

MAINE STATE LEGISLATURE

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R. of S.

L.D. 945

DATE: 5-19-03

(Filing No. H-457)

BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 702, L.D. 945, Bill, "An Act To Facilitate Communication between Prescribers and Dispensers of Prescription Medication"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 22 MRSA c. 1603 is enacted to read:

CHAPTER 1603

CONTROLLED SUBSTANCES PRESCRIPTION MONITORING

§7245. Legislative intent

It is the intent of the Legislature that the prescription monitoring program established pursuant to this chapter serve as a means to promote the public health and welfare and to detect and prevent substance abuse. This chapter is not intended to interfere with the legitimate medical use of controlled substances.

§7246. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Controlled substance.** "Controlled substance" means a controlled substance included in schedules II, III or IV of 21

COMMITTEE AMENDMENT

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2 United States Code, Section 812 or 21 Code of Federal
3 Regulations, Section 1308.

4 2. Dispenser. "Dispenser" means a pharmacist who is
5 licensed or registered under Title 32 or a licensed health care
6 professional with authority to dispense or administer
7 prescription drugs.

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10 3. Fund. "Fund" means the Controlled Substances
11 Prescription Monitoring Program Fund established in section 7247.

12 4. Office. "Office" means the Department of Behavioral and
13 Developmental Services, Office of Substance Abuse.

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15 5. Prescriber. "Prescriber" means a licensed health care
16 professional with authority to prescribe controlled substances.

17 6. Prescription monitoring information. "Prescription
18 monitoring information" means information submitted to and
19 maintained by the program.

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21 7. Program. "Program" means the Controlled Substances
22 Prescription Monitoring Program established under section 7248.

23 **§7247. Controlled Substances Prescription Monitoring Program Fund**

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27 The Controlled Substances Prescription Monitoring Program
28 Fund is established within the office to be used by the director
29 of the office to fund or assist in funding the program. Any
30 balance in the fund does not lapse but is carried forward to be
31 expended for the same purposes in succeeding fiscal years. The
32 fund must be deposited with and maintained and administered by
33 the office. The office may accept funds into the fund from any
34 source, public or private, including grants or contributions of
35 money or other things of value, that it determines necessary to
36 carry out the purposes of this chapter. Money received by the
37 office to establish and maintain the program must be used for the
38 expenses of administering this chapter. No General Fund
39 appropriation may be made available for the purposes of this
40 chapter.

41 **§7248. Controlled Substances Prescription Monitoring Program**

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43 1. Establishment of monitoring program. Contingent upon
44 the receipt of funds pursuant to section 7247 sufficient to carry
45 out the purposes of this chapter, the Controlled Substances
46 Prescription Monitoring Program is established. No later than
47 January 2, 2004, to implement the program, the office shall
48 establish an electronic system for monitoring any controlled

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2 substance that is dispensed to a person in the State by a
3 dispenser.

4 2. Contract for services. The office may contract with a
5 vendor to establish and maintain the program pursuant to rules
6 adopted by the office.

8 3. Information available. The program must rapidly provide
9 information in an electronic format to prescribers and dispensers.

10 **§7249. Reporting of prescription monitoring information**

12 1. Information required. Each dispenser shall submit to
13 the office, by electronic means or other format specified in a
14 waiver granted by the office, specific items of information
15 regarding dispensed controlled substances determined by the
16 office from the following list:

18 A. The dispenser identification number;

20 B. The date the prescription was filled;

22 C. The prescription number;

24 D. Whether the prescription is new or is a refill;

26 E. The National Drug Code (NDC) for the drug dispensed;

28 F. The quantity dispensed;

30 G. The dosage;

32 H. The patient identification number;

34 I. The patient name;

36 J. The patient address;

38 K. The patient date of birth;

40 L. The prescriber identification number;

42 M. The date the prescription was issued by the prescriber;
44 and

46 N. The office-issued serial number if the office chooses to
48 establish a serial prescription system.

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2 2. Frequency. Each dispenser shall submit the information
required under subsection 1 as frequently as specified by the
office.

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6 3. Waiver. The office may grant a waiver of the electronic
submission requirement under subsection 1 to any dispenser for
good cause, including financial hardship, as determined by the
office. The waiver must state the format and frequency with
which the dispenser is required to submit the required
information.

12 4. Immunity from liability. A dispenser is immune from
liability for disclosure of information if the disclosure was
made pursuant to and in accordance with this chapter.

16 **§7250. Access to prescription monitoring information and**
confidentiality

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20 1. Confidentiality. Except as provided in this section,
prescription monitoring information submitted to the office is
confidential and is not a public record as defined in Title 1,
section 402, subsection 3.

