

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

STATE OF MAINE
123RD LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature coming from the

JOINT STANDING COMMITTEE ON HEALTH AND HUMAN SERVICES

July 2007

STAFF:

JANE ORBETON, SENIOR ANALYST
ELIZABETH F. COOPER, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

MEMBERS:

SEN. JOSEPH C. BRANNIGAN, CHAIR
SEN. LISA T. MARRACHE
SEN. KEVIN L. RAYE

REP. ANNE C. PERRY, CHAIR
REP. WILLIAM R. WALCOTT
REP. CAROL A. GROSE
REP. ELIZABETH S. MILLER
REP. PAULETTE G. BEAUDOIN
REP. GARY A. CONNOR
REP. ROBERT P. WALKER
REP. JAMES J. CAMPBELL, SR.
REP. SARAH O. LEWIN
REP. DONNA W. FINLEY
REP. DONALD G. SOCTOMAH

STATE OF MAINE

123RD LEGISLATURE

FIRST REGULAR SESSION

LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS



This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted
OTP-ND.....	Committee report Ought To Pass In New Draft
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Health and Human Services

LD 4

An Act To Amend the Prescription Privacy Law

PUBLIC 460

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAIRCLOTH	OTP-AM MAJ ONTP MIN	H-584 H-594 PERRY A

This bill amends the current law that prohibits the sale by prescription drug intermediaries of prescription drug information that identifies directly or indirectly the patient and designates such a sale or exchange as a violation of the Maine Unfair Trade Practices Act. This bill extends the prohibition in current law to the sale of information that identifies directly or indirectly the health care practitioner who ordered the prescription drug.

Committee Amendment "A" (H-584)

This amendment replaces the bill and is the majority report of the committee. The amendment provides an opt-out mechanism by which prescribers of prescription drugs may protect from marketing uses prescription drug information that identifies the prescriber. The amendment:

1. Adds a definition of "marketing";
2. Adds to the definition of "prescription drug information intermediary" persons or entities employed by or under contract to a prescription drug information intermediary;
3. Provides a statement of findings:
 - A. That the Legislature finds that enactment of this legislation will: improve the public health, limit annual increases in the cost of health care and protect the privacy of patients and prescribers in Maine's health care system;
 - B. That the State has a duty to assist in the maintenance of an effective and efficient health care system;
 - C. That patients and prescribers have requested that the Legislature provide a mechanism for protecting confidentiality;
 - D. That data companies sell prescriber and patient information to drug manufacturers who use it to influence prescribers to prescribe higher priced drugs, thereby increasing the cost of health care;
 - E. That restricting the use of prescriber-identifying information will decrease drug detailing and increase the use of lower priced drugs, thus decreasing the cost of health care;
 - F. That the resulting savings may be used for increased investment in drugs and increased access to health care; and
 - G. That the legislation is a narrowly and carefully tailored approach to achieving compelling state interests and other purposes;
4. Provides a statement of purposes the Legislature intends to achieve, including improving the public health, limiting annual increases in the cost of health care and protecting the privacy of patients and prescribers in Maine's health care system. Other purposes include protection of personal privacy rights, ending the use of prescriber comparisons and decreasing marketing costs.

In part as a reaction to a Journal of the American Medical Association article, "The Accuracy of Drug Information from Pharmaceutical Sales Representatives," vol. 273, no. 16, pp. 1296-98 (1995), which concluded that 11% of the in-person statements made to physicians by pharmaceutical sales representatives contradicted information that was

Joint Standing Committee on Health and Human Services

readily available to them, the amendment also provides a mechanism to be used in conjunction with academic detailing that is being considered by the Legislature this year and details the efforts of the Legislature in prior years to address problems with cost and access to health care and confidentiality of health information.

It also provides a statement that the provisions of the amendment are narrowly and carefully tailored to address the findings listed in the amendment to achieve the State's purposes listed in the amendment and in conjunction with the following efforts to advance the State's compelling interests:

- A. Prior authorization and drug utilization review in the MaineCare program under the Maine Revised Statutes, Title 22, section 3174-M;
- B. Reporting of a broad array of prescription drug marketing costs under Title 22, section 2698-A and subsequent reporting by the Department of Health and Human Services to the Legislature and the Attorney General;
- C. Prescription drug price disclosure under Title 22, section 2698-B;
- D. Generic and therapeutically equivalent substitution of prescription drugs under Title 32, section 13781; and E. Protection of patient prescription drug information held by health care practitioners under Title 22, section 1711-C;
5. Separates the confidentiality provisions applicable to the patient and the prescriber;
6. Beginning January 1, 2008, states that a carrier, pharmacy or prescription drug information intermediary may not license, use, sell, transfer or exchange for value for marketing purposes prescriber-identifying prescription drug information of a prescriber who has filed for confidentiality protection;
7. Establishes a mechanism for confidentiality protection through an opt-out procedure similar to the federal Do Not Call List utilizing the licensing and relicensing process for prescribers. The procedures include information for the prescriber and methods for filing with the Maine Health Data Organization to protect confidentiality of prescriber-identifying information;
8. Grants rule-making authority to the licensing boards and the Maine Health Data Organization, provides them funding through an assessment on manufacturers of prescription drugs dispensed through the MaineCare program and elderly low-cost drug program and requires a report on confidentiality protection activity within the Maine Health Data Organization under the law as part of the organization's annual report to the Legislature;
9. Provides authority to the Department of Health and Human Services to transfer funding to the Maine Health Data Organization and the Department of Professional and Financial Regulation to fund their costs for the mechanism to protect the confidentiality of prescriber-identifying prescription drug information; and
10. Adds an appropriations and allocations section.

