

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 945

H.P. 702

House of Representatives, February 25, 2003

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

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Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PERRY of Calais.  
Cosponsored by Senator SHOREY of Washington and  
Representatives: BREault of Buxton, BUNKER of Kossuth Township, DUGAY of  
Cherryfield, RICHARDSON of Brunswick, SULLIVAN of Biddeford, Senator: BROMLEY of  
Cumberland.

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

4 **Sec. 1. 32 MRSA c. 117, sub-c. 12 is enacted to read:**

6 **SUBCHAPTER 12**

8 **CONTROLLED SUBSTANCES PRESCRIPTION MONITORING**

10 **§13821. Definitions**

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

14 1. **Controlled substance.** "Controlled substance" means a controlled substance included in schedules II, III or IV of 21 United States Code, Section 812 or 21 Code of Federal Regulations, Section 1308.

18 2. **Dispenser.** "Dispenser" means a pharmacist who is licensed or registered under this chapter and a licensed health care professional with authority to dispense or administer prescription drugs.

20 3. **Fund.** "Fund" means the Controlled Substances Prescription Monitoring Program Fund established in section 13822.

22 4. **Prescriber.** "Prescriber" means a licensed health care professional with authority to prescribe controlled substances.

24 5. **Prescription monitoring information.** "Prescription monitoring information" means information submitted to and maintained by the program.

26 6. **Program.** "Program" means the Controlled Substances Prescription Monitoring Program established under section 13823.

28 **§13822. Controlled Substances Prescription Monitoring Program Fund**

30 The Controlled Substances Prescription Monitoring Program Fund is established within the department to be used by the commissioner to fund or assist in funding the program. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the department. Money received by the department to establish and maintain the program must be used for the expenses of administering this subchapter.

32 **§13823. Controlled substances prescription monitoring program**

2           1. Establishment of monitoring program. The Controlled  
3           Substances Prescription Monitoring Program is established. No  
4           later than January 2, 2004, to implement the program, the  
5           department shall establish an electronic system for monitoring  
6           any controlled substance that is dispensed in the State by a  
7           pharmacist or a licensed health care professional with authority  
8           to dispense or administer prescription drugs.

10           2. Contract for services. The department may contract with  
11           a vendor to establish and maintain the program pursuant to rules  
12           adopted by the department.

14           3. Information available. The program must quickly provide  
15           information in an electronic format to prescribers and dispensers.

16           **§13824. Reporting of prescription monitoring information**

18           1. Information required. Each dispenser shall submit to  
19           the department, by electronic means or other format specified in  
20           a waiver granted by the department, information specified by the  
21           department, including:

- 24           A. A patient identifier;
- 26           B. The drug dispensed;
- 28           C. The date of the dispensing;
- 30           D. The quantity dispensed;
- 32           E. The dosage;
- 34           F. The prescriber; and
- 36           G. The dispenser.

38           2. Frequency. Each dispenser shall submit the information  
39           required under subsection 1 as frequently as specified by the  
40           department.

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

48           **§13825. Access to prescription monitoring information and**  
49           **confidentiality**

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

6  
8           2. Review of information. The department shall review the  
10           prescription monitoring information. If the department has a  
          reasonable suspicion that a violation of law, administrative rule  
12           or professional standards by any person may have occurred, the  
          department shall notify the prescriber, the dispenser and the  
          applicable professional licensing entity and provide all relevant  
          prescription monitoring information to those persons and entities.

14  
16           3. Permissible disclosure of information. The department  
          may provide prescription monitoring information for public  
18           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.

20  
22           4. Access to information. The following persons may access  
          prescription monitoring information:

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

26  
28           B. A dispenser, insofar as the information relates to a  
          customer of the dispenser seeking to have a prescription  
          filled;

30  
32           C. The executive director, or a board investigator as  
          designated by each board, of the state boards of licensure  
34           of podiatric medicine, dentistry, pharmacy, medicine,  
          osteopathy, veterinary, nursing or other boards representing  
36           health care disciplines whose licensees are prescribers, as  
          required for an investigation;

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

40  
42           E. Department personnel or personnel of any vendor or  
          contractor, as necessary for establishing and maintaining  
          the system.

44           §13826. Unlawful acts and penalties

46  
48           1. Failure to submit information. A dispenser who  
          knowingly fails to submit prescription monitoring information to  
          the department as required by this subchapter is subject to

2 discipline by the Maine Board of Pharmacy pursuant to subchapter  
3 4 or by the applicable professional licensing entity.

4 2. Unlawful disclosure of information. A person who  
5 intentionally or knowingly uses or discloses prescription  
6 monitoring information in violation of this subchapter, unless  
7 otherwise authorized by law, is guilty of a Class C crime.

8  
9 **§13827. Rulemaking**

10 The department may adopt rules necessary to implement the  
11 provisions of this subchapter. Rules adopted pursuant to this  
12 section are major substantive rules as defined in Title 5,  
13 chapter 375, subchapter 2-A.

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15  
16  
17 **SUMMARY**

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19 This bill requires the Department of Professional and  
20 Financial Regulation to establish by January 2, 2004 and to  
21 maintain an electronic prescription monitoring program. The  
22 program will allow prescribers and dispensers to identify  
23 immediately persons engaging in fraud and deception in obtaining  
24 schedule II, III and IV prescription drugs and to assist  
25 prescribers and dispensers in the safe and appropriate treatment  
26 and medication of patients. The bill provides for criminal  
penalties for misuse of the information.