

**SUBSTITUTE FOR
HOUSE BILL NO. 4356**

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.

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

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

7 (3) "Diagnostic contact lens" means a contact lens used to
8 determine a proper contact lens fit.

1 (4) "Examination and evaluation", for the purpose of writing a
2 valid prescription, means an assessment of the ocular health and
3 visual status of a patient that does not consist solely of
4 objective refractive data or information generated by an automated
5 refracting device or other automated testing device. **An examination
6 and evaluation may occur through telemedicine if both of the
7 following requirements are met:**

8 (a) **The standard of care is maintained at the same level as if
9 the examination and evaluation were performed in person.**

10 (b) **The patient has had an in-person evaluation and
11 examination within the immediately preceding 5 years.**

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 examine and evaluate the patient via a health insurance
2 portability and accountability act of 1996, Public Law 104-191,
3 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 has determined a satisfactory fit for the contact lens
11 based on an analysis of the physiological compatibility of the lens
12 on the cornea and the physical fit and refractive functionality of
13 the lens on the patient's eye **for the initial contact lens**
14 **prescription**. To be a valid prescription under this subdivision, it
15 must include at least all of the following information:

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

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

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

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

25 (v) The number of refills.

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

28 (vii) The patient's name.

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

1 (ix) The date the prescription is originated.

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

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

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

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

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

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

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

23 (iv) The patient's name.

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

25 (vi) The date the prescription is originated.

26 (vii) The prescribing licensee's name, address, and telephone
27 number.

28 (viii) The prescribing licensee's written or electronic

1 signature, or other form of authentication.

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

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

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

12 (b) Prescribe spectacles or contact lenses based on a
13 determination described in subdivision (a) unless that activity is
14 performed by a licensee.

15 (c) Dispense, give, or sell spectacles or contact lenses
16 unless dispensed, given, or sold pursuant to a valid prescription.

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

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