

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1359

S.P. 494

In Senate, April 2, 2009

**An Act To Improve the Use of Data from the Controlled Substances
Prescription Monitoring Program**

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

2 Sec. 1. 22 MRSA §3036 is enacted to read:

3 **§3036. Reporting to the Controlled Substances Prescription Monitoring Program**

4 If in a medical examiner case it is determined that a controlled substance, as defined
5 in section 7246, subsection 1, or other drug may have contributed to a person's death, the
6 Office of the Chief Medical Examiner shall identify that person by name and date of
7 birth, if known, to the Controlled Substances Prescription Monitoring Program,
8 established in chapter 1603.

9 Sec. 2. 22 MRSA §7246, sub-§2, as enacted by PL 2003, c. 483, §1, is amended
10 to read:

11 2. **Dispenser.** "Dispenser" means a pharmacist who is licensed or registered under
12 Title 32 or a licensed health care professional with authority to dispense or administer
13 prescription drugs. "Dispenser" includes a prescriber and a licensed treatment program as
14 defined in Title 5, section 20003, subsection 23 that administers or dispenses controlled
15 substances.

16 Sec. 3. 22 MRSA §7246, sub-§5, as enacted by PL 2003, c. 483, §1, is amended
17 to read:

18 5. **Prescriber.** "Prescriber" means a licensed health care professional with authority
19 to prescribe controlled substances. "Prescriber" includes nonphysician prescribers.

20 Sec. 4. 22 MRSA §7248, sub-§1, as enacted by PL 2003, c. 483, §1, is amended
21 to read:

22 1. **Establishment of monitoring program.** Contingent upon the receipt of funds
23 pursuant to section 7247 sufficient to carry out the purposes of this chapter, the
24 Controlled Substances Prescription Monitoring Program is established. No later than
25 January 2, 2004, to implement the program, the office shall establish an electronic system
26 for monitoring any controlled substance that is dispensed to a person in the State by a
27 dispenser. Beginning October 1, 2009, the system must include information provided by
28 the Department of Public Safety, State Bureau of Identification pursuant to Title 25,
29 section 1551 and the Office of the Chief Medical Examiner pursuant to section 3036.
30 The office must integrate into the system:

31 A. Public information filed by the Department of Public Safety, State Bureau of
32 Identification pursuant to Title 25, section 1551 concerning each arrest or conviction
33 within the State for a crime that includes the use, possession, furnishing, sale or
34 diversion of a controlled substance. The information must include the name of the
35 person arrested or convicted and any aliases by which the person is known, the
36 person's date of birth, the arresting agency, the alleged offense, the controlled
37 substance involved, the date of arrest, whether the person was convicted and the
38 person's image if available; and

1 B. When a controlled substance or other drug may have contributed to a person's
2 death, the identity of that person as submitted by the Office of the Chief Medical
3 Examiner pursuant to section 3036.

4 **Sec. 5. 22 MRSA §7249, sub-§1**, as enacted by PL 2003, c. 483, §1, is amended
5 to read:

6 **1. Information required.** Each dispenser shall submit to the office at least twice
7 monthly, by electronic means or other format specified in a waiver granted by the office,
8 specific items of information regarding dispensed controlled substances determined by
9 the office from the following list:

- 10 A. The dispenser identification number;
- 11 B. The date the prescription was filled;
- 12 C. The prescription number;
- 13 D. Whether the prescription is new or is a refill;
- 14 E. The National Drug Code (NDC) for the drug dispensed;
- 15 F. The quantity dispensed;
- 16 G. The dosage;
- 17 H. The patient identification number;
- 18 I. The patient name;
- 19 J. The patient address;
- 20 K. The patient date of birth;
- 21 L. The prescriber identification number;
- 22 M. The date the prescription was issued by the prescriber; and
- 23 N. The office-issued serial number if the office chooses to establish a serial
24 prescription system.

25 **Sec. 6. 22 MRSA §7250, sub-§3-A** is enacted to read:

26 **3-A. Required disclosure.** If the Office of the Chief Medical Examiner has notified
27 the office pursuant to section 3036 that a controlled substance or other drug may have
28 contributed to a person's death, the office shall notify all prescribers and dispensers who
29 reported information pertaining to that person.

