LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2021

3. Ensure that dispute resolution processes for residential and nonresidential interconnection customers are fair and efficient and do not place a disproportionate burden of technical expertise and cost on these customers.

Within 6 months of the effective date of this Act, the commission shall conduct a proceeding and issue an order relating to the near-term reforms identified in the evaluation conducted under this section. Within one year of the effective date of this Act, the commission shall determine and adopt cost allocation methods for interconnection studies and upgrades that ensure on-site solar energy generators do not bear prohibitive costs for their projects to be studied by investor-owned transmission and distribution utilities and to be interconnected to the State's distribution system.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC UTILITIES COMMISSION

Public Utilities - Administrative Division 0184

Initiative: Provides an allocation for contracted services for a solar resources interconnection evaluation.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	$254,693	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$254,693	$0

See title page for effective date.

CHAPTER 265

S.P. 378 - L.D. 1115

An Act To Improve Access to HIV Prevention Medications

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

Sec. 1. 22 MRSA §3174-M, sub-§1-A, ¶B, as enacted by PL 2005, c. 386, Pt. X, §1, is amended to read:

B. Be structured to maintain at least the same therapeutic categories and pharmacological classes of drugs provided on the MaineCare preferred drug list in effect on July 1, 2005; ~~and~~

Sec. 2. 22 MRSA §3174-M, sub-§1-A, ¶C, as enacted by PL 2005, c. 386, Pt. X, §1, is amended by amending subparagraph (3) to read:

(3) Conform to national standards for the prescribing of atypical antipsychotic drugs~~.~~; and

Sec. 3. 22 MRSA §3174-M, sub-§1-A, ¶D is enacted to read:

D. With respect to HIV prevention drugs as defined in Title 24-A, section 4317-D, subsection 1, paragraph B:

(1) Ensure that preexposure prophylaxis drugs are available; and

(2) Ensure that post-exposure prophylaxis drugs are available in accordance with national standards for the prescribing of post-exposure prophylaxis drugs.

Sec. 4. 24-A MRSA §4317-D is enacted to read:

§4317-D. Coverage of HIV prevention drugs

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

A. "CDC guidelines" means guidelines related to the nonoccupational exposure to potential HIV infection, or any subsequent guidelines, published by the federal Department of Health and Human Services, Centers for Disease Control and Prevention.

B. "HIV prevention drug" means a preexposure prophylaxis drug, post-exposure prophylaxis drug or other drug approved for the prevention of HIV infection by the federal Food and Drug Administration.

C. "Post-exposure prophylaxis drug" means a drug or drug combination that meets the clinical eligibility recommendations provided in CDC guidelines following potential exposure to HIV infection.

D. "Preexposure prophylaxis drug" means a drug or drug combination that meets the clinical eligibility recommendations provided in CDC guidelines to prevent HIV infection.

2. Coverage required. A carrier offering a health plan in this State shall provide coverage for an HIV prevention drug that has been prescribed by a provider. Coverage under this section is subject to the following.

A. If the federal Food and Drug Administration has approved one or more HIV prevention drugs that use the same method of administration, a carrier is not required to cover all approved drugs as long as the carrier covers at least one approved drug for each method of administration with no out-of-pocket cost.

B. A carrier is not required to cover any preexposure prophylaxis drug or post-exposure prophylaxis drug dispensed or administered by an out-of-network pharmacy provider unless the enrollee's health plan provides an out-of-network pharmacy benefit.

C. A carrier may not prohibit, or permit a pharmacy benefits manager to prohibit, a pharmacy

provider from dispensing or administering any HIV prevention drugs.

3. Limits on prior authorization and step therapy requirements. Notwithstanding any requirements in section 4304 or 4320-N to the contrary, a carrier may not subject any HIV prevention drug to any prior authorization or step therapy requirement except as provided in this subsection. If the federal Food and Drug Administration has approved one or more methods of administering HIV prevention drugs, a carrier is not required to cover all of the approved drugs without prior authorization or step therapy requirements as long as the carrier covers at least one approved drug for each method of administration without prior authorization or step therapy requirements. If prior authorization or step therapy requirements are met for a particular enrollee with regard to a particular HIV prevention drug, the carrier is required to cover that drug with no out-of-pocket cost to the enrollee.

4. Coverage for laboratory testing related to HIV prevention drugs. A carrier offering a health plan in this State shall provide coverage with no out-of-pocket cost for laboratory testing recommended by a provider related to the ongoing monitoring of an enrollee who is taking an HIV prevention drug covered by this section.

