

# 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)

**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

---

Twin City Printery  
Lewiston, Maine  
1987

---

---

**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

---

---

credit of the State or of any political subdivision other than the authority, but shall be payable solely from the funds provided for that payment. All such securities shall contain on their face a statement to the effect that neither the State nor any political subdivision of the State be obligated to pay the securities or the interest on the securities, except from revenues of the authority or the project, projects or part of any project for which they are issued and that neither the faith and credit nor the taxing power of the State or of any political subdivision of the State is pledged to the payment of the principal of or the interest on the securities. The issuance of securities under this Act shall not directly, indirectly or contingently obligate the State or any political subdivision of the State to levy or to pledge any form of taxation whatever or to make any appropriation for their payment. Nothing contained in this section may prevent or be construed to prevent the authority from pledging its full faith and credit to the payment of securities authorized pursuant to this Act.

Sec. 2. 5 MRSA §12004, sub-§7, ¶A, sub-¶(11) is enacted to read:

(11)	<u>Maine Court Facilities Authority</u>	<u>Expenses Only</u>	<u>4 MRSA §1602</u>
------	---	----------------------	---------------------

Sec. 3. **Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1987-88

MAINE COURT FACILITIES AUTHORITY

Unallocated	\$40,000
-------------	----------

The funds appropriated to the Maine Court Facilities Authority by this Act shall be repaid to the General Fund following the first issue of bonds pursuant to this Act.

Effective September 29, 1987.

## CHAPTER 439

H.P. 1338 — L.D. 1828

### AN ACT to Amend the Maine Optometric Code.

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

Sec. 1. 5 MRSA §12004, sub-§1, ¶A, sub-¶(27-A) is enacted to read:

(27-A)	<u>Therapeutic Pharmaceutical Monitoring Panel</u>	<u>Legislative Per Diem</u>	<u>32 MRSA §2428</u>
--------	--	-----------------------------	----------------------

Sec. 2. 32 MRSA §2411, sub-§1, ¶A, as enacted by PL 1975, c. 563, §1, is repealed and the following enacted in its place:

A. The examination of the eye and related structures without the use of surgery or other invasive techniques to ascertain defects, abnormalities or diseases of the eye;

Sec. 3. 32 MRSA §2411, sub-§1, ¶C, as enacted by PL 1975, c. 563, §1, is repealed and the following enacted in its place:

C. The correction, treatment or referral of vision problems and ocular abnormalities by the prescribing, adapting and application of ophthalmic lenses, devices containing lenses, prisms, contact lenses, orthoptics, vision therapy, ocular pharmaceutical agents and prosthetic devices and other optical aids, and by using other corrective procedures to preserve, restore or improve vision, excluding invasive, laser or other surgery;

Sec. 4. 32 MRSA §2411, sub-§3, as repealed and replaced by PL 1975, c. 563, §1, is repealed and the following enacted in its place:

3. Pharmaceutical agents. "Pharmaceutical agents" means topical medicinal diagnostic and therapeutical substances for use in the diagnosis, cure, treatment or prevention of ocular disease.

Sec. 5. 32 MRSA §2411, sub-§§4 and 5 are enacted to read:

4. Diagnostic pharmaceuticals. "Diagnostic pharmaceuticals" means those pharmaceutical agents required to detect and diagnose an abnormal condition or eye disease.

5. Therapeutic pharmaceuticals. "Therapeutic pharmaceuticals" means those pharmaceutical agents required to prevent, manage or treat abnormal ocular conditions or diseases, excluding glaucoma.

Nothing in this section may be construed to permit the optometric use of pharmaceutical agents which are:

A. Controlled substances as described in the United States Code, Title 21, Section 812;

B. Any pharmaceutical agent administered by subdermal injection, intramuscular injection, intravenous injection, subcutaneous injection or retrobulbar injections; and

C. Any pharmaceutical agent for the specific treatment of a systemic disease.

Notwithstanding any other provision of this Act, an optometrist may dispense, prescribe and administer non-legend agents.

Sec. 6. 32 MRSA §2413 is enacted to read:

§2413. Standard of care

An optometrist authorized to use pharmaceutical agents for use in the diagnosis, cure, treatment or prevention of ocular disease shall be held to the same standard of care in diagnosis, use of such agents and treatment as that degree of skill and proficiency commonly exercised by a medical practitioner in the same community.

Sec. 7. 32 MRSA §2417, sub-§3, ¶D, as enacted by PL 1973, c. 788, §156, is repealed and the following enacted to read:

D. Advice for medical treatment or referral, or both;

Sec. 8. 32 MRSA §2417, sub-§4, ¶D is enacted to read:

D. For pharmaceutical agents:

- (1) Patient's name;
- (2) Date;
- (3) Name, quantity and dosage of drugs;
- (4) Number of refills;
- (5) Name of prescriber;
- (6) Drug license number of prescriber;
- (7) A sequential number; and
- (8) The prescriber's directions for usage.

