

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

based on the staffing needs of the executive director. ~~The If the commission employs a general counsel, the general counsel may not hold any other state office or otherwise be employed by the State. Compensation paid to the commission's general counsel must be paid using funds from the Maine Clean Election Fund established by Title 21-A, section 1124. The commission shall select the administrative executive director and general counsel by an affirmative vote of at least 4 commission members.~~

See title page for effective date.

CHAPTER 382

H.P. 488 - L.D. 658

An Act To Improve the Operation of the Workers' Compensation Board

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

Sec. 1. 39-A MRSA §151, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Board established. Pursuant to Title 5, section 12004-G, subsection 35, the Workers' Compensation Board is established as an independent board composed of 8 members. The members of the board must be appointed by the Governor within 30 days after a new board member is authorized or a vacancy occurs, subject to review by the joint standing committee of the Legislature having jurisdiction over ~~state and local government~~ labor matters and confirmation by the Legislature. Notwithstanding the provisions of Title 3, section 151, the designated committee shall complete its review of the appointments of the Governor within 15 days of the Governor's written notice of appointment and the vote of the Legislature must be taken no later than 7 days after the vote of the designated committee.

Four members of the board must be representatives of management and 4 members must be representatives of labor. All management representatives must be appointed from a list provided by the Maine Chamber of Commerce and Industry or other bona fide organization or association of employers. All labor representatives must be from a list provided by the Executive Board of the Maine AFL-CIO or other bona fide labor organization or association of employees representing at least 10% of the Maine work force. Any list submitted to the Governor must have at least 4 times the number of names as there are vacancies for the group represented by the vacancies.

A member of the board is not liable in a civil action for any act performed in good faith in the execution of duties as a board member.

A member of the board may not be a lobbyist required to be registered with the Secretary of State, a service provider to the workers' compensation system or a representative of a service provider to the workers' compensation system.

Members of the board hold office for staggered terms of 4 years, except for the initial members of the board. The terms of one member representing management and one member representing labor expire February 1st of each year. A member may not serve for more than 2 full terms.

The Governor shall initially designate one member representing management and one member representing labor for terms expiring February 1, 1994; one member representing management and one member representing labor for terms expiring February 1, 1995; one member representing management and one member representing labor for terms expiring February 1, 1996; and one member representing management and one member representing labor for terms expiring February 1, 1997.

See title page for effective date.

CHAPTER 383

H.P. 790 - L.D. 1072

An Act Regarding Filing and Certification Fees

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

Sec. 1. 18-A MRSA §1-602, sub-§(2), ¶(xx), as enacted by PL 1997, c. 18, §1, is amended to read:

(xx) More than \$2,000,000, \$750, and continuing in steps of \$50 for every increase in value of \$500,000 or part thereof above \$2,500,000.

See title page for effective date.

CHAPTER 384

S.P. 111 - L.D. 329

An Act to Encourage the Use of Generic Drugs

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

Sec. 1. 32 MRSA §13781, as amended by PL 1997, c. 245, §§13 and 14, is further amended to read:

§13781. Generic and therapeutically equivalent substitution

A written prescription issued by a practitioner in this State may contain a box in the lower right-hand corner of the prescription form. 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~~ must 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~~ shall 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 ~~that~~ the price of the substituted drug does not exceed the price of the drug specified by the practitioner; except that, when the cost of a prescription is to be reimbursed under the MaineCare program pursuant to Title 22, chapter 855, the pharmacist shall substitute a generic and therapeutically equivalent drug only when the Department of Human Services has determined that the substitute drug would be a more cost-effective alternative than the drug prescribed by the practitioner.

If a written prescription issued by a practitioner in this State does not contain the box described in this section, a pharmacist ~~may~~ shall 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-"; except that, when the cost of a prescription is to be reimbursed under the MaineCare program pursuant to Title 22, chapter 855, the pharmacist shall substitute a generic and therapeutically equivalent drug only when the Department of Human Services has determined that the substitute drug would be a more cost-effective alternative than the drug prescribed by the practitioner.

Any pharmacist who substitutes a generic and therapeutically equivalent drug under this section shall inform the person to whom the drug is dispensed of the substitution. When any substitution is made under this section, the pharmacist shall cause the name of the

generic and therapeutically equivalent drug, the name or abbreviation of the drug manufacturer or distributor of that substitute drug and all other information as required by section 13794 to appear on the container label of the drug dispensed.

This section does not apply to prescriptions ordered by practitioners for patients in hospitals when those prescriptions are filled by a hospital pharmacy or in any institution where a formulary system is established.

See title page for effective date.

CHAPTER 385

H.P. 1029 - L.D. 1402

An Act To Conform the Voting Members of Certain State Entities

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

Sec. 1. 10 MRSA §363, sub-§1-A, as amended by PL 2003, c. 112, §1, is further amended to read:

1-A. Procedure. For each calendar year, the Legislature may establish a procedure for allocation of the entire amount of the state ceiling by allocating an amount of the state ceiling to the specific issuers designated in this section for further allocation by each specific issuer to itself or to other issuers for specific bond issues requiring an allocation of the state ceiling or for carryforward. This procedure supersedes the federal formula to the full extent that the United States Code, Title 26, authorizes the Legislature to vary the federal formula. Allocations may be reviewed by the Legislature periodically and unused allocations may be reallocated to other issuers; however, notwithstanding the existence of legislation allocating or reallocating all or any portion of the state ceiling, at any time during the period from September 1st to and including December 31st of any calendar year, and at any other time that the Legislature is not in session, a group consisting of a representative of each of the issuers specifically identified in subsections 4, 5, 6, 7, 8 and 8-A; and a representative of the Governor designated each year by the Governor may, by written agreement executed by no fewer than ~~4~~ 5 of the 6 voting representatives, allocate amounts not previously allocated and reallocate unused allocations from one of the specific issuers designated in this section to another specific issuer for further allocation or carryforward, with respect to the state ceiling for that calendar year only. In no event may any issuer have more than one vote. If an issuer is allocated a portion of the state ceiling in more than one category, the