

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 765, L.D. 1028)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1828

H.P. 1338 House of Representatives, June 11, 1987  
Reported by Representative ALLEN from the Committee on  
Business Legislation and printed under Joint Rule 2.  
EDWIN H. PERT, Clerk  
Original bill sponsored by Representative ROLDE of York.  
Cosponsored by Senator BERUBE of Androscoggin, Representatives  
MCGOWAN of Canaan and CURRAN of Westbrook.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Amend the Maine Optometric Code.

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

Sec. 1. 5 MRSA §12004, sub-§1, ¶A, sub-§(27-A) is enacted to read:

(27-A)	<u>Therapeutic</u>	<u>Legislative</u>	<u>32 MRSA</u>
	<u>Pharmaceutical</u>	<u>Per Diem</u>	<u>§2428</u>
	<u>Monitoring Panel</u>		

Sec. 2. 32 MRSA §2411, sub-§1, ¶A, as enacted by PL 1975, c. 563, §1, is repealed and the following enacted in its place:

1 A. The examination of the eye and related struc-  
2 tures without the use of surgery or other  
3 invasive techniques to ascertain defects, abnor-  
4 malities or diseases of the eye;

5 **Sec. 3. 32 MRSA §2411, sub-§1, ¶C, as enacted by**  
6 **PL 1975, c. 563, §1, is repealed and the following**  
7 **enacted in its place:**

8 C. The correction, treatment or referral of vi-  
9 sion problems and ocular abnormalities by the  
10 prescribing, adapting and application of ophthal-  
11 mic lenses, devices containing lenses, prisms,  
12 contact lenses, orthoptics, vision therapy,  
13 ocular pharmaceutical agents and prosthetic de-  
14 vices and other optical aids, and by using other  
15 corrective procedures to preserve, restore or im-  
16 prove vision, excluding invasive, laser or other  
17 surgery;

18 **Sec. 4. 32 MRSA §2411, sub-§3, as repealed and**  
19 **replaced by PL 1975, c. 563, §1, is repealed and the**  
20 **following enacted in its place:**

21 3. Pharmaceutical agents. "Pharmaceutical  
22 agents" means topical medicinal diagnostic and  
23 therapeutical substances for use in the diagnosis,  
24 cure, treatment or prevention of ocular disease.

25 **Sec. 5. 32 MRSA §2411, sub-§§4 and 5 are enacted**  
26 **to read:**

27 4. Diagnostic pharmaceuticals. "Diagnostic  
28 pharmaceuticals" means those pharmaceutical agents  
29 required to detect and diagnose an abnormal condition  
30 or eye disease.

31 5. Therapeutic pharmaceuticals: "Therapeutic  
32 pharmaceuticals" means those pharmaceutical agents  
33 required to prevent, manage or treat abnormal ocular  
34 conditions or diseases, excluding glaucoma.

35 Nothing in this section may be construed to permit  
36 the optometric use of pharmaceutical agents which  
37 are:

38 A. Controlled substances as described in the  
39 United States Code, Title 21, Section 812;

LEGISLATIVE SERVICE BUREAU (S)

1           B. Any pharmaceutical agent administered by  
2           subdermal injection, intramuscular injection,  
3           intravenous injection, subcutaneous injection or  
4           retrobulbar injections; and

5           C. Any pharmaceutical agent for the specific  
6           treatment of a systemic disease.

7           Notwithstanding any other provision of this Act, an  
8           optometrist may dispense, prescribe and administer  
9           nonlegend agents.

10           Sec. 6. 32 MRSA §2413 is enacted to read:

11           §2413. Standard of care

12           An optometrist authorized to use pharmaceutical  
13           agents for use in the diagnosis, cure, treatment or  
14           prevention of ocular disease shall be held to the  
15           same standard of care in diagnosis, use of such  
16           agents and treatment as that degree of skill and pro-  
17           iciency commonly exercised by a medical practitioner  
18           in the same community.

19           Sec. 7. 32 MRSA §2417, sub-§3, ¶D, as enacted by  
20           PL 1973, c. 788, §156, is repealed and the following  
21           enacted to read:

22           D. Advice for medical treatment or referral, or  
23           both;

24           Sec. 8. 32 MRSA §2417, sub-§4, ¶D is enacted to  
25           read:

26           D. For pharmaceutical agents:

- 27                   (1) Patient's name;  
28                   (2) Date;  
29                   (3) Name, quantity and dosage of drugs;  
30                   (4) Number of refills;  
31                   (5) Name of prescriber;  
32                   (6) Drug license number of prescriber;

1                   (7) A sequential number; and

2                   (8) The prescriber's directions for usage.

