

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

J.S. McCarthy Company
Augusta, Maine
1995

E. One member appointed by the Commissioner of Public Safety;

F. One member who has experience in motor carrier safety, appointed by the Secretary of State;

G. Two members of the general public, appointed by the Secretary of State; and

H. One member who is a member of the joint standing committee of the Legislature having jurisdiction over transportation matters, appointed jointly by the President of the Senate and the Speaker of the House of Representatives. This member may continue to serve on the board after that person's legislative term of office has expired.

2. Chair. The board shall elect a chair from among its members. The chair shall serve a one-year term.

3. Duties. The board shall:

A. Review the Secretary of State's minimum standards for continuing education and postsecondary instructor qualifications established in accordance with section 1354;

B. Monitor the availability and adequacy of commercial driver postsecondary technical and continuing education courses; and

C. Monitor the availability of block grants and other sources of financial aid that may be available to support commercial driver training and advise the appropriate state officials of those grants and funding sources.

4. Administrative support; expenses. Members serve without compensation or reimbursement for expenses. The Secretary of State shall provide necessary support services.

Sec. 4. Initial appointments. Notwithstanding the Maine Revised Statutes, Title 29-A, section 1356, subsection 1, the terms of initial appointments for the Motor Carrier Training Advisory Board are as follows: three serve for one year, 4 serve for 2 years and 4 serve for 3 years. A person making an initial appointment to the Motor Carrier Training Advisory Board shall submit appointee names to the Secretary of State no later than September 1, 1996. The Secretary of State shall determine the initial term for each appointee.

See title page for effective date.

CHAPTER 606

H.P. 1326 - L.D. 1814

An Act Concerning the Treatment of Ocular Diseases by Optometrists

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

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:

3. Pharmaceutical agent. "Pharmaceutical agent" means any topical medicinal diagnostic and therapeutical substances for use in the diagnosis, cure, treatment or prevention of ~~glaucoma~~ ocular conditions and diseases, and ~~any topical oral~~ any topical oral medicinal diagnostic and therapeutical substances and quantities for use in the diagnosis, cure, treatment or prevention of ocular conditions and diseases ~~other than glaucoma~~ under section 2430, subsection 2.

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

§2415. Appointment; tenure; vacancies; removal

The State Board of Optometry, as established by Title 5, section 12004-A, subsection 28 and in this chapter called the "board," consists of 6 persons appointed by the Governor. Five of the appointees must have been resident optometrists engaged in the actual practice of optometry in this State for a period of at least 5 years prior to their appointment and ~~one~~ after the 1999 renewal they must hold advanced therapeutic licenses. One of the appointees must be a consumer member who is a resident of this State and has no pecuniary interest in optometry or in the merchandising of optical products. Appointment is for a term of 5 years. Appointments of members must comply with section 60. A member of the board may be removed from office for cause by the Governor. The board has a common seal.

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

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

Sec. 5. 32 MRSA §2420 is enacted to read:

§2420. Notification to Board of Commissioners of the Profession of Pharmacy

Every year at the completion of the license renewal cycle, the board shall provide to the Board of Commissioners of the Profession of Pharmacy a current listing of all licensees designating licensees

who may prescribe pharmaceuticals and the pharmaceuticals those licensees may prescribe.

Sec. 6. 32 MRSA §2422, as amended by PL 1993, c. 600, Pt. A, §153, is further amended to read:

§2422. Examination; fees; initial licensure

Every individual before beginning the practice of optometry in this State must pass an examination before the board. The board shall provide an opportunity for applicants to take the examination at least twice per year. At the discretion of the board, the 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 other phases of optometric knowledge and skill the board determines to be essential. ~~The board shall include an examination on the subject of general and ocular pharmacology as it relates to optometry and the use of pharmaceutical agents for all new applicants for a license. The board shall require that a new applicant pass Parts I, II and III of the National Board of Examiners in Optometry examination, including all sections of the Treatment and Management of Ocular Diseases (TMOD) examination.~~ An individual who has applied to be examined shall appear before the board at the time and place the board designates and, before the examination, shall pay to the board a sum not in excess of \$200 as established by the board. All applicants successfully passing the examination must be licensed to practice optometry. The board may require applicants who have failed to pass the licensure examination 3 times to enroll in a course of continuing education as prescribed by the board.

1. Requirement. All applicants for a therapeutic or advanced therapeutic pharmaceutical license under this section shall submit proof of: compliance with the application requirements set forth in section 2430, subsections 1 and 3.

