

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1585

S.P. 600

In Senate, June 28, 1995

An Act Regarding Narcotic Dependency.

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator STEVENS of Androscoggin. (GOVERNOR'S BILL).
Cosponsored by Representative: DiPIETRO of South Portland.

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

2
4 **Sec. 1. 5 MRSA §§20052 and 20053** are enacted to read:

6 **§20052. Long-term methadone and other narcotic drug
detoxification and maintenance treatment**

8 Beginning on October 15, 1995 long-term methadone and other
10 narcotic drug detoxification and maintenance treatment of
narcotic-dependent individuals is prohibited except as authorized
12 under section 20053.

14 **§20053. Long-term narcotic dependency treatment project**

16 1. Treatment project established. The Department of Human
Services and the Office of Substance Abuse shall apply for
18 waivers from the federal Department of Health and Human Services
to undertake a 3-year demonstration project on long-term
20 methadone and other narcotic drug detoxification and maintenance
treatment for narcotic-dependent persons, referred to in this
22 section as the "treatment project."

24 2. Purpose. The Legislature finds that there is a need to
study long-term methadone and other narcotic drug detoxification
26 and maintenance treatment for narcotic-dependent persons. The
purpose of the treatment project is to study the treatment needs
28 of narcotic-dependent people in this State and the effectiveness,
cost and effect on this State of long-term methadone and other
narcotic drug detoxification and maintenance treatment.

30 3. Project limitation. Participation in the project is
32 limited to 300 clients at any one time receiving long-term
methadone and other narcotic drug detoxification or maintenance
34 treatment for narcotic addiction, of whom a maximum of 100 at any
one time may receive the treatment under reimbursement from the
36 Medicaid program. Clients of a treatment program that is
licensed in the State who are receiving methadone or other
38 narcotic drug detoxification or maintenance treatment on the date
of the commencement of the treatment project have priority as
40 clients under the treatment project. Treatment under the
treatment project for persons receiving reimbursement under the
42 Medicaid program must be cost-neutral or result in savings to the
Medicaid program.

44 4. Treatment programs. Treatment under the treatment
46 project must be provided by no more than 2 long-term methadone
and other narcotic drug maintenance and treatment programs, each
48 of which operates from one location. Each treatment program must
be approved for participation in the treatment project by the
50 Department of Human Services and the Office of Substance Abuse.

2 Treatment programs licensed in this State on July 1, 1995 have
3 priority as treatment programs under the treatment project.

4 5. Rulemaking. In order to protect the public health and
5 safety and allow effective administration and evaluation of the
6 treatment project, the Department of Human Services and the
7 Office of Substance Abuse shall adopt rules for long-term
8 methadone and other narcotic drug detoxification or maintenance
9 treatment taking into consideration issues of best medical
10 practice, individual client needs, the role of clinical judgment
11 in determining services and the cost of providing services. The
12 Office of Substance Abuse shall work cooperatively with
13 interested persons in this State, including licensed methadone
14 treatment programs, in developing the rules. Rulemaking must
15 address the following:

16 A. License conditions for treatment programs for
17 narcotic-dependent persons:

18 B. Standards for treatment programs that incorporate the
19 standards contained in section 20043 and are compatible with
20 the applicable federal treatment guidelines, including, but
21 not limited to, treatment program admission criteria:

22 C. Clinical treatment protocols based on phases of
23 treatment:

24 D. Standards for the distribution of scheduled or
25 prescription drugs and controlled substances and for the
26 security of these drugs and controlled substances consistent
27 with the rules adopted by the Board of Commissioners of the
28 Profession of Pharmacy, including, but not limited to, the
29 use of identifiable containers in dispensing the drugs and
30 controlled substances and maintenance of a toll-free
31 telephone line by the treatment program to enable law
32 enforcement authorities to determine whether a person's
33 possession of these drugs or controlled substances is in
34 compliance with the law:

35 E. Standards for evaluating the effectiveness of long-term
36 methadone and other narcotic drug dependency detoxification
37 and maintenance treatment and the treatment project; and

38 F. Ensurance of compliance with the requirements of the
39 treatment project and assistance in the evaluation of the
40 treatment project by periodic review of the treatment
41 programs using the standards for evaluation adopted pursuant
42 to paragraph E by a clinical review team of professionals
43 and a multidisciplinary advisory group appointed by the
44 Office of Substance Abuse.

2 **6. Investigation; inspection.** The Department of Human
3 Services and the Office of Substance Abuse may investigate and
4 inspect the premises of treatment programs and require the
5 production of information to determine compliance with applicable
6 law and rules. As a condition of receiving treatment under the
7 treatment project, all clients must sign waivers of
8 confidentiality, which enable access to and use of treatment
9 program and patient records for the purposes of listing in a
10 central registry, program oversight and monitoring, enforcement
11 of license and certification requirements and other law
12 enforcement activities to the extent consistent with federal law
13 protecting confidentiality under 42 United States Code, Section
14 290dd-3 (1995) and implementing regulations.

