

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1291, L.D. 1866, Bill, "An Act to Prevent Certain Restraint of Trade Practices"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 32 MRSA §2417, sub-§4-A is enacted to read:

4-A. Release of contact lens prescription. After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the optometrist, the patient may request a copy of the contact lens specifications from the optometrist. The optometrist shall provide a copy of the prescription, which must contain the information necessary to properly duplicate the current prescription. The prescription must contain an expiration date. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

The prescribing optometrist is not liable for any injury or condition to a patient that results from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing optometrist.

The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that an optometrist may fill a prescription of another optometrist or a physician without a copy of the prescription. Except in the case of a physician who has previously seen the wearer, a contact lens prescription may not be filled by mail, but must be filled by being personally dispensed to the contact lens wearer. A person who fills a

2 contact lens prescription shall maintain a file of that  
3 prescription for a period of 6 years. A person that improperly  
4 fills a contact lens prescription or fills an expired  
5 prescription commits a civil violation for which a forfeiture of  
6 not less than \$250 nor more than \$1,000 may be adjudged.

7 Any person may file a complaint with the board seeking  
8 disciplinary action concerning violations of this subsection.  
9 The board shall investigate or cause to be investigated and shall  
10 resolve a complaint on its own motion or upon receipt of a  
11 written complaint. The board shall conduct its actions in  
12 accordance with the Maine Administrative Procedure Act.

13 **Sec. 2. 32 MRSA §2418-B is enacted to read:**

14 **§2418-B. Consumer information**

15 The board shall develop a publication that contains the  
16 information it believes necessary to educate consumers of optical  
17 products and services. The publication must inform the consumer  
18 of the consumer's right to bring complaints to the attention of  
19 the board. The publication must contain the board's address and  
20 phone number.

21 The board shall provide reasonable quantities of this  
22 publication at no charge to licensed practitioners.

23 **Sec. 3. 32 MRSA §2429 is enacted to read:**

24 **§2429. Consumer information**

25 A person requesting an eye examination must be given at the  
26 time of the request the consumer information publication required  
27 in section 2418-B.

28 **Sec. 4. 32 MRSA §2600 is enacted to read:**

29 **§2600. Release of contact lens prescription**

30 After contact lenses have been adequately fitted and the  
31 patient released from immediate follow-up care by the physician,  
32 the patient may request a copy of the contact lens specifications  
33 from the physician. The physician shall provide a copy of the  
34 prescription, which must contain the information necessary to  
35 properly duplicate the current prescription. The prescription  
36 must contain an expiration date. The prescription may contain  
37 fitting guidelines and may also contain specific instructions for  
38 use by the patient.

2        The prescribing physician is not liable for any injury or  
3        condition to a patient that results from negligence in packaging,  
4        manufacturing or dispensing lenses by anyone other than the  
5        prescribing physician.

6  
7        The dispensing party may dispense contact lenses only upon  
8        receipt of a written prescription, except that a physician may  
9        fill a prescription of an optometrist or another physician  
10       without a copy of the prescription. Except in the case of a  
11       physician who has previously seen the wearer, a contact lens  
12       prescription may not be filled by mail, but must be filled by  
13       being personally dispensed to the contact lens wearer. A person  
14       who fills a contact lens prescription shall maintain a file of  
15       that prescription for a period of 6 years. A person that  
16       improperly fills a contact lens prescription or fills an expired  
17       prescription commits a civil violation for which a forfeiture of  
18       not less than \$250 nor more than \$1,000 may be adjudged.

19       Any person may file a complaint with the board seeking  
20       disciplinary action concerning violations of this section. The  
21       board shall investigate or cause to be investigated and shall  
22       resolve a complaint on its own motion or upon receipt of a  
23       written complaint. The board shall conduct its actions in  
24       accordance with the Maine Administrative Procedure Act.

25       **Sec. 5. 32 MRSA §3300 is enacted to read:**

26       **§3300. Release of contact lens prescription**

27       After contact lenses have been adequately fitted and the  
28       patient released from immediate follow-up care by the physician,  
29       the patient may request a copy of the contact lens specifications  
30       from the physician. The physician shall provide a copy of the  
31       prescription, which must contain the information necessary to  
32       properly duplicate the current prescription. The prescription  
33       must contain an expiration date. The prescription may contain  
34       fitting guidelines and may also contain specific instructions for  
35       use by the patient.

36       The prescribing physician is not liable for any injury or  
37       condition to a patient that results from negligence in packaging,  
38       manufacturing or dispensing lenses by anyone other than the  
39       prescribing physician.

40       The dispensing party may dispense contact lenses only upon  
41       receipt of a written prescription, except that a physician may

2 fill a prescription of an optometrist or another physician  
3 without a copy of the prescription. Except in the case of a  
4 physician who has previously seen the wearer, a contact lens  
5 prescription may not be filled by mail, but must be filled by  
6 being personally dispensed to the contact lens wearer. A person  
7 who fills a contact lens prescription shall maintain a file of  
8 that prescription for a period of 6 years. A person that  
9 improperly fills a contact lens prescription or fills an expired  
10 prescription commits a civil violation for which a forfeiture of  
11 not less than \$250 nor more than \$1,000 may be adjudged.

12 Any person may file a complaint with the board seeking  
13 disciplinary action concerning violations of this section. The  
14 board shall investigate or cause to be investigated and shall  
15 resolve a complaint. The board shall conduct its actions in  
16 accordance with the Maine Administrative Procedure Act.

17 **Sec. 6. Allocation.** The following funds are allocated from  
18 Other Special Revenue to carry out the purposes of this Act.

19  
20 1992-93

21  
22 **PROFESSIONAL AND FINANCIAL REGULATION,**  
23 **DEPARTMENT OF**

24  
25 **Board of Optometrists**

26  
27  
28 All Other \$4,500

29 Provides funds for the printing and mailing  
30 costs of a publication to educate consumers  
31 of optical products and services.

32  
33  
34 **FISCAL NOTE**

35  
36 1992-93

37  
38 **APPROPRIATIONS/ALLOCATIONS**

39  
40 Other Funds \$4,500

41  
42 An allocation of \$4,500 in fiscal year 1992-93 from an  
43 existing balance forward will be required by the Board of  
44 Optometry for the publication and mailing costs of a consumer  
45 brochure. The bill may also increase the number of complaints  
46 filed with the board. The costs associated with this increase  
47 can not be estimated at this time.

2           The fine for improperly filling a contact lens prescription  
may increase General Fund undedicated revenue. The amount of the  
4 increase can not be determined.

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8                               **STATEMENT OF FACT**

10           The original bill required an optometrist to refer cases of  
pathology to an ophthalmologist, removed the majority of the  
12 restrictions on corporate practice of optometry and required the  
release of contact lens prescriptions. This amendment removes  
14 the first 2 of these provisions. It provides for the release of  
contact lens prescriptions only after initial fitting of the  
16 lenses, requires that the prescription have an expiration date  
and provides that the wearer can not have the released  
18 prescription filled by mail, except by a physician. It removes  
the prescribing optometrist from liability for negligence by the  
20 person filling the prescription.

22           The amendment adds a requirement that the Board of Optometry  
prepare and make available a publication designed to make a  
24 person an educated consumer of optical products and services,  
including the consumer's right to bring a complaint to the board.

26           The amendment places similar provisions in the statutes for  
28 medical doctors and osteopathic doctors so that these provisions  
will apply to ophthalmologists and other physicians who prescribe  
30 contact lenses.

32           The amendment also adds an allocation section to cover the  
cost of the required publication and a fiscal note to the bill.

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Reported by the Committee on Business Legislation  
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House  
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