LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2016 to April 29, 2016

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 29, 2016

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

Augusta, Maine
2016

Sec. 2. 5 MRSA §13080-S, sub-§§1 and 2, as enacted by PL 1995, c. 644, §2, are amended to read:

1. Certification by authority. The authority shall certify annually to the assessor by ~~September 30th~~ October 31st of each year, beginning in ~~1997~~ 2016, the following information:

A. Employment, payroll and state withholding data necessary to calculate the base level of employment;

B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the gross employment tax increment and establish the appropriate payment to the fund;

C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location; and

D. A listing of all affiliated businesses and affiliated groups, data regarding current employment, payroll and state income withholding taxes for each affiliated business within the base area.

2. Approval of payment. Upon receipt of the information required by this section, the assessor shall review the information ~~in a timely fashion~~ by December 1st immediately following receipt of the information and shall determine the amount of the employment tax increment. If the assessor determines that the requirements of this article are satisfied, the assessor shall approve payment to the fund.

Sec. 3. 5 MRSA §13080-S, sub-§3, as amended by PL 2009, c. 571, Pt. LL, §1, is further amended to read:

3. Deposit and payment of revenue. On or before July 15th of each year, ~~if the approval of~~ the assessor ~~has been issued pursuant to subsection 2, the Commissioner of Administrative and Financial Services~~ shall deposit an amount equal to 50% of the employment tax increment for the preceding year into a contingent account established, maintained and administered by the ~~Commissioner of Administrative and Financial Services~~ State Controller. On or before July 31st of each year, the ~~Commissioner of Administrative and Financial Services~~ assessor shall pay that amount to the fund.

Sec. 4. 5 MRSA §13080-S, sub-§4 is enacted to read:

4. Additional deposit and payment of revenue in December 2016. On or before December 15, 2016, the assessor shall deposit an amount equal to 50% of the employment tax increment for the preceding year into a contingent account established, maintained and administered by the State Controller. On or before December 31, 2016, the assessor shall pay that amount to the fund.

Sec. 5. Effective date. This Act takes effect August 1, 2016.

Effective August 1, 2016.

CHAPTER 487

S.P. 705 - L.D. 1699

An Act To Provide Relief for Significant Reductions in Municipal Property Fiscal Capacity

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

Sec. 1. Property fiscal capacity determination for fiscal year 2016-17 for municipality with decline in valuation. Notwithstanding the Maine Revised Statutes, Title 20-A, section 15672, subsection 23, paragraph C, for fiscal year 2016-17, if a municipality's 2016 certified state valuation declines in an amount that is greater than 4.5% from the next most recently certified state valuation and that decline is due to the loss in value attributable to a single taxpayer, the State Tax Assessor shall certify to the Commissioner of Education that the municipality's property fiscal capacity is the average of the 2016 certified state valuation for that municipality and the property fiscal capacity under Title 20-A, section 15672, subsection 23, paragraph C.

Sec. 2. Maintenance of mill rate for fiscal year 2016-17. The Commissioner of Education shall identify savings resulting from unused debt service in order to maintain the mill rate expectation of 8.30 for fiscal year 2016-17 as established in Public Law 2015, chapter 389, Part C, section 11, pursuant to the Maine Revised Statutes, Title 20-A, section 15671-A.

See title page for effective date.

CHAPTER 488

S.P. 671 - L.D. 1646

An Act To Prevent Opiate Abuse by Strengthening the Controlled Substances Prescription Monitoring Program

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

Sec. 1. 22 MRSA §7246, sub-§§1-A, 1-B and 1-C are enacted to read:

1-A. Acute pain. "Acute pain" means pain that is the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus. "Acute pain" typically is associated with invasive procedures, trauma and disease and is usually time-limited.

1-B. Administer. "Administer" means an action to apply a prescription drug directly to a person by any means by a licensed or certified health care professional acting within that professional's scope of practice. "Administer" does not include the delivery, dispensing or distribution of a prescription drug for later use.

1-C. Chronic pain. "Chronic pain" means pain that persists beyond the usual course of an acute disease or healing of an injury. "Chronic pain" may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain over months or years.

