

# MAINE STATE LEGISLATURE

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W  
P. S. S.

L.D. 217

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DATE: March 31, 1997

(Filing No. S- 82 )

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**BUSINESS AND ECONOMIC DEVELOPMENT**

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Reported by: Majority

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Reproduced and distributed under the direction of the Secretary of the Senate.

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**STATE OF MAINE  
SENATE  
118TH LEGISLATURE  
FIRST REGULAR SESSION**

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COMMITTEE AMENDMENT "A " to S.P. 78, L.D. 217, Bill, "An Act to Allow a Patient to Order Contact Lenses through the Mail without a Prior Visit to a Physician"

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Amend the bill by striking out the title and substituting the following:

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**'An Act to Amend the Optometry Licensing Laws and to Allow Maine Citizens to Fill Contact Lens Prescriptions through the Mail'**

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Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

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**'Sec. 1. 32 MRSA §2417, sub-§4-A, as amended by PL 1993, c. 600, Pt. A, §146, is further amended to read:**

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**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. Upon patient request, the optometrist shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescription. The contact lens prescription must contain an expiration date not to exceed 24 months from the date of issue. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

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The prescribing optometrist is not liable for an injury or condition to a patient that results from negligence in packaging,

**COMMITTEE AMENDMENT**

RWS

COMMITTEE AMENDMENT "A" to S.P. 78, L.D. 217

2 manufacturing or dispensing lenses by anyone other than the  
prescribing optometrist.

4 The dispensing party may dispense contact lenses only upon  
6 receipt of a written prescription, except that an optometrist may  
fill a prescription of another optometrist or a physician without  
8 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  
10 dispensed to the contact lens wearer.~~ Mail order contact lens  
suppliers must be licensed by and register with the Board of  
12 Commissioners of the Profession of Pharmacy pursuant to section  
13751, subsection 3-A and are subject to discipline by that board  
14 for violations of that board's rules and the laws governing the  
board. An individual who fills a contact lens prescription shall  
16 maintain a file of that prescription for a period of 6 5 years.  
An individual, corporation or other entity, other than a mail  
18 order contact lens supplier, that improperly fills a contact lens  
prescription or fills an expired prescription commits a civil  
20 violation for which a forfeiture of not less than \$250 nor more  
than \$1,000 may be adjudged.

22 An individual may file a complaint with the board seeking  
24 disciplinary action concerning violations of this subsection.  
The board shall investigate or cause to be investigated and shall  
26 resolve a complaint in a timely fashion on its own motion or upon  
receipt of a written complaint. The board shall conduct its  
28 actions in accordance with the Maine Administrative Procedure Act.

30 **Sec. 2. 32 MRSA §2420**, as enacted by PL 1995, c. 606, §5, is  
amended to read:

32 **§2420. Notification to Board of Commissioners of the**  
34 **Profession of Pharmacy**

36 Every year at the completion of the license renewal cycle,  
the board shall provide to the Board of Commissioners of the  
38 Profession of Pharmacy a current listing of all licensees  
designating licensees who may prescribe pharmaceuticals pursuant  
40 to therapeutic or advanced therapeutic licensure and the  
pharmaceuticals those licensees may prescribe.

42 **Sec. 3. 32 MRSA §2423, sub-§1**, as amended by PL 1995, c. 606,  
44 §7, is further amended to read:

46 **1. Annual renewal.** Every licensed optometrist practicing in  
the State shall pay annually, before the first day of April, to  
48 the board a license renewal fee not in excess of \$200 as  
established by the board under section 2417. ~~Beginning--July-1,  
50 1999,--therapeutic-licenses-are-not-renewable.~~

# COMMITTEE AMENDMENT

2           **Sec. 4. 32 MRSA §2425**, as amended by PL 1993, c. 600, Pt. A,  
3 §156, is further amended to read:

4           **§2425. Display of license**

6           Every individual to whom a license is granted shall display  
8 the license in a conspicuous part of the office where the  
10 licensee practices. An optometrist awarded credentials by the  
12 board in the use of diagnostic and, therapeutic or advanced  
14 therapeutic pharmaceuticals shall affix current documentation of  
16 these privileges to that optometrist's license as provided by  
18 the board upon annual renewal.

20           **Sec. 5. 32 MRSA §2600, first ¶**, as enacted by PL 1991, c. 675,  
22 §4, is amended to read:

24           After contact lenses have been adequately fitted and the  
26 patient released from immediate follow-up care by the physician,  
28 the patient may request a copy of the contact lens specifications  
30 from the physician. The physician shall provide a copy of the  
32 prescription, at no cost, which must contain the information  
34 necessary to properly duplicate the current prescription. The  
36 contact lens prescription must contain an expiration date not to  
38 exceed 24 months from the date of issue. The prescription may  
40 contain fitting guidelines and may also contain specific  
42 instructions for use by the patient.