15 **7. Employees.** Except as authorized by the Director of the
16 Office of Substance Abuse, a person may not be employed by or
17 contract with a treatment program in a capacity in which that
18 person handles or has access to scheduled or prescription drugs
19 or controlled substances if that person has been convicted of a
20 felony or an offense related to the possession, use, sale or
21 distribution of scheduled or prescription drugs or controlled
22 substances under Title 17-A, chapter 45, or under any law of
23 another jurisdiction.

24 **8. Record checks.** The treatment programs must perform
25 record checks of all potential and current employees and
26 contractors to ensure adherence to the requirements of subsection
27 7. The treatment programs shall pay for these record checks.

28 **9. Evaluation.** The Department of Human Services and the
29 Office of Substance Abuse shall adopt rules to plan and implement
30 an evaluation procedure for the treatment project utilizing the
31 rules adopted pursuant to subsection 5, paragraph E.

32 **10. Reports.** The Department of Human Services and the
33 Office of Substance Abuse shall submit reports to the joint
34 standing committee of the Legislature having jurisdiction over
35 human resource matters on or before January 31, 1996 and on or
36 before January 31, 1997 on the levels of participation and the
37 status of the treatment project and at the end of the treatment
38 project on the treatment needs of narcotic-dependent people in
39 this State and the effectiveness, cost and effect on this State
40 of long-term methadone and other narcotic drug detoxification and
41 maintenance treatment.

42 **46**
43 **Sec. 2. 17-A M RSA §1102, sub-§1, ¶I,** as amended by PL 1989, c.
44 924, §1, is further amended to read:
45
46

2 I. Unless listed or described in another schedule, all
narcotic drugs, including, but not limited to, heroin
(diacetylmorphine), methadone, methadone hydrochloride,
4 levo-alpha-acetyl-methadol, or LAAM, pethidine, morphine and
opium. As used in this chapter, "heroin" means any
6 compound, mixture or preparation containing heroin;

8 **Sec. 3. 22 MRSA §2383-B**, as enacted by PL 1989, c. 384, §8,
is amended to read:

10 **§2383-B. Authorized possession by individuals; exemptions**

12 **1. Lawfully prescribed drugs.** -A Subject to the additional
14 restrictions contained in subsection 4, if applicable, a person
to whom or for whose use any scheduled drug, prescription drug or
16 controlled substance has been prescribed, sold or dispensed for a
legitimate medical purpose by a physician, dentist, podiatrist,
18 pharmacist or other person acting in the usual course of
professional practice and authorized by law or rule to do so, and
20 the owner or the person having the custody or control of any
animal for which any scheduled drug, prescription drug or
22 controlled substance has been prescribed, sold or dispensed for a
legitimate veterinary medical purpose by a licensed veterinarian,
24 acting in the usual course of professional veterinary practice
may lawfully possess the drug or substance, except when in use,
26 only in the container in which it was delivered by the person
selling or dispensing the drug or substance.

28 **2. Others lawfully in possession.** The Except as otherwise
30 authorized or restricted, the following persons are authorized to
possess and have control of scheduled or prescription drugs or
32 controlled substances:

34 A. Common carriers or warehousemen warehouse operators
while engaged in lawfully transporting or storing
36 prescription drugs, or any of their employees acting within
the scope of their employment;

38 B. Employees or agents of persons lawfully entitled to
40 possession who have temporary, incidental possession while
acting within the scope of their employment or agency; and

42 C. Persons whose possession is for the purpose of aiding
44 public officers in performing their official duties, while
acting within the scope of their employment or duties;

46 D. Law enforcement officers while acting within the scope
48 of their employment and official duties; and

2 E. Physicians, dentists, podiatrists, pharmacists or other
3 persons authorized by law or rule to administer, dispense,
4 prescribe or sell scheduled or prescription drugs or
5 controlled substances, while acting within the course of
6 their professional practice.

7 **3. Definitions.** As used in this section, the--term
8 "prescription drug" has the same meaning as specified in Title
9 32, section 13702, subsection 24, and includes so-called "legend
10 drugs." unless the context otherwise indicates, the following
11 terms have the following meanings.

12 A. "Controlled substances" has the same meaning as defined
13 in 21 United States Code, Section 812 (1970) and 21 Code of
14 Federal Regulations, Chapter II, Part 1308.

15 B. "Law enforcement officer" has the same meaning as
16 defined in Title 17-A, section 2, subsection 17.

17 C. "Prescription drugs" has the same meaning as defined in
18 Title 32, section 13702, subsection 24 and includes
19 so-called legend drugs.

20 D. "Scheduled drug" has the same meaning as defined in
21 Title 17-A, chapter 45.

22 **4. Specially restricted drugs and substances.** The
23 possession, receipt and dispensing of scheduled or prescription
24 drugs and controlled substances are subject to the provisions of
25 this subsection.