Sec. 2. 22 MRSA §7246, sub-§5, as enacted by PL 2003, c. 483, §1, is amended to read:

5. Prescriber. "Prescriber" means a licensed health care professional with authority to prescribe controlled substances and a veterinarian licensed under Title 32, chapter 71-A with authority to prescribe controlled substances.

Sec. 3. 22 MRSA §7249, sub-§4, as enacted by PL 2003, c. 483, §1, is amended to read:

4. Immunity from liability. A dispenser or prescriber is immune from liability for disclosure of information if the disclosure was made pursuant to and in accordance with this chapter.

Sec. 4. 22 MRSA §7250, sub-§4, ¶G, as amended by PL 2011, c. 657, Pt. O, §3, is further amended to read:

G. The office that administers the MaineCare program pursuant to chapter 855 for the purposes of managing the care of its members, monitoring the purchase of controlled substances by its members, avoiding duplicate dispensing of controlled substances and providing treatment pattern data under subsection 6; ~~and~~

Sec. 5. 22 MRSA §7250, sub-§4, ¶H, as enacted by PL 2011, c. 218, §3, is amended to read:

H. Another state or a Canadian province pursuant to subsection 4-A~~.~~;

Sec. 6. 22 MRSA §7250, sub-§4, ¶¶I and J are enacted to read:

I. Staff members of a licensed hospital who are authorized by the chief medical officer of the hospital, insofar as the information relates to a patient receiving care in the hospital's emergency department or receiving inpatient services from the hospital; and

J. Staff members of a pharmacist who are authorized by the pharmacist on duty, insofar as the information relates to a customer seeking to have a prescription filled.

Sec. 7. 22 MRSA §7250, sub-§4-A, as amended by PL 2011, c. 657, Pt. AA, §69, is further amended to read:

4-A. Information sharing with other states and Canadian provinces. The department may provide prescription monitoring information to and receive prescription monitoring information from another state or a Canadian province that has prescription monitoring information provisions consistent with this chapter and has entered into a prescription monitoring information sharing agreement with the department. The department may enter into a prescription monitoring information sharing agreement with another state or a Canadian province to establish the terms and conditions of prescription monitoring information sharing and interoperability of information systems and to carry out the purposes of this subsection. For purposes of this subsection, "another state" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

Sec. 8. 22 MRSA §7251, sub-§1, as amended by PL 2011, c. 657, Pt. AA, §70, is further amended to read:

1. Failure to submit information. A dispenser who knowingly fails to submit prescription monitoring information to the department as required by this chapter commits a civil violation for which a fine of $250 per incident, not to exceed $5,000 per calendar year, may be adjudged and is subject to discipline by the Maine Board of Pharmacy pursuant to Title 32, chapter 117, subchapter 4 or by the applicable professional licensing entity.

Sec. 9. 22 MRSA §§7253 and 7254 are enacted to read:

§7253. Prescribers and dispensers required to check prescription monitoring information

1. Prescribers. On or after January 1, 2017, upon initial prescription of a benzodiazepine or an opioid medication to a person and every 90 days for as long as that prescription is renewed, a prescriber shall check prescription monitoring information for records related to that person.

2. Dispensers. On or after January 1, 2017, a dispenser shall check prescription monitoring information prior to dispensing a benzodiazepine or an opioid medication to a person under any of the following circumstances:

A. The person is not a resident of this State;

B. The prescription is from a prescriber with an address outside of this State;

C. The person is paying cash when the person has prescription insurance on file; or

D. According to the pharmacy prescription record, the person has not had a prescription for a benzodiazepine or an opioid medication in the previous 12-month period.

A dispenser shall notify the program and withhold a prescription until the dispenser is able to contact the prescriber of that prescription if the dispenser has reason to believe that the prescription is fraudulent or duplicative.

3. Exception; hospital setting and facilities. When a licensed or certified health care professional directly orders or administers a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility, the requirements to check prescription monitoring information established in this section do not apply.

4. Violation. A person who violates this section commits a civil violation for which a fine of $250 per incident, not to exceed $5,000 per calendar year, may be adjudged.

