



January 16, 2024

Senator Donna Bailey  
Representative Anne Perry  
Joint Standing Committee on Health Coverage, Insurance and Financial Services  
100 State House Station  
Augusta, Maine 04333

RE: **OPPOSITION** TO PROPOSED AMENDMENT TO LD 1956 *“An Act to Amend the Laws Governing Optometrists”*

Senator Bailey, Representative Perry and members of the Health Coverage, Insurance and Financial Services Committee:

My name is Jacqueline Evans. I am a licensed optometrist in Maine and the CEO of Ellington Eyecare. Ellington Eyecare is a trusted Maine eye care center that offers walk in eye exams, contact lens exams, and diabetic eye exams that are conveniently located in Walmart Supercenters in Presque Isle, Auburn, and Scarborough. Ellington uses a combination of in person and tele-optometry services which allows us to provide affordable and accessible eye care to Mainers who might otherwise struggle to access care.

On behalf of Ellington Eyecare and tele-optometrists currently practicing in the state of Maine, I am writing you to submit comments for your consideration strongly opposing proposed amendments to LD 1956, An Act to Amend the Laws Governing Optometrists. Last year, the Maine Optometric Association submitted testimony proposing a change that through careful and deliberate wording, would essentially eradicate the practice of tele-optometry in the state of Maine. Since that time, the Association has worked with the Optometry Board to further their goal of significantly limiting tele-optometry in Maine by proposing an in person initial visit requirement. That expected proposal undermines national best practice recommendations and threatens to reverse all the progress Maine has made in making tele-health services accessible to Mainers with few other health care options.

In their original testimony of LD 1956, the Maine Optometric Association proposes amending the definition of optometrist-patient relationship.

This proposed amendment contradicts existing Board rules, as well as the recommendations of

the American Optometric Association, and the Federation of State Medical Boards.

The proposed amendment's new requirement for initial examinations to be conducted in person to establish an optometrist-patient relationship, directly contradicts existing Board Rule §19602 where comprehensive tele-optometry services are permitted. This existing Board rule states that:

“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 and in accordance with standards of practice.”

In this rule, the Board makes clear that treatment and consultation delivered via telehealth will currently be held to the same standard of appropriate practice as those in traditional in-person settings. Furthermore, the proposed amendments to limit the full ability for an optometrist to provide comprehensive telehealth services to their patients directly undermines Maine's current telehealth law. When examining the American Optometric Association's (AOA) current position on tele-optometry, there is no suggestion that an in-person examination is the only appropriate manner to establish a doctor-patient relationship especially in cases where routine eye care is needed.

Therefore, it is unclear why the Maine Optometric Association seeks to reduce the ability of optometry telehealth providers to conduct comprehensive exams when advanced technology in optometry, allows the implementation of a remote comprehensive exam to yield nearly identical outcomes for patients in need of a routine eye examination. Furthermore, the tele-optometry examinations that are conducted at Ellington eyecare exceed the Maine board of optometry's minimum requirements for a basic examination in which are currently outlined in **32 MRS Section 2417:**

Standards for minimum eye examination.

The following are the minimum standards for a competent professional eye examination:

- A. A history of the patient's visual problems and care; [PL 1993, c. 600, Pt. A, §146 (AMD).]
- B. A test of the acuity of each eye, uncorrected and with best correction; [PL 1993, c. 600, Pt. A, §146 (AMD).]
- C. An examination for an abnormal condition or any significant characteristics of internal and external ocular tissues; [PL 1993, c. 600, Pt. A, §146 (AMD).]
- D. Advice for medical treatment or referral, or both; [PL 1987, c. 439, §7 (RPR); PL 1987, c. 542, Pt. K, §§7, 20 (RPR).]
- E. Objective and subjective refraction of the eyes; and [PL 1993, c. 600, Pt. A, §146 (AMD).]
- F. A cover test or muscle balance tests, or both. [PL 1993, c. 600, Pt. A, §146 (AMD).] Each optometrist shall maintain a complete record of all eye examinations given. Each optometrist shall include in the examination record the findings under paragraphs A

through F, as well as any prescriptions or programs of corrective procedure. This information for each patient must be available from the optometrist for a period of not less than 10 years.

The manner in which a remote, comprehensive eye examination at Ellington Eyecare is performed is through the following:

A prospective patient makes an appointment by contacting our call-center, through which our call center attendant informs the patient that the appointment that they are making is a tele-optometry exam, in which the doctor that they will be seeing, will not be physically in the office, yet the communication with the optometrist will be via a live, synchronous, video conferencing system that is HIPPA compliant. They will have the ability to see and speak with the doctor in real-time and ask any questions that they might have after the preliminary testing is performed by a trained, on-site optometric technician. They are also asked if they are currently experiencing any symptoms such as sudden vision loss, eye pain, red eyes, recent ocular injuries, flashes or floaters as answering yes to any of the aforementioned questions, would preclude a patient from being a candidate for a tele-optometry exam and the call-center attendant would recommend that a prospective patient see an in-person Dr. in such instances.

Upon arriving for their exam, the patient is re-informed by the onsite technician that their examination is a tele-optometry exam. Afterwards, the patient is asked to check-in and fill out all pertinent medical history as well as signing HIPPA forms and a tele-optometry consent form that outlines the expectations and limitation of a tele-optometry exam.

