LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

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

Augusta, Maine
2009

4. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 4. 24-A MRSA §4257 is enacted to read:

§4257. Coverage for services provided by independent practice dental hygienist

1. Services provided by independent practice dental hygienist. All individual and group health maintenance organization contracts that include coverage for dental services shall provide coverage for dental services performed by an independent practice dental hygienist licensed under Title 32, chapter 16, subchapter 3-B when those services are covered services under the contract and when they are within the lawful scope of practice of the independent practice dental hygienist.

2. Limits; coinsurance; deductibles. A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. Coordination of benefits with dental insurance. If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health maintenance organization policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the health maintenance organization providing health coverage is the secondary payer.

4. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 5. Bureau of Insurance Report. The Department of Professional and Financial Regulation, Bureau of Insurance shall review and evaluate the financial impact, social impact and medical efficacy of the mandated health insurance benefit required in this Act after its enactment in the same manner as required for proposed mandated health benefits legislation in the Maine Revised Statutes, Title 24-A, section 2752. The bureau shall also compare the projected cost impact of this mandated benefit prior to enactment and the actual cost impact of the mandated benefit based on premium information after enactment. As part of its assessment of the medical efficacy of the mandate, the bureau shall consult with health insurance and dental insurance carriers and independent practice dental hygienists to determine whether the mandate has increased access to dental services in areas of the State designated as having a shortage of dentists and whether granting authority to carriers to include independent practice dental hygienists in a dental provider network has an impact on the cost and access to dental services. The bureau shall contract within the bureau's existing budgeted resources for any necessary consulting and actuarial expertise to complete the report required by this section. The bureau shall submit a report, including any recommendations for legislation, to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters no later than February 1, 2013. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters may report out a bill based on the report to the First Regular Session of the 126th Legislature.

Sec. 6. Applicability. This Act applies to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2010. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 308

H.P. 843 - L.D. 1223

An Act To Allow Pharmacists To Administer Certain Immunizations

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

Sec. 1. 32 MRSA §13702-A, sub-§28, as enacted by PL 2007, c. 402, Pt. DD, §2, is amended to read:

28. Practice of pharmacy. "Practice of pharmacy" means the interpretation and evaluation of prescription drug orders; the compounding, dispensing, labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices; the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records for these drugs and devices; the administration of influenza vaccine, intranasal influenza vaccine, pneumococcal vaccine, shingles or herpes zoster vaccine, tetanus-diphtheria-pertussis vaccine and tetanus-diphtheria vaccine; the responsibility for advising, when necessary or regulated, of therapeutic values, content, hazards and use of drugs and devices; and the offering or performing of those acts, services, opera-

tions or transactions necessary in the conduct, operation, management and control of a pharmacy.

Sec. 2. 32 MRSA §13735, as amended by PL 2007, c. 402, Pt. DD, §16, is further amended to read:

§13735. Continuing pharmacy education

An annual renewal license may not be issued by the board until the applicant certifies to the board that, during the calendar year preceding an application for renewal, the applicant has participated in not less than 15 hours of approved courses of continuing professional pharmaceutical education as set out in this section. Of the 15 hours to be completed, at least 2 hours must be in board-approved courses on drug administration as described in section 13702-A, subsection 28. The continuing professional pharmaceutical educational courses consist of postgraduate studies, institutes, seminars, workshops, lectures, conferences, extension studies, correspondence courses or such other forms of continuing professional pharmaceutical education as may be approved by the board.

These courses consist of subject matter pertinent to the following general areas of professional pharmaceutical education: ~~The~~ the socioeconomic and legal aspects of health care; the properties and actions of drugs and dosage forms; and the ideology, characteristics and therapeutics of the disease state. The specific subject matter of the courses may include, but is not limited to, pharmacology, biochemistry, physiology, pharmaceutical chemistry, pharmacy administration, drug administration as it relates to the area of permitted practice, pharmacy jurisprudence, public health and communicable diseases, pharmaceutical marketing, professional practice management, anatomy, histology and such other subject matter as represented in curricula of accredited colleges of pharmacy. The content of each course offered for credit under this continuing professional educational program must be approved in advance of the course by the board or its representative. The board may make exceptions to this section in emergency or hardship cases.

