

SENATE BILL NO. 365

May 30, 2023, Introduced by Senators HERTEL, DAMOOSE, HAUCK, IRWIN, BELLINO, GEISS, CAMILLERI, HOITENGA and ANTHONY and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 5553, 5555, 5557, and 5561 (MCL 333.5553, 333.5555, 333.5557, and 333.5561), as added by 2014 PA 269, and by adding sections 5560 and 5562.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5553. (1) "Contact lens" means a lens placed directly on
2 the surface of the eye, regardless of whether it is intended to
3 correct a visual defect. Contact lens includes, but is not limited

1 to, a cosmetic, therapeutic, or corrective lens.

2 (2) "Department" means the department of licensing and
3 regulatory affairs.

4 (3) "Diagnostic contact lens" means a contact lens used to
5 determine a proper contact lens fit.

6 (4) ~~"Examination~~ **Subject to section 5560, "examination** and
7 **evaluation" means,** for the purpose of writing a valid prescription,
8 ~~means~~ an assessment of the ocular health and visual status of a
9 patient that does not consist solely of objective refractive data
10 or information generated by an automated refracting device or other
11 automated testing device.

12 Sec. 5555. (1) "Licensee" means any of the following:

13 (a) A physician who is licensed or otherwise authorized to
14 engage in the practice of medicine under part 170 and who
15 specializes in eye care.

16 (b) A physician who is licensed or otherwise authorized to
17 engage in the practice of osteopathic medicine and surgery under
18 part 175 and who specializes in eye care.

19 (c) An optometrist who is licensed or otherwise authorized to
20 engage in the practice of optometry under part 174.

21 (2) "Spectacles" means an optical instrument or device worn or
22 used by an individual that has 1 or more lenses designed to correct
23 or enhance vision to address the visual needs of the individual
24 wearer and commonly known as glasses, including spectacles that may
25 be adjusted by the wearer to achieve different types or levels of
26 visual correction or enhancement.

27 (3) **"Telemedicine" means the use of electronic media to link a**
28 **patient with a licensee in a different location. To be considered**
29 **telemedicine for purposes of this part, the licensee must be able**

1 to conduct an examination and evaluation of the patient via a
2 health insurance portability and accountability act of 1996, Public
3 Law 104-191, compliant, secure interactive audio or video, or both,
4 telecommunications system, or through the use of store and forward
5 online technology.

6 Sec. 5557. "Valid prescription" means 1 of the following, as
7 applicable:

8 (a) For a contact lens, a written or electronic order by a
9 licensee who has conducted an examination and evaluation of a
10 patient and, **for the initial contact lens prescription**, has
11 determined a satisfactory fit for the contact lens based on an
12 analysis of the physiological compatibility of the lens on the
13 cornea and the physical fit and refractive functionality of the
14 lens on the patient's eye. To be a valid prescription under this
15 subdivision, it must include at least all of the following
16 information:

17 (i) A statement that the prescription is for a contact lens.

18 (ii) The contact lens type or brand name, or for a private
19 label contact lens, the name of the manufacturer, trade name of the
20 private label brand, and, if applicable, trade name of the
21 equivalent or similar brand.

22 (iii) All specifications necessary to order and fabricate the
23 contact lens, including power, material, base curve or appropriate
24 designation, and diameter, if applicable.

25 (iv) The quantity of contact lenses to be dispensed.

26 (v) The number of refills.

27 (vi) Specific wearing instructions and contact lens disposal
28 parameters, if any.

29 (vii) The patient's name.

1 (viii) The date of the examination and evaluation.

2 (ix) The date the prescription is originated.

3 (x) The prescribing licensee's name, address, and telephone
4 number.

5 (xi) The prescribing licensee's written or electronic
6 signature, or other form of authentication.

7 (xii) An expiration date of not less than 1 year from the date
8 of the examination and evaluation or a statement of the reasons why
9 a shorter time is appropriate based on the medical needs of the
10 patient.

11 (b) For spectacles, a written or electronic order by a
12 licensee who has ~~examined and evaluated~~ **conducted an examination**
13 **and evaluation of** a patient. To be a valid prescription under this
14 subdivision, it must include at least all of the following
15 information:

16 (i) A statement that the prescription is for spectacles.

17 (ii) As applicable and as specified for each eye, the lens
18 power including the spherical power, cylindrical power including
19 axis, prism, and power of the multifocal addition.

20 (iii) Any special requirements, the omission of which would, in
21 the opinion of the prescribing licensee, adversely affect the
22 vision or ocular health of the patient. As used in this
23 subparagraph, "special requirements" includes, but is not limited
24 to, type of lens design, lens material, tint, or lens treatments.

25 (iv) The patient's name.

26 (v) The date of the examination and evaluation.

27 (vi) The date the prescription is originated.

28 (vii) The prescribing licensee's name, address, and telephone

1 number.

2 (viii) The prescribing licensee's written or electronic
3 signature, or other form of authentication.

4 (ix) An expiration date of not less than 1 year from the date
5 of the examination and evaluation or a statement of the reasons why
6 a shorter time is appropriate based on the medical needs of the
7 patient.

8 **Sec. 5560. An examination and evaluation may occur through**
9 **telemedicine if all of the following requirements are met:**

10 (a) **The standard of care applicable to the licensee's**
11 **profession for the examination and evaluation is maintained at the**
12 **same level as if the examination and evaluation were performed in**
13 **person.**

14 (b) **The patient has had an in-person examination and**
15 **evaluation within the immediately preceding 2 years.**

16 (c) **The licensee is not writing an initial contact lens**
17 **prescription for the patient or changing the refractive power of**
18 **the patient's previous contact lens prescription.**

19 Sec. 5561. (1) A person shall not do any of the following:

20 (a) Employ objective or subjective physical means to determine
21 the accommodative or refractive condition or range of power of
22 vision or muscular equilibrium of the human eye **as the sole basis**
23 **for issuing a prescription** unless that activity is performed by a
24 licensee or under the supervision of a licensee.

25 (b) Prescribe spectacles or contact lenses based on a
26 determination described in subdivision (a) unless that activity is
27 performed by a licensee.

28 (c) Dispense, give, or sell spectacles or contact lenses
29 unless **the spectacles or contact lenses are** dispensed, given, or

1 sold pursuant to a valid prescription.

2 (d) Use an automated refractor or other automated testing
3 device to generate objective refractive data unless that use is by
4 a licensee or under the supervision of a licensee.

5 (2) As used in this section, "supervision" means that term as
6 defined in section 16109.

7 **Sec. 5562. (1) A licensee and a person that sells contact**
8 **lenses shall comply with the fairness to contact lens consumers**
9 **act, 15 USC 7601 to 7610, and regulations promulgated under that**
10 **act, 16 CFR part 315.**

11 (2) A licensee and a person that sells spectacles shall comply
12 with the eyeglass rule. As used in this subsection, "eyeglass rule"
13 means 16 CFR part 456.