

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1423

H. P. 1208

House of Representatives, March 20, 1981

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Nelson of Portland.

Cosponsors: Representative Prescott of Hampden and Senator Gill of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Require Retention of Prescription Records.

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

22 MRSA c. 268 is enacted to read:

CHAPTER 268

RECORDS OF PRESCRIPTIONS

§ 1661. Definitions

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

1. **Drug.** "Drug" means all medicinal substances and preparations recognized by the United States Pharmacopeia and National Formulary or any revision thereof, and all substances and preparations intended for external and internal use in the cure, mitigation, treatment or prevention of disease in man and all substances and preparations other than food, intended to affect the structure or function of the body of man.

2. **Prescriber.** "Prescriber" means any natural person, partnership, association, corporation or other legal entity authorized by law to prescribe or dispense drugs within the State.

3. Prescription. "Prescription" means any order, written or verbal, for any drug.

§ 1662. Duty to keep records; contents, length of time; prescriber's duty upon transfer, merger or termination of business or practice.

1. Duty to keep records; contents. Every prescriber shall make a legible record of the following for each drug prescribed or dispensed:

- A. The family name and the first name of the person for whom the drug is intended;
- B. The address of the person for whom the drug is intended;
- C. The original date the drug was prescribed or dispensed; and
- D. The name, strength and quantity of the drug prescribed or dispensed.

2. Length of time. The record as required by subsection 1, shall be retained for not less than 25 years.

3. Duty upon transfer or merger. If the prescriber transfers his practice or business to another prescriber, notice of the transfer or merger shall be given to the Bureau of Health within 30 days.

4. Duty upon termination. If the prescriber's practice of business terminates and a transfer or merger does not take place, the prescriber or his duly authorized representative shall notify the Bureau of Health of the termination of the business or practice within 30 days. The prescription records as required to be kept by subsection 1, shall then be transferred to the Bureau of Health within 60 days of the date of notification. The Bureau of Health shall retain the prescription records for the balance of the 25-year period.

The prescription records transferred to the Bureau of Health may be destroyed at the end of the 25-year period. In no event shall the records be open to the public under Title 1, section 402, subsection 3, paragraph A.

§ 1663. Confidentiality of records; access to records

1. Confidentiality of records. All prescription records required to be maintained under this chapter are confidential for purposes of Title 1, section 402, subsection 3, paragraph A, and are subject to release only under the conditions set forth in subsection 2.

2. Access to records. Records may be released, upon written request, to the person for whom the prescription was issued, the person's duly authorized representative, or to the person's natural children or grandchildren who for bona fide health reasons require access to the records.

§ 1664. Failure to comply; penalty

1. Civil violation. Any prescriber who neglects or refuses to comply with any

of the provisions of this chapter commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

2. Civil liability. Any prescriber required to keep records under this chapter who knowingly or intentionally fails to keep such records is civilly liable for any damages caused by such failure.

STATEMENT OF FACT

As side effects of various drugs may not appear immediately in the person taking the drug, or may affect subsequent generations with results that do not appear for many years, it is important that a person be able to know with certainty just what drugs he took and when he took them. At the present time there is no system that provides a person with such information.

The purpose of this bill is to provide for the retention of prescription records for a period of at least 25 years. The bill protects the confidentiality of the records, but allows access to those persons who took a drug or to children of those persons who for bona fide health reasons require access to the information.