30 **Sec. 7. 22 MRSA §7250, sub-§4**, as enacted by PL 2003, c. 483, §1, is amended
31 to read:

32 **4. Access to information.** The following persons may access prescription
33 monitoring information:

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

- 1 B. A dispenser, insofar as the information relates to a customer of the dispenser
2 seeking to have a prescription filled;
- 3 C. The executive director, or a board investigator as designated by each board, of
4 the state boards of licensure of podiatric medicine, dentistry, pharmacy, medicine,
5 osteopathy, veterinary medicine, nursing or other boards representing health care
6 disciplines whose licensees are prescribers, as required for an investigation, with
7 reasonable cause, as determined by the board in each case;
- 8 D. A patient to whom a prescription is written, insofar as the information relates to
9 that patient; and
- 10 E. Office personnel or personnel of any vendor or contractor, as necessary for
11 establishing and maintaining the program's electronic system-;
- 12 F. The office that administers the MaineCare program pursuant to chapter 855 for the
13 purposes of managing the care of its members, monitoring the purchase of controlled
14 substances by its members and avoiding duplicate dispensing of controlled
15 substances; and
- 16 G. The Office of the Chief Medical Examiner for the purpose of investigating a
17 death in a medical examiner case as described in section 3025. Prescription
18 monitoring information possessed by the Office of the Chief Medical Examiner is
19 confidential and, notwithstanding section 3022, may not be disseminated. Nothing in
20 this paragraph restricts the use or dissemination of information that is separately
21 acquired following access to prescription monitoring information. Such separately
22 acquired information remains subject to protection or dissemination in accordance
23 with section 3022.

24 **Sec. 8. 25 MRSA §1551** is enacted to read:

25 **§1551. Reporting to the Controlled Substances Prescription Monitoring Program**

26 The Department of Public Safety, State Bureau of Identification shall submit to the
27 Controlled Substances Prescription Monitoring Program, established in Title 22, chapter
28 1603, at least twice monthly information concerning each arrest or conviction within the
29 State for a crime that includes the use, possession, furnishing, sale or diversion of a
30 controlled substance as defined in Title 22, section 7246, subsection 1. The information
31 must include the name of the person arrested or convicted and any aliases by which the
32 person is known, the person's date of birth, the arresting agency, the alleged offense, the
33 controlled substance involved, the date of arrest, whether the person was convicted and
34 the person's image if available.

35 **Sec. 9. Rulemaking.** The Department of Health and Human Services, Office of
36 Substance Abuse shall adopt rules to implement this Act. Rules adopted pursuant to this
37 section are routine technical rules as defined by the Maine Revised Statutes, Title 5,
38 chapter 375, subchapter 2-A.

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SUMMARY

This bill amends the Controlled Substances Prescription Monitoring Program as follows.

1. It provides that "dispenser" includes a prescriber and a licensed substance abuse treatment program, such as a methadone clinic, that administers or dispenses controlled substances. It further clarifies that "prescriber" includes nonphysician prescribers.

2. It requires the Department of Public Safety, State Bureau of Identification to report to the Controlled Substances Prescription Monitoring Program information related to arrests and convictions for crimes that include the use, possession, furnishing, sale or diversion of a controlled substance.

3. It requires the Office of the Chief Medical Examiner to file with the Controlled Substances Prescription Monitoring Program information concerning the death of a person in which a controlled substance or other drug may have contributed to the person's death.

4. If the Office of the Chief Medical Examiner has reported to the Controlled Substances Prescription Monitoring Program that a controlled substance or other drug may have contributed to a person's death, it requires the program to notify all prescribers and dispensers who reported information pertaining to the deceased person.

5. It authorizes health care licensing boards to make the determination of "reasonable cause" that would allow the boards access to prescription monitoring information.

6. It expands access to prescription monitoring information to the MaineCare program and the Office of the Chief Medical Examiner and contains provisions regarding the confidentiality of prescription monitoring information possessed by the Office of the Chief Medical Examiner.

7. It directs the Department of Health and Human Services, Office of Substance Abuse to adopt rules to implement the law.