5. Rulemaking. Notwithstanding section 7252, the department may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement this section.

§7254. Exemption from opioid medication limits until January 2017; rulemaking

1. Exemption until January 2017. In addition to the exceptions established in Title 32, section 2210, subsection 2; section 2600-C, subsection 2; section 3300-F, subsection 2; section 3657, subsection 2; and section 18308, subsection 2, a licensed health care professional may prescribe opioid medication in an amount greater than the morphine milligram equivalents limited by Title 32, sections 2210, 2600-C, 3300-F, 3657 and 18308 as long as it is medically necessary and the need is documented in the patient's chart.

This subsection is repealed January 1, 2017 or on the effective date of the rules establishing exceptions to prescriber limits as provided in subsection 2, whichever is later. The Commissioner of Health and Human Services shall notify the Secretary of State, Secretary of the Senate, Clerk of the House of Representatives and Revisor of Statutes of this effective date when this effective date is determined.

2. Rulemaking. Notwithstanding section 7252, no later than January 1, 2017, the department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to establish reasonable exceptions to prescriber limits in Title 32, sections 2210, 2600-C, 3300-F, 3657 and 18308, including for chronic pain and acute pain. The rules must take into account clinically appropriate exceptions and include prescribers in the rule-making process including the drafting of draft rules and changes after the public hearing process to the extent permitted by Title 5, chapter 375.

Sec. 10. 32 MRSA §2105-A, sub-§2, ¶H, as amended by PL 1993, c. 600, Pt. A, §116, is further amended to read:

H. A violation of this chapter or a rule adopted by the board; ~~or~~

Sec. 11. 32 MRSA §2105-A, sub-§2, ¶I, as enacted by PL 1983, c. 378, §21, is amended to read:

I. Engaging in false, misleading or deceptive advertising~~.~~; or

Sec. 12. 32 MRSA §2105-A, sub-§2, ¶J is enacted to read:

J. Failure to comply with the requirements of Title 22, section 7253.

Sec. 13. 32 MRSA §2210 is enacted to read:

§2210. Requirements regarding prescription of opioid medication

1. Limits on opioid medication prescribing. Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe:

A. To a patient any combination of opioid medication in an aggregate amount in excess of 100 morphine milligram equivalents of opioid medication per day;

B. To a patient who, on the effective date of this section, has an active prescription for opioid medication in excess of 100 morphine milligram equivalents of an opioid medication per day, an opioid medication in an amount that would cause that patient's total amount of opioid medication to exceed 300 morphine milligram equivalents of opioid medication per day; except that, on or after July 1, 2017, the aggregate amount of opioid medication prescribed may not be in excess of 100 morphine milligram equivalents of opioid medication per day;

C. On or after January 1, 2017, within a 30-day period, more than a 30-day supply of an opioid medication to a patient under treatment for chronic pain. "Chronic pain" has the same meaning as in Title 22, section 7246, subsection 1-C; or

D. On or after January 1, 2017, within a 7-day period, more than a 7-day supply of an opioid

medication to a patient under treatment for acute pain. "Acute pain" has the same meaning as in Title 22, section 7246, subsection 1-A.

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 only:

A. When prescribing opioid medication to a patient for:

(1) Pain associated with active and aftercare cancer treatment;

(2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;

(3) End-of-life and hospice care;

(4) Medication-assisted treatment for substance use disorder; or

(5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B.

3. Electronic prescribing. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication and who has the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. An individual who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures.

