

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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**Legislative Document**

**No. 1610**

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H. P. 1233

House of Representatives, March 26, 1973

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Greenlaw of Stonington.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT to Register and License Dispensing Opticians.**

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

R. S., T. 32, c. 34, additional. Title 32 of the Revised Statutes is amended by adding a new chapter 34, to read as follows:

**CHAPTER 34  
SUBCHAPTER I  
OPTICIANS**

§ 2421. Definition

A dispensing optician is defined as a person who prepares and dispenses lenses, spectacles, contact lenses, eyeglasses and appliances thereto to the intended wearer thereof on written prescriptions from a duly registered physician or optometrist, and, in accordance with such prescriptions, interprets, measures, adapts, fits and adjusts such lenses, spectacles, contact lenses, eyeglasses and appliances thereto to the human face for the aid or correction of visual or ocular anomalies of the human eyes.

§ 2422. License

No person or corporation shall directly or indirectly engage in practice as a dispensing optician, unless he or the person employed by such corporation has been granted a license by the Board of Registration and Examination of Opticians referred to in sections 2431 to 2433 as the board.

§ 2423. Corporate practice of dispensing opticians

No person who shall receive a certificate of registration or license to practice as a dispensing optician in this State shall assign, lease, sublet, give or

grant unto any person, copartnership, firm or corporation the right or privilege to practice as a dispensing optician, directly or indirectly, under said registration and no registered dispensing optician, under this chapter, shall associate himself in any way with any person not a registered optician nor any copartnership, firm or corporation for the promotion of any commercial practice for profit or division of profit, which enables any such person, copartnership, firm or corporation to engage, either directly or indirectly, in practice as a dispensing optician in this State. Any optician, registered under this chapter, guilty of such conduct or of violation of this section, shall be punished by having his certificate and registration to practice as a dispensing optician in this State suspended or revoked. No certificate of registration shall be suspended or revoked for any of the foregoing causes unless the person accused has been given at least 10 days' notice in writing of the charge against him and afforded a public hearing before the board.

#### § 2424. Public aid services of dispensing opticians

All agencies, commissions, clinics and bureaus administering relief, public assistance, public welfare assistance, social security, health insurance or health services under the laws of this State may accept the service of licensed opticians for any service covered by their licenses relating to any persons receiving benefits from said agencies or commissions and shall pay for such services in the same way as practitioners of other professions may be paid for similar services. None of said governmental agencies, or their agents, officials or employees thereof, including the public schools, in the performance of their duties shall in any way show discrimination among licensed opticians.

Whoever violates or fails to comply with this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both.

#### § 2425. Penalties

Whoever engages in practice as a dispensing optician in this State, without first having been duly registered as provided in sections 2441 to 2445, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$200. To open an office for the purpose of practicing as a dispensing optician or to announce to the public in any way an intention to practice as a dispensing optician in any county in the State shall be prima facie evidence of engaging in practice as a dispensing optician within the meaning of this section.

## SUBCHAPTER II

### BOARD OF REGISTRATION AND EXAMINATION

#### § 2431. Appointment; tenure; vacancies; removal

The State Board of Registration and Examination of Opticians is established and hereinafter in this chapter is called the "board". The board shall consist of 5 persons appointed by the Governor, with the advice and consent

of the Council. They shall have been resident opticians, engaged in actual practice as opticians in this State for a period of at least 5 years prior to their appointment. They shall be appointed for terms, as the terms of the present members expire, so that eventually the term of one member shall expire each year, and each shall hold office for a term of 5 years and until his successor is appointed and qualified. Any vacancy in said board shall be filled by the appointment of a person, qualified as aforesaid, to hold office during the unexpired term of the member whose place he fills. Any member of said board may be removed from office, for cause, by the Governor with the advice and consent of the Council. The board shall have a common seal.

§ 2432. Officers; compensation; meetings; rules and regulations

The board shall annually elect from its members a president and a secretary who shall be treasurer. They shall severally have authority, during their term of office, to administer such oaths and take such affidavits as are required by this chapter, certifying thereto under their hand and the seal of the board. The treasurer shall receive all fees, charges and assessments payable to the board, and account for and pay over the same according to law. The board shall meet at least once in each year at Augusta, and, in addition thereto, whenever and wherever the president and secretary thereof shall call a meeting. A majority of said board shall constitute a quorum.