Sec. 5. 32 MRSA §13702-A, sub-§28, as amended by PL 2017, c. 185, §1, is further amended to read:

28. Practice of pharmacy. "Practice of pharmacy" means the interpretation and evaluation of prescription drug orders; the compounding, dispensing and 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 vaccines licensed by the United States Food and Drug Administration that are recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization, for administration to adults; the performance of collaborative drug therapy management; the responsibility for advising, when necessary or regulated, of therapeutic values, content, hazards and use of drugs and devices; the ordering and dispensing of over-the-counter nicotine replacement products approved by the United States Food and Drug Administration; the prescribing, dispensing and administering of an HIV prevention drug, as defined in section 13786-E, subsection 1, paragraph B, pursuant to a standing order or collaborative practice agreement or to protocols developed by the board; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.

Sec. 6. 32 MRSA §13786-E is enacted to read:

§13786-E. Prescribing, dispensing and administering HIV prevention drugs

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

A. "CDC guidelines" means guidelines related to nonoccupational exposure to potential HIV infection, or any subsequent guidelines, published by the federal Department of Health and Human Services, Centers for Disease Control and Prevention.

B. "HIV prevention drug" means a preexposure prophylaxis drug, post-exposure prophylaxis drug or other drug approved for the prevention of HIV infection by the federal Food and Drug Administration.

C. "Post-exposure prophylaxis drug" means a drug or drug combination that meets the clinical eligibility recommendations provided in CDC guidelines following potential exposure to HIV infection.

D. "Preexposure prophylaxis drug" means a drug or drug combination that meets the clinical eligibility recommendations provided in CDC guidelines to prevent HIV infection.

2. Authorization. Notwithstanding any provision of law to the contrary and as authorized by the board in accordance with rules adopted under subsection 3, a pharmacist may prescribe, dispense and administer HIV prevention drugs pursuant to a standing order or collaborative practice agreement or to protocols developed by the board for when there is no prescription drug order, standing order or collaborative practice agreement in accordance with the requirements in this subsection and may also order laboratory testing for HIV infection as necessary.

A. Before furnishing an HIV prevention drug to a patient, a pharmacist shall complete a training program approved by the board on the use of protocols developed by the board for prescribing, dispensing and administering an HIV prevention drug, on the requirements for any laboratory testing for HIV infection and on guidelines for prescription adherence and best practices to counsel patients prescribed an HIV prevention drug.

B. A pharmacist shall dispense or administer a preexposure prophylaxis drug in at least a 30-day supply, and up to a 60-day supply, as long as all of the following conditions are met:

(1) The patient tests negative for HIV infection, as documented by a negative HIV test result obtained within the previous 7 days. If the patient does not provide evidence of a negative

HIV test result in accordance with this subparagraph, the pharmacist shall order an HIV test. If the test results are not transmitted directly to the pharmacist, the pharmacist shall verify the test results to the pharmacist's satisfaction. If the patient tests positive for HIV infection, the pharmacist or person administering the test shall direct the patient to a primary care provider and provide a list of primary care providers and clinics within a reasonable travel distance of the patient's residence;

(2) The patient does not report any signs or symptoms of acute HIV infection on a self-reporting checklist of acute HIV infection signs and symptoms;

(3) The patient does not report taking any contraindicated medications;

(4) The pharmacist provides counseling to the patient, consistent with CDC guidelines, on the ongoing use of a preexposure prophylaxis drug. The pharmacist shall notify the patient that the patient must be seen by a primary care provider to receive subsequent prescriptions for a preexposure prophylaxis drug and that a pharmacist may not dispense or administer more than a 60-day supply of a preexposure prophylaxis drug to a single patient once every 2 years without a prescription;

(5) The pharmacist documents, to the extent possible, the services provided by the pharmacist in the patient's record in the patient profile record system maintained by the pharmacy. The pharmacist shall maintain records of preexposure prophylaxis drugs dispensed or administered to each patient;

(6) The pharmacist does not dispense or administer more than a 60-day supply of a preexposure prophylaxis drug to a single patient once every 2 years, unless otherwise directed by a practitioner; and

(7) The pharmacist notifies the patient's primary care provider that the pharmacist completed the requirements specified in this paragraph. If the patient does not have a primary care provider, or refuses consent to notify the patient's primary care provider, the pharmacist shall provide the patient a list of physicians, clinics or other health care providers to contact regarding follow-up care.