Sale of pharmaceutical agents by an optometrist is prohibited.

Sec. 9. 32 MRSA §2419 as amended by PL 1983, c. 378, §26, is repealed.

Sec. 10. 32 MRSA §2419-A is enacted to read:

§2419-A. Licensure for use of therapeutic pharmaceutical agents

Use of therapeutic pharmaceutical agents by an optometrist requires a therapeutic license from the State Board of Optometry. Licensure shall require a review of credentials by the State Board of Optometry, including the successful completion of a transcript quality course in general and ocular pharmacology. A transcript quality course means a course which is given by a regional or professional accrediting organization approved by the Council on Post-secondary Accreditation of the United States Department of Education and approved by the State Board of Optometry. The board shall require a course which includes a minimum of 100 hours of ocular therapeutics, including at least 25 hours of supervised clinical training, in the examination, diagnosis and treatment of conditions of the eye and adnexa. Any such course shall include participation by an ophthalmologist.

The board shall also require an applicant to successfully complete a graded written examination, administered by the State Board of Optometry or the National Board of Examiners in Optometry, demonstrating competency in the use of therapeutic pharmaceutical agents.

Sec. 11. 32 MRSA §2422, as amended by PL 1975, c. 563, §3, is further amended to read:

§2422. Examination; fees; registration

Except as provided in section 2424, every person before beginning the practice of optometry in this State shall pass an examination before the board. At the discretion of the board, such examination may consist of tests in basic sciences; in anatomy and physiology of the eye; pathology; practical, theoretical and physiological optics; practical and theoretical optometry; clinical diagnosis and therapeutics; and such other phases of optometric knowledge and skill as the board may deem essential. The board shall include an examination on the subject of general and ocular pharmacology as it relates to optometry and the use of topically applied diagnostic drugs pharmaceutical agents for all new applicants for a certificate of registration and license. Presently licensed optometrists shall be permitted to use diagnostic drugs only if they obtained a diagnostic drug license under section 2427. Any person, having signified to said the board his desire to be examined, shall appear before the board at such time and place as they may designate and, before such examination, shall pay to said the board a sum not in excess of \$100, as established by the board. All persons successfully passing such examination shall be registered, in a record which shall be kept by the secretary of said the board, as licensed to practice optometry and shall receive a certificate of such registration issued by said the board.

1. Requirement. All applicants for a therapeutic pharmaceutical license under this section shall submit proof of:

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

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

C. Completion of one year of acceptable practice as a licensed optometrist.

Sec. 12. 32 MRSA §2425, as enacted by PL 1973, c. 788, §156, is amended to read:

§2425. Display of certificates

Every person to whom a certificate of registration and current certificate of annual license renewal are granted shall display the same in a conspicuous part of his office wherein the practice of optometry is conducted. Optometrists awarded credentials by the board in the use of diagnostic and therapeutic pharmaceuticals are required to affix current documentation of these privileges to their registration as provided by the board upon annual license renewal.

**Sec. 13.** 32 MRSA §2426, first paragraph, as enacted by PL 1973, c. 788, §156, is amended to read:

All optometrists now or hereafter licensed in the State of Maine shall be required to take annual courses in subjects related to the practice of the profession of optometry, to the end that the utilization and application of new techniques, scientific and technical advances, the use of pharmaceutical agents and treatment of ocular diseases and the achievements of research will assure comprehensive vision care to the public. The length of study shall be determined by the board, but in no event shall it be less than 15 hours nor exceed 20 hours in any calendar year. Optometrists authorized to use therapeutic pharmaceutical agents shall complete, as part of their annual course work, 5 or more hours of approved transcript quality course work in ocular pharmacology, 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 shall be submitted by each optometrist at the time he makes application to the board for the renewal of his license and shall accompany 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 such course. The board is authorized to use up to 1/2 of its annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations or qualified individuals for the providing of educational programs approved by the board.

**Sec. 14.** 32 MRSA §2427, as amended by PL 1983, c. 378, §28, is repealed.

**Sec. 15.** 32 MRSA §2428 is enacted to read:

§2428. Therapeutic Pharmaceutical Monitoring Panel

1. Panel established. There is created a Therapeutic Pharmaceutical Monitoring Panel.

2. Membership. The panel shall consist of 5 members to be appointed as follows:

A. One licensed optometrist appointed by the State Board of Optometry;

B. One licensed ophthalmologist appointed by the Board of Registration in Medicine;

C. One member of the Senate, who shall also be a member of the joint standing committee of the Legislature having jurisdiction over business legislation or the joint standing committee of the Legislature having jurisdiction over human resources, to be appointed by the President of the Senate;

D. One member of the House of Representatives, who shall also be a member of the joint standing committee of the Legislature having jurisdiction over business legislation or the joint standing committee of the Legislature having jurisdiction over human resources, to be appointed by the Speaker of the House; and

E. A licensed physician with a specialty in internal medicine, appointed by the Board of Registration in Medicine.

Appointments shall be made within 30 days after this Act becomes effective. Notification of all appointments shall be made to the Board of Optometry and the Board of Registration in Medicine and these boards shall jointly call the first meeting of the panel within 30 days of this notification.

