

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date August 23, 1976

To Richard O. Campbell, Exec. Sec.

Dept. Commission of Pharmacy

From Phillip M. Kilmister, Assistant

Dept. Attorney General

Subject Continuing Educational Programs

In regard to the provisions of our licensing law relative to continuing education programs for pharmacists, you have asked in essence, the following question:

May the committee (selected by the board of pharmacy pursuant to the terms of 32 M.R.S.A. § 2913) sponsor continuing educational programs for licensees, and charge a nominal fee therefore?

The Committee may sponsor and conduct continuing educational courses, but may not charge fees for same.

Chapter 526 of the Public Laws of 1975 entitled "Uniform Pharmaceutical Practice" provides in section 2913 thereof for the provision of continuing education as a condition precedent for the renewal of licensure. In brief summary, the law provides that the Board of Pharmacy shall select a committee composed of equal representation from the "board of pharmacy, hospital pharmacy and retail pharmacy within the state," which committee has full power of accreditation or approval of all continuing educational courses to be offered licensees.

The applicable portion of 32 M.R.S.A. § 2913 (P.L. 1975, c. 526) reads in part as follows:

"The content of each course which shall be offered for credit under this continuing professional education program shall be approved in advance of the course offered by a committee composed of equal representation from the board of pharmacy, hospital pharmacy and retail pharmacy within the State. The number and members of the committee shall be selected by the board of pharmacy and shall serve for a period of 2 years. In the initial year of the application of the statute, the board may reduce the number of hours of participation required based upon the number of days the statute is in effect during the initial calendar year. The board may make exceptions from the operation of the statute in emergency or hardship cases."

The authority of the Board (Commission of Pharmacy), acting through its duly appointed committee, to approve of continuing professional pharmaceutical education courses, clearly embodies the authority to sponsor

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and conduct said courses by the committee itself, however, the assessment of even a nominal fee for same is not permissible, absent express legislative authority to do so. The assessment of fees by the Board as a prerequisite for enrollment in educational courses in effect constitutes an increase in license fees, and this may only be accomplished through legislative action.

Section 2903 of Title 32 of the Revised Statutes provides for an annual pharmacist registration renewal fee in the amount of \$5.00. Although neither 32 M.R.S.A. § 2903 nor P.L. 1975, c. 526 (32 M.R.S.A. § 2913), provide that renewal fees may be utilized by the Board to fund continuing education courses as a prerequisite for renewal of registration, express statutory language is not necessary to enable the Board to exercise such power. The use of license renewal fees for such purposes represents a legitimate implied licensing power of the Board. (As further authority to this effect, see 5 M.R.S.A. § 151.)

In summary, it should be further pointed out that the Board, acting through the Committee, has the power of approval or disapproval of continuing educational courses offered to licensees by others, including both public and private institutions or associations. The exercise of such power of approval or disapproval is discretionary, but should be founded upon objective standards, such as evaluation of course content, or such other germane criteria.


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