

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1407

H.P. 1050

House of Representatives, March 5, 2001

An Act Providing for the Licensure of Ophthalmic Dispensing.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MURPHY of Kennebunk.
Cosponsored by Representatives: CRESSEY of Baldwin, DUGAY of Cherryfield, McNEIL of Rockland.

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

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Sec. 1. 5 MRSA §12004-I, sub-§47-F is enacted to read:

<u>47-F.</u>	<u>Ophthalmic</u>	<u>Expenses</u>	<u>32 MRSA</u>
<u>Human Services</u>	<u>Dispensing</u>	<u>Only</u>	<u>§15405</u>
	<u>Board</u>		

Sec. 2. 32 MRSA c. 135 is enacted to read:

CHAPTER 135

OPHTHALMIC DISPENSING ACT

§15401. Short title

This chapter may be known and cited as the "Ophthalmic Dispensing Act."

§15402. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Board. "Board" means the Ophthalmic Dispensing Board.

2. Ophthalmic dispensing. "Ophthalmic dispensing" means the design, verification and delivery to the intended wearer of spectacle lenses, frames and other specially fabricated optical appliances upon prescription. It includes prescription analysis and interpretation; the taking of measurements to determine the size, shape and design of the spectacle lenses, frames or lens form best suited to the wearer's needs; the preparation and delivery of work orders to laboratory technicians engaged in grinding lenses and fabricating eyewear; the verification of the quality of finished ophthalmic products; the adjustment of spectacle lenses or frames to the intended wearer's face or eyes; and the adjustment, replacement, repair, reproduction and duplication of previously prepared spectacle lenses, frames or other specially fabricated ophthalmic appliances, not to include refracting.

3. Prescription. "Prescription" means a written or verbal direction from a licensed physician or optometrist for therapeutic or corrective lenses and consists of the refractive power and the vertex distance, cylinder axis and prism.

§15403. Licenses

2 1. License required. A person may not engage in ophthalmic
dispensing or profess to be an ophthalmic dispenser unless
4 licensed in accordance with the provisions of this chapter.

6 This subsection may not be construed to prohibit the practices,
services or activities of a person duly licensed in the State
8 engaging in the profession or occupation for which the person is
licensed.

10 2. Requirements for licensure. To be eligible to be
licensed under this chapter, a person must:

12 A. Have successfully completed a 2-year formal education
14 program approved by the Commission on Opticianry
Accreditation or a successor organization;

16 B. Have current certification from the American Board of
18 Opticianry or a successor organization; and

20 C. Successfully pass the examination under section 15404.

22 §15404. Examination for licensure

24 1. Examination. The board shall design and administer a
written qualifying ophthalmic dispensing examination that must be:

26 A. Designed to measure specific job performance
28 requirements;

30 B. Professionally constructed and validated; and

32 C. Independently and objectively administered and scored.

34 The board shall give the examination at least once each year at
sites that are accessible to applicants on dates that are
36 publicly announced 90 days in advance of the administration
dates. Each applicant must receive the applicant's examination
38 score and a performance profile by subject matter area within a
reasonable time after taking an examination.

40 2. Waiver of written examination requirement. The written
42 examination required under section 15403, subsection 2 may be
waived as set out in this subsection.

44 A. The board shall waive the written ophthalmic dispensing
46 examination requirement and grant a license to any applicant
48 who holds a current American Board of Opticianry certificate
or a certificate from a successor organization.

2 B. The board shall issue a temporary license to engage in
3 ophthalmic dispensing without examination to a person with
4 experience in ophthalmic dispensing if the person files an
5 application with the board for a temporary waiver of the
6 examination requirement within one year from the effective
7 date of this Act. The temporary license expires one year
8 from the date of issuance and is nonrenewable. An
9 application must be accompanied by evidence that the
10 applicant has been engaged in ophthalmic dispensing for more
11 than one year.

12 3. Renewal of licensure. A license under this chapter is
13 subject to renewal every 3 years and expires unless the licensee
14 submits an application for renewal in the manner prescribed by
15 the board. A renewal fee and evidence that the applicant has
16 during the 3-year period completed continuing education
17 requirements of the American Board of Opticianry or a successor
18 organization must accompany the application.

20 **§15405. Ophthalmic Dispensing Board**

22 1. Board. The Ophthalmic Dispensing Board, established by
23 Title 5, section 12004-I, subsection 47-F consists of 5 members
24 appointed by the Governor, of whom 4 must be opticians certified
25 by the American Board of Opticianry or a successor organization
26 and one must be a member of the public.

28 2. Duties. The duties of the board include:

30 A. Processing applications for licenses;

32 B. Collecting fees;

34 C. Scheduling and supervising the administration of
35 qualifying examinations;

36 D. Issuing licenses;

38 E. Renewing, revoking or suspending licenses;

40 F. Investigating complaints;

42 G. Conducting disciplinary proceedings; and

44 H. Maintaining such records as may be needed to carry out
45 its responsibilities.

48 3. Appointment. The Governor shall, within 60 days from
49 the effective date of this Act, appoint 2 board members to a term
50 of one year, 2 members for terms of 2 years and one member for a

2 term of 3 years. Appointments made thereafter must be for 3-year
3 terms, but no person may be appointed to serve more than 2
4 consecutive terms.

5 4. Compensation. Members of the board who are otherwise
6 not compensated by their employers or other entities that they
7 represent are entitled to reimbursement for necessary expenses
8 incurred for their attendance at authorized meetings.

9 5. Meetings. All meetings of the board are open and the
10 minutes of the meetings are available to the public.

11 6. Consumer complaint handling mechanism. In the absence
12 of another established consumer complaint handling body,
13 responsibility for the resolution of complaints about products
14 and ophthalmic services provided by a person licensed under this
15 chapter is assigned to the board.

16 **§15406. Conduct and disciplinary proceedings**

17 1. Investigations. The board may investigate complaints
18 about a licensee's performance of functions licensed under this
19 chapter. The board may hold hearings, administer oaths and order
20 relevant testimony pursuant to Title 5, chapter 375, subchapter
21 IV.

22 2. Suspension or revocation of license. The board may
23 suspend, revoke or refuse to renew the license of a licensee who,
24 after an open public hearing, is found by clear and convincing
25 evidence to have:

26 A. Practiced fraud, deceit or misrepresentation in
27 obtaining a license or in performance of functions licensed
28 under this chapter;

29 B. Been convicted of a misdemeanor or felony reasonably
30 related to and adversely affecting the licensee's ability to
31 perform the licensee's duties under this chapter; or

32 C. Been adjudged by a court of law to be mentally
33 incompetent.

34 3. Notification and right of appeal. The board shall
35 notify licensees in writing of the reasons for any disciplinary
36 actions taken.

37 Any disciplinary actions taken by the board are subject to review
38 as provided by Title 5, chapter 375, subchapter VII.

39 **§15407. Fees**

2 The board shall establish and publish fees in amounts
4 determined by the board for an initial license and a renewal of a
6 license. The fees must be set in an amount that reimburses the
 board to the extent feasible for the cost of administrative
 services rendered.

8 **§15408. Rules**

10 The board shall adopt routine technical rules as defined in
12 Title 5, chapter 375, subchapter II-A to carry out the purposes
 of this chapter.

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SUMMARY

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18 This bill creates a licensing requirement for ophthalmic
 dispensers and establishes the Ophthalmic Dispensing Board as the
 professional licensing board.