



125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1829

H.P. 1349

House of Representatives, February 22, 2012

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

Reported by Representative STRANG BURGESS of Cumberland for the Joint Standing Committee on Health and Human Services pursuant to Joint Order, H.P. 1328.

Reference to the Committee on Health and Human Services suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

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

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

3 **§13799. Photographic proof of identification for controlled substances**

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

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

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

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

14 C. A valid United States passport;

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

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

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

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

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

25 **3. Refusal to fill prescription; law enforcement reporting.** A pharmacist or
26 person acting at the direction of a pharmacist may exercise discretion and refuse to fill
27 any prescription or dispense any controlled substance if unsatisfied as to the legitimacy or
28 appropriateness of any prescription presented, the validity of any photographic
29 identification or the identity of any patient presenting a prescription or any person acting
30 on behalf of the patient, or the intention of the customer to use the controlled substance
31 according to the instructions for use. A pharmacist or person acting at the direction of a
32 pharmacist may make a report to a law enforcement agency when that person has
33 reasonable cause to suspect that a prescription is not legitimate or appropriate, that a
34 person has presented photographic identification that is not valid or that a customer has
35 the intention to use a controlled substance in a manner inconsistent with the instructions
36 for use.

37 **4. Immunity; presumption of good faith.** A pharmacist or person acting at the
38 direction of a pharmacist who in good faith and pursuant to subsection 3 refuses to fill
39 any prescription or dispense any controlled substance or who makes a report to a law

1 enforcement agency is immune from any civil liability that might otherwise result from
2 that action, including, but not limited to, any civil liability that might otherwise arise
3 under state or local laws or rules regarding confidentiality of information. In a proceeding
4 regarding immunity from liability, there is a rebuttable presumption of good faith.

5 **SUMMARY**

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