4. Continuing education. By December 31, 2017, an individual licensed under this chapter must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Penalties. An individual who violates this section commits a civil violation for which a fine of $250 per violation, not to exceed $5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

Sec. 14. 32 MRSA §2591-A, sub-§2, ¶M, as amended by PL 1997, c. 680, Pt. B, §6, is further amended to read:

M. Failure to comply with the requirements of Title 24, section 2905-A; ~~or~~

Sec. 15. 32 MRSA §2591-A, sub-§2, ¶N, as enacted by PL 1997, c. 680, Pt. B, §7, is amended to read:

N. Revocation, suspension or restriction of a license to practice medicine or other disciplinary action; denial of an application for a license; or surrender of a license to practice medicine following the institution of disciplinary action by another state or a territory of the United States or a foreign country if the conduct resulting in the disciplinary or other action involving the license would, if committed in this State, constitute grounds for discipline under the laws or rules of this State~~.~~; or

Sec. 16. 32 MRSA §2591-A, sub-§2, ¶O is enacted to read:

O. Failure to comply with the requirements of Title 22, section 7253.

Sec. 17. 32 MRSA §2600-C is enacted to read:

§2600-C. Requirements regarding prescription of opioid medication

1. Limits on opioid medication prescribing. Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe:

A. To a patient any combination of opioid medication in an aggregate amount in excess of 100 morphine milligram equivalents of opioid medication per day;

B. To a patient who, on the effective date of this section, has an active prescription for opioid medication in excess of 100 morphine milligram equivalents of an opioid medication per day, an opioid medication in an amount that would cause that patient's total amount of opioid medication to exceed 300 morphine milligram equivalents of

opioid medication per day; except that, on or after July 1, 2017, the aggregate amount of opioid medication prescribed may not be in excess of 100 morphine milligram equivalents of opioid medication per day;

C. On or after January 1, 2017, within a 30-day period, more than a 30-day supply of an opioid medication to a patient under treatment for chronic pain. For purposes of this paragraph, "chronic pain" has the same meaning as in Title 22, section 7246, subsection 1-C; or

D. On or after January 1, 2017, within a 7-day period, more than a 7-day supply of an opioid medication to a patient under treatment for acute pain. For purposes of this paragraph, "acute pain" has the same meaning as in Title 22, section 7246, subsection 1-A.

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 only:

A. When prescribing opioid medication to a patient for:

(1) Pain associated with active and aftercare cancer treatment;

(2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;

(3) End-of-life and hospice care;

(4) Medication-assisted treatment for substance use disorder; or

(5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B.

3. Electronic prescribing. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication and who has the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. An individual who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures.

4. Continuing education. By December 31, 2017, an individual licensed under this chapter must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Penalties. An individual who violates this section commits a civil violation for which a fine of $250 per violation, not to exceed $5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

Sec. 18. 32 MRSA §3282-A, sub-§2, ¶¶Q and R, as enacted by PL 2013, c. 355, §12, are amended to read:

Q. Failure to produce upon request of the board any documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation by the board, unless otherwise prohibited by state or federal law; ~~or~~

R. Failure to timely respond to a complaint notification sent by the board~~.~~; or

Sec. 19. 32 MRSA §3282-A, sub-§2, ¶S is enacted to read:

S. Failure to comply with the requirements of Title 22, section 7253.

Sec. 20. 32 MRSA §3300-F is enacted to read:

§3300-F. Requirements regarding prescription of opioid medication

1. Limits on opioid medication prescribing. Except as provided in subsection 2, an individual licensed under this chapter and whose scope of practice includes prescribing opioid medication may not prescribe:

A. To a patient any combination of opioid medication in an aggregate amount in excess of 100 morphine milligram equivalents of opioid medication per day;

B. To a patient who, on the effective date of this section, has an active prescription for opioid

medication in excess of 100 morphine milligram equivalents of an opioid medication per day, an opioid medication in an amount that would cause that patient's total amount of opioid medication to exceed 300 morphine milligram equivalents of opioid medication per day; except that, on or after July 1, 2017, the aggregate amount of opioid medication prescribed may not be in excess of 100 morphine milligram equivalents of opioid medication per day;

C. On or after January 1, 2017, within a 30-day period, more than a 30-day supply of an opioid medication to a patient under treatment for chronic pain. "Chronic pain" has the same meaning as in Title 22, section 7246, subsection 1-C; or

D. On or after January 1, 2017, within a 7-day period, more than a 7-day supply of an opioid medication to a patient under treatment for acute pain. "Acute pain" has the same meaning as in Title 22, section 7246, subsection 1-A.

