

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

tion over health and human services matters, setting forth the number of letters of intent, applications and requests for determination of nonapplicability that the department has received with respect to proposed or contemplated management agreements or management service contracts for health care facilities. The department shall also report on the number of nonapplicability determinations, the number of certificate of need decisions and the number of pending certificate of need review proceedings involving management agreements or management service contracts occurring between the effective date of this Act and the close of the calendar year immediately preceding the reporting deadline. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall review the department's report and consider whether any legislative action is necessary to avoid overly broad certificate of need review requirements in connection with management agreements. The committee may report out any necessary legislation to the Second Regular Session of the 118th Legislature.

See title page for effective date.

CHAPTER 243

S.P. 28 - L.D. 26

An Act to Clarify Use of Tree Stands

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

Sec. 1. 12 MRSA §7406, sub-§16, ¶D, as amended by PL 1995, c. 667, Pt. A, §29, is further amended to read:

D. Damages or destroys a tree on another person's land by inserting into that tree any metallic or ceramic object to be used as, or as part of, a ladder or observation stand, unless the person has the permission of the landowner; or

Sec. 2. 12 MRSA §7406, sub-§16, ¶E, as enacted by PL 1995, c. 667, Pt. A, §30, is amended to read:

E. Except as provided in subsection 20, paragraph C, erects or uses either a portable or permanent tree ladder or stand attached to a tree on the land of another person, unless:

(1) That person has obtained verbal or written authorization to erect and use a tree ladder or stand from the landowner or the landowner's representative; and

(2) The tree ladder or stand is plainly labeled with a 2-inch by 4-inch tag identify-

ing the name and address of the person or persons authorized by the landowner to use the tree stand or ladder; and

~~(3) The tree ladder or stand is removed within 10 days after the close of the hunting season for which the ladder or stand was erected.~~

See title page for effective date.

CHAPTER 244

S.P. 229 - L.D. 798

An Act to Protect the Department of Inland Fisheries and Wildlife from Unfunded Mandates

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

Sec. 1. 12 MRSA §7019 is enacted to read:

§7019. Establishment of new programs

Any new program or service involving a mandated responsibility to the department must include provisions that specify that full funding for the new program or service is collected from those individuals who receive the service from the department.

See title page for effective date.

CHAPTER 245

H.P. 538 - L.D. 729

An Act to Amend the Maine Pharmacy Act

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

Sec. 1. 5 MRSA §12004-A, sub-§30, as amended by PL 1989, c. 503, Pt. A, §5, is repealed.

Sec. 2. 5 MRSA §12004-A, sub-§30-A is enacted to read:

30-A. Maine Board of Pharmacy \$35/Day 32 MRSA §13711

Sec. 3. 32 MRSA §13702, sub-§1, as enacted by PL 1987, c. 710, §5, is amended to read:

1. Board. "Board" means the Maine Board of Commissioners of the Profession of Pharmacy.

Sec. 4. 32 MRSA §13702, sub-§19-A is enacted to read:

19-A. Pharmacy technician. "Pharmacy technician" means a person employed by a pharmacy who works in a supportive role to, and under the direct supervision of, a licensed pharmacist.

Sec. 5. 32 MRSA c. 117, sub-c. II, first 3 lines are repealed and the following enacted in their place:

SUBCHAPTER II

MAINE BOARD OF PHARMACY

Sec. 6. 32 MRSA §13711, as enacted by PL 1987, c. 710, §5, is amended to read:

§13711. Establishment

There is established, within the department, in accordance with Title 5, chapter 379, the Maine Board of Commissioners of the Profession of Pharmacy. The board has all of the duties, powers and authority specifically granted by and necessary to the enforcement of this Act.

Sec. 7. 32 MRSA §13721, sub-§1, ¶H, as enacted by PL 1987, c. 710, §5, is amended to read:

H. The registration of pharmacy technicians and adoption of rules of governing the training, qualification and employment of pharmacy ancillary personnel technicians.

Sec. 8. 32 MRSA §13721, sub-§2, as enacted by PL 1987, c. 710, §5, is amended to read:

2. Reciprocal inspections. The Board of Commissioners of the Profession of Pharmacy board may enter into reciprocal inspection agreements with any state in which a mail order prescription facility selling drugs to Maine citizens is located.

Sec. 9. 32 MRSA §13723, sub-§5, ¶¶G and H, as enacted by PL 1987, c. 710, §5, are amended to read:

G. The issuance of a certificate of registration necessitated by a change in the pharmacist responsible for the license, which fee shall may not exceed \$100; and

H. The certification of an approved provider of continuing education courses, which fee shall may not exceed \$100 per year, provided that a provider approved by the American Council of Pharmaceutical Education is exempt from the fee established in this paragraph; and

Sec. 10. 32 MRSA §13723, sub-§5, ¶I is enacted to read:

I. The issuance of a certificate of registration for a pharmacy technician, which fee may not exceed \$25.

Sec. 11. 32 MRSA §13758, sub-§2, as enacted by PL 1987, c. 710, §5, is amended to read:

2. Registration, manufacturers and wholesalers. All manufacturers and wholesalers whose products are distributed in the State in any manner shall register with the Board of Commissioners of the Profession of Pharmacy board.

