

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST SPECIAL SESSION
October 23, 2017 to November 6, 2017

SECOND REGULAR SESSION
January 3, 2018 to May 2, 2018

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 5, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 1, 2018

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

Augusta, Maine
2018

C. Contains a finding required by law other than this Act.

6. Immunity. A custodian and its officers, employees and agents are immune from liability for an act or omission done in good faith in compliance with this Act.

§10-117. Uniformity of application and construction

In applying and construing this Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§10-118. Relation to Electronic Signatures in Global and National Commerce Act

This Act modifies, limits or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b).

PART B

Sec. B-1. 18-A MRSA §1-201, sub-§(33), as enacted by PL 1979, c. 540, §1, is amended to read:

(33). "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership, including a digital asset as defined in section 10-102, subsection 9.

Sec. B-2. 18-A MRSA §5-931, sub-§(a), ¶¶(7) and (8), as enacted by PL 2009, c. 292, §2 and affected by §6, are amended to read:

- (7). Exercise fiduciary powers that the principal has authority to delegate; ~~or~~
- (8). Disclaim property, including a power of appointment; or

Sec. B-3. 18-A MRSA §5-931, sub-§(a), ¶(9) is enacted to read:

(9). Exercise authority over the content of an electronic communication of the principal in accordance with the Maine Revised Uniform Fiduciary Access to Digital Assets Act.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect July 1, 2018.

Effective July 1, 2018.

CHAPTER 360

S.P. 629 - L.D. 1730

An Act To Change the Procedures for Veterinarians in 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-§2, as amended by PL 2017, c. 213, §2, is repealed and the following enacted in its place:

2. Dispenser. "Dispenser" means:

- A. A pharmacist who is licensed or registered under Title 32; or
- B. A veterinarian licensed under Title 32, chapter 71-A with authority to dispense a benzodiazepine or an opioid medication.

Sec. 2. 22 MRSA §7246, sub-§5, as amended by PL 2015, c. 488, §2, is further 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-§1, as amended by PL 2017, c. 213, §3, is further amended to read:

1. Information required. Except as provided in subsection 1-A ~~or 1-B~~, each dispenser shall submit to the department, by electronic means or other format specified in a waiver granted by the department, specific items of information regarding dispensed controlled substances determined by the ~~office~~ department from the following list:

- A. The dispenser identification number;
- B. The date the prescription was filled;
- C. The prescription number;
- D. Whether the prescription is new or is a refill;
- E. The National Drug Code (NDC) for the drug dispensed;
- F. The quantity dispensed;
- G. The dosage;
- H. The patient identification number;
- I. The patient name;
- J. The patient address;
- K. The patient date of birth;
- L. The prescriber identification number;

M. The date the prescription was issued by the prescriber; and

N. The department-issued serial number if the department chooses to establish a serial prescription system.

Sec. 4. 22 MRSA §7249, sub-§1-B is enacted to read:

1-B. Small quantity dispensing by veterinarians. If a benzodiazepine or an opioid medication is dispensed by a veterinarian for an animal in a mobile or emergency setting or in an amount to be used during a period of 48 hours or less after the benzodiazepine or opioid medication is dispensed, the dispenser is not required to comply with subsection 1.

Sec. 5. 22 MRSA §7251, sub-§1, as amended by PL 2015, c. 488, §8, 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, by the State Board of Veterinary Medicine pursuant to Title 32, chapter 71-A or by the applicable professional licensing entity.

Sec. 6. 22 MRSA §7253, sub-§2, as amended by PL 2017, c. 213, §8, is further amended to read:

2. Dispensers. ~~On or after January 1, 2017, a~~ 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 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.

Sec. 7. 22 MRSA §7253, sub-§2-A is enacted to read:

2-A. Dispensers who are veterinarians. Notwithstanding subsection 2, a dispenser who is a veterinarian licensed under Title 32, chapter 71-A shall check prescription monitoring information prior to

dispensing a benzodiazepine or an opioid medication for an animal except in circumstances described in subsection 3, paragraph C.