44           **Sec. 6. 32 MRSA §2600, 3rd ¶**, as amended by PL 1993, c. 600,  
46 Pt. A, §195, is further amended to read:

48           The dispensing party may dispense contact lenses only upon  
50 receipt of a written prescription, except that a physician may  
fill a prescription of an optometrist or another 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.~~ Mail  
order contact lens suppliers must be licensed by and register  
with the Board of Commissioners of the Profession of Pharmacy  
pursuant to section 13751, subsection 3-A and are subject to  
discipline by that board for violations of that board's rules and  
the laws governing the board. An individual who fills a contact  
lens prescription shall maintain a file of that prescription for  
a period of 6 5 years. An individual, corporation or other  
entity, other than a mail order contact lens supplier, that  
improperly fills a contact lens prescription or fills an expired  
prescription commits a civil violation for which a forfeiture of  
not less than \$250 nor more than \$1,000 may be adjudged.

P. of S.

2           **Sec. 7. 32 MRSA §3300, first ¶**, as enacted by PL 1991, c. 675, §5, is amended to read:

4           After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the physician, the patient may request a copy of the contact lens specifications from the physician. The physician shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescription. The contact lens prescription must contain an expiration date not to exceed 24 months from the date of issue. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

14           **Sec. 8. 32 MRSA §3300, 3rd ¶**, as amended by PL 1993, c. 600, Pt. A, §227, is further amended to read:

18           The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that a physician may fill a prescription of an optometrist or another 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.~~ Mail order contact lens suppliers must be licensed by and register with the Board of Commissioners of the Profession of Pharmacy pursuant to section 13751, subsection 3-A and are subject to discipline by that board for violations of that board's rules and the laws governing the board. An individual who fills a contact lens prescription shall maintain a file of that prescription for a period of ~~6~~ 5 years. An individual, a corporation or any other entity, other than a mail order contact lens supplier, that improperly fills a contact lens prescription or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged.

36           **Sec. 9. 32 MRSA §13702, sub-§12-A** is enacted to read:

38           **12-A. Mail order contact lens supplier.** "Mail order contact lens supplier" means a person or entity, other than an optometrist or physician licensed in this State, that fills contact lens prescriptions by mail or carrier for a patient who resides in this State.

44           **Sec. 10. 32 MRSA §13751, sub-§1**, as enacted by PL 1987, c. 710, §5, is amended to read:

48           **1. Registration.** All drug outlets, manufacturers ~~or~~, wholesalers and mail order contact lens suppliers shall annually register with the board.

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**Sec. 11. 32 MRSA §13751, sub-§3-A** is enacted to read:

3-A. Mail order contact lens suppliers. In order to meet the board's minimum licensure requirements, a mail order contact lens supplier must:

A. Apply for a license annually, if filling contact lens prescriptions by mail or carrier for a patient that resides in this State;

B. Pay the license fee, which may not exceed \$200;

C. Provide the name and address of the owner, partners or corporation and its officers;

D. Fill only written contact lens prescriptions containing expiration dates that do not exceed 24 months from the date of issue;

E. Maintain a record of every contact lens prescription filled for a period of 5 years; and

F. Supply, upon request, all information needed by the board to ensure compliance with this subchapter.

The board may adopt rules establishing additional licensure requirements and disciplinary actions for violation of this subchapter and board rules. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.'

Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

	<b>1997-98</b>	<b>1998-99</b>
<b>REVENUES</b>		
Other Funds	\$3,000	\$3,000

The licensure of contact lens suppliers will increase license fee collections. The estimated annual increase of dedicated revenue to the Board of Commissioners of the Profession of Pharmacy within the Department of Professional and Financial Regulation is \$3,000 annually beginning in fiscal year 1997-98.

2 The Board of Commissioners of the Profession of Pharmacy  
will incur some minor additional costs to adopt certain rules and  
4 enforce the regulation of contact lens suppliers. The board's  
current allocations are sufficient to cover these additional  
6 costs.

8 This bill may reduce prosecutions for civil violations. The  
Judicial Department may realize some minor savings from  
10 reductions of workload and administrative costs associated with  
the minimal number of cases that will no longer be filed in the  
12 court system. Reductions in the collection of fines may decrease  
General Fund revenue by minor amounts.'

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16 **SUMMARY**

18 This amendment replaces the original bill. The original  
bill removed the prohibition against filling contact lens  
20 prescriptions by mail. This amendment retains that provision and  
also requires mail order contact lens suppliers to be registered  
22 with the Board of Commissioners of the Profession of Pharmacy and  
comply with certain requirements. The amendment also restricts  
24 the expiration dates of contact lens prescriptions to 24 months  
from the date of issue and requires record retention for all  
26 contact lens prescriptions filled for 5 years. Finally the  
amendment removes the provision in the Board of Optometry's laws  
28 that requires all therapeutic licensees to upgrade their licenses  
to an advanced therapeutic license. This amendment also adds a  
30 fiscal note to the bill.