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An Act To Require Photographic Identification for Prescriptions for Certain Controlled Substances

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

Sec. 1. 32 MRSA §13799 is enacted to read:

§ 13799. Photographic proof of identification for controlled substances

1. Definition. As used in this section, unless the context otherwise indicates, "controlled substance" has the same meaning as in Title 22, section 7246, subsection 1.

2. Required photographic proof of identification. As a precondition to filling any prescription for a controlled substance, a pharmacist or person acting at the direction of a pharmacist shall demand, inspect and record proof of identification, including valid photographic identification, from any patient presenting a prescription for a controlled substance or any person acting on behalf of the patient. For purposes of this section, any of the following are considered to be valid photographic identification:

A. A valid Maine motor vehicle operator's license;

B. A valid Maine identification card issued under Title 29-A, section 1410;

C. A valid United States passport;

D. A valid passport, motor vehicle operator's license of another state, territory, possession or foreign country or official identification card issued by the United States Government only if it:

(1) Contains a photograph of the person presenting the identification;

(2) Is encased in tamper-resistant plastic or otherwise possesses indicia of tamper-resistance; and

(3) Identifies the person's date of birth; or

E. Other valid, tamper-resistant, photographic identification as provided in rules adopted by the board pursuant to section 13722, subsection 1, paragraph A and in accordance with Title 5, chapter 375.

3. Refusal to fill prescription; law enforcement reporting. A pharmacist or person acting at the direction of a pharmacist may exercise discretion and refuse to fill any prescription or dispense any controlled substance if unsatisfied as to the legitimacy or appropriateness of any prescription

presented, the validity of any photographic identification or the identity of any patient presenting a prescription or any person acting on behalf of the patient, or the intention of the customer to use the controlled substance according to the instructions for use. A pharmacist or person acting at the direction of a pharmacist may make a report to a law enforcement agency when that person has reasonable cause to suspect that a prescription is not legitimate or appropriate, that a person has presented photographic identification that is not valid or that a customer has the intention to use a controlled substance in a manner inconsistent with the instructions for use.

4. Immunity; presumption of good faith. A pharmacist or person acting at the direction of a pharmacist who in good faith and pursuant to subsection 3 refuses to fill any prescription or dispense any controlled substance or who makes a report to a law enforcement agency is immune from any civil liability that might otherwise result from that action, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

SUMMARY

This bill is a recommendation from the Substance Abuse Services Commission's work group convened pursuant to Resolve 2011, chapter 81 and is reported out by the Joint Standing Committee on Health and Human Services pursuant to Joint Order 2011, H.P. 1328. This bill requires a pharmacist or person acting at the direction of a pharmacist to demand, inspect and record proof of identification before filling a prescription for a controlled substance. For the purposes of this bill, "controlled substance" means a drug or other substance included in schedules II, III or IV of 21 United States Code, Section 812 or 21 Code of Federal Regulations, Section 1308.