MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

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

Augusta, Maine
2009

State, except as specifically modified, amended or rejected by a regulation issued by the state sealer.

See title page for effective date.

CHAPTER 193

H.P. 267 - L.D. 331

An Act To Clarify the Duties of Municipal Treasurers, Clerks and Tax Collectors

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

Sec. 1. 30-A MRSA §2655 is enacted to read:

§2655. Prohibition on commingling funds

A clerk is prohibited from commingling personal funds with any funds collected for a municipality while performing the duty of clerk.

Sec. 2. 30-A MRSA §5603, sub-§2, ¶C, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9; §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

C. Maintain a bank account in the municipality's name for the deposit of cash receipts. The treasurer shall deposit ~~the~~ all cash ~~balance~~ receipts in the bank within 10 days ~~when it exceeds $100.~~ The treasurer may not commingle funds of the municipality with any personal funds or in any personal account of the treasurer.

Sec. 3. 36 MRSA §759-A is enacted to read:

§759-A. Prohibition on commingling funds

A tax collector is prohibited from commingling personal funds with any funds collected for a municipality while performing the duty of tax collector.

See title page for effective date.

CHAPTER 194

S.P. 80 - L.D. 239

An Act To Eliminate the Repeal Date on Nonhospital Expenditures in the Capital Investment Fund

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

Whereas, the statutory repeal of the law setting aside 12.5% of the Capital Investment Fund for nonhospital projects takes effect July 1, 2009, which is prior to the expiration of the 90-day period; 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. 2 MRSA §102, sub-§3, as amended by PL 2007, c. 94, §1, is further amended to read:

3. Nonhospital capital expenditures. ~~For the first 7 years of the plan, the~~ The nonhospital component of the capital investment fund must be at least 12.5% of the total.

~~This subsection is repealed July 1, 2009.~~

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective May 22, 2009.

CHAPTER 195

S.P. 258 - L.D. 683

An Act To Promote Cost-effective and Broad-based Vision Care for Maine Citizens by Clarifying the Scope of Prescription Authority by an Optometrist

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

Sec. 1. 32 MRSA §2411, sub-§1, ¶A, as amended by PL 1995, c. 439, §1, is further amended to read:

A. The examination of the eye and related structures without the use of invasive surgery or tissue-altering lasers to ~~ascertain~~ diagnose defects, abnormalities or diseases of the eye;

Sec. 2. 32 MRSA §2411, sub-§3, as amended by PL 1995, c. 606, §1, is further amended to read:

3. Pharmaceutical agent. "Pharmaceutical agent" means any ~~topical medicinal~~ diagnostic and ~~therapeutical~~ therapeutic substances for use in the diagnosis, cure, treatment, management or prevention of ocular conditions and diseases, ~~and oral medicinal diagnostic and therapeutical substances and quantities for use in the diagnosis, cure, treatment or prevention of ocular conditions and diseases under section 2430, subsection 2~~ but does not include drugs administered

exclusively by injection, except injections for the emergency treatment of anaphylactic shock.

Sec. 3. 32 MRSA §2411, sub-§5, ¶B, as amended by PL 1995, c. 439, §4, is further amended to read:

B. Any pharmaceutical agent administered exclusively by subdermal injection, intramuscular injection, intravenous injection, subcutaneous injection or retrobulbar injections, except injections for the emergency treatment of anaphylactic shock; and

Sec. 4. 32 MRSA §2417, sub-§4, ¶D, as amended by PL 1993, c. 600, Pt. A, §146, is further amended to read:

D. For pharmaceutical agents all prescriptions must include:

(1) The patient's name;

(2) The date;

(3) The name, quantity and dosage of drugs;

(4) The number of refills;

(5) The name of the prescriber;

(6) The drug license number of the prescriber;

(7) A sequential number; and

(8) The prescriber's directions for usage.

~~Sale of pharmaceutical agents by an optometrist is prohibited.~~ Nothing in this paragraph may be construed to restrict the dispensation or sale by an optometrist of contact lenses that contain and deliver pharmaceutical agents authorized under this chapter for use or prescription.

Sec. 5. 32 MRSA §2417, sub-§5, ¶C, as enacted by PL 1973, c. 788, §16, is amended to read:

C. The conduct of the lawful practice of optometry in accordance with the standards established by this ~~section~~ chapter.

Sec. 6. 32 MRSA §2430, sub-§2, as enacted by PL 1995, c. 606, §9, is amended to read:

2. Therapeutic pharmaceutical agents; use permitted. An optometrist who has received an advanced therapeutic license may use and prescribe any ~~topical~~ therapeutic pharmaceutical agent, except for the treatment of glaucoma unless the requirements of section ~~2430-A~~ 2430-B have been met, ~~and any of the following types and quantities of oral therapeutic pharmaceutical agents~~ including any drug identified in schedules III, IV and V as described in 21 United States Code, Section 812, for any purpose associated with ocular conditions and diseases~~:~~ except for oral chemotherapeutic agents, oral immunosuppressive agents and oral immunostimulant agents, and except that an optometrist who has received an advanced therapeutic license may prescribe one 5-day supply of any analgesic identified in schedules III, IV and V as described in 21 United States Code, Section 812.