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 only:

A. When prescribing opioid medication to a patient for:

(1) Pain associated with active and aftercare cancer treatment;

(2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;

(3) End-of-life and hospice care;

(4) Medication-assisted treatment for substance use disorder; or

(5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B.

3. Electronic prescribing. An individual licensed under this chapter and whose scope of practice includes prescribing opioid medication with the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. An individual who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure, and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver including circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures.

4. Continuing education. By December 31, 2017, an individual licensed under this chapter must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Penalties. An individual who violates this section commits a civil violation for which a fine of $250 per violation, not to exceed $5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

Sec. 21. 32 MRSA §3656, sub-§§3 and 4, as enacted by PL 2007, c. 402, Pt. P, §14, are amended to read:

3. False advertising. Engaging in false, misleading or deceptive advertising; ~~or~~

4. Unlawful prescription of controlled substance. Prescribing narcotic or hypnotic or other drugs listed as controlled substances by the federal Drug Enforcement Administration for other than accepted therapeutic purposes~~.~~; or

Sec. 22. 32 MRSA §3656, sub-§5 is enacted to read:

5. Controlled Substances Prescription Monitoring Program. Failure to comply with the requirements of Title 22, section 7253.

Sec. 23. 32 MRSA §3657 is enacted to read:

§3657. Requirements regarding prescription of opioid medication

1. Limits on opioid medication prescribing. Except as provided in subsection 2, an individual licensed under this chapter and whose scope of practice includes prescribing opioid medication may not prescribe:

A. To a patient any combination of opioid medication in an aggregate amount in excess of 100 morphine milligram equivalents of opioid medication per day;

B. To a patient who, on the effective date of this section, has an active prescription for opioid medication in excess of 100 morphine milligram equivalents of an opioid medication per day, an opioid medication in an amount that would cause that patient's total amount of opioid medication to exceed 300 morphine milligram equivalents of opioid medication per day; except that, on or after July 1, 2017, the aggregate amount of opioid medication prescribed may not be in excess of 100 morphine milligram equivalents of opioid medication per day;

C. On or after January 1, 2017, within a 30-day period, more than a 30-day supply of an opioid medication to a patient under treatment for chronic pain. "Chronic pain" has the same meaning as in Title 22, section 7246, subsection 1-C; or

D. On or after January 1, 2017, within a 7-day period, more than a 7-day supply of an opioid medication to a patient under treatment for acute pain. "Acute pain" has the same meaning as in Title 22, section 7246, subsection 1-A.

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 only:

A. When prescribing opioid medication to a patient for:

(1) Pain associated with active and aftercare cancer treatment;

(2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;

(3) End-of-life and hospice care;

(4) Medication-assisted treatment for substance use disorder; or

(5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B.

3. Electronic prescribing. An individual licensed under this chapter and whose scope of practice includes prescribing opioid medication with the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. An individual who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure, and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver including circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures.

4. Continuing education. By December 31, 2017, an individual licensed under this chapter must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Penalties. An individual who violates this section commits a civil violation for which a fine of $250 per violation, not to exceed $5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

Sec. 24. 32 MRSA §4864, sub-§12, ¶D, as amended by PL 2007, c. 402, Pt. R, §8, is further amended to read:

D. The continuance of a veterinarian directly or indirectly in the employ of or in association with any veterinarian after knowledge that such veterinarian is engaged in the violation of the provisions of this chapter; ~~or~~

Sec. 25. 32 MRSA §4864, sub-§13, as amended by PL 2007, c. 402, Pt. R, §8, is further amended to read:

13. Lack of sanitation. Failure to maintain veterinary premises and equipment in a clean and sanitary condition as defined by the board in accordance with the sanitation provisions included in Title 7, section 3936~~.~~; or

Sec. 26. 32 MRSA §4864, sub-§15 is enacted to read:

15. Controlled Substances Prescription Monitoring Program. Failure to comply with the requirements of Title 22, section 7253.

