FIRST REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document No. 1289

H.P. 894 House of Representatives, April 10, 1985

Referred to the Committee on Business and Commerce. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative MacBride of Presque Isle.
Cosponsored by Representative Seavey of Kennebunkport.

STATE OF MAINE

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

AN ACT to Require Medical Practitioners to Warn Patients of Possible Side Effects for Prescription Drugs.

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

Sec. 1. 32 MRSA §1089-A is enacted to read:

§1089-A. Warning for prescription drugs

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "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 any function of the body of man.

B. "Material" means those adverse side effects or reactions which occur infrequently, but are severe, or those which occur frequently regardless of severity.

C. "Medical practitioner" means any dentist who is authorized by this chapter to prescribe drugs.

D. "Prescription" means any order, written or verbal, for any drug by a medical practitioner or his duly authorized legal agent.

E. "Warn" means to inform a patient by written or oral commmunication of any material adverse side effects or reactions, that could result from use of any prescription drug and of any contraindications or precautions that should be taken to reduce or avoid material adverse side effects or reactions.

2. Warning. Notwithstanding Title 24, section 2905, subsection 1, paragraph C, any medical practitioner who issues a prescription in a nonemergency situation for any patient shall warn that patient or, if the patient is a minor or incompetent, that patient's parent or guardian.

3. Presumption. The medical practitioner is presumed to know those side effects, reactions, contraindications and precautions published by the drug manufacturer.

4. Inform. The medical practitioner shall inform the patient of those material adverse side effects and reactions, contraindications and precautions in such manner as to enable the patient to make an informed decision as to whether to use the prescribed drug.

Sec. 2. 32 MRSA §2109 is enacted to read:

§2109. Warning for prescription drugs

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "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 any function of the body of man.

B. "Material" means those adverse side effects or reactions which occur infrequently, but are severe, or those which occur frequently regardless of severity.

C. "Medical practitioner" means any registered nurse who is authorized by this chapter to prescribe drugs.

D. "Prescription" means any order, written or verbal, for any drug by a medical practitioner or his duly authorized legal agent.

E. "Warn" means to inform a patient by written or oral commmunication of any material adverse side effects or reactions, that could result from use of any prescription drug and of any contraindications or precautions that should be taken to reduce or avoid material adverse side effects or reactions.

2. Warning. Notwithstanding Title 24, section 2905, subsection 1, paragraph C, any medical practitioner who issues a prescription in a nonemergency situation for any patient shall warn that patient or, if the patient is a minor or incompetent, that patient's parent or guardian.

3. Presumption. The medical practitioner is presumed to know those side effects, reactions, contraindications and precautions published by the drug manufacturer.

4. Inform. The medical practitioner shall inform the patient of those material adverse side effects and reactions, contraindications and precautions in such manner as to enable the patient to make an informed decision as to whether to use the prescribed drug.

5. Exception. Any medical practitioner treating a minor as defined by Title 32, section 2595, or section 3292, need not warn the parent or guardian, but shall warn the minor.

Sec. 3. 32 MRSA §2600 is enacted to read:

§2600. Warning for prescription drugs

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "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 any function of the body of man.

B. "Material" means those adverse side effects or reactions which occur infrequently, but are severe, or those which occur frequently regardless of severity.

C. "Medical practitioner" means an individual who is authorized by this chapter to prescribe drugs.

D. "Prescription" means any order, written or verbal, for any drug by a medical practitioner or his duly authorized legal agent.

E. "Warn" means to inform a patient by written or oral communication of any material adverse side effects or reactions, that could result from use of any prescription drug and of any

contraindications or precautions that should be taken to reduce or avoid material adverse side effects or reactions.

2. Warning. Notwithstanding Title 24, section 2905, subsection 1, paragraph C, any medical practitioner who issues a prescription in a nonemergency situation for any patient shall warn that patient or, if the patient is a minor or incompetent, that patient's parent or guardian.

3. Presumption. The medical practitioner is presumed to know those side effects, reactions, contraindications and precautions published by the drug manufacturer.

4. Inform. The medical practitioner shall inform the patient of those material adverse side effects and reactions, contraindications and precautions in such manner as to enable the patient to make an informed decision as to whether to use the prescribed drug.

5. Exception. Any medical practitioner treating a minor as defined by Title 32, section 2595, need not warn the parent or guardian, but shall warn the minor.

Sec. 4. 32 MRSA §3298 is enacted to read:

§3298. Warning for prescription drugs

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "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 any function of the body of man.

B. "Material" means those adverse side effects or reactions which occur infrequently, but are severe, or those which occur frequently regardless of severity.

C. "Medical practitioner" means an individual who is authorized by this chapter to prescribe drugs.

D. "Prescription" means any order, written or verbal, for any drug by a medical practitioner or his duly authorized legal agent.

E. "Warn" means to inform a patient by written or oral communication of any material adverse side effects or reactions, that could result from use of any prescription drug and of any contraindications or precautions that should be taken to reduce or avoid material adverse side effects or reactions.

2. Warning. Notwithstanding Title 24, section 2905, subsection 1, paragraph C, any medical practitioner who issues a prescription in a nonemergency situation for any patient shall warn that patient or, if the patient is a minor or incompetent, that patient's parent or guardian.

3. Presumption. The medical practitioner is presumed to know those side effects, reactions, contraindications and precautions published by the drug manufacturer.

4. Inform. The medical practitioner shall inform the patient of those material adverse side effects and reactions, contraindications and precautions in such manner as to enable the patient to make an informed decision as to whether to use the prescribed drug.

5. Exception. Any medical practitioner treating a minor as defined by Title 32, section 3292, need not warn the parent or guardian, but shall warn the minor.

Sec. 5. 32 MRSA §3553-A is enacted to read:

§3553-A. Warning for prescription drugs

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "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 any function of the body of man.

B. "Material" means those adverse side effects or reactions which occur infrequently, but are severe, or those which occur frequently regardless of severity.

C. "Medical practitioner" means any podiatrist who is authorized by this chapter to prescribe drugs.

D. "Prescription" means any order, written or verbal, for any drug by a medical practitioner or his duly authorized legal agent.

E. "Warn" means to inform a patient by written or oral communication of any material adverse side effects or reactions, that could result from use of any prescription drug and of any contraindications or precautions that should be taken to reduce or avoid material adverse side effects or reactions.

2. Warning. Notwithstanding Title 24, section 2905, subsection 1, paragraph C, any medical practitioner who issues a prescription in a nonemergency situation for any patient shall warn that patient or, if the patient is a minor or incompetent, that patient's parent or guardian.

3. Presumption. The medical practitioner is presumed to know those side effects, reactions, contraindications and precautions published by the drug manufacturer.

4. Inform. The medical practitioner shall inform the patient of those material adverse side effects and reactions, contraindications and precautions in such manner as to enable the patient to make an informed decision as to whether to use the prescribed drug.

STATEMENT OF FACT

This bill requires medical practitioners to inform their patients of any material adverse side effects or reactions attributable to a prescribed drug. The patient, once informed, can then make an intelligent decision as to whether they wish to use the drug considering the risks involved, if any.

The purpose of this bill is to allow the patient to avoid using a drug when he decides that the potential side effects are more intolerable than the original malady.

This bill places the warning requirement in each of the medical professional licensing laws.

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