LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

C. Engaging in unprofessional conduct by violating any standard of professional behavior, including but not limited to a breach of confidentiality of health care information pursuant to state law, that has been established in the practice for which the licensee is licensed; ~~or~~

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

Sec. 3. 32 MRSA §13742-A, sub-§1, ¶E is enacted to read:

E. Failing to comply with section 13800.

Sec. 4. 32 MRSA §13742-A, sub-§4 is enacted to read:

4. Injunction. Notwithstanding any other provision of law, the Attorney General may seek injunctive relief against a person who violates subsection 1, paragraph E. If the Attorney General prevails in an action under this subsection, the court must order the person to reimburse the State for the Attorney General's costs of prosecuting the action, including reasonable attorney's fees.

Sec. 5. 32 MRSA §§13800 and 13800-A are enacted to read:

§13800. Access to distributed drugs

A manufacturer or wholesaler licensed under section 13758 shall make a drug distributed in this State available for sale in this State to an eligible product developer for purposes of conducting testing required to support an application for approval of a drug under the Federal Food, Drug, and Cosmetic Act, Section 505(b) or 505(j) or the licensing of a biological product under the federal Public Health Service Act, Section 351.

The manufacturer or wholesaler licensed under section 13758 shall make the drug available for sale at a price no greater than the wholesale acquisition cost and without any restriction that would block or delay the eligible product developer's application in a manner inconsistent with Section 505-1(f)(8) of the Federal Food, Drug, and Cosmetic Act, 21 United States Code, Section 355-1(f)(8) (2016).

An eligible product developer that receives a drug at a price no greater than the wholesale acquisition cost for that drug pursuant to this section shall charge consumers in this State the same price or less for the drug manufactured by that eligible product developer.

As used in this section, "wholesale acquisition cost" means the manufacturer's list price for a brand-name drug or a generic drug per person per year or course of treatment when sold to wholesalers or direct purchasers in the United States, not including discounts or rebates, for the most recent month for which information is available.

§13800-A. Liability for product of another; exemption

A manufacturer or wholesaler licensed under section 13758 is not liable for injuries alleged to have been caused by the failure to include adequate safety warnings on a product's label or by a defect in the product's design if:

1. Access to distributed drugs. The manufacturer or wholesaler has made the product distributed in this State available to an eligible product developer in accordance with section 13800; and

2. Manufactured or sold by another. The product was not manufactured or sold by that manufacturer or wholesaler.

Sec. 6. Intent. The costs of health care in this State are making health care coverage unaffordable for many consumers, increasing health care costs for the State and contributing to a health care crisis in this State. Increased competition in the market for drugs and biological products lowers prescription drug costs for patients and taxpayers. In order for there to be competition in the prescription drug market, developers of generic drugs and biosimilar biological products must be able to obtain quantities of the reference listed drug or biological product with which the generic drug or biosimilar biological product is intended to compete, referred to in this section as "reference samples," for purposes of supporting an application for approval by the United States Food and Drug Administration. Closed distribution systems are impeding generic and biosimilar product developers from obtaining reference samples to conduct necessary testing and otherwise meet requirements for approval of generic and biosimilar drugs and subjecting residents of this State to monopoly drug prices. This Act promotes competition in the market for drugs and biological products by facilitating access to reference samples. Developers of generic drugs and biosimilar biological products are required to act in accordance with applicable federal law and regulations in the testing of reference samples. The increased sales of reference samples in this State will generate revenue for the State.

See title page for effective date.