Sec. 27. 32 MRSA §4878 is enacted to read:

§4878. Requirements regarding prescription of opioid medication

1. Limits on opioid medication prescribing. A veterinarian licensed under this chapter whose scope of practice includes prescribing opioid medication to an animal is subject to the requirements of the Controlled Substances Prescription Monitoring Program established under Title 22, chapter 1603, except that Title 22, section 7254 does not apply.

2. Electronic prescribing. A veterinarian licensed under this chapter whose scope of practice includes prescribing opioid medication and who has the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. A veterinarian who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures.

3. Continuing education. By December 31, 2017, a veterinarian who prescribes opioid medication must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. Penalties. A veterinarian who violates this section commits a civil violation for which a fine of $250 per violation, not to exceed $5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

Sec. 28. 32 MRSA §13702-A, sub-§20-A is enacted to read:

20-A. Opioid medication. "Opioid medication" means a controlled substance containing an opioid included in schedule II of 21 United States Code, Section 812 or 21 Code of Federal Regulations, Part 1308.

Sec. 29. 32 MRSA §13756 is enacted to read:

§13756. Electronic prescribing of opioid medication

By July 1, 2017, a pharmacy must have the capability to process electronic prescriptions from prescribers for an opioid medication or request a waiver from the Commissioner of Health and Human Services stating the reasons for the waiver including but not limited to a lack of capability, the availability of broadband infrastructure and a plan for developing the ability to receive electronically prescribed opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including technological failures.

Sec. 30. 32 MRSA §13786-B is enacted to read:

§13786-B. Partial dispensing of prescription for opioid medication

1. Partial dispensing authorized. Notwithstanding any law or rule to the contrary, a pharmacist may partially dispense a prescription for an opioid medication in a lesser quantity than the recommended full quantity indicated on the prescription if requested by the patient for whom the prescription is written. The remaining quantity of the prescription in excess of the recommended full quantity is void and may not be dispensed without a new prescription.

2. Notice to practitioner. If a pharmacist partially dispenses a prescription for an opioid medication as permitted under this section, the pharmacist or the pharmacist's designee shall, within a reasonable time following the partial dispensing but not more than 7 days, notify the practitioner of the quantity of the opioid medication actually dispensed. The notice may be conveyed by a notation on the patient's electronic health record or by electronic transmission, by facsimile or by telephone to the practitioner.

Sec. 31. 32 MRSA §13786-C is enacted to read:

§13786-C. Dispensing of prescription of opioid medication; immunity

A pharmacist who dispenses opioid medication in good faith is immune from any civil liability that might otherwise result from dispensing medication in excess of the limit established in section 2210, subsection 1, paragraphs A and B; section 2600-C, subsection 1, paragraphs A and B; section 3300-F, subsection 1, paragraphs A and B; section 3657, subsection 1, paragraphs A and B; or section 18308, subsection 1, paragraphs A and B, if the medication was dispensed in accordance with a prescription issued by a practitioner. In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

Sec. 32. 32 MRSA §18308 is enacted to read:

§18308. Requirements regarding prescription of opioid medication

1. Limits on opioid medication prescribing. Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe:

A. To a patient any combination of opioid medication in an aggregate amount in excess of 100

morphine milligram equivalents of opioid medication per day;

B. To a patient who, on the effective date of this section, has an active prescription for opioid medication in excess of 100 morphine milligram equivalents of an opioid medication per day, an opioid medication in an amount that would cause that patient's total amount of opioid medication to exceed 300 morphine milligram equivalents of opioid medication per day; except that, on or after July 1, 2017, the aggregate amount of opioid medication prescribed may not be in excess of 100 morphine milligram equivalents of opioid medication per day;

C. On or after January 1, 2017, within a 30-day period, more than a 30-day supply of an opioid medication to a patient under treatment for chronic pain. For purposes of this paragraph, "chronic pain" has the same meaning as in Title 22, section 7246, subsection 1-C; or

D. On or after January 1, 2017, within a 7-day period, more than a 7-day supply of an opioid medication to a patient under treatment for acute pain. For purposes of this paragraph, "acute pain" has the same meaning as in Title 22, section 7246, subsection 1-A.