3                   Sale of pharmaceutical agents by an optometrist  
4                   is prohibited.

5                   Sec. 9. 32 MRSA §2419 as amended by PL 1983, c.  
6                   378, §26, is repealed.

7                   Sec. 10. 32 MRSA §2419-A. is enacted to read:

8                   §2419-A. Licensure for use of therapeutic pharmaceu-  
9                   tical agents

10                   Use of therapeutic pharmaceutical agents by an  
11                   optometrist requires a therapeutic license from the  
12                   State Board of Optometry. Licensure shall require a  
13                   review of credentials by the State Board of Optome-  
14                   try, including the successful completion of a tran-  
15                   script quality course in general and ocular pharma-  
16                   cology. A transcript quality course means a course  
17                   which is given by a regional or professional accred-  
18                   iting organization approved by the Council on  
19                   Post-secondary Accreditation of the United States De-  
20                   partment of Education and approved by the State Board  
21                   of Optometry. The board shall require a course which  
22                   includes a minimum of 100 hours of ocular  
23                   therapeutics, including at least 25 hours of super-  
24                   vised clinical training, in the examination, diagno-  
25                   sis and treatment of conditions of the eye and  
26                   adnexa. Any such course shall include participation  
27                   by an ophthalmologist.

28                   The board shall also require an applicant to suc-  
29                   cessfully complete a graded written examination, ad-  
30                   ministered by the State Board of Optometry or the Na-  
31                   tional Board of Examiners in Optometry, demonstrating  
32                   competency in the use of therapeutic pharmaceutical  
33                   agents.

34                   Sec. 11. 32 MRSA §2422, as amended by PL 1975,  
35                   c. 563, §3, is further amended to read:

36                   §2422. Examination; fees; registration

1 Except as provided in section 2424, every person  
2 before beginning the practice of optometry in this  
3 State shall pass an examination before the board. At  
4 the discretion of the board, such examination may  
5 consist of tests in basic sciences; in anatomy and  
6 physiology of the eye; pathology; practical, theoret-  
7 ical and physiological optics; practical and theoret-  
8 ical optometry; clinical diagnosis and therapeutics;  
9 and such other phases of optometric knowledge and  
10 skill as the board may deem essential. The board  
11 shall include an examination on the subject of gener-  
12 al and ocular pharmacology as it relates to optometry  
13 and the use of ~~topically--applied--diagnostic--drugs~~  
14 pharmaceutical agents for all new applicants for a  
15 certificate of registration and license. ~~Presently~~  
16 ~~licensed--optometrists--shall--be--permitted--to--use--diag-~~  
17 ~~nostic--drugs--only--if--they--obtained--a--diagnostic--drug~~  
18 ~~license--under--section--2427.~~ Any person, having signi-  
19 fied to said the board his desire to be examined,  
20 shall appear before the board at such time and place  
21 as they may designate and, before such examination,  
22 shall pay to said the board a sum not in excess of  
23 \$100, as established by the board. All persons suc-  
24 cessfully passing such examination shall be regis-  
25 tered, in a record which shall be kept by the secre-  
26 tary of said the board, as licensed to practice op-  
27 tometry and shall receive a certificate of such reg-  
28 istration issued by said the board.

29 1. Requirement. All applicants for a  
30 therapeutic pharmaceutical license under this section  
31 shall submit proof of:

32 A. Satisfactory completion of a course in gener-  
33 al and ocular pharmacology with particular empha-  
34 sis on the application and use of pharmaceutical  
35 agents for the purpose of examination, diagnosis  
36 and treatment of conditions of the eye and its  
37 adnexa. The course shall constitute a minimum of  
38 100 hours of ocular therapeutics, including at  
39 least 25 hours of supervised clinical training  
40 and shall be taught by an accredited institution  
41 and approved by the board; or

42 B. Graduation from an accredited optometric in-  
43 stitution and passing an examination on  
44 therapeutic pharmaceuticals administered by the  
45 National Board of Examiners in Optometry; and

1 C. Completion of one year of acceptable practice  
2 as a licensed optometrist.

3 Sec. 12. 32 MRSA §2425, as enacted by PL 1973,  
4 c. 788, §156, is amended to read:

5 §2425. Display of certificates

6 Every person to whom a certificate of registra-  
7 tion and current certificate of annual license renew-  
8 al are granted shall display the same in a conspicu-  
9 ous part of his office wherein the practice of optom-  
10 etry is conducted. Optometrists awarded credentials  
11 by the board in the use of diagnostic and therapeutic  
12 pharmaceuticals are required to affix current docu-  
13 mentation of these privileges to their registration  
14 as provided by the board upon annual license renewal.