Each application for approval of a continuing education program or course must be submitted according to the guidelines prescribed by rule by the board, together with a fee as set under section 13724.

Sec. 3. 32 MRSA c. 117, sub-c. 13 is enacted to read:

SUBCHAPTER 13

ADMINISTRATION OF DRUGS AND IMMUNIZATIONS

§13831. Authority

1. Administration of influenza vaccines. A pharmacist licensed in this State who meets the qualifications and requirements of section 13832 and rules adopted by the board may administer topically or by injection or by inhalation all forms of influenza vaccines, including intranasal influenza vaccines, to a person 9 years of age or older without a prescription.

2. Administration of other vaccines. A pharmacist licensed in this State who meets the qualifications and requirements of section 13832 and rules adopted by the board, in addition to influenza vaccines under subsection 1, may administer pneumococcal vaccine, shingles or herpes zoster vaccine, tetanus-diphtheria-pertussis vaccine, tetanus-diphtheria vaccine and booster tetanus-diphtheria vaccine to a person according to a valid prescription when the person has an existing primary care physician or other existing relationship with an authorized practitioner in this State. When the person does not have an existing relationship with a primary care physician or other practitioner in this State the pharmacist may proceed to administer according to a treatment protocol established by an authorized practitioner or a written standing order from a practitioner authorized under the laws of this State to issue an order, a prescription or a protocol to a person 18 years of age or older for pneumococcal vaccine, shingles or herpes zoster vaccine, tetanus-diphtheria-pertussis vaccine, tetanus-diphtheria vaccine or booster tetanus-diphtheria vaccine.

3. Emergency administration of certain drugs. A pharmacist may administer epinephrine or diphenhydramine, or both, to a person in an emergency situation resulting from an adverse reaction to an immunization administered by the pharmacist.

§13832. Qualifications; requirements

In order to administer a drug or immunization under this subchapter, a pharmacist must:

1. Certificate; application and fee. Possess a current certificate of administration issued by the board pursuant to this subchapter. The pharmacist must submit an application in the form prescribed by the board together with the requirements set forth under this subchapter and certificate fee as set forth under section 13724. The certificate of administration expires and is subject to the conditions in the same manner as stated in section 13734;

2. License. Hold a valid unrestricted pharmacist license in this State;

3. Training. Submit evidence acceptable to the board that the pharmacist, within the 3 years immediately preceding application for a certificate of administration:

A. Has completed a 20-hour course of study in the areas of drug administration authorized under this subchapter and as described in subsection 4;

B. Has graduated with a Doctor of Pharmacy degree from a college of pharmacy accredited by the American Council on Pharmaceutical Education that includes completion of training in the areas of

drug administration authorized under this subchapter satisfactory to the board, including instruction in the areas identified in subsection 4 received as part of the pharmacist's pharmacy degree program; or

C. Possesses a current certificate of administration issued by another jurisdiction that authorizes the pharmacist to administer drugs comparable to those authorized under this chapter and that is based on the pharmacist's completion of training or course work as described in subsection 4, or its equivalent as determined by the board, and has continuous administration practice since the pharmacist received such training or since completion of a retraining program as required in this subchapter, as long as such retraining incorporates the areas identified in subsection 4;

4. Didactic; practical course. Satisfactorily complete a didactic and practical course approved by the board that includes the current guidelines and recommendations of the federal Department of Health and Human Services, Centers for Disease Control and Prevention, the American Council on Pharmaceutical Education or a similar health authority or professional body, and that includes, but is not limited to, disease epidemiology, indications for use of vaccines, vaccine characteristics, injection techniques, adverse reactions to vaccines, emergency response to adverse events, immunization screening, informed consent, record keeping, registries, including the immunization information system established under Title 22, section 1064, registry training and reporting mechanisms, including reporting adverse events, life support training, biohazard waste disposal and sterile techniques and related topics; and

5. Life support training. Submit evidence of completing cardiovascular life support training accepted by the American Heart Association, the American Red Cross or other similar training organization.

