LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
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TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

1. The total realistic development potential and associated costs of wind power in the State;

2. Potential sites for wind power development, in order to identify such sites;

3. Available markets both in and out of this State for sales of potential power generated by wind power development in this State;

4. Transmission modifications that may be required to realize the potential for wind power development in this State and potential costs of and obstacles to such modifications;

5. The impact of potential wind power development on existing electric generation resources in this State and total system impacts, including those related to the integration of such development into existing generation and transmission systems;

6. Obstacles to wind power development in this State;

7. Methods of mitigating the cost to Maine ratepayers of renewable portfolio requirements;

8. In consultation with appropriate governmental agencies, financing or incentive mechanisms to support wind power development, including Pine Tree Development Zone incentives, financing through the Finance Authority of Maine, the possible use of the conservation program fund established in the Maine Revised Statutes, Title 35-A, section 3211-A to provide capitalization resources to the Finance Authority of Maine and other state agencies that might provide financing;

9. The potential benefits and costs of siting wind power development on lands in this State owned by federally recognized Indian tribes in this State, including consideration of financing, siting and all other issues relating to wind power development that are examined by the commission pursuant to this study; and

10. Such other issues regarding the development of wind power in this State as the commission determines important.

In light of emerging and changing technologies, the commission shall also review what qualifies as renewable resources under Title 35-A, section 3210, subsection 2 and may make suggestions for changes to the definition of that term. The commission shall consult with all agencies it determines necessary in order to adequately carry out the study required under this section. The commission shall propose methods of accomplishing the goal of cost-effective wind energy development in this State, while mitigating the financial risk to Maine ratepayers and maintaining high standards of protection for the State's environment. The commission shall submit a report of its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by March 15, 2005.

See title page for effective date.

CHAPTER 666

S.P. 97 - L.D. 263

An Act to Define a Scope of Practice for Acupuncture

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

Sec. 1. 32 MRSA §12501, sub-§1, as enacted by PL 1995, c. 671, §13, is amended to read:

1. Acupuncture. "Acupuncture" means the insertion of fine metal needles through the skin at specific points on or near the surface of the body with or without the ~~palpitation~~ palpation of specific points on the body and with or without the application of electric current or heat to the needles or skin, or both. The practice of acupuncture is based on traditional oriental theories and serves to normalize physiological function, treat certain diseases and dysfunctions of the body, prevent or modify the perception of pain and promote health and well-being.

Sec. 2. 32 MRSA §12503, sub-§1, ¶C, as enacted by PL 1995, c. 671, §13, is repealed.

Sec. 3. 32 MRSA §12513-A is enacted to read:

§12513-A. Scope of practice

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

A. "Chinese patent remedies" means patent remedies used in accordance with traditional Chinese, Japanese and Korean herbal literature.

B. "Chinese premade herbal remedies" means premade herbal remedies used in accordance with traditional Chinese, Japanese and Korean herbal literature.

C. "Custom-made Chinese herbal formulations" means custom-made herbal formulations used in accordance with traditional Chinese, Japanese and Korean herbal literature.

2. Scope of practice. The scope of practice of acupuncturists includes acupuncture and the allied

techniques and modalities of the distinct system of health care that use oriental principles to diagnose and treat illness, injury, pain and other conditions by regulating the flow and balance of energy to restore and maintain health. These allied techniques and modalities include the following, as defined by and used exclusively in accordance with the traditions and formal curricula taught in accredited colleges of acupuncture: oriental diagnostic procedures; electrical and magnetic stimulation; moxibustion and other forms of heat therapy; sound, light and vibrational therapy; cupping techniques and gua sha; recommendation and dispensing of Chinese patent remedies or Chinese premade herbal remedies and lifestyle and dietary counseling; formulation and dispensing of custom-made Chinese herbal formulations, to the extent that an acupuncturist has received additional certification pursuant to subsection 3; sotai; shiatsu; qi gong; zero balancing; tui na; and acupressure. These techniques and modalities do not include manipulation or mobilization of the skeletal articulations of the human body.

3. Additional certification. Certification is required for licensed acupuncturists to practice the formulation and dispensing of custom-made Chinese herbal formulations. "Formulation" means the preparation of traditional combinations of herbs to produce formulas from Chinese herbal literature, the modification of such traditional combinations or the writing of new formulas to address individual symptom presentations, through addition, deletion, substitution or change in dosages of ingredients and the dispensing of these herbal preparations to patients.

A. The board shall adopt rules specifying the training required for licensed acupuncturists to obtain the certification for custom-made Chinese herbal formulation. These requirements must include a minimum number of hours of combined classroom and clinical training or, for those licensed acupuncturists practicing custom-made Chinese herbal formulation prior to July 1, 2004, prior experience demonstrated by evidence satisfactory to the board. Rules adopted by the board in accordance with this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

B. A licensed acupuncturist who can prove to the satisfaction of the board that the licensed acupuncturist was engaged in the practice of custom-made Chinese herbal formulation prior to July 1, 2004 may continue to practice that modality but must, no later than 2 years after the board adopts rules providing certification requirements in accordance with paragraph A, comply with those rules.