3. Staff. The panel may employ and prescribe the duties of other personnel as the board deems necessary.

4. Reports. Reports of side effects or ineffective drugs and investigation of drug misuse shall be as follows.

A. All optometrist shall retain records of each use or application of any pharmaceutical agent and shall provide a report of all uses to the panel every 3 months, commencing on June 30, 1988.

B. All optometrists and ophthalmologists shall report to the panel each instance in which a patient administered a therapeutic pharmaceutical agent experiences a clinically significant drug-induced side effect. The panel shall report each such instance either to the Board of Registration in Medicine if the instance involves an ophthalmologist or the State Board of Optometry if the instance involves an optometrist.

C. The panel shall also investigate complaints concerning misuse of ocular pharmaceutical agents by optometrists or ophthalmologists and shall forward the results of that investigation of an ophthalmologist to the Board of Registration in Medicine or the results of that investigation of an optometrist to the State Board of Optometry with its recommendation.

5. Recommendations. The panel may make recommendations to the State Board of Optometry and the State Board of Registration in Medicine at such times and on such subjects related to therapeutic pharmaceutical agents as it deems appropriate.

6. Report to the Legislature and Governor. The

panel shall prepare and submit reports to the Governor, the President of the Senate, the Speaker of the House, the State Board of Optometry and the State Board of Registration in Medicine. The reports shall summarize the findings of the panel regarding the use of therapeutic pharmaceutical agents and shall be signed by all members of the panel. A report shall be submitted on the following dates: June 30, 1988; January 30, 1989; June 30, 1989; and January 30, 1990.

7. Budget. All expenses of this panel shall be paid by the State Board of Optometry and the State Board of Registration in Medicine on an equal basis. The panel shall submit to the Board of Optometry its budgeting requirements in the manner and time prescribed by that board.

8. Sunset. This section is repealed on May 15, 1990.

Sec. 16. 32 MRSA §2431-A, sub-§2, ¶O, as enacted by PL 1983, c. 378, §30, is amended to read:

O. Failure to display a diagnostic or therapeutic drug license issued under ~~section 2427~~ section 2419-A or 2425; or

Sec. 17. 32 MRSA §2441, as enacted by PL 1973, c. 788, §156, is amended to read:

§2441. Penalties

Whoever engages in the practice of optometry in this State, without first having been duly registered as provided in sections 2421 and 2424, ~~shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50~~ \$250 nor more than ~~\$200~~ \$1,000. To open an office for the purpose of practicing optometry or to announce to the public in any way an intention to practice optometry in any county in the State shall be prima facie evidence of engaging in the practice of optometry within the meaning of this section.

Sec. 18. 32 MRSA §2446, as amended by PL 1977, c. 564, §121, is further amended to read:

§2446. Drugs

Any optometrist who uses ~~diagnostic drugs~~ pharmaceutical agents, without first having obtained a license under ~~section 2427 or being duly registered as provided in section 2421 and 2424 after October 1, 1975, 2419-A~~ shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$200.

The board further reserves the right to review performances and remove a therapeutic drug license, as outlined in section 2431-A or if the licensee fails to comply with the requirements in section 2426.

Sec. 19. Allocation. The following funds are allocated from Other Special Revenue Funds to carry out

the purposes of this Act.

1987-88 1988-89

PROFESSIONAL AND FINANCIAL  
REGULATION, DEPARTMENT OF

Therapeutic Pharmaceutical  
Monitoring Panel

Personal Services	\$1,100	\$1,100
All Other	1,000	1,000
Total	<u>\$2,100</u>	<u>\$2,100</u>

Effective September 29, 1987.

**CHAPTER 440**

**H.P. 222 — L.D. 290**

**AN ACT to Address Productivity and Wage Adjustments for Hospitals, to Sunset the Maine Health Care Finance Commission and to Establish a Blue Ribbon Commission to Study the Regulation of Health Care Expenditures.**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Commission to Study the Regulation of Health Care Expenditures needs to begin its work immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 3 MRSA §507, sub-§10, ¶B, as amended by PL 1985, c. 695, §3; PL 1985, c. 763, Pt. A, §7; and PL 1985, c. 764, §1, is repealed and the following enacted in its place:

B. Unless continued or modified by law, the following Group G-2 independent agencies shall terminate, not including the grace period, no later than June 30, 1990. The Board of Emergency Municipal Finance, the Finance Authority of Maine and the Maine Municipal Bond Bank shall not terminate, but shall be reviewed by the Legislature no later than June 30, 1990:

- (1) Board of Emergency Municipal Finance;
- (2) Finance Authority of Maine;
- (3) Maine Municipal Bond Bank;