

MAINE STATE LEGISLATURE

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L.D. 1730

SWM
3/26/2018

Date: 3/26/2018

(Filing No. S- 422)

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HEALTH AND HUMAN SERVICES

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STATE OF MAINE

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SENATE

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128TH LEGISLATURE

8

SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to S.P. 629, L.D. 1730, Bill, "An Act To Remove Veterinarians from the Controlled Substances Prescription Monitoring Program"

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11

Amend the bill by striking out the title and substituting the following:

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'An Act To Change the Procedures for Veterinarians in the Controlled Substances Prescription Monitoring Program'

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Amend the bill by inserting after the enacting clause and before section 1 the following:

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'Sec. 1. 22 MRSA §7246, sub-§2, as amended by PL 2017, c. 213, §2, is repealed and the following enacted in its place:

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18

2. Dispenser. "Dispenser" means:

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A. A pharmacist who is licensed or registered under Title 32; or

20

B. A veterinarian licensed under Title 32, chapter 71-A with authority to dispense a benzodiazepine or an opioid medication.'

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Amend the bill by striking out all of sections 2 to 6 and inserting the following:

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'Sec. 2. 22 MRSA §7249, sub-§1, as amended by PL 2017, c. 213, §3, is further amended to read:

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1. Information required. Except as provided in subsection 1-A or 1-B, each dispenser shall submit to the department, by electronic means or other format specified in a waiver granted by the department, specific items of information regarding dispensed controlled substances determined by the ~~office~~ department from the following list:

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A. The dispenser identification number;

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B. The date the prescription was filled;

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C. The prescription number;

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

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- 1 E. The National Drug Code (NDC) for the drug dispensed;
- 2 F. The quantity dispensed;
- 3 G. The dosage;
- 4 H. The patient identification number;
- 5 I. The patient name;
- 6 J. The patient address;
- 7 K. The patient date of birth;
- 8 L. The prescriber identification number;
- 9 M. The date the prescription was issued by the prescriber; and
- 10 N. The department-issued serial number if the department chooses to establish a
- 11 serial prescription system.

12 **Sec. 3. 22 MRSA §7249, sub-§1-B** is enacted to read:

13 **1-B. Small quantity dispensing by veterinarians.** If a benzodiazepine or an opioid
14 medication is dispensed by a veterinarian for an animal in a mobile or emergency setting
15 or in an amount to be used during a period of 48 hours or less after the benzodiazepine or
16 opioid medication is dispensed, the dispenser is not required to comply with subsection 1.

17 **Sec. 4. 22 MRSA §7251, sub-§1**, as amended by PL 2015, c. 488, §8, is further
18 amended to read:

19 **1. Failure to submit information.** A dispenser who knowingly fails to submit
20 prescription monitoring information to the department as required by this chapter
21 commits a civil violation for which a fine of \$250 per incident, not to exceed \$5,000 per
22 calendar year, may be adjudged and is subject to discipline by the Maine Board of
23 Pharmacy pursuant to Title 32, chapter 117, subchapter 4, by the State Board of
24 Veterinary Medicine pursuant to Title 32, chapter 71-A or by the applicable professional
25 licensing entity.

26 **Sec. 5. 22 MRSA §7253, sub-§2**, as amended by PL 2017, c. 213, §8, is further
27 amended to read:

28 **2. Dispensers.** ~~On or after January 1, 2017, a~~ A dispenser shall check prescription
29 monitoring information prior to dispensing a benzodiazepine or an opioid medication to a
30 person under any of the following circumstances:

- 31 A. The person is not a resident of this State;
- 32 B. The prescription is from a prescriber with an address outside of this State;
- 33 C. The person is paying cash when the person has prescription insurance on file; or
- 34 D. According to the pharmacy prescription record, the person has not had a
- 35 prescription for a benzodiazepine or an opioid medication in the previous 12-month
- 36 period.

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A dispenser shall withhold a prescription until the dispenser is able to contact the prescriber of that prescription if the dispenser has reason to believe that the prescription is fraudulent or duplicative.

Sec. 6. 22 MRSA §7253, sub-§2-A is enacted to read:

2-A. Dispensers who are veterinarians. Notwithstanding subsection 2, a dispenser who is a veterinarian licensed under Title 32, chapter 71-A shall check prescription monitoring information prior to dispensing a benzodiazepine or an opioid medication for an animal except in circumstances described in subsection 3, paragraph C.

