

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1415

S. P. 407

In Senate, April 6, 1977

Referred to Committee on Health and Institutional Services. Sent down for concurrence and 2,000 ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Minkowsky of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Regulate the Dispensing of Prescription Drugs.

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

Sec. 1. 32 MRSA § 2805, sub-§ 21, as enacted by PL 1971, c. 282, § 6, is amended to read :

21. **Prescription.** "Prescription" shall mean any order, written or verbal, by a physician, dentist, veterinarian or other duly licensed and authorized medical practitioner ~~or his duly authorized legal agent~~ for any drug, medicine or poison.

Sec. 2. 32 MRSA §§ 2807 and 2808 are enacted to read :

§ 2807. **Persons authorized to write prescriptions ;
liability of pharmacists**

1. **Prescriptions ; not authorized.** No person other than a physician, osteopath, podiatrist, dentist or veterinarian shall write a prescription.

2. **Pharmacist ; liability.** A pharmacist who compounds, dispenses or sells drugs, medicines or poisons upon a prescription which is medically improper and written or orally transmitted by an unauthorized person, shall not be liable for claims arising from the medically improper nature of the prescription, unless he knew or should have known that the person writing or transmitting the prescription was not authorized to perform these acts.

§ 2808. **Oral transmission of prescriptions**

1. **Authorized person.** A person authorized by section 2807 to write prescriptions may also transmit prescriptions orally by telephone, telegraph or other means of communication. The pharmacist who receives such prescription shall record the prescription in writing and the written record shall constitute the original prescription to be dispensed by the pharmacist.

2. **Employees authorized.** A person authorized by section 2807 to write prescriptions may also authorize his employee in writing to orally transmit to a pharmacist a prescription in accordance with subsection 1. Employees so authorized are not authorized to transmit prescriptions other than those ordered by the person granting the authority. A copy of the written authorization shall be filed with the board and the board periodically shall inform pharmacists of such authorizations in an appropriate manner. All persons authorized to orally transmit a prescription shall be subject to such rules and regulations as the board may make to regulate oral transmission of prescriptions.

Sec. 3. 32 MRSA § 285I, sub-§ 1, is amended to read :

1. **Rules and regulations.** To make such rules and regulations, not inconsistent with the laws of the State, as may be necessary for the regulation and practice of the profession of pharmacy and the lawful performance of its duties, including regulation of the compounding, dispensing and selling of drugs, medicines and poisons by pharmacists, physicians, osteopaths, hospitals, sanatoriums or clinics ;

STATEMENT OF FACT

The purpose of this bill is to specify exactly which persons are authorized to write prescriptions. The bill also includes specific regulations concerning oral transmission of prescriptions and limits the liability of pharmacists who fill prescriptions which are medically improper and which have been orally transmitted by unauthorized persons. The Board of Commissioners of the Profession of Pharmacy is specifically granted authority to issue rules and regulations to govern the dispensing of drugs, medicines and poisons, both by pharmacists and by nonpharmacists such as physicians and institutions who are authorized to dispense prescription drugs.