C. A licensed acupuncturist who can prove to the satisfaction of the board that the licensed acupuncturist has been duly licensed or certified to practice custom-made Chinese herbal formulation by the licensing authority of another state may continue to practice that modality, except that the board may require that the licensee complete additional training consistent with its rules within 3 years if the board finds that the standards applied in the state in which the licensed acupuncturist was certified or licensed are less stringent than those adopted in the board's rules.

4. Practice by other persons. The listing of allied techniques and modalities in subsection 2, including acupressure and qi gong, may not be construed to require any person who practices the same or similar techniques or modalities to obtain a license as an acupuncturist under section 12511 and may not be construed to limit, interfere with or prevent any licensed person from practicing the same or similar techniques and modalities within the scope of that person's license, whether or not the defined scope of that license contains specific lists of techniques or modalities.

Sec. 4. 32 MRSA §12514, as amended by PL 1999, c. 386, Pt. T, §1, is repealed.

Sec. 5. 32 MRSA §12514-A is enacted to read:

§12514-A. Fees

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any application may not exceed $200, the fee for initial and renewal licensure may not exceed $675 annually and the fee for initial and renewal certification in custom-made Chinese herbal formulation may not exceed $200 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 6. 32 MRSA §12516, as enacted by PL 1995, c. 671, §13, is amended to read:

§12516. Application for renewal

1. Requirements. Prior to the expiration of a license, a licensee may make an application for renewal upon payment of ~~an~~ the required annual renewal fee~~, which may not exceed the initial licensure fee,~~ established under section 12514-A and upon satisfactory demonstration of completion of continuing education requirements adopted by the board as a condition of renewal. It is not a condition of renewal

that an applicant who qualified for licensure as a licensed registered nurse continue to be licensed as a registered nurse.

2. Late renewal. An application for renewal may be made no earlier than 30 days prior to the date of expiration. An application made no more than 90 days past the date of expiration of a license must include a ~~$10~~ late fee in addition to the renewal fee. An application received more than 90 days past the expiration date is subject to all requirements covering new applicants under this chapter.

Sec. 7. 32 MRSA §12525, sub-§1, ¶E, as enacted by PL 1995, c. 671, §13, is amended to read:

E. File an application and pay the licensing fees established under section 12526.

Sec. 8. 32 MRSA §12525, sub-§3, ¶A, as enacted by PL 1995, c. 671, §13, is amended to read:

A. Submitted an application and a certification fee ~~to be determined by the board~~ established under section 12526;

Sec. 9. 32 MRSA §12526, sub-§1, as amended by PL 1999, c. 257, §7, is repealed and the following enacted in its place:

1. Fees. The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any application may not exceed $200, the fee for initial and renewal licensure may not exceed $675 annually and the fee for initial and renewal specialty certification may not exceed $50 annually. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 10. 32 MRSA §12526, sub-§2, as enacted by PL 1995, c. 671, §13, is amended to read:

2. Renewal. A license to practice naturopathic medicine and a specialty certification must be renewed annually and be accompanied by the required renewal fee established in subsection 1. ~~The annual license renewal fee established by the board in an amount not to exceed the initial licensing fee must accompany the application for renewal. A specialty certification must be renewed annually. The specialty certification fee must accompany the application for renewal.~~

See title page for effective date.

CHAPTER 667

S.P. 736 - L.D. 1890

An Act To Ensure Disclosure of Prescription Drug Prices

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

Sec. 1. 22 MRSA §2698-B is enacted to read:

§2698-B. Actual price disclosure and certification

1. Quarterly report. A manufacturer of prescription drugs dispensed in this State under a health program directed or administered by the State shall, on a quarterly basis, report by National Drug Code the following pharmaceutical pricing criteria to the commissioner for each of its drugs:

A. The average wholesale price;

B. The wholesale acquisition cost;

C. The average manufacturer price as defined in 42 United States Code, Section 1396r-8(k); and

D. The best price as defined in 42 United States Code, Section 1396r-8(c)(1)(C).

2. Calculation. The calculation of average wholesale price and wholesale acquisition cost must be the net of all volume discounts, prompt payment discounts, charge-backs, short-dated product discounts, cash discounts, free goods, rebates and all other price concessions or incentives provided to a purchaser that result in a reduction in the ultimate cost to the purchaser.

3. Description of methodology. When reporting the average wholesale price, wholesale acquisition cost, average manufacturer price and best price, a manufacturer of prescription drugs dispensed in this State shall also include a detailed description of the methodologies by which the prices were calculated.

4. Certification. When a manufacturer of prescription drugs dispensed in this State reports the average wholesale price, wholesale acquisition cost, average manufacturer price or best price, the president or chief executive officer of the manufacturer shall certify to the department, on a form provided by the commissioner, that the reported prices are accurate.

5. Confidentiality. Except as provided in this subsection, all information provided to the commissioner by a manufacturer of prescription drugs under this section is confidential and may not be disclosed by any person or by the department to any person without the consent of the manufacturer. Disclosure may be made by the department to an entity providing