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STATE OF MAINE

AS PASSED BY THE

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Augusta, Maine
2021

CHAPTER 304
S.P. 271 - L.D. 683

An Act To Allow Maine Nonprofit Corporations To Hold Meetings Electronically

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

Sec. 1. 13-B MRSA §602, sub-§1, as enacted by PL 1977, c. 525, §13, is amended to read:

1. Where held; remote communication. Meetings of members, if any, may be held at such place, either within or without this State, as may be provided in the bylaws or at such place reasonably convenient to members, as determined by the board of directors. In the absence of any such provision, all meetings ~~shall~~ must be held at the registered office of the corporation in this State or, in the discretion of the board of directors, a meeting may be held entirely through means of remote communication without a specific site for the meeting or partially through means of remote communication with those members attending in person at the location provided in the meeting notice. The board of directors may, in its discretion, adopt guidelines and procedures authorizing members who are not physically present at a meeting of members to, by means of remote communication:

A. Participate in a meeting of members; and

B. Be deemed present in person for quorum purposes and vote at a meeting of members, whether such meeting is to be held at a designated place or entirely or partially through means of remote communication, only if:

(1) The corporation has implemented reasonable measures to verify each person participating remotely is a member or proxy holder of a member;

(2) The corporation has implemented procedures to accommodate remote communication; and

(3) If any member or proxy holder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action is maintained by the corporation.

For the purposes of this chapter, "remote communication" means reasonable measures that provide the members or their proxy holders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate and to read or hear the proceedings of the meeting, substantially concurrently with the proceedings, when not attending in person.

Sec. 2. 13-B MRSA §604, sub-§5, as enacted by PL 2019, c. 200, §2, is amended to read:

5. Voting by electronic transmission; voting remotely. The bylaws may provide, or the board of directors or members may determine, that some or all votes by members, as well as actions taken in accordance with section 606, may be conducted by electronic transmission under procedures established by the corporation. If the board of directors adopts guidelines and procedures under section 602, subsection 1 authorizing members to vote by means of remote communication, votes may be conducted remotely. A vote conducted by electronic transmission or remotely must be filed with the minutes of members' meetings and has the same effect as an in-person vote or a vote by proxy, and votes conducted remotely must be counted for quorum purposes.

See title page for effective date.

CHAPTER 305
S.P. 274 - L.D. 686

An Act To Increase Prescription Drug Pricing Transparency

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

Sec. 1. 22 MRSA §8731, sub-§1-A is enacted to read:

1-A. Drug product family. "Drug product family" means a group of one or more prescription drugs that share a unique generic drug description and drug form.

Sec. 2. 22 MRSA §8731, sub-§3, as enacted by PL 2019, c. 470, §8, is amended to read:

3. Manufacturer. "Manufacturer" means ~~a manufacturer of~~ an entity that manufactures or repackages, and sets the wholesale acquisition cost for, prescription drugs that are distributed in the State.

Sec. 3. 22 MRSA §8731, sub-§3-A is enacted to read:

3-A. Prescription drug. "Prescription drug" means a drug, as defined in 21 United States Code, Section 321(g) or a biological product as defined in 42 United States Code, Section 262(i)(1) that:

A. Is intended for human use;

B. Is not a device within the meaning of 21 United States Code, Section 321(h); and

C. By federal or state law, can be lawfully dispensed or administered only on prescription by a licensed health care professional.

Sec. 4. 22 MRSA §8732, sub-§1, as enacted by PL 2019, c. 470, §8, is amended by enacting at the end a new blocked paragraph to read:

This subsection is repealed January 30, 2022.

Sec. 5. 22 MRSA §8732, sub-§1-A is enacted to read:

1-A. Public notice of substantial drug price change or introduction. No later than January 30, 2022 and annually thereafter, the organization shall produce and post on its publicly accessible website a list of prescription drugs for which the manufacturer has during the prior calendar year:

A. Increased the wholesale acquisition cost of a brand-name drug by more than 20% per pricing unit;

B. Increased the wholesale acquisition cost of a generic drug that costs at least $10 per pricing unit by more than 20% per pricing unit; or

C. Introduced a new drug for distribution in this State when the wholesale acquisition cost is greater than the amount that would cause the drug to be considered a specialty drug under the Medicare Part D program. For the purposes of this paragraph, "Medicare Part D" has the same meaning as in section 254-D, subsection 1, paragraph F.

Sec. 6. 22 MRSA §8732, sub-§2, as enacted by PL 2019, c. 470, §8, is repealed and the following enacted in its place:

2. Disclosures by manufacturers, wholesale drug distributors and pharmacy benefits managers. The following disclosures apply to manufacturers, wholesale drug distributors and pharmacy benefits managers.

A. On or before February 15th of each year, the organization shall produce and post on its publicly accessible website a list of drug product families for which it intends to request pricing component data from manufacturers, wholesale drug distributors and pharmacy benefits managers. The organization shall base its inclusion of drug product families on any information the organization determines is relevant to providing greater consumer awareness of the factors contributing to the cost of prescription drugs in the State, and the organization shall consider drug product families that include prescription drugs:

(1) Included in the public notice of substantial drug price change or introduction under subsection 1-A; and

(2) For which the organization is required to produce an annual report pursuant to section 8712, subsection 5, including, but not limited to, the 25 costliest drugs, the 25 most frequently prescribed drugs in the State and the 25 drugs with the highest year-over-year cost increases.

B. Not sooner than 30 days after publicly posting the list of drug product families pursuant to paragraph A, the organization shall notify, via e-mail, manufacturers, wholesale drug distributors and pharmacy benefits managers pursuant to paragraph C.

