

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1996

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Legislative Document

No. 1814

H.P. 1326

House of Representatives, February 29, 1996

### **An Act Concerning the Treatment of Ocular Diseases by Optometrists.**

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Reported by Representative CAMERON for the Joint Standing Committee on Business and Economic Development pursuant to Public Law 1995, chapter 439.

Reference to the Joint Standing Committee on Business and Economic Development suggested and printing ordered under Joint Rule 20.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

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

2  
3  
4       **Sec. 1. 32 MRSA §2411, sub-§3**, as repealed and replaced by PL 1995, c. 439, §3 and affected by §8, is amended to read:

6       **3. Pharmaceutical agent.** "Pharmaceutical agent" means any topical medicinal diagnostic and therapeutical substances for use  
8       in the diagnosis, cure, treatment or prevention of glaucoma  
ocular conditions and diseases, and ~~any--topical oral~~ medicinal  
10       diagnostic and therapeutical substances and quantities for use in  
12       the diagnosis, cure, treatment or prevention of ocular conditions  
and diseases ~~other-than-glaucoma under section 2437, subsection 2.~~

14       **Sec. 2. 32 MRSA §2415**, as amended by PL 1993, c. 600, Pt. A,  
§144, is further amended to read:

16       **§2415. Appointment; tenure; vacancies; removal**

18       The State Board of Optometry, as established by Title 5,  
20       section 12004-A, subsection 28 and in this chapter called the  
"board," consists of ~~6~~ 5 persons appointed by the Governor. ~~Five~~  
22       Four of the appointees must have been resident optometrists  
engaged in the actual practice of optometry in this State for a  
24       period of at least 5 years prior to their appointment and ~~one~~  
after the 1996 renewal they must hold advanced therapeutic  
26       licenses. One of the appointees must be a consumer member who is  
a resident of this State and has no pecuniary interest in  
28       optometry or in the merchandising of optical products.  
Appointment is for a term of 5 years. Appointments of members  
30       must comply with section 60. A member of the board may be  
removed from office for cause by the Governor. The board has a  
32       common seal.

34       **Sec. 3. 32 MRSA §2417, sub-§6**, as enacted by PL 1995, c. 439,  
§5 and affected by §8, is repealed.

36       **Sec. 4. 32 MRSA §2419-A**, as amended by PL 1993, c. 600, Pt.  
38       A, §150, is repealed.

40       **Sec. 5. 32 MRSA §2422**, as amended by PL 1993, c. 600, Pt. A,  
§153, is further amended to read:

42       **§2422. Examination; fees; initial licensure**

44       Every individual before beginning the practice of optometry  
46       in this State must pass an examination before the board. The  
board shall provide an opportunity for applicants to take the  
48       examination at least twice per year. At the discretion of the  
board, the examination may consist of tests in basic sciences; in  
50       anatomy and physiology of the eye; pathology; practical,

2 theoretical and physiological optics; practical and theoretical  
3 optometry; clinical diagnosis and therapeutics; and other phases  
4 of optometric knowledge and skill the board determines to be  
5 essential. ~~The board shall include an examination on the subject  
6 of general and ocular pharmacology as it relates to optometry and  
7 the use of pharmaceutical agents for all new applicants for a  
8 license. The board shall require that a new applicant pass Parts  
9 I, II and III of the National Board of Examiners in Optometry  
10 examination, including all sections of the Treatment and  
11 Management of Ocular Diseases (TMOD) examination.~~ An individual  
12 who has applied to be examined shall appear before the board at  
13 the time and place the board designates and, before the  
14 examination, shall pay to the board a sum not in excess of \$200  
15 as established by the board. All applicants successfully passing  
16 the examination must be licensed to practice optometry. The  
17 board may require applicants who have failed to pass the  
18 licensure examination 3 times to enroll in a course of continuing  
19 education as prescribed by the board.

20 **1. Requirement.** All applicants for a therapeutic or  
21 advanced therapeutic pharmaceutical license under this section  
22 shall submit proof of compliance with the application  
23 requirements set forth in section 2437, subsections 1 and 3.