24 2. Review of information. If the prescription monitoring
information surpasses thresholds as established by the office,
the office shall notify the prescriber, the dispenser and, if the
office determines it to be necessary, the professional licensing
entity and provide all relevant prescription monitoring
information to those persons and entities through an established
letter of notification.

32 3. Permissible disclosure of information. The office may
provide prescription monitoring information for public research,
policy or education purposes as long as all information
reasonably likely to reveal the patient or other person who is
the subject of the information has been removed.

38 4. Access to information. The following persons may access
prescription monitoring information:

40 A. A prescriber, insofar as the information relates to a
patient under the prescriber's care;

44 B. A dispenser, insofar as the information relates to a
customer of the dispenser seeking to have a prescription
filled;

48 C. The executive director, or a board investigator as
designated by each board, of the state boards of licensure
of podiatric medicine, dentistry, pharmacy, medicine,

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2 osteopathy, veterinary medicine, nursing or other boards
3 representing health care disciplines whose licensees are
4 prescribers, as required for an investigation, with
5 reasonable cause;

6 D. A patient to whom a prescription is written, insofar as
7 the information relates to that patient; and

8 E. Office personnel or personnel of any vendor or
9 contractor, as necessary for establishing and maintaining
10 the program's electronic system.

11 5. Purge of information. The office shall purge from the
12 program all information that is more than 6 years old.

13 **§7251. Unlawful acts and penalties**

14 1. Failure to submit information. A dispenser who
15 knowingly fails to submit prescription monitoring information to
16 the office as required by this chapter is subject to discipline
17 by the Maine Board of Pharmacy pursuant to Title 32, chapter 117,
18 subchapter 4 or by the applicable professional licensing entity.

19 2. Unlawful disclosure or use of information. A person who
20 intentionally or knowingly uses or discloses prescription
21 monitoring information in violation of this chapter, unless
22 otherwise authorized by law, is guilty of a Class C crime.

23 **§7252. Rulemaking**

24 The office may adopt rules necessary to implement the
25 provisions of this chapter. Rules adopted pursuant to this
26 section are major substantive rules as defined in Title 5,
27 chapter 375, subchapter 2-A.

28 **Sec. 2. Appropriations and allocations.** The following
29 appropriations and allocations are made.

30 **BEHAVIORAL AND DEVELOPMENTAL SERVICES, DEPARTMENT OF**

31 **Controlled Substances Prescription Monitoring Program Fund**

32 Initiative: Provides a base allocation in the event funds are
33 received to establish and operate the Controlled Substances
34 Prescription Monitoring Program.

35	Other Special Revenue Funds	2003-04	2004-05
36	All Other	\$500	\$500
37		<hr/>	<hr/>
38	Other Special Revenue Funds Total	\$500	\$500

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SUMMARY

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This amendment replaces the bill. The amendment makes the following changes to the bill.

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1. It specifies that the intent of the legislation is to detect and prevent substance abuse, not interfere with the legitimate medical use of controlled substances.

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2. It designates the Department of Behavioral and Developmental Services, Office of Substance Abuse as the agency administering the prescription monitoring program and allows the office to receive funds from any public or private source.

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3. It makes implementation of the program contingent on the receipt of sufficient federal or private funding and specifies that no general fund appropriation may be made to fund the program.

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4. It covers prescriptions dispensed to any person in the State, rather than merely prescriptions actually dispensed in the State.

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5. It provides a list of items of information from which the office may choose requirements for submission.

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6. It provides a dispenser with immunity from liability for disclosure of information if the disclosure was made pursuant to and in accordance with the requirements of the legislation.

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7. It directs the office to establish thresholds that, when exceeded, will trigger notification.

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8. It directs the office to purge information after 6 years.

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FISCAL NOTE REQUIRED

(See attached)

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**121st Maine Legislature
Office of Fiscal and Program Review**



LD 945

**An Act To Facilitate Communication between Prescribers and
Dispensers of Prescription Medication**

LR 1016(02)

Fiscal Note for Bill as Amended by Committee Amendment " "
Committee: Business, Research and Economic Development
Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Appropriations/Allocations				
Other Special Revenue Funds	\$500	\$500	\$500	\$500

Correctional and Judicial Impact Statements:

Establishes a new Class C crime, increases correctional and judicial costs

Fiscal Detail and Notes

This bill includes a \$500 base allocation for the Prescription Monitoring Program Fund within the Department of Behavioral and Developmental Services in the event funds are received to establish the electronic system to monitor controlled substances.