Afterwards, the patient is brought back to the pre-testing room and subsequently the exam room, in which all ancillary testing is explained and performed by the technician. The on-site technician undergoes a week of extensive in-person training by our Certified Ophthalmic technician (COT) to learn how to properly perform such tests and is closely monitored and guided for weeks afterwards by our COT as well as myself. Educational content videos are also created for each technician to use as a reference guide, while quarterly audits are performed for each technician to ensure that skills ancillary testing skills are always up-to-par. The tests include:

- o Acuity testing (performed by the on-site technician)
- o Non-contact tonometry (performed by the on-site technician)
- o Retinal Imaging (captured using Topcon NW400 and NW500 retinal cameras)
- o Autorefraction (Objective preliminary refraction captured using the Marco autorefractor)
- o Extraocular Motility testing (Performed by the on-site technician)
- o Pupil Testing (performed by the on-site technician)

- o Visual Field testing (either gross or via the Oculus visual field machine administered by the on-site technician)
- o Cover test (performed by the on-site technician)
- o Anterior Segment photos performed by the on-site technician using the mediworks firefly (advanced slit lamp instrumentation that captures high-definition photos of the external structures of the eye)
- o Subjective Refraction (performed via the on-site technician who has been trained to do so using the Marco RT-6100 refracting system and further verified and performed remotely by the remote doctor if needed)

Following the completion of the aforementioned pretesting, the patient is informed that they will now be connected with the optometrist licensed in the state in which the patient resides via a synchronous, HIPPA compliant tele-conferencing application) that will review-all exam results with them, show them the photos taken, address any ocular health concerns, finalize a contact or glasses prescription as well as completing a referral to another provider if further ocular care is needed. In its entirety, these are all the steps that would be performed in an in-person, face-to-face examination as well.

To reiterate once again, there are circumstances in which a patient is not a good candidate for a tele-optometry exam and they are informed of such by the doctor and are either directly referred out to another specialty practitioner or advised to see an in-person optometrist depending on the nature of the signs and symptoms that they are presenting with. Such situations would include the following:

- o Patients present with the signs and symptoms of a retinal detachment.
- o Patient retinal photos obtained are not sufficient to view the back of the eye due to small pupil size or other obstruction.
- o Patient presenting with flashes and floaters.
- o Patients presenting with redness, pain, or light sensitivity in the eyes.
- o Patients who have experienced a recent ocular injury.
- o Patients who have experienced a recent onset of double vision.
- o Patients complaining of recent vision loss.
- o Patients presenting with retinal bleeding.
- o Patients on potentially vision affecting medications such as hydroxychloroquine.

However, just as in any medical profession, there are nuances where professional judgement must be executed on a case-by-case basis upon gathering additional information from the patient. Patients are by no means in danger of receiving poor or dangerous eyecare as all exam results are thoroughly reviewed by the optometrist who is synchronously meeting with the patient, just as would occur in an in-person examination.

While there are some exceptions, the unique effectiveness of a tele-optometry exam largely lies in the ability to perform a comprehensive eye exam by a doctor not physically being there, yet coupled with the advanced instrumentation that is used. This method continues to be a successful practice model that expands daily with larger practices such as LensCrafters, Visionworks, America's Best Contacts and Eyeglasses, MyEyeDr, Shopko Optical, Stanton Optical and a growing number of private optometric practitioners. Practices across the country utilize remote examination to provide eyecare to millions of Americans each year. The rapid growth of tele-optometry over the past 5 years has been a direct response to the healthcare shortage in America. It has been increasingly seen as a viable option to address the vision needs of those in rural communities or in areas where the vision needs exceed the availability and presence of optometrists. The eyecare shortage in the state of Maine is the epitome of such an example.

Ensuring continued access to eyecare via telehealth will become increasingly important as the population ages and innovative technologies become more effective. Eye disease is more prevalent as people age and as Maine possesses an already aging population, potentially blinding eye diseases will become more common. Tele-optometrists have the ability to serve as a vital intermediary to protect eye health in an efficient and timely manner, while also being able to direct patients in need of critical eyecare, to the appropriate providers.

I have personally been practicing in the state of Maine as a remote eyecare provider since January 2023 and have gladly served patients in Presque Isle, Auburn, and Scarborough. In December of 2023, my optometry practices were specifically sought out by Mainehealth, the state's largest healthcare system, to partner as a vendor to provide affordable tele-optometry eye exams to asylum seekers and refugees in the state of Maine. When speaking with the program's organizer as to why the services of Ellington Eyecare were chosen, she revealed that my practices were the most affordable options where exams could be scheduled within days rather than months as well as the ones that were most easily accessible to patients via public transportation routes.

It is no secret that the ability for an individual to get in for a routine eye exam in Maine is extremely challenging and expensive. If a prospective patient were to make a few calls in the Portland or Auburn areas, one would find that wait times to be seen stretch anywhere from 1-8 months if a practice is accepting new patients (and many practices are not). And even if a patient does have the ability to wait for such an extended period and is lucky enough to be accepted as a new patient, they are very often financially inconvenienced by Maine's existing average out-of-pocket eye exam cost of \$200, which is double that of the national average eye exam cost of \$100.

I strongly encourage the Committee to reject any amendments that would require an initial in-person exam between patient and optometrist, because quite frankly, these proposed amendments appear to have been made not in the interest of increased access of patients to eyecare, but rather to protect private practice, in-person optometrists who wish to solidify the financial security of their practices in a rural state in which patients have very few affordable eyecare options. The monopolization of private, in-person practices does not allow for the improvement of patient outcomes, effective care to be delivered, or the reduction of eyecare costs to the patient, and ultimately crushes the ability for tele-optometry to flourish as it has in so many other states.

The proposed amendments from the Maine Optometric Association will cut tele-health optometry providers out of the Maine eyecare market which directly contravenes the free

market, competitive principles that Maine prides itself on. The greatest impact will be felt by patients in need of ocular care by leaving patients, especially those in rural areas, with fewer or in some cases no choice on where to obtain the eye care they need.

Thank you for your consideration.

Sincerely,

*Jacqueline Evans O.D*