24 ~~A. --- Satisfactory completion of a course in general and  
25 ocular pharmacology with particular emphasis on the  
26 application and use of pharmaceutical agents for the purpose  
27 of examination, diagnosis and treatment of conditions of the  
28 eye and its adnexa. --- The course must include a minimum of  
29 100 hours of ocular therapeutics, including at least 25  
30 hours of supervised clinical training and must be taught by  
31 an accredited institution and approved by the board; or~~

34 ~~B. --- Graduation from an accredited optometric institution and  
35 passing an examination on therapeutic pharmaceuticals  
36 administered by the National Board of Examiners in  
37 Optometry; and~~

40 ~~C. --- Completion of one year of acceptable practice as a  
41 licensed optometrist.~~

42 **Sec. 6. 32 MRSA §2423, sub-§1**, as amended by PL 1993, c. 600,  
43 Pt. A, §154, is further amended to read:

44 **1. Annual renewal.** Every licensed optometrist practicing in  
45 the State shall pay annually, before the first day of April, pay  
46 to the board a license renewal fee not in excess of \$200 as  
47 established by the board under section 2417. Beginning July 1,  
48 1999, therapeutic licenses are not renewable.

2           **Sec. 7. 32 MRSA §2426**, as amended by PL 1993, c. 600, Pt. A,  
§157, is further amended to read:

4           **§2426. Educational programs**

6  
8           All optometrists licensed in the State of Maine are required  
10          to take annual courses in subjects related to the practice of the  
12          profession of optometry, to the end that the utilization and  
14          application of new techniques, scientific and technical advances,  
16          the use of pharmaceutical agents and treatment of ocular diseases  
18          and the achievements of research will assure comprehensive vision  
20          care to the public. The length of study is determined by the  
22          board, but in no event may the length be less than 15 hours nor  
24          exceed 30 hours in any calendar year. Optometrists authorized to  
26          use therapeutic pharmaceutical agents shall complete, ~~as part of~~  
28          ~~their annual course work, 5 or more hours of approved transcript~~  
30          quality course work in ocular pharmacology, at least 25 hours of  
Category 1 continuing education, approved by the American  
Optometric Association, the American Medical Association, the  
American Academy of Ophthalmologists or the American Council on  
Pharmaceutical Education, of which 15 hours must be in diagnosis  
and treatment of ocular disease. Attendance must be at a course  
or courses approved by the board and ~~is-to-be~~ certified to the  
board upon a form provided by the board and submitted by each  
optometrist at the time of application to the board for license  
renewal accompanied by the annual renewal fee. The board shall  
notify all optometrists licensed in this State of all courses  
approved by it at least 15 days prior to the offering of each  
course.

32          The board ~~is--permitted--to~~ may waive this continuing  
34          education requirement in cases of illness or undue hardship. If  
36          an applicant for license renewal fails to comply with this  
38          continuing education provision and action has not been taken by  
40          the board to waive the requirements because of the causes  
specified, then the board may not renew the license, except that  
in its discretion, it may renew the license conditionally with  
the provision that within 6 months the applicant shall fulfill  
the requirements.

42           **Sec. 8. 32 MRSA §§2437, 2438 and 2439** are enacted to read:

44           **§2437. Use of therapeutic pharmaceutical agents**

46           An optometrist may not use pharmaceutical agents, except  
48           diagnostic agents, unless licensed in accordance with this  
section.

50           **1. Therapeutic license.** An optometrist may use topical

2 therapeutic agents for any purpose associated with ocular  
3 conditions and diseases if the optometrist has received a  
4 therapeutic license in accordance with the following requirements.

5  
6 A. Licensure requires a review of credentials by the board  
7 including the successful completion of a transcript quality  
8 course in general and ocular pharmacology. For the purposes  
9 of this section, "transcript quality course" means a course  
10 given by a regional or professional accrediting organization  
11 approved by the Council on Post-secondary Accreditation of  
12 the United States Department of Education and approved by  
13 the board. The board may not approve a course that does not  
14 include a minimum of 100 hours of ocular therapeutics  
15 including at least 25 hours of supervised clinical training  
16 in the examination, diagnosis and treatment of conditions of  
17 the eye and its adnexa. That course must include  
18 instruction by an ophthalmologist.

19  
20 B. An applicant must be a graduate from an accredited  
21 optometric institution and successfully complete a graded  
22 written examination administered by the board or the  
23 National Board of Examiners in Optometry, demonstrating  
24 competency in the use of therapeutic pharmaceutical agents.