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 only:

A. When prescribing opioid medication to a patient for:

(1) Pain associated with active and aftercare cancer treatment;

(2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;

(3) End-of-life and hospice care;

(4) Medication-assisted treatment for substance use disorder; or

(5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B.

3. Electronic prescribing. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication and who has the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. An individual who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures.

4. Continuing education. By December 31, 2017, an individual licensed under this chapter must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Penalties. An individual who violates this section commits a civil violation for which a fine of $250 per violation, not to exceed $5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

Sec. 33. 32 MRSA §18325, sub-§1, ¶¶N and O, as enacted by PL 2015, c. 429, §21, are amended to read:

N. Any violation of a requirement imposed pursuant to section 18352; ~~and~~

O. A violation of this chapter or a rule adopted by the board~~.~~; and

Sec. 34. 32 MRSA §18325, sub-§1, ¶P is enacted to read:

P. Failure to comply with the requirements of Title 22, section 7253.

Sec. 35. Department of Health and Human Services to amend rules to require registration of pharmacists; automatic enrollment. The Department of Health and Human Services shall amend its rules governing the Controlled Substances Prescription Monitoring Program under the Maine Revised Statutes, Title 22, chapter 1603 no later than January 1, 2017 to require pharmacists to register as data requesters. The enrollment mechanism for pharmacists who are registering with the program or re-

newing registration must be automatic when applying for or renewing a professional license in the same manner as it is for prescribers who are health care professionals with authority to prescribe controlled substances.

Sec. 36. Department of Health and Human Services to amend rules to require registration of veterinarians; automatic enrollment. The Department of Health and Human Services shall amend its rules governing the Controlled Substances Prescription Monitoring Program under the Maine Revised Statutes, Title 22, chapter 1603 no later than January 1, 2017 to require veterinarians to register as data requesters. The enrollment mechanism for veterinarians who are registering with the program or renewing registration must be automatic when applying for or renewing a professional license in the same manner as it is for prescribers who are health care professionals with authority to prescribe controlled substances.

Sec. 37. Enhancements to the Controlled Substances Prescription Monitoring Program. The Department of Health and Human Services shall include in its request for proposals process under the Maine Revised Statutes, Title 22, section 7248, subsection 2 the following enhancements to the Controlled Substances Prescription Monitoring Program under Title 22, chapter 1603:

1. A mechanism or calculator for converting dosages to and from morphine milligram equivalents;

2. A mechanism to automatically transmit deidentified peer data on an annual basis to prescribers of opioid medication;

3. Allowance for a broader authorization for staff members of prescribers to access the program including a single annual authorization for staff members at a licensed hospital and a pharmacy;

4. Improvements in communication regarding the ability of a prescriber to authorize staff members to access the program on behalf of the prescriber;

5. Improvements in communication regarding the ability of a pharmacist to authorize staff members to access the program on behalf of the pharmacist;

6. Improvements in the speed of the program for prescribers and pharmacists required to submit information and check the program, and the ability for prescribers and pharmacists to tailor the functions of the program to fit into the workflow of the prescribers and pharmacists required to access the program; and

7. The establishment of a data modifier for information from a veterinarian prescribing opioid medication to an animal that differentiates the recipient of the opioid prescription from people.

Notwithstanding the Title 32, section 2210, subsection 5; section 2600-C, subsection 5; section 3300-F, subsection 5; section 3657, subsection 5; and section 18308, subsection 5, a penalty may not be imposed for a violation of the limits on opioid prescribing in Title 32, section 2210, subsection 1; section 2600-C, subsection 1; section 3300-F, subsection 1; section 3657, subsection 1; or section 18308, subsection 1 until the enhancement to the Controlled Substances Prescription Monitoring Program described in subsection 1 is implemented.

Sec. 38. Effect on out-of-pocket costs. The Bureau of Insurance within the Department of Professional and Financial Regulation shall evaluate the effect of the limits on prescriptions for opioid medication established by this Act on the claims paid by health insurance carriers and the out-of-pocket costs, including copayments, coinsurance and deductibles, paid by individual and group health insurance policyholders. On or before January 1, 2018, the bureau shall submit a report on the evaluation, along with any recommended policy and regulatory options that will ensure costs for patients are not increased as a result of new prescribing limitations on the amounts of opioid medications, to the joint standing committees of the Legislature having jurisdiction over health and human services matters and over insurance and financial services matters. The joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters may report out legislation related to the evaluation to the Second Regular Session of the 128th Legislature.

