MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib



Reproduced from scanned originals with text recognition applied (searchable text may contain some errors and/or omissions)



116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1151

H.P. 846

House of Representatives, April 1, 1993

An Act to Amend the Laws Regulating the Practice of Optometry.

Submitted by the Department of the Attorney General pursuant to Joint Rule 24. Reference to the Committee on Business Legislation suggested and ordered printed.

OSEPH W. MAYO, Clerk

Presented by Representative HOGLUND of Portland.
Cosponsored by Representatives: ADAMS of Portland, AHEARNE of Madawaska, ALIBERTI of Lewiston, BOWERS of Washington, BRENNAN of Portland, CARROLL of Gray, CATHCART of Orono, CLEMENT of Clinton, COLES of Harpswell, DAGGETT of Augusta, DORE of Auburn, ERWIN of Rumford, FAIRCLOTH of Bangor, FARNSWORTH of Hallowell, FITZPATRICK of Durham, GEAN of Alfred, GWADOSKY of Fairfield, HATCH of Skowhegan, HOLT of Bath, KILKELLY of Wiscasset, LARRIVEE of Gorham, MICHAEL of Auburn, MORRISON of Bangor, MURPHY of Berwick, NADEAU of Saco, OLIVER of Portland, PINEAU of Jay, RAND of Portland, RICHARDSON of Portland, ROTONDI of Athens, RUHLIN of Brewer, SAXL of Bangor, SIMONEAU of Thomaston, ST. ONGE of Greene, STEVENS of Orono, TARDY of Palmyra, TOWNSEND of Portland, TOWNSEND of Eastport, TOWNSEND of Canaan, WINN of Glenburn, Senators: BRANNIGAN of Cumberland, CAREY of Kennebec, CIANCHETTE of Somerset, CONLEY of Cumberland, LUTHER of Oxford, MARDEN of Kennebec.

	Be it enacted by the People of the State of Maine as follows:
2	
	Sec. 1. 32 MRSA §2430 is enacted to read:
4	
6	\$2430. Contract with optical shop or commercial or mercantile establishment
8	1. Contract requirements. An optometrist may enter into a written contract for space in or on the premises of an optical
10	shop or commercial or mercantile establishment as long as:
12	A. The optical shop or commercial or mercantile establishment does not control or attempt to control the
14	professional judgment of the optometrist;
16	B. The optometrist maintains control of the practice and the optometric records related to the practice;
18	
20	C. The office or offices to be used for the practice of optometry are private and equipped as required for a complete ocular examination; and
22	D. Appropriate identification is visible to the public
24	indicating the doctor's name and phone number and that the optometrist is independent of the optical shop or commercial
26	or mercantile establishment.
28	2. Effect of rental or payment. Rental or payment for space, equipment or services on a flat rate or percentage of
30	gross revenues is lawful and may not be construed as fee splitting or the sharing or dividing of profit.
32	spireting of the sharing of dividing of profit.
Ĭ-	Sec. 2. 32 MRSA §2431-A, sub-§2, ¶J, as enacted by PL 1983, c.
34	378, §30, is repealed.
36	Sec. 3. 32 MRSA §2434, sub-§4, as enacted by PL 1973, c. 788, §156, is amended to read:
38	4. Mercantile employment. The practice of optometry as a
40	full or part-time employee of any mercantile establishment or
42	directly or indirectly encouraging one's optometric services to be promoted as part of any mercantile or commercial
	establishment. In-this-prohibition-shall-be-included This
44	chapter does not prohibit the practice of optometry as—a—lessee ef—a in or on the premises of an optical shop or commercial or
46	mercantile establishment involved in the selling of spectacles,
_ •	frames, -mounting, -lenses or other optical -devices under the terms

of a written contract as authorized in section 2430;

48

2	Sec. 4. 32 MRSA §2435, as amended by PL 1983, c. 378, §34, i further amended by adding at the end a new paragraph to read:
4	This chapter does not prohibit a written contract for space equipment or other services between any person, firm o
6	corporation and an optometrist as authorized in section 2430 Such a contract may not be construed as the direct or indirect
8	practice of optometry.
10	Sec. 5. 32 MRSA §2443, as enacted by PL 1973, c. 788, §156, is repealed.
12	
14	STATEMENT OF FACT
16	This bill:
18	 Eliminates the prohibition on optometric practice or premises where nonoptometric materials are dispensed;
20	2. Eliminates the existing prohibition on "mercantile
22	employment" of optometrists by clarifying related provisions;
24	3. Eliminates the prohibition on association by any optometrist with a person, firm or corporation who is not a
26	registered optometrist;
28	4. Eliminates the requirement that optometrists practice only in an individual capacity or in association with another
30	optometrist or practitioner of "the healing arts and sciences";
32	5. Eliminates the requirement that approval from the State Board of Optometry be obtained before opening a branch office of
34	an optometric practice; and
36	6. Enacts a provision authorizing contracts for the practice of optometry in or on the premises of an optical shop or
38	commercial or mercantile establishment.