

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

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
2001

immune from civil or criminal liability when complying with this subsection. Original written or recorded material that might express suicidal intent must be sent to the Office of the Chief Medical Examiner. The Chief Medical Examiner may elect to accept copies in place of originals.

Sec. 6. 22 MRSA §3028, sub-§6, as enacted by PL 1979, c. 538, §8, is amended to read:

6. Examination of body. In all cases except those requiring a report on a body already disposed of and not to be exhumed for examination, the medical examiner or the person expressly authorized by the Chief Medical Examiner shall conduct a thorough examination of the body.

Sec. 7. 22 MRSA §3028, sub-§7, as amended by PL 1995, c. 272, §3, is further amended to read:

7. Written report. Upon completing an investigation, the medical examiner or the person expressly authorized by the Chief Medical Examiner shall submit a written report of the investigator's findings to the Chief Medical Examiner on forms provided for that purpose. The ~~medical examiner~~ investigator shall retain one copy of the report.

If a ~~medical examiner~~ an investigator reports suspected abuse, neglect or exploitation to the Chief Medical Examiner, the Chief Medical Examiner, by reporting that information to the department on behalf of the ~~medical examiner~~ investigator, fulfills the medical examiner's mandatory reporting requirement under section 3477 or 4011.

See title page for effective date.

CHAPTER 292

H.P. 1248 - L.D. 1696

An Act to Allow the Chief Medical Examiner to Assume the Responsibility for the Disposition of Human Remains

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

Sec. 1. 22 MRSA §3028-D is enacted to read:

§3028-D. Disposal of identified human remains without connection to State and unidentified human remains

1. Assumption of responsibility. The Chief Medical Examiner may assume responsibility for proper disposition of the identified human remains of

a deceased nonresident of this State or unidentified human remains that are the subject of a medical examiner case if the Chief Medical Examiner has made reasonable inquiry and is unable to locate:

A. Next of kin or a person or governmental unit legally responsible for the human remains; or

B. A person or governmental unit otherwise willing to assume responsibility for the human remains.

2. Necessary expenses. The expenses incurred by the Chief Medical Examiner must be paid as follows.

A. The department shall pay any necessary expenses incurred by the Chief Medical Examiner as to:

(1) Unidentified human remains that, after reasonable inquiry, the Chief Medical Examiner has determined not to be the human remains of an illegal alien; and

(2) A deceased nonresident other than an illegal alien.

B. The Department of the Attorney General shall pay any necessary expenses incurred by the Chief Medical Examiner as to:

(1) A deceased nonresident who is an illegal alien; and

(2) Unidentified human remains that, after reasonable inquiry, the Chief Medical Examiner has determined to be the human remains of an illegal alien.

See title page for effective date.

CHAPTER 293

H.P. 1334 - L.D. 1790

An Act to Create the Healthy Maine Prescription Program

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the low-income citizens of the State are facing a lack of needed prescription drug services due to the high cost of such services; and

Whereas, the lack of such services poses a health threat to these citizens; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §254, first ¶, as amended by PL 1999, c. 401, Pt. KKK, §1 and affected by §10 and c. 531, Pt. F, §2, is further amended to read:

The As part of the Healthy Maine Prescription Program established under section 258, the Department of Human Services may conduct a program, referred to in this section as the "program," to provide low-cost prescription and nonprescription drugs, medication and medical supplies to disadvantaged, elderly and disabled individuals.

Sec. 2. 22 MRSA §254, sub-§4, as amended by PL 1993, c. 410, Pt. I, §4, is further amended to read:

4. Method of prescribing or ordering drugs.

The method of prescribing or ordering ~~these~~ the drugs under subsection 1, which may include, but is not limited to, the use of standard or larger prescription refill sizes so as to minimize operational costs and to maximize economy. Unless the prescribing physician indicates otherwise, the use of generic or chemically equivalent drugs is required, provided that these drugs are of the same quality and have the same mode of delivery as is provided to the general public, consistent with good pharmaceutical practice. ~~Each prescription filled must be for a supply of 90 days unless the prescribing physician or the recipient requests otherwise;~~

Sec. 3. 22 MRSA §254, sub-§4-A, as amended by PL 1999, c. 731, Pt. TT, §7, is further amended to read:

4-A. Payment for drugs provided. The commissioner may establish the amount of payment to be made by recipients toward the cost of prescription or nonprescription drugs, medication and medical supplies furnished under this program provided that, for persons at or below 185% of the federal poverty line, the total cost for any covered purchase of a prescription or nonprescription drug or medication provided under the basic component of the program or the total cost of any covered purchase of a generic prescription drug or medication under the supplemental component of the program does not exceed 20% of the price allowed for that prescription under program rules or \$2, whichever is greater. For the supplemental component of the program except as otherwise provided in this subsection, the total cost paid by the

individual for any covered purchase of a prescription drug or medication may not exceed the cost of the program for that drug or medication minus the \$2 paid by the program. The commissioner shall establish annual limits on the costs incurred by eligible household members for ~~covered~~ prescriptions or nonprescription drugs or medications covered under the program on or prior to May 31, 2001, after which the program must pay 80% of the cost of all prescriptions or nonprescription drugs or medications covered by the supplemental component of the program on May 31, 2001. The limits must be set by the commissioner by rule as necessary to operate the program within the program budget;