Sec. 39. Department of Health and Human Services implementation report. The Department of Health and Human Services shall report to the joint standing committees of the Legislature having jurisdiction over health and human services matters and over occupational and professional regulation matters, no later than January 31, 2018, with progress on implementing the provisions of this Act. The report must contain information on the following:

1. Registration of prescribers and dispensers in the Controlled Substances Prescription Monitoring Program under the Maine Revised Statutes, Title 22, chapter 1603;

2. Data regarding the checking and using of the Controlled Substances Prescription Monitoring Program by data requesters;

3. Data from professional boards regarding the implementation of continuing education requirements for prescribers of opioid medication;

4. Effects on the prescriber workforce;

5. Changes in the numbers of patients taking more than 100 morphine milligram equivalents of opioid medication per day;

6. Data regarding the total number of opioid medication pills prescribed;

7. Progress on electronic prescribing of opioid medication; and

8. Improvements to the Controlled Substances Prescription Monitoring Program through the request for proposals process including feedback from prescribers and dispensers on those improvements.

See title page for effective date.

CHAPTER 489

S.P. 660 - L.D. 1627

An Act To Implement Certain Recommendations of the Maine Proficiency Education Council

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

Sec. 1. 20-A MRSA §4511, sub-§3, ¶J is enacted to read:

J. The school demonstrates evidence of sufficient capacity through multiple pathways as set out in section 4703 for students to reach proficiency in each of the content areas of the system of learning results established under section 6209 and in each of the guiding principles set forth in department rules governing implementation of the system of learning results established pursuant to section 6209.

Sec. 2. 20-A MRSA §4722-A, as amended by PL 2015, c. 267, Pt. C, §3; c. 342, §1; and c. 362, §1; and corrected by RR 2015, c. 1, §14, is further amended to read:

§4722-A. Proficiency-based diploma standards and transcripts

Beginning January 1, 2017, a diploma indicating graduation from a secondary school must be based on student demonstration of proficiency as described in this section. The commissioner may permit a school administrative unit to award diplomas under this section prior to January 1, 2017 if the commissioner finds that the unit's plan for awarding diplomas meets the criteria for proficiency-based graduation under this section.

1. Requirements for award of diploma. In order to ~~receive~~ award to a student a diploma indicating graduation from secondary school, a ~~student~~ school subject to the system of learning results established under section 6209 must:

~~A. Demonstrate that the student engaged in educational experiences relating to English language arts, mathematics and science and technology in each year of the student's secondary schooling;~~

A-1. Certify that the student has met all requirements specified by the governing body of the school administrative unit attended by the student;

B. ~~Demonstrate~~ Certify that the student has demonstrated proficiency in meeting state standards in all content areas of the system of learning results established under section 6209;

B-1. Phase in the following diploma requirements from the 2020-2021 school year to the 2024-2025 school year:

(1) For a student graduating in the graduating class of 2020-2021, certify that the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, science and technology and social studies;

(2) For a student graduating in the graduating class of 2021-2022, certify that the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, science and technology, social studies and at least one additional content area of the student's choice;

(3) For a student graduating in the graduating class of 2022-2023, certify that the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, science and technology, social studies and at least 2 additional content areas of the student's choice;

(4) For a student graduating in the graduating class of 2023-2024, certify that the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, science and technology, social studies and at least 3 additional content areas of the student's choice; and

(5) For a student graduating in the graduating class of 2024-2025 and for each subsequent graduating class, certify that the student has demonstrated proficiency in meeting the state standards in all content areas.

For the purposes of this paragraph, "content areas" refers to the content areas of the system of learning results established under section 6209.

C. ~~Demonstrate~~ Certify that the student has demonstrated proficiency in each of the guiding principles set forth in department rules governing im-