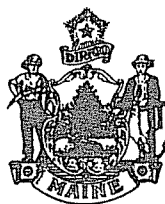


MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

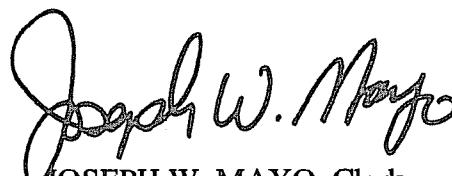
No. 778

H.P. 573

House of Representatives, March 4, 1993

An Act to Prevent Procurement of Controlled Substances through Fraud.

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative JOSEPH of Waterville.
Cosponsored by Representatives: BAILEY of Township 27, CARROLL of Gray, Senator:
HANDY of Androscoggin.

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

2
3 Sec. 1. 17-A MRSA §1108, as amended by PL 1983, c. 350, is
4 further amended to read:

6 §1108. Acquiring drugs by misrepresentation, fraud, forgery,
7 deception or subterfuge

8
9 1. A person is guilty of acquiring drugs by
10 misrepresentation, fraud, forgery, deception or subterfuge if,--as
11 a--result--of--deception,--he--obtains--or--exercises--control--over--what
12 he--knows--or--believes--to--be--a--scheduled--drug,--and--which--is,--in
13 fact,--a--scheduled--drug, that person:

14 A. Obtains or exercises control over what that person knows
15 or believes to be a scheduled drug and that is, in fact, a
16 scheduled drug;

17 B. Forges or alters a prescription or any written order;

18 C. Conceals a material fact;

19 D. Uses a false name or gives a false address;

20 E. Makes a false statement on, fails to prepare, obtain or
21 keep or refuses the inspection or copying of any
22 prescription, order, report or record;

23 F. Falsely assumes the title of or purports to be a
24 manufacturer, wholesaler, pharmacist, practitioner, dentist,
25 veterinarian or other authorized person;

26 G. Makes or utters any false or forged prescription or
27 written order;

28 H. Affixes any false or forged label to a package or
29 receptacle containing controlled drugs; or

30 I. Independently consults 2 or more practitioners for
31 treatment solely to obtain additional controlled drugs or
32 prescriptions for controlled drugs.

33
34 2. As used in this section, "deception"--has--the--same
35 meaning--as--in--section--354,--subsection--2 unless the context
36 otherwise indicates, the following terms have the following
37 meanings.

38 A. "Deception" has the same meaning as in section 354,
39 subsection 2.

2 B. "Practitioner" means any person who is lawfully entitled
4 to prescribe, administer, dispense or distribute controlled
drugs to patients.

6 3. For purposes of this section, information communicated
8 to a physician practitioner in an effort to violate this section,
10 including a violation by procuring the administration of a
scheduled drug by misrepresentation, fraud, forgery, deception or
subterfuge, shall is not be--deemed considered a privileged
communication.

12 3-A. Prescriptions written by practitioners for controlled
14 drugs must be executed in clear, concise, readable form and may
be typewritten. Each prescription must:

16 A. Contain the following information:

18 (1) The full name and complete address of the patient
20 or of the owner of the animal for which the drug is
prescribed;

22 (2) The day, month and year the prescription is issued;

24 (3) The name of the controlled drug prescribed. Only
26 one controlled drug may appear on a prescription blank;

28 (4) The strength of the controlled drug prescribed;

30 (5) The specific directions for use of the controlled
drug by the patient;

32 (6) The Federal Drug Enforcement Administration
34 registration number of the practitioner;

36 (7) The practitioner's signature written in ink on the
date of issuance; and

38 (8) The practitioner's full name printed, rubber
40 stamped or typewritten above or below the handwritten
signature; and

42 B. Comply with the following requirements.

44 (1) Refills may not be authorized for controlled drugs
46 as set out in 21 Code of Federal Regulations, 1308.12
(1992).

48 (2) A practitioner may not issue a prescription in
50 order to obtain scheduled substances for the purpose of
general dispensing to the practitioner's patients.

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(3) A practitioner may not issue a prescription to the practitioner or the practitioner's immediate family, which includes a spouse, children or parents.

(4) A prescription is invalid if it is not filled within 6 months from the date prescribed.

4. Acquiring drugs by misrepresentation, fraud, forgery, deception or subterfuge is:

A. A Class C crime if the drug is a schedule W, X or Y drug; or

B. A Class D crime if the drug is a schedule Z drug.

STATEMENT OF FACT

This bill amends the drug laws dealing with obtaining drugs by deception by adding the terms "misrepresentation," "fraud," "forgery" and "subterfuge" to the law.