House Amendment "A" (H-594)

This amendment removes the provisions that would have 20% of the amount of assessments to cover boards of licensure costs and instead allows the Department of Health and Human Services to use those funds.

Enacted Law Summary

Public Law 2007, chapter 460 does the following:

1. Adds a definition of "marketing";
2. Adds to the definition of "prescription drug information intermediary" persons or entities employed by or under contract to a prescription drug information intermediary;

Joint Standing Committee on Health and Human Services

3. Provides a statement of findings:

A. That the Legislature finds that enactment of this legislation will: improve the public health, limit annual increases in the cost of health care and protect the privacy of patients and prescribers in Maine's health care system;

B. That the State has a duty to assist in the maintenance of an effective and efficient health care system;

C. That patients and prescribers have requested that the Legislature provide a mechanism for protecting confidentiality;

D. That data companies sell prescriber and patient information to drug manufacturers who use it to influence prescribers to prescribe higher priced drugs, thereby increasing the cost of health care;

E. That restricting the use of prescriber-identifying information will decrease drug detailing and increase the use of lower priced drugs, thus decreasing the cost of health care;

F. That the resulting savings may be used for increased investment in drugs and increased access to health care; and

G. That the legislation is a narrowly and carefully tailored approach to achieving compelling state interests and other purposes;

4. Provides a statement of purposes the Legislature intends to achieve, including improving the public health, limiting annual increases in the cost of health care and protecting the privacy of patients and prescribers in Maine's health care system. Other purposes include protection of personal privacy rights, ending the use of prescriber comparisons and decreasing marketing costs.

The law also provides a mechanism to be used in conjunction with academic detailing that is being considered by the Legislature this year and details the efforts of the Legislature in prior years to address problems with cost and access to health care and confidentiality of health information.

It also provides a statement that the law is narrowly and carefully tailored to address the findings to achieve the State's listed purposes and in conjunction with the following efforts to advance the State's compelling interests:

A. Prior authorization and drug utilization review in the MaineCare program under the Maine Revised Statutes, Title 22, section 3174-M;

B. Reporting of a broad array of prescription drug marketing costs under Title 22, section 2698-A and subsequent reporting by the Department of Health and Human Services to the Legislature and the Attorney General;

C. Prescription drug price disclosure under Title 22, section 2698-B;

D. Generic and therapeutically equivalent substitution of prescription drugs under Title 32, section 13781;

and E. Protection of patient prescription drug information held by health care practitioners under Title 22, section 1711-C;

5. Separates the confidentiality provisions applicable to the patient and the prescriber;

Joint Standing Committee on Health and Human Services

- 6. Beginning January 1, 2008, states that a carrier, pharmacy or prescription drug information intermediary may not license, use, sell, transfer or exchange for value for marketing purposes prescriber-identifying prescription drug information of a prescriber who has filed for confidentiality protection;
- 7. Establishes a mechanism for confidentiality protection through an opt-out procedure similar to the federal Do Not Call List utilizing the licensing and relicensing process for prescribers. The procedures include information for the prescriber and methods for filing with the Maine Health Data Organization to protect confidentiality of prescriber-identifying information;
- 8. Grants rule-making authority to the licensing boards and the Maine Health Data Organization, provides Maine Health Data Organization funding through an assessment on manufacturers of prescription drugs dispensed through the MaineCare program and elderly low-cost drug program and requires a report on confidentiality protection activity within the Maine Health Data Organization under the law as part of the organization's annual report to the Legislature;
- 9. Provides authority to the Department of Health and Human Services to transfer funding to the Maine Health Data Organization and the Department of Professional and Financial Regulation to fund their costs for the mechanism to protect the confidentiality of prescriber-identifying prescription drug information.

See also LD 838.

LD 12 An Act To Establish a Residency Requirement for MaineCare Recipients ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BROWNE	ONTP	

This bill establishes a 30-day residency requirement for applicants for the MaineCare program.

LD 22 An Act To Require Health Care Practitioners to Distribute Free Samples of Medication in Certain Circumstances ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BEAUDOIN	ONTP	

This bill requires health care practitioners to distribute free samples of medications to patients in order to test the reaction of the patient and the effectiveness in treatment of the disease or condition. The requirement to distribute free samples depends on availability, appropriateness and timeliness.

LD 28 An Act To Establish a Statewide Residency Requirement for General Assistance ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BROWNE	ONTP	