CHAPTER 435

S.P. 439 - L.D. 1287

An Act To Strengthen Efforts To Recruit and Retain Primary Care Professionals and Dentists in Rural and Underserved Areas of the State

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

Sec. 1. 36 MRSA §5219-DD, sub-§2, as amended by PL 2011, c. 434, §1, is further amended to read:

2. Credit. An eligible dentist determined to be eligible before January 1, 2012 is allowed a credit for each taxable year, not to exceed $15,000, against the taxes due under this Part. ~~For dentists~~ An eligible dentist determined to be eligible on or after January 1, 2012~~, an eligible dentist~~ but before January 1, 2018 is allowed a credit for each taxable year, not to exceed $12,000, against the taxes due under this Part. An eligible dentist determined to be eligible on or after January 1, 2018 but before January 1, 2023 is allowed a credit, not to exceed $6,000 in the first year, $9,000 in the 2nd year, $12,000 in the 3rd year, $15,000 in the 4th year and $18,000 in the 5th year, against the taxes due under this Part. The credit may be claimed in the first year that the eligible dentist meets the conditions of eligibility for at least 6 months and each of the 4 subsequent years. The credit is not refundable.

Sec. 2. 36 MRSA §5219-DD, sub-§3, as amended by PL 2011, c. 434, §2, is further amended to read:

3. Eligibility limitation; certification. The oral health program shall certify up to 5 eligible dentists in each year in 2009, 2010 and 2011 ~~and,~~ up to 6 additional eligible dentists in each year from 2012 through 2015 and up to 5 eligible dentists in each year from 2018 through 2022. Additional dentists may not be certified after ~~2015~~ 2022. The oral health program shall monitor certified dentists to ensure that they continue to be eligible for the credit under this section and shall decertify any dentist who ceases to meet the conditions of eligibility. The oral health program shall notify the bureau whenever a dentist is certified or decertified. A decertified dentist ceases to be eligible for the credit under this section beginning with the tax year during which the dentist is decertified.

Sec. 3. 36 MRSA §5219-DD, sub-§6, as amended by PL 2011, c. 434, §3, is further amended to read:

6. Repeal. This section is repealed December 31, ~~2020~~ 2027.

Sec. 4. 36 MRSA §5219-LL, sub-§§2 and 3, as reallocated by RR 2013, c. 2, §46, are amended to read:

2. Credit. For tax years beginning on or after January 1, 2014 ~~but before January 1, 2019~~, an eligible primary care professional is allowed a credit against the taxes due under this Part as follows.

A. The credit may be claimed in the first year that the eligible primary care professional meets the conditions of eligibility for at least 6 months and each of the 4 subsequent years or until the student loan of the eligible primary care professional is paid in full, whichever comes first.

B. The credit may be claimed in an amount equal to the annual payments made on the student loan not to exceed $6,000 in the first year, $9,000 in the 2nd year, $12,000 in the 3rd year, $15,000 in the 4th year and $18,000 in the 5th year.

C. The credit may not reduce the tax due under this Part to less than zero.

3. Eligibility limitation; certification. The Department of Health and Human Services shall certify up to ~~5~~ 10 eligible primary care professionals each year. The Department of Health and Human Services shall monitor certified primary care professionals to ensure that they continue to be eligible for the credit under this section and shall decertify any primary care professional who ceases to meet the conditions of eligibility. The Department of Health and Human Services shall notify the bureau whenever a primary care professional is certified or decertified. A decertified primary care professional ceases to be eligible for the credit under this section beginning with the tax year during which the primary care professional is decertified.

See title page for effective date.

CHAPTER 436
H.P. 916 - L.D. 1322

An Act Regarding Mental Health First Aid Training for Corrections Personnel

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

Sec. 1. 25 MRSA §2804-D, sub-§1, as amended by PL 2013, c. 147, §33, is further amended to read:

1. Required. As a condition to the continued employment of any person as a corrections officer, that person must successfully complete, within the first 12 months of employment, a basic training course as approved by the board. Thereafter, as a condition of continued employment as a corrections officer, the officer must satisfactorily maintain the basic certification. The board, under extenuating and emergency circumstances in individual cases, may extend the 12-month period for not more than 180 days. The board, in individual cases, may waive basic training requirements when the facts indicate that an equivalent course has been successfully completed in another state or federal jurisdiction. A full-time correctional trade instructor ~~hired after January 1, 2002~~ must meet the training requirements established under this subsection for corrections officers. Beginning January 1, 2018,