Sec. 8. 22 MRSA §7253, sub-§3, as amended by PL 2017, c. 213, §9, is further amended to read:

3. Exceptions. The requirements to check prescription monitoring information established in this section do not apply:

A. When a licensed or certified health care professional directly orders or administers a benzodiazepine or an opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure; ~~or~~

B. When a licensed or certified ~~health~~ health care professional directly orders, prescribes or administers a benzodiazepine or an opioid medication to a person suffering from pain associated with end-of-life or hospice care; ~~or~~

C. When a veterinarian licensed under Title 32, chapter 71-A is providing care to an animal in a mobile or emergency setting or is dispensing a benzodiazepine or an opioid medication in an amount to be used during a period of 48 hours or less after the benzodiazepine or opioid medication is dispensed.

Sec. 9. 32 MRSA §4878, as enacted by PL 2015, c. 488, §27, is amended to read:

§4878. Requirements regarding prescribing and dispensing benzodiazepine or opioid medication

1. Benzodiazepine or opioid medication dispensing. A veterinarian licensed under this chapter whose scope of practice includes ~~prescribing~~ dispensing a benzodiazepine or an opioid medication ~~to~~ for 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 a benzodiazepine or an opioid medication and who has the capability to electronically prescribe shall prescribe all benzodiazepine or 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 2022 or when an electronic platform for prescribing is widely available for veterinarians if that occurs before July 1, 2022 as determined by the Commissioner of Health and Human Services. A veterinarian licensed under this chapter unable to comply with the electronic prescribing requirements of this subsection may request a waiver from the Commissioner of Health and Human Services for circumstances in which exceptions are appropriate as determined by the Commissioner of Health and Human Services.~~

3. Continuing education. ~~By December 31, 2017, a~~ A veterinarian who prescribes a benzodiazepine or an opioid medication must successfully complete ~~3 hours~~ one hour of continuing education every 2 years on the administration, prescription and management of opioid medication controlled substances, including benzodiazepine and opioid medications, as a condition of prescribing a benzodiazepine or an opioid medication. The board ~~shall~~ may 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.~~

See title page for effective date.

CHAPTER 361

H.P. 1227 - L.D. 1781

An Act To Encourage New Major Investments in Shipbuilding Facilities and the Preservation of Jobs

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

Sec. 1. 36 MRSA §191, sub-§2, ¶¶~~EEE~~ and ~~FFF~~ are enacted to read:

EEE. The disclosure to the joint standing committee of the Legislature having jurisdiction over taxation matters pursuant to section 5219-RR, subsection 9, paragraph B of the revenue loss attributable to each taxpayer claiming the tax credit under that section, regardless of the number of persons eligible for the credit; and

FFF. The disclosure of information to the Department of Economic and Community Development necessary for the administration of the tax

credit for major shipbuilding facility investments pursuant to section 5219-RR.

Sec. 2. 36 MRSA §5219-RR is enacted to read:

§5219-RR. Tax credit for Maine shipbuilding facility investment

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

A. "Certified applicant" means a qualified applicant that has received a certificate of approval from the commissioner pursuant to this section.

B. "Commissioner" means the Commissioner of Economic and Community Development.

C. "Employment" means, for each tax year, the amount determined by adding the total number of qualified employees of a certified applicant on each of 6 consecutive measurement days of that tax year as chosen by the certified applicant and then dividing that sum by 6.

D. "Full-time" means an average of at least 32 hours weekly during the tax year.

E. "Maine shipbuilding facility" means a facility or facilities located within the State dedicated to the design, production, maintenance and repair of surface water vessels and includes real estate, tangible personal property, fixtures, machinery and equipment necessary for those activities.

F. "Measurement day" means the last business day of every other month of a tax year.

G. "Qualified applicant" means an applicant for a tax credit under this section that satisfies each of the following requirements:

(1) The applicant owns and operates or proposes to construct a Maine shipbuilding facility;

(2) The applicant proposes to make a qualified investment;

(3) The applicant employs at least 5,000 qualified employees at the time the application is filed; and

(4) The applicant does not otherwise qualify for the Pine Tree Development Zone program pursuant to Title 30-A, section 5250-O or the Maine Employment Tax Increment Financing Program established in chapter 917 at the time the application is filed.

H. "Qualified employee" means an individual:

(1) Who is a full-time employee of the certified or qualified applicant, as the case may