

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44

STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 432, L.D. 615, Bill, "An Act to Clarify Provisions Relating to Pharmacies"

Amend the bill by striking out all of section 2 and inserting in its place the following:

Sec. 2. 32 MRSA §13723, sub-§7, as enacted by PL 1987, c. 710, §5, is amended to read:

7. Investigatory powers. The board shall notify the Department of the Attorney General upon receipt of a complaint. Upon receipt of the notifications, the Attorney General shall notify the department within a timely period if the alleged violation requires criminal investigation. If a case does not require criminal investigation, the board or its authorized representatives may investigate and gather evidence concerning alleged violations of this Act or of the rules of the board. The board or an officer authorized pursuant to paragraph A may remove from any drug outlet or wholesaler certain original records relating to scheduled drugs or controlled substances, including, but not limited to, prescription records, shipping and delivery records, patient profiles, inventories and other drug records for the purposes of photocopying analysis, duplication and furthering the investigation. An A signed inventory receipt shall of any records being removed must be furnished and the articles removed shall be returned within 3 hours to the drug outlet or wholesaler by the board or an authorized officer. The pharmacist who has custody of the records may accompany the board's representatives so that the pharmacist can attest to the authenticity and lack of alteration of the records being photocopied. When a means of producing legible photocopies is readily available at the site of the records being removed, an authorized officer removing the records shall leave photocopies of the records as part of an

C
O
M
M
I
T
T
E
E
A
M
E
N
D
M
E
N
T

2 inventory receipt in accordance with this subsection. Except
4 when photocopies are left as part of an inventory receipt, the
6 board or an authorized officer removing records from a drug
8 outlet or wholesaler shall, within 48 hours from the time of
10 removal, provide to a representative of the drug outlet or
12 wholesaler photocopies of any removed records, together with a
certificate identifying the agency in possession of the records,
or return the original records. Inventory receipts and
photocopies of any removed records provided by the board or an
authorized officer are admissible as evidence if offered by the
drug outlet or wholesaler to prove compliance with any rule of
the board or requirement of law.

14 A. Prescriptions, orders and records required by this
16 chapter and stocks of ~~narcotic~~ prescription and legend drugs
~~shall be~~ are open ~~for inspection~~ only to the board ~~and to~~
18 ~~federal, state, county and municipal officers,~~ the board's
inspectors and investigators, federal and state law
20 enforcement officers whose duty it is to enforce the laws of
22 this State or of the United States relating to ~~narcotic~~
scheduled drugs or controlled substances and other law
24 enforcement officers authorized by the board or the Attorney
General for the purposes of inspecting, investigating and
26 gathering evidence of violations of law or any rule of the
board. No officer having knowledge by virtue of the
28 officer's office of any such prescription, order or record
may divulge that knowledge, except ~~in connection with a~~
30 prosecution or proceeding in court or before a licensing or
32 registration board or officer, ~~to which prosecution or~~
proceeding the person to whom such prescriptions, orders or
records relate is a party or in connection with a
prosecution or proceeding in court.

34 B. The Bureau of Health, the board, their officers, agents,
36 inspectors and representatives, all peace officers within
38 the State and all county prosecuting attorneys shall enforce
40 all provisions of this chapter, except those specifically
42 delegated, and shall cooperate with all agencies charged
with the enforcement of the laws of the United States, of
this State and of all other states relating to ~~narcotic~~
prescription or legend drugs or their equivalent.'

44 STATEMENT OF FACT

46 This amendment replaces section 2 of the original bill.

48 This amendment changes the procedures followed by law
50 enforcement officers and prosecutors when investigating
52 prescriptions for scheduled drug and controlled substance
violations. The amendment limits the authority to remove records
to only those records relating to scheduled drugs or controlled

COMMITTEE AMENDMENT "A" to H.P. 432, L.D. 615

2 substances. No other records may be removed from the drug outlet
or wholesaler except as otherwise authorized by law or the
4 court. When the authorized person removing the records has a
means of producing legible copies of the records, that person
6 must make the copies and leave them for the outlet or wholesaler
as part of the inventory receipt. If the authorized person does
8 not leave photocopies of the removed records, that person must
return the original records or provide photocopies within 48
hours.

10 This amendment limits the persons who may inspect and remove
12 the records to the Board of Commissioners of the Profession of
Pharmacy, the board's inspectors and investigators, specific
14 federal and state law enforcement officers and other law
enforcement officers authorized to act by the Attorney General or
16 the board.

Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the
House
(5/9/91) (Filing No. H-290)

G
O
M
M
I
T
T
E
E
A
M
E
N
D
M
E
N
T