Sec. 4. 22 MRSA §254, sub-§4-C is enacted to read:

4-C. Appeals. The eligibility determination made by the department based on information provided by the State Tax Assessor pursuant to Title 36, section 6162-B is final, subject to appeal in accordance with the appeal process established in the Medicaid program;

Sec. 5. 22 MRSA §258 is enacted to read:

§258. Healthy Maine Prescription Program

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Elderly low-cost drug program" means the program established as part of the Healthy Maine Prescription Program pursuant to section 254.

B. "Prescription program" means the Healthy Maine Prescription Program established in this section.

2. Program established. The Healthy Maine Prescription Program is established as the Medicaid prescription drug discount program authorized pursuant to 42 United States Code, Section 1315, as amended, and the waiver project authorized under that section.

3. Administration; components. The department shall administer the prescription program. The elderly low-cost drug program is a component of the prescription program.

4. Benefit eligibility. Benefits are subject to the following provisions.

A. An individual enrolled in both the elderly low-cost drug program and the prescription program is eligible for the more generous discount authorized under either program in the event overlapping benefits exist.

B. If a drug rebate is paid for any prescription under the prescription program, a rebate is not due under the elderly low-cost drug program.

C. The department shall issue a single certificate for eligibility to an individual who is eligible for both the benefit under the elderly low-cost drug program and the benefit under the prescription program.

5. Copayments. Notwithstanding section 3173-C, a beneficiary of the prescription program shall make the copayments authorized under the prescription program and the elderly low-cost drug program.

6. Report. On or before January 15th each year, the department shall report to the Legislature on the prescription program.

7. Rules. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 6. 36 MRSA §191, sub-§2, ¶X, as amended by PL 1999, c. 708, §15, is further amended to read:

X. The disclosure to the Department of Human Services, ~~Bureau of Medical Services~~ of information relating to the administration of the elderly ~~low-cost~~ low-cost drug program and the Healthy Maine Prescription Program established under Title 22, section 258; and

Sec. 7. 36 MRSA §6162-B, sub-§2, as amended by PL 1999, c. 707, §2, is further amended to read:

2. Limitation. An individual does not qualify under this program if that individual receives state supplemental income benefits or full Medicaid pharmaceutical benefits.

Sec. 8. 36 MRSA §6162-B, sub-§3, as enacted by PL 1999, c. 401, Pt. KKK, §5 and affected by §10 and c. 531, Pt. F, §2, is repealed.

Sec. 9. Emergency rule-making authority. The Department of Human Services shall engage in emergency rulemaking under the Maine Administrative Procedure Act in order to implement the Healthy Maine Prescription Program authorized in this Act on or before July 1, 2001.

Sec. 10 Expenditures for prescription drugs. Notwithstanding any other provision of law, the Department of Human Services is authorized to utilize funds appropriated or allocated for prescription drug coverage in the Bureau of Medical Services

program, the Medical Care - Payments to Providers program and the Low-cost Drugs to Maine's Elderly program to support the costs of the Healthy Maine Prescription Program. This authorization is limited to fiscal year 2000-01 and fiscal year 2001-02 only.

Sec. 11. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	2000-01	2001-02	2002-03
HUMAN SERVICES, DEPARTMENT OF			
Healthy Maine Prescription Program			
All Other	\$259,726	\$1,777,094	\$787,968
Provides one-time funds to be deposited in the Administration - Attorney General Other Special Revenue program; the Bureau of Medical Services Other Special Revenue program; the Bureau of Family Independence - Regional Other Special Revenue program; the OMB Operations - Regional Other Special Revenue program; and the Medical Care - Payments to Providers Other Special Revenue program to support a portion of the costs of the Healthy Maine Prescription Program. Any balance remaining on June 30, 2001 may not lapse but must be carried forward to fiscal year 2001-02 to be used for the same purposes.			
Maine Rx Program			
All Other	(\$354,144)		
Deappropriates one-time funds from an available balance within the Maine Rx Program to provide funding for the Healthy			

Maine Prescription Program.

DEPARTMENT OF HUMAN SERVICES

TOTAL (\$94,418) \$1,777,094 \$787,968

Sec. 12. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2000-01	2001-02	2002-03
ATTORNEY GENERAL, DEPARTMENT OF			
Administration - Attorney General			
Positions - Legislative Count		(1,000)	(1,000)
Personal Services		\$56,781	\$62,411
All Other		6,219	3,109
Allocates funds for the establishment of one Assistant Attorney General position and related costs to handle matters associated with the Healthy Maine Prescription Program.			
DEPARTMENT OF THE ATTORNEY GENERAL			
TOTAL		\$63,000	\$65,520
HUMAN SERVICES, DEPARTMENT OF			
Bureau of Family Independence - Regional			
Positions - Legislative Count		(2,000)	(2,000)
Personal Services		\$69,368	\$72,142
All Other		173,485	86,205
TOTAL		\$242,853	\$158,347
Allocates funds for the establishment of 2 Eligibility Specialist positions for the Healthy Maine Prescription Program.			
Bureau of Medical Services			
Positions - Legislative Count		(6,000)	(6,000)
Personal Services	\$37,098	\$200,198	\$208,536
All Other	137,313	393,738	396,204
TOTAL	\$174,411	\$593,936	\$604,740

Allocates funds for the establishment of 4 Clerk Typist III positions; one Medical Care Coordinator position; and one Social Services Program Manager position for the Healthy Maine Prescription Program.