The members of the board shall each receive \$20 for each day actually engaged in the duties of his office, and actual expenses incurred in connection therewith, except that the secretary of said board shall receive an annual salary of \$250. Any year in which the income of the board, from examination fees and annual license fees collected under this chapter, plus any unexpended balances on hand, is not sufficient to pay members of the board, available funds shall be prorated, except that the secretary's compensation shall have prior claim to available funds.

The secretary shall keep a full record of the proceedings of said board, which shall be open to public inspection at all reasonable times. The board shall from time to time establish and record, in a record kept for that purpose, a schedule of the minimum requirements which must be complied with by applicants for examination before they can be examined or receive a certificate. In like manner the board shall establish and put on record a schedule of the minimum requirements and rules for the recognition of schools of opticians, so as to keep the requirements of proficiency up to the average standard of other states. The board shall make such rules and regulations, not inconsistent with law, as may be necessary to govern the practice of opticians, but no rule or requirement shall be made that is unreasonable or that contravenes any provision of this chapter.

§ 2433. Annual reports

The board shall make an annual report of its proceedings to the Governor on or before the first Monday in July of each year, which shall contain an account of all moneys received and disbursed by it.

**SUBCHAPTER III**  
**REGISTRATION AND LICENSING**

**§ 2441. Examination fees ; registration**

Except as provided in section 2443, every person before beginning practice as a dispensing optician in this State shall pass an examination before the board. At the discretion of the board, such examinations may consist of tests in all phases of skill and knowledge in the practice of opticians as the board may deem essential. Any person, having signified to said board his desire to be examined, shall appear before the board at such time and place as they may designate and, before such examination, shall pay to said board the sum of \$20 and, if he shall successfully pass said examination, shall pay to said board a further sum of \$20 on the issuance to him of a certificate. All persons successfully passing such examination shall be registered, in a record which shall be kept by the secretary of said board, as licensed to practice as a dispensing optician and shall receive a certificate of such registration to be signed by the president and secretary of said board.

**§ 2442. License fees**

Every person registered to practice as a dispensing optician shall annually, before the first day of April, pay to the board the sum of \$5 for each office location as a license renewal fee for such year. In case of default in such payment by any person, his certificate may be revoked by the board.

**§ 2443. Reciprocity**

Upon application and the payment of the sum of \$50, said board may issue, without the prescribed examination, to persons, practicing as opticians in those states which, in the opinion of the board, maintain a standard in the requirements of the practice as a dispensing optician equal to the standard of this State, a certificate to practice in this State, which certificate shall be filed in the same manner as that issued to residents of this State. Such certificate shall be issued only to the residents of such state as allow similar privileges to residents of this State.

**§ 2444. Display of certificates**

Every person to whom a certificate of registration and current certificate of annual license renewal are granted shall display the same in a conspicuous part of his office wherein practice as a dispensing optician is conducted. Whenever practicing as a dispensing optician outside of, or away from said office, he shall deliver to each person so fitted with glasses, a statement, which shall contain his signature, home post-office address and the number of his certificate of registration.

**§ 2445. Refusal, suspension or revocation of certificates**

The board may refuse to issue or refuse to renew, or the Administrative Hearing Commissioner, as designated by Title 5, chapters 301 to 307, may suspend or revoke any certificate of registration for any one or more of the fol-

lowing causes:

1. **Felony.** Conviction of felony as evidenced by a certified copy of the record of the court convicting;
2. **Contagious disease.** Continued practice as a dispensing optician by a person knowingly having a contagious or infectious disease;
3. **Malpractice.** Gross malpractice;
4. **False advertising.** Advertising by means of false or deceptive statements;
5. **Peddling.** Peddling from door to door;
6. **Drunkenness and drugs.** Habitual drunkenness or habitual addiction to the use of morphine or cocaine or habit forming drugs;
7. **Practicing under another name.** Practicing under a name other than that given in the certificate of registration;
8. **Violating rules and regulations.** Willfully violating any of the rules and regulations of the board.

**No certificate shall be suspended or revoked for any of the foregoing causes unless the person accused has been given at least 10 days' notice in writing of the charge against him and afforded a public hearing before the Administrative Hearing Commissioner.**

#### STATEMENT OF FACT

The purpose of this bill is to provide for the licensing of all dispensing opticians in the State and to establish a State Board of Registration and Examination of Opticians.