§13833. Treatment protocol

The pharmacist shall administer drugs and immunizations in compliance with a treatment protocol established by a practitioner authorized under the laws of this State to order administration of those drugs and immunizations approved by the board. A copy of the treatment protocol must be submitted to the board. At a minimum the treatment protocol must include:

1. Standards. Standards for observation of the person receiving the drug or immunization to determine whether the person has an adverse reaction, as adopted in rules by the board;

2. Procedures. Procedures to be followed by the pharmacist when administering epinephrine, diphenhydramine, or both, to a person who has an adverse reaction to an immunization administered by the pharmacist; and

3. Notification. Notification to the authorized practitioner who issued the prescription, standing order or protocol under section 13831, subsection 2 of the administration by the pharmacist of the drug or immunization, or both, within 3 business days.

§13834. Prohibited acts

1. Delegate authority. A pharmacist may not delegate the pharmacist's authority to administer drugs or immunizations.

2. Administer drugs. A pharmacist may not engage in the administration of drugs or immunizations unless the pharmacist meets the qualifications and requirements of section 13832 and the pharmacist has obtained a board-issued certificate of administration.

§13835. Rules

The board, after consultation with the Maine Center for Disease Control and Prevention and the Board of Licensure in Medicine, shall adopt rules to implement this subchapter. The rules must include, at a minimum:

1. Criteria. Criteria for the operation of a drug administration clinic within or outside a retail pharmacy, rural health clinic or free clinic licensed under section 13751;

2. Record keeping. Record keeping and documentation procedures and reporting requirements, giving preference to electronic means when available; and

3. Recipient assessment. Recipient assessment, consent and rights.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. MaineCare program. Reimbursement under the MaineCare program for services provided under the Maine Revised Statutes, Title 32, chapter 117, subchapter 13 is subject to the adoption of a billing mechanism by the Department of Health and Human Services for the MaineCare program to implement the provisions of subchapter 13 and amendment of the rules of the MaineCare benefits manual to cover the service provided in subchapter 13 at a minimum of the current average wholesale price reimbursement rate plus a dispensing fee of $3.35. Prior to the adoption of a billing mechanism, a MaineCare member that receives a vaccination from a pharmacist as authorized by subchapter 13 must be told in advance that the administration of vaccines provided by a pharmacist is not covered by MaineCare and the member will be responsible for payment.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Licensing and Enforcement 0352

Initiative: Allocates one-time funds to configure the agency licensing system and for the costs of rulemaking.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	$7,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$7,000	$0

See title page for effective date.

CHAPTER 309

H.P. 39 - L.D. 44

An Act Regarding Requirements for Approval of a Transmission Line

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

Sec. 1. 35-A MRSA §3132, sub-§2, as amended by PL 2007, c. 575, §1, is further amended to read:

2. Construction of transmission line. Except as otherwise provided in subsection 3-A, whenever any person proposes to erect within this State a transmission line capable of operating at 69 kilovolts or more, that person shall file a petition for the approval of the proposed line in accordance with subsection 2-C. ~~The petition for approval of the proposed transmission line must contain such information as the commission by rule prescribes.~~ The petition for approval must be set down for public hearing. The commission shall issue its order within 6 months after the petition is filed unless this period is extended either by agreement of all the parties or by the commission upon its determination that the party seeking the extension would, because of circumstances beyond that party's control, be unreasonably disadvantaged unless the extension were granted, ~~provided that~~ as long as the party to that time had prosecuted its case in good faith and with due diligence.

At the time of filing of a petition for approval of a proposed line under this section, the person filing the petition shall send a copy of the petition by certified mail to the municipal officers of the municipality or municipalities in which the line is to be located.

Sec. 2. 35-A MRSA §3132, sub-§2-C is enacted to read:

2-C. Petition for approval of proposed transmission line. The petition for approval of the proposed transmission line must contain such information as the commission by rule prescribes, including, but not limited to:

A. A description of the effect of the proposed transmission line on public health and safety and scenic, historic, recreational and environmental values and of the proximity of the proposed transmission line to inhabited dwellings;

B. Justification for adoption of the route selected, including comparison with alternative routes that are environmentally, technically and economically practical; and

C. Results of an investigation of alternatives to construction of the proposed transmission line including energy conservation, distributed generation or load management.

Sec. 3. 35-A MRSA §3132, sub-§6, as amended by PL 2009, c. 123, §5, is further amended to read:

6. Commission order; certificate of public convenience and necessity. In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line. If the commission finds that a public need exists, it shall issue a certificate of public convenience and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public con-