25 This subsection is repealed October 1, 1996.

26  
27 2. Oral therapeutic agents; use permitted. An optometrist  
28 who has received an advanced therapeutic license may use any  
29 topical therapeutic pharmaceutical agent and any of the following  
30 types and quantities of oral therapeutic pharmaceutical agents  
31 for any purpose associated with ocular conditions and diseases  
32 except for the treatment of glaucoma as required by section 2438:

33 A. One 10-day supply of oral antibiotics;

34  
35 B. One 72-hour supply of oral antivirals with referral to a  
36 physician;

37 C. One 72-hour supply of oral antihistamines;

38  
39 D. One 7-day supply of oral nonsteroidal  
40 antiinflammatories; and

41  
42 E. One 3-day supply of any analgesic identified in  
43 schedules III, IV and V as described in the United States  
44 Code, Title 21, Section 812.

45  
46 3. Requirements for advanced therapeutic license.  
47 Requirements for an advanced therapeutic license are as follows.

2           A. Optometrists without a therapeutic license must complete  
3           the following:

4  
5           (1) Licensure requires a review of credentials by the  
6           board including the successful completion of a  
7           transcript quality course in general and ocular  
8           pharmacology. For the purposes of this section,  
9           "transcript quality course" means a course given by a  
10           regional or professional accrediting organization  
11           approved by the Council on Post-secondary Accreditation  
12           of the United States Department of Education and  
13           approved by the board. The board may not approve a  
14           course that does not include a minimum of 100 hours of  
15           ocular therapeutics including at least 25 hours of  
16           supervised clinical training in the examination,  
17           diagnosis and treatment of conditions of the eye and  
18           its adnexa. That course must include instruction by an  
19           ophthalmologist;

20  
21           (2) An applicant must be a graduate from an accredited  
22           optometric institution and successfully complete a  
23           graded written examination administered by the board or  
24           the National Board of Examiners in Optometry,  
25           demonstrating competency in the use of therapeutic  
26           pharmaceutical agents; and

27           (3) Successful completion of a course of at least 25  
28           hours devoted primarily to pharmacology and glaucoma,  
29           referred to in this section as the "Lancaster Course,"  
30           or its board-approved equivalent, completed anytime  
31           after the 2nd year of optometric study.

32  
33           B. Optometrists with a therapeutic license must meet the  
34           following requirements:

35  
36           (1) The "Lancaster Course" or a board-approved  
37           equivalent course of at least 25 hours devoted  
38           primarily to pharmacology and glaucoma and 3 additional  
39           hours of a board-approved course in pharmacology  
40           dealing solely with antiglaucoma agents. The  
41           requirements of this subparagraph may be completed any  
42           time after the 2nd year of optometric study;

43           (2) Successful completion of 3 didactic hours of a  
44           board-approved course in pharmacology dealing solely  
45           with antiglaucoma agents; and

46           (3) Successful passage of the Treatment and Management  
47           of Ocular Diseases (TMOD) component of the National  
48           Board of Examiners in Optometry (NBO) examination.  
49  
50

Board of Examiners in Optometry examination on or after  
July 1, 1991.

**§2438. Treatment of glaucoma**

**1. Consultation required.** In order to be authorized to independently treat glaucoma, an advanced therapeutic licensee must provide evidence to the board of written referrals and consultations with a physician in accordance with this section. For purposes of this section, "physician" means a licensed physician specializing in diseases of the eye. The board shall form a glaucoma consultation subcommittee comprised of 2 optometrists appointed by the board and 2 physicians appointed by the Board of Licensure in Medicine to review evidence of consultations submitted pursuant to this section.

**2. Evidence of referrals.** Except as provided in subsection 3, advanced therapeutic licensees must provide evidence of a total of 50 glaucoma related referrals to, and consultations with, physicians according to the following criteria.

A. Twenty glaucoma related referrals may be evidenced by retrospective written referrals of patients suspected of having glaucoma to physicians, with written confirmation of each diagnosis by the physician. The retrospective referrals must have occurred between July 1, 1995 and the receipt of the advanced therapeutic license. If the optometrist can not provide evidence of 20 retrospective referrals and confirmations of diagnosis, the balance of the 20 referrals required must be satisfied by engaging in consultations in accordance with the procedure set forth in paragraph B.

B. Thirty glaucoma consultations must be conducted as follows:

(1) A new or existing glaucoma patient is examined and diagnosed by the optometrist;

(2) The optometrist develops a proposed treatment plan and forwards the plan with examination documentation to a physician for consultation;

(3) The physician examines the patient and reviews the optometrist's examination documentation and proposed treatment plan; and

(4) The physician, optometrist and patient mutually agree to and document a treatment plan.



