

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 615

H.P. 432

House of Representatives, February 13, 1991

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.  
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative CARROLL of Gray.

Cosponsored by Senator MILLS of Oxford, Representative PARADIS of Augusta and  
Senator GAUVREAU of Androscoggin.

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STATE OF MAINE

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

---

An Act to Clarify Provisions Relating to Pharmacies.

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

2  
4       Sec. 1. 17-A MRSA §1113, as repealed and replaced by PL 1977,  
c. 671, §26, is repealed.

6       Sec. 2. 32 MRSA §13723, sub-§7, as enacted by PL 1987, c. 710,  
8       §5, is amended to read:

10       7. **Investigatory powers.** The board shall notify the  
12       Department of the Attorney General upon receipt of a complaint.  
14       Upon receipt of the notifications, the Attorney General shall  
16       notify the department within a timely period if the alleged  
18       violation requires criminal investigation. If a case does not  
20       require criminal investigation, the board or its authorized  
22       representatives may investigate and gather evidence concerning  
24       alleged violations of this Act or of the rules of the board. The  
26       board or an officer authorized pursuant to paragraph A may remove  
28       ~~from any drug outlet or wholesaler~~ certain original records,  
30       including, but not limited to, prescription records, shipping and  
32       delivery records, patient profiles, inventories and other drug  
34       records for the purposes of photocopying analysis, duplication  
36       and furthering the investigation. An A signed inventory receipt  
38       shall of any records being removed must be furnished and ~~the~~  
40       ~~articles removed shall be returned within 3 hours to the drug~~  
42       ~~outlet or wholesaler by the board or an authorized officer.~~ The  
44       ~~pharmacist who has custody of the records may accompany the~~  
46       ~~board's representatives so that the pharmacist can attest to the~~  
48       ~~authenticity and lack of alteration of the records being~~  
50       ~~photocopied.~~ Except when photocopies were left as part of an  
52       inventory receipt, the board or an authorized officer removing  
records from a drug outlet or wholesaler shall, within 7 days  
from the date of removal, provide to a representative of the drug  
outlet or wholesaler either photocopies of any records removed  
together with a certificate identifying the agency in possession  
of the records or return the original records. Inventory  
receipts and photocopies of any records removed that are provided  
by the board or any 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.

42       A. Prescriptions, orders and records required by this  
44       chapter and stocks of narcotic prescription and legend drugs  
46       ~~shall be~~ are open ~~for inspection~~ only to the board and to  
48       federal, state, county and municipal officers whose duty it  
50       is to enforce the laws of this State or of the United States  
52       relating to narcotic scheduled drugs or controlled  
substances for the purpose of inspecting, investigating and  
gathering evidence of violations of law or any rule of the  
board. No officer having knowledge by virtue of the  
officer's office of any such prescription, order or record  
may divulge that knowledge, ~~except in connection with a~~  
~~prosecution or proceeding in court or~~ before a licensing or

2 registration board or officer, ~~to which prosecution or~~  
3 ~~proceeding the person to whom such prescriptions, orders or~~  
4 ~~records relate is a party~~ or in connection with a  
5 prosecution or proceeding in court.

6 B. The Bureau of Health, the board, their officers, agents,  
7 inspectors and representatives, all peace officers within  
8 the State and all ~~county~~ prosecuting attorneys shall enforce  
9 all provisions of this chapter, except those specifically  
10 delegated, and shall cooperate with all agencies charged  
11 with the enforcement of the laws of the United States, of  
12 this State and of all other states relating to ~~narcotic~~  
13 prescription or legend drugs or their equivalent.

14  
15 **STATEMENT OF FACT**

16  
17 Currently, the Maine Revised Statutes, Title 17-A, section  
18 1113 authorizes state law enforcement officers, members of the  
19 Board of Commissioners of the Profession of Pharmacy and pharmacy  
20 inspectors to inspect the pharmacy records of scheduled drugs or  
21 "potent medical substances."

22  
23 This bill repeals that provision and enacts in Title 32  
24 language that regulates the inspection and removal of pharmacy  
25 and drug wholesaler records by all enforcement personnel of the  
26 State.

27  
28 The bill expands from 3 hours to 7 days the period of time  
29 that pharmacy records may be temporarily removed for purposes  
30 such as testing for latent fingerprints and duplication before  
31 photocopies must be provided as substitutes.

32  
33 The bill provides that photocopies furnished by  
34 investigators of records removed by them constitute a legal  
35 substitute for purposes of compliance with any other rule or law.  
36