

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

Control Act of 1970, 21 United States Code, Section 812, as amended, as Schedule II drugs, with regard to a patient who is paying for a drug with the patient's own resources, a pharmacist shall inquire about the patient's preference for either the brand-name drug or generic and therapeutically equivalent drug and dispense the drug that the patient prefers.

Sec. 2. 32 MRSA §13781, 3rd ¶, as amended by PL 2003, c. 384, §1 and c. 689, Pt. B, §6, is further amended to read:

¶ Except with regard to a patient who is paying for a drug with the patient's own resources, if a written prescription issued by a practitioner in this State does not contain the box described in this section, a pharmacist 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 Health and Human Services has determined that the substitute drug would be a more cost-effective alternative than the drug prescribed by the practitioner. Except for prescribed drugs listed under the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 United States Code, Section 812, as amended, as Schedule II drugs, with regard to a patient who is paying for a drug with the patient's own resources, a pharmacist shall inquire about the patient's preference for either the brand-name drug or generic and therapeutically equivalent drug and dispense the drug that the patient prefers.

See title page for effective date.

CHAPTER 86

S.P. 208 - L.D. 671

**An Act To Amend the Laws
Dealing with the Posting of Gas
Prices**

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

Sec. 1. 10 MRSA §1661-B, sub-§1, as enacted by PL 1989, c. 83, §2, is amended to read:

1. Posting required. A retail seller of fuel to be used by vehicles on public highways shall ~~post the price~~ make clearly visible on each pump the price of the fuel available at that pump, either by posting a sign of no less than 64 square inches and in a manner that is clearly visible to a driver approaching the pump or by a price reading, digital or analog, built into the pump that must reflect the actual price of the fuel pumped. The pump must have a sign of no less than 64 square inches on it if either the price on the pump differs from the price posted on the roadside sign due to a difference in grade of fuel or service or the retailer does not have a roadside sign. On multi-grade pumps, the posted price shall must be for the lowest priced unleaded regular gasoline. The sign should posting must indicate the difference in price for full-service, mini-service and self-service if more than one grade of service is available at that pump.

See title page for effective date.

CHAPTER 87

S.P. 154 - L.D. 467

**An Act Regarding the
Protection and Advocacy
Agency Advisory Council**

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

Sec. 1. 5 MRSA §12004-I, sub-§47-A, as repealed and replaced by PL 1995, c. 462, Pt. A, §9, is repealed.

See title page for effective date.

CHAPTER 88

H.P. 518 - L.D. 687

**An Act To Clarify That a
Financial Institution Must
Recognize a Writ of Execution
To Satisfy a Creditor's Claims
to Business Accounts Held by
That Financial Institution**

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

Sec. 1. 9-B MRSA §427, sub-§10, as amended by PL 2001, c. 211, §12, is repealed and the following enacted in its place:

10. Adverse claim to deposit or account. Except as provided in Title 11, section 4-405, in Title 14, section 4751 and in Title 18-A, sections 6-107 and 6-112, notice to a financial institution authorized to do business in this State of an adverse claim to a deposit

or account standing on its books to the credit of any person is not effectual to cause that institution to recognize the adverse claimant, unless the adverse claimant either procures a restraining order, injunction or other appropriate process against the institution from a court of competent jurisdiction in a civil action to which the person to whose credit the deposit or account stands is made a party or executes to that institution, in a form and with sureties acceptable to the institution, a bond indemnifying the institution from all liability, loss, damage, costs and expenses for and on account of the payment of such adverse claim or the dishonor of checks or other orders of the person to whose credit the deposit or account stands on the books of the institution.

This subsection does not apply to the creation, perfection or enforcement of a security interest in a deposit or account other than an assignment of a deposit or account in a consumer transaction as defined in Title 11, section 9-1102, subsection 26.

Sec. 2. 14 MRSA §4751, as amended by PL 1985, c. 187, §5, is further amended to read:

§4751. Goods sold on execution

All chattels, real and personal liable at common law to attachment and not exempted therefrom by statute, may be taken and sold on execution as prescribed in this subchapter and subchapter ~~IV~~ 4. Credits of a sole proprietorship doing business under an assumed or trade name, partnership, limited liability company or corporation, other than payroll accounts expressly so designated to the credit holder by the account owner, may be taken on execution by an officer and turned over to the judgment creditor to be applied to the judgment, together with interest and costs.

See title page for effective date.

CHAPTER 89

S.P. 228 - L.D. 711

An Act Regarding Notice That Must Be Provided by a Psychiatric Facility Concerning Certain Patients

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

Sec. 1. 5 MRSA §19509, sub-§3 is enacted to read:

3. Department. The Department of Health and Human Services shall, within 3 days of receipt, forward to the agency all notices received pursuant to Title 34-B, section 3861, subsection 1, paragraph E.

Sec. 2. 34-B MRSA §3861, sub-§1, ¶E is enacted to read:

E. The chief administrative officer of a nonstate mental health institution shall provide notice to the department and such additional information as may be requested by the department when a person who was involuntarily admitted to the institution has died, attempted suicide or sustained a serious injury resulting in significant impairment of physical condition. For the purposes of this paragraph, "significant impairment" includes serious injuries resulting from burns, lacerations, bone fractures, substantial hematoma and injuries to internal organs whether self-inflicted or inflicted by another person. The notice must be provided within 24 hours of occurrence and must include the name of the person; the name, address and telephone number of that person's legal guardian, conservator or legal representative and parents if that person is a minor; a detailed description of the occurrence and any injuries or impairments sustained; the date and time of the occurrence; the name, street address and telephone number of the facility; and the name and job title of the person providing the notice.

See title page for effective date.

CHAPTER 90

H.P. 101 - L.D. 109

An Act To Require a Model Radon Standard for New Residential Construction

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

Sec. 1. 25 MRSA §2466 is enacted to read:

§2466. Radon standard

1. Maine model radon standard for new residential construction. "Maine model radon standard for new residential construction" means the standard published by the American Society for Testing and Materials designated as E-1465-06 Standard Practice for Radon Control Options for the Design and Construction of New Low-Rise Residential Buildings.

2. Standard or code adoption by municipalities. A municipality may not adopt a radon standard or code for new residential construction other than the Maine model radon standard for new residential construction. Nothing in this section requires a municipality to adopt a radon standard or code for new residential construction.

3. Municipal standards or codes adopted. A radon standard or code for new residential construction adopted by a municipality prior to the effective date of this section is not invalidated by this section, except that if the municipality replaces that standard or