26 A. A person may not intentionally or knowingly possess any
27 of the following scheduled or prescription drugs or
28 controlled substances unless the drug or substance has been
29 prescribed, dispensed or sold by a medical practitioner
30 expressly licensed or authorized in this State for that
31 purpose pursuant to Title 5, section 20005, 20024 or 20075
32 or by rule or licensed or authorized under another state or
33 foreign country:

34 (1) Methadone;

35 (2) Methadone hydrochloride;

36 (3) Levo-alpha-acetyl-methadol, also known as LAAM; and

37 (4) Any other scheduled or prescription drug or
38 controlled substance as approved or specified in 21
39 Code of Federal Regulations, Chapter I, Part 291.

40

2 B. The possession, receipt and dispensing of drugs and
3 substances identified in paragraph A under a prescription or
4 authorization issued in another state or country must meet
5 the requirements of this paragraph.

6 (1) A person may not possess, receive or be dispensed
7 at any one time or in the aggregate a drug or substance
8 in an amount greater than the amount required for
9 maintenance of approved legitimate medical treatment
10 for that person for 3 weeks unless authorized by a
11 person expressly licensed or authorized in this State.

12 (2) The Office of Substance Abuse and the Board of
13 Commissioners of the Profession of Pharmacy shall adopt
14 rules governing the amount of any scheduled or
15 prescription drug or controlled substance identified in
16 paragraph A that may be dispensed in this State under a
17 prescription or order issued in another jurisdiction.

18
19 **Sec. 4. 32 MRSA §13723, sub-§7, ¶C** is enacted to read:

20
21 C. In addition to the investigatory powers granted by this
22 subsection to other entities, the Department of Human
23 Services and the Office of Substance Abuse may investigate
24 and inspect the premises of a treatment provider under the
25 3-year demonstration project on long-term methadone and
26 other narcotic drug detoxification and maintenance treatment
27 established under Title 5, section 20053 and require the
28 production of information to determine compliance with
29 applicable law and rules.

30
31 **Sec. 5. Effective date.** This Act takes effect October 15, 1995.

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STATEMENT OF FACT

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36 The bill amends the Maine Revised Statutes, Title 17-A,
37 section 1102, subsection 1, paragraph I to include methadone
38 hydrochloride and levo-alpha-acetyl-methadol within the
39 designation of schedule W drugs.

40
41 Incorporating existing federal law, the bill clarifies the
42 law by explicitly requiring that possession, use or prescription
43 of any drug or substance can only be lawful if issued for a
44 legitimate medical or veterinary purpose by a licensed or
45 authorized person acting in the usual course of that person's
46 professional practice and, thus, incorporates existing federal
47 law.

2 It expands lawful possession of certain drugs to include
"controlled substances" and "scheduled drugs" and defines those
4 words.

6 It expands the classification of other persons who may
lawfully possess certain drugs to include law enforcement
8 officers acting within the scope of their employment and duties
and medical practitioners acting in the course of their
10 professional practice who are themselves authorized to
administer, dispense, prescribe or sell prescription or scheduled
12 drugs or controlled substances.

14 It incorporates provisions of existing federal law by
conditioning the possession of certain drugs or substances,
including methadone, methadone hydrochloride and
16 levo-alpha-acetyl-methadol, commonly used for the treatment of
drug or substance addiction or dependency upon the authorization
18 of specially licensed or authorized medical practitioners under
Title 5, sections 20005, or any rule, or any law of another
20 jurisdiction. Federal law prohibits all but specially authorized
and licensed medical practitioners from prescribing or dispensing
22 such drugs or substances except in very narrow, limited
circumstances of physiological medical emergency.

24 It directs the Office of Substance Abuse and the Department
of Human Services to undertake a 3-year demonstration treatment
26 project to evaluate the effectiveness and results of long-term
methadone detoxification and maintenance treatment. The bill
28 requires the Office of Substance Abuse and the Department of
Human Services to adopt rules to administer the demonstration
30 treatment project. It provides that no more than 2 treatment
32 programs will provide the treatment services. It prohibits
long-term methadone and other narcotic drug detoxification and
34 maintenance treatment after October 15, 1995 except under the
treatment project.

36 It gives the Office of Substance Abuse and the Department of
Human Services authority to investigate and inspect the premises
38 of treatment programs and to require the treatment program to
produce information to determine compliance with applicable law
40 and regulations. All patients must sign an express waiver of
42 confidentiality to enable listing in a central registry, project
monitoring and oversight and enforcement of licensing and
44 certification and law enforcement as a condition of participation
in the project. The bill requires that employees or contractors
46 of treatment programs participating in the treatment project who
handle or have access to the drugs may not have been convicted of
48 any felony or offense related to the possession, use, sale or
distribution of scheduled drugs. Treatment programs must perform
50 record checks of all employees and contractors.

2 It requires the Office of Substance Abuse and the Department
of Human Services to submit reports to the joint standing
4 committee having jurisdiction over human resource matters on or
before January 31, 1996 and January 31, 1997 and at the
6 termination of the program.

8 The bill contains an effective date of October 15, 1995.