

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1866

H.P. 1291

House of Representatives, May 16, 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 STEVENS of Bangor.

Cosponsored by Representative HOGLUND of Portland, Representative CONSTANTINE of Bar Harbor and Senator CONLEY of Cumberland.

STATE OF MAINE

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

An Act to Prevent Certain Restraint of Trade Practices.

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

2 Sec. 1. 32 MRSA §2414 is enacted to read:

4 §2414. Referral required

6 An optometrist shall refer to an ophthalmologist cases of
8 suspected pathology that are outside the scope of the practice of
10 optometry.

12 Sec. 2. 32 MRSA §2431-A, sub-§2, ¶J, as enacted by PL 1983, c.
14 378, §30, is repealed.

16 Sec. 3. 32 MRSA §2431-A, sub-§2, ¶O, as amended by PL 1987, c.
18 542, Pt. K, §§16 and 20, is further amended to read:

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

24 Sec. 4. 32 MRSA §2431-A, sub-§2, ¶P, as enacted by PL 1983, c.
26 378, §30, is amended to read:

28 ~~P. Splitting or dividing any fee with any person not an~~
30 ~~associate in conformance with section 2434, or giving~~ Giving
32 or accepting any rebate from an optician or ophthalmic
34 dispenser; or

36 Sec. 5. 32 MRSA §2431-A, sub-§2, ¶¶Q to S are enacted to read:

38 O. Exercising undue influence on a person using the
40 licensee's services or promoting the sale of services or
42 goods in a manner that exploits a person for the financial
44 gain of the practitioner or of a 3rd party;

46 R. Failing to make available, upon request of a person
48 using the licensee's services, copies of documents in the
50 possession or under the control of the licensee when those
 documents have been prepared for and purchased by the user
 of services; or

S. Conditioning the availability of an eye examination to
 any person on a requirement that that person agree to
 purchase any ophthalmic goods from the optometrist.

 Sec. 6. 32 MRSA §2434, sub-§4, as enacted by PL 1973, c. 788,
 §156, is repealed.

 Sec. 7. 32 MRSA §2435, as amended by PL 1983, c. 378, §34, is
 repealed.

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STATEMENT OF FACT

4 The purpose of this bill is to reflect the policy that the
6 purposes of health professional licensing are to ensure that the
8 practitioners are competent and that licensing statutes contain
standards and restrictions that clearly bear on a professional's
competence to practice.

10 Under current law, an optometrist is not permitted to
12 practice in a retail store. The Federal Trade Commission has
14 attempted to remove such restrictions, but was prohibited from
doing so because this was determined to be within the authority
of the states. This bill specifically permits optometrists the
opportunity to practice in retail stores.

16 The bill also adds new consumer protections regarding the
18 practice of optometry and prohibits the promotion of the sale of
20 services or goods in a manner that exploits a person for the
financial gain of the practitioner or of a 3rd party.

22 The bill also requires an optometrist to make available to
24 persons using the optometrist's services copies of documents in
the possession and control of the optometrist when the documents
26 have been prepared for and purchased by the user of the services.