

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 126

S. P. 43

In Senate, January 14, 1969

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Mr. Tanous of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Admission of Treatises and Books in
Malpractice Actions.

Be it enacted by the People of the State of Maine, as follows :

R. S., T. 16, § 358, additional. Title 16 of the Revised Statutes is amended by adding a new section 358 to read as follows :

§ 358. Opinion evidence of expert admissible in malpractice actions ;
notice of intention to offer

1. Treatises and books. A statement of fact or opinion on a subject of science or art contained in a published treatise, periodical, book or pamphlet shall, in the discretion of the court, and if the court finds that it is relevant and that the writer of such statement is recognized in his profession or calling as an expert on the subject, be admissible in actions of contract or tort for malpractice, error or mistake against physicians, surgeons, dentists, optometrists, osteopathic physicians or surgeons, chiropractors, chiropodists, naturopathic physicians, hospitals and sanitarium, as evidence tending to prove the fact or as opinion evidence.

2. Notice of intention. The party intending to offer as evidence any such statement shall, not less than 3 days before the trial of the action, give the adverse party notice of such intention, stating the name of the writer of the statement and the title of the treatise, periodical, book or pamphlet in which it is contained.