15 Sec. 13. 32 MRSA §2426, first paragraph, as en-  
16 acted by PL 1973, c. 788, §156, is amended to read:

17 All optometrists now or hereafter licensed in the  
18 State of Maine shall be required to take annual  
19 courses in subjects related to the practice of the  
20 profession of optometry, to the end that the utiliza-  
21 tion and application of new techniques, scientific  
22 and technical advances, the use of pharmaceutical  
23 agents and treatment of ocular diseases and the  
24 achievements of research will assure comprehensive  
25 vision care to the public. The length of study shall  
26 be determined by the board, but in no event shall it  
27 be less than 15 hours nor exceed 20 hours in any cal-  
28 endar year. Optometrists authorized to use  
29 therapeutic pharmaceutical agents shall complete, as  
30 part of their annual course work, 5 or more hours of  
31 approved transcript quality course work in ocular  
32 pharmacology, diagnosis and treatment of ocular dis-  
33 ease. Attendance must be at a course or courses ap-  
34 proved by the board and is to be certified to the  
35 board upon a form provided by the board and shall be  
36 submitted by each optometrist at the time he makes  
37 application to the board for the renewal of his li-  
38 cense and shall accompany the annual renewal fee. The  
39 board shall notify all optometrists licensed in this  
40 State of all courses approved by it at least 15 days  
41 prior to the offering of such course. The board is  
42 authorized to use up to 1/2 of its annual renewal

1 fees for the purpose of contracting with institutions  
2 of higher learning, professional organizations or  
3 qualified individuals for the providing of education-  
4 al programs approved by the board.

5 Sec. 14. 32 MRSA §2427, as amended by PL 1983,  
6 c. 378, §28, is repealed.

7 Sec. 15. 32 MRSA §2428 is enacted to read:

8 §2428. Therapeutic Pharmaceutical Monitoring Panel

9 1. Panel established. There is created a  
10 Therapeutic Pharmaceutical Monitoring Panel.

11 2. Membership. The panel shall consist of 5  
12 members to be appointed as follows:

13 A. One licensed optometrist appointed by the  
14 State Board of Optometry;

15 B. One licensed ophthalmologist appointed by the  
16 Board of Registration in Medicine;

17 C. One member of the Senate, who shall also be a  
18 member of the joint standing committee of the  
19 Legislature having jurisdiction over business  
20 legislation or the joint standing committee of  
21 the Legislature having jurisdiction over human  
22 resources, to be appointed by the President of  
23 the Senate;

24 D. One member of the House of Representatives,  
25 who shall also be a member of the joint standing  
26 committee of the Legislature having jurisdiction  
27 over business legislation or the joint standing  
28 committee of the Legislature having jurisdiction  
29 over human resources, to be appointed by the  
30 Speaker of the House; and

31 E. A licensed physician with a specialty in in-  
32 ternal medicine, appointed by the Board of Regis-  
33 tration in Medicine.

34 Appointments shall be made within 30 days after this  
35 Act becomes effective. Notification of all appoint-  
36 ments shall be made to the Board of Optometry and the



1 Board Registration in Medicine and these boards shall  
2 jointly call the first meeting of the panel within 30  
3 days of this notification.

4 3. Staff. The panel may employ and prescribe  
5 the duties of other personnel as the board deems nec-  
6 essary.

7 4. Reports. Reports of side effects or ineffec-  
8 tive drugs and investigation of drug misuse shall be  
9 as follows.

10 A. All optometrist shall retain records of each  
11 use or application of any pharmaceutical agent  
12 and shall provide a report of all uses to the  
13 panel every 3 months, commencing on June 30,  
14 1988.

15 B. All optometrists and ophthalmologists shall  
16 report to the panel each instance in which a pa-  
17 tient administered a therapeutic pharmaceutical  
18 agent experiences a clinically significant  
19 drug-induced side effect. The panel shall report  
20 each such instance either to the Board of Regis-  
21 tration in Medicine if the instance involves an  
22 ophthalmologist or the State Board of Optometry  
23 if the instance involves an optometrist.

24 C. The panel shall also investigate complaints  
25 concerning misuse of ocular pharmaceutical agents  
26 by optometrists or ophthalmologists and shall  
27 forward the results of that investigation of an  
28 ophthalmologist to the Board of Registration in  
29 medicine or the results of that investigation of  
30 an optometrist to the State Board of Optometry  
31 with its recommendation.