~~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 must include a minimum of 100 hours of ocular therapeutics, including at least 25 hours of supervised clinical training and must 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. 7. 32 MRSA §2423, sub-§1, as amended by PL 1993, c. 600, Pt. A, §154, is further amended to read:

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

Sec. 8. 32 MRSA §2426, as amended by PL 1993, c. 600, Pt. A, §157, is further amended to read:

§2426. Educational programs

All optometrists licensed in the State of Maine are 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 is determined by the board, but in no event may the length be less than 15 hours nor exceed 30 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,~~ 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.

The board ~~is permitted to~~ may waive this continuing education requirement in cases of illness or undue hardship. If an applicant for license renewal fails to comply with this continuing education provision and action has not been taken by 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.

Sec. 9. 32 MRSA §§2430 and 2430-A are enacted to read:

§2430. Use of therapeutic pharmaceutical agents

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

1. Therapeutic license. An optometrist may use topical therapeutic agents for any purpose associated with ocular conditions and diseases, except for the treatment of glaucoma, if the optometrist has received a therapeutic license in accordance with the following requirements.

A. Licensure requires a review of credentials by the board including the successful completion of a transcript quality course in general and ocular pharmacology. For the purposes of this section, "transcript quality course" means a course 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 board. The board may not approve a course that does not include 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 its adnexa. That course must include participation by an ophthalmologist.

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

Effective October 1, 1996, the board may not issue new therapeutic licenses.

2. Oral therapeutic agents; use permitted. An optometrist who has received an advanced therapeutic license may use any topical therapeutic pharmaceutical agent, except for the treatment of glaucoma unless the requirements of section 2430-A have been met, and any of the following types and quantities of oral therapeutic pharmaceutical agents for any purpose associated with ocular conditions and diseases:

A. One 10-day supply of oral antibiotics;

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

C. One 72-hour supply of oral antihistamines;

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

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

3. Requirements for advanced therapeutic license. Requirements for an advanced therapeutic license are as follows.

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

(1) Licensure requires a review of credentials by the board including the successful completion of a transcript quality course in general and ocular pharmacology. For the purposes of this section, "transcript quality course" means a course 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 board. The board may not approve a course that does not include 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 its adnexa. That course must include participation by an ophthalmologist;

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

(3) Successful completion of a course of at least 25 hours devoted primarily to pharmacology and glaucoma, referred to in this section as the "Lancaster Course," or its board-approved equivalent, and 3 additional hours of a board-approved course in pharmacology dealing solely with antiglaucoma agents. The requirements of this subparagraph may be completed anytime after the 2nd year of optometric study.

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

(1) Successful completion of the "Lancaster Course" or a board-approved equivalent course of at least 25 hours devoted primarily to the study of pharmacology and glaucoma. The requirements of

this subparagraph may be completed any time after the 2nd year of optometric study;

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

(3) Successful passage of the Treatment and Management of Ocular Diseases (TMOD) component of the National Board of Examiners in Optometry examination on or after July 1, 1991.

§2430-A. 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.

3. Exception for new graduate. An advanced therapeutic licensee who was graduated from an accredited optometric institution within 2 years of applying for the advanced therapeutic license must provide evidence of a total of 30 glaucoma-related consultations with physicians in accordance with the procedure set forth in subsection 2, paragraph B. Recent graduates who have completed a one-year residency program or its equivalent, as determined by the glaucoma consultation subcommittee, may petition the subcommittee to waive the consultation requirement.

Sec. 10. 32 MRSA §2446, as amended by PL 1993, c. 600, Pt. A, §167, is further amended to read:

§2446. Drugs

An optometrist who uses pharmaceutical agents without first having obtained a the appropriate license under ~~section 2419-A~~ this chapter commits a Class E crime.

Sec. 11. Effective date. That section that repeals the Maine Revised Statutes, Title 32, section 2417, subsection 6 takes effect October 1, 1996.

See title page for effective date, unless otherwise indicated.

CHAPTER 607

S.P. 735 - L.D. 1844

An Act Authorizing County Commissioners to Enact Ordinances Concerning Addressing Standards for Enhanced 9-1-1 Services in the Unorganized Territories

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

Whereas, the State is attempting to begin implementation of enhanced 9-1-1 emergency telephone services throughout the State no later than December 1997; and

Whereas, county commissioners have responsibility for providing services to the unorganized