Sec. 12. 32 MRSA §13773, as amended by PL 1989, c. 720, §1, is further amended to read:

§13773. Notice

A 3rd-party prescription program may not be instituted in this State until the program provider has filed written notice of the provisions of the program with the Superintendent of Insurance and the Board of Commissioners of the Profession of Pharmacy board and given written notice to all pharmacies that are located within the counties covered by the program at least 30 days prior to the commencement of the program. In the case of chain or branch pharmacies, the notice must be given to the main office or headquarters. These pharmacies shall have 30 days from the date of notice to enroll in the program.

Sec. 13. 32 MRSA §13781, first and 2nd ¶¶, as enacted by PL 1987, c. 710, §5, are amended to read:

Every A written prescription issued by a practitioner in this State shall may contain a box in the lower right-hand corner of the prescription form a box at least 1/2 inch by 1/2 inch. The following words must appear to the left of this box: "Any drug which is the generic and therapeutic equivalent of the drug specified above in this prescription may be dispensed, provided that no check mark () has been handwritten in the box in the lower right-hand corner."

Any pharmacist receiving a prescription in which no handwritten check mark () is found in the box provided may substitute a generic and therapeutically equivalent drug for the drug specified on the prescription, provided that if the substituted drug is distributed by a business entity doing business in the United States which that is subject to suit and the service of legal process in the United States and that the price of the substituted drug does not exceed the price of the drug specified by the practitioner.

Sec. 14. 32 MRSA §13781, as enacted by PL 1987, c. 710, §5, is amended by inserting after the 2nd paragraph the following:

If a written prescription issued by a practitioner in this State does not contain the box described in this section, a pharmacist may substitute a generic and therapeutically equivalent drug for the drug specified on the prescription if the substituted drug is distributed by a business entity doing business in the United States that is subject to suit and the service of legal process in the United States and the price of the substituted drug does not exceed the price of the drug specified by the practitioner, unless a practitioner has handwritten on the prescription form, along with the practitioner's signature, "dispense as written," "DAW," "brand," "brand necessary" or "brand medically necessary."

Sec. 15. 32 MRSA §13782-A is enacted to read:

§13782-A. Price disclosure

1. Price disclosure required. A pharmacist or pharmacy technician employed by a drug outlet shall disclose upon the request of any person making an inquiry in person or by telephone the price of any brand or generic drug sold by that drug outlet.

2. Information required for price disclosure. In order to have sufficient information to disclose a prescription price, a pharmacist or pharmacy technician may ask the person making the inquiry for the following information:

- A. The brand or generic name of the medication;
- B. The dose or strength of the medication, if applicable; or
- C. The quantity of the medication.

3. Information not provided. If the inquiring person can not provide some or all of the information in subsection 2 and this information is necessary for the requested price to be determined, then the pharmacist or pharmacy technician may contact the prescribing practitioner in order to obtain the necessary information prior to disclosing the prescription price.

Sec. 16. 32 MRSA §13783, as enacted by PL 1987, c. 710, §5, is repealed.

Sec. 17. 32 MRSA §13795, sub-§1, ¶E, as enacted by PL 1995, c. 175, §1, is amended to read:

- E. Other valid, tamper-resistant, photographic identification as provided in rules adopted by the ~~Board of Commissioners of the Profession of Pharmacy~~ board pursuant to section 13722, sub-

section 1, paragraph A and in accordance with Title 5, chapter 375.

Sec. 18. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1997-98	1998-99
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Division of Licensing and Enforcement		
All Other	\$12,000	\$12,000
Allocates funds for the regulation of pharmacy technicians by the Board of Commissioners of the Profession of Pharmacy.		

Sec. 19. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Board of Commissioners of the Profession of Pharmacy" appear or reference is made to those words, they are amended to read and mean "Maine Board of Pharmacy," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 246

H.P. 1051 - L.D. 1468

An Act to Amend the Maine Veterinary Practice Act of 1975

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

Sec. 1. 32 MRSA c. 71-A is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 71-A

MAINE VETERINARY PRACTICE ACT

Sec. 2. 32 MRSA §4852, as enacted by PL 1975, c. 477, §4, is amended to read:

§4852. Short Title

This chapter ~~shall be~~ is known and may be cited as the "Maine Veterinary Practice Act of 1975."