~~A. One 10-day supply of oral antibiotics;~~

~~B. One 72-hour supply of oral antivirals with referral to a physician;~~

~~C. One 72-hour supply of oral antihistamines;~~

~~D. One 7-day supply of oral nonsteroidal antiinflammatories; and~~

~~E. One 3-day supply of any analgesic identified in schedules III, IV and V as described in the United States Code, Title 21, Section 812.~~

Sec. 7. 32 MRSA §2430-A, as enacted by PL 1995, c. 606, §9, is repealed.

Sec. 8. 32 MRSA §2430-B is enacted to read:

§2430-B. Treatment of glaucoma

1. Optometrists qualified. An optometrist who graduated from optometric college in the year 1996 or thereafter and who is an advanced therapeutic licensee is authorized to independently treat glaucoma.

2. Consultation required. In order to be authorized to independently treat glaucoma, an advanced therapeutic licensee who graduated from optometric college prior to 1996 must provide evidence to the board of no more than 30 glaucoma-related consultations with a physician in accordance with this section. For purposes of this section, "physician" means a licensed physician specializing in diseases of the eye. The board shall form a glaucoma consultation subcommittee comprised of 2 optometrists appointed by the board and 2 physicians appointed by the Board of Licensure in Medicine to review evidence of consultations submitted pursuant to this section in accordance with the following criteria.

A. The glaucoma-related consultations must be conducted as follows:

(1) A new or existing glaucoma or glaucoma-suspect patient is examined and diagnosed by the optometrist;

(2) The optometrist develops a proposed treatment plan and forwards the plan with examination documentation to a physician for consultation;

(3) The physician examines the patient and reviews the optometrist's examination documentation and proposed treatment plan; and

(4) The physician, optometrist and patient mutually agree to and document a treatment plan.

B. An advanced therapeutic licensee may petition the glaucoma consultation subcommittee to reduce or waive the number of consultations required. A reduction or waiver may be granted by a majority vote of the subcommittee. If the subcommittee is evenly divided on the question of a specific waiver or reduction, then the request for waiver or reduction must be referred to the board. The board shall hold a hearing on the request for waiver or reduction and shall render a decision. The subcommittee or the board, in evaluating a request for a waiver or reduction in the number of cases, shall consider, among other things:

(1) Optometric college education and course work;

(2) Any residency or practical experience;

(3) Certifications in other states;

(4) Any partial completion of the consultation regimen under paragraph A;

(5) Ongoing education; and

(6) Any other factors considered relevant by the subcommittee or board.

C. An optometrist who has been licensed and practiced under the laws of another state and has been authorized to independently treat glaucoma in that state may petition the glaucoma consultation subcommittee for a waiver of the consultation requirement. If the optometrist graduated from optometric college in 1996 or thereafter, the waiver must be granted. The subcommittee shall evaluate the education, licensure and experience of an optometrist who graduated prior to 1996 and, if they are equivalent to that of an advanced therapeutic licensee in this State authorized under this section to treat glaucoma independently, shall waive the consultation requirements of this section.

See title page for effective date.

CHAPTER 196

H.P. 437 - L.D. 623

An Act To Provide the Office of Chief Medical Examiner Access to Controlled Substances Prescription Monitoring Program Data for the Purpose of Conducting Cause of Death Investigations

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

Sec. 1. 22 MRSA §7250, sub-§4, ¶D, as enacted by PL 2003, c. 483, §1, is amended to read:

D. A patient to whom a prescription is written, insofar as the information relates to that patient; ~~and~~

Sec. 2. 22 MRSA §7250, sub-§4, ¶E, as enacted by PL 2003, c. 483, §1, is amended to read:

E. Office personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system~~.~~; and

Sec. 3. 22 MRSA §7250, sub-§4, ¶F is enacted to read:

F. The Office of Chief Medical Examiner for the purpose of conducting an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case as described in section 3025. Prescription monitoring information in the possession or under the control of the Office of Chief Medical Examiner is confidential and, notwithstanding section 3022, may not be disseminated. Information that is not prescription monitoring information and is separately acquired following access to prescription monitoring information pursuant to this paragraph remains subject to protection or dissemination in accordance with section 3022.

See title page for effective date.

CHAPTER 197

H.P. 769 - L.D. 1114

An Act To Facilitate the Marketing of Power Produced by Small Generators

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

Sec. 1. 35-A MRSA §3201, sub-§7-A is enacted to read:

7-A. Efficient combined heat and power system. "Efficient combined heat and power system" means a system that:

A. Produces heat and electricity from one fuel input, without restriction to specific fuel or generating technology;

B. Has an electric generating capacity rating of at least one kilowatt and not more than 30 kilowatts and a fuel system efficiency of not less than 80% in the production of heat and electricity, or has an electric generating capacity of at least 31 kilowatts and a fuel system efficiency of not less than 65% in the production of heat and electricity;