C. Within 60 days from the date of a request from the organization relating to a specific prescription drug, a manufacturer, wholesale drug distributor or pharmacy benefits manager shall notify the organization of pricing component data per pricing unit of the prescription drug.

Sec. 7. 22 MRSA §8733, as enacted by PL 2019, c. 470, §8, is amended to read:

§8733. Confidentiality

Information provided to the organization as required by this subchapter by a manufacturer, wholesale drug distributor or pharmacy benefits manager is confidential and not a public record under Title 1, chapter 13, except that the organization may share information:

1. Bureau of Insurance. With the Department of Professional and Financial Regulation, Bureau of Insurance, to the extent necessary for the bureau to enforce the provisions of Title 24-A, as long as any information shared is kept confidential; ~~and~~

2. Aggregate. In the aggregate, as long as it is not released in a manner that allows the ~~identification of an individual drug or~~ determination of individual prescription drug pricing contract terms covering a manufacturer, wholesale drug distributor or pharmacy benefits manager~~.~~; and

3. Publicly available. That is available, for purchase or otherwise, to the public.

Sec. 8. 22 MRSA §8734, as enacted by PL 2019, c. 470, §8, is amended to read:

§8734. Registration requirements

Beginning January 1, 2020, ~~a manufacturer and~~ manufacturers, wholesale drug ~~distributor~~ distributors and pharmacy benefits managers subject to this subchapter shall register annually with the organization in a manner prescribed by the organization.

Sec. 9. 22 MRSA §8736, as enacted by PL 2019, c. 470, §8, is amended to read:

§8736. Public report

Beginning November 1, 2020 and annually thereafter, the organization shall produce and post on its publicly accessible website an annual report, including information developed from the ~~notifications and~~ disclosures received pursuant to this subchapter on trends

in the cost of prescription drugs, analysis of manufacturer prices and price increases, the major components of prescription drug pricing along the supply chain and the impacts on insurance premiums and cost sharing and any other information the organization determines is relevant to providing greater consumer awareness of the factors contributing to the cost of prescription drugs in the State. The report may not ~~disclose information attributable to any particular manufacturer, wholesale drug distributor or pharmacy benefits manager subject to this subchapter and may not~~ make public any information that is confidential pursuant to section 8733. The organization shall submit the report required by this section to the joint standing committee of the Legislature having jurisdiction over health data reporting and prescription drug matters and the committee may report out legislation to the first regular or second regular session of the Legislature, depending on the year in which the report is submitted.

See title page for effective date.

CHAPTER 306

H.P. 552 - L.D. 747

An Act Regarding Civil Mental Health Evaluations of Former Criminal Defendants

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

Sec. 1. 15 MRSA §101-D, sub-§5, ¶A, as amended by PL 2013, c. 434, §1 and affected by §15, is further amended to read:

A. Commit the defendant to the custody of the Commissioner of Health and Human Services for placement in an appropriate program for observation, care and treatment of people with mental illness or persons with intellectual disabilities or autism. An appropriate program may be in an institution for the care and treatment of people with mental illness, an intermediate care facility for persons who have intellectual disabilities or autism, a crisis stabilization unit, a nursing home, a residential care facility, an assisted living facility, a hospice, a hospital, an intensive outpatient treatment program or any program specifically approved by the court. At the end of 30 days or sooner, and again in the event of recommitment, at the end of 60 days and 180 days, the State Forensic Service or other appropriate office of the Department of Health and Human Services shall forward a report to the Commissioner of Health and Human Services relative to the defendant's competence to stand trial and its reasons. The Commissioner of Health and Human Services shall without delay file the report with the court having jurisdiction of the case. The court shall hold a hearing on the question of the defendant's competence to stand trial and receive all relevant testimony bearing on the question. If the State Forensic Service's report or the report of another appropriate office of the Department of Health and Human Services to the court states that the defendant is either now competent or not restorable, the court shall within 30 days hold a hearing. If the court determines that the defendant is not competent to stand trial, but there does exist a substantial probability that the defendant will be competent to stand trial in the foreseeable future, the court shall recommit the defendant to the custody of the Commissioner of Health and Human Services for placement in an appropriate program for observation, care and treatment of people with mental illness or persons with intellectual disabilities or autism. An appropriate program may be in an institution for the care and treatment of people with mental illness, an intermediate care facility for persons who have intellectual disabilities or autism, a crisis stabilization unit, a nursing home, a residential care facility, an assisted living facility, a hospice, a hospital, an intensive outpatient treatment program or any program specifically approved by the court. When a person who has been evaluated on behalf of the court by the State Forensic Service or other appropriate office of the Department of Health and Human Services is committed into the custody of the Commissioner of Health and Human Services under this paragraph, the court shall order that the State Forensic Service or other appropriate office of the Department of Health and Human Services share any information that it has collected or generated with respect to the person with the institution or residential program in which the person is placed. ~~If the defendant is charged with an offense under Title 17-A, chapter 9, 11 or 13 or Title 17-A, section 506-A, 802 or 803-A and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and, unless the defendant is subject to an undischarged term of imprisonment, order the Commissioner of Health and Human Services to commence proceedings pursuant to Title 34-B, chapter 3, subchapter 4. If the defendant is charged with an offense other than an offense under Title 17-A, chapter 9, 11 or 13 or Title 17-A, section 506-A, 802 or 803-A and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and, unless the defendant is subject to an undischarged term of imprisonment, notify the appropriate authorities who may institute civil commitment proceedings for the individual. If the~~