obtain malpractice insurance in an amount established by the board and also makes minor changes to the provisions relating to telehealth services and filling contact lenses and spectacle prescriptions.

The amendment also establishes the Task Force to Study the Optometry Practice Laws and Recommend Changes to Modernize Board Oversight and to Update the Licensure and Scope of Practice Provisions and directs the task force to study the Maine Revised Statutes, Title 32, chapter 151, which governs optometrists, and any laws associated with the provisions of that chapter to recommend structural and administrative changes to modernize board oversight and changes to update the licensure and scope of practice provisions for optometrists to more accurately reflect their education and training and the practice settings and delivery models for optometry services in this State. The task force is required to report any recommendations from the study to the joint standing committee of the Legislature having jurisdiction over matters concerning the practice of optometry on or before February 1, 2027. The joint standing committee may report out a bill to the 133rd Legislature in 2027 related only to the task force's recommendations to modernize board oversight and to continue the task force process. The joint standing committee may report out a bill to the Second Regular Session of the 133rd Legislature to update the licensure and scope of practice provisions for optometrists.

**FISCAL NOTE REQUIRED**

**(See attached)**