

Enrolled Senate Bill 129

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CHAPTER

AN ACT

Relating to eye care; creating new provisions; amending ORS 683.010 and 683.180; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 683.010 to 683.310.

SECTION 2. (1) As used in this section:

(a) “Eye examination” means an assessment of a patient’s ocular health and visual status, including but not limited to objective refractive data or information generated by an automated testing device, such as an autorefractor, that is used to establish a medical diagnosis or to determine a refractive error.

(b) “Optometric clinical health care services” includes, but is not limited to, assessment, consultation, diagnosis, patient education and care management by a licensed optometrist.

(c) “Store and forward” means the transmission of patient information between a licensed optometrist and a patient, whether or not in real time.

(d)(A) “Telehealth” means the use of electronic and telecommunications technologies, including remote patient monitoring devices and store and forward technology, to support delivery of optometric clinical health care services.

(B) “Telehealth” does not include electronic mail communication, facsimile transmission or audio-only telephone communication between a licensed optometrist and a patient, or the use of an automated computer program or managed website to diagnose or treat ocular or refractive conditions.

(e) “Telemedicine” means the delivery of optometric clinical health care services to a patient by a licensed optometrist through telehealth.

(2) A licensed optometrist may engage in the practice of telemedicine if:

(a) The licensed optometrist provides notice to the patient that the licensed optometrist intends to practice telemedicine prior to engaging in the practice of telemedicine with the patient;

(b) The patient is physically located in this state during the practice of telemedicine;

(c) The technology used in the practice of telemedicine complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Health Insurance Portability and Availability Act privacy regulations, 45 C.F.R. parts 160 and 164; and

(d) The licensed optometrist will provide the patient with an initial prescription for corrective glasses or contact lenses, and the licensed optometrist has an established patient-provider relationship with the patient that includes an in-person eye examination prior to engaging in the practice of telemedicine with the patient.

(3) If the licensed optometrist is employed by or contracts with an entity that operates exclusively through an online platform to provide corrective glasses and contact lenses, the licensed optometrist may engage in the practice of telemedicine with a patient if:

(a) The practice of telemedicine described in this subsection is not for an initial prescription for corrective glasses or contact lenses; and

(b) The patient is at least 18 years of age.

(4) The Oregon Board of Optometry may adopt rules related to the practice of telemedicine by licensed optometrists.

SECTION 3. ORS 683.010 is amended to read:

683.010. As used in ORS 683.010 to 683.310, unless the context requires otherwise:

[1] “Board” means the Oregon Board of Optometry.]

(1) “Licensed optometrist” means an optometrist licensed under ORS 683.010 to 683.340.

(2) “Optometric nontopical formulary” means the list of nontopical pharmaceutical agents for the treatment of diseases of the human eye and the protocols for their usage adopted by the Council on Optometric Nontopical Formulary under ORS 683.240 (2).

(3) “Practice of optometry” means the use of any means other than invasive or laser surgery, or the prescription of Schedule I and II drugs or pharmaceutical agents that are not on the optometric nontopical formulary, for diagnosis and treatment in the human eye, for the measurement or assistance of the powers or range of human vision or the determination of the accommodative and refractive states of the human eye or the scope of its functions in general or the adaptation of lenses or frames for the aid thereof, subject to the limitations of ORS 683.040. “Practice of optometry” includes the prescription of Schedule II hydrocodone-combination drugs for the purposes listed in this subsection **and the use of telemedicine as defined in section 2 of this 2019 Act.**

(4) “Trial frames” or “test lenses” means any frame or lens **that is** used in testing the eye [which] **and that** is not sold and not for sale.

SECTION 4. ORS 683.180 is amended to read:

683.180. A person may not:

(1) Sell or barter, or offer to sell or barter, any license issued by the [board] **Oregon Board of Optometry.**

(2) Purchase or procure by barter any such license with intent to use it as evidence of the holder’s qualification to practice optometry.

(3) Alter the license with fraudulent intent in any material regard.

(4) Use or attempt to use any such license which has been purchased, fraudulently issued, counterfeited or materially altered as a valid license.

(5) Practice optometry under a false or assumed name.

(6) Willfully make any false statement in a material regard in an application for an examination before the board or for a license.

(7) Practice optometry in this state without having at the time of so doing a valid unrevoked license as an optometrist.

(8) Advertise or represent, by displaying a sign or otherwise, to be an optometrist without having at the time of so doing a valid unrevoked license from the board.

(9) Dispense or sell an ophthalmic contact lens without having obtained a valid, unexpired prescription from the person to whom the contact lens is dispensed or sold. As used in this subsection, “ophthalmic contact lens” means a contact lens with or without refractive power, including a plano lens or a cosmetic lens.

SECTION 5. (1) Section 2 of this 2019 Act and the amendments to ORS 683.010 and 683.180 by sections 3 and 4 of this 2019 Act become operative on January 1, 2020.

(2) The Oregon Board of Optometry may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by section 2 of this 2019 Act and the amendments to ORS 683.010 and 683.180 by sections 3 and 4 of this 2019 Act.

SECTION 6. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Passed by Senate March 7, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 22, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State