Sec. 7. 22 MRSA §7253, sub-§3, as amended by PL 2017, c. 213, §9, is further amended to read:

3. Exceptions. The requirements to check prescription monitoring information established in this section do not apply:

A. When a licensed or certified health care professional directly orders or administers a benzodiazepine or an opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure; or

B. When a licensed or certified health care professional directly orders, prescribes or administers a benzodiazepine or an opioid medication to a person suffering from pain associated with end-of-life or hospice care; or

C. When a veterinarian licensed under Title 32, chapter 71-A is providing care to an animal in a mobile or emergency setting or is dispensing a benzodiazepine or an opioid medication in an amount to be used during a period of 48 hours or less after the benzodiazepine or opioid medication is dispensed.

Sec. 8. 32 MRSA §4878, as enacted by PL 2015, c. 488, §27, is amended to read:

§4878. Requirements regarding prescribing and dispensing benzodiazepine or opioid medication

1. Benzodiazepine or opioid medication dispensing. A veterinarian licensed under this chapter whose scope of practice includes ~~prescribing~~ dispensing a benzodiazepine or an opioid medication ~~to~~ for an animal is subject to the requirements of the Controlled Substances Prescription Monitoring Program established under Title 22, chapter 1603, ~~except that Title 22, section 7254 does not apply.~~

2. Electronic prescribing. A veterinarian licensed under this chapter whose scope of practice includes prescribing a benzodiazepine or an opioid medication and who has the capability to electronically prescribe shall prescribe all benzodiazepine or opioid medication electronically by July 1, 2017. ~~A veterinarian who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures 2022 or when an electronic platform for prescribing is widely available for veterinarians if that~~

1 occurs before July 1, 2022 as determined by the Commissioner of Health and Human
2 Services. A veterinarian licensed under this chapter unable to comply with the electronic
3 prescribing requirements of this subsection may request a waiver from the Commissioner
4 of Health and Human Services for circumstances in which exceptions are appropriate as
5 determined by the Commissioner of Health and Human Services.

6 **3. Continuing education.** ~~By December 31, 2017, a~~ A veterinarian who prescribes
7 a benzodiazepine or an opioid medication must successfully complete 3 hours one hour of
8 continuing education every 2 years on the administration, prescription and management
9 of opioid medication controlled substances, including benzodiazepine and opioid
10 medications, as a condition of prescribing a benzodiazepine or an opioid medication. The
11 board shall may adopt rules to implement this subsection. Rules adopted pursuant to this
12 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

13 **4. Penalties.** ~~A veterinarian who violates this section commits a civil violation for~~
14 ~~which a fine of \$250 per violation, not to exceed \$5,000 per calendar year, may be~~
15 ~~adjudged. The Department of Health and Human Services is responsible for the~~
16 ~~enforcement of this section.'~~

17 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
18 section number to read consecutively.

19 SUMMARY

20 This amendment retains the provisions of the bill that remove veterinarians from the
21 definition of "prescriber" in the laws governing the Controlled Substances Prescription
22 Monitoring Program so that veterinarians are not required to check the program when
23 prescribing controlled substances, including opioids. The amendment provides that
24 veterinarians who dispense benzodiazepines or opioid medications for animals are
25 dispensers within the Controlled Substances Prescription Monitoring Program. It
26 requires a veterinarian who dispenses a benzodiazepine or an opioid medication to check
27 prescription monitoring information except when the veterinarian is operating in mobile
28 or emergency circumstances or is dispensing less than 48 hours of medication. The
29 amendment reestablishes the waiver on electronic prescribing of opioids that expired on
30 July 1, 2017. The amendment includes benzodiazepines under the waiver and provides
31 that the waiver extends until July 1, 2022 unless an electronic platform becomes available
32 earlier as determined by the Commissioner of Health and Human Services. After
33 electronic prescribing is required, veterinarians may apply for a waiver from the
34 Commissioner of Health and Human Services. The amendment retains the changes made
35 by the bill to the continuing education requirements for veterinarians but reduces the
36 amount of continuing education required for administration, prescription and
37 management of controlled substances from 3 hours every 2 years to one hour every 2
38 years and specifies that the requirements apply to veterinarians who prescribe
39 benzodiazepines as well as to veterinarians who prescribe opioid medications. It allows
40 the State Board of Veterinary Medicine to adopt rules rather than requiring rulemaking.