

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 15, 1994.

CHAPTER 715

H.P. 1493 - L.D. 2013

An Act to Clarify Reporting Requirements for Party Committees and Political Action Committees

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

Sec. 1. 21-A MRSA §1017-A, sub-§2, ¶C, as enacted by PL 1991, c. 839, §23 and affected by §33, is amended to read:

C. The date and amount of each expenditure.

Sec. 2. 21-A MRSA §1017-A, sub-§3, as enacted by PL 1991, c. 839, §23 and affected by §33, is amended to read:

3. Other expenditures. Operational expenses and other expenditures in cash or in kind of the party committee that are not made on behalf of a candidate, committee or campaign must be reported as a separate item ~~and may be reported as a lump sum.~~ The party committee shall report:

A. The name and address of each recipient;

B. The reason for the expenditure; and

C. The date and amount of each expenditure.

Sec. 3. 21-A MRSA §1056-A is enacted to read:

§1056-A. Expenditures by political action committees

A political action committee shall report all expenditures in cash or in kind made by the committee.

Sec. 4. 21-A MRSA §1058, as amended by PL 1991, c. 839, §28, is further amended to read:

§1058. Reports, qualifications for filing

A political action committee that is registered with the commission or that accepts contributions, or incurs obligations ~~or makes expenditures~~ in an aggregate amount in excess of \$50 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referen-

dum or initiated petition shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059, ~~whether or not the expenditures are in excess of \$50 in any one period.~~ A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds, or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. Any person or organization organized to oppose a question to be voted on by the electorate at referendum shall report, within 10 days following the drafting of the question by the Secretary of State and prior to the distribution of any petitions for voter signatures pursuant to chapter 11, to the commission as required in this section and sections 1059 and 1060.

See title page for effective date.

CHAPTER 716

H.P. 558 - L.D. 755

An Act to Improve Access to Pharmaceuticals

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

Sec. 1. 32 MRSA §13702, sub-§25-A is enacted to read:

25-A. Rural health center. "Rural health center" means an incorporated nonprofit health facility that provides comprehensive primary health care to citizens in rural areas.

Sec. 2. 32 MRSA §13761, sub-§1, as enacted by PL 1987, c. 710, §5, is amended to read:

1. Pharmacy provider. "Pharmacy provider" means a pharmacy licensed in this State participating with a rural ~~community~~ health center under this subchapter.

Sec. 3. 32 MRSA §13761, sub-§2, as enacted by PL 1987, c. 710, §5, is repealed.

Sec. 4. 32 MRSA §13762, sub-§§1 and 3, as enacted by PL 1987, c. 710, §5, are amended to read:

1. License required. A rural ~~community~~ health center that desires to contract for pharmaceutical services with a pharmacy must be licensed by the board and shall abide by the rules of the board. These rules may be no more restrictive than those regulating private pharmacy practice in the State. A rural health center is eligible for licensure under this subchapter if:

- A. It serves a rural area without a pharmacy;
- B. It is located in a community where available pharmacy services can not meet the documented need; or
- C. It requires a license in order to receive pharmaceutical discounts authorized by the federal Veterans' Health Care Act of 1992, Title VI.

3. Notice. Any rural ~~community~~ health center wishing to be licensed under this subchapter shall notify the board of its intent to establish ~~such~~ a contract with a pharmacy for pharmaceutical services and shall apply for a license, submit floor plans of the physical plant and pay the same fee required for a pharmacy under section 13723. The application ~~shall~~ must include the name, address and registration number of the provider of pharmaceutical services.

Sec. 5. 32 MRSA §13763, as enacted by PL 1987, c. 710, §5, is amended to read:

§13763. Scope of license

A licensee under this subchapter shall comply with ~~sections~~ section 13784; section 13785, subsections 1 to 7; and any applicable rules ~~promulgated~~ adopted by the board. No licensee may refill a prescription and all orders ~~shall~~ must be treated as new orders. In all other respects, notwithstanding any other provision of law, a licensee may provide pharmaceutical services under this subchapter subject to section 13764. A licensee may purchase drugs.

Sec. 6. 32 MRSA c. 117, sub-c. X is enacted to read:

SUBCHAPTER X

NONDISCRIMINATION IN PHARMACEUTICALS PRICING

§13801. Definitions

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

1. Purchaser. "Purchaser" means any person who purchases prescription drugs for resale or dispensing directly to consumers.