C. A pharmacist shall dispense or administer a complete course of a post-exposure prophylaxis drug as long as all of the following conditions are met:

(1) The pharmacist screens the patient and determines that the exposure occurred within the previous 72 hours and the patient otherwise meets the clinical criteria for a post-exposure prophylaxis drug under CDC guidelines;

(2) The pharmacist provides HIV testing to the patient or determines that the patient is willing to undergo HIV testing consistent with CDC guidelines. If the patient refuses to undergo HIV testing but is otherwise eligible for a post-exposure prophylaxis drug under this subsection, the pharmacist may dispense or administer a post-exposure prophylaxis drug;

(3) The pharmacist provides counseling to the patient, consistent with CDC guidelines, on the use of a post-exposure prophylaxis drug. The pharmacist shall also inform the patient of the availability of a preexposure prophylaxis drug for persons who are at substantial risk of acquiring HIV; and

(4) The pharmacist notifies the patient's primary care provider of the dispensing or administering of the post-exposure prophylaxis drug. If the patient does not have a primary care provider, or refuses consent to notify the patient's primary care provider, the pharmacist shall provide the patient a list of physicians, clinics or other health care providers to contact regarding follow-up care.

3. Rules; protocols. The board by rule shall establish standards for authorizing pharmacists to prescribe, dispense and administer HIV prevention drugs in accordance with subsection 2, including adequate training requirements and protocols for when there is no prescription drug order, standing order or collaborative practice agreement. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 7. Exemption from review. Notwithstanding the Maine Revised Statutes, Title 24-A, section 2752, this Act is enacted without review and evaluation by the Department of Professional and Financial Regulation, Bureau of Insurance.

Sec. 8. Application. The requirements of this Act apply to all individual and group health plans, as defined in the Maine Revised Statutes, Title 24-A, section 4301-A, subsection 7, executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2022. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 9. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Administrative Services - Professional and Financial Regulation 0094

Initiative: Allocates funds for technology-related costs associated with establishing one half-time Regulatory Health Compliance position to manage the anticipated increase in workload associated with the regulation of pharmacists' authority to dispense HIV prevention drugs.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	$2,729	$3,347
OTHER SPECIAL REVENUE FUNDS TOTAL	$2,729	$3,347

Licensing and Enforcement 0352

Initiative: Allocates funds for one half-time Regulatory Health Compliance position to manage the anticipated increase in workload associated with the regulation of pharmacists' authority to dispense HIV prevention drugs.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	0.500	0.500
Personal Services	$35,328	$49,424
All Other	$5,782	$2,904
OTHER SPECIAL REVENUE FUNDS TOTAL	$41,110	$52,328

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF DEPARTMENT TOTALS	2021-22	2022-23
OTHER SPECIAL REVENUE FUNDS	$43,839	$55,675
DEPARTMENT TOTAL - ALL FUNDS	$43,839	$55,675

See title page for effective date.

CHAPTER 266

H.P. 848 - L.D. 1170

An Act Regarding Unauthorized Possession of a Firearm in a Correctional Facility or Jail

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

Sec. 1. 17-A MRSA §1059 is enacted to read:

§1059. Unauthorized possession of a firearm in a correctional facility or jail

1. A person is guilty of unauthorized possession of a firearm in a correctional facility or jail if that person in fact possesses a firearm in a correctional facility or jail or on the premises of the correctional facility or jail.

2. This section does not apply to:

A. A law enforcement officer, a corrections officer or a corrections supervisor engaged in the performance of the law enforcement officer's, corrections officer's or corrections supervisor's public duty;

B. An employee of a courier or security service in the course and scope of employment for the courier or security service, as approved by the chief administrative officer of the correctional facility or the jail administrator; or

C. A person who has stored a firearm out of sight in a locked motor vehicle that is on the premises of a correctional facility or jail.

3. It is not a defense to a prosecution under this section that the person holds a valid permit to carry a concealed handgun issued under Title 25, chapter 252.

4. Unauthorized possession of a firearm in a correctional facility or jail is a Class D crime.

5. For the purposes of this section, "chief administrative officer" and "correctional facility" have the same meanings as in Title 34-A, section 1001, subsections 1 and 6, respectively, and "jail" means a county or regional jail.

See title page for effective date.

CHAPTER 267

H.P. 849 - L.D. 1171

An Act To Curtail No-knock Warrants

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

Sec. 1. 15 MRSA §57 is enacted to read:

§57. Restriction on no-knock warrants; requirements for no-knock warrants

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

A. "Law enforcement officer" or "officer" has the same meaning as in Title 25, section 2801-A, subsection 5.

B. "No-knock warrant" means a warrant that authorizes execution of the warrant without the law enforcement officer first announcing the authority for the execution of the warrant and the purpose for which the warrant was issued. Any warrant is a no-knock warrant if it is executed without waiting at least 20 seconds after the announcement of authority and purpose before making entry.