

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)



117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1486

H.P. 1057

House of Representatives, May 3, 1995

An Act to Add Types of Pharmacies That Are Subject to Record Seizure.

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 black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative BUNKER of Kossuth Township.

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

2

3 **Sec. 1. 32 MRSA §13723, sub-§7**, as amended by PL 1991, c. 274,
4 §2, is further amended to read:

6

7. **Investigatory powers.** The board shall notify the
Department of the Attorney General upon receipt of a complaint.
8 Upon receipt of the notifications, the Attorney General shall
notify the department within a timely period if the alleged
10 violation requires criminal investigation. If a case does not
require criminal investigation, the board or its authorized
12 representatives may investigate and gather evidence concerning
alleged violations of this Act or of the rules of the board. The
14 board or an officer authorized pursuant to paragraph A may remove
from any ~~drug-outlet-or-wholesaler~~ premises authorized for
16 inspection pursuant to section 13721, subsection 1, paragraph D
certain original records relating to scheduled drugs or
18 controlled substances, including, but not limited to,
prescription records, shipping and delivery records, patient
20 profiles, inventories and other drug records for the purposes of
analysis, duplication and furthering the investigation. A signed
22 inventory receipt of any records being removed must be furnished
to the ~~drug-outlet-or-wholesaler~~ premises by the board or an
24 authorized officer. When a means of producing legible
photocopies is readily available at the site of the records being
26 removed, an authorized officer removing the records shall leave
photocopies of the records as part of an inventory receipt in
28 accordance with this subsection. Except when photocopies are
left as part of an inventory receipt, the board or an authorized
30 officer removing records from a ~~drug-outlet-or-wholesaler~~ the
premises shall, within 48 hours from the time of removal, provide
32 to a representative of the ~~drug-outlet-or-wholesaler~~ premises
photocopies of any removed records, together with a certificate
34 identifying the agency in possession of the records, or return
the original records. Inventory receipts and photocopies of any
36 removed records provided by the board or an authorized officer
are admissible as evidence if offered by ~~the drug-outlet-or-~~
38 ~~wholesaler~~ any representative of the premises to prove compliance
with any rule of the board or requirement of law.

40

A. Prescriptions, orders and records required by this
42 chapter and stocks of prescription and legend drugs are open
only to the board, the board's inspectors and investigators,
44 federal and state law enforcement officers whose duty it is
to enforce the laws of this State or of the United States
46 relating to scheduled drugs or controlled substances and
other law enforcement officers authorized by the board or
48 the Attorney General for the purposes of inspecting,
investigating and gathering evidence of violations of law or
50 any rule of the board. No officer having knowledge by virtue

2 of the officer's office of any such prescription, order or
record may divulge that knowledge, except before a licensing
4 or registration board or officer or in connection with a
prosecution or proceeding in court.

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

14

16

18 STATEMENT OF FACT

18

20 This bill amends the existing law which, by use of the
limited definitions of "drug outlet" and "drug wholesaler,"
22 excludes nonrural health care centers, including hospital
pharmacies, from authorized inspections of the Board of
Commissioners of the Profession of Pharmacy in terms of seizure
24 of records as part of a criminal investigation. The Maine
Revised Statutes, Title 32, section 13721, subsection 1,
26 paragraph D authorizes inspections of the Board of Commissioners
of the Profession of Pharmacy and certain other criminal law
28 enforcement investigators to inspect all pharmacies,
dispensaries, stores, hospital pharmacies, extended care
30 facilities, boarding homes, nursing homes, drug abuse treatment
centers, penal institutions, family planning centers or other
32 drug outlets in which drugs or medicines are manufactured,
stored, distributed, compounded, dispensed or retailed in this
34 State.