§13802. Price discrimination prohibited

1. Best price required. A manufacturer shall offer prescription drugs to every wholesaler or purchaser to which it sells in this State with all rights and privileges offered or accorded by the manufacturer to the most favored wholesaler or purchaser, including, but not limited to, any transaction in which a manufacturer sells to a purchaser through a contractual arrangement implemented by one or more wholesalers.

A. A manufacturer must offer rebates, free merchandise, samples and similar trade concessions on proportionally equal terms to every purchaser and wholesaler. This paragraph does not prohibit discounts for volume purchases if the discounts are justified by the economies or efficiencies resulting from the volume purchases and the discounts are made available to all purchasers and wholesalers on proportionally equal terms.

2. Class-of-trade discounts prohibited. A manufacturer may not provide discounts to any purchaser or wholesaler based on the class of trade to which the purchaser or wholesaler belongs.

§13803. Purchases by State

To the extent permitted under federal law, a state department or other state entity may not purchase any drugs from a manufacturer that violates this subchapter.

A manufacturer selling drugs within the State shall submit a sworn affidavit to the board promising that the manufacturer will not violate this subchapter.

§13804. Exceptions

1. State. For the purposes of this subchapter, the State and any political subdivision of the State are not wholesalers or purchasers.

2. Hospitals. For the purposes of this subchapter, a hospital licensed under Title 22 is not a wholesaler or purchaser.

3. Federal discounts and rebates. This subchapter does not apply to discounts required by federal law or rebates authorized by federal law.

4. Charitable organizations. For the purposes of this subchapter, an organization that is exempt from federal income taxation because it meets the requirements of the United States Internal Revenue Code, Section 501 (c)(3), is not a wholesaler or purchaser.

§13805. Enforcement

1. Civil penalty. Notwithstanding section 13731, subsection 3, a person that violates this subchapter is subject to a civil penalty of not less than \$1,000 or more than \$50,000, payable to the State, to be recovered in a civil action.

2. Treble damages. Any purchaser or wholesaler injured by violation of this subchapter may bring an action against the violator to recover treble damages.

See title page for effective date.

CHAPTER 717

H.P. 919 - L.D. 1243

An Act Concerning Sexual Abuse Laws

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

Sec. 1. 17-A MRSA §255, sub-§3 is enacted to read:

3. If the State pleads and proves that an unlawful sexual contact crime included penetration, the sentencing class for that crime is one class higher than it would otherwise be under subsection 2.

See title page for effective date.

CHAPTER 718

H.P. 1123 - L.D. 1522

An Act to Establish Limited Liability Companies

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

PART A

Sec. A-1. 31 MRSA c. 13 is enacted to read:

CHAPTER 13**LIMITED LIABILITY COMPANIES****SUBCHAPTER I****GENERAL PROVISIONS****§601. Short title**

This Act may be known and cited as the "Maine Limited Liability Company Act."

§602. Definitions

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

1. Articles of organization. "Articles of organization" means the articles filed under section 622 and the same articles as amended or restated.

2. Corporation. "Corporation" means a corporation formed under the laws of a state or foreign country.

3. Court. "Court" includes every court having jurisdiction in a case.

4. Event of withdrawal. "Event of withdrawal" means an event that causes a person to cease to be a member as provided in section 692.

5. Foreign corporation. "Foreign corporation" means a corporation that is organized under the laws of a state other than the laws of this State or under the laws of a foreign country.

6. Foreign limited liability company. "Foreign limited liability company" means an organization that is:

A. An unincorporated association;

B. Organized under laws of a state other than the laws of this State or under the laws of a foreign country;

C. Organized under a law by which an association may be formed that affords every member limited liability with respect to the liabilities of the entity; and

D. Is not required to be registered or organized under any law of this State other than this chapter.

7. Foreign limited partnership. "Foreign limited partnership" means a limited partnership formed under the laws of a state other than this State or under the laws of a foreign country.

8. Limited liability company or domestic limited liability company. "Limited liability company" or "domestic limited liability company" means an organization formed under this chapter.

9. Limited liability company interest or interest in the limited liability company. "Limited