

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1120

H.P. 788

House of Representatives, March 13, 1991

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative PARADIS of Frenchville.
Cosponsored by Representative GWADOSKY of Fairfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Expand the Grounds for Discipline of Osteopathic Physicians
and Surgeons.**



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

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Sec. 1. 32 MRSA §2591-A, sub-§2, ¶¶L, as amended by PL 1989, c. 291, §2, is further amended to read:

L. Division of professional fees not based on actual services rendered; or

Sec. 2. 32 MRSA §2591-A, sub-§2, ¶¶M, as enacted by PL 1989, c. 291, §3, is amended to read:

M. Failure to comply with the requirements of Title 24, section 2905-A; or

Sec. 3. 32 MRSA §2591-A, sub-§2, ¶¶N to EE are enacted to read:

N. Permitting one's name or one's certificate of registration to be used by a person, group or corporation when the individual concerned is not actually directing the treatment given;

O. Failure to use reasonable care discrimination in the administration of drugs or failure to employ acceptable scientific methods in the selection of drugs or other modalities of treatment of disease;

P. Accepting anything of value without paying for it from a drug manufacturer, distributor, wholesaler or retailer;

O. Selling, prescribing, giving away or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution or use of any drug;

R. Willfully betraying a professional confidence, engaging in the division of fees for referral of patients or receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

S. Departure from or failure to conform to minimum acceptable and prevailing standards of care for the practice area or specialty for which the physician is licensed, whether or not actual injury to a patient is established;

T. Representing with the purpose of obtaining compensation or other advantage for the certificate holder or any other person that an incurable disease or injury or other incurable condition can be permanently cured;

2 U. Obtaining or attempting to obtain money or anything of
3 value by fraudulent misrepresentation in the course of
4 practice;

6 V. Violating any provision of a code of ethics of the
7 American Medical Association, the American Osteopathic
8 Association or any other national professional organization
9 specified by rule;

10 W. Inability to practice according to acceptable and
11 prevailing standards of care by reason of mental illness or
12 physical illness, including, but not limited to, physical
13 deterioration that adversely affects cognitive, motor or
14 perceptive skills;

16 X. Violating or attempting to violate, directly or
17 indirectly, or assisting in or abiding the violation of, or
18 conspiring to violate, any provisions of this chapter or any
19 rule promulgated by the board;

20 Y. Limitation, revocation or suspension by another state of
21 a license or certificate to practice issued by the proper
22 licensing authority of that state; refusal to license,
23 register or reinstate an applicant by that authority; or
24 imposition of probation by that authority for an action that
25 also is a violation of this chapter, except for nonpayment
26 of fees;

28 Z. Revocation, suspension, restriction, reduction or
29 termination of clinical privileges by the federal Department
30 of Defense or the federal Veterans' Administration for any
31 act or acts that also constitute a violation of this chapter;

34 AA. Termination or suspension from Medicare or Medicaid
35 programs by the federal Department of Health and Human
36 Services or other responsible agency for any act or acts
37 that also constitute a violation of this chapter;

38 BB. Impairment of ability to practice according to
39 acceptable and prevailing standards of care because of
40 habitual or excessive use or abuse of drugs, alcohol or
41 other substances;

44 CC. Failure or refusal to provide a patient upon
45 presentation of a proper authorization with copies of the
46 patient's medical records within 30 days of request;

48 DD. Failure to comply with the continuing medical education
49 requirements of the board or to make a report required by
50 the board. Failure of any certificate holder to provide
51 adequate documentation of the completion of the continuing
52 medical education requirement upon request by the board

2 automatically suspends that person's certificate to
3 practice. The suspension takes effect upon the certificate
4 holder's receipt of a notice of the suspension, which the
5 board shall issue by registered mail or in person at the
6 certificate holder's last known address. At any time after
7 the suspension, the individual may apply to the board for
8 reinstatement of the certificate. The board shall reinstate
9 the certificate after the certificate holder submits the
10 application, documentation of completion of the continuing
11 medical education requirement that is acceptable to the
12 board, current and delinquent registration fees and a
13 penalty fee in an amount determined by the board that may
14 not exceed \$50,000. These provisions do not limit the
15 board's authority to investigate possible violations of this
16 section or any other provision of this chapter; or

17 EE. Soliciting patients or publishing a false, fraudulent,
18 deceptive or misleading statement. As used in this
19 paragraph, "false, fraudulent, deceptive or misleading
20 statement" means a statement that includes a
21 misrepresentation of fact, is likely to mislead or deceive
22 because of a failure to disclose material facts, is intended
23 or is likely to create false or unjustified expectations of
24 favorable results or includes representations or
25 implications that in reasonable probability may cause an
26 ordinarily prudent person to misunderstand or be deceived.

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STATEMENT OF FACT

31 This bill expands the grounds for discipline of osteopathic
32 physician and surgeon certificate holders by giving more precise
33 definitions of those grounds.
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