

**§13795. Photographic proof of identification; discretion to sell or dispense; immunity**

**1. Photographic proof of identification.** As a precondition to filling any prescription, dispensing any drug or selling any targeted methamphetamine precursor, a pharmacist or person acting at the direction of a pharmacist may demand, inspect and record proof of identification, including valid photographic identification, from any patient presenting a prescription or any person acting on behalf of the patient or person purchasing a targeted methamphetamine precursor. Valid photographic identification includes but is not limited to the following:

- A. A valid Maine motor vehicle operator's license; [PL 1995, c. 175, §1 (NEW).]
- B. A valid Maine identification card issued under Title 29-A, section 1410; [PL 1997, c. 437, §46 (AMD).]
- C. A valid United States passport; [PL 1995, c. 175, §1 (NEW).]
- 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 [PL 2005, c. 430, §7 (AMD); PL 2005, c. 430, §10 (AFF).]

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. [PL 1997, c. 245, §17 (AMD).]

[PL 2005, c. 430, §7 (AMD); PL 2005, c. 430, §10 (AFF).]

**2. Refusal to fill prescription, dispense drug or sell targeted methamphetamine precursor; law enforcement reporting.** A pharmacist or person acting at the direction of a pharmacist may exercise discretion and refuse to fill any prescription, dispense any drug or sell any targeted methamphetamine precursor 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 drug or targeted methamphetamine precursor 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 drug or targeted methamphetamine precursor in a manner inconsistent with the instructions for use.

[PL 2005, c. 430, §7 (AMD); PL 2005, c. 430, §10 (AFF).]

**3. Immunity; presumption of good faith.** A pharmacist or person acting at the direction of a pharmacist who in good faith and pursuant to subsection 2 refuses to fill any prescription, dispense any drug or sell any targeted methamphetamine precursor 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.

[PL 2005, c. 430, §7 (NEW); PL 2005, c. 430, §10 (AFF).]

**4. Record keeping.** With regard to purchases of targeted methamphetamine precursors, a pharmacy may keep a log of information about the purchaser, which may include name, date of birth, address and amount of targeted methamphetamine precursors purchased.

[PL 2005, c. 430, §7 (NEW); PL 2005, c. 430, §10 (AFF).]

**5. Rulemaking.** The Commissioner of Health and Human Services may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

A. If the Director of the Maine Drug Enforcement Agency within the Department of Public Safety finds that the ease of availability of liquid, liquid-filled capsule or glycerin matrix forms of products containing ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, referred to in this paragraph as "products," is a threat to the public health, safety and welfare, then the Director of the Maine Drug Enforcement Agency shall notify the Commissioner of Health and Human Services. The Commissioner of Health and Human Services shall consult with the joint standing committee of the Legislature having jurisdiction over health and human services matters, providing the reasons for undertaking rulemaking, and may, after consultation, adopt rules designating the products as targeted methamphetamine precursors pursuant to section 13702-A, subsection 33, paragraph B. [PL 2011, c. 657, Pt. AA, §84 (AMD).]

B. If the Director of the Maine Drug Enforcement Agency finds that sales of targeted methamphetamine precursors that are made without verifying the identity of the purchaser pose a threat to public health, safety and welfare, then the Director of the Maine Drug Enforcement Agency shall notify the Commissioner of Health and Human Services. The Commissioner of Health and Human Services shall consult with the joint standing committee of the Legislature having jurisdiction over health and human services matters, providing the reasons for undertaking rulemaking, and may, after consultation, adopt rules requiring a person making a sale of a targeted methamphetamine precursor pursuant to section 13796 to demand from the purchaser and to inspect and record prior to the sale proof of identification, including valid photographic identification, and to keep a log of sales. [PL 2011, c. 657, Pt. AA, §84 (AMD).]

[PL 2011, c. 657, Pt. AA, §84 (AMD).]

#### SECTION HISTORY

PL 1995, c. 175, §1 (NEW). PL 1997, c. 245, §17 (AMD). PL 1997, c. 437, §46 (AMD). PL 2005, c. 430, §7 (AMD). PL 2005, c. 430, §10 (AFF). PL 2007, c. 695, Pt. B, §18 (AMD). PL 2011, c. 657, Pt. AA, §84 (AMD).

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