32 5. Recommendations. The panel may make recommen-  
33 dations to the State Board of Optometry and the State  
34 Board of Registration in Medicine at such times and  
35 on such subjects related to therapeutic pharmaceuti-  
36 cal agents as it deems appropriate.

37 6. Report to the Legislature and Governor. The  
38 panel shall prepare and submit reports to the Gover-  
39 nor, the President of the Senate, the Speaker of the  
40 House, the State Board of Optometry and the State

1 Board of Registration in Medicine. The reports shall  
2 summarize the findings of the panel regarding the use  
3 of therapeutic pharmaceutical agents and shall be  
4 signed by all members of the panel. A report shall  
5 be submitted on the following dates: June 30, 1988;  
6 January 30, 1989; June 30, 1989; and January 30,  
7 1990.

8 7. Budget. All expenses of this panel shall be  
9 paid by the State Board of Optometry and the State  
10 Board of Registration in Medicine on an equal basis.  
11 The panel shall submit to the Board of Optometry its  
12 budgeting requirements in the manner and time pre-  
13 scribed by that board.

14 8. Sunset. This section is repealed on May 15,  
15 1990.

16 Sec. 16. 32 MRSA §2431-A, sub-§2, ¶10, as enacted  
17 by PL 1983, c. 378, §30, is amended to read:

18 O. Failure to display a diagnostic or  
19 therapeutic drug license issued under section  
20 ~~2427~~ section 2419-A or 2425; or

21 Sec. 17. 32 MRSA §2441, as enacted by PL 1973,  
22 c. 788, §156, is amended to read:

23 §2441. Penalties

24 Whoever engages in the practice of optometry in  
25 this State, without first having been duly registered  
26 as provided in sections 2421 and 2424, ~~shall--be~~  
27 ~~deemed--guilty-of-a-misdemeanor-and~~ shall be punished  
28 by a fine of not less than \$50 ~~\$250~~ nor more than  
29 ~~\$200~~ \$1,000. To open an office for the purpose of  
30 practicing optometry or to announce to the public in  
31 any way an intention to practice optometry in any  
32 county in the State shall be prima facie evidence of  
33 engaging in the practice of optometry within the  
34 meaning of this section.

35 Sec. 18. 32 MRSA §2446, as amended by PL 1977,  
36 c. 564, §121, is further amended to read:

37 §2446. Drugs

1 Any optometrist who uses diagnostic-drugs pharma-  
2 ceutical agents, without first having obtained a li-  
3 cence under section 2427-or-being-duly-registered--as  
4 provided--in--section--2421-and-2424-after-October-17  
5 1975, 2419-A shall be deemed guilty of a misdemeanor  
6 and shall be punished by a fine of not less than \$50  
7 nor more than \$200.

8 The board further reserves the right to review  
9 performances and remove a therapeutic drug license,  
10 as outlined in section 2431-A or if the licensee  
11 fails to comply with the requirements in section  
12 2426.

13 Sec. 19. Allocation. The following funds are  
14 allocated from Other Special Revenue Funds to carry  
15 out the purposes of this Act.

	<u>1987-88</u>	<u>1988-89</u>
16		
17	<u>PROFESSIONAL AND FINANCIAL</u>	
18	<u>REGULATION, DEPARTMENT OF</u>	
19	Therapeutic Pharmaceutical	
20	Monitoring Panel	
21	Personal Services	\$1,100 \$1,100
22	All Other	1,000 1,000
23		
24	Total	<u>\$2,100</u> <u>\$2,100</u>

25 STATEMENT OF FACT

26 Currently, the state optometrists are authorized  
27 to utilize topically administered anesthetics to aid  
28 in the diagnosis of eye disease. This new draft au-  
29 thorizes optometrists to utilize topical therapeutic  
30 pharmaceuticals in the diagnosis and treatment of  
31 diseases and conditions of the human eye, except  
32 glaucoma. This new draft does not extend authority  
33 to utilize medications other than topical medications  
34 or surgical authority to optometrists.

35 Optometrists will be held to the same standard of  
36 care as physicians. To be eligible to use

1 pharmaceuticals, optometrists will have to be certi-  
2 fied by the State Board of Optometry and will have to  
3 complete an examination and transcript quality course  
4 and have one year of experience as an optometrist.  
5 Continuing education requirements are set forth in  
6 the new draft as well.

7 A monitoring panel has also been created to de-  
8 velop data on the use of pharmaceuticals by optome-  
9 trists under the provisions of this new draft and to  
10 report on those results to the Legislature, the Gov-  
11 ernor and the State Boards of Optometry and Registra-  
12 tion in Medicine.

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