Medical Care - Payments to Providers

All Other \$85,315 \$2,675,272 \$4,613,564

Allocates funds for payments to pharmacy providers under the Healthy Maine Prescription Program.

OMB Operations - Regional

Positions - Legislative Count (2,000) (2,000)
 Personal Services \$51,692 \$53,760
 All Other 10,000 3,120

TOTAL \$61,692 \$56,880

Allocates funds for the establishment of 2 Clerk Typist II positions for the Healthy Maine Prescription Program.

DEPARTMENT OF HUMAN SERVICES

TOTAL ALLOCATIONS \$259,726 \$3,573,753 \$5,433,531

Sec. 13. Allocation. The following funds are allocated from the Federal Expenditures Fund to carry out the purposes of this Act.

	2000-01	2001-02	2002-03
HUMAN SERVICES, DEPARTMENT OF			
Bureau of Family Independence - Regional			
Positions - Legislative Count		(2,000)	(2,000)
Personal Services		\$69,368	\$72,142
All Other		173,485	86,205
TOTAL		\$242,853	\$158,347
Allocates federal matching funds for the establishment of 2			

Eligibility Specialist positions for the Healthy Maine Prescription Program.

Bureau of Medical Services

Positions - Legislative Count	(5,000)	(5,000)	
Personal Services	\$37,098	\$200,198	\$208,536
All Other	186,938	811,213	878,112
TOTAL	<u>\$224,036</u>	<u>\$1,011,411</u>	<u>\$1,086,648</u>

Allocates federal matching funds for the establishment of one Medical Care Coordinator position; 2 Provider Relations Specialist positions; one Financial Analyst position; and one Social Services Program Specialist I position for the Healthy Maine Prescription Program.

Medical Care - Payments to Providers

All Other	\$166,685	\$5,302,280	\$9,191,236
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Allocates federal matching funds for payments to pharmacy providers under the Healthy Maine Prescription Program.

OMB Operations - Regional

Positions - Legislative Count	(2,000)	(2,000)	
Personal Services	\$51,693	\$53,760	
All Other	10,000	3,120	
TOTAL	<u>\$61,693</u>	<u>\$56,880</u>	

Allocates federal matching funds for the establishment of 2 Clerk Typist II positions for the Healthy Maine Prescription Program.

DEPARTMENT OF HUMAN SERVICES

TOTAL	<u>\$390,721</u>	<u>\$6,618,237</u>	<u>\$10,493,111</u>
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 25, 2001.

CHAPTER 294

H.P. 1342 - L.D. 1796

An Act to Facilitate the Implementation of Maine's On-line Sportsman's Electronic System

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

Sec. 1. 12 MRSA §7073, sub-§5, as repealed and replaced by PL 1995, c. 667, Pt. A, §12, is amended to read:

5. Duplicates. A duplicate license or permit may be obtained by any person who has accidentally lost or destroyed any license or permit issued to that person under this chapter upon payment of a fee of \$2, all of which must be retained by the agent. ~~A duplicate license or permit may be obtained only from the issuer of the original license.~~

Sec. 2. 12 MRSA §7133, sub-§2, as enacted by PL 1979, c. 729, §2, is amended to read:

2. Issuance. The commissioner, or the commissioner's agent, may issue a license to engage in trapping. Clerks or other agents appointed by the commissioner shall charge a fee of \$2 for each trapping license issued. The commissioner shall charge a fee of \$1 for each trapping license issued by department employees.

Sec. 3. 12 MRSA §7374, as enacted by PL 1979, c. 420, §1, is amended to read:

§7374. Possession of altered license or permit

A person is guilty of possession of ~~an~~ a fraudulently altered license or permit if ~~he~~ that person has in ~~his~~ that person's possession any license or permit issued under chapters 701 to 721 ~~which~~ that has been altered, tampered with or mutilated in any manner.

Sec. 4. 12 MRSA §7468, sub-§6, as enacted by PL 1985, c. 95, §1, is amended to read:

6. Application procedure. Eligible persons wishing to apply for a permit shall ~~file a written application for a permit on a form furnished~~ apply in a manner prescribed by the commissioner. The application ~~shall~~ must be accompanied by an application fee of \$5 for residents and \$10 for nonresidents and aliens. The application fee may not be refunded. No person may file more than one application. Any person who submits more than one application ~~shall be~~ is disqualified from the selection of permittees.